



Public Policy Update

CEC's Summary and Update of PL 108-364, The Assistive Technology Reauthorization Act of 2004

Congress was charged with reauthorizing the Assistive Technology Act of 1998, Public Law 105-394, during the 108th Session of Congress (2002-2004), and on October 25, 2004, President Bush signed into law the new legislation that reauthorizes the Assistive Technology Act. This new law, Public Law 108-364, will, among other things, redefine the primary purpose of the program from establishing assistive technology resource networks in states to directly helping individuals with disabilities who need assistive technology devices. It is unfortunate, however, that just months after signing the Assistive Technology Act into law, President Bush did not request any funds for its implementation for fiscal year 2006.

The Council for Exceptional Children played a vital role in the development and drafting of the new assistive technology law. CEC made numerous recommendations to Congress on assistive technology (AT) reauthorization legislation in conjunction with its Technology and Media (TAM) Division, many of which are included in the new law. Those recommendations can be found below. CEC also served as a member on a panel that featured other groups and associations invited by the Senate Health, Education, Labor, and Pensions (HELP) Committee to provide input on the reauthorization legislation. In addition, CEC provided recommendations on for AT reauthorization as a member of the Consortium for Citizens with Disabilities.

Background

The assistive technology state grant program was established in 1988 as a 10-year program designed to provide seed money to states for creating networks to improve access to AT devices for individuals with disabilities. However, although this program was due to sunset in 1998, it was extended beyond the original 10-year window because of its success continued need for it. Congress enacted the Assistive Technology Act (ATA) of 1998 to help state governments address the needs of the disabled through the use of AT. The ATA was initially authorized in 1999 at \$56 million: The State Grant Program was authorized at \$36 million, National Activities at \$10 million, and Alternative Financing Mechanisms at \$10 million. All of these areas were authorized for appropriations in 2000 for "such sums as may be necessary", and only the State Grant Program was authorized for appropriations for 2001 through 2004, again, for "such sums as may be necessary".

The programs implemented through the ATA of 1998 – state grant investments, Protection and Advocacy initiative, model programs, and nationally organized technical assistance – are essential for promoting assistive technology use and fostering collaboration among state-based agencies. The ATA is the only U.S. federal legislation that provides funding for AT programs, and it is the only legislation that addresses the AT needs of individuals from birth through adulthood. In the 16 years since the inception of the program, states have established the needed infrastructure to effectively administer AT resources. The Assistive Technology Act of 2004 takes further steps to directly place the needed AT in the hands who can benefit most from it.

On June 14, 2004, the House of Representatives passed H.R. 4278, its bill to reauthorize the ATA of 1998. The Senate introduced S. 2595, its own, and different, bill to reauthorize the ATA on June 24, 2004, but the Senate did not take any action on it. The House and Senate agreed to pass one non-controversial, bi-partisan bill that would not have to go to a conference committee. Many significant pieces of legislation that had passed both chambers of Congress that required going to a conference committee sometimes never made it into, or out of, a conference committee simply due to politics. Neither the Senate nor the House wanted that to happen with AT reauthorization, so the Senate reworked the House-passed H.R. 4278 and passed it on September 30. The House then passed the new Senate bill on October 8, and this bill became the new ATA.

CEC/TAM Recommendations Included in the Assistive Technology Act of 2004

As noted above, CEC worked in conjunction with its Technology and Media Division to formulate recommendations for the new law that replaced the ATA of 1998. Among those recommendations that were retained in the final version of law are:

- Making AT a reliable source of funding. Because states have AT infrastructure in place through previous authorizations, AT funds can now be directed largely to individuals who will benefit from it. Since the sunset provision has been waived, the new law extends authorization of appropriations under the ATA through fiscal year 2010, which ensures that funding will continuously be made available for AT programs.
- Including students with disabilities in the required state transition assistance programs.
- Including universal design principles that are usable by people with the widest possible range of functional capabilities.
- Continuing state protection and advocacy programs.

Other Specific Provisions of the Assistive Technology Act of 2004

Other specific provisions of the new ATA law include.

- Increases minimum state grant of \$410,000. The ATA of 1998 used a formula to determine state grant awards, including a maximum grant to outlying areas of

\$105,000. The maximum award to outlying areas in the new law is \$125,000.

- Allows such systems to carry over program income generated from the grant amount for two additional fiscal years.
- Extends AT appropriations through 2010.
- Requires states to spend the bulk of state grants on direct services for individuals with disabilities. Under the Assistive Technology Act of 2004, states would be required to use a majority of federal funds to directly help individuals. States would choose between two options for assistive technology state grants. States would be required to:
 - Use 60 percent of assistive technology state grants on direct aid programs, including: assistive technology reutilization programs, assistive technology demonstration programs, alternative financing programs and device loan programs;
 - Or use 70 percent of assistive technology state grants on direct aid programs but have full discretion on how to allocate funds for at least two, and up to all four of the programs listed above.

Under these two options, states could allocate 70 percent of the resources to state level activities and spend no more than 30 percent on State leadership activities, the second option listed above. State level activities are more focused on directly giving individuals with disabilities assistive technology access and services, while State leadership activities are more administrative. Under this option, the States would have full flexibility to select the activities in each category that they would support.

Under the first option above, states could choose to spend 60 percent of the resources on state level activities and no more than 40 percent on state leadership activities. However, the state would be required to support two designated state level activities, the alternative financing program and the device loan program. This increased focus on state level activities, coupled with state flexibility, is designed to improve the program and the assistance and services it provides to individuals with disabilities.

- Caps at ten percent the portion of AT grant funds that may be used for indirect costs.
- Prohibits AT grant funds from being used as direct payment for an AT device for an individual with a disability.
- Includes the American Indian Consortium as a recipient of program grants.
- Create greater accountability for how states use assistive technology grants. The law requires states to submit an application with detailed descriptions of planned activities and measurable goals relating to education, employment,

telecommunication or information technology, and community living.

- Evaluates the effectiveness of the program on a continual basis. The law includes detailed criteria for the Department of Education's annual report to Congress to determine the effectiveness of the program.
- Provides funds for establishing and maintaining a National Public Internet Site to provide individuals with disabilities, and the general public, with technical assistance and information on increased access to AT devices, AT services, and other disability-related resources.

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