

Guidelines to Allow for the Transfer of Assistive Technology When a Student Moves from School Jurisdiction to Higher Education, Other Human Services Agency or Employment

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TO: District Superintendents
Presidents of Boards of Education
Superintendents of Schools
VESID District Office Managers
New York City Board of Education
Principals of Public Schools
Directors of Special Education
Chairpersons of Committees on Special Education
School District Business Officers
SETRC Project Directors and Training Specialists

FROM: H. Carl McCall, State Comptroller
Richard P. Mills, Commissioner of Education

SUBJECT: Guidelines to Allow for the Transfer of Assistive Technology When a Student Moves
from School Jurisdiction to Higher Education, Other Human Services Agency or
Employment

The purpose of this memorandum is to clarify issues associated with the transfer of technology property to support students with disabilities as they transfer from local educational agencies to other settings or opportunities.

Historical Background:

In 1991, the State Board of Regents established a Select Commission on Disability. The focus of the Commission was on services to people with disabilities under the auspices of the Board of Regents and the State Education Department. The Commission also made recommendations regarding services that might cross agency lines, including the coordination of such services, and suggested appropriate actions to be taken by the State.

The Commission, in its 1993 final report, made 13 specific recommendations. One of the recommendations dealt with the Appropriate Use and Transfer of Assistive Technology.

It read as follows:

The Regents should focus special attention on the issue of technology, review the manner and extent to which Assistive Technology is currently delivered and used, and remove impediments to the appropriate use and transfer of such technology. A strategy should be developed to enable transfer of Assistive Technology as an individual with disabilities moves through his or her life course.

A task force was established to examine and make recommendations to eliminate barriers to transferring Assistive Technology between agencies. The task force's membership includes representatives from schools, BOCES, and higher education institutions. As a result of recommendations from this task force, the Education Department and the Office of State Comptroller have conferred and agreed to the distribution of this memorandum.

Definition:

Assistive technology is defined as an 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 individuals with disabilities.

Issue:

School districts periodically provide assistive technology to students with disabilities as part of their Individualized Education Program. This technology is often adapted to that individual and may be of little value to others. However, the technology often continues to be necessary for that individual when they leave school. A number of school districts have expressed a reluctance to sell technology property when a student leaves that district. It was determined that this is due partly to an uneasiness over selling an item, for a price they set, to interested parties. The greater reason for reluctance has been an uncertainty over how the Office of State Comptroller will treat these actions, should there be an audit.

Resolution:

While statutory provisions address the obligations of local school officials, there are no specific provisions which address the ability to transfer such technology, whether hardware or software. However, Boards of Education do have clear authority to manage the general affairs of the district, and this includes the authority to dispose of property the district no longer needs. Boards of Education need to consider the following aspects in preparing to dispose of assistive technology. These areas focus on accountability for the disposition and transfer of property. These are also the areas that auditors will be interested in if they review the disposition of property.

Surplus Nature of the Property: School officials are routinely called upon in their day-to-day responsibilities to decide whether items are no longer usable in their present

condition and, therefore, need replacing, or even if usable, whether they are no longer needed for the district's own purposes. The situation is no different when the items involved are technological in nature. Generally, there should be no known, immediate or currently foreseeable use of the property for the district's needs. If that condition is met, the district may regard the item(s) as surplus, and therefore disposable.

Disposition at Fair Market Value: School officials are always required to make a good faith effort to obtain an item's actual value when disposing of property owned by the district. Determining their fair market value, however, may pose some difficulty for school officials who are required to set that value before there may be a proper transfer of ownership. Not all items have a ready market, nor is there a certain, established method for determining value. This may be particularly so when the property consists of technology items provided for a specific student's use and the student has used it for a long time. School officials should reasonably consider such things as the age and condition of surplus items in attempting to assess their value. School officials should be able to show how the value of an item has been determined. As long as the school district or BOCES receives reasonable value for transferring its surplus property, the transfer may be made to anyone; i.e., another school district, BOCES, postsecondary institution, human service agency, employer, or private individual. There is no need to pursue bidding requirements for the disposition to occur.

Accountability Issues: Decision-making in this area is clearly the legal responsibility of the appropriate school officials. When an audit is conducted, auditors from the Office of the State Comptroller will look to see available documentation which demonstrates that the school officials considered the relevant factors of whether the property in question was deemed not usable by the district, e.g., whether it is surplus, and whether a proper attempt was made to place and obtain a reasonable or fair monetary value on the property when it was transferred. Where the circumstances make it difficult to establish that value, the school district or BOCES attempts to obtain help will be considered. That is, when a district or BOCES finds it cannot easily establish the value of an item or items, its request for advice and the advice received from a source such as another district which may have had similar experience, may well be regarded as a sufficient demonstration of a proper effort to set the value of the property.

Questions concerning this topic should be directed to the Office of Vocational and Educational Services for Individuals with Disabilities, Program Development Support Services Unit at (518) 486-7462.