

Assistive Technology and the Schools

A Self-Advocacy Fact Sheet from the Minnesota Disability Law Center

The **Individuals with Disabilities Education Act (IDEA)** is a federal law. The IDEA tells what the schools must do for students with disabilities. The information in this fact sheet is based on the most recent amendments to the IDEA, and to laws in the State of Minnesota. The information in this fact sheet is not legal advice. Every student is different, and the laws change all the time. Some of the laws may be different in other states.

*Look at the end of this fact sheet for the meaning of terms printed in bold and italics, such as **AT**.*

Assistive Technology (AT) - Anything that helps a student with a disability to learn better, do a task more easily, join in school activities, or do more things on their own.

1. What is Assistive Technology?

Assistive technology (AT) is used to mean both assistive technology devices and assistive technology services.

Assistive technology devices (AT devices) are equipment or tools that can help students with disabilities to learn more easily and join in school activities.

Some Examples of AT devices:

- special computer keyboards or software
- machines that speak out loud for students who cannot talk
- tape recorders or books on tape for students who are blind
- special calculators or magnifying glasses
- TTY (telephones for deaf students)
- heaters or fans to make a classroom more comfortable for a student with a disability
- wheelchairs, standers or walkers to help students move around the school
- tools to help students turn the pages of a book or take notes in class

- special buses, lifts, wheelchair ramps or other transportation equipment.

Assistive technology services (AT services) are extra help for a student with a disability to choose the best AT device and learn how to use it. Examples of AT services include:

- a test or meeting to find out what a student with a disability needs
- buying or finding some way to pay for the AT device for the student
- fixing the device, keeping it in good shape, or finding a new device
- teaching the student or the family how to use an AT device, and teaching a teacher or anyone else who works with the student how to use the device.

2. What does the school have to provide for a student with a disability?

A student with a disability should get the same schooling as other children. If the student's disability makes it so they can't learn in the same way, they still have a right to an education. The school must find a way to teach each child.

The law says that students with disabilities must have an education that is Free. It must be Appropriate for the student, meaning that it must fit their special needs. And it must be Public. *Free Appropriate Public Education* is called *FAPE*. Every student has the right to FAPE. The school cannot take away a student's chances to learn because of a disability. If the student needs extra help or equipment to learn like other students, then the school must provide it.

3. When can a student get assistive technology?

The school district must have AT for any student with a disability who needs it. AT is not just for classroom work. If a student needs AT to learn with other students, the school has to get it.

For example, if the school has a guest speaker in the gym, they have to make sure all students can learn from the speaker. The gym has to have a ramp so students in wheelchairs can go. The school must have a sign language interpreter for deaf students so they can understand the speaker. These are both examples of *reasonable accommodations*.

4. What if a student has been suspended or expelled? Does a school still have to provide assistive technology?

The school must provide AT to suspended or expelled students who need it. Students do not lose their right to FAPE when they are suspended or expelled.

5. Can the school make a student with a disability go to a different classroom to use their AT?

The only time the school can move a student with a disability to a different classroom or a special

class is when they can't learn in a regular classroom. For example, if the student needs a special computer to learn, the computer must be in the regular classroom. The school cannot put all of the students who need special computers in a separate classroom.

6. What services can students with disabilities get?

A student with a disability can have class work planned just for them. The teaching planned for that student can include extra help or extra equipment. It will not cost the parents any money at all. This special planning is called *special education*.

7. Who should get special education services?

If a student has a disability that makes it harder for them to learn like other students, s/he should get special education services. The student can get these services from birth until they are 21 years old.

Examples of disabilities include: mental retardation, problems seeing or hearing, serious emotional disturbance, autism, traumatic brain injury, bone or muscle problems, other serious health problems, or specific learning disabilities. A student with any of these disabilities may qualify for special education services.

8. What if a student with a disability does not qualify for special education?

Some students have disabilities that make it harder for them to learn, but they don't qualify for special education. For example, a student with a broken leg may not be able to get up the stairs to his classroom. That student may not qualify for special education, but the school still has to make reasonable accommodations (see Question #3).

Section 504 of the 1973 Rehabilitation Act says that public schools **MUST** provide help for students with disabilities if the disability seriously affects one or more major life activity. Major life activities include: caring for oneself, walking, seeing, hearing, talking, breathing, learning and working. If a student has a disability that makes it hard or impossible to do one of these activities and s/he doesn't qualify for special education, the school must come up with a 504 plan. A 504 plan describes everything the school will do to help the student learn with other students. The 504 plan may include AT devices and services.

If a school refuses to provide a 504 plan or necessary AT, you can file a complaint with the Office of Civil Rights. Address your complaint to:

Region 5, Department of Education
Office of Civil Rights
111 North Canal, Room 1053
Chicago, IL 60606.

You must file your complaint within 180 days of the ***date of discrimination***. The date of discrimination is the date the school does the wrong thing. For more information, see our fact sheet, *Rights Under Section 504 of the Rehabilitation Act of 1973*. You can also call the Minnesota Disability Law Center at the telephone number at the end of this fact sheet.

9. How do I know if my child qualifies for special education and related services?

If a parent or teacher thinks a student has a disability that makes it hard for them to learn, the student must be tested. The tests are used to decide if the student can get special education and related services. Once a student starts special education services, new tests must be done every three years.

You can ask for testing to be done at any time. If a parent asks, the school district either has to do the testing, or they have to give reasons why they won't do it.

The testing for disability must:

- Be designed especially for each student.
- Be done by trained people who understand the disability and how to test for it.
- Be of high quality, done in a professional way.
- Be done with more than one tool. For example, the student may take a written test AND meet with a counselor. The testing has to get as much information as possible about the student.
- Use information from parents and other people who know the student.
- Use information about how the student does in different kinds of settings. Some students do better in a small group than in a large one.
- Consider how the student is doing in the regular classroom.
- Be done in the student's first language or best way of communicating.
- Pay attention to the student's disabilities and weaknesses. The testing must also consider the student's strengths.
- Consider the student's race, culture, and background.
- Include an *assessment summary report*. The report must explain all of the test results and what the results mean about the student and the student's needs.

10. What is a notice for assessment?

If the school district wants to test a student for special education services, they must ask for permission. The request for permission must be in writing. The district *may not* do any testing until a parent gives permission. When it is time for a reassessment, or follow-up testing, the school must try to get permission for this, too. If the district tries to contact you and you don't reply, then the district can go ahead with the reassessment.

11. Is AT part of the assessment?

Yes. The school district must think carefully about the student when they do the testing. They must decide if the student needs AT to make the most of his/her special education plan. The school has to

make sure the student gets whatever help s/he needs to learn in the *least restrictive environment*. Least restrictive environment means the student should learn with the rest of the students whenever possible.

Do NOT sign permission to let your child be assessed without looking at the request carefully. Make sure the assessment plan will consider all of the ways that your child might do better if they have AT.

If you think AT should be included in the assessment plan and it isn't, then you need to write a request. The request should say which AT devices or services need to be used in the assessment. Make the request before you give written permission.

Remember to put all of your requests in writing, and keep a copy of everything.

12. If a student already uses AT, should s/he be able to use that AT during the testing?

YES! Students who use AT must be able to use it during any assessments or testing. For example, if a student uses a special pencil grip for daily school work, they must be able to use it during testing.

13. Who gives the tests that decide if a student can have special education services?

A team decides together who will do the assessment. The team must include the student's parent or guardian.

The person who does the assessment must know how to use the student's AT. If the staff at the local school district does not know how to work with the student's AT, then the district must find someone who does. You do NOT have to pay anything for this.

14. What kinds of questions should be asked about AT?

The team should focus on the student and what type of AT devices or services s/he might need. The team needs to focus on this all the way through the testing process. They should think about the AT and how it can help the student be as independent as possible. They need to think about home, school, work and play. They should also think about AT and how it can help the student learn new skills to be even more independent.

The team should consider questions like these:

- How does the student move from one place to another?
- How does the student communicate with family? Friends and classmates? Other adults?
- How does the student learn best? By listening? Seeing? By trying to do things?

- How can the student use telephones, books, computers, library services, and other information resources?
- How does the student handle things like toys, dials, doors, and switches? Are there AT devices that could help with this?
- Are there adaptive aids that could help the student with eating, dressing, cleaning, or work activities?
- How does the student do routine school activities like homework, worksheets, tests, reports, and classroom discussion?
- How can the student join in school activities outside the classroom? The team should think about labs, shop, lunchroom, special events, and field trips.
- How can the student learn about possible work activities or services?

The team should also think about how this student is special or different. This will help them come up with their own questions about AT.

15. How long should the assessment take?

The school district has 30 school days to finish the testing. The 30 days start as soon as you give permission for the assessment.

16. What if I disagree with the results of the school district's assessment?

If you do not agree with the results, you can ask the school district to get an outside assessment. Ask the school to pay for it. Make your request in writing.

17. What is an outside assessment?

An outside assessment is testing for special education that is done by a person who does not work for the school district.

18. What if the district refuses to get an outside assessment?

If you ask for an outside assessment and the district says no, make sure they put their answer in writing. Then you can request a hearing. At the hearing, the district has to prove that their assessment was good enough. For more information on hearings, see Questions #28 to 30 of this fact sheet.

19. What if I pay for an outside assessment myself?

If the school refuses to get an outside assessment, you can still hire someone to do it. If you pay for

an outside assessment, the school must look at and consider the results. The school does NOT have to do what the outside assessment suggests.

20. How does the school district decide what services a student with a disability should get?

A team decides what services the student will get. Generally, this is the same team that decided who would do the assessment (see Question #13). The team usually includes teachers who work with the student, a school administrator, the parents, and the student. It may also include other people who know the student in a special way or who know things about how the student learns. For example, it may include a teacher's aid, social worker, or grandparent. Parents and students have a right to be at every team meeting.

The team works together to write an *Individual Education Program (IEP, often called a Plan)* or an *Individual Family Service Plan (IFSP)*. The IEP or IFSP describes the student's *Present level of educational performance* (how the student is doing in school at the time of the assessment). It tells how the student is doing in the regular classroom, what the student is learning, and how things are going overall.

The IEP/IFSP must have annual goals and instructional objectives. The goals are the learning targets for the student's education. The objectives are the short-term stepping stones to reach the goals. For example, the team might decide it is a goal for the student to learn to use money. One objective would be for the student to recognize different coins. Both the goals and the objectives must be for that student only. The objectives must be very clear, so the team can measure the student's progress.

The team decides what kind of help the student needs to move toward the goals. The IEP or IFSP must say exactly how many and what kinds of services the student needs. It should say how much time the student will spend using special education or related services and if the student needs AT.

21. Is AT included in the student's IEP or IFSP?

When the team writes the student's IEP/IFSP, they must think about the student's need for AT at each step. If the team decides that the student needs AT in order to get FAPE (see Question #2), then AT must be included in the IEP/IFSP.

The IEP/IFSP should give a lot of details about the AT. The plan should say:

- if AT will be used in certain classes or activities, or for the whole school day
- how the student and teachers will be trained to use an AT device
- what help the student, staff or family might need to use the AT
- how to fix and take care of the AT device so it stays in good shape
- when each student will use the AT (if more than one student uses it)
- if the AT device can also be used at home or at work.

If the team includes AT in any part of the IEP/IFSP, they must say what AT is used and how it is used. The IEP/IFSP must say the amount of time the AT device or service is used, and it must give

the start and end dates for any services.

22. Who pays for AT devices and services for a student with a disability?

The school district must provide AT devices and services at no cost to you. Sometimes a fee is charged to ALL students. For example, the school may charge a lab fee for the use of computers. If a fee is charged to ALL students, then students with disabilities may also be charged. But they may not be charged for the use of any equipment that is special for them because of their disability.

23. Since the school cannot charge the parents for AT devices or services, can it get the money from somewhere else?

Yes. The school district can find other funding, as long as there is NO cost to you. Some schools get money from private groups. They can also get money from Medicaid (in Minnesota, this is called Medical Assistance), or the Division of Rehabilitation Services, or State Services for the Blind.

The school might ask to use your private health insurance to pay some of the costs. If they do, then you might end up paying extra for insurance. You do not have to pay for AT directly (by getting a bill) or indirectly (with higher health insurance fees). When the school asks to use your health insurance, you can say no.

24. What if the school district “doesn’t have the money” for AT devices or services? Can the district decide not to get the AT?

No. If the team decided that the student needs AT devices or services to get an education, then the district MUST provide it. It doesn’t matter if they have the money or not.

25. What if the school administrator or school board decides not to pay attention to the IEP/IFSP team’s decision about AT? Can they say the team’s decision is wrong?

NO! Only the IEP/IFSP team can change IEP/IFSP. A school administrator or a school board cannot change an IEP or an IFSP. Even if the school board objects, the district still has to do what the IEP/IFSP team decides.

The law says that the school must provide special education services. If the school does not follow the IEP/IFSP, that is a violation of the law. If the school doesn’t follow the law, you can file a *complaint* or ask for a *due process hearing*. For more information on filing a complaint, see Question #28C.

26. May the student take an AT device home, or to work on weekends, holidays, and summer vacations?

Yes. The IEP/IFSP must say, specifically, that the student is allowed to use the AT device outside of school. See Question #21 of this fact sheet.

27. What happens to an AT device if we change school districts?

If a student with a disability changes from one school district to another, s/he may want to take an AT device along. If the old school bought an AT device for that student, the new school district can buy the device from the old district. The new school district must write to the old district and say that they would like to buy the AT device. If the former school district can use the device for another student, then they don't have to sell it.

When a student with a disability finishes high school and needs AT for a job or more classes, a state agency may agree to buy the AT from the school so the student can continue to use it.

28. What if the school district refuses to include AT devices and/or services in the student's IEP/IFSP? Is there anything I can do?

Sometimes the IEP/IFSP team does not agree about what is best for the student. The team should always try to reach a decision that seems right to everyone. But sometimes, the parents do not agree with the rest of the team. When this happens, the school district still has to write an IEP/IFSP. When they give it to you, you can agree or disagree.

If you disagree with something the team decides, including not putting AT in the IEP/IFSP, you can take one or more of these steps:

- Ask for a **conciliation conference**, which means one or more meetings where the school staff and parents try to settle the problem. If you ask for a conference, the school must make it happen within ten days. You and the school must agree about when and where the conference will be held. After the conciliation conference ends, the school must mail you a written notice, saying what they are going to do.
- You can contact your local special education director and ask for a **mediation**. A mediator is a person who has special training to help families, teams and school districts settle their differences and agree on how to help the student. Mediation is voluntary, which means that neither you nor the school has to go. At the end of the mediation, the mediator will write an agreement that says how the school district agreed to help the child.
- You have the right to file a complaint, or to request a due process hearing (see Question #29). If you file a complaint, use the school's written notice as proof of the school's decision. MDLC has another fact sheet entitled *How to File a Complaint with the Department of Accountability and Compliance*.

You can ask for a **facilitated IEP meeting**. At this meeting, the state provides a trained facilitator who does not work for the school or the parent. The facilitator helps you and the school communicate. The facilitator also helps the team write the IEP. No one has to use a facilitator; everyone must agree to go. The facilitator's service is free to the school and to you. For more information, call the Minnesota Special Education Mediation Service toll-free at 1-866-466-7367.

29. What happens if I file a complaint or request a due process hearing?

If you file a complaint, the next step is a due process hearing to resolve the disagreement. A hearing officer is in charge of the due process hearing. The hearing officer is not connected to the school in any way. Both sides tell the hearing officer their reasons for disagreeing. At the end of the hearing, the hearing officer must write down the decision. If either party disagrees with the hearing officer's decision, they can appeal the decision.

Definitions

504 accommodation plan – The plan a school has to make to help a student with a disability who does NOT qualify for special education.

Assessment summary report – When a student is tested for special education services, the assessment summary report describes and explains the results of the testing.

Assistive technology (AT) – AT can be used to mean both AT devices and AT services.

Assistive technology devices – Equipment or tools that can help a person with a disability to work, learn, or move through their life more easily.

Assistive technology services – Help or instruction to find, make, repair, or learn to use an AT device.

Augmentative communication device – Machine to help a person communicate.

Complaint – A letter to a government agency, complaining that a school or business has broken the law. Writing this kind of letter is called “filing a complaint.”

Conciliation conference – A meeting or series of meetings between school staff and parents to settle a problem about the student's education.

Date of discrimination – The date on which a school or business breaks a law or rule, or the date when a person is first aware that the school or business will not follow the law and give them the services that they need.

Due process hearing – When a person files a complaint, the next step is a due process hearing. A hearing officer will listen to both sides of a conflict, and give a written decision.

Facilitated IEP meeting – A voluntary meeting of parents and school staff with a trained facilitator to work out problems with a student's IEP.

Free appropriate public education (FAPE) – This is the main idea behind the IDEA. Every student, whether or not they have a disability, has a right to an education, free of charge, which fits the student's special needs.

Individual education program (IEP, often called an individual education plan) – IEP can mean either the IEP document or the IEP meeting. The document, which describes the educational plan for a student with a disability, is written at the meeting.

Individual family services plan (IFSP) – A written plan that describes the early intervention services a school district will give to a child before the child reaches school age. Basically, an IEP for infants and toddlers.

Least restrictive environment (LRE) – Whenever possible, a person with a disability should be able to learn, live and work like everyone else. The least restrictive environment is the setting which is most like the mainstream.

Mediation – A voluntary meeting between two parties who are having a disagreement. A trained mediator helps the two parties come to an agreement.

Present level of educational performance (PLEP) – A description of a student with a disability, which tells how the student is doing in school at the present time. The PLEP should give detailed information about the student's disability and the student's strengths.

Reasonable accommodation – Changes to a school, business, or public office so that people with disabilities can use the building or services the same as people who don't have disabilities.

Section 504 – A section of the 1973 Rehabilitation Act. This section says that public schools must help students with disabilities, even if the student does not qualify for special education.

Special education services – Special planning for the extra help or equipment a student with a disability needs to get an education.

This fact sheet may be reproduced in its entirety, with credit to the Minnesota Disability Law Center. The legal content of this fact sheet was updated in March 2004, and it was re-written by MDLC for the Minnesota Governor's Council on Developmental Disabilities in June 2004.

Contact Information:

Minnesota Disability Law Center (MDLC)

430 First Ave. North, Suite 300

Minneapolis, MN 55401-1780

Web Address: www.mndlc.org

New client intake: 612-334-5970

Toll Free: 1-800-292-4150

TTY: 612-332-4668

Preparation of this Fact Sheet was financed in part by grant number 90DNO133 from the US Department of Health and Human Services, Administration on Developmental Disabilities, Projects of National Significance, under provisions of Public Law 106-402. The content of this Fact Sheet does not necessarily reflect the position of policy of the Administration on Developmental Disabilities or the Minnesota Department of Administration.