

CHAPTER 474  
FORMERLY  
HOUSE BILL NO. 283

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO THE EDUCATION OF CHILDREN WHO ARE DEAF OR HARD OF HEARING.

WHEREAS, deaf or hard of hearing students may choose to use a variety of communication modes including oral and manual-visual language that includes sign language, spoken or written English, including speech reading or lip reading, communication utilizing amplification systems such as hearing aids, cochlear implants, or FM systems and other assistive listening systems; and

WHEREAS, it is essential for the well-being and growth of deaf or hard of hearing children that educational programs recognize each deaf or hard of hearing child's individual communication, language, and learning needs and ensure that all deaf or hard of hearing children have appropriate, ongoing, and fully accessible educational opportunities; and

WHEREAS, students who are deaf or hard of hearing may also use other technologies to enhance language; and

WHEREAS, it is essential that deaf or hard of hearing children, like all children, have an education in which the child's communication mode, as chosen and defined by the child and his/her parents, is respected, utilized, and developed to an optimal level of proficiency; and

WHEREAS, the General Assembly recognizes the value of integrated educational settings and the value of providing opportunities for deaf or hard of hearing children to interact with children without disabilities;

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 14 of the Delaware Code by adding a new §3112 to read as follows:

“§3112 Deaf or Hard of Hearing Child's Bill of Rights.

(a) Given the unique communication needs for deaf and hard of hearing children there is a need to further develop the comprehensive statewide program which implements a systematic approach to service these children in areas which may include overseeing the development, delivery, and data tracking of these children across the State.

(b) The term “communication mode or language mode” means one or more of the following systems or methods of communication applicable to deaf or hard of hearing children:

- (1) American Sign Language;
- (2) English-based manual or sign systems;
- (3) Oral, aural, speech-based training;
- (4) Spoken and written English, including speech reading or lip reading; and
- (5) Communication with assistive technology devices to facilitate language and learning.

(c) In developing an individualized education plan (IEP) for a child who is deaf or hard of hearing, in addition to any other requirements established by the Department of Education, the district or charter school shall consider the related services and program options that provide the child with an appropriate and equal opportunity for communication access. The school system shall consider the child's specific communication needs and address those needs as appropriate in the child's individualized education program. In considering the child's needs, the district or charter school shall expressly consider the following:

- (1) The child's individual communication mode or language;
- (2) The availability to the child of a sufficient number of age, cognitive, academic, and language peers of similar abilities if the parents so desires;
- (3) The availability to the child of deaf or hard of hearing adult models of the child's communication mode or language;
- (4) The provision of optimal, direct, and ongoing language access to teachers of the deaf and hard of hearing, interpreters, psychologists, educational audiologists, administrators, and other special education personnel who are knowledgeable due to specific training and who are proficient in the child's primary communication mode or language;
- (5) The provision of communication-accessible academic instruction, school services, and direct access to all components of the educational process, including but not limited to, recess, lunch and extracurricular social and athletic activities including the equal opportunity to participate in advanced course work and /or technical vocational course work and academic classes as identified by the Individual Education Program team;
- (6) Enabling a parent or guardian to make informed decisions concerning which educational options are best suited to the parent's or guardian's child, and be involved in determining the optimal services, placement and content of their individual program; and
- (7) Equipping deaf or hard of hearing children with appropriate assistive technology across a full spectrum.

(d) No deaf or hard of hearing child shall be denied the opportunity for instruction in a particular communication mode or language solely because another communication mode or language was originally chosen for the child.

(e) A variety of factors may be considered when determining the optimal instruction in a communication mode, including but not limited to:

- (1) Changes in the child's hearing or vision;
- (2) Development in or availability of assistive technology;
- (3) The physical and acoustic design of the learning environment; and
- (4) The subject matter.

(f) A child may receive instruction in more than one communication mode or language.”.

Approved September 10, 2010