



## **OSEP Policy Letters, Due Process Hearings, and State Complaints Regarding Assistive Technology for Students with Disabilities**

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### **OSEP Policy Letters and Due Process Hearings:**

#### **AT and FAPE**

- Districts must provide AT when the IEP Team determines that AT is necessary for FAPE. Letter to Naon, 22 IDELR 888 (OSEP 1995).
- If an IEP Team determines that a student requires AT in order to receive FAPE, the AT must be identified in the IEP. Letter to Anonymous, 24 IDELR 854 (OSEP 1996).
- Student denied FAPE when AT device was not provided in a timely manner. Miami-Dade County Sch. Bd., 110 LRP 38102 (FL SEA 2010).
- District was not obligated to provide a specific computer program, absent evidence of denial of FAPE. In re: Student with a Disability, 56 IDELR 120 (NY SEA 2011); Fort Bend Indep. Sch. Dist., 34 IDELR 246 (TX SEA 2001).

#### **AT Devices for Use at Home**

- If an IEP Team determines that a child needs access to an AT device at home as a matter of FAPE, then the district must provide the device for home use in order to implement the IEP. Letter to Anonymous, 18 IDELR 627 (OSEP 1991).
- *But see* Jefferson County Sch. Dist. R-1, 34 IDELR 212 (CO SEA 2001): Although a home computer could have been helpful to the student, he did not require the computer to make educational progress.

## OSEP Policy Letters and Due Process Hearings: (con't)

### Cost Considerations

- While cost may be a consideration in deciding what AT devices and services to provide, cost cannot be the determining factor. Greenwood County Sch. Dist. 52, 19 IDELR 3555 (CA SEA 1992).
- AT must be provided at no cost to the parent. When providing AT, SEAs and LEAs may access funding sources such as Medicaid, Maternal and Child Health, and private insurance proceeds. Letter to Cohen, 19 IDELR 278 (OSEP 1992).

### AT Evaluations

- SWD must be evaluated in all areas of suspected disability, including the need for AT. Letter to Fisher, 23 IDELR 565 (OSEP 1995); Maynard Sch. Dist., 20 IDELR 394 (AR SEA 1993).
- Failure to evaluate a student in the area of AT constituted a denial of FAPE. Glendora Unified Sch. Dist., 49 IDELR 172 (CA SEA 2007).
- Parent's right to seek an independent evaluation includes AT. Letter to Fisher, 23 IDELR 565 (OSEP 1995).

### Decisions on State Complaints

- Baltimore City Pub. Schls., 110 LRP 72182 (MD SEA 2010): State ED required district to review IEP and reconsider student's need for a word processor when IEP team failed to explain why it disagreed with recommendation for AT in evaluation.
- Lyon County Sch. Dist., 110 LRP 73249 (NV SEA 2010): State ED found that district's failure to have a system for promptly replacing blind student's computerized Braille notebook resulted in denial of FAPE.
- Monroe County Comm. Sch. Corp., 50 IDELR 178 (IN SEA 2008): State ED determined that district failed to implement AT provisions of student's IEP, which were ambiguous as written.
- Ada-Borup Indep. Sch. Dist. #2854, 49 IDELR 55 (MN SEA 2007): State ED found that district violated IDEA by failing to train student in use of augmentative communication device.



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