

Date of Hearing: April 30, 2025

ASSEMBLY COMMITTEE ON EDUCATION
Al Muratsuchi, Chair
AB 784 (Hoover) – As Amended April 21, 2025

SUBJECT: Special education

SUMMARY: States that nothing in the existing definitions of special education and related services shall be construed to prohibit an individualized education program (IEP) from including specialized deaf and hard-of-hearing (DHH) related services as the only service. Specifically, **this bill:**

- 1) States that nothing in the existing definitions of special education and related services shall be construed to prohibit an IEP from including specialized DHH related services as the only service.
- 2) Makes findings and declarations about the delivery of specialized DHH services.

EXISTING LAW:

- 1) In federal law, establishes the Individuals with Disabilities Education Act (IDEA), in order to ensure that all children with disabilities have a free appropriate public education (FAPE) that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living, among other purposes. (20 U.S.C. Section 1400)
- 2) In federal law, the Rehabilitation Act of 1973, prohibits an individual with a disability, as defined, from, solely by reason of his or her disability, being excluded from the participation in, being denied the benefits of, or being subjected to discrimination under any program or activity receiving federal financial assistance. (29 U.S.C. Section 794)
- 3) Defines “special education,” in accordance with federal law, to mean specially designed instruction, at no cost to the parent, to meet the unique needs of individuals with exceptional needs, including instruction conducted in the classroom, in the home, in hospitals and institutions, and other settings, and instruction in physical education, including:
 - a) Speech-language pathology services, or any other designated instruction and service or related service, if the service is considered special education rather than a designated instruction and service or related service under state standards;
 - b) Travel training;
 - c) Vocational education; and
 - d) Transition services for individuals with exceptional needs may be special education, if provided as specially designed instruction, or a related service, if required to assist an individual with exceptional needs to benefit from special education. (Education Code (EC) 56031)

- 4) Requires an IEP team, when developing an IEP, to do the following:
- a) In the case of a student who is visually impaired, the need to provide for instruction in braille, and the use of braille, unless the IEP team determines, after an assessment of the student's reading and writing skills, needs, and appropriate reading and writing media, including an assessment of the student's future needs for instruction in braille or the use of braille, that instruction in braille or the use of braille is not appropriate for the student.
 - b) Consider the communication needs of the student, and in the case of a student who is DHH, consider the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode. (EC 56341.1)

FISCAL EFFECT: Unknown

COMMENTS:

Need for the bill. The author states, "With the current lack of clarity authorizing Specialized Deaf and Hard of Hearing Services (DHH) programs to be a stand-alone service on an Individualized Educational Program (IEP), it leads school districts to place these students on 504 Plans, which are written documents that outline the accommodations and modifications a school provides to a student with a disability. These 504 Plans provide accommodations, but fail to offer specialized instruction that may be necessary for the success of students with hearing impairments. This ambiguity has led to inconsistent practices regarding the services provided to students who are deaf or hard of hearing, often resulting in inadequate educational support for their unique needs. Clarifying the separation of Specialized DHH services of an IEP allows for more consistent practices, thorough specialized instruction, and adequate resources for students with hearing impairments."

IEPs and Section 504 plans for DHH students. This bill is intended to correct the practice of DHH students receiving support through a Section 504 plan, when they would be more appropriately served through an IEP, by clarifying existing law.

According to the author, there is a perception among some LEAs that DHH services cannot be the sole service included on an IEP because, as a related service, for specialized DHH services to be included on an IEP they must relate to the provision of special education on an IEP. Current law defines speech and language services as special education, and it may be that this definition is understood to be the only way a related service can be the sole service included on an IEP. This bill would clarify that DHH specialized services can be the sole service listed on an IEP.

Differences between IEPs and Section 504 plans. This bill is intended to ensure that DHH students who need specialized instruction and related services can obtain them through IEPs, instead of being served through a Section 504 plan. The author argues that IEPs are more appropriate than Section 504 plans because they can include specialized instruction.

Section 504 of the Rehabilitation Act of 1973 prohibits an individual with a disability in the United States, as defined, from, solely by reason of his or her disability, being excluded from participation in, being denied the benefits of, or being subjected to discrimination under any

program or activity receiving federal financial assistance. This requirement applies to public schools.

Section 504 regulations require that public schools provide a FAPE to qualified students in their jurisdictions who have a physical or mental impairment that substantially limits one or more major life activities.

To be protected under Section 504, a student must be determined to 1) have a physical or mental impairment that substantially limits one or more major life activities, 2) have a record of such an impairment; or 3) be regarded as having such an impairment. Major life activities include walking, seeing, hearing, speaking, breathing, working, performing manual tasks, and learning.

Unlike under IDEA, students do not need to have one of a list of specified disabling conditions. Some students who do not qualify for an IEP under the IDEA may qualify for a 504 plan. Process requirements for the development of 504 plans are less specific than IEPs in several ways.

The determination that a student has a “substantial limitation” must be made on an individualized basis. Section 504 requires that a group of knowledgeable persons (sometimes constituted as a team) draw upon information from a variety of sources in making this determination. Unlike under the IDEA, the composition of group is not specified. This team develops a 504 plan which delineates the services and/or changes to the learning environment required to meet the needs of the child as adequately as other students.

DHH students in California. According to the CDE, in the 2023-24 school year, among students ages 3 to 21 who were enrolled in California schools, there were 2,548 students who were deaf, and 8,129 students who were hard-of-hearing. The total number of students with disabilities in that year was 836,846.

While prior data indicate a large gap in academic proficiency between DHH students and the statewide average performance, ***the Committee may wish to consider that*** outcome data published by the CDE is not disaggregated by disability, so no data on DHH students’ achievement and other outcomes is publicly available.

Arguments in support. The Center for Early Intervention on Deafness writes, “AB 784 (Hoover), amends the Education Code to clarify that specialized deaf and hard of hearing services and specialized academic instruction for deaf and hard of hearing (DHH) students can be provided as a stand-alone services on an individualized education plan (IEP). This bill also clarifies that credentialed DHH teachers in nonpublic agencies (NPAs) can provide these specialized services and instruction.

The lack of clarity in existing law has led to inconsistent support and services for deaf and hard of hearing students, leaving many without the specialized services and instruction they require for their unique needs to thrive academically.

‘Deafness’ and ‘hearing impairment’ are 2 of 13 eligibility categories recognized under the Individuals with Disabilities Education Act (IDEA). Students who are deaf and hard of hearing qualify for special education and related services when their hearing loss has an adverse effect on educational level.

Specialized academic instruction and specialized deaf and hard of hearing services, including direct instruction in communication methods and language acquisition (e.g., American Sign Language, auditory training), academic modifications and adaptations based on the student's hearing level, and instruction in self-advocacy skills, ensures access to the educational environment, and allows students to navigate classroom settings and access auditory information. Services must be provided by qualified personnel with demonstrated proficiency in the student's primary communication mode, as mandated by state regulations.

Many school districts mistakenly place deaf and hard of hearing students on 504 Plans instead of providing them with an IEP under the IDEA. While a 504 Plan provides access through accommodations, it does not provide specialized instruction or services tailored to the unique needs of DHH students. An IEP, on the other hand, offers both accommodations and specialized instruction which is essential for these students to access and engage with the curriculum.

Students have a fundamental right to an education and the state is responsible in ensuring all students have the most basic resources they need to learn. Without access to specialized services, deaf and hard of hearing children lack an opportunity to develop and learn.”

Related legislation. AB 1938 (Gallagher), Chapter 903, Statutes of 2024, requires local educational agencies (LEAs), when implementing inclusion and universal design for learning (UDL) initiatives and when developing specified plans for students who are DHH or deaf-blind, to consider specified law and guidance related to these students, and requires the CDE to communicate this information to LEAs and other entities, as specified.

AB 2541 (Quirk Silva) of the 2021-22 Session would have added funding to the Special Education Early Intervention Preschool Grant for the purpose of school districts contracting with the State Special Schools for the Deaf and nonpublic schools or nonpublic agencies for specified early language intervention services for children who are DHH, ages 0-5. This bill was held in the Assembly Appropriations Committee.

AB 1051 (Cervantes) of the 2023-24 Session would have required, commencing with the 2024-25 fiscal year, contingent on an appropriation, that the amount of funding apportioned to the State Special Schools for the Deaf and the Blind and the Diagnostic Centers be annually adjusted by a cost-of-living adjustment (COLA), and would have required the Superintendent of Public Instruction to calculate this COLA. This bill was held in the Assembly Appropriations Committee.

SB 210 (Galgiani), Chapter 652, Statutes of 2015, requires the CDE to develop a parent resource and select existing educator tools for measuring the language and literacy development of DHH children age 0-5 years, and to report annually on the language and literacy outcomes of these children.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association for Health, Physical Education, Recreation and Dance
California School Boards Association
CCHAT Center

Center for Early Intervention on Deafness
John Tracy Center
State Council on Developmental Disabilities
The Arc and United Cerebral Palsy California Collaboration
Weingarten Children's Center

Opposition

None on file

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