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Appendix A

Federal Regulations Case Law Examples

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Special Education Services Assistive Technology for Children and Youth with
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¹ **34 CFR §300.5 Assistive Technology Device.**

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 the 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.

² **34 CFR §300.6 Assistive Technology Service.**

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. The term includes –

1. The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;
2. Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;
3. Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
4. Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
5. Training or technical assistance for a child with a disability or, if appropriate, that child's family; and,
6. 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 that child.

³ **34 CFR § 300.324 Development, review, and revision of IEP**

1. *Consideration of special factors.* The IEP Team must—
 1. In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior;
 2. In the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP;
 3. In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;
 4. Consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and,
 5. Consider whether the child needs assistive technology devices and services.

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⁴ **34 CFR §104.33 Free appropriate public education.**

1. A recipient that operates a public elementary or secondary education program shall provide a free appropriate public education to each qualified handicapped person who is in the recipient's jurisdiction, regardless of the nature or severity of the person's handicap.
2. *Appropriate education.* (1) For the purpose of this subpart, the provision of an appropriate education is the provision of regular or special education and related aids and services that are designed to meet individual education needs of handicapped persons as adequately as the needs of nonhandicapped persons are met . . .

⁵ **34 CFR §300.105 Assistive Technology.**

1. Each public agency must ensure that assistive technology devices or assistive technology services, or both, as those terms are defined in Sec. 300.5 and 300.6, respectively, are made available to a child with a disability if required as a part of the child's --
 1. Special education under Sec. 36;
 2. Related services under Sec. 300.34; or
 3. Supplementary aids and services under Sec. 300.38 and 114(a)(2)(ii).
2. 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.

⁶ **28 CFR §35.160 General.**

1. A public entity shall take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others.
2. (1) A public entity shall furnish appropriate auxiliary aids and services where necessary 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.
(2) In determining what type of auxiliary aid and service is necessary, a public entity shall give primary consideration to the requests of the individual with disabilities.

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⁷ **28 CFR §35.104 Definitions.**

Auxiliary aids and services includes –

1. Qualified interpreters, note takers, transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, TDDs, video text displays or other effective methods of making aurally delivered materials available to individuals with hearing impairments;
2. Qualified readers, taped texts, audio recordings, large print and Braille materials or other effective methods of making visually delivered materials available to individuals with visual impairments;
3. Acquisition or modification of equipment or devices; and
4. Other similar services and actions.

⁸ **34 CFR §104.4 Discrimination prohibited.**

1. No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance.

⁹ **34 CFR §300.34 Related services.**

16. Transportation includes –

1. Travel to and from school and between schools;
2. Travel in and around school buildings; and
3. Specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability.

¹⁰ **34 CFR §300.43 Transition services.**

1. *Transition services* means a coordinated set of activities for a child with a disability that —
 1. Is designed to be within a results oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;
 2. Is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and includes —
 1. Instruction;
 2. Related services;
 3. Community experiences;
 4. The development of employment and other post-school adult living objectives; and
 5. If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.
2. *Transition services* for children with disabilities may be special education, if provided as specially designed instruction, or a related service, if required to assist a child with a disability to benefit from special education.

¹¹ **34 CFR §300.44 Universal Design.**

Universal Design has the meaning given the term in Section 3 of the Assistive Technology Act of 1998, as amended,

29 U.S.C. 3002. The definition of Universal design means a concept or philosophy for designing and delivering products and services that are usable by people with the widest possible range of functional capabilities, which include products and services that are directly accessible (without requiring assistive technologies) and products and services that are interoperable with assistive technologies.

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