



1997 Individuals With Disabilities Education Act Amendments Increase Access to Technology for Students

FAPE-13

Introduction

In late May 1997, Congress passed, and on June 4, 1997, President Clinton signed, the Individuals with Disabilities Education Act of 1997 (IDEA). On March 12, 1999, the U.S. Department of Education promulgated final regulations implementing IDEA. Both the Amendments and the implementing regulation clarify the rights of students with disabilities to assistive technology devices and services.

History

The key to access has always been how the device or service in question is to be used: the purposes it will serve, not its label. Before the term “assistive technology” became part of policy discussions, schools were required to provide computers and other adaptive equipment, augmentative communication devices, typewriters, tape recorders, word processors, braille printed materials, auditory trainers, wheelchairs and other types of devices and services to students whose individualized education program (IEP) teams determined such services and devices were necessary to ensure that they had a free appropriate public education available to them. In addition, other decisions and policy letters established some core principles related to assistive technology (AT) device funding.

One of the best known policy letters concerning provision by schools of AT devices and services, was issued on August 10, 1990 by the Office of Special Education Programs (OSEP). In this letter to Susan Goodman from Judy Schrag, the Department of Education made it clear that schools are prohibited from refusing to consider AT devices and services as part of the process for writing IEPs.

However, it was issued before the 1990 IDEA Amendments so it was based on the prior law.

The 1990 Amendments to IDEA added the terms “assistive technology devices” and “assistive technology services.” In 1992, the Department of Education clarified the existing definitions of “special education,” “related services,” and “supplemental aids and services” when it promulgated the IDEA regulations. These regulations allowed AT devices and services to be considered special education, related services, and supplementary aids and services.

In the years since the 1990 IDEA Amendments, there have been additional policy letters and decisions related to use of AT devices and services. Overall, there has been an ongoing increase in the appropriate use of assistive technology in the public schools. One of the ways in which access has been enhanced was through a clarification by the Department of Education that stated that the school was obligated to provide assistive technology at home or in other environments if it were determined by the IEP team that a student needed it to benefit from his or her educational program.

1997 IDEA Amendments

Definitions of Assistive Technology Devices and Services

The 1997 IDEA Amendments make no substantive changes to the definitions of AT devices and services. These definitions are as follows:

ASSISTIVE TECHNOLOGY DEVICE —

The term “assistive technology device” means any item, piece of equipment, or product system, whether acquired commercially off the shelf,



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modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability.

ASSISTIVE TECHNOLOGY SERVICE —

The term “assistive technology service” means any service that directly assists a child with a disability in the selection, acquisition, or use of an AT device. Such term includes –

- the evaluation of the needs of such child, including functional evaluation of the child in the child’s customary environment;
- purchasing, leasing, or otherwise providing for the acquisition of AT devices by such child;
- selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of AT devices;
- coordinating and using therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
- training or technical assistance for such child, or, where appropriate, the family of such child; and
- training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of such child.

Special Considerations

The new IDEA Amendments require that AT devices and services be considered for each student when developing his or her IEP.

Regulations

As stated above, the regulations now include a provision which states: “On a case-by-case basis, the use of

school-purchased AT devices in a child’s home or other settings is required if the child’s IEP team determines that the child needs access to those devices in order to receive FAPE (a free appropriate public education).” Codified at 34 C.F.R.300.308 (b). The addition of this provision reflects the recognition that use of AT provides a tool to be used to facilitate education and learning – not merely a device as an end itself.

Conclusion

The 1997 amendments to IDEA reinforce and elaborate on a student’s right to AT devices and services. In order to make access to AT devices and services a reality, the following may generally need to happen:

- awareness and understanding of what constitutes AT devices and services needs to improve;
- families, educators and policymakers need assistance in determining what supports are necessary to properly integrate AT devices into students’ lives;
- comprehensive AT policies for students need to be developed; and
- supports need to be in place for students, teachers and families to avoid wasteful spending on devices that are not appropriate.

UCPA’s Assistive Technology Funding and Systems Change Project has developed a new publication entitled “Assistive Technology Services: What are These?” This publication is a comprehensive series of questions to provide assistance when considering AT services for each student. Limited copies of this document are available. Contact Pat Brown at (202) 776-0406 or Pbrown@ucpa.org if you wish to receive a copy.

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