

S.66

An act relating to persons who are deaf, DeafBlind, or hard of hearing

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Development of early and effective language and communication is fundamental to the educational growth of all children. Language and communication skills are essential to literacy, academic success, workforce productivity, and civic contribution.

(2) Nationally, an academic achievement gap persists between children who are deaf, DeafBlind, or hard of hearing and their peers who are not deaf, DeafBlind, or hard of hearing.

(3) Although children who are deaf, DeafBlind, or hard of hearing represent approximately one percent of U.S. students with disabilities, and a smaller percentage of U.S. children overall, the needs of children who are deaf, DeafBlind, or hard of hearing are unique and diverse, as evidenced by the following:

(A) Children who are deaf, DeafBlind, or hard of hearing have varying degrees of hearing loss and may be identified at birth or much later.

(B) Children who are deaf, DeafBlind, or hard of hearing use a variety of communication and language modes alone or in combination. The

preferred mode or modes of a given child do not necessarily correspond with his or her degree of hearing loss, and family decisions about communication for a child may be fluid during the course of the child's development.

(C) Children who are deaf, DeafBlind, or hard of hearing may be at risk of social isolation both at school and in their communities. Most children who are deaf, DeafBlind, or hard of hearing in the United States are born to parents who are not deaf, DeafBlind, or hard of hearing. Because of the small number of children who are deaf, DeafBlind, or hard of hearing, a child may be the only child who is deaf, DeafBlind, or hard of hearing at his or her school.

(D) Many children who are deaf, DeafBlind, or hard of hearing have secondary or coexisting conditions that impact their educational needs.

(4) Although federal law requires that schools consider the language and communication needs of children who are deaf, DeafBlind, or hard of hearing who qualify for individualized education programs (IEPs), the states are generally responsible for ensuring that federal requirements are carried out and otherwise ensuring that the unique language and communication needs of children who are deaf, DeafBlind, or hard of hearing are met. States have addressed these concerns in a variety of ways, including by developing communication plans and state plans and by passing bills of rights for children who are deaf, DeafBlind, or hard of hearing.

(5) The Vermont Center for the Deaf and Hard of Hearing closed in September 2014. Prior to its closing, the Center provided comprehensive and statewide educational, social, and support services to children, youth, and adults who are deaf, DeafBlind, or hard of hearing. These services included the Austine School for the Deaf, which closed in June 2014; several regional classrooms; consultant services for mainstreamed students; a parent-infant program; a family mentoring program; adult services; and numerous other support options. While efforts are underway to replace at least some of the discontinued services, it remains unclear whether the educational needs of children and other persons in the State who are deaf, DeafBlind, or hard of hearing are currently being met.

Sec. 2. 33 V.S.A. chapter 16 is added to read:

CHAPTER 16. TASK FORCE ON PERSONS WHO ARE DEAF,
DEAFBLIND, OR HARD OF HEARING

§ 1601. DEFINITIONS

As used in this chapter:

(1) “Communication or language mode” means one or a combination of the following systems or methods of communication available to children who are deaf, DeafBlind, or hard of hearing: American Sign Language; English-based manual or sign systems; oral, aural, speech-based training; spoken and written English, including speech reading or lip reading; and

communication with an assistive technology device to facilitate language and learning.

(2) “Deaf” means having a severe or complete absence of auditory sensitivity that impairs processing of linguistic information through hearing, with or without amplification.

(3) “DeafBlind” means having concomitant hearing and visual impairments.

(4) “Hard of hearing” means having some absence of auditory sensitivity with residual hearing, whether permanent or fluctuating.

§ 1602. TASK FORCE ON PERSONS WHO ARE DEAF, DEAFBLIND, OR
HARD OF HEARING

(a) Creation; purpose. There is created a Task Force on Persons Who are Deaf, DeafBlind, or Hard of Hearing to assess and make recommendations concerning educational services, resources, and opportunities for children within the State who are deaf, DeafBlind, or hard of hearing and their families and to provide advice and oversight on matters of policy and administration of programs for persons who deaf, DeafBlind, or hard of hearing.

(b) Membership. The Task Force shall consist of the following members:

(1) nine members of the public, appointed by the Governor in a manner that ensures geographically diverse membership while recognizing the

concentration of persons who are deaf, DeafBlind, or hard of hearing residing near the former Vermont Center for the Deaf and Hard of Hearing, including:

(A) four members who are deaf, DeafBlind, or hard of hearing, provided that if a member represents an organization for persons who are deaf, DeafBlind, or hard of hearing, no other member on the Task Force shall also represent that organization;

(B) two members who are each a parent or guardian of a child who is deaf, DeafBlind, or hard of hearing;

(C) two members who serve persons who are deaf, DeafBlind, or hard of hearing in a professional capacity, provided that these members do not represent the same organization; and

(D) one member recommended by the Vermont Association for the Deaf;

(2) the Senior Counselor for the Deaf and Hard of Hearing in the Department of Disabilities, Aging and Independent Living's Division of Vocational Rehabilitation or designee;

(3) the Secretary of Education or designee;

(4) the Secretary of Human Services or designee;

(5) a professional Deaf education specialist who understands all communication and language modes, appointed by the Governor;

(6) a superintendent, selected by the Vermont Superintendents Association; and

(7) a special education administrator, selected by the Vermont Council of Special Education Administrators.

(c) Powers and duties.

(1) The Task Force shall assess the educational services, resources, and opportunities for children in the State who are deaf, DeafBlind, or hard of hearing. It shall make recommendations to the General Assembly, the Governor, and the Agencies of Education and of Human Services with the goal of ensuring that each child is afforded:

(A) the same educational rights as children who are not deaf, DeafBlind, or hard of hearing, including full communication and language access in all educational environments and provision of qualified teachers, interpreters, and paraprofessionals;

(B) appropriate and ongoing educational opportunities that recognize each child's unique learning needs, provide access to a sufficient number of communication or language mode peers, and include exposure to adult role models who are deaf, DeafBlind, or hard of hearing; and

(C) adequate family supports that promote both early development of communication skills and informed participation by parents and guardians in the education of their children.

(2) The Task Force shall advise the General Assembly, the Governor, and the Agencies of Education and of Human Services with respect to policy development and program administration for persons who are deaf, DeafBlind, or hard of hearing. In furtherance of this duty, the Task Force may:

(A) conduct studies concerning the needs of and opportunities for persons within the State who are deaf, DeafBlind, or hard of hearing and their families;

(B) evaluate the adequacy and systemic coordination of existing services and resources for persons throughout the State who are deaf, DeafBlind, or hard of hearing and their families;

(C) review existing and proposed legislation and rules pertaining to persons who are deaf, DeafBlind, or hard of hearing and advise the General Assembly, the Governor, and the Agencies of Education and of Human Services regarding revisions, coordination, services, and appropriations;

(D) examine delivery models in other states in order to evaluate the adequacy and systemic coordination of existing services and resources for persons throughout the State who are deaf, DeafBlind, or hard of hearing;

(E) encourage and foster local community action on behalf of persons who are deaf, DeafBlind, or hard of hearing;

(F) publicize its findings; and

(G) carry out specific projects assigned by the General Assembly or Governor.

(3) The Task Force shall oversee and monitor the qualification of interpreters for persons who are deaf, DeafBlind, or hard of hearing practicing in the State, including the certification of sign language interpreters.

(d) Assistance. The Task Force shall have the administrative, technical, and legal assistance of the Department of Disabilities, Aging and Independent Living (DAIL). The Task Force and DAIL may consult with the Agency of Education and with national experts on education of persons who are deaf, DeafBlind, or hard of hearing as necessary to fulfill their obligations under this section.

(e) Reports. On or before January 15 of each year, notwithstanding 2 V.S.A. § 20(d), the Task Force shall submit a written report to the Senate and House Committees on Education, the Senate Committee on Health and Welfare, the House Committee on Human Services, the Governor, and the Agencies of Education and of Human Services with its findings pursuant to activities carried out under subsection (c) of this section and recommendations for administrative and legislative action.

(f) Appointments; meetings.

(1) The Senior Counselor for the Deaf and Hard of Hearing in DAIL's Division of Vocational Rehabilitation or designee shall convene the first

meeting of the Task Force on or before July 1, 2015 and shall select interpretive services for the meeting if a member so requests.

(2) At its first meeting, the Task Force shall elect a chair and vice chair.

(3) The Chair shall select interpretive services for any Task Force meeting if a member so requests.

(4) The Task Force may meet up to eight times each year to perform its functions under this section, unless the Commissioner of Disabilities, Aging, and Independent Living approves additional meetings.

(g) Reimbursement.

(1) Members of the Task Force who are not State employees or otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010, payable by DAIL.

(2) DAIL shall pay for interpretive services necessary to conduct all Task Force meetings.

Sec. 3. REPORT; ADDITIONAL POWERS AND DUTIES OF THE TASK
FORCE ON PERSONS WHO ARE DEAF, DEAFBLIND, OR
HARD OF HEARING

On or before January 15, 2016, the Task Force on Persons Who are Deaf, DeafBlind, or Hard of Hearing shall submit a written report to the Senate and House Committees on Education, the Senate Committee on Health and

Welfare, the House Committee on Human Services, the Governor, and the Agencies of Education and of Human Services. The report shall include the following:

(1) A comprehensive assessment of the educational services and resources presently available to children in the State who are deaf, DeafBlind, or hard of hearing and their families, including:

(A) identification of all losses of or reductions in services and resources arising from the closures of the Austine School for the Deaf and the Vermont Center for the Deaf and Hard of Hearing;

(B) evaluation of the adequacy of existing services and resources, including, if appropriate, determination of whether these services and resources are accessible statewide, offer adequate family supports, and provide adequate opportunities for direct contact with communication or language mode peers; and

(C) evaluation of the need for services and resources not currently available, adequate, or accessible.

(2) A proposal to restore and expand educational opportunities for children in the State who are deaf, DeafBlind, or hard of hearing and their families that:

(A) ensures that the quality of services available prior to the closings of the Austine School for the Deaf and the Vermont Center for the Deaf and Hard of Hearing is maintained;

(B) assesses the risks and benefits of educating children who are deaf, DeafBlind, or hard of hearing at a mainstream school, including impacts on academic achievement, extracurricular involvement, and social integration;

(C) addresses the desirability and feasibility of establishing a centralized school for children who are deaf, DeafBlind, or hard of hearing; and

(D) recommends alternative methods of ensuring that children in the State who are deaf, DeafBlind, or hard of hearing are not socially isolated and have adequate opportunities for direct contact with language or communication mode peers.

(3) An evaluation of 16 V.S.A. § 3823 (the Austine School; financing) and 2013 Acts and Resolves No. 45 (an act relating to the Austine School) that:

(A) assesses whether the General Assembly should waive or otherwise alter the Vermont Center for the Deaf and Hard of Hearing's obligation under 16 V.S.A. § 3823(c), as modified by 2013 Acts and Resolves No. 45, to repay capital appropriations made to or for the benefit the Austine School from the proceeds of certain sales of the Center's real property; and

(B) evaluates the adequacy of the service plan developed by the Secretary of Education pursuant to 2013 Acts and Resolves No. 45.

(4) A recommendation regarding whether the General Assembly should adopt a Bill of Rights specific to persons who are deaf, DeafBlind, or hard of hearing.

(5) Recommendations regarding the need for and potential structure of a State agency division or other staffed entity responsible for overseeing concerns of persons who are deaf, DeafBlind, or hard of hearing and their families, including recommendations regarding what supports are necessary to ensure that this entity is fully functional.

(6) An assessment of whether paraprofessionals who provide instructional support in public schools to students who are deaf, DeafBlind, or hard of hearing are sufficiently qualified and receive adequate training.

(7) An assessment of and recommendations regarding the needs of persons in Vermont who are DeafBlind, including the needs of children who are DeafBlind.

Sec. 4. 16 V.S.A. § 2955a is added to read:

§ 2955a. DATA REPORTING; STUDENTS WITH DISABILITIES

The Agency of Education shall post on its website the data it submits to the U.S. Secretary of Education pursuant to 20 U.S.C. § 1418 (data collection and reporting requirements concerning students with disabilities) within one month

of the date of submission. To the extent permitted under 20 U.S.C. § 1232g (family educational and privacy rights), and any regulations adopted thereunder, and in a manner that protects sensitive, personally identifiable, or confidential information, the Agency's posting shall disaggregate all data pertaining to children who are deaf, DeafBlind, or hard of hearing.

Sec. 5. REPEAL

33 V.S.A. §§ 1601 and 1602 (Task Force on Persons Who are Deaf, Deaf Blind, or Hard of Hearing) are repealed on February 1, 2018.

Sec. 6. 1 V.S.A. chapter 5, subchapter 5 is amended to read:

Subchapter 5. Interpreters for Judicial, Administrative, and
Legislative Proceedings

§ 331. DEFINITIONS

As used in this subchapter:

(1) "Person who is deaf or hard of hearing" means any person, including a person who is DeafBlind, who has such difficulty hearing, even with amplification, that he or she cannot rely on hearing for communication.

(2) "Proceeding" means any judicial proceeding, contested case under 3 V.S.A. chapter 25, or other hearing before an administrative agency not included under 3 V.S.A. chapter 25.

(3) "Qualified interpreter" means an interpreter for a person who is deaf or hard of hearing, including a person who is DeafBlind, who meets standards

of competency established by the national or Vermont Registry of Interpreters for the Deaf as amended, by rule, by the ~~Vermont Commission of the Deaf and Hard of Hearing~~ Task Force on Persons Who are Deaf, DeafBlind, or Hard of Hearing.

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§ 336. RULES; INFORMATION; LIST OF INTERPRETERS

(a) The ~~Vermont Commission of the Deaf and Hard of Hearing~~ shall Task Force on Persons Who are Deaf, DeafBlind, or Hard of Hearing may, by rule, establish factors to be considered by the presiding officer under section 333 of this title before appointing an interpreter who is not a qualified interpreter. Such factors shall encourage the widest availability of interpreters in Vermont while at the same time ensuring that the interpreter:

- (1) is able to communicate readily with the person who is deaf, DeafBlind, or hard of hearing;
- (2) is able to interpret accurately statements or communications by the person who is deaf, DeafBlind, or hard of hearing;
- (3) is able to interpret the proceedings to the person who is deaf, DeafBlind, or hard of hearing;
- (4) shall maintain confidentiality;
- (5) shall be impartial with respect to the outcome of the proceeding;

(6) shall not exert any influence over the person who is deaf, DeafBlind, or hard of hearing; and

(7) shall not accept assignments the interpreter does not feel competent to handle.

(b) Rules established by the ~~Vermont Commission of the Deaf and Hard of Hearing~~ Task Force on Persons Who are Deaf, DeafBlind, or Hard of Hearing pursuant to subdivision 331(3) of this title amending the standards of competency established by the national or Vermont Registry of the Deaf shall be limited to the factors set forth in subsection (a) of this section.

(c) The ~~Vermont Commission of the Deaf and Hard of Hearing~~ shall Task Force on Persons Who are Deaf, DeafBlind, or Hard of Hearing may prepare an explanation of the provisions of this subchapter which ~~shall~~ may be distributed to all State agencies and courts.

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Sec. 7. EFFECTIVE DATE

This act shall take effect on passage.