

**Comments on the Senate IDEA Reauthorization Bill
June 18, 2003**

**American Society for Deaf Children
Conference of Educational Administrators
of Schools and Programs for the Deaf
Deaf and Hard of Hearing Consumer Advocacy Network
National Association of the Deaf
National Deaf Education Project**

These organizations hereby submit comments to the U.S. Congress on its proposal to reauthorize IDEA. We are parents, educators, consumers, and administrators with a deep and abiding interest in the education and well being of children who are deaf or hard of hearing. We thank Congress for considering our views.

A major theoretical and practical foundation for the recommendations we have been making during this reauthorization is "The Educational & Communication Needs of Deaf and Hard of Hearing Children: A Statement of Principle Regarding Fundamental Systemic Educational Changes" (hereinafter "Statement of Principle"), published by the National Deaf Education Project. The Statement of Principle asserts:

" . . . [A]ll deaf and hard of hearing children are entitled to, and must have, a language-rich educational experience. They must have the opportunity to develop age-appropriate language skills, and to be in a classroom and school where communication is fully available, where there is a critical mass of communication peers, and where staff can communicate effectively and directly with them. In short, all deaf and hard of hearing children are entitled to an educational system that formally recognizes that communication is at the heart of human and academic growth."

Statement of Principle, p. i.

The National Deaf Education Project is a collaborative project of the American Society for Deaf Children, the Conference of Educational Administrators of Schools and Programs for the Deaf, the Convention of American Instructors of the Deaf, Gallaudet University, the National Association of the Deaf, and the National Technical Institute of the Deaf.

We further believe:

"All deaf and hard of hearing children deserve a quality, communication-driven program which is formally articulated in law and requires:

- "communication assessment of the child's communication language, mode, and skill level;

- “communication development, including a fundamental and clear requirement that all programs assist the child in developing age-level language skills in the child's native language and corresponding skills in English;
- “communication access, including programs that provide a "critical mass" of communication, age, and cognitive peers; language-proficient teachers and staff who can communicate directly and at an adult level; administrators who understand the unique needs of deaf and hard of hearing children; deaf and hard of hearing role models; and access to extra curricular and other important school activities.”

Statement of Principle, p. 36.

Below are our recommendations to the Senate bill to carry out these principles.

Sec. 601 Findings

(c)(5)(A) “. . . access to the general education curriculum in the regular classroom to the maximum extent possible...”

Recommendation: “. . . access to the general education curriculum in the *appropriate educational setting for the child...*”

Rationale: This suggestion more accurately represents the Least Restrictive Environment provision, which calls for education with non-disabled children to the “maximum extent **appropriate.**” (Emphasis added.) It further acknowledges the continuum of alternative placements required by the regulation (§300.551).

Sec. 608 State Administration

(a)(2) identify . . . any . . . rule, regulation, or policy as a State-imposed requirement . . .

Recommendation: Delete.

Rationale: The Federal law should serve as a floor, not a ceiling. This provision will result in State’s refusal to enhance their educational system to serve their students better than IDEA requires.

Sec. 611 Authorization; Allotment; Use of Funds . . .

(e)(2)(B) Required Activities

Recommendation: Restore “direct services” as a required activity.

Rationale: Many states operate essential schools, such as schools for the deaf and schools for the blind. The oldest deaf school (American School for the Deaf) has been serving students successfully for nearly 200 years. Schools for the deaf are designed specifically to meet the needs of deaf and hard of hearing children and therefore serve a unique role in educational service delivery.

(e)(2)(C) Authorized Activities

(ix) "Alternative programming for children who have been expelled . . . services for children in correctional facilities . . . children enrolled in State-operated or State-supported schools . . ."

Recommendation: First, services for children in State-operated or State-supported schools should be a required, not discretionary, activity. Second State-operated and State-supported schools should not be grouped with programming for children who have been expelled and correctional facilities.

Rationale: First, see Rationale under Sec. 611. Second, as parents and dedicated educators, we find it offensive to group State-operated schools, such as schools for the deaf, with correctional facilities.

(e)(3) Local Educational Agency Risk Pool

Recommendation: Allow LEAs to spend this money on State-operated and State-supported schools.

Rationale: We believe the purpose of this provision is to ensure that the child is served in the most appropriate setting. For some children this will be a State-operated or State-supported school. However, some LEAs are reluctant to place children in these schools because in some states, the funding system requires the money for the placement to come from the LEA's budget. It is a wiser use of funds to allow LEAs to use this money to send the child to an appropriate setting, rather than have the LEA attempt to create a new program for the child when it is not qualified to do so.

Sec. 612 State Eligibility

(a)(5)(B) Additional Requirement ". . . a State shall not use a funding mechanism by which the State distributes funds on the basis of the type of setting in which a child is served that will result in the failure to provide a child with a disability a free appropriate public education according to the unique needs of the child as described in the child's IEP."

Recommendation: Delete.

Rationale: Provision of FAPE in the LRE is already required. In our view this new provision introduces confusion.

(a)(6) Continuum of Appropriate Settings

Recommendation: Substitute the following for (a)(6), and renumber subsequent sections:

(6) Continuum of Appropriate Settings –

(A) In General - To the maximum extent possible, a continuum of alternative permanent and interim educational settings is available to meet the unique educational needs of children with disabilities, especially children with sensory disabilities such as blindness, deafness and deaf-blindness. The continuum includes instruction in regular classes, special classes, special schools, home instruction, instruction in hospitals and institutions, and supplementary services (such as resource room or itinerant instruction) provided in conjunction with the regular classroom setting.

(B) Notice - When an individualized education program is developed, reviewed or revised, the options available along the continuum described in subparagraph (A) are discussed, and the individualized education program contains an assurance that written description (provided in advance of the IEP meeting) of the availability of the continuum of appropriate settings has been provided.

Rationale: The continuum of alternative placements must continue to be made available in a strong and visible manner. Modification of this section would be a clear statement to that effect. Parents consistently report that either they are not provided information about the continuum of alternative placements for their deaf or hard of hearing child or that they are given information biased in favor of a particular placement. Often the school district's interpretation of least restrictive environment means that the child is placed in the school closest to home regardless of whether that school is able to meet the child's needs. Not all children are appropriately served in the general education environment, and other appropriate placements must be available.

Sec. 614 Evaluations . . .

(b)(3)(A)(ii) [tests] “. . . are provided and administered . . . in the language and form most likely to yield accurate information . . .”

Recommendation: Retain current law: “are provided in the child's native language or other mode of communication . . .”

Rationale: The child's native language and mode of communication *is* the form most likely to yield accurate information.

(d)(3)(B)(iv) “in the case of a child who is deaf or hard of hearing, consider . . .”

Recommendation: “in the case of a child who is deaf or hard of hearing, assess and provide for the child's language and communication needs, opportunities for direct communications with peers and professional personnel, and access to the general curriculum and instruction at the child's academic level in the child's language and communication mode;”

Rationale: Hearing children attend school with the expectation that they will be able to understand the communication that occurs in the classroom and that they will continue to develop language and communication skills throughout their school life. Deaf and hard of hearing children should be able to do the same.

The 1997 IDEA Amendments were a breakthrough for deaf and hard of hearing children because that was the first time IDEA acknowledged that the language and communication needs of deaf and hard of hearing children were worthy of consideration. However, experience over these last few years has shown us that mere consideration is not enough. While consideration of these needs would imply that steps would be taken to meet them – and that is what the regulation envisions¹ - calls and letters from parents nationwide inform us that that is not being done. Communication assessment and access are the most critical aspects of education for a deaf or hard of hearing child. The IEP Team must be directed clearly that these services and opportunities must be provided.

Sec. 632 Definitions

(4)(F) “are provided by qualified personnel, including –“

Recommendation: Add: “teachers of the deaf.”

Rationale: This will help States ensure there is a reliable supply of early interventionists for this population. Over the past three years, 53 states and territories have received federal grants to set up newborn hearing screening systems. The goal of these systems is to identify deaf and hard of hearing babies during the first few months of life. These infants and toddlers require the services of specially trained professionals to help them develop language and communication.

Sec. 635 Requirements for a Statewide System

(a)(16) “ . . . early intervention services are provide in natural environments unless a specific outcome cannot be met satisfactorily for the infant or toddler in a natural environment.”

Recommendation: Modify to use the House version: “ . . . or in a setting that is most appropriate, as determined by the parent and the individualized family service plan team.”

Rationale: The natural environment provisions added in 1997 discouraged many LEAs from making placements in center based programs. This loosening of the natural environment provision is a welcome improvement. Children should be served in appropriate settings, including center based programs. These programs have specialized personnel fluent in American Sign Language and opportunities for families to meet and interact with deaf and hard of hearing adults. They are an important option for families.

¹34 C.F.R. §300.346 (c) Statement in IEP. If, in considering the special factors described in paragraphs (a)(1) and (2) of this section, the IEP team determines that a child needs a particular device or service (including an intervention, accommodation, or other program modification) in order for the child to receive FAPE, the IEP team must include a statement to that effect in the child's IEP.

Sec. 636 Individualized Family Service Plan

(D)(5) “a statement of the natural environments . . . including a justification of the extent, if any, to which the services will not be provided in a natural environment.”

Recommendation: Delete “justification” language.”

Rationale: Parents should not have to defend or justify appropriate placement of their child.

Sec. 661 Administrative Provisions

(h)(1)(B) “\$4,000,000 to address . . . needs of individuals with deafness.”

Recommendation: Retain.

Rationale: This supports a national network of activities, including assistance for educational institutions serving deaf and hard of hearing students.

Section 663 Technical Assistance . . .

(b)(4)(B) “support effective inclusion of students with disabilities in general education settings, especially students with low-incidence disabilities;”

Recommendation: Change to: “support effective education of students with low-incidence disabilities.”

Rationale: Children in all settings have the right to support. Inclusion in the local neighborhood school is not necessarily better than placement in a specialized setting. The key is the effectiveness of the education. We object to the idea that inclusion in the neighborhood school is an end in and of itself. For many deaf and hard of hearing children, the Least Restrictive Environment is the one that is the “Language Rich Environment.”

(c)(9) “focusing on the needs and issues that are specific to a population of children with disabilities . . .”

Recommendation: Retain.

Rationale: Individuals with low-incidence disabilities have educational needs that differ from peers with other disabilities. For people with sensory disabilities, access to information has to be the starting point in education.

Sec. 664 Personnel Development . . .

Recommendation: Reletter paragraph (c)(2)(E) and following to begin with paragraph (F), with the following text added as paragraph (E):

(c)(2)(E) Preparing personnel who provide services to deaf or hard of hearing children to teach and use effective language, including American Sign Language, and communication in the provision of services to such children.

Rationale: There is no mention of personnel to serve deaf and hard of hearing children other than interpreters. A trained workforce of professionals who understand their language and communication needs and how to teach them without the assistance of an interpreter is needed.

(c)(2)(E) “Preparing personnel to be qualified interpreters . . .”

Recommendation: Delete reference to using interpreters with infants and toddlers and preschool children in early intervention and preschool programs.

Rationale: There is no scientifically based evidence indicating the efficacy of using interpreters with very young children. It is likely that age appropriate language learning does not occur through the use of interpreters, and overdependence on interpreters contributes to the language delays that many deaf children experience. Like hearing children, young deaf children should have the opportunity to receive direct communication.

Sec. 665 Studies and Evaluations

Recommendation: Substitute the following for (b)(3)(D)(vii), and renumber subsequent sections:

(vii) “addressing age-appropriate language skills for deaf and hard of hearing children;”

Rationale: The areas potentially impacted most by hearing loss are a child’s language and communication development and ability, which subsequently affect the child’s cognitive development and academic outcomes. To fully develop his/her language and communication abilities, a child must have sufficient opportunities to acquire and develop language in its natural form and to communicate freely with others. Unless these abilities are developed, deaf and hard of hearing children cannot achieve at a level commensurate with their hearing peers. This must be addressed as an overarching theme in the education of deaf and hard of hearing children or these children will continue to fail.

(c)(5) “Providing cultural experiences through appropriate nonprofit organizations . . .”

Recommendation: Substitute the following for (c)(5), retaining current law, and renumber subsequent sections:

Rationale: Increasing public awareness about persons who are deaf or hard of hearing will make these individuals more accepted by society at large and help eradicate the low expectations for them that exist in many school environments.

Respectfully submitted,

American Society for Deaf Children (ASDC) - ASDC is a national organization of families and professionals committed to educating, empowering and supporting parents and families to create opportunities for their children who are deaf and hard of hearing in gaining meaningful and full communication access, particularly through the competent use of Sign Language, in their home, school, and community.

Conference of Educational Administrators of Schools and Programs for the Deaf (CEASD) - Founded in 1868, CEASD is committed to the promotion of excellence within a continuum of equitable educational opportunities for all children and adults who are deaf or hard of hearing. CEASD's membership consists of over 100 member schools and programs serving over 12,000 deaf and hard of hearing children and their families.

Deaf and Hard of Hearing Consumer Advocacy Network (DHHCAN) – DHHCAN is a coalition of, by, and for deaf and hard of hearing Americans working to improve access and opportunities for our nation's 28 million citizens with hearing loss. CAN members include ADARA (formerly American Deafness and Rehabilitation Association); American Association of the Deaf-Blind; American Society for Deaf Children; Association of Late-Deafened Adults; Conference of Educational Administrators of Schools and Programs for the Deaf; Deaf Seniors of America; Gallaudet University; Gallaudet University Alumni Association; Jewish Deaf Congress; National Association of the Deaf; National Black Deaf Advocates; National Catholic Office of the Deaf; Registry of Interpreters for the Deaf; TDI, Inc. (formerly Telecommunications for the Deaf, Inc.); USA Deaf Sports Federation.

National Association of the Deaf (NAD) - The NAD is the nation's largest consumer organization protecting the rights of 28 million deaf, hard of hearing, late-deafened, and deaf-blind individuals, including the children who are being served under the IDEA. The NAD has had a profound and longstanding interest in the education of deaf and hard of hearing children since 1880, the year of its establishment as one of the Nation's earliest and oldest consumer organizations.

National Deaf Education Project (NDEP) – NDEP was established in 1998 to reform the current educational delivery system for deaf and hard of hearing children and has focused on two basic goals: creating an educational paradigm that is fundamentally communication-driven and assisting professional, consumer, and parent organizations to address local, regional, and state issues affecting deaf and hard of hearing children.

Contact: Barbara Raimondo
301/990-2847
baraimondo@earthlink.net