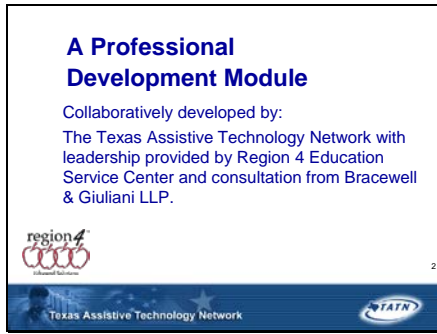


Slide 1




Slide 2



Slide 3




Slide 4

Objectives 

Participants will learn about:

- Federal and state statutes, regulations, and policy related to AT
- Legal guidance through case law examples on specific AT issues

4


Texas Assistive Technology Network 

Slide 5


Standards that Define and Govern the Provision of AT

- Federal statutes and regulations
- Texas statutes and regulations

5

Texas Assistive Technology Network 

Slide 6


AT Requirements in Federal Law 

- Individuals with Disabilities Education Act (IDEA)
- Section 504 of the Rehabilitation Act (Section 504)
- Americans with Disabilities Act, Title II (ADA)
- Assistive Technology Act of 2004 (AT Act)


6

Texas Assistive Technology Network 


Slide 7

IDEA Definitions 


- **AT Device:** any item, piece of equipment or product system that is used to increase, maintain, or improve the functional capabilities of children with disabilities, except for a surgically implanted medical device
- **AT Service:** any service that directly assists a child with a disability in the selection, acquisition, or use of an AT device, except for the optimization, maintenance, or replacement of a surgically implanted device

Texas Assistive Technology Network 

Slide 8

IDEA and AT 


- AT needs must be considered
- If necessary, AT evaluation must be performed
- AT devices and/or services must be provided if required in the child's IEP

Texas Assistive Technology Network 


Slide 9

Section 504 and AT **Section 504**

- Refers to "special education" and "related aids and services"
- AT falls under these categories
- Special education and related aids and services constitute FAPE, the provision of which is required


Texas Assistive Technology Network 

Slide 10


ADA and AT 

- AT falls under ADA definition of "auxiliary aids and services"
- Auxiliary aids and services must be provided when they are necessary to afford an individual an equal opportunity to participate.

10


Texas Assistive Technology Network 

Slide 11

Texas AT Rules & Policy Guidelines 

- Texas Education Code § 30.0015
- Title 19 Texas Administrative Code § 89.1056

11


Texas Assistive Technology Network 

Slide 12

Transfer of AT Devices

- Transfer to new school, district, state agency following graduation, or to parents or student when they move
- Optional
- Agreement must be in writing and must contain specific provisions
- Written consent required

12


Texas Assistive Technology Network 

Slide 13


Statutory Obligations

1. Must consider AT needs
2. Must determine if an AT evaluation is necessary
3. If necessary, AT evaluation of student must be completed

13


Texas Assistive Technology Network 

Slide 14

Statutory Obligations 

4. If necessary, AT must be written in as component of IEP
5. Must implement provision of AT device and/or AT services indicated in IEP

14


Texas Assistive Technology Network 

Slide 15

Common AT-related Legal Issues

- Considering the AT needs of students
- AT evaluations
- Other specific issues


15


Texas Assistive Technology Network 

Slide 16

Considering the AT Needs of Students

- Failure of an ARD committee to consider the AT needs of a special education student is a violation of IDEA.
- "Some explicit review" of each student's AT needs is most likely required.




Texas Assistive Technology Network 

Slide 17

Determining if AT is Necessary


- Given the child's particular educational needs, must the child have the AT in order to receive FAPE?

Texas Assistive Technology Network 

Slide 18

Determining if AT is Necessary

- Must AT be included for an IEP to be reasonably calculated to provide the student with a disability some meaningful educational benefit?


Texas Assistive Technology Network 

Slide 19

Determining *which* AT is Necessary

- "Appropriate," not "best," technology is required

19

Texas Assistive Technology Network 


Slide 20

Considering the AT Implications of IEP Components

Plan for:

- Proper and timely implementation
- Maintenance and repair
- AT training

20


Texas Assistive Technology Network 

Slide 21

AT Evaluations

1. Determining if an AT evaluation is warranted
2. Providing sufficient AT evaluations
3. Timeliness of AT evaluation
4. Credentials of AT evaluators

21


Texas Assistive Technology Network 

Slide 22

Determining if an AT evaluation is warranted

- Not every special education student needs formal AT evaluation
- ARD committee determines need to seek further information or formal evaluation

22


Texas Assistive Technology Network 

Slide 23

Providing Sufficient AT Evaluations

- Texas districts get to choose which assessment instruments or strategies to use
- Detailed review and analysis of needs and abilities most likely meets IDEA requirements


23

Texas Assistive Technology Network 


Slide 24

Timeliness of Evaluation

Failure to provide timely evaluation could be violation of IDEA




24

Texas Assistive Technology Network 


Slide 25

Professional Credentials of AT Evaluators



- Comply with legal requirements regarding evaluations in general
- Comply with legal requirements regarding the qualifications of special education providers

25


Texas Assistive Technology Network 

Slide 26

Specific AT Issues

- Ownership and liability
- Timeliness of provision
- Maintenance and repair

26


Texas Assistive Technology Network 

Slide 27

Specific AT Issues

- At-home use
- Medically related devices and services
- Personal devices
- Copyright concerns

27


Texas Assistive Technology Network 

Slide 28

Ownership and Liability for AT Devices

- District using family-owned device that is component of IEP assumes liability for device
- District not liable for family-owned device that is not component of IEP

28


Texas Assistive Technology Network 

Slide 29

Ownership and Liability for AT Devices

Parent could be liable for damage to or loss of district-owned AT device

29


Texas Assistive Technology Network 

Slide 30

Timelines in Providing AT

- Extended, unreasonable delay in provision of AT violates law
- Unreasonable delay by districts has been punished by significant compensatory education awards to parents

30


Texas Assistive Technology Network 

Slide 31

Maintenance and Repair of AT Devices

- Responsibility of district
- Failure to repair in a timely manner might deny a student FAPE
- ARD committees should establish plans for maintenance and repair of certain devices

31


Texas Assistive Technology Network 

Slide 32

AT for At-home Use

- If IEP states that AT at home is necessary, it must be provided
- If at-home device is "want" rather than "need," district need not provide it

32


Texas Assistive Technology Network 

Slide 33

AT for At-home Use

- Efficiency arguments by parents in support of need for at-home device might not be enough to show district's obligation


33

Texas Assistive Technology Network 

Slide 34


Medically Related AT Services

- IDEA Medical service exception does not always apply
- Mapping, programming, maintenance, and replacement of Cochlear Implants and other surgically implanted medical devices are NOT AT services
- Students with surgically implanted medical devices still entitled to services necessary for FAPE


Texas Assistive Technology Network 

Slide 35

Medically Related AT Devices




- Obligation to provide medically related AT devices is unclear
- Surgically implanted medical devices, such as CIs, and the replacement of such medical devices is excluded from definition of AT device
- Schools still required to monitor and maintain medical devices necessary for child's health and safety

Texas Assistive Technology Network 

Slide 36

Personal AT Devices

- District's obligation to provide a personal AT device is same as that for any other AT device
- If student requires personal AT device to receive FAPE pursuant to IEP, district must provide device


Texas Assistive Technology Network 

Slide 37

AT and Copyright Issues

- National Instructional Materials Accessibility Standards
- National Instructional Materials Accessibility Center
- Texas law

37


Texas Assistive Technology Network 

Slide 38

AT and Copyright Concerns

- Districts may be able to use "fair use" exception, which allows reproduction of some copyrighted works for educational purposes
- Districts should explore borrowing and sharing reproduced works

38


Texas Assistive Technology Network 

Slide 39

A Quick Review of Basic Requirements

- AT may be required by IDEA, ADA, or Section 504
- AT needs must be considered

39


Texas Assistive Technology Network 

Slide 40

A Quick Review

- If ARD committee determines AT is necessary, it must be included in IEP
- If AT is included in IEP, it must be implemented

40

Texas Assistive Technology Network 

Slide 41

In Conclusion...

- The provision of AT is a very important part of guaranteeing that students with disabilities receive the educational services that they have a right to receive under federal and state law.

41

Texas Assistive Technology Network 