



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

JUN 21 1998

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Dear Ms. Goodman:

This is in further response to your letter, dated September 9, 1997, in which you request clarification from this Office regarding the use of assistive technology devices purchased with Federal funds provided under Part B of the Individuals with Disabilities Education Act (Part B).

In your inquiry, you describe a situation in which a school district expends Part B funds to purchase an assistive technology device that is used by a disabled student to carry out the provisions of the student's Individualized Education Program (IEP). You have asked whether that same student can continue to use the device as he or she transitions to, and participates in, a State vocational rehabilitation services program funded under Title I of the Rehabilitation Act of 1973, as amended, and whether the school district can transfer ownership of the device to the State vocational rehabilitation (VR) agency.

We agree that school districts can collaborate with State VR agencies to enable transitioning students to continue to use Part B-funded assistive technology devices for purposes of participating in a State VR services program. Whether a school district that purchases an assistive technology device with Part B funds can transfer ownership of the device to a State VR agency is based on the needs of the district. An explanation of the Federal requirements relevant to your inquiry and of the basis for our conclusions follows.

Part B is a State-administered program subject to the requirements in 34 CFR Part 80 of the Education Department General Administrative Regulations (EDGAR), "Uniform Administrative Requirements for Grants and Contracts to State, Local, and Indian Tribal Governments". Thus, the use, management, and disposition of assistive technology devices (as defined in §602 of IDEA) that meet the definition of "equipment" in 34 CFR 80.3 are governed by the equipment-related requirements

in 34 CFR §80.32(c)-(e).¹ Under EDGAR, title to equipment acquired by a school district (or local educational agency (LEA)) with Part B funds vests upon acquisition in the district (§80.32(a)), whereas the district's use of the equipment is subject to the requirements in §80.32(c).² As you noted in your letter, the use provision provides in relevant part:

(c) Use

(1) Equipment shall be used by the grantee or subgrantee for the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by federal funds. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by a Federal agency.

According to the EDGAR criteria, an LEA is required to continue using equipment it purchases with Part B funds for as long as it needs the equipment to carry out the purposes of its Part B program. Since transition planning and services are essential aspects of the Part B program, it is appropriate for students with disabilities, who are furnished assistive technology devices, to continue to use needed devices during their transition into a program of VR services. Once the student leaves school for the VR program, the LEA can transfer ownership

¹"Equipment" is defined in EDGAR as "tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit." Thus, the requirements in EDGAR regarding the use of equipment pertain only to those assistive technology devices that cost at least \$5,000, unless the State educational agency uses a more expansive definition of "equipment" (34 CFR §80.3). The term "equipment" is also defined in §602(a)(6) of IDEA to include "technological aides and devices." Still, application of the requirements in 34 CFR 80.32(c)-(e) to assistive technology devices (under §602(1)), or to other technological aids and devices (under §602(a)(6)), is based on whether the item meets the definition of "equipment" in EDGAR.

²You should note that State agency grantees and subgrantees are required to use, manage, and dispose of equipment, as defined in EDGAR, in accordance with State laws and procedures (34 CFR §80.32(b)). Thus, questions regarding continued use and transfer of equipment purchased with Part B funds by a State agency providing services directly to a child with a disability would be governed by State rules.

of the equipment to the State VR agency provided the LEA has determined that it no longer needs the device in connection with its Part B program or for any other Federally-supported project or activity that it (the LEA) conducts.

We presume that assistive technology devices purchased by LEAs are often customized or otherwise modified to suit the individual needs of a particular child with a disability, making it unlikely that the LEA would need the device once the child leaves school. In instances in which that is the case, the LEA is permitted to transfer the device to the State VR agency that is serving the former student for whom the device was originally purchased.

Thus, students with disabilities can continue to use Part B-funded equipment once they leave school and school districts can transfer ownership of the equipment to other entities, provided the district that purchased the device no longer needs it. Once the district transfers ownership of the device however, you should note that the district may have a further obligation to its State educational agency (SEA) depending upon the device's value.³

You also ask which documentation, accounting, or other standards must LEAs and State VR agencies follow in transferring ownership listed in §80.32(d)(1) of EDGAR. Transfer of title to assistive technology devices should be completed through applicable State and local procedures that are consistent with these minimum record retention requirements.

Again, we agree that coordination between LEAs and State VR agencies to enable students with disabilities to continue using assistive technology devices as they move from one program to the other is an efficient, cost-effective means of facilitating transition from school to work-related services and fully support

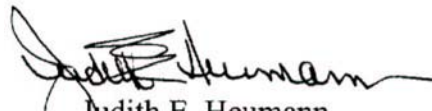
³Pursuant to the EDGAR requirements governing disposition of equipment in 34 CFR §80.32(e), a school district that had purchased an assistive technology device with Part B funds, determined that it no longer needed the device upon the student's exit from school, and transferred ownership of the device to the VR agency, has no further obligation with regard to the device if its current fair market value of the device is less than \$5,000. (§80.32(e)(1)). On the other hand, if the device is valued in excess of \$5,000, then the district's awarding agency (the SEA) has a right to an amount proportionate to its share in the cost of the equipment (§80.32(e)(2)).

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the type of cooperation between agencies to which you refer. We believe the EDGAR requirements outlined above support this type of cooperation.

We hope that you find this explanation helpful. If we can be of further assistance, please let me know.

Sincerely,



Judith E. Heumann

_cc: State Directors of Special Education
RSA Regional Commissioners
Regional Resource Centers
Federal Resource Center
Parent Training Centers
Independent Living Centers
Protection and Advocacy Agencies
Special Interest Advisory Group
State Vocational Rehabilitation Directors
State Tech Act Directors