



California's protection & advocacy system
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Obtaining Assistive Technology Through Your Child's School

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1. What is an assistive technology in special education?

Assistive technology is defined twice by Federal special education laws. It is specifically defined by the IDEA as “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 functional capabilities of children with disabilities.” 20 U.S.C. §1401(1).

Corresponding regulations refer to assistive technology as any devices or services that your child needs to benefit from his/her special education or related services; or enable your child to receive their education in the least-restrictive environment. 34 C.F.R. §§300.110 & 300.114.

2. Who is eligible to receive assistive technology services?

Children who have disabilities and need special education services to benefit from education have the right to special education and related services. Related services include assistive technology. For more detailed information on what is considered an assistive technology service see Disability Rights California's publication *Special Education Rights and Responsibilities (SERR)* manual Chapter 5 *Information on Related Services* available at: <http://www.disabilityrightsca.org/pubs/504001Ch05.pdf>.

3. How do I request assistive technology?

You can request assistive technology through an IEP or request an assessment for assistive technology. For more detailed information on assessments see Disability Rights California's publication *Special Education Rights and Responsibilities (SERR)* manual Chapter 2

Information on Evaluations/Assessments available at:
<http://www.disabilityrightsca.org/pubs/504001Ch02.pdf>.

4. How can I get assistive technology included in my child's IEP?

Your child must need the assistive technology to benefit from special education. Assistive technology may be part of your child's goal and objectives for special education. 34 C.F.R. §300.39. For example, your child may need a communication device to answer questions and talk to his/her teacher or peers. Assistive technology may be part of related services. 34 C.F.R. §300.34. It may be a related service or enable your child to benefit from a related service. Assistive technology may be a supplementary aid or service that enables your child to be educated in the least restrictive environment. 34 C.F.R. §§ 300.42 & 300.114(a)(2). The IEP team should consider assistive technology that allows your child to stay in a regular classroom before considering a more restrictive setting.

The IEP team is required to consider a child's need for assistive technology devices and/or services when developing an IEP. 20 U.S.C. §1414(d)(3)(B)(v). If your child is a person with visual impairments who needs Braille, the IEP team must provide for instruction in Braille and the use of Braille. The only exception is when the IEP team determines, after evaluating your child's current and future needs, that use of Braille is not appropriate for your child. 20 U.S.C §1414(d)(3)(B)(iii).

5. Who owns the assistive technology that the school buys for a student?

Equipment purchased by the school district belongs to the school district. The equipment stays with the school district if your child moves to another district.

6. Can my child take home equipment that the school buys?

Yes. If your child needs the equipment at home to make progress towards his/her goals in their IEP. The district cannot limit your child's use of the device to just school if he/she needs it at home to receive a free, appropriate, public education (FAPE). If the device is necessary for your child to complete his/her homework or to practice skills outside of school, it should be included in his/her IEP.

7. Can the district force me to sign a damage waiver and force me to pay for equipment that is damaged?

Districts can require parents to sign limited waivers requiring them to replace lost or damaged equipment, but only in very select circumstances. A district cannot force a parent to replace technology that is damaged or lost as a result of the student's disability and the district should not propose waivers that require a parent to replace technology that is damaged or lost in the normal course of use. For example, if an older piece of equipment is being used by the student appropriately, and the screen freezes and it stops working, the district should not require the parent to replace the equipment. Additionally, in situations where the technology is stolen by no fault of the student or parent, the parent should not be responsible. If a student's disability causes that student to be forgetful, the district should not expect a parent to replace equipment, but should instead create a plan to ensure that the equipment isn't lost in the first place.

If the district proposes a waiver, a parent should negotiate the terms of the waiver to make sure that the parent is not liable for any expected damage.

Parents can be held accountable for damage or loss that occurs when the technology is broken or lost while being used outside of the predictable and expected ways. For example, if the student has a computer and downloads software or an app unrelated to school, and that software or app contains a virus, this would be inappropriate use of the device and may require parental reimbursement. Additionally, if the student allows someone else (including the parent) to use the equipment and that individual breaks the equipment, the parent may also be required to reimburse the district.

8. Can the school district make me buy equipment with Medi-Cal or private insurance?

Using other funding sources such as Medi-Cal or private insurance is your decision and must be voluntary. The school district cannot force you to suffer a financial loss. A financial loss may include decreased availability of lifetime insurance coverage; increased premiums; canceled policy; out-of-pocket deductible expenses; and limits on amount of services you can claim. Even if you volunteer to use another payment source, the school district has an obligation to provide all the services included in the IEP. If

the other funding source does not cover the entire cost of the equipment, the school must assume the rest of the cost.

9. Does the school district provide training on how to use the assistive technology device?

Yes. The school must give your child, you, other family members, and school personnel adequate training to ensure proper use of the device. The school district is also responsible for paying for the training. 20 U.S.C. §1401(2)(E).

10. Who is responsible for repairing and maintaining assistive technology devices?

The school district is responsible for repairing and maintaining the devices it buys. Members of the IEP team should discuss training, repair, and maintenance with the school district. Everyone should agree to the arrangement before implementing the IEP. It is the school district's responsibility to review its property insurance policy to determine whether it will cover loss or damage at school and at home.

11. Can the school district use cost as a factor in determining whether my child can get assistive technology?

Yes, but only if a less expensive device is also appropriate. Cost cannot be a factor if the less expensive choice will deny your child access to FAPE.

12. Can the school district require my child to bring an assistive technology device to school that I bought privately?

Schools cannot force you to let your child use a family-owned device at school. Your child's school must provide the equipment the IEP teams says he/she needs. 34 C.F.R. §300.6(c).

13. What if the school district refuses to provide assistive technology or the type of technology I am requesting?

You can first request an IEP meeting to discuss the issue and try to resolve it informally. If assistive technology was agreed upon in the IEP and the school is not following, you have the right to file a compliance complaint. If you disagree with the proposed IEP, you can file for a due process hearing. For more detailed information about filing a complaint see Disability Rights

California's publication *Special Education Rights and Responsibilities (SERR)* manual Chapter 6 *Information on Due Process/Compliance Procedures* available at:

<http://www.disabilityrightsca.org/pubs/504001Ch06.pdf>.

14. If my child does not qualify for special education services, can he/she get assistive technology through the school district?

Your child may be covered under the anti-discrimination provisions of the Americans with Disabilities Act (ADA) or Section 504 of the Rehabilitation Act. Your child may get assistive technology as a reasonable accommodation under the ADA or as part of the school's responsibility to provide FAPE under Section 504. If your child uses a wheelchair, he/she may need a specially designed desk for the classroom. Or if your child has a visual impairment, he/she may need a special computer monitor or software to make it accessible.

15. Can my child get assistive technology to participate in vocational training?

Yes. All special education students may get transition services which include vocational training services. These services may include grooming skills, social skills training, and general work behaviors in the classroom, workplace, and community. 34 C.F.R. §300.43. Common assistive technology to modify the training services may include accessible desks, talking computer terminals, and sound or light signals. If your child needs modifications they should be included in the IEP.

Disability Rights California is funded by a variety of sources, for a complete list of funders, go to <http://www.disabilityrightsca.org/Documents/ListofGrantsAndContracts.html>.