

Guidance on the Application of Least Restrictive Environment (LRE) for Students Who Are Deaf or Hard of Hearing (DHH)

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This guidance recommends practices to follow when considering the appropriate learning environment for students who are Deaf or Hard of Hearing (DHH). DHH students comprise approximately 1% of all students with an Individualized Education Program (IEP) in Massachusetts. Due to this low incidence, school districts may not have the expertise or the depth of experience to ensure proficient language acquisition and full access to the curriculum for DHH students. The determination of how to provide a free and appropriate education (FAPE) in the least restrictive environment (LRE) 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, 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 LRE for this population.

Assessment: During the evaluation process, the district must assess the student in all areas related to the suspected disability, as well as conduct a comprehensive educational assessment. Since language and learning issues for DHH students may be complex, and district personnel may not have the expertise to assess low incidence disabilities, it may be necessary for the district to consider evaluations from evaluator(s) outside the school district, who have expertise in the assessment of DHH children. Readers are referred to the MA DESE Administrative Advisory on Independent Educational Evaluations (link in the Resource Section below).

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 deaf or hard of hearing, 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: 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, and often complex, communication and language development needs. School districts and Teams may not be familiar with these needs or the strategies needed to address them.

The U.S. Department of Education provided this 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)

All IEP Team members, including parents, must be knowledgeable about the full continuum of alternative placements, including specialized programs or schools for the Deaf. (34 C.F.R. § 300.116; 34 C.F.R. § 300.324 (a) (2) (iv)).

It is important for IEP Teams to know about the full continuum of alternative placements, including specialized programs and schools for the deaf, and how they may meet a student's individualized needs. When considering LRE for most students, the general education classroom is typically the standard. However, this setting may not be the LRE for some DHH students who need to access language rich environments requiring specialized deaf education instruction. 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 available to the extent necessary to implement the student's IEP (71 Fed. Reg. 46587 (2006)).

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In evaluating FAPE in the LRE for a student who is DHH, the Team must consider whether the learning environment 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, p. 34-35).

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Depending on the individual needs of the student, any of the following placements could be the LRE of a DHH student:

- regional program for students who are Deaf and Hard of Hearing;
- a special day school for students who are Deaf and Hard of Hearing;
- a school for the Deaf and Hard of Hearing;
- a residential facility for students who are Deaf and Hard of Hearing; or
- a combination of the above. (34 C.F.R. § 300.115)

For some students, a specialized school for the Deaf is the LRE, for others the regular class is the LRE, and for others, some combination of settings may constitute the LRE (National Association of State Directors of Special Education, 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 to meet FAPE for their DHH child.

School districts and Teams should familiarize themselves with the Child Specialist services available from the Massachusetts Commission for the Deaf and Hard of Hearing and *Optimizing Outcomes for Students who are Deaf or Hard of Hearing*, a best practices document published by the National Association of State Directors of Special Education. These free resources (links in the Resource Section below) can provide Teams guidance in understanding the unique sensory needs of students who are DHH, which impact LRE decisions for this low incidence population.

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Resources

- Independent Educational Evaluations, Massachusetts Department of Elementary and Secondary Education Administrative Advisory (SPED 2004-1). Retrieved https://www.doe.mass.edu/sped/advisories/04_1.html
- Massachusetts Commission for the Deaf and Hard of Hearing - this organization provides free consultation and support for families as they are making educational decisions for their DHH students (click on the “Children’s Specialist” link on this page): <https://www.mass.gov/service-details/mcdhh-case-management-services>
- *Optimizing Outcomes for Students who are Deaf or Hard of Hearing* - best practice document written and disseminated by the National Association of State Directors of Special Education (NASDSE). Retrieved <http://www.nasdse.org/docs/nasdse-3rd-ed-7-11-2019-final.pdf>

Citations

Individuals with Disabilities Education Act, 34 C.F.R. § 300.115. *Continuum of Alternative Placements*. Retrieved from <https://sites.ed.gov/idea/regs/b/b/300.115>

Individuals with Disabilities Education Act, 34 C.F.R. § 300.116. *Placements*. Retrieved from <https://sites.ed.gov/idea/regs/b/b/300.116>

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*. Retrieved from <https://sites.ed.gov/idea/regs/b/d/300.324/a/2/iv>

National Association of State Directors of Special Education. (2018). [*Optimizing outcomes for students who are deaf or hard of hearing: Educational Service Guidelines*](#). Alexandria, VA: Author.

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U.S. Department of Education. (2011). Letter to Stern Supporting the Continuum of Alternative Placements. Retrieved from <https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/letters/2011-3/stern093011lr3q2011.pdf>

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Reference this document as:

Meyer, K., Hecht, B., Lieberman, A., Rankin, E., Reis, J., & Ford, P. (2022). *Guidance on the Application of Least Restrictive Environment (LRE) for Students Who Are Deaf or Hard of Hearing*. 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>