

Advocating for the Needs of the Oral Deaf Student

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I. General Introduction

The educational needs of the oral deaf student present unique challenges not always associated with special education cases. The root problem is assuring equal access to the classroom's oral information under a special education scheme that district's argue requires only a basic floor of opportunity. An oral deaf approach should teach the child to use their residual hearing and voice to communicate. To accomplish this goal the oral deaf child needs to be immersed in an oral only program with appropriate support and services. Typically the goal is to mainstream the child once they have honed their listening and speaking skills to an appropriate level. Use of sign language and other inappropriate visual cues engage a different part of the brain than used for oral only communication and undermine efforts to develop listening and speaking skills.

Districts are often concerned that the child will fall behind academically by using only oral communication skills. Many districts have pre-conceived notions that sign language or Total Communication programs are the only way to educate the deaf child. These problems are compounded when the deaf child gets very good grades, which districts use to argue that the kid is accessing the curriculum and receiving FAPE.

The challenge is to focus the district on supporting the child's preferred mode of communication.

II. Definitions

There is a lot of confusion about the meaning of basic terms associated with the education of deaf children. Precise understanding is critical to advocate for the needs of the individual student. Often a particular program or service will be incorrectly labeled, making it unclear exactly what is being offered in the IEP. It is helpful to define basic terms to properly represent the student.

Audition: the act, sense, or power of hearing.

Aural: of or pertaining to the ear or to the sense of hearing.

Oral: uttered by the mouth; spoken; of, using, or transmitted by speech.

Aural and oral are sometimes confused with each other.

American Sign Language (ASL): The sign language most often used by the North American Deaf community. ASL is its own language with a

distinct grammatical structure and is recognized by many High Schools and Colleges as an alternative to the foreign language requirement.

Speech Reading: Use of lip and mouth movements, facial expressions, gestures, prosodic and melodic aspects of speech, structural characteristics of language and context. Speech Reading is often confused with Lip Reading.

Cued Speech: Use of eight hand shapes in four locations in combination with natural mouth movements of speech to make the sounds of spoken language look different.

Manually Coded English: Use of finger spelling and ASL signs to represent the grammar and vocabulary of spoken English as accurately as possible.

Auditory-Verbal: Use of amplification to teach listening, process spoken language and to speak without signs, cues, speechreading or other similar visual cues.

Oral-aural: Use of residual hearing to develop spoken language skills. Allows for use of speechreading, but not visual cues such as signing or Cued speech.

Total Communication: use of all means of communication, including speech, speechreading, auditory training, sign language, and writing, in the education of deaf or hearing-impaired children.

III. Placement, Therapies and Technology

Education of the oral deaf child requires intensive therapy and technology to assist in the goal of learning to listen and speak. The nature of hearing loss and technology employed to assist require attention to acoustic characteristics of the classroom.

A. Technology

Cochlear Implants: A surgically implanted electronic device that provides a sense of sound to a person who is profoundly deaf or severely hard of hearing. Unlike hearing aids, the cochlear implant does not amplify sound, but works by directly stimulating any functioning auditory nerves inside the cochlear with electrical impulses. External components of the cochlear implant include a microphone, speech processor and transmitter that also allow the individual to adjust the sound for quality and amplification.

Computer Assisted Real Time Captioning (CART): A real time captionist is similar to a certified shorthand reporter. The captionist converts the words spoken in the classroom into text that is displayed on a computer screen so that the hearing impaired student can follow the teacher's lecture, other students' questions, class discussion or other oral information presented in the

classroom. Captioning captures all pertinent oral information presented in the classroom. By contrast sign language interpretation only allows the hearing impaired student access to the oral expression of one person at a time with the need for the undivided visual attention of the hearing impaired student to the sign language interpreter. When the student focuses their attention only on the interpreter they miss critical oral information presented in the classroom and are unable to follow and participate in classroom discussion.

CART allows the student to use their voice in class to participate in discussions which are critical for cognitive development and for improving voice quality so that others will more readily understand their speech. CART also allows the student to develop oral vocabulary and hone the ability to listen so that real time captioning will not be needed to communicate in later years. As the student puts meaning to sounds with the help of CART they will be learning to communicate independently, with much less reliance on aids, in the future.

FM Systems: Assistive listening devices that transmit the speaker's voice to an electronic receiver in which the sound is amplified and transmitted to the student's personal hearing aids. FM systems reduce the problem of background noise interference and problems of distance from the speaker.

Hearing Aids: Electronic device that conduct and amplifies sound to the ear.

B. Acoustics

The physical classroom space where the deaf child will be taught needs to be acoustically appropriate. Classrooms are noisy and present many challenges for the hearing impaired students who have difficulty tuning out extraneous noise. There should be minimal ambient noise, whether from HVAC or other systems. Likewise, classroom placement should limit intrusion of noise from outside the classroom. The classroom should be carpeted and acoustic tiles installed in the ceilings. Where appropriate other efforts need to be made to minimize noise, whether it be rubber tip chair legs, double pane windows, or elimination of background music.

C. Therapies and Services

Oral deaf children require various services and therapies to learn to listen and speak. Services that need to be considered include Auditory-Verbal Therapy, Speech and Language and Audiology services.

IV. **Laws Applicable to Oral Deaf Education**

A. Federal Regulations Under IDEA Relating to the Deaf and Hard of Hearing

Specific reference to deaf and hard of hearing children is sparse in IDEA's statutory text (20 U.S.C. 1400 et. seq.). The regulations, 34 C.F.R. 300 et. seq.,

however, include several specific references to deaf and hard of hearing children which are listed below.

1. Hearing Impairment is a Qualifying Disability Under IDEA [34 C.F.R. Sec. 300.8]

Hearing impairment including deafness is a qualifying disability 34 C.F.R. Sec. 300.8(a)(1). 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. 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. Sec. 300.8 (c)(5). Speech or language impairment means a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance. Sec 300.8 (c)(11). (Authority: 20 U.S.C. 1401(3); 1401(30))

2. Language Mode Defined [34 C.F.R. Sec. 300.29]

For an individual with deafness or blindness, or for an individual with no written language, the mode of communication is that normally used by the individual (such as sign language, Braille, or oral communication). Sec 300.29(b) (Authority: 20 U.S.C. 1401(20))

3. Related Services Include: Speech-Language, Audiology, Interpreting Services and Habilitative Activities[34 C.F.R. Sec. 300.34(a)]

(b) Exception; services that apply to children with surgically implanted devices, including cochlear implants.

(1) Related services do not include a medical device that is surgically implanted, the optimization of that device's functioning (e.g., mapping), maintenance of that device, or the replacement of that device.

(2) Nothing in paragraph (b)(1) of this section—

(i) Limits the right of a child with a surgically implanted device (e.g., cochlear implant) to receive related services (as listed in paragraph (a) of this section) that are determined by the IEP Team to be necessary for the child to receive FAPE.

(ii) Limits the responsibility of a public agency to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the child, including breathing, nutrition, or operation of other bodily functions, while the child is transported to and from school or is at school; or

(iii) Prevents the routine checking of an external component of a surgically implanted device to make sure it is functioning properly, as required in §300.113(b).

(c) *Individual related services terms defined.* The terms used in this definition are defined as follows:

(1) *Audiology* includes—

(i) Identification of children with hearing loss;

(ii) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;

(iii) Provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation;

(iv) Creation and administration of programs for prevention of hearing loss;

(v) Counseling and guidance of children, parents, and teachers regarding hearing loss; and

(vi) Determination of children's needs for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.

(2) *Counseling services* means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.

(3) *Early identification and assessment of disabilities in children* means the implementation of a formal plan for identifying a disability as early as possible in a child's life.

(4) *Interpreting services* includes—

(i) The following, when used with respect to children who are deaf or hard of hearing: Oral transliteration services, cued language transliteration services, sign language transliteration and interpreting services, and transcription services, such as communication access real-time translation (CART), C-Print, and TypeWell; and

(ii) Special interpreting services for children who are deaf-blind. (Authority: 20 U.S.C. 1401(26))

4. Special Education Includes Adapting Instruction to the Needs of the Child [34 C.F.R. Sec. 300.39]

(3) *Specially designed instruction* means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction—

(i) To address the unique needs of the child that result from the child's disability; and

(ii) To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children. (Authority 20 U.S.C. 1401(31))

5. Supplementary Aids and Services [34 C.F.R. Sec. 300.42]

Supplementary aids and services means aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with §§300.114 through 300.116. (Authority: 20 U.S.C. 1401(33))

6. Routine Checking of Hearing Aids and External Components of Surgically Implanted Medical Devices. [34 C.F.R. Sec. 300.113]

(a) *Hearing aids*. Each public agency must ensure that hearing aids worn in school by children with hearing impairments, including deafness, are functioning properly.

(b) *External components of surgically implanted medical devices*. (1) Subject to paragraph (b)(2) of this section, each public agency must ensure that the external components of surgically implanted medical devices are functioning properly.

(2) For a child with a surgically implanted medical device who is receiving special education and related services under this part, a public agency is not responsible for the post-surgical maintenance, programming, or replacement of the medical device that has been surgically implanted (or of an external component of the surgically implanted medical device). (Approved by the Office of Management

and Budget under control number 1820–0030) (Authority: 20 U.S.C. 1401(1), 1401(26)(B))

7. Considerations by IEP Team for Deaf and Hard of Hearing Children [34 C.F.R. Sec. 300.324]

(iv) Consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and

(v) Consider whether the child needs assistive technology devices and services. (Authority: 20 U.S.C. 1412(a)(1), 1412(a)(12)(A)(i), 1414(d)(3), (4)(B), and (7); and 1414(e))

B. Basic Floor of Opportunity

Board of Education v. Rowley (1982) 458 U.S. 176 defines FAPE as a “basic floor of opportunity” consisting of access to specialized instruction and related services which are individually designed to provide educational benefit to the handicapped child. *Rowley* also provides that a court must not impose its own view of preferable educational methods upon the States.

Amy Rowley was a deaf student with minimal residual hearing and an excellent lip reader that was placed in a regular kindergarten class with an FM system. Amy successfully completed her kindergarten year and the district proposed a regular first grade classroom with an FM system, tutor for the deaf

and speech therapy. The district's refusal to provide Amy with a sign language interpreter prompted her parents to file for due process. Under *Rowley* the district did not have to maximize Amy's education by providing a sign language interpreter and could choose the method by which she was educated.

Since *Rowley*, IDEA has been revised to require consideration of the child's mode of communication by the IEP team. One can therefore argue that mode of communication is different than provision of FAPE and its basic floor of opportunity. Instead the analysis changes to consideration of the child's language mode instead of whether a basic floor of education is provided. *Rowley* may have been decided differently if the court analyzed whether sign language was Amy's mode of communication rather than a service calculated to maximize educational benefit.

C. Methodology

Districts may generally choose method of education under *Rowley* and *Lachman v. Illinois State Board of Education* (1988, 7th Cir.) 852 F.2d 290. *Lachman* confirms *Rowley's* holding that courts must not impose their own view of preferable educational methods, which should be left to the district's discretion.

Benjamin Lachman was a profoundly deaf seven-year whose parents believed that he could be educated best in a regular education classroom with the assistance of a full-time cued speech instructor. The district disagreed and insisted upon a Total Communication placement. The court in *Lachman* affirmed

the Total Communication placement reasoning that it was a dispute about methodology. Like *Rowley*, there was no requirement to consider the child's mode of communication when *Lachman* was decided.

D. State Law

Many states have laws that augment IDEA and impose additional obligations on districts to provide for the educational needs of deaf and hard of hearing students. In California, for example, Education Code §56000.5 recognizes that the many appropriate communication modes for deaf children include sign language, oral, aural, with or without visual signs or cues. California law recognizes that children must have an education in which their unique communication mode is respected, utilized, and developed to an appropriate level of proficiency.

Statutory recognition of the various modes of communication used by deaf children goes a long way toward rebutting district efforts to impose a placement or methodology that disregards the child's preferred mode of communication and does not respect, utilize and develop the chosen mode of communication. It is critical to approach these cases by focusing on the mode of communication rather than methodology.

V. Resources

Alexander Graham Bell Association for the Deaf

3417 Volta Place, NW
Washington, DC 20007
Tel: 202/337-5220
TTY: 202/337-5221
Fax: 202/337-8314
Email: info@agbell.org
Website: www.agbell.org

Gathers and disseminates information on hearing loss in children and adults; provides scholarships, financial, and parent-infant awards; promotes early detection of hearing loss in infants; publishes books on deafness; and advocates the rights of children and adults who are deaf or hard of hearing.

American Academy of Audiology

11730 Plaza America Drive, Suite 300
Reston, VA 20190
Phone: 800-AAA-2336
Fax: 703-790-8631
Website: www.audiology.org

A professional organization dedicated to providing high-quality hearing care to the public. Provides professional development, education, and research and promotes increased public awareness of hearing disorders and audiologic services.

American Speech-language Hearing Association

2200 Research Boulevard
Rockville, MD 20850-3289
Phone: 301-296-5700
Website: www.asha.org

A professional and scientific organization for speech-language pathologists and audiologists concerned with communication disorders. Provides informational materials and a toll-free HELPLINE number for consumers to inquire about speech, language, or hearing problems. Provides referrals to audiologists and speech-language pathologists in the United States.

Communication Access Information Center

8224 Old Courthouse Road
Vienna, VA 22182-3808
Toll Free: 800/272-6272 (NCRA)
Fax: 703/556-6291
TTY: 703/556-6289
Website: www.cartinfo.org

Provides information of use to people employing or in need of Communication Access Realtime Translation (CART), also known as realtime captioning.