



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

JUN 30 2003

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This letter is in response to your request for a written response to your concern that your children and other students who are deaf or hard of hearing in the State of California are not being assessed to determine their proficiency and progress in American Sign Language (ASL). Neither the Individuals with Disabilities Education Act (IDEA) nor its implementing regulations at 34 CFR Part 300 have specific requirements regarding the assessment of ASL skills or proficiency.

Section 300.532 of the regulations implementing Part B of the IDEA sets forth the minimum evaluation procedures each public agency is required to meet when conducting initial evaluations and reevaluations to determine eligibility for special education and related services. Section 300.532(b) requires that “a variety of assessment tools and strategies be used to gather relevant functional and developmental information about the child, including information provided by the parent, and information related to enabling the child to be involved in and progress in the general curriculum....” (34 CFR §300.532(b)). Section 300.532(g) requires that a child be “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.” (Emphasis added.) Section 300.532(j) further states that the public agency must use “assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child.” The individualized education program (IEP) team members, including the parent, and other qualified professionals, as appropriate, make the determination of what evaluation data are needed (as part of an initial evaluation or reevaluation). (34 CFR §300.533). The IEP team could determine that an assessment of the student’s proficiency in ASL was needed as part of this process.

Section 300.346 requires that the communication needs of a child who is deaf or hard of hearing be considered in the development, review, and revision of the child’s IEP. Specifically, §300.346(a)(2)(iv) states that the IEP team must 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...” The IEP team

may develop measurable annual goals, including short-term objectives or benchmarks in a particular student's IEP to assess that student's ability and proficiency in ASL. Further, the IEP team may specify in the IEP that certain assessment methods, such as teacher-made tests and observational assessments, be used to assess the student's proficiency in ASL.

I hope this information is useful. If you have any further questions, please feel free to contact Dr. Wendy Tada at 202-205-9094.

Sincerely,



Stephanie S. Lee
Director
Office of Special Education Programs

cc: Dr. Alice Parker
Assistant Superintendent of Public Instruction
State Director of Special Education
California Department of Education