

Assistive Technology and the Law

Individuals with Disabilities Education Act (IDEA) 2004

Definition of Assistive Technology Devices

The following definition of assistive technology comes from the Individuals with Disabilities Education Act (IDEA 2004), Section 300.5:

The term “assistive technology device” means 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 a child with a disability. The term does not include a medical device that is surgically implanted or the replacement of such device.

Definition of Assistive Technology Services

The following definition of assistive technology services is from the Individuals with Disabilities Education Act (IDEA 2004), Section 300.6:

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

- the evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;
- purchasing, leasing or otherwise providing for the acquisition of assistive technology devices by children with disabilities;
- selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;
- coordinating and using other 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 a child with a disability or, if appropriate, that child's family; and
- training or technical assistance for professionals (including individuals providing education 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.

Ensuring Access to Assistive Technology

Each public agency shall ensure that assistive technology devices or assistive technology services, or both, as those terms are defined in 300.5–300.6, are made available to a child with a disability if required as part of the child’s (a) special education, (b) related services, or (c) supplementary aids and services. (Section 300.308)

Development of Individual Education Plan (IEP)

The IEP Team must consider whether the child needs assistive technology devices and services. (Section 300.324[v])

Support for Access to Instructional Materials (AIM) and Universal Design

The State must adopt the National Instructional Materials Accessibility Standard (NIMAS) for the purposes of providing instructional materials to blind persons or other persons with print disabilities. (Section 300.172)

In order to meet its responsibility under paragraphs (b2), (b3), 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 state education agency 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. (Section 300.172 [b4])

The State must support the use of technology in the classroom by children with disabilities to enhance learning, including technology with universal design principles and assistive technology devices, and to maximize accessibility to the general education curriculum for children with disabilities. (Section 300.704)

Americans with Disabilities Act (ADA) of 1990

This civil rights law ensures equally effective communication and appropriate auxiliary aids and services where necessary in order to afford an individual with a disability an equal opportunity to participate in—and enjoy the benefits of—a service, program, or activity conducted by a public entity. Disability is defined as a physical or mental impairment that substantially limits one or more major life activity. The intent of this law is to remove the discriminatory effects of architectural, transportation, and communication barriers.

- [Full text of the ADA](https://www.ada.gov/pubs/ada.htm)
(<https://www.ada.gov/pubs/ada.htm>)

Section 504 of the Rehabilitation Act of 1973, Reauthorized in 1992

Section 504 states that “no qualified individual with a disability in the United States shall be excluded from, denied the benefits of, or be subjected to discrimination under” any program or activity that receives Federal financial assistance. This civil rights law prohibits discrimination on the basis of disability. It uses ADA’s definition of a person with a disability. Section 504 refers to equal/comparable access, reasonable accommodation for employment, and appropriate education (education designed to meet the individual needs of handicapped persons as adequately as the needs of non-handicapped persons). This law may apply to students who do not qualify as disabled under IDEA, and it may require consideration beyond free appropriate public education.