What Does the Law Say About Communication Assessments?

Law: CFR 300.303(b)(2) “A reevaluation must occur at least once every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary.”

Discussion: All students must be reevaluated at least once every three years to ensure their educational program continues to meet their evolving needs. Communication modalities, access to language, use of assistive technology, and the impact of sensory differences on learning may change over time. Regular reevaluation is a critical opportunity to review the student's current functioning, identify new needs, and adjust services accordingly.

Law: TEC 30.083(a)(6) “Recognizing the need for development of language and communications abilities in students who are deaf or hard of hearing, but also calling for the use of methods of communication that will meet the needs of each individual student, with each student assessed thoroughly so as to ascertain the student's potential for communications through a variety of means, including through oral or aural means, fingerspelling, or sign language.”

Discussion: Students who are Deaf and Hard of Hearing (DHH), including those who are Deafblind (DB), require more than just evaluating their current communication modalities; it is crucial to also determine their capacity to develop language through various avenues such as oral/aural means, fingerspelling, and sign language. For students who are DB, it is especially important to assess how manual language is accessed. The Assessment of Deafblind Access to Manual Language Systems (ADAMLS) is a vital tool in determining how to provide accessible language input, guiding teams in selecting accommodations and modifications necessary to provide effective communication. Limiting evaluation to a single modality or only the currently used modality risks underestimating a student’s true capacity.

Law: TEC 29.310(c) “The procedures and materials for the assessment and placement of a student who is deaf or hard of hearing shall be in the student's preferred mode of communication.”

Discussion: Students who are DHH, including those who are DB, have the right to be assessed using their preferred mode of communication. Whether a student’s preferred mode is signed, spoken or a combination, assessment procedures and materials must be adapted accordingly.

Law: CFR 300.304(c)(1)(iv) “A public agency must ensure that assessments and other evaluation materials used to assess the child are administered by trained and knowledgeable personnel.”

Discussion: Assessment of students who are DHH, including those who are DB, must be conducted by professionals who are not only skilled in assessment practices but also have specialized knowledge of sensory disabilities. Trained personnel understand how hearing, vision, and communication differences impact a student's access to language development. Without this expertise, evaluation results may be skewed or invalid, leading to misidentification, inappropriate placement, or the denial of FAPE.

Law: CFR 300.304(c)(3) “A public agency must ensure that assessments are selected and administered so as to best ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those are the skills the test purports to measure).”

Discussion: Students who are DHH, including those who are DB, are entitled to assessments that reveal their actual strengths, not just the impact of their sensory differences. For example, if an assessor uses a test made for English-speaking children with a student who communicates using a sign language like American Sign Language (ASL) or a sign system like Signed Exact English (SEE), useful insights about how the student approaches tasks may be gleaned. However, the numerical data (the "score") would not be trustworthy because the test was not normed, or designed, for sign users. This means the score would not accurately reflect the student's abilities compared to the group for which the test was intended.

References

Blaha, R., & Carlson, B. (2007). Assessment of deafblind access to manual language (ADAMLS). DBLINK: The National Information Clearinghouse On Children Who Are DeafBlind. https://documents.nationaldb.org/products/ADAMLS.pdf

Code of Federal Regulations, 34 C.F.R. § 300.303 (current). https://www.ecfr.gov/current/title-34/subtitle-B/chapter-III/part-300/subpart-D/subject-group-ECFRcdd53b28839f370/section-300.303

Code of Federal Regulations, 34 C.F.R. § 300.304 (current). nnhttps://www.ecfr.gov/current/title-34/subtitle-B/chapter-III/part-300/subpart-D/subject-group-ECFRcdd53b28839f370/section-300.304

Texas Education Code, §29.310(c). (n.d.) *Procedures and materials for placement.* https://statutes.capitol.texas.gov/Docs/ED/htm/ED.29.htm

Texas Education Code, §30.083(a)(6). (n.d.) State and Regional Programs and Services. https://statutes.capitol.texas.gov/docs/ED/htm/ED.30.htm