

1 **DEAF OR HARD OF HEARING CHILD'S**

2 **BILL OF RIGHTS ACT**

3 1996 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Charles E. Bradford**

6 AN ACT RELATING TO EDUCATION; ESTABLISHING ASSESSMENT PROCEDURES IN
7 DEVELOPING INDIVIDUALIZED EDUCATIONAL PROGRAMS FOR STUDENTS WHO
8 ARE DEAF OR HARD OF HEARING; PROVIDING DEFINITIONS; AND PROVIDING
9 FACTORS FOR AN IEP TEAM TO CONSIDER IN DEVELOPING AN INDIVIDUALIZED
10 EDUCATIONAL PROGRAM FOR A DEAF OR HARD OF HEARING STUDENT.

11 This act affects sections of Utah Code Annotated 1953 as follows:

12 ENACTS:

13 **53A-26b-101**, Utah Code Annotated 1953

14 **53A-26b-102**, Utah Code Annotated 1953

15 **53A-26b-103**, Utah Code Annotated 1953

16 **53A-26b-104**, Utah Code Annotated 1953

17 **53A-26b-105**, Utah Code Annotated 1953

18 *Be it enacted by the Legislature of the state of Utah:*

19 Section 1. Section **53A-26b-101** is enacted to read:

20 **CHAPTER 26b. DEAF OR HARD OF HEARING CHILD'S BILL OF RIGHTS ACT**

21 **53A-26b-101. Title.**

22 This chapter is known as the "Deaf or Hard of Hearing Child's Bill of Rights Act."

23 Section 2. Section **53A-26b-102** is enacted to read:

24 **53A-26b-102. Definitions.**

25 As used in this chapter:

26 (1) "American Sign Language" means the visual/gestural language used by deaf people
27 in the United States and Canada, with semantic, syntactic, morphological, and phonological rules



1 which are distinct from English.

2 (2) "Deaf student" means an individual who has a hearing impairment which is so severe
3 that the student is impaired in processing linguistic information through hearing, with or without
4 amplification.

5 (3) "English sign systems" means sign systems, which use manual signs in English word
6 order, sometimes with added affixes which are not present in American Sign Language.

7 (4) "Hard of hearing student" means an individual who has a hearing impairment, whether
8 permanent or fluctuating, which is not included under the definition of deaf student in this section.

9 (5) "Individualized education program" or "IEP" means a written statement developed for
10 a student eligible for special education services pursuant to the federal Individuals with Disabilities
11 Education Act, 20 U.S.C. Section 1401(a).

12 (6) "Primary communication mode, style, and language" means that communication mode,
13 style, and language preferred by and most effective for a particular student, as determined by
14 appropriate language assessment undertaken by individuals proficient in the communication mode,
15 style, or languages being assessed.

16 Section 3. Section 53A-26b-103 is enacted to read:

17 **53A-26b-103. Development of program -- Factors to consider.**

18 (1) (a) In developing an individualized education program for those students who are deaf
19 or hard of hearing, the assessments necessary for the development of the program shall include a
20 language assessment performed for each student to determine the student's primary
21 communication mode, style, and language.

22 (b) Individuals proficient in the communication mode, style, or language being assessed
23 shall perform the assessment at the earliest possible appropriate age.

24 (c) The assessments shall have been validated for the specific purposes for which they are
25 used and shall be appropriately normed.

26 (2) Since the communicative social, emotional, and cultural needs and preferences of deaf
27 and hard of hearing students vary widely and deserve careful consideration, the language
28 assessment required for the development of an IEP shall consider:

29 (a) the primary means of communication to which a student is accustomed;

30 (b) the student's ability and opportunities to communicate with others, whether hearing
31 or not; and

1 (c) student preference for communication mode, style, and language.

2 (3) Because some students who are deaf or hard of hearing use American Sign Language,
3 while others prefer to express and receive English orally and aurally, with or without visual signs
4 or cues, and still others prefer to use a combination of language or communication modes, a variety
5 of options shall be made available when determining an appropriate program in order to meet the
6 individual needs of these students.

7 (4) An individualized education program team shall consider each of the following factors
8 in developing an IEP for a deaf or hard of hearing student:

9 (a) providing the student with personnel who are trained to work with deaf or hard of
10 hearing students, with teachers and interpreters being proficient in the student's primary mode of
11 communication, which may include American Sign Language or English sign systems or both;

12 (b) providing the student with an educational environment which includes other deaf or
13 hard of hearing students who are approximately of the same age and ability and with whom the
14 student can communicate with directly without assistance;

15 (c) providing the student with frequent opportunities to interact with adult role models who
16 are deaf or hard of hearing as part of the student's educational experience;

17 (d) providing the student with full access to all components of the educational process,
18 including recess, lunch, and extracurricular activities;

19 (e) that the determination of the least restrictive environment as used in state and federal
20 laws takes into consideration the unique communication needs of the deaf or hard of hearing
21 student; and

22 (f) developing the student's mode of communication to a proficiency and vocabulary equal
23 to that of hearing children of similar ages.

24 (5) Parents may ask advocates, deaf or hard of hearing, or others, to participate in the IEP
25 process for their children.

26 Section 4. Section 53A-26b-104 is enacted to read:

27 **53A-26b-104. Teacher certification.**

28 (1) (a) A teacher seeking certification to teach deaf or hard of hearing students who use
29 American Sign Language as their primary mode, style, and language shall demonstrate
30 competency in American Sign Language in order to become certified.

31 (b) Teachers who are instructing deaf or hard of hearing students who use American Sign

1 Language as their primary mode, style, and language as of the effective day of this chapter shall
2 demonstrate competency in American Sign Language within two years from that date.

3 (2) The competency standard shall be determined by the State Board of Education and
4 similar to those established for Level 3 interpreters for the deaf and hard of hearing under Title
5 53A, Chapter 26a, Interpreter Services for the Hearing Impaired Act.

6 Section 5. Section 53A-26b-105 is enacted to read:

7 **53A-26b-105. Implementation.**

8 (1) The State Board of Education, through the state superintendent of public instruction,
9 shall disseminate to all school districts and other local educational agencies which promote the
10 education of deaf or hard of hearing students information regarding the implementation of this
11 chapter, including procedures to fully inform parents of this chapter and services that would best
12 meet the educational needs of the child.

13 (2) The state board shall monitor the requirements of this chapter and may establish an
14 advisory council to assist it in that responsibility.

Legislative Review Note
as of 1-31-96 4:25 PM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel