
TESTIMONY

Testimony To: Senate Committee on Education

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Subject: **S.172: Deaf, Hard of Hearing, and Deafblind Bill of Rights**

Date: February 1, 2024

Thank you for the opportunity to provide testimony on the topic of S.172.

Children and students who are deaf, hard of hearing, or deafblind (DHH/DB) have the right to an educational environment in which their abilities and needs are respected and developed appropriately. The AOE does not disagree with the purpose of the bill; however, we are here today to offer information regarding current federal and state regulations and to raise several concerns that we feel are important to your deliberations.

Caregivers and families who are concerned about their children's level of support have rights and have access to a [complaint and resolution process](#) that is already established. We provide mediation, respond to and investigate administrative complaints and provide a means for parents to request a due process hearing.

Concerns

We are concerned that creating a separate rule for children who are deaf, hard of hearing or deafblind would be more confusing than helpful as there would be two sets of rules governing students with disabilities at the state level.

The State Board of Education Rule Series 2360 (Special Education) addresses the rights and rules described in the bill.

Title 16-2967(b)(3) provides "State Special Education Funding" for "persons who are deaf or hard of hearing." These funds are managed through a competitive grant process and are designed to improve and ensure equitable access for students with hearing loss in Vermont and assist in building capacity for Vermont public schools by providing consultation and technical assistance to SU/SDs as part of a multi-tiered system of supports (MTSS) model for DHH services. This model aligns with the Educational Service Guidelines for students who are



DHH developed by the National Association of State Directors of Special Education (NASDSE). The NASDSE guidelines were created in partnership with a project through the U.S. Department of Education, Office of Special Education Programs.

Finally, we're concerned about the feasibility of the timeline.

Federal Law

As you pointed out during the reading of the bill last week, many of the proposed rights are codified in Section 504 of the Rehabilitation Act of 1978 (504) and IDEA parts B and C.

IDEA-B covers students aged 3-21 years.

IDEA-C covers students from 0 to 3. Caregivers of children who exhibit hearing loss from birth have access to Children's Integrated Services (CIS) that are provided through the Agency of Human Services, Department of Children and Families, Child Development Division. These services include speech, language, hearing, and vision services. There are also Early Intervention services that are for children birth to age 3 who are experiencing or have a condition that is likely to result in a developmental delay.

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of disability in programs or activities that receive Federal financial assistance from the U.S. Department of Education.

We took this opportunity to compare aspects of the bill with current laws, rules, and practices.

<p>3 <u>(1) a high-quality, ongoing, and fluent means of communication, both</u> 4 <u>inside and outside of the classroom.</u></p>	<p>Guaranteed through Section 504 plans & IEPs.</p>
<p>5 <u>(2) placement in the least restrictive educational environment and</u> 6 <u>services and accommodations provided based on the child's unique</u> 7 <u>communication, language, and educational needs, consistent with the</u> 8 <u>Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.; Section</u> 9 <u>504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794; and the Americans</u> 10 <u>with Disabilities Act, 42 U.S.C. § 12101 et seq.;</u></p>	<p>The LRE is guaranteed to students in an IEP and 504. State Rule—2360.2.12 Special Education Services (34 C.F.R. § 300.39); this includes Speech-language pathology services, or any other related service if the service is considered special education rather than a related service under State standards</p>
<p>11 <u>(3) an education in which teachers, related service providers, and</u> 12 <u>assessors understand the unique nature of deafness, are specifically trained to</u> 13 <u>work with children who are Deaf, Hard of Hearing, or DeafBlind, and can</u> 14 <u>communicate spontaneously and fluently with these children.</u></p>	<p>This is addressed through teacher certification (teacher endorsement area 68-Teacher of the Deaf and Hard of Hearing) State Rule—2360.2.13 Personnel Qualifications addresses this as well State Rule—2360.2.16 Related Services (34 C.F.R. § 300.34)</p>
<p>15 <u>(4) an education in which children who are Deaf, Hard of Hearing, or</u> 16 <u>DeafBlind are exposed to role models who are Deaf, Hard of Hearing, or</u> 17 <u>DeafBlind.</u></p>	<p>IEP and Section 504 teams, which include a student's legal guardian, determine the least restrictive environment for a student to be educated</p>

	<p>in. The DHH/DB grant awardee works with schools to provide opportunities for students across the state to connect with one another as well as connect students with mentors.</p>
<p>18 <u>(5) direct and appropriate access to all components of the educational</u> 19 <u>process, including recess, lunch, and extracurricular, social, and athletic</u> 20 <u>activities, consistent with the Individuals with Disabilities Education Act, 20</u> 1 <u>U.S.C. § 1400 et seq.; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C.</u> 2 <u>§ 794; and the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq.;</u></p>	<p>These are also included as part of the student’s IEP or Section 504 plan.</p> <p>State Rule—2360.2.7 Assistive Technology (34 C.F.R. § 300.105)</p> <p>State Rule—2360.2.9 Non-academic services (34 C.F.R. § 300.107)</p> <p>State Rule—2360.2.10 Physical education (34 C.F.R. § 300.108) LEAs are required to provide PE</p>
<p>3 <u>(6) educational programs with transitional planning as required under</u> 4 <u>the Individuals with Disabilities Education Act, 20 U.S.C., § 1400 et seq., that</u> 5 <u>focus on the unique vocational needs of children who are Deaf, Hard of</u> 6 <u>Hearing, or DeafBlind;</u></p>	<p>Included as part of a student’s IEP or Section 504 plan.</p> <p>State Rule—2360.2.12 Special Education Services (34 C.F.R. § 300.39): includes transition planning</p>
<p>7 <u>(7) the opportunity to choose a variety of languages, communication</u> 8 <u>modes, and technologies to enhance language learning;</u></p>	<p>Outlined in a Section 504 Plan or IEP and agreed upon by the team that includes the student’s legal guardian(s).</p>
<p>9 <u>(8) teachers, consultants, and interpreters proficient in appropriate</u> 10 <u>languages and communication modes and credentialed in their professional</u> 11 <u>field;</u></p>	<p>Credentialing for the teacher is addressed through teacher certification, but the credentialing of contracted interpreters is left up to the school district. Proficiency in ASL is not typically required of the DHH teacher as part of licensing/hiring requirements.</p> <p>SBE rule 2360.2.13 Personnel Qualifications IEP and Section 504 Teams, which include the student’s legal guardians, will determine the services needed to meet the student’s needs and will ensure that certified staff are providing the identified services.</p>
<p>12 <u>(9) the opportunity to develop proficiency in American Sign Language</u> 13 <u>and English, including spoken and written forms, and manual visual methods</u> 14 <u>of communications; and</u></p>	<p>IEP and Section 504 teams meet to discuss the communication of each student and address these needs in either the IEP or Section 504 plan. For example, an IEP team, which includes the student’s legal guardian, determines that the student’s mode of communication will include American Sign Language (ASL), the team will outline how instruction in ASL will be provided and if an ASL interpreter is needed to support the student throughout any portion of their day, including during school-sponsored extra curricular activities.</p>

<p>15 <u>(10) balanced and complete information for each family of a child who</u> 16 <u>is Deaf, Hard of Hearing, or DeafBlind regarding their child's:</u> 17 <u>(A) educational and communication needs;</u> 18 <u>(B) available programmatic, placement, and resource options;</u> 19 <u>(C) support services and advocacy resources from private and public</u> 20 <u>agencies and institutions; and</u></p>	<p>This is a requirement of IDEA and Section 504. SBE rule series 2360.2.16 (Related Services (34 C.F.R. § 300.34): (8) Parent counseling and training.</p>
<p>1 <u>(D) available resources pertaining to hearing loss and the needs of</u> 2 <u>children who are Deaf, Hard of Hearing, or DeafBlind.</u></p>	<p>Resources are required by an IEP and 504 plan. Additionally, resources are part of Rule 2360. Additional resources are available through the provider of the AOE's DHH/DB grant.</p>
<p>3 <u>(b) Eligibility for early intervention services. Any infant with a</u> 4 <u>documented hearing loss, prior to demonstration of any developmental delay,</u> 5 <u>shall categorically qualify for services as determined by that infant's</u> 6 <u>individualized family service plan team.</u></p>	<p>Caregivers of children who exhibit hearing loss from birth have access to Children's Integrated Services that are provided through the Agency of Human Services, Department of Children and Families, Child Development Division. These services include speech, language, hearing, and vision services. There are also Early Intervention services that are for children birth to 3 who are experiencing or have a condition that is likely to result in a developmental delay. The Early Intervention services are part C of the Individuals with Disabilities Education Act (IDEA). What is outlined in the bill reflect the current approach of CIS as well as State Rule 2360.5 regarding IDEA Part C.</p>
<p>7 <u>(c) Right of parents and legal guardians. Parents and legal guardians of</u> 8 <u>children who are Deaf, Hard of Hearing, or DeafBlind, and their advocates,</u> 9 <u>shall be given the opportunity to be involved in determining the extent,</u> 10 <u>content, and purpose of educational programs for their children.</u></p>	<p>Under IDEA, Section 1415, the rights of parents and legal guardians are protected through the provision of Procedural Safeguards. You can click here to view a copy of the "Rights of Parents of Students with Disabilities" that are distributed to parents at each IEP meeting. Caregivers are also afforded these rights under Section 504. Click here for a link to our guidance on procedural protections and appeal rights afforded to parents of students with a Section 504 Plan.</p>
<p>14 <u>(1) qualifications of personnel providing professional services to</u> 15 <u>children who are Deaf, Hard of Hearing, or DeafBlind within the school</u> 16 <u>system;</u></p>	<p>This is addressed through teacher certification (teacher endorsement area 68-Teacher of the Deaf and Hard of Hearing) State Rule—2360.2.13 Personnel Qualifications addresses this as well State Rule—2360.2.16 Related Services (34 C.F.R. § 300.34)</p>
<p>17 <u>(2) composition of the individualized family service plan team and the</u> 18 <u>individualized education program team;</u></p>	<p>The requirement of an individualized family service plan is addressed in State Rule—2360.5.6</p>

<p>19 (3) <u>the individualized communication plan, including language</u> 20 <u>acquisition and ongoing language development evaluation, for every student</u> 21 <u>who is Deaf, Hard of Hearing, or DeafBlind;</u></p> <p>1 (4) <u>procedures and materials for assessment and placement;</u> 2 (5) <u>psychological counseling and mental health services;</u> 3 (6) <u>evaluation of the effectiveness of programs for students who are</u> 4 <u>Deaf, Hard of Hearing, or DeafBlind; and</u></p>	<p>State Rule—2363.6(b)(3) requires the IEP team in the development, review and revision of the IEP to consider the communication needs of a student and specifically names a child who is deaf or hard of hearing. The components of a communication plan are addressed in a student’s IEP. A student’s IEP also addresses the student’s needs in relation to assessments and placement and the services needed (which may include counseling and mental health services based on individual student needs). The effectiveness of the services and the student’s progress toward meeting their individualized goals must be reviewed at a minimum annually.</p>
<p>5 (7) <u>the creation of a complaint and resolution process to ensure</u> 6 <u>compliance with this section.</u></p>	<p>Parental rights for parents of students with disabilities outlined earlier in this document cover caregiver & family rights to dispute and resolution. Caregivers and families who are concerned about their children’s level of support have rights and have access to a complaint and resolution process that is already established. We provide mediation, respond to and investigate administrative complaints and provide a means for parents to request a due process hearing.</p>