

QUICK GUIDE

September 2021

UNDERSTANDING 504 PLANS AFTER EPILEPSY SURGERY



Students returning to school after epilepsy surgery may require extra services or supportive accommodations to succeed in their educational setting. Even if controlled by medication or surgery, epilepsy can have a significant impact on academic functioning and the day-to-day performance of a student in the classroom.¹ Many students with epilepsy struggle with memory or attention problems, slow processing speed, difficulty with written directions or motor tasks, or visual challenges. Or, they may have learning disabilities – which occur at a rate of 76% in youth with childhood epilepsy.²

¹ Hart Barnett, J.E., Gay, C. Accommodating Students With Epilepsy Or Seizure Disorders: Effective Strategies For Teachers. *Physical Disabilities: Education and Related Services*, 2015, 34(1), 1-13. doi: 10.14434/pders.v34i1.13258 © Division for Physical, Health and Multiple Disabilities PDERS ISSN: 2372-451X <http://scholarworks.iu.edu/journals/index.php/pders/index>

² Sillanpää, M. Learning disability: occurrence and long-term consequences in childhood-onset epilepsy. *Epilepsy & Behavior*, Volume 5, Issue 6, P937-944, December 01, 2004. DOI:<https://doi.org/10.1016/j.yebeh.2004.08.008>

Not all students with epilepsy will qualify for special education services under the Individuals with Disabilities Education Act (IDEA), which provides for Individual Education Plans (IEPs). If your child does not require **specially designed instruction** to benefit from their education, they would *not* be covered under the IDEA or be eligible for an individualized education plan (IEP). However, they may be entitled to protections under Section 504 of the Rehabilitation Act of 1973.

SECTION 504 OF THE REHABILITATION ACT OF 1973

Section 504 is a civil rights law that protects people from disability-based discrimination in any setting that receives Federal financial assistance. Section 504 ensures that a student with a disability has equal access to education. The student may receive accommodations and modifications as well as some services to provide this equal access.³

“All public schools and school districts, as well as all public charter schools and magnet schools, that receive Federal financial assistance from the Department, must comply with Section 504.”⁴

While parents have the right to choose which school their child will attend, children with disabilities placed in private or religious schools may not get the same services – or any services – as they would receive in a public school. They may not be able to access an IEP or a Section 504 Plan.

However, they may receive protections under Title III of the Americans with Disabilities Act (ADA).

TITLE III OF THE AMERICANS WITH DISABILITIES ACT (ADA)

Title III of the Americans with Disabilities Act (ADA) may offer some protection in a **private school** setting. The law allows for “reasonable accommodations” (accessible buildings, communication supports such as notetakers, or written text provided in audio format). However, accommodations under ADA are not mandatory if it places an “undue burden or a fundamental alteration to what a school, program, or business is offering.”

Title III of the ADA does *not* cover **religious institutions**, nor are they required to provide special education and related services under IDEA or Section 504.

³ Salorio, C., Carney, J. Translating Assessment into Effective School Services for Students with Epilepsy. *Journal of Pediatric Epilepsy*, Vol. 6 No. 1. (2017)

⁴ [Parent and Educator Resource Guide to Section 504 in Public Elementary and Secondary Schools](#) (2016) U.S. Department of Education

WHO QUALIFIES FOR A 504 PLAN?

Students can qualify for 504 plans if they have physical or mental impairments that “substantially limits at least one major life activity,” including (but not limited to):⁵

- walking, breathing, sleeping;
- seeing, hearing, speaking;
- learning, thinking, concentrating;
- reading, writing, performing math calculations; or
- working, caring for oneself, performing manual tasks (standing, bending, lifting).

Physical or mental impairments include:

- physiological disorder or condition,
- cosmetic disfigurement, or
- anatomical loss affecting one or more bodily systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; physiological and mental disorders.

Students with medical conditions or impairments do *not* automatically qualify for a Section 504 plan simply because of their diagnosis. **The condition or disability must substantially limit at least one major life activity *and* impact the child’s access to their education.**

“If, for example, the student’s seizures are under control with medication, there are no side effects from his/her medications, and medications need not be administered in school, there would be no need for modifications or accommodations for equal access to a free appropriate education.”⁶

How is eligibility determined?

There is no legal process for determining who is eligible for services under Section 504. If a student is struggling academically due to a physical or mental impairment, the parent (or therapist, physician, teacher) can request a 504 planning meeting. The student does not need to have a complete evaluation such as is required for an IEP; they only have to show that they have a qualifying disability under Section 504.

⁵ [34 CFR Part 104](#)

⁶ Salorio, C., Carney, J. Translating Assessment into Effective School Services for Students with Epilepsy. *Journal of Pediatric Epilepsy*, Vol. 6 No. 1. (2017)

When the 504 planning team meet to discuss the student's needs, they may consider:

- school work and progress reports,
- medical records and evaluation reports,
- observing the student in their academic setting,
- interviewing the student, family, and school staff.

Even if an impairment only occurs periodically or is in remission, it meets the requirement for a 'disability' if it substantially limits a major life activity when in the active phase.

"A temporary impairment does not constitute a disability for purposes of Section 504 unless its severity is such that it results in a substantial limitation of one or more major life activities for an extended period. The issue of whether a temporary impairment is substantial enough to be a disability must be resolved on a case-by-case basis, taking into consideration both the duration (or expected duration) of the impairment and the extent to which it actually limits a major life activity of the affected individual."⁷

WHAT'S IN A 504 PLAN?

Section 504 does not require a written plan, but families should ask for documentation of what services and modifications will be provided, by whom, and when. The 504 plan should spell out what the child needs to be successful at school. Educators and parents should work together to determine what accommodations or services will ensure the student's success.

Section 504 plans can include services provided under IDEA, such as special education or related services if needed for the student to receive an appropriate education under Section 504.

REVIEWING THE 504 PLAN

The Section 504 team should review the 504 plan annually (at a minimum) to determine if the accommodations are up to date, appropriate, and based on the student's current needs. A meeting can be called by the education staff or the parent any time there is an educational concern or change in the student's needs.

The Section 504 team can end the 504 plan if the team determines that the student:

- is no longer disabled,
- no longer requires any special accommodations or services to meet the identified needs,
- can be appropriately instructed in general education.

⁷ OCR's revised Q&A

WHAT IF THE SCHOOL SAYS NO?

Suppose you disagree with your child's school about their eligibility for a 504 plan or what the plan offers. In that case, you may want to contact your state's [Parent Training & Information \(PTI\) center](#), an advocate, or an educational attorney. You can also file a [complaint](#) with the U.S. Office for Civil Rights.

WHAT IF THE 504 PLAN IS NOT ENOUGH?

*"Some students' epilepsy may result in minimal adverse educational impact; therefore, these students' needs are effectively addressed through accommodations within a 504 plan. Other students, however, experience an adverse impact on educational performance as a result of their epilepsy, requiring individualized instruction through an Individualized Education Plan (IEP)."*⁸

The "child find" component of IDEA requires every school district to identify children who have disabilities and need services. If the team feels it's needed, the school must evaluate the student in all areas of suspected disability. An IEP offers more protections than a 504, so if your child may qualify, it's worth pursuing a comprehensive evaluation.

⁸ Hart Barnett, J.E., Gay, C. Accommodating Students With Epilepsy Or Seizure Disorders: Effective Strategies For Teachers. *Physical Disabilities: Education and Related Services*. 2015, 34(1), 1-13. doi: 10.14434/pders.v34i1.13258 © Division for Physical, Health and Multiple Disabilities PDERS ISSN: 2372-451X <http://scholarworks.iu.edu/journals/index.php/pders/index>

BACK TO SCHOOL CHECKLIST

1. Print the [Model Section 504 plan](#) and highlight what you feel your child needs. Think about what supports your child needs to be successful. Write down your ideas to share them with your school.
2. Ask your child's neurologist to write a [letter](#) outlining the impact your child's epilepsy, surgery, or medications has on their school performance. If the neurologist feels certain services are warranted, that should be indicated so that the school can evaluate those areas.
3. Write a letter requesting a 504 meeting and schedule a meeting to discuss (or request) your child's 504 plan. Make sure there is enough time to get your questions answered and to voice all of your concerns.
4. Provide (in advance) the letter from the neurologist or neurosurgeon, all relevant reports, student work, progress data, evaluations, recommendations from neuropsychological assessment or other private/hospital assessments, updates, testing data, changes in medications, orthotics updates, Seizure Action Plan, and any additional information that will help the team determine the appropriate support needs for your child.
5. Consider sharing (in advance) [guides](#) such as The Brain Recovery Project's [An Introduction to Cortical Auditory Impairment After Hemispherectomy](#), [Vision After Hemispherectomy](#), [TPO Disconnection](#), and [Occipital Lobectomy](#), [Education After Hemispherectomy](#), or our [Quick Guides](#).
6. Bring a friend, family member, or someone with knowledge of epilepsy and epilepsy surgery to help explain your child's needs to the staff. Your [local Epilepsy Foundation](#) can provide school training on epilepsy and Seizure Action Plans, and your children's hospital may have staff experienced in helping develop 504 plans.
7. Come with your prepared questions and requests. Take the time to ask all of your questions.
8. Be sure to document each agreement in writing and make sure that it is written in a detailed and specific way.
9. Set up a meeting with your child's teachers (if they were not in attendance at the Section 504 team meeting) to discuss classroom accommodations, modifications, and services and how they plan to implement them in their classes with your child.

Plan to follow up regularly. Request another meeting if your child fails to make progress or a new need or concern arises.

SAMPLE ACCOMMODATIONS

For fatigue	<ul style="list-style-type: none"> - Decreased homework and classwork; - Shortened assignments or extra assistance in assignment completion; - If work is not completed due to seizures (at school or home), it will not be counted against the student; - If a child does not have the energy for a full day, scheduling required classes together during the morning or afternoon (the student may add elective courses once they can tolerate a more extended school day); - Modification or elimination of physical education classes; - Organize the school schedule so that classrooms are close together and the child's locker is close to all of their classrooms; - Physical and mental breaks or rest periods.
For memory, processing speed, attention	<ul style="list-style-type: none"> - Preferential seating as close to the teacher as possible; - Ensure that instructions are simple, do not include extraneous information, and are provided at an appropriate pace; - Provide instructions in multiple formats (e.g., auditory and visual); - Directions verbally reviewed and explained; - Verbal, visual, or technology aids; - Use of graphic organizers; - Scribe for classwork; - Notetaking: assign a buddy to take notes, allow recording of lectures, the teacher provides notes, slides, rubrics, etc., allow the student to use a laptop; - Frequent breaks.
For test-taking	<ul style="list-style-type: none"> - Separate setting for testing, in a quiet room where the student can better concentrate; - Untimed or increased time for test-taking and assignments; - Break longer tests into small parts to be administered over several sessions - Test questions read aloud; - Calculator allowed for math computation if a student struggles with sequencing or steps in a process is often problematic; - Allow the student to use a sample math problem as a reference; - Use tests that assess recognition rather than recall (i.e., multiple-choice rather than fill-in-the-blank); - Use flexible timing and setting.
For sensory needs	<ul style="list-style-type: none"> - Allow sunglasses, earplugs, or noise-canceling headphones for light or sound sensitivities. - Warn the student of fire drills or other alarms in advance when possible. - Provide behavior management support - Provide occupational therapy
For social skills or behavior issues	<ul style="list-style-type: none"> - Provide structure and routine - Provide visual schedules - Preview changes in routines - Provide social skills training.
For mobility challenges	<ul style="list-style-type: none"> - Allow extra time in between classes to change rooms when long walks are required; - Allow the child to leave a few minutes before the class is over to get to the next class without being penalized for tardiness; - Ensure that the student's classes are all on the first floor; - Allow a wheelchair or other means of transportation;

	<ul style="list-style-type: none"> - Provide an elevator pass; - Provide an option to sit in a chair for part or all of circle time, carpet time, storytime, assemblies, or special presentations; - Provide a hand railing for any stairs, encouraged the student to take the stairs at a slower pace; - Provide occupational or physical therapy.
For fine motor challenges	<ul style="list-style-type: none"> - Assist with bilateral, two-handed activities such as cutting, getting jacket and backpack on, zipping jacket, carrying lunch tray, opening lunch food items (milk carton, yogurt, etc.); - Scribe for the student if writing is challenging; - Don't require the student to 'dress out' for PE; - Provide assistive technology; - Provide occupational or physical therapy.
For vision	<ul style="list-style-type: none"> - Reduce visual and physical clutter on assignments and in the classroom; - Provide a larger workspace on worksheets; - Provide a slant board; - Avoid lamination to reduce glare; - Provide modified textbooks or audio-video materials
For seizure and health monitoring	<ul style="list-style-type: none"> - Nurse or 1:1 paraprofessional/aide for seizure monitoring; - Pre-approved nurse's office visits and accompaniment to visits; - Allow the student access to water or snacks throughout the day; - If at risk for heatstroke or has difficulty monitoring and regulating body temperature, provide shade when outside for extended periods, and allow time for water breaks to ensure hydration.
For medically related absences	<ul style="list-style-type: none"> - Students should not be penalized for absences due to their medical condition; - Allow excused lateness, absences, or missed classwork; - Allow early dismissal/late arrival for therapy or medical appointments; - Home instruction provided for extended absences; - If the student is homebound or partially homebound, teachers should coordinate homework to avoid overloading the student.
For emergencies	<ul style="list-style-type: none"> - The school should work out an emergency plan if emergency drills and evacuations may be problematic for the student; - Assign an adult to assist the child during evacuation or other emergencies.

DIFFERENCES BETWEEN IDEA AND SECTION 504

	The Individuals with Disabilities Education Act (IDEA)	Section 504 of the Rehabilitation Act of 1973
MANDATE	<p>To ensure that all children with disabilities have a free appropriate public education (FAPE) that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living.</p> <p>IDEA requires specially designed instruction (i.e., special education) necessary for a student to benefit from education</p>	<p>Section 504 defines free appropriate public education (FAPE) as regular or special education and related services designed to meet the needs of students with disabilities as adequately as the needs of non-disabled students.</p> <p>Section 504 requires services that provide equal access or benefit, even if the student with disabilities would receive some benefit without the assistance.</p>
ELIGIBILITY	<p>Must qualify under one of the 13 eligibility categories (the disability must affect the child's educational performance or ability to learn and benefit from the general education curriculum) AND require special education AND require related services.</p>	<p>A child has any disability that interferes with the child's ability to learn in a general education classroom.</p>
SPECIAL EDUCATION AND RELATED SERVICES	<p>Students must require special education and related services to receive IEP services under IDEA.</p>	<p>Students can receive special education and related services under Section 504 to access the general education curriculum.</p>
PLACEMENT	<p>Individualized program and placement; may receive different educational services in a special or regular educational setting, depending on the student's need.</p>	<p>Provides support for a student to remain in a more typical placement. Modifies a student's regular education program in a regular classroom setting. Can include changes to a student's learning environment.</p>
WHO CREATES and OVERSEES THE PLAN	<p>An IEP meeting has specific team members who must attend. The entire team must be present for IEP team meetings.</p> <p>IEP programs are delivered and monitored by additional school support staff.</p>	<p>A 504 plan is created by people familiar with the child and understand the evaluation results and service options.</p> <p>Classroom teachers monitor 504 Plans.</p>

<p>PROCEDURAL SAFEGUARDS</p>	<ul style="list-style-type: none"> - Invite parents to IEP meetings - Parental notice - Parental consent for assessment - Parental approval and involvement - Records review - Written plan - Options to resolve disputes: mediation, due process complaint, resolution session, civil lawsuit, state complaint, lawsuit. 	<ul style="list-style-type: none"> - Invite parents to IEP meetings - Parental notice - Parental consent for assessment - Records review - Impartial hearing and review procedure
<p>HEALTH SERVICES IN SCHOOL</p>	<p>School health services are a related service under both IDEA, and Section 504 and generally include:</p> <ul style="list-style-type: none"> - implementing physician orders during the school day (including medication and diet orders); - providing training and information to the school team; - developing a health care plan and an emergency plan. 	<p>School health services are a related service under both IDEA and Section 504 and generally include:</p> <ul style="list-style-type: none"> - implementing physician orders during the school day (including medication and diet orders); - providing training and information to the school team; - developing a health care plan and an emergency plan.
<p>TRANSITION</p>	<p>IDEA requires creating an Individualized Transition Plan, one of the most powerful tools for helping students get the services and supports they need for postsecondary life.</p> <p>When a student graduates from high school or reaches the age of 22 years, entitlement to the provisions of the IDEA end. IDEA does not extend to college or employment.</p>	<p>Section 504 provides protection in preschool, elementary and secondary school, employment practices, accessibility, health, welfare, and social services</p>
<p>POSTSECONDARY EDUCATION</p>	<p>Postsecondary schools are not required to provide free appropriate public education but, instead, to provide reasonable academic accommodations to ensure that they do not discriminate based on disability.</p> <p>IDEA is not in effect, but the school or program may use accommodations from a student's IEP to document their disability when they register for accommodations. The school may provide the same accommodations the student received in high school.</p>	<p>Postsecondary schools are not required to provide free appropriate public education but, instead, to provide reasonable academic accommodations to ensure that they do not discriminate based on disability.</p> <p>The school or program may use accommodations from a student's 504 plan to document their disability when registering for college accommodations. The school may provide the same accommodations the student received in high school.</p>

RESOURCES:

Examples of 504 Plans and content:

- [Model Section 504 Plan](#), Epilepsy Foundation
- [Sample Section 504 Plan](#)
- [504 Information for Seizure Disorders](#),

Guides and other resources:

- [504 plans | Special services | School and learning](#), Understood.org
- [ADA Q&A: Back to School](#), the PACER Center.
- [Disability Rights Laws in Public Primary and Secondary Education: How Do They Relate?](#) (2018) National Network: Information, Guidance, and Training on the Americans with Disabilities Act
- [Disability Discrimination: Overview of the Laws](#), U.S. Department of Education
- [Epilepsy In Schools](#), The Centers for Disease Control (CDC)
- [IEP roadmap: How kids get special education](#), Understood.org
- [Legal Rights of Children With Epilepsy in School or Childcare - An Advocate's Manual](#) is an excellent overview of the legal rights of children with epilepsy in school and child care, including an in-depth discussion of the Individuals with Disabilities in Education Act and Individual Education Plans, the Rehabilitation Act and 504 Plans, and administration of rescue medication in various educational and child care settings.
- [Parent and Educator Resource Guide to Section 504 in Public Elementary and Secondary Schools](#), U.S. Department of Education, Office for Civil Rights, December 2016
- [Protecting Students With Disabilities](#), Frequently Asked Questions About Section 504 and the Education of Children with Disabilities, Office of Civil Rights, U.S. Department of Education
- [The Rehabilitation Act of 1973, as amended](#)
- [What Is the Americans With Disabilities Act? | How ADA Helps Students](#), Understood.org

Questions? Email us at info@brainrecoveryproject.org



The Brain Recovery Project: Childhood Epilepsy Surgery Foundation

969 Colorado Blvd., Suite 101

Los Angeles, California 90041

Phone: (833) 675-3335

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Email: info@brainrecoveryproject.org