



Extended School Year Services Help Prevent Regression

What are Extended School Year (ESY) services?

ESY services are special education and related services that are tailored to each student to help him or her meet specific goals in the Individualized Education Plan (IEP). ESY services can include: instruction regarding basic and self-help skills, academic tutoring, socialization assistance and recreation services if they are necessary to assist in meeting the child's IEP goals. ESY services may differ from the regular school year program because they are focused on the need to prevent academic regression during the school break. If a student needs transportation to attend this program, it must be provided by the school district.

The Individuals with Disabilities Education Act (IDEA) requires schools to consider ESY services for every student with a disability, depending on need. These services can not be limited to only one category of disability. Multiple factors must be considered when determining whether a student is eligible for ESY services, such as:

- * nature and severity of the disability;
- * current IEP goals and objectives;
- * emerging skills and breakthrough opportunities;

- * interfering behaviors, especially when these behaviors have negative impact on ability to make educational progress;

- * previous progress during disruption of services; (Courts have found that the likelihood of regression or a lengthy recoupment period is sufficient to establish eligibility.)

- * rare and unusual circumstances such as long absences for medical reasons or moving from restrictive placements to inclusive programs.

School districts should give parents a notice to inform them about their ESY program and explain that the IEP team makes the decision for each individual child. Factors which the team should consider are: the student's progress toward IEP goals; the nature and severity of the disability; the likelihood of regression caused by the school break; a failure to recover critical skills in a reasonable time; the presence of any interfering behaviors that might slow down or prevent a student's ability to learn; the availability of alternative resources and the student's ability to interact with non-disabled peers.

Eligibility for ESY services cannot be limited to only particular types of disabilities. If a child has an IEP and some of the above factors, he or she may be in need of ESY

Justice Department Sues New York Over Voting Rights

The Justice Department announced on March 1, 2006 that it has filed suit against the State of New York alleging violations of the Help America Vote Act of 2002 (HAVA). The lawsuit was filed in the U.S. District Court for the Northern District of New York, in Albany. This suit seeks to vindicate the rights of voters with disabilities and promote federal election reform efforts.

The government's complaint contends that the state has failed to comply with two of HAVA's requirements governing federal elections: that states (i) adopt voting systems that are fully accessible by disabled voters and are capable of generating a permanent paper record that can be manually audited, and (ii) create a statewide computerized voter registration database. The lawsuit is the first filed to vindicate these important federal obligations.

"HAVA contains important reforms designed to ensure that elections for federal office will both allow access to all voters and ensure the integrity of the process," said Wan J. Kim, Assistant Attorney General for Civil Rights. "We believe today's lawsuit will help ensure that New York voters enjoy the benefits of these important reforms."

HAVA was enacted with bipartisan support after the 2000 presidential election and was signed into law by President Bush on October 29, 2002. States had nearly three years to comply with the provisions enforced under today's lawsuit, which took effect January 1, 2006.

This suit is the culmination of an extensive effort by the Civil Rights Division to ensure timely and full implementation of HAVA. The Division met with representatives from states around the country to appraise and assist with their implementation efforts. As part of this process, the Division closely

reviewed New York officials' steps to comply with HAVA. The Division repeatedly urged New York to come into compliance on a voluntary basis. As of the January 1, 2006 deadline, however, New York was not close to compliance with either provision.

HAVA was the first federal statute to provide federal funds to states to support reform of federal elections. As the government's complaint alleges, New York received approximately \$221 million to assist its implementation of HAVA's requirements. This included more than \$49 million specifically designated to assist the state in replacing its lever voting machines. Under HAVA, New York stands to lose these earmarked funds if it fails to replace these machines by the September 2006 primary election.

The lawsuit seeks a determination that the State of New York is not in compliance with HAVA's voting systems and database requirements and an order requiring the state to submit promptly a plan demonstrating how it will come into full compliance.

from page 1: Extended School Year

services. A parent may request an IEP meeting to determine ESY eligibility at any time.

If a parent does not agree with the IEP team's judgment regarding ESY services, he or she may follow the district's procedures for due process. This means that parents can request mediation, a due process hearing or, under IDEA 2004 and its proposed regulations, ask the district to hold a resolution session.

Web Site Assists with Transition

The PERSONAL DATA WIZARD is a website developed by the Transition Specialist of the Humboldt County Office of Education in California. It provides numerous tools to help students with a range of transition activities including creating resumes, cover letters, and or household budgets, as well as help them identify employment preferences and interests.

The Personal Data Wizard features an online interest assessment for students to identify their career interests and a bank of more than 500 photos of work activities allows students to identify their employment preferences by clicking on the photos of the jobs they prefer. In addition, the website also provides tips and tutorials for activities such as banking and purchasing a vehicle, and a practice test for the California written driving exam.

The website was developed by the Transition Specialist of the Humboldt County Office of Education in California, but any school can purchase access codes for a group of students that students may use even after they exit school. In addition, schools are able to customize and post materials to the website that are relevant to their own communities or schools. For \$1/year any student across the country can access the site. There are more than 10,000 registered users, and the site can serve an unlimited number of students. Visit the site at - www.hrop.org/wizard Additional background and contact information on the Personal Data Wizard can be found on the Transition Coalition web site <http://www.transitioncoalition.org/cgiwrap/tcas/new/collaboration/mos/index.php?page=datawiz>

Down Syndrome Conference Slated

"Understanding How Children with Down Syndrome Learn" is the title of a conference being sponsored by The Up Side of Down Syndrome of Greater Cleveland on Saturday, May 6 at the Embassy Suites Hotel in Independence, Ohio. The day-long workshop will present sessions on the characteristics and learning processes of children with Down syndrome, developmental stages, and formatting instruction to accommodate skills and behavior. The day's keynote speaker will be Susan Peoples, an educator, author and parent of a child with Down syndrome. For registration information, contact Gina Mitchner at 440-546-7993, or 4mitch@sbcglobal.net.

Wisdom...

One evening an old Cherokee told his grandson about a battle that goes on inside people. He said, "My son, the battle is between two 'wolves' inside us all.

"One is Evil. It is anger, envy, jealousy, sorrow, regret, greed, arrogance, self-pity, guilt, resentment, inferiority, lies, false pride, superiority, and ego.

"The other is Good. It is joy, peace, love, hope, serenity, humility, kindness, benevolence, empathy, generosity, truth, compassion and faith."

The grandson thought about it for a minute and then asked his grandfather: "Which wolf wins?"

The old Cherokee simply replied, "The one you feed."

Four Federal Laws Address Assistive Technology

Technology is present everywhere in our world and advancing so quickly that many of us struggle to stay abreast of the latest inventions. One type of technology that is particularly exciting for people with disabilities is assistive technology. Assistive technology assists or enhances the ability of people with all manner of disabilities to work, complete the activities of daily living, interact with others, and stay connected to their or others' rapidly changing technological world. It levels the playing field and makes the world more accessible to individuals with disabilities.

Does federal law provide for assistive technology? Is it part of the many statutes that bar discrimination against people with disabilities and improve their access to education, employment, and a better quality of life? This article looks at four different laws and how they address assistive technology: Technology-Related Assistance for Individuals with Disabilities Act, Americans with Disabilities Act (ADA), Developmental Disabilities and Bill of Rights Act, and Individuals with Disabilities Education Act (IDEA).

The Technology-Related Assistance for Individuals with Disabilities Act

In 1988, Congress enacted the Technology-Related Assistance for Individuals with Disabilities Act, referred to as the "Tech Act." In its current form, the Tech Act outlines the need for assistive technology and services geared toward the provision of assistive technology. It authorized federal dollars to assist states to develop comprehensive statewide programs designed to do the following:

- * increase the amount of money going toward assistive technology;

- * increase the access to assistive technology and services for people with disabilities, including access to training to learn how to use assistive technologies;
- * increase the ability of individuals with disabilities to get assistive technology services o matter which type of agency, educational or otherwise, the person relies on for services;
- * increase the ability of the state to fund assistive technology services;
- * increase the involvement of the disability community, including people with disabilities, their family members, and advocates, in making decisions about the provision of assistive technology services;
- * increase the efforts to coordinate services between and within state agencies, local agencies, and private entities;
- * increase public awareness about the accessibility and benefit of assistive technology; and
- * increase involvement in the legal process by making people aware of the need for, and getting people involved in advocating for, changes in laws, regulations, and procedures that apply to the use of assistive technology.

The Tech Act defines an assistive technology device as "any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities." Simply put, an assistive technology device is any type of tool or piece of equipment that a person with a disability can use in order to be able to

complete a task or in order to more effectively complete a task.

The Tech Act defines assistive technology service as any service that aids a person in using an assistive device. The statute further clarifies that these services can range from an evaluation of an individual's need for assistive technology, purchase of assistive technology tools, modifications to assistive technology tools, coordination of any necessary assistive technology services, instruction for users of the assistive technology, and outreach to inform the public about the availability of assistive technology.

An important concept related to assistive technology, "universal design," was first defined in the Tech Act. Universal design is a concept "for designing and delivering products and services that are usable by people with the widest possible range of functional capabilities." In other words, a product that is universally designed will be more easily used by all people, those with disabilities and those without. Makers of assistive technology devices and provides of assistive technology services try to adhere to the principal of universal design. the concept of universal design also exists in IDEA.

The Tech Act essentially lays the foundation for the provision of assistive technology and provides the definitions and specifications for assistive technology used in other disability discrimination and special education statutes. While the Tech Act lays out the goals for the delivery of assistive technology and assistive technology services, these other disability and special education statutes give even further guidance for carrying out these goals.

Americans with Disabilities Act

Congress enacted the Americans with Disabilities Act (ADA) in 1990. ADA does not provide for assistive technology by name; rather, it provides for "reasonable accommodations to those who need them. Under ADA, reasonable accommodations can include any type of change or enhancement to a building or piece of equipment, or the use of certain practices of services that will help people with disabilities be better able to work and live. Assistive technologies fit under this definition even though ADA does not use the words "assistive technology."

ADA describes how and why assistive technology is so important to the lives of people with disabilities. It does so by defining "qualified individual with a disability" (one who is protected by ADA) as "an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires..." In other words, a qualified individual with a disability is a person who, if provided with reasonable accommodations for his or her disability, is able to complete whatever task he or she is setting out to do.

the essential principle of ADA is that no employer or other covered entity may discriminate against a "qualified individual with a disability." This means that a person with a disability who is qualified to perform a job and who does not need any accommodations may not be refused a job just because of his or her disability. It also means that a person with a disability who is

see **ASSISTIVE TECHNOLOGY**, page 6

from page 5: Assistive Technology

qualified to perform a job but who does need special accommodations will be allowed to use whatever accommodations he or she needs and similarly will not be denied employment.

Individuals with Disabilities Education Act

The Individuals with Disabilities Education Act (IDEA) defines assistive technology and assistive service with almost exactly the same working as the Tech Act. Assistive technology is an authorized activity that may be funded with federal grant money and is separately identified as a priority for the state educational agency to focus on, in collaboration with the state agency responsible for providing assistive technology. IDEA specifically requires those who develop an Individualized Education Plan (IEP) to consider whether the child needs assistive technology devices and assistive technology services. So, the IEP team must ensure that the child receives the, at no cost.

Part C of IDEA, authorizing early intervention services for infants and toddlers experiencing or at-risk for developmental delay, requires “assistive technology devices and assistive technology services” be provided to children who need them as part of their Individualized Family Service Plan (IFSP). Part D, authorizing various capacity building activities at national and state levels, advances state and local activities related to assistive technology devices and assistive technology services. Parent training and information centers (PTIs) are parent organizations that receive funding to provide information and support services for parents of children with disabilities. PTIs may carry out a variety of authorized functions, but in particular, a PTI may be given technical assistance from the state for

the promotion of the “use of technology, including assistive technology devices and assistive technology services.” Part D also highlights assistive technology as a potential education priority for the “comprehensive state plan” and permits the U.S. Department of Education to give priority to “projects that promote the development and use of technologies with universal design, assistive technology devices, and assistive technology services” when these services are used to improve children’s access to and participation in education.

Developmental Disabilities and Bill of Rights Act

The Developmental Disabilities and Bill of Rights Act, or “DD Act,” guarantees that individuals with developmental disabilities and their families participate in and have a say in decisions made about community services, supports, and any other types of assistance. Being involved and playing an active role in services and supports improves the quality of life for people with disabilities by giving them control over their lives and allowing them to be valuable contributing members of their communities.

The DD Act defines assistive technology and assistive technology services in almost exactly the same way that the Tech Act defines these terms. Section 15009 lists the rights of individuals with developmental disabilities. Included are the rights to “appropriate treatment, services, and habilitation for such disabilities.” Assistive technology devices and assistive technology services can arguably be considered “appropriate services” and therefore, may be included as one of the “rights” guaranteed

see **ASSISTIVE TECHNOLOGY**, page 8

4th Annual Partnering for Progress: Improving Results for ALL Children Conference

Sponsored by The Ohio Coalition for the Education of Children with Disabilities,
in collaboration with the Ohio Department of Education

Marriott North Hotel, 6500 Doubletree Avenue, Columbus, Ohio
October 12, 2006 9:00 a.m. to 4:15 p.m.

Free Conference, Lunch provided at no charge, No parking fees
No registration fee (registration is required for space & lunch planning purposes)

Register on line at www.ocecd.org

Deadline for registration: September 25, 2006

Certificates of Attendance will be available (No CEUs)

Featured keynote speaker, Dr. Samuel Betances, is a biracial, bicultural, and bilingual citizen of the world, and a Professor of Sociology at Northeastern Illinois University. As a sociologist, educator, and professor for 20 years, he has taught race relations, the U.S. Latino experience, church and society, education and reform, and gender issues.

Other sessions will include:

- * Q & A for parents with Mike Armstrong, Director of Office for
Exceptional Children, Ohio Department of Education (ODE)
- * ODE's new web-based IEP Inter Rater Tool
- * Juvenile Justice Panel
- * Ohio's Integrated Systems Model (OISM) Building Teams
- * Poverty and its relationship to Adequate Yearly Progress (AYP)
- * School Readiness Task Force
- * Post School Longitudinal Study

Questions? Email Connie Hudson, Conference Coordinator, at
ocecdcsh@earthlink.net



from page 6: Assistive Technology

individuals with developmental disabilities. The DD Act also includes requirements for state-provided services for individuals with developmental disabilities, including assistive technology and assistive technology services.

Conclusion

Assistive technology, in its various forms and uses, is an important resource for the disability community. As such, it is important to identify the legal means through which assistive technology is made available and funded. ADA provides general protection against discrimination for people with disabilities, and by virtue of the "reasonable accommodations" principle, speaks to the issue of providing whatever reasonable means are necessary to enable people with disabilities to work, play,, and

enjoy life opportunities enjoyed by people without disabilities. The Tech Act specifically calls for access to and successful application of assistive technology devices and assistive technology services for people with all forms of disability. The measures used to ensure access to and successful application of assistive technology that are described in the Tech Act are restated in the various other disability and special education legislation. The DD Act more specifically addresses assistive technology by requiring the provision of assistive technology devices and assistive technology services in order to enhance the quality of life and promote community integration for people with disabilities. Finally, for those individuals with disabilities needing special education or early intervention services, IDEA both requires the use of and provides funding for assistive technology.

FORUM is published by the Ohio Coalition for the Education of Children with Disabilities (OCECD), 165 West Center Street, Suite 302, Marion, Ohio 43302; telephone toll-free 800-374-2806 (Voice/TDD). Web site www.ocecd.org. E-mail ocecd@gte.net.

This work is not copyrighted. Readers may duplicate and use any portion thereof. In accordance with accepted publication standards, please give proper credit.

Annual subscriptions are available for \$10 for Consumers/Parents/Students; \$20 for Professionals/Educators; \$30 for Organizations.

Please include your mailing label when notifying us of any corrections or change of address.

FORUM is printed on recycled paper. 

Nonprofit Org.
U.S. Postage PAID
Columbus, Ohio
Permit No. 2315

Ohio Coalition for the Education
of Children with Disabilities
165 West Center Street, Suite 302
Marion, Ohio 43302