

Section 9: Individuals with Disabilities Education Act (IDEA – PART B)

Program Purpose

In 1975, Congress passed the first special education law, Education for All Handicapped Children Act (Public Law 94-142). This law was later amended and renamed the Individuals with Disabilities Education Act (IDEA) or Public Law 101-476 in 1990.

Among other provisions, IDEA,

- Defined assistive technology services and devices.
- The law stated that assistive technology must be provided by the local school district if needed for a child to receive a Free and Appropriate Education (FAPE) in the Least Restrictive Environment (LRE).

Congress strengthened the assistive technology component in amendments to IDEA in 1997 by requiring education teams to consider whether the student requires assistive technology devices and services.

In 2004, IDEA was amended to include a Responsive to Intervention process (RTI). As a result, special education programs implemented a Multi-Tiered System of Support (MTSS) that provides early intervention to students struggling academically or behaviorally, using evidence-based instruction and continuous progress monitoring to determine the intensity of support needed.

Implementation in Kansas

Kansas receives federal funds to provide education and special education services through a collaboration of:

- Local school districts
- Special education cooperatives
- Educational service centers

Children with disabilities must be educated in the Least Restrictive Environment (LRE) therefore giving them the opportunity to remain in the same classroom settings as their peers to receive an education.

Over the years, educators and advocates have sought clarification and guidance on how to apply education law. In response, the U.S. Department of Education has issued multiple

letters of guidance regarding the provision of special education and assistive technology services: (<https://sites.ed.gov/idea/policy-guidance/>).

In 2024, a comprehensive document titled “Myths and Facts Surrounding Assistive Technology Devices” was released. This publication addresses common concerns and provides clear explanations about assistive technology in schools.

<https://sites.ed.gov/idea/files/Myths-and-Facts-Surrounding-Assistive-Technology-Devices-01-22-2024.pdf>.

Eligibility

Under IDEA Part B, a local school district must provide a Free and Appropriate Education (FAPE) for all children with disabilities between the ages of 3 and 21 years residing within its district.

The Educational Team

A child’s educational team is made up of the child’s

A child’s educational team works together to develop, monitor, and support the child’s learning plan. Members include:

- The parents or guardians
- The child (as age and abilities allow)
- General and special education teachers
- A school district representative
- Specialists who conduct evaluations (e.g., school psychologist, speech-language pathologist, occupational therapist, etc.)
- Other experts including those invited by the parents

Definition of a Child with a Disability

- A child with a disability is one who:
 - Has been evaluated as having one of 13 specific disabilities, and
 - Needs special education and related services as a result of that disability.

The 13 Disability Categories

- Autism
- Deaf-Blindness
- Deafness
- Emotional Disturbance
- Hearing Impairment

- Intellectual Disability
- Multiple Disabilities
- Orthopedic Impairment
- Other Health Impairment
- Speech or Language Impairment
- Specific Learning Disability
- Traumatic Brain Injury
- Visual Impairment (including Blindness)

Specific definitions for each disability can be found at <https://www.parentcenterhub.org/categories/>.

Multi-Tiered System of Support (MTSS)

The child's education team will implement the Multi-Tiered System of Support (MTSS) which requires use of evidence-based instruction and continuous progress monitoring to determine the intensity of support the child needs to succeed academically. The student's progress is monitored to determine if the child benefits from the support within a tier or if there is a need for a comprehensive special education evaluation. The tiers of the MTSS are:

- Tier 1 offering high-quality instruction to all students,
- Tier 2 providing targeted, small-group interventions, and
- Tier 3 offering intensive, individualized support.

If results of the MTSS process indicates a need for additional support at Tier 3 or beyond, a referral for a thorough, comprehensive special education evaluation is made.

Special Education Evaluation and Eligibility

- The evaluation is conducted to assess the student's strengths and needs.
- Members of the education team share the results of their evaluations and observations to determine if the student meets the criteria for special education services.
- If the child qualifies, an Individual Education Plan (IEP) is developed.

Individualized Education Program (IEP)

An IEP is a written document that explains how the school will support the student's individual learning needs in order to reach specific educational goals.

It includes:

- The student's strengths and needs

- Measurable annual goals and objectives
- Special education services, accommodations, and modifications to support success

Where Assistive Technology (AT) Fits In

Assistive technology services and devices may appear in:

- Goals and Objectives
- Accommodations
- Related Services
- Services and Supports

Section 504 Plans

Students with mental or physical disabilities that substantially limit one or more major life activity may benefit from a 504 Plan rather than an IEP.

A 504 plan is a written document that provides necessary accommodations and supports to ensure the student has equal access to education and school activities.

Examples of Major Life Activities

- Caring for oneself
- Walking, seeing, or hearing
- Speaking or breathing
- Learning, reading, or concentrating
- Performing manual tasks
- Emotional regulation or communication

Examples of Disabilities Covered

- Asthma, autism, diabetes, anxiety, hearing or vision impairments, and others.

Example Accommodations

- Support for medical needs
- Extended time on tests
- Use of a graphic organizer
- Noise-cancelling headphones
- Access to a quiet space

ADA Protections

Under Title II of the Americans with Disabilities Act (ADA), students with disabilities are entitled to reasonable accommodations that ensure equal access to:

- Programs
- Services
- Academics
- Extracurricular activities
- School transportation

A written plan is not required under ADA, but many students use a 504 Plan to document/outline accommodations and ensure that staff are informed.

Services

Students may receive a range of services as part of their Individualized Education Program (IEP). All services are based on recommendations from the educational team, which includes:

- Parents or guardians
- The student (as appropriate)
- General and special education teachers
- School specialists
- Invited experts

Services listed in an IEP can include:

- Specialized instruction
- Related services
- Supplementary aids and services
- Supports for environmental or behavioral needs

Types of IEP Services

1. Specialized Instruction: Targeted teaching or curriculum modifications to support learning.

Examples:

- Instruction in specific skill areas
- Modified curriculum

2. Related Services: Therapeutic or support services that enable the student to benefit from special education.

May include:

- Speech-language therapy
- Occupational therapy

- Psychological or counseling services
- Audiology or interpreting services
- Orientation and mobility services (for students with visual impairments)
- Social work services

3. Supplementary Aids and Services: Tools or supports to help the student learn alongside peers.

Examples:

- Scheduled breaks
- Access to quiet space
- Classroom modifications
- Assistive technology
- Staff support

4. Supports for Environmental and Behavioral Needs: Services to help a student navigate and succeed in their learning environment.

Examples:

- Behavioral intervention plans
- Environmental modifications for safety or focus

Flexible and Comprehensive Support

Other services may be included based on the student with a disability's needs and goals. All services must be listed on the student's Individualized Education Plan (IEP) if they are to be provided.

- IEPs are reviewed and updated annually but can be modified throughout the year as needed.

Assistive Technology Services Covered

IDEA as amended in 2004 ensures that eligible students with disabilities have access to assistive technology services if needed to benefit from a Free and Appropriate Public Education (FAPE).

Components of Assistive Technology Services

AT services may include:

- Evaluation of the student's AT needs

- Provision of assistive technology devices
- Customization and maintenance of devices
- Training on device use and care (for students, staff, and families)
- Technical assistance with device setup or troubleshooting

Deciding AT Services

All assistive technology services are determined by the IEP team based on the student's:

- Unique abilities
- Educational needs
- Functional goals

Only services listed in the Individualized Education Program (IEP) may be provided.

Common AT-Related Services on IEPs

- Speech-language pathology services
- Occupational or physical therapy
- Hearing services (e.g., audiology, interpreting)
- Vision support services (e.g., orientation and mobility training)
- Training on the use and care of AT devices in school settings

How and Where AT Services Are Delivered

Assistive technology services may take place:

- In one-on-one settings
- Directly in the classroom, supporting real-time use within:
 - Academic tasks
 - Communication
 - Physical participation

The goal is to help students apply their AT skills in meaningful, functional ways throughout their day.

Assistive Technology Devices Covered

A wide range of assistive technology devices may be considered for students with disabilities during the IEP planning process. Devices are selected case-by-case based on the student's abilities, needs, and educational goals.

Examples of AT Devices

Reading Supports

- Text-to-speech software
- Digital and audio books
- Visual supports (e.g., reading guides, screen masking)
- Customizable text settings

Writing Supports

- Speech-to-text software
- Word prediction tools
- Grammar check software
- Graphic organizers for planning
- Low-tech tools such as adaptive grips or tilted writing surfaces

Communication Supports

- Voice amplification devices
- Picture-based communication boards
- Single-message devices
- Dynamic display (speech-generating) devices

Hearing Supports

- Assistive listening systems (e.g., FM systems)
- Alerting devices
- Tactile signalers

Mobility Supports

- Wheelchairs
- Gait trainers

Computer Access Devices

- Alternative keyboards
- Ergonomic mice or trackballs
- Switch systems
- Eye-tracking software

Vision Supports

- Screen reader software
- Magnification tools

- High-contrast text displays
- Handheld magnifiers

Note: These examples are not comprehensive. New assistive technologies are continually being developed.

Why AT May Be Included in the IEP

Assistive technology devices may be added to a student's IEP to help them:

- Perform functions more independently
- Achieve or approximate normal fluency or a level of accomplishment in an educational task (use of adaptive keyboard or speech to text software)
- Access or participate in educational activities not otherwise possible
- Increase endurance and reduce fatigue during tasks
- Gain better access to information
- Engage in normal social interaction
- Learn in the least restrictive environment (LRE)

Funding AT Devices

Although schools are required to provide devices listed in a student's IEP, they are not required to directly pay for all devices. Schools may:

- Purchase or lease devices
- Use public or private funding sources
 - Examples: Medicaid, family health insurance, private foundations, community organizations

Parents cannot be required to pay for an assistive technology device, but the schools may work with the parents to acquire the device using the family's private health insurance.

If a device is medically necessary (e.g., a mobility or communication device), Medicaid or family insurance may be used. Schools must have parent permission to bill insurance, and parents cannot be required to pay.

In some cases, schools may cover copay costs or seek additional grant or community funding to help families when insurance is used.

Problems Obtaining Assistive Technology

Despite legal protections, some challenges may arise when obtaining assistive technology (AT) through the IEP process.

Cost Concerns

- Some assistive technology devices can be expensive.
- Budget constraints may cause school districts to hesitate or avoid recommending certain AT tools.
- Teachers and therapists may feel pressured not to recommend AT during IEP meetings, which would obligate a school to purchase it.

Disagreements Between Team Members

- Parents or guardians may believe a specific device will benefit their child, but school personnel may disagree.
- While parents are equal members of the IEP team, decisions about AT are based on majority agreement regarding what is necessary for a Free and Appropriate Public Education (FAPE).
- This can sometimes result in conflict between family members and school staff.

Delays in Acquisition

- Although the school system is mandated by law to provide equipment, lack of school funds or pursuit of private and public funds may delay purchase of the equipment.
- In some cases, this may delay student progress or implementation of IEP goals.

Potential Solutions

- Borrowing or leasing assistive technology devices can help the IEP team determine whether a tool is appropriate before committing funds.
- Exploring devices through a state assistive technology loan program or vendor may:
 - Improve team understanding
 - Prevent unnecessary costs
 - Keep up with evolving technology

Ownership and Transfer Issues

- When a school **purchases a device**, they **retain ownership**.
- School staff may hesitate to:
 - Allow the student to bring the device home
 - Transfer the device when the student moves to a different school (e.g., elementary to middle school)

Resources for Support

Information provided in the U.S. Department of Education guidance publication, *Myths and Facts Surrounding AT Devices*, may help members of the student's IEP team address the concerns of parents or other team members. A copy of the publication can be found at <https://sites.ed.gov/idea/files/Myths-and-Facts-Surrounding-Assistive-Technology-Devices-01-22-2024.pdf>.

Appeals

There are three options to resolve special education disagreements:

- Mediation
- Formal complaint
- Due Process Hearing

Tip: It's always best to first try resolving issues at the local level by working with:

- Teachers
- School principal
- Special education director
- Superintendent
- Local board of education

1. Mediation

Mediation is an informal process where an impartial third party discusses the issues with the parents and the school representative.

- The mediator helps both sides discuss issues openly and work toward a written agreement.
- Mediator does not make a ruling.
- Costs of mediation are paid for by the state.

How to Request Mediation

- Complete the Request for Mediation Form:
<https://www.ksde.gov/Portals/0/SES/forms/dispute/Med-all.pdf>
- Submit the form to the Kansas State Department of Education (KSDE):
 - KS State Dept. of Education
Special Education & Title Services
900 SW Jackson St. Suite 602
Topeka, KS 66612

800-203-9462 or special.education@ksde.gov

2. Formal Complaint

Parents or organizations may file a formal complaint if they believe the school is not complying with federal or state laws or regulations.

- Must be filed within 30 days of the violation.
- Can be filed with the local school board or KSDE Special Education Services.

How to File

Use the KSDE Formal Complaint Form:

<https://www.ksde.gov/Portals/0/SES/forms/dispute/FC.pdf>

Email to: formalcomplaints@ksde.org

KSDE investigates through interviews and site visits, then issues a written decision. If violations are found, corrective actions will be required.

3. Due Process Hearing

If the parents continue to disagree with the school's actions, they may submit a written Due Process request to the School Board of their school district.

Due Process Timeline and Rights

- Parents notified of relevant state statutes 10 days prior to the hearing
- Hearing date notification provided 5 days in advance
- A neutral hearing officer presides
- Parents may be represented by a lawyer or expert in the education of children with disabilities.

Parent Rights in a Hearing

- Obtain an independent evaluation
- Review all records and reports related to the child
- Present evidence
- Cross-examine witnesses
- Exclude evidence if not shared 5 days in advance
- Receive a verbatim written or electronic transcript
- Receive a written decision within 10 days after the hearing concludes

Placement during Dispute:

While a hearing is pending, the child is entitled to remain in his/her education program. If the dispute involves a child's admission into a program, the child must be placed in a public school program until the proceedings are completed.

Appeals Beyond the Hearing

- Appeals may be filed with the State Education Agency (SEA) Commissioner
- SEA conducts an impartial review and issues a decision
- SEA decision is final unless appealed further in state or federal court