

CHAPTER 14

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**EDUCATION - PUBLIC SCHOOLS**

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**HOUSE BILL 96-1041** [\[Digest\]](#)

BY REPRESENTATIVES Keller, Kerns, Sullivan, Sullivant, Armstrong, Chlouber, Clarke, Dean, Friednash, Gordon, Kaufman, Knox, Lyle, Mace, McElhany, Morrison, Nichol, Reeser, Saliman, Snyder, and Tucker;

also SENATORS Hopper, Meiklejohn, Feeley, Hernandez, Johnson, Martinez, Matsunaka, Pascoe, Perlmutter, Rupert, and Tanner.

**AN ACT**

**CONCERNING THE EDUCATION OF CHILDREN WHO ARE DEAF AND HARD OF HEARING.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1. Legislative declaration.** (1) The general assembly finds that:

(a) Pupils with low-incidence disabilities, as a group, make up less than one percent of the total statewide enrollments for kindergarten through grade twelve; and

(b) Pupils with low-incidence disabilities require highly specialized services, equipment, and materials.

(2) The general assembly further finds that:

(a) Deafness involves the most basic of human needs: The ability to communicate with other human beings. Many deaf and hard-of-hearing children use an appropriate communication mode, sign language, which may be their primary language, while others express and receive language orally and aurally, with or without visual signs or clues. Still others, typically young deaf and hard-of-hearing children, lack any significant language skills. It is essential for the well-being and growth of deaf and hard-of-hearing children that educational programs recognize the unique nature of deafness and ensure that all deaf and hard-of-hearing children have appropriate, ongoing, and fully accessible educational opportunities.

(b) It is essential that deaf and hard-of-hearing children, like all children, have an education in which their unique communication mode is respected, utilized, and developed to an appropriate level of proficiency;

(c) It is essential that deaf and hard-of-hearing children have an education in which teachers of the deaf and hard of hearing, psychologists, speech therapists, assessors, administrators, and other special education personnel understand the unique nature of deafness and are specifically trained to work with deaf and hard-of-hearing pupils. It is essential that deaf and hard-of-hearing children have an education in which teachers of the deaf and hard of hearing are proficient in the primary language mode of those children.

(d) It is essential that deaf and hard-of-hearing children, like all children, have an education with a sufficient number of language mode peers with whom they can communicate directly and who are of the same, or approximately the same, age and ability level;

(e) It is essential that deaf and hard-of-hearing children have an education in which their parents and, where appropriate, deaf and hard-of-hearing people are involved in determining the extent, content, and purpose of programs;

(f) Deaf and hard-of-hearing children would benefit from an education in which they are exposed to deaf and hard-of-hearing role models;

(g) It is essential that deaf and hard-of-hearing children, like all children, have programs in which they have direct and appropriate access to all components of the educational process, including, but not limited to, recess, lunch, and extracurricular social and athletic activities;

(h) It is essential that deaf and hard-of-hearing children, like all children, have programs in which their unique vocational needs are provided for, including appropriate research, curricula, programs, staff, and outreach;

(i) Each deaf or hard-of-hearing child should have a determination of the least restrictive environment that takes into consideration these legislative findings and declarations;

(j) Given their unique communication needs, deaf and hard-of-hearing children would benefit from the development and implementation of state and regional programs for children with low-incidence disabilities.

**SECTION 2.** 22-20-103, Colorado Revised Statutes, 1995 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**22-20-103. Definitions.** As used in this article, unless the context otherwise requires:

(1.7) "COMMUNICATION MODE OR LANGUAGE" MEANS ONE OR MORE of the following systems or methods of communication applicable to deaf and hard-of-hearing children:

- (a) AMERICAN SIGN LANGUAGE;
- (b) ENGLISH-BASED MANUAL OR SIGN SYSTEMS; OR
- (c) ORAL, AURAL, OR SPEECH-BASED TRAINING.

**SECTION 3.** 22-20-108, Colorado Revised Statutes, 1995 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**22-20-108. Determination of disability - enrollment.** (4.7) (a) IN DEVELOPING AN INDIVIDUAL EDUCATIONAL PROGRAM PURSUANT TO SUBSECTION (4) OF THIS SECTION FOR A CHILD WHO IS DEAF OR HARD OF HEARING, IN ADDITION TO ANY OTHER REQUIREMENTS ESTABLISHED BY THE STATE BOARD, THE COMMITTEE SHALL CONSIDER THE RELATED SERVICES AND PROGRAM OPTIONS THAT PROVIDE THE CHILD WITH AN APPROPRIATE AND EQUAL OPPORTUNITY FOR COMMUNICATION ACCESS. THE COMMITTEE SHALL CONSIDER THE CHILD'S SPECIFIC COMMUNICATION NEEDS AND, TO THE EXTENT POSSIBLE UNDER PARAGRAPH (g) OF THIS SUBSECTION (4.7), ADDRESS THOSE NEEDS AS APPROPRIATE IN THE CHILD'S INDIVIDUAL EDUCATIONAL PROGRAM. IN CONSIDERING THE CHILD'S NEEDS, THE COMMITTEE SHALL EXPRESSLY CONSIDER THE FOLLOWING:

- (I) THE CHILD'S INDIVIDUAL COMMUNICATION MODE OR LANGUAGE;
  - (II) THE AVAILABILITY TO THE CHILD OF A SUFFICIENT NUMBER OF AGE, COGNITIVE, AND LANGUAGE PEERS OF SIMILAR ABILITIES;
  - (III) THE AVAILABILITY TO THE CHILD OF DEAF OR HARD-OF-HEARING ADULT MODELS OF THE CHILD'S COMMUNICATION MODE OR LANGUAGE;
  - (IV) THE PROVISION OF APPROPRIATE, DIRECT, AND ONGOING LANGUAGE ACCESS TO TEACHERS OF THE DEAF AND HARD OF HEARING AND INTERPRETERS AND OTHER SPECIALISTS WHO ARE PROFICIENT IN THE CHILD'S PRIMARY COMMUNICATION MODE OR LANGUAGE; AND
  - (V) THE PROVISION OF COMMUNICATION-ACCESSIBLE ACADEMIC INSTRUCTION, SCHOOL SERVICES, AND EXTRACURRICULAR ACTIVITIES.
- (b) TO ENABLE A PARENT TO MAKE INFORMED DECISIONS CONCERNING WHICH EDUCATIONAL OPTIONS ARE BEST SUITED TO THE

PARENT'S CHILD, ALL OF THE EDUCATIONAL OPTIONS PROVIDED BY THE SCHOOL DISTRICT AND AVAILABLE TO THE CHILD AT THE TIME THE CHILD'S INDIVIDUAL EDUCATIONAL PROGRAM IS PREPARED SHALL BE EXPLAINED TO THE PARENT.

(c) NO DEAF OR HARD-OF-HEARING CHILD SHALL BE DENIED THE OPPORTUNITY FOR INSTRUCTION IN A PARTICULAR COMMUNICATION MODE OR LANGUAGE SOLELY BECAUSE:

(I) THE CHILD HAS SOME REMAINING 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.

(d) NOTHING IN THIS SUBSECTION (4.7) 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 SUCH INSTRUCTION AS PART OF THE CHILD'S INDIVIDUAL EDUCATIONAL PROGRAM.

(e) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS SUBSECTION (4.7), NOTHING IN THIS SUBSECTION (4.7) MAY BE CONSTRUED TO REQUIRE THAT A SPECIFIC NUMBER OF PEERS BE PROVIDED FOR A CHILD WHO IS DEAF OR HARD OF HEARING.

(f) NOTHING IN THIS SUBSECTION (4.7) SHALL ABROGATE PARENTAL CHOICE AMONG PUBLIC EDUCATIONAL PROGRAMS AS PROVIDED IN SECTION 22-20-109 OR ARTICLES 30.5 OR 36 OF THIS TITLE OR AS OTHERWISE PROVIDED BY LAW.

(g) NOTHING IN THIS SUBSECTION (4.7) SHALL REQUIRE A SCHOOL DISTRICT TO EXPEND ADDITIONAL RESOURCES OR HIRE ADDITIONAL PERSONNEL TO IMPLEMENT THE PROVISIONS OF THIS SUBSECTION (4.7).

**SECTION 4. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 18, 1996

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*