

Before the House Select Committee on Education Reform

Deaf Child's Bill of Rights

Testimony of Barbara Raimondo, J.D.

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Representative Blackwell and Members of the House Select Committee on Education Reform:

It is an honor and a pleasure to come before you today to testify in favor of the Deaf Child's Bill of Rights. The Deaf Child's Bill of Rights is important legislation designed to ensure that the language and communication needs of deaf and hard of hearing children are met in the educational environment.

My name is Barbara Raimondo, and I am a consultant who works with schools and organizations to help improve educational outcomes for deaf and hard of hearing students. I am the mother of two deaf young adults, one who is 22 years old and working, the other who is 17 and a high school senior. Twenty-one years ago when I found out my daughter was deaf my first reactions were shock and disbelief. I had never met a deaf person in my life. But when I started reading statistics about educational and employment outcomes for deaf and hard of hearing individuals, that's when the real shock set in. Even today, deaf and hard of hearing students lag significantly behind their hearing peers on academic measures. This is illustrated in a recent study looking at performance on the *Woodcock-Johnson III Tests of Achievement (WJ III)*:

In the general population of hearing youth, the distribution of test scores on each subtest is equally divided above and below the mean (i.e., 50 percent score at the mean of 100 or above and 50 percent scored below. In comparison, the majority of secondary students with hearing impairments scored below the mean across subtests. Compared with the 50 percent of youth in the general population who scored 100 or below, 87 percent of secondary school students with hearing impairments had standard scores in that range on the passage comprehension subtest, 86 percent on the science and social studies subtests, [and] 85 percent on the applied problems subtest . . .”

(Institute of Education Sciences, *The Secondary School Experiences and Academic Performance of Students With Hearing Impairments*, NCSER 2011-3003, February 2011).

In the case of employment, the percentage of male hearing persons participating in the labor force is 86 percent, while the percentage of male deaf and hard of hearing persons is 63 percent. For females, the percentages are 74 and 58, respectively (Postsecondary Education Programs Network, National Technical Institute of the Deaf/Rochester Institute of Technology, *Demographics of Persons Who Are Deaf or Hard of Hearing*, 2011).

I applaud you, the members of this committee, the Department of Public Instruction, and other stakeholders in North Carolina for addressing these challenges.

Deaf and hard of hearing children comprise a small percentage of students with disabilities, and a far smaller percentage of students overall. They constitute approximately one percent of all students with disabilities in the nation (United States Department of Education, *28th Annual Report to Congress on the Implementation of the Individuals with Disabilities Education Act*, 2009).

Although their number is small their needs are extremely diverse. Services for deaf and hard of hearing children include those in American Sign Language, audiology, speech-language pathology, visual technologies, auditory technologies, interpretation, support to families, and more. Many deaf and hard of hearing children have additional disabilities and therefore require additional services, such as physical therapy and occupational therapy. Deaf and hard of hearing children may be identified soon after birth, or may be identified later. They may come from homes rich in resources that assist them in language learning, or they may not. There cannot be a one-size-fits-all approach to the development and education of deaf and hard of hearing children. However, one thing is clear. Age appropriate language and communication development is essential for individuals to meet literacy and academic benchmarks, gain admittance to institutions of higher education, and take their place as productive employees in the workforce. Such language and communication development must be supported from the beginning and throughout a child's educational career.

Formal education for deaf and hard of hearing children in the United States began long before the field of special education was established. In 1817 parents, educators, and representatives from the deaf community, with the support of the Connecticut legislature, founded the first school for the deaf, the American School for the Deaf in Hartford, Connecticut. Here in North Carolina, the Governor Morehead School, then a school for deaf students and blind students, opened in 1845. The North Carolina School for the Deaf in Morganton was founded in 1894. The Eastern North Carolina School for the Deaf was founded in 1964. The Central North Carolina School for the Deaf, now closed, opened in 1975. These schools have a long and distinguished history of educating deaf students by incorporating language and communication access into every facet of the school program. In 1975 the federal Individuals with

Disabilities Education Act (IDEA) was passed, thereby mandating that all children with disabilities be provided a Free Appropriate Public Education in the Least Restrictive Environment. Under this law, local neighborhood schools began educating deaf and hard of hearing students. Today, deaf and hard of hearing children can be found at both schools for the deaf and neighborhood schools.

Because of the small number of deaf and hard of hearing students, frequently a deaf or hard of hearing student is the only one in his or her school. Schools and school districts serve these children as best they can. However, they need support and resources to make this happen.

IDEA requires Individualized Education Program (IEP) teams to consider the language and communication needs of deaf and hard of hearing children when developing their IEPs. It states:

[In developing each child's IEP] the IEP team must . . .

(iv) . . . [I]n 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 C.F.R. § 300.324(a)(2)).

From time to time the United States Department of Education has provided guidance in this area. In 1992 it issued, and in 1994 reissued, the Deaf Students Education Services; Notice of Policy Guidance (57 Fed. Reg. 49274 (Oct. 30, 1992)). Among other things, that Policy Guidance makes clear that "Meeting the unique communication and related needs of a student who is deaf is a fundamental part of providing a free appropriate public education (FAPE) to the child." The Department has issued policy letters on the importance of language and communication in the educational environment (See, e.g., Office of Special Education Programs, *Letter to Stern*, September 30, 2011). And it has described this in interpretation issued with IDEA regulations (71 Fed. Reg. 46540 (Aug. 6, 2006)).

Yet the United States Department of Education does not have a mechanism in place to monitor or ensure that these mandates are carried out. It is up to the states to address them in ways that are meaningful and effective for each state.

States have addressed this in several ways. They have developed communication plans and state plans, and at least 12 states have passed a deaf children's bill of rights. I believe that states must use several tools to succeed.

The proposed bill of rights highlights the factors that need to be considered and addressed when developing a deaf or hard of hearing child's education program. I particularly call your attention to:

§ 143B-216.35.3. Determination of disability; enrollment.

(a) In developing an Individualized Education Program (IEP), as defined in G.S. 115C-106.3(8), for a child who is deaf or hearing impaired, in addition to any other requirements established by the State Board of Education, the IEP team shall consider the related services and program options for communication access and advise parents of the full continuum of alternative educational placements available to them. The IEP team shall consider the child's specific communication needs, and, to the extent possible, address those needs as appropriate in the child's IEP and determine the least restrictive environment. In considering the child's needs, the IEP team 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, and language peers of similar levels of proficiency.
- (3) The availability to the child of deaf and hearing-impaired adult models of the child's communication mode or language.
- (4) The provision of appropriate, direct, or ongoing language access to teachers of the deaf or hearing impaired and interpreters and other specialists who are proficient in the child's primary communication mode or language.

The IEP team shall ensure that no child who is deaf or hearing impaired is denied the opportunity for instruction in a particular communication mode or language solely because

- (i) the child has some residual hearing;
- (ii) the child's parents are not fluent in the communication mode or language being taught; or
- (iii) the child has previous experience with some other communication mode or language.

(b) Nothing in this section shall preclude instruction in more than one communication mode or language for any particular child. Any

child for whom instruction in a particular communication mode or language is determined to be beneficial shall receive the instruction as part of the child's Individualized Education Program.

Some specific language that I find could be particularly helpful is the language specifying that the IEP team must advise parents of the full continuum of alternative educational placements. The continuum includes regular classes, special classes, and special schools (34 C.F.R. § 300.115). Parents should receive full information on the various educational settings in a way that truly informs them. Deaf educators emphasize the need for settings where a “critical mass” of peers is available and where professionals are trained in the communication modes and learning approaches of deaf and hard of hearing students. (National Agenda Steering Committee, *The National Agenda: Moving Forward on Achieving Educational Equality for Deaf and Hard of Hearing Students*, 2005). This type of setting constitutes the Least Restrictive Environment for many students. I know in other states parents frequently do not receive any information about specialized settings such as the school for the deaf, or if they do, they are given the impression that the school is “not for [their] child.” It is important that parents are aware of the benefits specialized schools can provide.

IDEA requires IEP teams to make decisions based on individualized considerations about any given child and based on evidence and best practice. These Bill of Rights provisions will support the decision making of the IEP team by addressing factors that often arise. For example, it is sometimes thought that a child with a lot of residual hearing should use spoken language as a primary mode of communication, and a child with very little residual hearing should use sign language. In fact, there is not an exact correlation between hearing level and communication mode chosen. Some children whose audiogram shows they can hear “a lot” prefer to use sign language, and others who have low hearing levels prefer spoken language. Further, decisions about communication for a child are often fluid. A family may start out using one communication mode early on and switch to another as the child gets older. The language in this bill supports family choice. It recognizes the need for flexibility in a child’s communication.

Passage of the Deaf Child’s Bill of Rights should not be considered an end in itself. It should be monitored to ensure that it is properly implemented, and that necessary resources are available to schools and districts to support implementation. For example, a study could be done within two years after it is passed to describe how school personnel are carrying it out, how students are receiving the support they need, and whether educational practice needs to be modified in specific areas. I believe that monitoring and follow up will be critical to making this law a success.

Currently all states are required to report the state assessment results of students with disabilities as a group. With other disability groups being so much larger than the deaf and hard of hearing category, scores for deaf and hard of hearing children are obscured. North Carolina could consider disaggregating and reporting data specifically for deaf and hard of hearing students (and for other disability groups) to obtain a better picture of student outcomes. Data could be reported in a manner that protects student privacy. Data collection and reporting could help the state identify gaps and develop targeted responses to resolve those gaps.

In many ways the world has changed dramatically and positively for deaf and hard of hearing individuals. When my daughter was identified in 1989, the only telecommunication system available to deaf and hard of hearing people was a TTY, which at the time was cutting edge, but today has been edged out by e-mail, text messaging, and videophones. Few television programs were captioned, but today almost all television programming is captioned, and recently the 21st Century Communications and Video Accessibility Act (P.L. 111-260) was passed, which will increase captioning on the Internet and ensure that other telecommunications services are accessible. The Americans with Disabilities Act prohibits discrimination against persons with disabilities. And more attention than ever is being focused on better educational outcomes. The future is bright for deaf and hard of hearing children who receive an education that meets their needs. This bill of rights will help ensure that that happens.

Thank you for inviting me to testify today. I will be happy to answer any questions.

Barbara Raimondo

Barbara is a long-time advocate for the rights of deaf and hard of hearing individuals and their families. She has worked as a government relations liaison, director of advocacy, parent consultant, attorney, and trainer. She has presented and written about numerous topics including early hearing detection and intervention, education, test equity, civil rights, family support, deaf-hearing partnerships, parent and deaf community involvement, and others. She has served on the board of the American Society for Deaf Children, which presented her with its Lee Katz Award for her "dedication and service to families raising children who are deaf or hard of hearing." She also has served on the board of the Maryland School for the Deaf, including as president for three terms. She has testified before Congress. She and her husband are the parents of two deaf young adults. She received her law degree from George Mason University.