



South Carolina

EDUCATIONAL INTERPRETING CENTER

Deaf Students and FAPE White Paper

Since the implementation of Public Law 94–142, Deaf children have predominantly transitioned to receiving their education along with nondisabled students in public schools. The Individuals with Disabilities Education Improvement Act (IDEA), requires the provision of a Free Appropriate Public Education (FAPE) and is based on the unique needs of the child in a Least Restrictive Environment (LRE).

Often school systems and Individualized Education Program (IEP) Teams, often at the behest of parents, determine an Educational Interpreter is the best solution to having a Deaf child educated in their home schools. Educational Interpreters “are naively seen as the end itself” (Ramsey, 2004, p. 207) and solely responsible for the Deaf student (Beaver, Hayes, Luetke-Stahlman, 1995; Fitzmaurice, 2021a; 2021b).

All of this, regardless of the qualifications of the Educational Interpreter who operate with unregulated autonomy (Fitzmaurice, 2020, 2017). “The conundrum is that most educational interpreters, although possibly qualified at some level to interpret, are rarely trained, qualified, or certified as language, education, or child development specialists” (Fitzmaurice, 2021, p. 339). As a result, often the communication and related needs of a Deaf child are not adequately met and a FAPE is not provided (United States Department of Education, Office for Civil Rights, 1992).

IDEA requires all State Education Agencies to “establish and maintain qualifications to ensure the personnel necessary to make FAPE available are appropriately and adequately prepared and trained” United States Department of Education, Office of Special Education Services, 2010, p 2). As such, effective August 2025, the South Carolina Department of Education regulation has implemented minimum qualifications and requirements for Educational Interpreters (R. 43-243.2). Not adhering to those requirements means a school system is failing to provide a FAPE for a Deaf student. The impact of this regulation indicates several school systems are no longer able to employ unqualified Educational Interpreters as the illusion of providing the Deaf student access to the school environment. An unqualified Educational Interpreter cannot meet the FAPE requirements for a Deaf child (Cates & Delkamiller, 2021).

In other words, IEP Teams are no longer allowed to dump Deaf students in classrooms without adequate support (highly qualified Educational Interpreters) to meet their language, communication, and social needs in a public-school environment” (Reed, Antia, and Kreimeyer, 2008). This leaves IEP Teams unsure of how to address the FAPE for Deaf children.

A Deaf Child’s IEP without Educational Interpreters

The Supreme Court noted that an IEP is not a form document but rather a plan for pursuing academic and functional advancement thereby designed after careful consideration of the student’s current level of achievement and potential for growth and should be more than a *de minimus* education.

IEP Teams make placement decisions based on the ability to provide the appropriate services (US Department of Education, 1992). The Office of Special Education Programs (2011) wrote “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 considered the LRE for that child” (p. 1).

In 1992, the U.S. Department of Education expressed concern “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” (p. 3). What this means for Deaf students is often the LRE is not in a mainstreamed classroom if that placement does not meet the communication of that child. Further, IEP Teams are not to consider placements based on data reporting to state and federal entities. “Data reporting requirements are not intended to mandate particular placements (Office of Special Education Programs, 2011, p. 2).

Without a highly qualified Educational Interpreter, IEP Teams are encouraged to reconsider their placement decisions (Office of Special Education Programs, 2011). For many Deaf children the LRE includes self-contained classrooms (not with other disabled peers) with sign fluent teachers providing direct instruction (Kurz, 2004; Cates & Delkamiller, 2021).

As opposed to individual Deaf children in disparate schools, school systems are encouraged to cluster Deaf students in schools that are better able to address the needs of a larger populus. IEP Teams can also consider residential school satellite (special education school) or main campus enrollment (residential placement).

In terms of viable solutions to mainstreaming Deaf children without a qualified Educational Interpreter, IEP Teams are discouraged from considering captioning software or Video Remote Interpreting (VRI) as neither of these options are sufficiently effective or robust enough to provide access to the LRE. In searching for highly qualified Educational Interpreters (that meet the state regulation requirements) school systems are able to contract with various private ‘head-hunting’ and placement companies.

References

- Beaver, D. L., Hayes, P. L., & Luetke-Stahlman, B. (1995). In-service trends: General education teachers working with educational interpreters. *American Annals of the Deaf*, 140, 38–46.
- Cates, D., & Delkamiller, J. (2021). The impact of sign language interpreter skill on education outcomes in K-12 settings. In E. Winston & S. B. Fitzmaurice (Eds.), *Advances in Educational Interpreting*. Gallaudet University Press.
- Fitzmaurice, S. B. (2021a). *The role of the educational interpreter: Perceptions of administrators and teachers*. Gallaudet University Press.
- Fitzmaurice, S. B. (2021b). The realistic role metaphor for educational interpreters. In E. Winston & S. B. Fitzmaurice (Eds.), *Advances in Educational Interpreting*. Gallaudet University Press.
- Fitzmaurice, S. B. (2021c). There is no I(nterpreter) in your team. In E. Winston & S. B. Fitzmaurice (Eds.), *Advances in Educational Interpreting*. Gallaudet University Press.
- Fitzmaurice, S. (2020). Educational interpreters and the Dunning-Kruger effect. *Journal of Interpretation*, 28(2). RID Press at University of North Florida.
- Fitzmaurice, S. (2017). Unregulated autonomy: Uncredentialed educational interpreters in rural schools. *American Annals of the Deaf*, 162 (3), 253-264.
- Kurz, K. B. (2004). *A comparison of deaf children’s learning in direct communication versus an interpreted environment*. [Unpublished doctoral dissertation] University of Kansas, Lawrence.
- Ramsey, C. (2004). Theoretical tools for educational interpreters, or “The true confessions of an ex-educational interpreter”. In E. A. Winston (Ed.), *Educational interpreting: How it can succeed*. 206–226. Gallaudet University Press.

- Reed, S., Antia, S. D., & Kreimeyer, K. H. (2008). Academic status of deaf and hard-of-hearing students in public schools: Student, home, and service facilitators and detractors. *Journal of Deaf Studies and Deaf Education*, 13(4), 485–502.
- United States Department of Education, Office of Special Education Programs (2011). *Policy Letter to Conference of Educational Administrators of Schools and Programs for the Deaf, Inc.* <https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/letters/2011-3/stern093011lre3q2011.pdf>
- United States Department of Education, Office of Special Education Programs (2010). *Policy Letter to Conference of Educational Administrators of Schools and Programs for the Deaf, Inc.* <https://sites.ed.gov/idea/idea-files/policy-letter-august-23-2010-to-conference-of-educational-administrators-of-schools-and-programs-for-the-deaf-inc-president-edward-h-bosso-jr/>
- United States Department of Education, Office for Civil Rights. (1992). *Deaf students' education services.* <https://www2.ed.gov/about/offices/list/ocr/docs/hq9806.html>
- United States Supreme Court (2017). *Endrew F. v. Douglas County School District Re-1*, 137 S. Ct. 988