

# Assistive Technology in Transition

Some states now offer students with disabilities the opportunity to keep their school-funded assistive technology as they transition to different school districts or beyond graduation.

By Frances Pennell

**T**ransition is a critical time in the lives of many students — and even more so for students with disabilities. Whether a student is graduating from high school or moving to a different school district, transition often means leaving behind a structure of support that has taken years to establish. That support can include familiar teachers, aides, occupational therapists and physical therapists, and the assistive technology that has been chosen and specially adapted to meet the student's needs.

What we know from our research is confirmed in our personal experience: Students who are not well-served in the transition process lose valuable ground and sometimes fall off the track

altogether. It is for this reason that Congress has included transition planning requirements in both the Individuals with Disabilities Education Act and the Rehabilitation Act.

Students who are AT-users face special challenges during transition. In most cases, the AT that these students use on a daily basis in school — and often at home — was purchased by the school district using state or federal special education funds. This means that the equipment is owned by the district and not the student.

In many states, strict rules limit the district's ability to send the equipment with the transitioning student. Because most state constitutions prohibit public entities from "gifting" public property to private citizens, schools cannot simply "give" the item or device to the student.

Indeed, in some states, the only way for schools to transfer ownership of a student's AT is to comply with state surplus property laws, which require that the equipment be declared "surplus" (i.e., no longer needed in their program); advertised in the newspaper and to other public entities; and then sold after an



Leah Parker, 14, testified in front of the state legislature on behalf of Washington's "AT for Kids" bill.

appropriate waiting period. Because this can be a long and tedious process, it is rarely used. Often, this means that the student, the department of vocational rehabilitation or the new district must purchase new equipment while the student's previous AT sits on the shelf until another student with similar needs comes along. In the case of specially adapted or low incidence equipment, by the time that happens, the technology may well be out of date.

The good news is that more and more states are figuring out ways to let students take their AT with them when they move to

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a new district or graduate from high school. States are attacking the problem in two ways. Most are addressing these barriers through the development of interagency agreements. These states include, for example, Delaware, California, Georgia, Iowa, Missouri, Nebraska, New York, North Carolina, South Carolina, South Dakota, Utah and Wyoming. Most such agreements are “permissive”- i.e., they allow, but do not require, the district to transfer or sell AT purchased for a student with disabilities to another agency such as vocational rehabilitation.

Wyoming’s Memorandum of Understanding, for example, provides that the state DVR will “strongly recommend” to districts that technology purchased pursuant to a student’s

Independent Education Plan (in which the DVR concurred) be transferred to the DVR upon payment to the district of 15 percent of the initial AT cost. South Dakota’s agreement, on the other hand, commits the DVR to purchasing AT from local educational agencies at the “depreciated invoice cost” based on a three-year product life, if the AT is purchased for the student’s educational use and needed for work or post-secondary education.

Agreements in some states also address the “AT in transition” needs of students who are still in school. In South Carolina, for example, VR will purchase devices for special education students to use in school in preparation for adult activities. This means that the schools do not have to expend funds for the item in the first

# Designing an ‘AT in Transition’ Policy

If your state decides to address the barriers to transitioning assistive technology, there are a number of factors to consider:

**1. Equipment’s Market Value:** One of the biggest challenges in establishing a transition mechanism is in establishing the depreciated or fair market value of equipment. Some states use the Federal Budget Circular, A-87, as a guide. A-87 outlines accepted federally accepted accounting practices for the depreciation of items of equipment. Other states have established a fixed formula (e.g., 15 percent of purchase price or an assumed useful life of three years). The advantage of a fixed formula is that it reduces decision-making costs. The disadvantage is that it may not reflect the true value of the device. Washington state’s law leaves it up to local districts to work out an accurate depreciated value using standard accounting practices and taking into account the specialized configurations of some of the school equipment; the labor involved in putting it all together; and the rapidly changing nature of much of this technology. This may take more time, but hopefully it will lead to an accurate assessment of the item’s value.

**2. Mandatory or Optional:** Will the district be required to sell a student’s AT to the new district when the child moves or to the DVR when he graduates, or will the sale be “optional”? Most states agree that schools should be able to keep equipment that can be used by other students with disabilities. Thus, most make the purchase or sale of AT used by a student in transition optional.

**3. Purchase Eligibility:** Many interagency agreements focus primarily on the school-DVR relationship. Others (e.g., New York and Washington) allow the equipment to be sold to

a broader range of entities. New York’s agreement, for example, authorizes school districts to transfer or sell technology to another school district, DVR, private employers, the student or the family. Washington’s law allows sales to other educational agencies, DVR, the student or his family, and to other public and private nonprofit agencies that provide services to people with disabilities. The goal is not only to ease the transition process, but also to ensure that AT no longer needed by a district is kept in circulation by allowing it to be readily sold or recycled to other agencies.

**4. Federal Funds:** Some states have reported problems in implementing interagency AT transition agreements for equipment purchased with federal dollars. Equipment that has been purchased using federal dollars can only be sold in accord with federal “Edgar” regulations. These regulations require that equipment purchased for a program be used “as long as needed.” However, the regulations do not clarify what is meant by “as long as needed.” Is it “no longer needed” when the student for whom the equipment was purchased leaves the program or when a determination is made that no other student can use the equipment?

The regulations do allow for use of the equipment in other activities supported by federal funds when the equipment is no longer needed by the original program or when it will not interfere with the work on the projects for which it was originally acquired. This would suggest considerable leeway in transferring AT to vocational rehabilitation, developmental disabilities or other federally sponsored activities. The regulations also allow equipment to be sold when “no longer needed for the original project or program or for other activities currently or

previously sponsored by a federal agency.”

“Items with a fair market value of less than \$5,000 may be retained, sold or otherwise disposed of with no further obligation to the awarding agency. Equipment with a market value in excess of \$5,000 may be retained or sold, but, if sold, the federal awarding agency has a right to a pro rata share. Edgar regulations impose significant inventorying requirements, which have led some districts to rely exclusively on state rather than federal funds to purchase AT.

**5. Interagency Agreement vs. legislation:** One of the most important questions will be whether to go the “legislative” or the “interagency” agreement route. Which approach you choose may depend on your state’s policy climate and other issues, including (a) whether state surplus property laws will need to be amended, and (b) how difficult it is to bring together the key players in your state, including representatives from local school districts, DVR, state two- and four-year colleges, and the developmental disability agencies.

Washington state chose the legislative route, because an amendment to state surplus property laws was required. In New York, on the other hand, the problem was addressed in a policy memorandum co-signed by the state education department commissioner and the state comptroller. New York decided that it did not need a new law or regulatory change. The biggest barrier was in accounting and auditing, thus the sign off by the state comptroller. The same conclusion was reached in North Carolina, where the focus is on post-secondary education. Their agreement allows the state Department of Services for the Blind and DVR to purchase AT from the local school districts at its depreciated value.

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## One Perspective on Why It Works in Washington

place. Such an agreement is consistent with the intent of Congress in adding transition planning requirements to both IDEA and the Rehabilitation Act. It also is consistent with the 1997 amendments to IDEA, which clearly identify VR agencies as the "payers of first resort" for certain transition services.

A few states, including Washington and Minnesota, for example, have taken the legislative route. Minnesota's law, enacted in 1996, addresses the AT needs of students graduating from high school, as well as those of students moving from one district to another.

For students transitioning to work or post-secondary education, the law authorizes the Minnesota Department of Employment Security to buy any AT purchased by the district on the student's behalf, if he or she is a current recipient of rehabilitation services and needs the AT for post-secondary activity as stated in the student's IWRP. The purchase may be made not more than three months before the date that the child is scheduled to leave the school system.

For students moving from one district to another, Minnesota law allows the new district to purchase any AT devices that the child's former district purchased on his or her behalf. The law requires the new district to provide the former district with written notice of its intent to purchase the technology. The former district has 30 days to respond to this notice. It may decline to sell the device if the district can show that it is a general use device or can be modified for use by other students. The sale must be recorded in a purchase agreement. The Commissioner of Education is charged with developing regulations,

a sample purchase agreement and guidelines for determining an appropriate sales price.

Washington state's "AT for Rids" law was adopted in 1997. It exempts school AT from state surplusing requirements. It allows, but does not mandate, the sale, transfer or lease of AT purchased by educational agencies (including school districts and the state Schools for the Deaf and Blind) for children with disabilities to the students, their parents, or other public or private nonprofit agency serving people with disabilities. The sale must be at the item's "depreciated value" and recorded in a purchase

Based on our experience in Washington state, advocates in places where no legislation for transitioning AT exists will hopefully find a very favorable reception among most of the key players. This is one change that decision-makers can promote as an example of "win-win" public policy. The student wins because familiar technology can transition with him or her to a new district or post-secondary environment (assuming that the student also has a say in whether he or she wants to keep this equipment or try something new). The new district or VR wins because it can buy usable and needed equipment at a reduced cost. The former school wins (assuming the sale is optional and a fair value for the equipment) because the sale increases the likelihood that its student's transition will be successful. It also allows districts to recoup additional funds for their AT programs.

To get involved, contact your state educational agency, which is required to provide for broad public participation in the development of such transitional agreements. To learn about your state's policies on "AT in transition," you can also contact your state VR program or your Tech Act Project. These projects are listed on the RESNA Web site ([www.resna.org/tap/person/p\\_direct.htm](http://www.resna.org/tap/person/p_direct.htm)) or refer to the back page of the 1998 Wall Calendar inserted into the December 1997 issue of *TearnRehab Report*,

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and sale agreement. Districts also are required to develop and maintain an inventory of AT devices valued at more than \$100. The purpose of the inventory is to ensure that districts know what AT they have, to make it easier for devices to move from school to school, and to establish a basis for determining an appropriate sales price.

The Washington Assistive Technology Alliance is working with the state Office of the Superintendent of Public Instruction to develop an information packet on the new law, which the alliance hopes will be sent to the state's 296 school districts. The packet will discuss the purpose and intent of the law, and provide sample AT inventory, model purchase and lease agreements as well as some tips and guidance on how to establish an appropriate sales value.

No matter which approach is used, this is an opportune time to think about the issue. The 1997 amendments to IDEA require states to develop interagency agreements or other mechanisms, including legislation to ensure interagency coordination. Such agreements must

include (a) a method for defining the financial responsibility of each agency; (b) mechanisms for reimbursing "local educational agencies" for services that are the primary responsibility of other agencies; (c) mechanisms for resolving interagency disputes; and (d) policies to ensure the appropriate and timely

Minnesota's AT in transition law is available online at <http://www.revisor.leg.state.mn.us/>

coordination of services. The services that must be addressed in these agreements include the purchase of AT devices and services, supplementary aids and services, and transition services. Although the primary focus of this amendment is on identifying agency financial responsibility for such services, this represents a wonderful opportunity to create and improve mechanisms for dealing with the transition process.

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