

## Optimizing Outcomes for Students who are Deaf or Hard of Hearing; Educational Service Guidelines, NASDSE 2018: Chapter 2 Federal Laws and Policies

Discussion Guide for MN School District Implementation Teams, 2019-2020

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### Key Points for Discussion:

- *Section 504 of the Rehabilitation Act of 1973*, as amended (most recently by the Workforce Innovation and Opportunity Act), and the *Americans with Disabilities Act* requires schools to provide students who are deaf or hard of hearing equal communication access to all school-related programs and activities.
- The *Individuals with Disabilities Education Act (IDEA)*, most recently reauthorized in 2004, spells out requirements for individualized education programming for eligible students with disabilities, including programming that supports the language and communication access and development of students who are deaf or hard of hearing.
- The *Every Student Succeeds Act (ESSA)*, which amended the Elementary and Secondary Education Act in 2015, is currently our nation's primary general education law. It applies to all students in public schools and sets out accountability requirements at the school, district, and state levels.

### Federal Laws and Policies:

- Look at the chart on NASDSE Guidelines, pages 9 & 10.
- *Section 504 WIOA*
- *ADA and Title 2*: Schools must provide accommodations, modification and services so that DHH students can access all programs and activities. Schools must ensure communication is effective. This is done by providing auxiliary aids and services. (e.g. Interpreters, note takers, CART, C- Print, HAT, closed captioning)
- *"Deafness means a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification that adversely affects a child's educational performance"* (34 C.F.R. § 300.8(c)(3)).
- *"Hearing impairment means an impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance but that is not included under the definition of deafness in this section"* (34 C.F.R. § 300.8(c)(5)).
- IEP must address specific language and communication factors outlined in IDEA

- The Supreme Court, in the case of *Endrew F. v. Douglas County School District (137 S. Ct. 988, 2017)* established criteria for determining the sufficiency of an IDEA-mandated education:
  - The IEP must be “*reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.*”
  - The student’s “*educational program must be appropriately ambitious in light of his circumstances, just as advancement from grade to grade is appropriately ambitious for most children in the regular classroom. The goals may differ, but every child should have the chance to meet challenging objectives.*”

### **MN State Laws and Policies:**

- MDE has a compliance and assistance section to discuss and look at issues. [MDE Compliance and Assistance Division](mailto:mde.compliance-assistance@state.mn.us) (mde.compliance-assistance@state.mn.us).
- Special Education DHH categorical eligibility criteria for MN students is outlined in [MN Administrative Rule 3525.1331](https://www.revisor.mn.gov/rules/3525.1331/) (https://www.revisor.mn.gov/rules/3525.1331/).
- ASL Interpreter qualifications are outlined in [MN Statute 122A.31](https://www.revisor.mn.gov/statutes/cite/122A.31) (https://www.revisor.mn.gov/statutes/cite/122A.31).
- MDE collects assessment information (ESSA) on DHH students. See the *DHH Legislative Report*, posted on the [MDE DHH webpage](https://education.mn.gov/MDE/dse/sped/cat/dhh/) to see how your students are doing in your region. (https://education.mn.gov/MDE/dse/sped/cat/dhh/).
- [Language and Communication Focused IEPs for Deaf and Hard of Hearing Learners](https://mn.gov/deaf-commission/advocacy-issues/education/iep-discussion-guide/) (https://mn.gov/deaf-commission/advocacy-issues/education/iep-discussion-guide/)

### **Evidence-Based/Experienced-Based Information:**

- Research indicates that even mild and/or unilateral (one ear only) hearing losses can cause language and cognitive delays, and can be correlated with academic failure (CDC, 2005)
- A language facilitator is not reimbursable nor is there any formal training for this person in Minnesota.
- [Iowa Expanded Core Curriculum](https://wvde.state.wv.us/osp/ECC-DHHJanuary2013.pdf) (https://wvde.state.wv.us/osp/ECC-DHHJanuary2013.pdf).

### **Resources:**

- *Iowa Effective Communication Tree* (2017); See NASDSE Guidelines page 7.
- [ADA Requirements; Effective Communication](https://www.ada.gov/effective-comm.htm) (https://www.ada.gov/effective-comm.htm)
- [Relationship of Hearing Loss to listening and Learning Needs.](https://www.wyomingehdi.org/wp-content/uploads/2012/04/Relationship-of-Hearing-Loss-to-Listening-and-Learning-Needs.pdf) (https://www.wyomingehdi.org/wp-content/uploads/2012/04/Relationship-of-Hearing-Loss-to-Listening-and-Learning-Needs.pdf)

**Discussion Questions/Reference to Chapter 9:**

1. Effective communication will vary depending on the communication needs of the individual. Are your students' communication needs being met? (Chapter 9 Checklist 4C, page 86)
2. Are you addressing the Special Factors outlined in IDEA?
3. Are your students making progress and have the opportunity to meet challenging objectives?
4. How are DHH students doing on state and district testing? Why? What can be done to increase test results?
5. Do students have opportunities for direct communication with peers and professionals in each student's communication mode/language? (Chapter 9 Checklist D & F, page 87)
6. Are you considering students' **full** range of needs? (Chapter 9 Checklist E, page 87)
7. Are you talking about a continuum of placement opportunities to meet the needs of DHH students? (Chapter 9 Checklist J, page 88) Are you documenting this conversation on the IEP?