



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

August 23, 2010

Mr. Edward H. Bosso, Jr.
President, Conference of Educational Administrators
of Schools and Programs for the Deaf, Inc.
Laurent Clerc National Deaf Education Center Gallaudet University
800 Florida Avenue, NE
Washington, DC 20002

Dear Mr. Bosso:

Thank you for your May 7, 2010, letter, in which you refer to Secretary Arne Duncan's April 21, 2010, comments made at the Council for Exceptional Children (CEC) conference. Your letter was referred to the Office of Special Education and Rehabilitative Services for a response so that we may provide information addressing your concerns and be available to follow up with you should you have additional questions. Specifically, you expressed concern with the comments regarding the education of students with disabilities in specialized educational settings under the Individuals with Disabilities Education Act (IDEA). Additionally, you provided information regarding the problem of unqualified sign language interpreters in general education settings and the benefits of schools for the deaf.

As you know, the requirements for determining the placement of a child with a disability are included in the IDEA Part B regulations at 34 CFR §300.116. This regulation requires that placement decisions be made by a group of persons, including the parents and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options. This decision must be made in conformity with the least restrictive environment (LRE) provisions, including §§300.114 through 300.118. Additionally, a child's placement must be determined at least annually, be based on the child's individualized education program (IEP), and be as close as possible to the child's home. These provisions are consistent with section 612(a)(5) of IDEA, which indicates that to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, must be educated with children who are not disabled.

Placement decisions must be determined on an individual, case-by-case basis, depending on each child's unique needs and circumstances, and be based on the child's IEP. The IDEA specifically requires that in developing the IEP, the team:

... [c]onsider 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.. .

34 CFR §300.324(a)(2)(iv). Any setting that does not meet the communication and related needs of a child who is deaf does not allow for the provision of a free appropriate public education (FAPE) and cannot be considered the LRE for that child. Just as the IDEA requires placement in the regular educational setting when it is appropriate for the unique needs of a child who is deaf, it also requires placement outside of the regular educational setting when the child's needs cannot be met in that setting.

The Secretary and I share your concern about the need for students with disabilities to receive appropriate interpreting services from qualified personnel. The IDEA requires that personnel providing special education and related services to children with disabilities be appropriately and adequately prepared and trained. The responsibility for ensuring sign language interpreters are qualified rests with the State educational agency. Under the IDEA's regulations, sign language interpreter services are considered related services. 34 CFR §300.34(c)(4). The IDEA regulations, at 34 CFR §300.156, specify that the State educational agency is responsible for establishing and maintaining qualifications to ensure that personnel necessary to make FAPE available are appropriately and adequately prepared and trained consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing related services.

The Department provides Federal funds to support States in these efforts. Under the State Personnel Development Grants Program (SPDG), authorized by sections 651 through 655 of the IDEA, States receive Federal support for reforming and improving their systems for personnel preparation and professional development in early intervention, education, and transition services to improve results for children with disabilities. Under the SPDG program, a State may utilize a portion of its grant to fund interpreter training programs. Also, under the Personnel Preparation Program, which is authorized by section 662 of the IDEA, the Department funds competitive grants to institutions of higher education that may support interpreter training programs.

While speaking at the CEC conference, the Secretary noted that the vast majority of students with disabilities attend a neighborhood school. He also stated that students should not be sent to a separate school solely because they have a disability. The Department understands that for some students with hearing impairments a specialized school placement may be the appropriate way to address the child's language and communication needs as identified in the IEP. However, for other students with disabilities, attending their home school with appropriate supports, including qualified related services personnel, would be the appropriate placement.

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I hope that you find the responses to your concerns helpful. We continually evaluate the need for further guidance and clarification, and appreciate receiving your input on this matter. If you need further assistance, please feel free to contact my office.

Sincerely,

A handwritten signature in black ink, reading "Alexa Posny". The signature is written in a cursive, flowing style.

Alexa Posny, Ph.D.