

Educational Audiology Handbook

THIRD
EDITION



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Preface




It has been 22 years since the first edition of the *Educational Audiology Handbook* was published and eight years since the second edition. We are older, not sure if we are wiser, but we hope to have threaded throughout this third edition traditional practices with additional evolving practices that we feel are necessary to strengthen educational audiology services.

As in the past, this handbook focuses on the practice of audiology within the educational environment. We recognize that audiology practice settings, job descriptions, and employment conditions vary from state to state and district to district. However, we believe that educational audiologists are indispensable. In order to fulfill our role as advocates for students, educational audiologists should be consistent and participatory members of the multidisciplinary team whether that is in-person and/or remote. As a member of the team, responsibilities should be discussed and shared to ensure all relevant and necessary services are provided, particularly those related to access to communication and learning in the classroom.

New and Updated Content

This edition of the handbook includes information on legislation, and guidelines and procedures for educational audiologists and related professionals serving deaf and hard of hearing students in all learning environments. We are grateful to our contributing authors who have offered new perspectives on the topics of family partnerships (Janet DesGeorges), auditory processing deficits (Lisa Cannon), remote microphone technologies (Erin Schafer), wellness and social competence and support for the educational team (Carrie Spangler), prevention of noise-induced hearing loss (Deanna Meinke), and tele-audiology practice (Sarah Florence). In addition, Krista Yuskow, among others, have provided practical nuggets for everyday application of various components of educational audiology services.

Look for this icon throughout the text indicating Nuggets from the Field:  Overall, we have tried to emphasize the importance of improving outcomes for all children with auditory deficits, particularly with the increasing diversity in student demographics, performance, and learning environments. We also hope to move the focus on disability or deficits to wellness and promote a positive perspective of hearing and processing “differences” in order to align with school efforts to promote social-emotional well-being in all students. We believe that our students’ identities, self-

esteem, and self-determination skills are all precursors to becoming effective self-advocates. While we recognize that it is the right of each person to determine how they would like their hearing status referenced (e.g., deaf, hard of hearing, hearing impaired, hearing loss), we have used terminology that refers to hearing levels or differences rather than “losses” whenever possible and appropriate. Lastly, we are very excited to endorse remote audiology services. We think some form of this model is in the future of most every educational audiologist’s practice.

Handbook Use Considerations

The number of printed appendices (and the length of the book) has been reduced by moving forms and some protocols and handouts to the online PluralPlus companion website. Many of the online forms have been formatted so that you can modify them to add your logo or school information. Materials available on the companion website are noted in the Table of Contents and Chapter Contents.

The handbook also has many links to resources at other websites. We guarantee that they all worked at the time of production. However, URLs change frequently, and we know this is frustrating. If a link does not work, try entering the first part of the link to get to the desired entity’s home page and then search for a document.

Support for Educational Audiology Coursework

A new feature of this Handbook edition is that it is designed to serve as a textbook for educational audiology and other related coursework. The companion website contains a basic syllabus, and learning objectives, discussion questions, and PowerPoint slides for each chapter. We hope to provide students in AuD and other related programs (speech-language pathology, deaf education) with an appreciation for the practice of audiology in educational settings as well as the importance of teamwork and parent involvement when serving students who are deaf or hard of hearing.

Acknowledgments

In addition to our author contributors, we would like to recognize the students who contributed chapter page artwork. They are:

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Finally, we would like to acknowledge the spirit and work of all audiologists, especially those who devote their careers to working in the schools. The politics and resource limitations in education are challenging and require our constant vigilance. However, the gratification of working with students, parents, teachers, and other school professionals, and our ability to be involved in the lives of the children for such a critical part of their development yields countless rewards; perhaps why so many of us remain in our positions throughout our careers. We close with the following remarks, taken from the Educational Audiology Association Listserve, in response to a query for reasons to motivate graduate students in audiology about careers in educational audiology. They describe why we love what we do.

“LOVE my job . . . nothing better than watching a kid do well and knowing you had a part in it. I don’t get summers off . . . but I still LOVE my job . . . even after 24 years and lots of admin headaches and parent pains”

“There will be headaches with any job. What I can tell you is that working with kids in schools is so rewarding over time. You may not realize day to day the impact you can have on a child’s life but you will and you will find out as they grow and flourish and succeed. . . . and later in your life, some of those very kids will find you and tell you that. . . . and when that happens, any challenge I have had with a parent or an administrator just melts away. . . .”

“I just came in contact less, than 2 weeks ago, with a 36-year-old hearing-impaired guy who is now a counselor for the deaf and hard of hearing. . . . I saw his name on his office door. . . . it was the same ‘little boy’ I had worked with in the preschool deaf program from 1975–1978. . . . wow, what a feeling. So, unless you can search inside yourself and find a really great reason to not work in the schools with kids, then do it!!”

“As an educational audiologist for 20 some years, I wasn’t really all that surprised to hear the words, ‘Can you believe I get paid to do this?’, come out of my mouth as I was working with an AuD intern!”

“The job is SO rewarding and offers complete job satisfaction overall. I truly believe the pros far outweigh the

cons! The connections you make are long lasting and you learn a great deal along the way about the impact of hearing loss on the lives of children and families. I say give it a go . . . it is definitely worth trying!”

“27 years and counting. I love this career although there are days I don’t like the ‘job’ very much. Every job has plus and minuses but I wouldn’t trade the irritations in this position for any other one! I took the leap after working in the medical side of things since 1999. I now work in the 0–5 program including the preschool. I often would call my mom or a friend for months after starting having to talk about how much I love my job! I am sure they were sick of hearing it. I also share space with the 2 audiologists that work in the public schools and work closely with 2 university audiologists. We all have sat and talked about how lucky we were to have landed our gigs! Go for it, it is so worth it professionally and personally.”

“There are headaches, frustrations, and challenges, but the rewards of seeing the impact of what you do in the lives of both the child/family and in the school environment . . . is worth every minute. I have worked in many different roles as an audiologist (clinical, private practice, early intervention, and now in education) and I have no regrets. I love my job and hope to be here for many years to come. I think back to grad school when Kris English told me I would be an educational audiologist and I told her, “I don’t think so!” Looking back (several years later), I remember the phone call to Kris after I moved here and started as an educational audiologist admitting, “OK, you were right . . . this is exactly where I should be. (Thanks Kris)”

“I have been an audiologist with an ENT, an audiologist with a non-profit speech and hearing center, and now an audiologist in a large school district. My favorite has been the school setting . . . hands down! I enjoy the challenges, the interaction with the kids, and the camaraderie within the special education department. And I cannot tell a lie . . . I enjoy these summers with my own kids!!”

“I am a dual certified/licensed, SLP/A. I worked in the public school arena for 34 years spending 1/2 time doing SLP and 1/2 time doing Ed Aud stuff. I retired from the school district five years ago and they kept me on, on a consulting basis, to continue to function as the Ed Aud for however long they will tolerate me. Despite the ups and downs, I wouldn’t trade those 34 years for anything. And now, I still love my time ‘in district’ once per week. Of course, I don’t tell that to the Special Ed. Director because I need to maintain an aura of independence. Headaches and fighting with parents and administrators come with any job in our related fields. It’s up to you to “educate and demonstrate” (stolen from a rather well-known stuttering aficionado in NYC) to the



uninitiated, in a way that produces the best results for our hearing-impaired charges, and results in optimal outcomes.”

“For me educational audiology has always been about the opportunity to learn as much as I can about pediatric hearing loss impact across a broad spectrum of domains, which hopefully has in turn helped me to

do my job better. If you feel a sense of frustration in a standard clinical setting because you are locked out of knowing the middle and end of the pediatric ‘story,’ then educational audiology is for you.”

Cheryl DeConde Johnson and Jane Seaton

November, 2019



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Chapter Nuggets and Student Artwork



SECTION I

EDUCATIONAL AUDIOLOGY PRACTICES



CHAPTER



Legislative and Policy Essentials



Chapter 1

CONTENTS

Legislation and Policies

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Key Initiatives and Events in Deaf Education

Inclusion ■ The Deaf Child Bill of Rights ■ Early Hearing Detection and Intervention ■ The National Association of State Directors of Special Education ■ The Council for Exceptional Children, Division for Communication, Language, and Deaf/Hard of Hearing ■ Legislative Initiatives



"Lisn Pls" to what I need to hear in my classroom.

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KEY TERMS

Statutes, regulations, Individuals with Disabilities Education Act (IDEA), Section 504, Americans with Disabilities Act (ADA), effective communication under ADA, accommodations, modifications, equal access, special communication factors

KEY POINTS

- A growing number of students with reduced hearing and other auditory deficits are not being served through special education.
- To staff school audiology services at the American Speech-Language-Hearing Association (ASHA) and Educational Audiology Association (EAA) recommended level of one audiologist for every 10,000 students, 3,785 more audiologists are needed in the schools.

The first definition of Educational Audiology was proposed by Berg and Fletcher in 1976 as an outcome of the 1965 Babbidge Report:

Educational audiology seeks to isolate the parameters of hearing impairment, to identify the deficiencies rising from hearing disabilities, to relate these to the unique characteristics of individuals, and to develop educational programs specifically for hard-of-hearing children. (Berg, 1976, p. 30)

- Major limitations of the Individuals with Disabilities Education Act (IDEA) are that individual states have a great deal of latitude in their interpretation of the provisions and that the federal government lacks significant consequences in its accountability system.
- All students with reduced hearing or other auditory disorders must be represented on the Individualized Education Program (IEP) team by a specialist in hearing/deafness. (“specialist” may be defined by each state’s plan but is usually a teacher of deaf and hard of hearing students, an audiologist, or sometimes a speech-language pathologist who can interpret test results and make appropriate recommendations.)
- While many students have more opportunity because of the increased accountability, additional legislation, and other education initiatives of the past decade, there is still much work to do to ensure the required and recommended practices are implemented at the local school level in the intended manner.

Educational audiology represents one of the most challenging yet rewarding practice areas of our profession. The challenge is in reconciling the sheer numbers of children and their diverse needs with sufficient audiology full-time equivalent (FTE) positions, support, equipment, and resources to meet those needs. The reward is the opportunity to make a difference in children’s lives every day. What are some of the challenges facing audiologists in educational settings?

- A large in-school population—about 50,580,000 children prekindergarten through grade 12 in the United States based on 2016 enrollment data reported by the National Center for Education Statistics (https://nces.ed.gov/programs/digest/d17/tables/dt17_201.10.asp).

- A large out-of-school population including children who are birth through age 2 years, children attending community-based preschools, and students who are incarcerated or in special facilities. From these populations, children with reduced hearing must be identified, and appropriate services must be provided.
- A growing number of students with reduced hearing and other auditory deficits who are not served through special education. These students are in general education classrooms and often do not have Section 504 plans or other formally identified accommodations.
- Many unserved students that did not meet eligibility for services under the Individuals with Disabilities Education Act (IDEA) when they transitioned from early intervention and thus lack monitoring or follow-up until they have difficulty or fail in general education programs.

TABLE I-1 Number of Full-Time Equivalent Audiologists Employed by States and Audiologist-to-Student Ratios During the 1991–1992, 2006–2007, and 2016–2017 School Years

State	1991–1992 FTE Audiologists ¹	2006–2007 FTE Audiologists ²	2016–2017 FTE Audiologists ³	2016–2017 Audiologist to Student Ratio
Alabama	8	21	10.66	1:69,034
Alaska	4	3	5.9	1:22,525
Arizona	16	63	47.83	1:23,561
Arkansas	4	4	2.85	1:172,737
California	51	198	124.41	1:50,440
Colorado	31	54	58.8	1:15,480
Connecticut	15	No data	No data	
Delaware	2	13	12	1:11,433
D.C.	4	3	2	1:43,150
Florida	47	60	54.5	1:51,719
Georgia	39	26	36.4	1:48,755
Hawaii	3	1	1	1:188,500
Idaho	10	4	3.62	1:80,967
Illinois	48	36	31.64	1:64,434
Indiana	14	15	21.6	1:48,153
Iowa	58	50	42.51	1:12,000
Kansas	19	22	23.12	1:21,648
Kentucky	4	7	5	1:139,200
Louisiana	15	22	20	1:36,184
Maine	11	24	9.86	1:18,124
Maryland	25	29	32.1	1:27,763
Massachusetts		7	5.86	1:162,270
Michigan	20	14	21.66	1:69,474
Minnesota	26	52	37.32	1:23,395

(Continues)

TABLE I-1 (Continued)

State	1991–1992 FTE Audiologists ¹	2006–2007 FTE Audiologists ²	2016–2017 FTE Audiologists ³	2016–2017 Audiologist to Student Ratio
Mississippi	9	1	4.87	1:100,103
Missouri	13	16	11.6	1:78,931
Montana	4	4	2.83	1:51,767
Nebraska	3	7	3.22	1:98,851
Nevada	3	6	7.52	1:62,633
New Hampshire	1	3	.91	1:197,473
New Jersey	44	51	35.2	1:39,347
New Mexico	21	35	18.11	1:18,758
New York	21	105	118.46	1:23,231
North Carolina	32	77	73.41	1:21,409
North Dakota	3	4	2	1:56,300
Ohio	26	93	39.47	1:43,276
Oklahoma	4	5	6	1:116,200
Oregon	64	16	14.05	1:43,324
Pennsylvania	25	40	76.32	1:22,543
Rhode Island	2	0	1	1:140,700
South Carolina	17	13	15.75	1:49,041
South Dakota	3	4	.82	1:165,366
Tennessee	32	22	24.35	1:41,035
Texas	21	40	63.5	1:84,740
Utah	22	26	26.68	1:24,561
Vermont	2	5	1.86	1:45,860
Virginia	127	66	45.7	1:28,330
Washington	0	28	29.53	1:37,071
West Virginia	5	8	7.2	1:38,736
Wisconsin	12	19	24.35	1:35,639
Wyoming	8	5	3.25	1:29,662
BIA	1	12	4.2	
Total	999	1439	1272.8	
Audiologist-to-Student Ratio ⁴	1:42,173	1:34,271	1:39,733	

¹ U.S. Department of Education (1994b). *Sixteenth Annual Report to Congress on the Implementation of the Individuals with Disabilities Education Act*, p. A-212.² <http://www.ideadata.org>, Table C-1 (Estimated Resident Population Ages 6–17 years, 2008) and Table 3–5, Audiologists Employed to Serve Children and Students ages 3–21 Under IDEA, Part B, Fall 2006).³ U.S. Department of Education. *40th Annual Report to Congress on the Implementation of the Individuals with Disabilities Education Act*. Exhibit 45: Number of full-time (FTE) personnel to provide related services for children and students ages 3 to 21 served under IDEA, Part B (state audiology FTE provided by OSEP to author 5.7.19).⁴ Based on Pre-K to 12th-grade enrollment, National Center for Educational Statistics (<https://nces.ed.gov>).



- School districts that often do not know about students with reduced hearing unless they have Individualized Education Programs (IEPs). Therefore, these students often must “fail” before their hearing status is revealed or connected to their learning problems. The education system is often “failing” these students and leaving them behind.
- An alarming shortage of educational audiologists to provide services to these students. As shown in Table 1–1, 1,273 full-time equivalent (FTE) audiologists were reported as employed in school settings in the United States in the Fall of 2016, representing an average ratio of one audiologist for every 39,733 children. By comparison, there were 999 FTE audiologists reported during the 1991 to 1992 school year, yielding a ratio of 1:42,173 (U.S. Department of Education, 1994b). To staff school audiology services at the American Speech-Language-Hearing Association (ASHA) and Educational Audiology Association (EAA) recommended level of one audiologist for every 10,000 students, 3,785 more audiologists are needed in the schools.
- General and special education administrators who often have limited, if any, knowledge about listening and communication access needs of children in learning environments.
- Limited financial resources to provide necessary hearing assistance technology and services for each child with hearing and listening needs.
- Limited time to conduct audiology services as stipulated in state and federal regulations (IDEA, 2004) including ensuring consistent and effective communication access (ADA, 2008).
- A federal law that is interpreted by each state, resulting in services and programs that differ significantly across state lines. These services also may vary within states, depending on the individual school district’s understanding, commitment, and willingness to provide audiology services.
- Adaptation of a traditionally clinical model of audiology to one that is functional, meaningful, and responsive to children and youth within the educational environment.

LEGISLATION AND POLICIES

Key events, policies, and legislation that have impacted audiology and the education of deaf and hard of hearing children are summarized in Table 1–2.¹ A basic understanding of the legislative process is necessary to utilize pertinent laws appropriately to ensure the rights of all persons with disabilities. Statutes and their accompanying regulations passed by the federal government usually result in state legislation to ensure that state laws align with federal policy.

¹Historical events beginning in the 1960s that were chronicled in early editions of this text.

Understanding Statutes and Regulations

Statutes are laws passed by Congress (at the federal level) and state and local legislatures. These laws are often termed “Acts” and, at the federal level, are numbered according to the Congress within which they are passed (e.g., PL 94-142 was the 142nd public law enacted by the 94th Congress). These Acts are periodically reauthorized, often with amendments and name changes. At the federal level, the Acts are first published in the Statutes at Large, after which they are organized by subject in the United States Code (U.S.C.). The U.S.C. has 50 subject classifications called Titles in which the laws are further indexed and assigned section numbers. Title 20 is the section for education. Example: The Individuals with Disabilities Education Act (IDEA) is published in the U.S.C. as 20 U.S.C. §1400, et seq., meaning that it is in Title 20 of the U.S.C. beginning with Section 1400 (“et seq.” is a Latin abbreviation and legal term indicating the writer is citing a page and the pages that follow).

Regulations clarify and explain the United States Code. The responsible agency (e.g., the Department of Education) must publish the proposed regulations in the **Federal Register** to solicit comment from the public. Following revision, the final regulations are then published in the Code of Federal Regulations (C.F.R.). IDEA is published in Volume 34, Part 300 of the Code of Federal Regulations, referred to as 34 CFR §300. There are numerous sections and subsections. Within the final published regulations, commentary is included that responds to the proposed regulations comments. This commentary explains the rationale for terms, definitions, and requirements of the final rules and is very helpful when interpreting various components of the regulations.

Although legislation should define public policy, ensuring that individual rights are protected, services are provided, and a level of quality is maintained, it does not guarantee that sufficient funds are provided or that compliance is adequately enforced. Advocacy groups have played a major role in the interpretation and monitoring of legislative actions. The area of special education, having some of the most active, productive, and influential public and professional advocacy groups in the United States, is an excellent

TABLE 1–2 Key Policies and Events Impacting the Education of Children Who Are Deaf or Hard of Hearing in the United States from the 1960s to the Present

	Legislation: Non-Special Education	Legislation/Policy: Special Education	Events, Reports, and Publications
1960s			Joint Committee on Audiology and Education of the Deaf (1965) The Babbidge Report (1965)
1970s	Section 504 of the Rehabilitation Act of 1973	PL 93-380, the Education of the Handicapped Amendments of 1974 PL 94-142, Education for all Handicapped Children Act (1975)	
1980s	PL 100-553 established the National Institute on Deafness and Other Communication Disorders at the National Institutes of Health (1988)	PL 99-457, Education of the Handicapped Act Amendments (EHA) of 1986	National Commission on Excellence in Education: <i>A Nation at Risk</i> (1983) Commission on Education of the Deaf: <i>Toward Equality: Education of the Deaf</i> (1988)
1990s	PL 101-336, Americans with Disabilities Act (1990) PL 103-227, Educate America Act, 1994 (Goals 2000)	PL 101-476, Individuals with Disabilities Education Act (IDEA) (1990) PL 105-17, Individuals with Disabilities Education Act (IDEA) (1997)	U.S. Department of Education Notice of Policy Guidance (October 1992) Council of Organizational Representatives' proposal for a Deaf Child Bill of Rights (1992) National Association of State Directors of Special Education (NASDSE): <i>Deaf and Hard of Hearing Students: Education Service Guidelines</i> (1994) The National Deaf Education Project (1998)
2000–2009	PL 107-110, No Child Left Behind (NCLB) (2001) PL 110-325, Americans with Disabilities Act Amendments Act (2008)	PL 108-446, Individuals with Disabilities Education Improvement Act, (2004)	The National Agenda (2005) National State Leaders Summit (2005–2011) National Association of State Directors of Special Education (NASDSE): <i>Meeting the Needs of Students who are Deaf or Hard of Hearing Students: Education Service Guidelines</i> , 2nd ed. (2006)
2010–2020	Every Student Succeeds Act 2015	U.S. Department of Justice, U.S. Department of Education (2014). Dear Colleague Letter on Effective Communication	Pepnet 2 Building State Capacity Summit Series (2011–2016) National Association of State Directors of Special Education (NASDSE): <i>Optimizing Outcomes for Students who are Deaf or Hard of Hearing: Educational Service Guidelines</i> , 3rd ed. (2018)

example of how public policy can be influenced by groups heralding a common cause.

Key Legislation

The primary education law that delineates U.S. public school requirements is titled the Elementary and Secondary Education Act (ESEA), first passed in 1965. This law

has been reauthorized under different names; for example, “No Child Left Behind” (NCLB) in 2001, followed by the “Every Student Succeeds Act” (ESSA) in 2015. NCLB was the first time that specific provisions were made for the inclusion of children with disabilities in the state performance and accountability systems in states.

Among the various laws passed affecting special education, three are the most significant:



- Section 504 of the Rehabilitation Act of 1973;
- the Individuals with Disabilities Education Act (reauthorized and amended numerous times since its inception in 1975 as PL 94-142); and
- the Americans with Disabilities Act (ADA), passed in 1990, and its amendments.

With time the lines between these laws and their regulations have blurred. However, together they provide comprehensive protection to all children whether or not they are identified as disabled under the special education statutes. Appendix 1–A summarizes the key features of each law. Specific components that differentiate these laws include the following.

Title II of ADA and Section 504 are both civil rights laws; Section 504 prohibits discrimination in entities that received federal financial assistance while ADA prohibits discrimination in any state or local government entity regardless of federal financial assistance. A Section 504 plan directly applies to a student’s services and accommodations, while the ADA requires equal access for all individuals within these entities who may be experiencing difficulties connected to broader definitions of disabilities, including students who qualify for services under IDEA.

IDEA eligibility requires the existence of a disability (as identified in the IDEA, Part B regulations²) that adversely affects educational performance necessitating special education and related services. It is the need for specialized instruction that distinguishes IDEA from the services provided under Section 504. Section 504’s broader definition also includes persons with disabilities³ not mentioned in IDEA or state education policies. Furthermore, mitigating measures, that is how well a child performs with a hearing aid or cochlear implant or when a sign language interpreter is provided, cannot be used to mitigate disability determination. Appendix 1-C summarizes basic elements of each of these pertinent laws.

- Regarding IDEA, Section 504 regulations state: “A free appropriate public education is the provision of regular education or special education and related services that . . . are designed to meet individual educational needs of persons with disabilities as adequately as the needs of persons without disabilities are met.”⁴ Therefore, the obligation to provide appropriate education may extend beyond the traditional special education programs.
- Because a school district is obligated to provide services (evaluations, general education, reasonable accommodations, related services, and related aids) regardless of eligibility for special education under IDEA, the school district may be bound to use general education funds to provide related services and/or aids for a child with disabilities.

²34 CFR §300.5.

³Individuals with physical or mental impairments that substantially limit one or more major life activities or record of such impairment or regarded as having such impairment.

⁴34 CFR §104.33(b)(1).

Specially Designed Instruction

Specially designed instruction means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction

- (i) To address the unique needs of the child that result from the child’s disability; and
- (ii) To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children. (34 CFR §300.39(b)(3))

- Simply because a child with a disability under IDEA receives a free and appropriate education (FAPE) through a school district’s special education program does not necessarily mean that the situation is in compliance with Section 504 or ADA. IDEA provides a program designed to meet the unique needs of a child and related services to assist the child to benefit from special education,⁵ while ADA provides the right to effective communication access “equal to” nondisabled peers, a higher standard than is required under IDEA.

Section 504 of the Rehabilitation Act of 1973

This act is commonly referred to as the civil rights legislation for people with disabilities because it was the first law that specifically protected the rights of persons with disabilities by prohibiting recipients of federal funds from discriminating against “otherwise qualified individuals” (34 CFR §104). The provisions of this law are almost identical to the nondiscriminatory provisions related to race in Title VI of the Civil Rights Act of 1964 and to gender in Title IX of the Education Amendments of 1972.

Section 504 prohibits entities that receive federal financial assistance from discriminating based on disability, ensuring that students with disabilities are provided an equal opportunity to access and participate in or benefit from the aid, benefits, services, and opportunities provided to others in federally assisted programs. This Act defines a disability as:

“any person who (1) has a physical or mental impairment that substantially limits a major life activity; (2) has a record of such an impairment; or (3) is regarded as having such an impairment.”⁶

⁵34 C.F.R. §300.39 and §300.34.

⁶29 U.S.C. §705(9)(B), (20)(B).

TABLE 1–3 Patterns of Services for Students Who Are Deaf or Hard of Hearing

State	Percentage of Students With an Individualized Education Program	Percentage of Students With a 504 Plan	Percentage of Students Without a Service Plan
Colorado (2005)	43	2	55
Washington (2012)	57	17	26
Iowa (2012)	54	No data available	46
Minnesota (2019)	77% DHH; 12% DHH dual diagnosis; 50% EC (20% DHH, 30% other)	2%	9%/20% (EC)

Note. From personal communications: Colorado, June 1, 2005; Washington, August 5, 2012; Iowa, October 4, 2012; Minnesota, June 24, 2019.

The impact of Section 504 for students with disabilities continues to grow as more students receive support services under this law. Data from the Departments of Education in Colorado, Washington, Iowa, and Minnesota reveal patterns of service provision for students who are deaf or hard of hearing (Table 1–3). Students whose disabilities do not meet IDEA eligibility criteria but who do require communication access or other assistance benefit from Section 504 plans. Comprehensive assessment is required prior to eligibility determination to ensure that students would not benefit from “specialized instruction” (i.e., the distinguishing feature between services under IDEA and Section 504). As previously stated, The ADA Amendments Act of 2008 expanded the interpretation of disability to align definitions between ADA and Section 504. In addition to the broadened definition of “major life activities” (see text box), Section 504 eligibility determination must be made without the effects of mitigating measures. These measures include hearing aids, medications, and other learned behavioral adaptations such as tutoring. Therefore, a child who wears hearing aids to access classroom communications, who receives private tutoring to maintain A and B grades or receives extensive homework help is still eligible as a student with a disability under Section 504.

Two groups for which this law has significant implications are children with minimal, mild, and unilateral hearing loss, single-sided deafness, and children with auditory processing difficulties. For these groups, acoustic accessi-

bility is an invisible barrier to their hearing, listening, and/or understanding of auditory information. These students typically are overlooked unless knowledgeable audiologists, teachers, parents, or other individuals represent their needs in schools. Amplification systems and other classroom and communication accommodations are critical general education supports that can be implemented for students to provide accessibility without special education eligibility (see Chapter 11, Developing Individual Plans, for more information on Section 504, and Chapter 9, Case Management and Habilitation, for additional information about student support needs and services). The Office of Civil Rights at the U.S. Department of Education provides comprehensive guidance regarding students with disabilities and Section 504, *Protecting Students with Disabilities* (<https://www2.ed.gov/about/offices/list/ocr/504faq.html?exp=0>).

The Americans With Disabilities Act (ADA)

The ADA was enacted in 1990 to provide protection from discrimination based on disability, just as the 1964 Civil Rights Act prohibited discrimination based on race, sex, creed, and national origin. Modeled after the Rehabilitation Act of 1973, the ADA replaced the word “handicap” with “disability” and pertains to all employers, facilities, and services, not just those receiving federal funds. Covered disabilities include physical conditions affecting mobility, stamina, sight, hearing, and speech as well as conditions such as emotional illness and learning disorders (see text box). The Act includes five sections (called Titles) covering employment, public services and transportation, public accommodations and commercial facilities, telecommunications, and miscellaneous provisions. Title II of the Act pertains to public schools, institutions of higher education, vocational education, and public libraries. It does not apply to schools of medicine, dentistry, nursing, and other health-related schools (these are covered under Title III). The ADA was amended in 2008 (ADA Amendments Act) providing an expanded interpretation of disability. The disability requirements of ADA for schools are the same as Section 504 of the Rehabilitation Act of 1973. Thus, the expanded definition

Major life activities may include but are not limited to caring for one's self, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.



IDEA provides reasonable access to public education through individualized services regardless of costs, administrative burden, or programming required. Title II of ADA requires that the services are not only accessible, but that they provide effective communication that is equal to that of nondisabled persons, so long as they do not impose an undue burden or require a fundamental alteration of their programs.

of *disability* likely resulted in an increase in the number of Section 504 plans whose needs may have been previously handled under health care plans.

The Access Board (short for the Architectural and Transportation Barriers Compliance Board) was created by the Rehabilitation Act of 1973 as an independent federal agency devoted to accessibility for people with disabilities by ensuring access to federally funded facilities. The Board is now a leading source of information on accessible design and provides technical assistance and training on accessible design, including classroom acoustics, as well as general ADA requirements. The Board continues to enforce accessibility standards that address federally funded facilities, most recently the Information and Communication Technology (ICT) Standards and Guidelines⁷ in 2018.

Effective Communication under the ADA The U.S. Department of Justice and U.S. Department of Education together published a policy guidance, *Frequently Asked Questions on Effective Communication for Students With Hearing, Vision, or Speech Disabilities in Public Elementary and Secondary Schools (2014)*, to address obligations of schools to provide these services (<https://www2.ed.gov/about/offices/list/ocr/docs/dcl-faqs-effective-communication-201411.pdf>). This guidance describes eligibility and accommodations under Title II of the Americans with Disabilities Act (ADA) and the Individuals with Disabilities Education Act (IDEA) as well as important differences between the laws.

The ADA Checklist (see text box and Appendix 11–E) summarizes some of the key communication access considerations required under Title II of ADA. Timelines for implementing ADA accommodations create some interesting challenges. For example, to use a remote microphone system, do we wait for IDEA eligibility and the IEP to use IDEA funds or fit immediately as required under ADA and provide through general school funds.

The implications of this policy clarification may be the most significant development since the inclusion of special

ADA Checklist (Johnson, 2014)

- ✓ Does the student meet disability criteria under ADA?
- ✓ Does the student attend a public preschool, elementary, or secondary school (including charter schools and magnet programs)?
- ✓ Does the student require auxiliary aids and services to achieve communication that is as effective as communication for individuals without disabilities?
- ✓ Are the auxiliary aids and services provided by the school based on an appropriate assessment and analysis in accordance with
 - the method of communication used by the individual;
 - the nature, length, and complexity of the communication involved; and
 - the context in which the communication is taking place?
- ✓ Are the auxiliary aids and services provided by the school primarily based on the preferences of the student, or his/her parents/guardian, with disabilities?
- ✓ Are the auxiliary aids and services provided in a timely manner?
- ✓ Are the auxiliary aids and services provided in such a way as to protect the privacy and independence of the student?

factors to the IEP toward “leveling the playing field” for children and youth who are deaf or hard of hearing.

Individuals With Disabilities Education Act (IDEA)

The primary legislation for children with disabilities was first passed in 1975 as PL 94-142. This law stated that “All children who are handicapped and in need of special education and related services must be identified, evaluated, and assured a free appropriate public education in the least restrictive environment” (Rules and Regulations, U.S. Department of Health, Education, and Welfare, August 23, 1977). Although there have been several reauthorizations of this law since, the major principles remain the same. These principles are summarized in Table 1–4. Key changes from each reauthorization include the following:

- 1986: expansion to ages 3 to 5 and the addition of Part C to address services for birth to age 3;

⁷36 CFR §1193 & §1194.