

Legal Mandates to Provide Assistive Technology

Georgia Department of Education
Division for Special Education Supports
Georgia Project for Assistive Technology
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Mandates for Assistive Technology

- **Individuals with Disabilities Education Improvement Act of 2004 (PL 108-446)**
 - December 3, 2004
- **Federal Register (34 CFR 300 and 301)**
 - August 14, 2006



Assistive Technology Definitions

Section 300.5 Assistive technology device.

Any item, piece of equipment or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability.



Assistive Technology Definitions

Section 300.5 AT device (Continued)

The term does not include a medical device that is surgically implanted, or the replacement of such device.

(Authority 20 U.S.C. 1401(1))



Assistive Technology Definitions

Section 300.6 Assistive technology service.

Any service that directly assists a child with a disability with the selection, acquisition, or use of an assistive technology device. The term includes-

- (a) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;



Assistive Technology Definitions

Section 300.8 AT service (Continued)

(b) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;

(c) Selecting designing, fitting, customizing, adapting, applying, retaining, repairing, or replacing assistive technology devices;

(d) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;



Assistive Technology Definitions

Section 300.8 AT service (Continued)

- (e) Training or technical assistance for a child with a disability or, if appropriate, that child's family; and**
- (f) Training or technical assistance for professionals (including individuals or rehabilitation services), employers, or other individuals who provide services to employ, or are otherwise substantially involved in the major life functions of children with disabilities.**

(Authority 20 U.S.C. 1401(2))



Other FAPE Requirements

Section 300.105 Assistive technology.

(a) Each public agency shall ensure that assistive technology devices or assistive technology services, or both, as those terms are defined in Sections 300.5 and 300.6, are made available to a child with a disability if required as a part of the child's-

(1) Special education under Section 300.36:

(2) Related services under Section 300.34: or

(3) Supplementary aids and services under Section 300.38 and 300.114(a)(2)(ii).

Other FAPE Requirements

Section 300.105 (Continued)

(b) On a case-by-case basis, the use of school-purchased assistive technology devices in a child's home or in other settings is required if the child's IEP team determines that the child needs access to those devices in order to receive FAPE.

(Authority 20 U.S.C. 1412(a)(1), 1412 (a)(12)(B)(i))



Development of IEP

Section 300.324 Development, review, and revision of IEP

(2) Consideration of special factors. The IEP team must-

(v) Consider whether the child needs assistive technology devices and services.

(Authority 20 U.S.C. 1414(d)(3)(B))





Related Topics



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Definitions

Section 300.44 Universal design.

Universal design has the meaning given the term in section 3 of the Assistive Technology Act of 1988, as amended, 29 U.S.C. 3002.

(Authority: 20 U.S.C. 1401(35))



Other FAPE Requirements

Section 300.113 Routine checking of hearing aids and external components of surgically implanted devices.

(a) Hearing aids. Each public agency must ensure that hearing aids worn in the school by children with hearing impairments, including deafness, are functioning properly.



Other FAPE Requirements

Section 300.113 (Continued)

(b) External components of surgically implanted medical devices. (1) Subject to paragraph (b)(2) of this section, each public agency must ensure that the external components of surgically implanted medical devices are functioning properly.



Other FAPE Requirements

Section 300.113 (Continued)

2) For a child with a surgically implanted medical device who is receiving special education and related services under this part, a public agency is not responsible for the maintenance, programming, or replacement of the medical device that has been surgically implanted (or of an external component of the surgically implanted medical device)

(Authority 20 U.S.C. 1401(1), 1401(26)(B))



Other Provisions Required for State Eligibility

Section 300.172 Access to instructional materials.

(a) General. The State must-

(1) Adopt the National Instructional Materials Accessibility Standard (NIMAS), published in appendix C to part 300, for the purposes of providing instructional materials to blind persons and other persons with print disabilities, in a timely manner after the publication of the NIMAS in the Federal Register on July 19, 2006 (71FR41084); and



Other Provisions Required for State Eligibility

Section 300.172 (Continued)

(2) Establish a State definition of “timely manner” for the purposes of paragraphs (b)(2) and (b)(3) of this section if the State is not coordinating with the National Instructional Materials Accessibility Center (NIMAC) or (b)(3) and (c)(2) of this section if the State is coordinating with the NIMAS.

(b) Rights and responsibilities of SEA.

(1) Nothing in this section shall be construed to require any state to coordinate with the NIMAC.



Other Provisions Required for State Eligibility

Section 300.172 (Continued)

(2) If an SEA chooses not to coordinate with the NIMAC, the SEA must provide an assurance to the Secretary that it will provide instructional materials to blind persons or other persons with print disabilities in a timely manner.



Other Provisions Required for State Eligibility

Section 300.172 (Continued)

(3) Nothing in this section relieves an SEA of its responsibility to ensure that children with disabilities who need instructional materials in accessible formats, but are not included under the definition of blind or other persons with print disabilities in 300.172(e)(1)(i) or who need materials that cannot be produced from NIMAS files, receive those instructional materials in a timely manner.

Other Provisions Required for State Eligibility

Section 300.172 (Continued)

(4) In order to meet its responsibility under paragraphs (b)(2), (b)(3), and (c) of this section to ensure that children with disabilities who need instructional materials in accessible formats are provided those materials in a timely manner, the SEA must ensure that all public agencies take all reasonable steps to provide instructional materials in accessible formats to children with disabilities who need those instructional materials at the same time as other children receive instructional materials.

Other Provisions Required for State Eligibility

Section 300.172 (Continued)

(c) Preparation and delivery of files. If an SEA chooses to coordinate with the NIMAC, as of December 3, 2006, the SEA must –

(1) As a part of any print instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of print instructional materials, must enter into a written contract with the publisher of the print instructional materials to-



Other Provisions Required for State Eligibility

Section 300.172 (Continued)

- (i) Require the publisher to prepare and, on or before the delivery of the print instructional materials, provide to NIMAC electronic files containing the contents of the print instructional materials using NIMAS; or**
- (ii) Purchase instructional materials from the publisher that are produced in, or may be rendered in, specialized formats.**



Other Provisions Required for State Eligibility

Section 300.172 (Continued)

(2) Provide instructional materials to blind persons or other persons with print disabilities in a timely manner.

(d) Assistive Technology. In carrying out this section, the SEA, to the maximum extent possible, must work collaboratively with the State agency responsible for assistive technology programs.



Other Provisions Required for State Eligibility

Section 300.172 (Continued)

(e) Definitions.

(1) In this section and 300.210-

(i) Blind persons or other persons with print disabilities means children served under this part who may qualify to receive books and other publication produced in specialized formats in accordance with the Act entitled “An Act to provide books for adult blind,” approved march 3, 1931, 2 U.S.C. 135a;



Other Provisions Required for State Eligibility

Section 300.172 (Continued)

(ii) National Instructional Materials Access Center means the centers established in pursuant to section 674(e) of the Act.

(iii) National Instructional Materials Accessibility Standard or NIMAS has the meaning given the term in section 674(e)(3)(B) of the Act;

(Authority: 20 U.S.C. 1412(a)(23), 1474(e))



Local Educational Eligibility

Section 300.210 Purchase of instructional materials.

(a) General. Not later than December 3, 2006, an LEA that chooses to coordinate with the National Instructional Materials Accessibility Center (NIMAC), when purchasing print instructional materials, must acquire those instructional materials in an alternate same manner, and subject to the same conditions as an SEA under 300.172.



Local Educational Eligibility

Section 300.210 (Continued)

(b) Rights of LEA. (1) Nothing in this section shall be construed to require an LEA to coordinate with the NIMAC.

(2) If an LEA chooses not to coordinate with the NIMAC, the LEA must provide an assurance to the SEA that the LEA will provide instructional materials to blind persons or other persons with print disabilities in a timely manner.



Local Educational Eligibility

Section 300.210 (Continued)

(3) Nothing in section relieves an LEA of its responsibility to ensure that children with disabilities who need instructional materials in accessible formats but are not included under the definition of blind or other persons with print disabilities in 300.172(e)(1)(i) or who need materials that cannot be produced from NIMAS files, receive those instructional materials in a timely manner.

(Authority 20U.S.C. 1413 (a)(6))



Georgia Rules and Regulations for Special Education

- **Defines assistive technology devices and services**
- **Includes requirement for consideration as a special factor in the development of the IEP.**
- **Discusses assistive technology assessments**
- **Requires documentation of required assistive technology in the IEP**



Georgia Rules and Regulations for Special Education

- **Requires documentation of assistive technology if needed for participation in state and district assessments**
- **Discusses home use of assistive technology devices**



Section 504 of the Rehabilitation Act of 1973

- **“No other wise qualified handicapped individual.....shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance”.**
 - **Implications**
 - **Assistive technology provided as an accommodation or an auxiliary aid and service**
 - **Required assistive technology documented in the student’s Accommodation Plan**

Americans with Disabilities Act

- **No qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.**
- **A public entity must provide “reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services”**



Contact Information

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Georgia Project for Assistive Technology <http://www.gpat.org>

Special Education Services and Supports

<http://www.gadoe.org/Curriculum-Instruction-and-Assessment/Special-Education-Services/Pages/default.aspx>

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