

Support for Showing Adverse Educational Affect Due to Hearing Loss

- “Each State must ensure that FAPE is available to any individual child with a disability who needs special education and related services, even though the child has not failed a course or grade, and is advancing from grade to grade.” (CFR Section 300.101) **Adverse educational effect is not synonymous with academic delays.**
- Evaluating for eligibility (IDEA § 300.304): “ Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent” “Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.” “Assessments and other evaluation materials include those tailored to assess specific areas of educational need “ “Assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.” **Obtain relevant functional performance information using technically sound instruments.**
- IDEA Special Considerations for Students who are Deaf/Hard of Hearing: In the case of a child who is deaf or hard of hearing, the IEP team must consider the child’s “opportunities for direct communication 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 requires assistive communication devices and services.” 34 CFR 303.324(2) **AND** Sec. 300.320(a)(4) requires the IEP to include a statement of the program modifications or supports for school personnel that will be provided, to enable the child to be involved in and make progress in the general education curriculum. **Accuracy in the ability to access communication of peers and teachers needs to be determined and taken into account as lack of access will impact interaction and comprehension in class.**
- IDEA statute (20 USC 1400(c)(5)(H)) specifies “supporting the development and use of technology, including assistive technology devices and assistive technology services, to **maximize** accessibility for children with disabilities.” **Hearing technology is typically necessary to maximize access to classroom communication.**
- There must be a back-up plan included in determination of students needs for support, which defines what will happen if/when the student’s assistive technology (i.e., FM system) is in for repair. *In Bellingham (MA) Public Schools*, 59 IDLER 142 (OCR 2012). School districts should not rely solely on the adequacy of a student’s grades in determining eligibility for services or the impact on the student when required services are not provided. **Alternate FM short-term solutions must be addressed to ensure continuation of maximized auditory access.**
- Per OSEP 1992, p 49274: “The Secretary believes it is important that State and local agencies, in developing an IEP for children who are deaf, take into consideration such factors as: (1) Communication needs and the child’s and family’s preferred mode of communication; (2) Linguistic needs; (3) Severity of hearing loss and potential for using residual hearing; (4) Academic level; and (5) Social, emotional, and cultural needs including opportunities for peer interactions and communication. The nature and severity of some children’s needs will require the consideration of curriculum content and delivery in determining how those needs can be met. Including evaluators who are knowledgeable about these specific factors as part of the multidisciplinary team evaluating the student will help ensure that the deaf student’s needs are correctly identified.” **AND** Part 300 / D / 300.304 / c / 4(4) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities;” **Social and emotional needs must be considered.**
- IDEA Sec. 300.113. (a) Each public agency must ensure that hearing aids worn in school by children with hearing impairments, including deafness, are functioning properly. (b) (1) Each public agency must ensure that the external components of surgically implanted medical devices are functioning properly. If FM is on the IEP then schools must now document when an FM system is worn in school. *In Detroit City School District 115 LRP 31115 (SEA MI 6/12/15).* **Include in planning.**