

Least Restrictive Environment (LRE) for Deaf or Hard of Hearing (DHH) Students: Federal Guidance and Best Practices

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"The Secretary is concerned that some public agencies have misapplied the LRE provision by presuming that placements in or closer to the regular classroom are required for children who are deaf, without taking into consideration the range of communication and related needs that must be addressed in order to provide appropriate services."

(Office for Civil Rights, *Deaf Students Education Services Policy Guidance*, 1992)

This whitepaper summarizes federal guidance and recommends practices to follow when considering the appropriate learning environment for students who are Deaf or Hard of Hearing (DHH), and is applicable to all U.S. states and territories. Links to resources and citations are in the Reference section.

DHH students comprise approximately 1% of all students with an Individualized Education Program (IEP). Due to this low incidence, school districts may not have the expertise or the depth of experience to provide supports needed to ensure proficient language acquisition and full access to the curriculum for DHH students. In addition, DHH students are unique in that they may need access to specific language(s), language learning opportunities and modalities that may not be provided effectively within a regular classroom. The determination of how to provide a free and appropriate education (FAPE: 34 C.F.R. § 300.101) in the least restrictive environment (LRE: 34 C.F.R. § 300.114) to DHH students who need specific language and learning instruction can be nuanced and complex, whether the student is learning and using American Sign Language (ASL), spoken language, or both. This guidance addresses IEP development and the LRE principle of IDEA for DHH students, and identifies resources that IEP Teams can use to identify the LRE for this population.

A primary concern for DHH students is whether they have full access to the language of the classroom, which may be ASL, spoken English, both languages, and/or additional languages. When students cannot access classroom discourse, learning and participation in the classroom is simply not possible, and students fall further behind with every passing year. Ongoing evaluations, both formal and informal, are critical to determine whether DHH students have access to classroom instruction and are able to engage with peers and teachers. For example, while it may appear that a student is comprehending and responding as expected, an evaluation may reveal that this is true only in highly predictable environments or with familiar peers.

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Assessment: During the evaluation process, the district must assess the student in all areas related to suspected disabilities, as well as conduct a comprehensive educational assessment. Since language development trajectories for DHH students may be complex and district personnel often do not have expertise to assess students with low incidence disabilities, it may be necessary for the district to consider evaluations from experts outside the school district, who have expertise in the assessment of DHH children. For example, for DHH students who are developing and using spoken language, evaluations must address their ability to access the curriculum and engage in age-appropriate verbal interaction with hearing peers and adults. In addition to comprehensive assessment of expressive, receptive and pragmatic language ability, evaluations should also include classroom acoustics, functional listening in noise, ability to use hearing assistive technologies (HAT), self-advocacy skills, the impact of auditory fatigue in group settings, the ability to access the curriculum, and engage in age-appropriate interactions with hearing peers and adults. For DHH students whose primary language is ASL, assessment should be conducted in ASL. For DHH students who use ASL, and who are in a setting where classroom instruction is conducted in spoken English, a professional assessment should be done to determine whether a student has the language and social skills required to receive their education via interpreter services before the child is placed in a classroom with an interpreter. When conducting this assessment, the evaluation team must be aware that educational interpreters do not have the training nor expertise to: a) conduct language assessments, b) effectively interpret for students with significant language gaps, or c) determine whether a student has an understanding of the interpreter's unusual role of facilitating, but not engaging directly, in classroom instruction and discourse.

Consideration of Special Factors:

In accordance with the *Consideration of Special Factors* regulation of IDEA, IEP teams must:

(iv) *Consider the communication needs of the child, and in the case of a child who is DHH, 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.* (34 C.F.R. § 300.324 (a)(2)(iv)(v))

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Placement in the Least Restrictive Environment (LRE) (34 C.F.R. § 300.114): There is often confusion and misunderstanding about the LRE for DHH students. For many DHH students, the appropriate setting for providing FAPE in the LRE requires IEP Teams to address specific, nuanced, and often complex communication and language development needs. School districts and IEP Teams may not be familiar with these needs or the strategies needed to address them.

The U.S. Department of Education provided policy guidance regarding FAPE in the LRE for students who are DHH:

Any setting that does not meet the communication and related needs of a child who is deaf does not allow for the provision of FAPE and cannot be the LRE for that child. Just as the IDEA requires placement in the regular education setting when it is appropriate for the unique needs of a child who is deaf, it also requires placement outside the regular education setting when the child's needs cannot be met in that setting. (Deaf Students Education Services Policy Guidance 57 Fed. Reg. 49274, Office of Special Education Programs, Letter to Bosso, August 23, 2010, Letter to Stern, September 30, 2011).

IEP placement decisions must be made by a group of persons, including the parents and others who are knowledgeable about the DHH child, the meaning of the evaluation data, and the placement options. (Office of Special Education Programs, Letter to Bosso, August 23, 2010; 34 C.F.R. § 300.116)

It is important for all IEP Team members, including parents, to be knowledgeable about the full ***Continuum of Alternative Placements***, including specialized programs and schools for the deaf, and how they may meet a student's individual needs. When considering the LRE for many students with disabilities, the general education classroom is typically the standard. However, this setting may not constitute the LRE for some DHH students who need access to ***specialized*** and ***appropriate*** deaf education and language instruction, including accessible language models. Placement is an individualized decision made by the Team, based on the goals and services necessary to meet the student's academic and functional needs. The placements outlined in IDEA must be identified and made available to the extent necessary to implement the student's IEP.

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Continuum of Alternative Placements (34 C.F.R. § 300.115)

States and local education agencies must ensure that a continuum of educational placement options is available for students with disabilities:

(a) Each public agency must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.

(b) The continuum required in paragraph (a) of this section must—

- (1) Include the alternative placements listed in the definition of special education under §300.39 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and*
- (2) Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement*

For some DHH students, a specialized DHH school is the LRE, for others the regular class is the LRE, or, for others, some combination of settings may constitute the LRE (National Association of State Directors of Special Education [NASDSE], 2018). The IEP Team should facilitate family requests to visit alternative and specialized placements, in order to enable families to understand the range of placements that might provide the LRE for their DHH child.

Depending on the **individual needs of the student**, any of the following placements could be the LRE for a DHH student (NASDSE, 2018):

- A school district or regional program for DHH students
- A special day school for students who are DHH (public, private or state-supported)
- A residential school for DHH students; or
- A combination of the above.

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Requirement for Effective Communication

All students with disabilities, whether or not they receive services under IDEA, are covered by Title II of the Americans with Disabilities Act. Under Title II, public schools must ensure, through the provision of auxiliary aids and services, that communication with students with disabilities is as effective as communication with students without disabilities.

In order to clarify the requirement for effective communication for students with hearing, vision or speech disabilities, the U.S. Department of Justice and the Department of Education Office for Civil Rights issued a joint document, [Frequently Asked Questions on Effective Communication for Students with Hearing, Vision, or Speech Disabilities in Public Elementary and Secondary Schools](#).

In the introduction, the FAQ document states:

While the IDEA requires that schools make available FAPE, consisting of special education and related services, to all eligible children with disabilities (including those with communication needs), Title II regulations have a specific effective communication requirement for individuals with disabilities... Public schools must apply both the IDEA analysis and the Title II effective communication analysis in determining how to meet the communication needs of an IDEA-eligible student with a hearing, vision, or speech disability.

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Evaluating FAPE in the LRE for a DHH Student

To determine the appropriate educational placement in the LRE for a DHH student, a number of factors must be considered. [*Optimizing Outcomes for Students who are Deaf or Hard of Hearing*](#) (NASDSE, 2018), a best practices document published by the National Association of State Directors of Special Education, states that an appropriate educational placement in the LRE for a deaf or hard of hearing child will:

- ensure full access to and development of language for the student;
- enhance the student's cognitive, social, and emotional development;
- be based on the language abilities of the student (American Sign Language, or other signed languages; English or other spoken languages);
- provide immersion in an environment designed to promote language development and learning, that emphasizes communication access, specialized instruction and social and emotional development opportunities for students who are DHH;
- offer direct language and communication access to teachers and other professionals;
- have a sufficient number of age-appropriate and academic level-appropriate peers who share the student's language and communication preferences;
- take into consideration the student's hearing level, abilities, and use of hearing assistive technologies;
- be staffed by certified Teachers of the Deaf and Hard of Hearing (TODHH) and other qualified personnel trained to work with students who are DHH;
- provide access to the general education curriculum, with modifications in pedagogy to account for the student's unique language, learning, and communication needs;
- provide full access to all curricular and extra-curricular offerings customarily found in educational settings;
- have an adequate number of role models who are DHH, including adults;
- provide full access to support services, including educational audiology;
- provide an acoustically and visually appropriate educational environment for students who are DHH;
- have the support of informed parents and provide parent counseling and training (34 C.F.R. § 300.34(c)(8)); and
- be equipped with appropriate communication and learning technologies

([National Association of State Directors of Special Education, 2018](#), Chapter 5: Goals, Services and Placement, p. 34-35).

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Legal Precedents

Several Court decisions demonstrate challenges school districts face when DHH students are not provided with FAPE in the LRE.

S. P. v. E. Whittier City School District, Ninth District Court (2018). The Court ruled that the school district violated IDEA by determining a DHH child was eligible for special education services for only her speech and language disorder but not her hearing loss, due to the district's insufficient evaluation of the child's hearing needs. "[W]ithout evaluative information" regarding S.P.'s hearing impairment, "it was not possible for the IEP team to develop a plan reasonably calculated to provide [her] with a meaningful educational benefit."

Perez v. Sturgis Public Schools, U.S. Supreme Court (2023). From ages nine through twenty, the school district provided a Deaf student with an aide who did not know sign language, impeding his ability to communicate at all. The Supreme Court ruled that a student with a disability may receive monetary damages under the Americans with Disabilities Act (ADA) if they are failed by services provided under the Individuals With Disabilities Education Act (IDEA).

Los Angeles Public Schools v. A.O., Ninth District Court (2024). The decision ruled that the school district violated IDEA by failing to indicate the frequency and duration of speech-language and audiology services for a DHH child using cochlear implants.

These Court decisions demonstrate the nuanced continuum of needs for DHH children and provide lessons for districts to learn from in order to provide FAPE to all DHH students.

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How can Local Education Agencies (LEAs) ensure FAPE in the LRE is met for all DHH children? (based on Meyer, 2023)

- **LEA administrators and IEP teams should familiarize themselves with [*Optimizing Outcomes for Students who are Deaf or Hard of Hearing*](#)** (NASDSE, 2018), a best practices document published by the National Association of State Directors of Special Education.
 - This document provides guidance to understand the unique educational needs of DHH students that informs LRE decisions for this low incidence population.
- **Identify and hire local expert resources to advise the IEP team.**
 - The LEA speech-language pathologist or educational audiologist may not have sufficient experience with DHH students with complicated language profiles to make appropriate educational recommendations.
 - The LEA may need to hire outside experts who have significant experience assessing and providing educational planning for DHH children, especially for DHH students with additional disabilities and/or limited or complicated language profiles.
 - To find these experts, LEAs can contact their state DHH Commission, schools for DHH students, or regional assessment centers with DHH expertise.
- **Truly individualize the IEP to ensure the student will access FAPE in the LRE**

To identify the LRE and to ensure a child's services are effectively customized for their individual needs, IEP teams need to collect comprehensive data, using a variety of approaches (including formal tests, observations, interviews and language samples) from a variety of sources (including teachers, parents, specialized professionals, and the student). Assessments must be conducted in the child's language, whether it is American Sign Language (ASL), spoken English, and/or the family's heritage language(s).
- **Ensure ongoing evaluation and monitoring of student progress**

DHH students' needs may change over time and, therefore, the LRE for a student may change. To ensure that IEP goals and placement decisions are established based on valid assessments, DHH students' language abilities, in all of languages used, are regularly assessed to ensure that students meet age-appropriate language milestones, as well as monitoring of social-emotional development and academic progress.
- **Hold high expectations for language acquisition and educational progress.**

Whether the student is learning ASL, spoken language, or both, the goals and expectations for language development and learning need to be commensurate with that of same-age hearing peers. This means that the IEP must identify gaps or weaknesses in the language and learning performance of the DHH student. The IEP team must then address the professional expertise, the educational services and the LRE required to ensure that the student has the services and tools needed to bridge existing gaps and fully access the curriculum.

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- **Ensure students are provided with language. This is not the same as communication systems.**

Signing Exact English (SEE), simultaneous communication, total communication, and Cued Speech are artificially created systems, intended to be used with a spoken language, as a way of increasing access to the spoken language. These artificial systems are distinct from American Sign Language and other full, naturally evolved sign languages, and are not languages. These systems may, or may not, allow a student to become proficient in a spoken language. Language assessments, conducted in official languages such as English and ASL, can determine if these communication systems enable students to develop language appropriately and follow developmental milestones of same-aged hearing peers.

- **Carefully consider placement.**

For many DHH children, the appropriate setting for providing FAPE in the LRE requires IEP teams to address specific, and often complex, academic, social-emotional, behavioral, communication and language development needs. Use the following guidance documents to address whether the proposed placement meets FAPE and Title II effective communication requirements:

- **Consideration of Special Factors** (34 C.F.R. § 300.324 (a)(2)(iv)(v)) (see p. 2 of this document)
- [National Association of State Directors of Special Education, 2018](#), Chapter 5: Goals, Services and Placement, p. 34-35 (see also p. 6 of this document)
- [Frequently Asked Questions on Effective Communication for Students with Hearing, Vision, or Speech Disabilities in Public Elementary and Secondary Schools, 2014](#)

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References Note: links below connect to a PDF of the Federal Regulations, a downloadable document, or to a non-government website. For updated Federal Regulation URLs, search reference titles.

- Individuals with Disabilities Education Act, 34 C.F.R. § 300.101. [*Free and Appropriate Public Education*](#).
- Individuals with Disabilities Education Act, 34 C.F.R. § 300.114. [*Least Restrictive Environment*](#).
- Individuals with Disabilities Education Act, 34 C.F.R. § 300.115. [*Continuum of Alternative Placements*](#).
- Individuals with Disabilities Education Act, 34 C.F.R. § 300.116. [*Placements*](#).
- Individuals with Disabilities Education Act, 34 C.F.R. § 300.324 (a)(2)(iv)(v). [*Consideration of Special Factors For Students Who Are Deaf or Hard of Hearing*](#).
- Meyer, K. (2023, August 29). What a DHH student's Supreme Court case means for special education: What can schools learn from this case to keep lawsuits at bay and improve IDEA services—in this case specific to a deaf/hard of hearing (DHH) child? *Leader Live*. American Speech-Language-Hearing Association
<https://leader.pubs.asha.org/doi/10.1044/2023-0828-perez-IDEA-aud/full/>
- Los Angeles Unified School District v. A.O., et al.*, 92 F.4th 1159 (2024).
<https://cdn.ca9.uscourts.gov/datastore/opinions/2024/02/15/22-55204.pdf>
- National Association of State Directors of Special Education (NASDSE). (2018). *Optimizing outcomes for students who are deaf or hard of hearing: Educational Service Guidelines*. Alexandria, VA: Author. Retrieved <http://www.nasdse.org/docs/nasdse-3rd-ed-7-11-2019-final.pdf>
- Perez v. Sturgis Public Schools, et al.* 598 US __ (2023). <https://www.oyez.org/cases/2022/21-887>
- S. P. v. E. Whittier City Sch. Dist.*, No. 16-56549 (9th Cir. Jun. 1, 2018)
<https://casetext.com/case/s-p-v-e-whittier-city-sch-dist>
- U.S. Department of Education (1992). [*Deaf Students Education Services*](#). Office for Civil Rights.
- U.S. Department of Education. (2010). [*Letter to Bosso Supporting the Continuum of Alternative Placements*](#).
Summary: Letter to Conference of Educational Administrators of Schools and Programs for the Deaf regarding factors to be considered in determining placement for deaf students.
- U.S. Department of Education. (2011). [*Letter to Stern Supporting the Continuum of Alternative Placements*](#).
Summary: Letter clarifying the data reporting requirements for State Performance Plan/Annual Performance Report indicators regarding least restrictive environment and natural environments do not mandate particular placements for infants, toddlers or children with disabilities.
- U.S. Department of Justice (2014). [*Frequently Asked Questions on Effective Communication for Students with Hearing, Vision, or Speech Disabilities in Public Elementary and Secondary Schools*](#).

Reference this document as:

Meyer, K., Hecht, B., Lieberman, A., Rankin, E., & Reis, J. (2025). *Least Restrictive Environment (LRE) for Deaf or Hard of Hearing (DHH) Students: Federal Guidance and Best Practices*. Federation for Children with Special Needs.
<https://fcsn.org/guidance-on-application-of-least-restrictive-environment-lre-for-students-who-are-deaf-or-hard-of-hearing>