



# LAWS FOR CHILDREN WHO ARE DEAF AND HARD OF HEARING

This section includes laws and best practice guidance as it pertains to children who are deaf and hard of hearing.



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# Laws and Policies for Children who are Deaf and Hard of Hearing

## Americans with Disabilities Act of 1990 (ADA) :

- Civil Rights law
- Forbids disability discrimination
- For any person in public and private places <https://www.ada.gov/>

## Section 504 of the Rehabilitation Act of 1973:

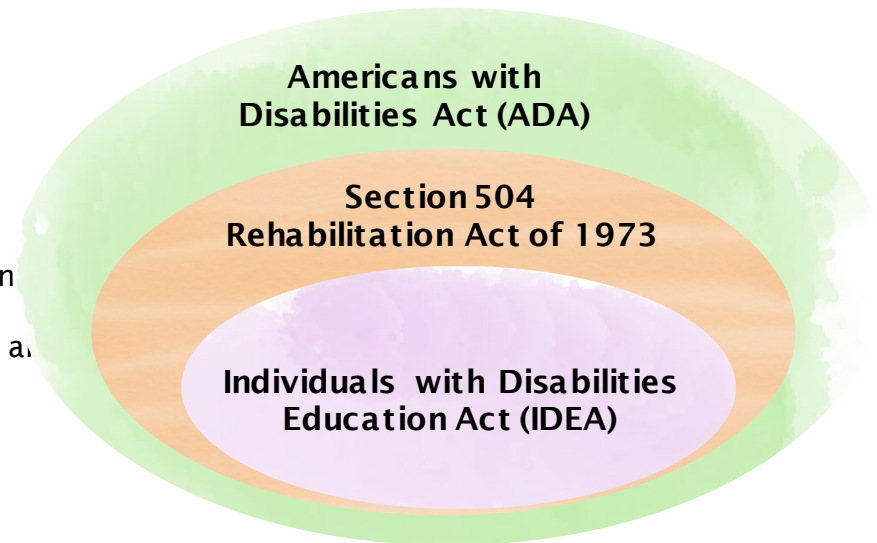
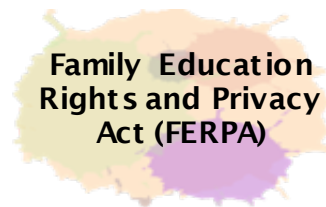
- Civil Rights law
- Forbids disability discrimination
- For both students and teachers at public and private schools that receive government funding <https://www2.ed.gov/about/offices/list/ocr/504faq.html>

## Individuals with Disabilities Education Act (IDEA):

- Federal Education funding law
- Entitles every child with a disability to a Free Appropriate Public Education (FAPE)
- Part C program is for children ages birth through 3 years. In Indiana, a called First Steps
- Part B section for children over 3 years. Indiana's law is called Article 7
  - <https://sites.ed.gov/idea/>
  - <https://www.in.gov/doe/students/special-education/laws-and-resources/>

## Family Education Rights and Privacy Act (FERPA):

- Confidentiality law
- Prohibits all students' school records from being shared without parent permission



All the laws work together to make sure your child who is deaf or hard of hearing is fully able to participate in public schools. Public schools, (including the Indiana School for the Deaf) must make sure that communication with students "with hearing, vision or speech disabilities is as effective as communication with all other students."

–As stated in a Dear Colleague letter sent to all states Department of Education from the U.S. Department of Justice and the U.S. Department of Education, Nov. 12, 2014

<http://www.nasdse.org/docs/nasdse-3rd-ed-7-11-2019-final.pdf>

<https://clerccenter.gallaudet.edu/national-resources/info/info-to-go/legislation-and-policies/laws-impacting-students.html>

# Indiana's Early Hearing Detection and Intervention (EHDI) Mandate

Indiana Code 16-41-17-2 states that "...every infant shall be given a physiologic hearing screening examination at the earliest feasible time for the detection of hearing loss."

At birth, your child received the Universal Newborn Hearing Screening (UNHS). Your child was referred for a hearing test

Birth facilities and hospitals are required to report screening results and referral information to the EHDI department at the Indiana State Department of Health each month.

Your child's hearing levels are confirmed by an audiologist

Diagnostic Audiological Evaluation form (DAE) sent to Early Hearing Detection and Intervention (EHDI)

DAE shared with CDHHE Network

Your child is referred to Indiana's Early Intervention system (First Steps)

Referral to the CDHHE Network

Your family will get services that help meet your desired goals. *This should happen before your child is 6 months old, per EHDI goals*

Audiologists are required to report children who are diagnosed or found to be deaf and hard of hearing to the EHDI program. They submit a Diagnostic Audiological Evaluation (DAE).

Some children are found when they are older for various reasons:

- Lack of follow up from Universal Newborn Hearing Screening (UNHS)
- Late onset hearing loss due to illness or trauma
- Hearing loss that progresses overtime

The phrase or term **deaf or hard of hearing (DHH)** includes all degrees and types of hearing levels outside of the normal hearing range. It applies to children and adults with any age of onset.



# Process for Getting Early Intervention Services

1 Your First Steps referral is given to a Service Coordinator (SC). Your SC will contact you to schedule a meeting.

2 At the meeting with the SC, they will start the paperwork needed to enroll your family in First Steps. You may have a staff member there to learn about potential services and specialists.

3 First Steps schedules an evaluation that will occur in your home.

4 Your child's Individualized Family Service Plan (IFSP) is written for services. These services are designed to meet your family's desired outcomes. Outcomes are also based on the evaluation findings and language needs.



A doctor needs to sign the initial IFSP

**Early Intervention (EI)** is the services and supports that are available to babies and young children up to three years old. These are given to children and their families that have developmental delays. Services may include Audiology, Developmental Therapy- DHH, Parent Education (Parent Advisor), Speech-Language Therapy, Deaf Mentor services, Occupational Therapy, Physical Therapy. The services are based on the needs of the child and family. Indiana calls their EI Program, First Steps.

<https://www.in.gov/fssa/4655.htm>

A **Service Coordinator (SC)** is your one point of contact for all services through First Steps. Your SC can help identify resources in your community and coordinate transition.

Children identified as deaf and hard of hearing are eligible for First Steps and can receive services. These children are at risk for developmental delays. They need specialized early services.

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# Starting Early Intervention Services Through Indiana's First Steps Program

A First Steps assessment is family-directed. It will reveal your concerns. It can help you find resources and set priorities for your child. You can choose to participate in a First Steps evaluation.

Your child's evaluation and initial IFSP will occur within 45 days of the referral. It will include several professionals. Providers will come to your home and look at your child's skills in all areas. The providers are trained and can use their clinical judgment. They will review health and audiology data. The process will meet your child's unique needs. It will identify the services your child needs to meet your goals.

The assessment must:

- Be conducted by trained people using proper methods and processes.
- Contain information gotten through family interview.
- Include the family's description of its resources, priorities, and concerns.
- Focus on supporting the child's development.
- Be given in the language of the home.



## Individualized Family Service Plan (IFSP)

When the evaluation process is finished, you will have an IFSP meeting. Your IFSP paperwork will have:

- What type of services your child will receive.
- How often each service will happen (frequency).
- How long each service will be (length of sessions).
- Where the services will happen (location).
- What you will pay in exchange for services (sliding scale).
- When the services will start.
- Goals and benchmarks.

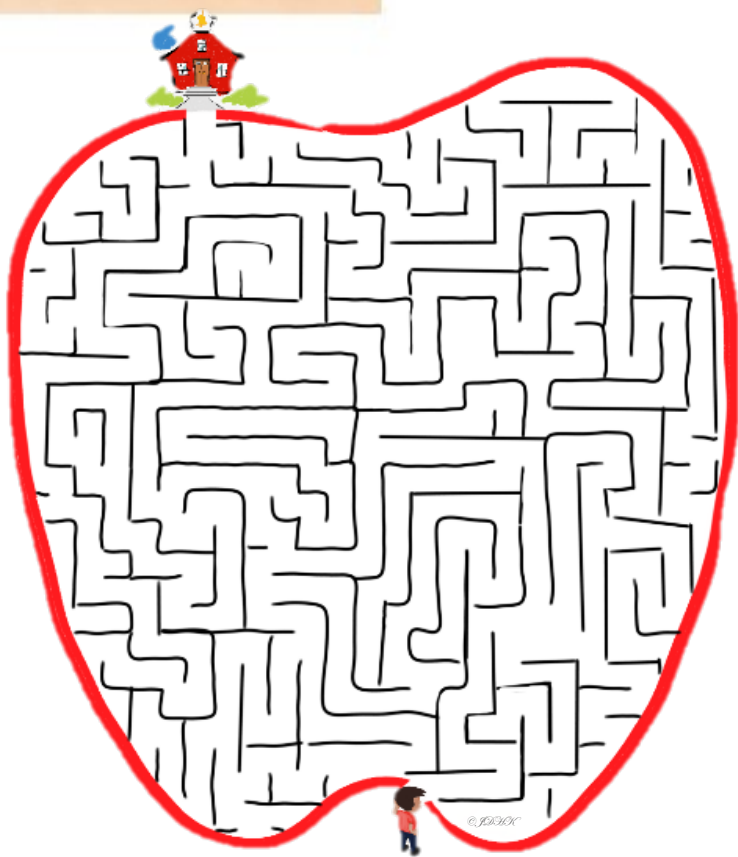
The CDHHE Network providers specialize in working with deaf and hard of hearing children. These DHH experts understand your child's language needs.

A meeting must be conducted at least once a year. The meeting will discuss continued eligibility and review the IFSP. Your annual IFSP meeting will review your child's needs and your family's goals. Your child will grow, learn, and change during the year. Your IFSP may need more frequent revising. Any current assessments available must be used in deciding what services will be given to meet your child's needs.

[A Parents Guide to Deaf and Hard of Hearing Early Intervention Recommendations \(2017\)](http://www.handsandvoices.org/resources/jcih-parent-guide.html)  
<http://www.handsandvoices.org/resources/jcih-parent-guide.html>

# Transition from Part C to Part B

On or before your child's third birthday, your child's First Steps services will stop. Your child may start a new program or service. This program change is called transition. You will begin to work with different agencies when your child is three years old. The rules and guidelines focus on your child, rather than on your family and child. Services may include early childhood special education and/or community programs.



To begin the process, you will have a transition meeting. This meeting happens when your child is around 30 months of age. You will need to approve who can come to the meeting. At the meeting, you will be asked to sign consent for an evaluation. The evaluation results are needed to decide if your child will receive school support and services.

Your child's transition meeting will have the First Steps Service Coordinator and school early childhood staff in attendance. You may also invite:

- Other family
- First Steps providers
- Staff from preschool programs you think your child might attend
- Staff from the Center

To help you, the Center provides information, resources, and services to support you and your child as they transition to another program. The Center is available to ensure all deaf and hard of hearing children in Indiana learn, grow, and progress to the best of their abilities.



# Procedural Safeguards parent rights under IDEA and Article 7



## **1 Procedural Safeguards Notice**

The school must provide guardians with a written explanation of parent rights under both IDEA and Indiana Article 7. Guardians get printed or electronic notice of procedural safeguards. Guardians may ask for a verbal explanation.



## **2 Parent Participation**

Guardians have a legal right to take part in meetings about their child's education, including IEP meetings. Guardians may request an IEP team meeting at any time.



## **3 Access to Educational Records**

Guardians have the right to see and get an explanation of their child's school records. Guardians can also ask for any updates. These rights are protected by IDEA and the Family Educational Rights and Privacy Act (FERPA).



## **4 Confidentiality of Information**

The school must protect children's confidentiality. This includes personal information, such as a child's name, address, social security number, and other personal details.



## **5 Informed Consent (or Parental Consent)**

The school must tell guardians what is involved in evaluating a child. They must do this before evaluating a child or providing special education services for the first time. Guardians need to give permission in writing before the school can move forward.



## **6 Prior Written Notice**

The school must give written notice to guardians before changes are made to a child's special education plan. This includes when there may be discussion about adding or denying services. The school must tell guardians what is proposed and why.



## **7 Understandable Language**

Written notice must be in a language that's understandable to the general public. The notice must also be in guardian's native language (this includes Braille).



## **8 Independent Educational Evaluation (IEE)**

Guardians have a right to an IEE if they question the school's evaluation results. An IEE is an evaluation of a child's skills and needs by someone who is not a school employee. The school must consider the results of the IEE. However, the school is not required to accept the findings.



## **9 "Stay Put" Rights**

Guardians may disagree with a proposed change to a child's IEP services or placement. The "stay put" protection keeps a child's current IEP in place while the case conference committee works things out.



## **10 Dispute Resolution Options**

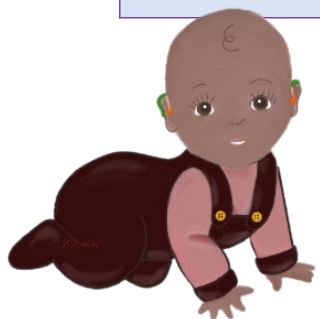
Guardians have the right to disagree with the school. IDEA and Indiana Article 7 give several options if guardians disagree. Families can negotiate and talk things out with the school, or they can use the mediation process, where a neutral third party helps to try to resolve a dispute. Guardians also have the right to due process. Due process starts with a written complaint and ends with a decision after a hearing. Finally, guardians can file a complaint with the state if they feel school is violating Article 7.



# Early Intervention Services Compared to School-Based Services

## Individual Family Service Plan (IFSP) vs Individualized Education Plan (IEP)

IDEA Part C	IDEA Part B
Birth to age 3	Age 3 through school exit
Includes the family's needs	Focuses on child's needs
Services provided in natural environment(s)	Services provided at school
Families have a Service Coordinator (SC)	Student has a Teacher of Record (TOR)
IFSP reviewed every 6 months	IEP reviewed every year
IFSP Team makes decisions	IEP Team makes decisions

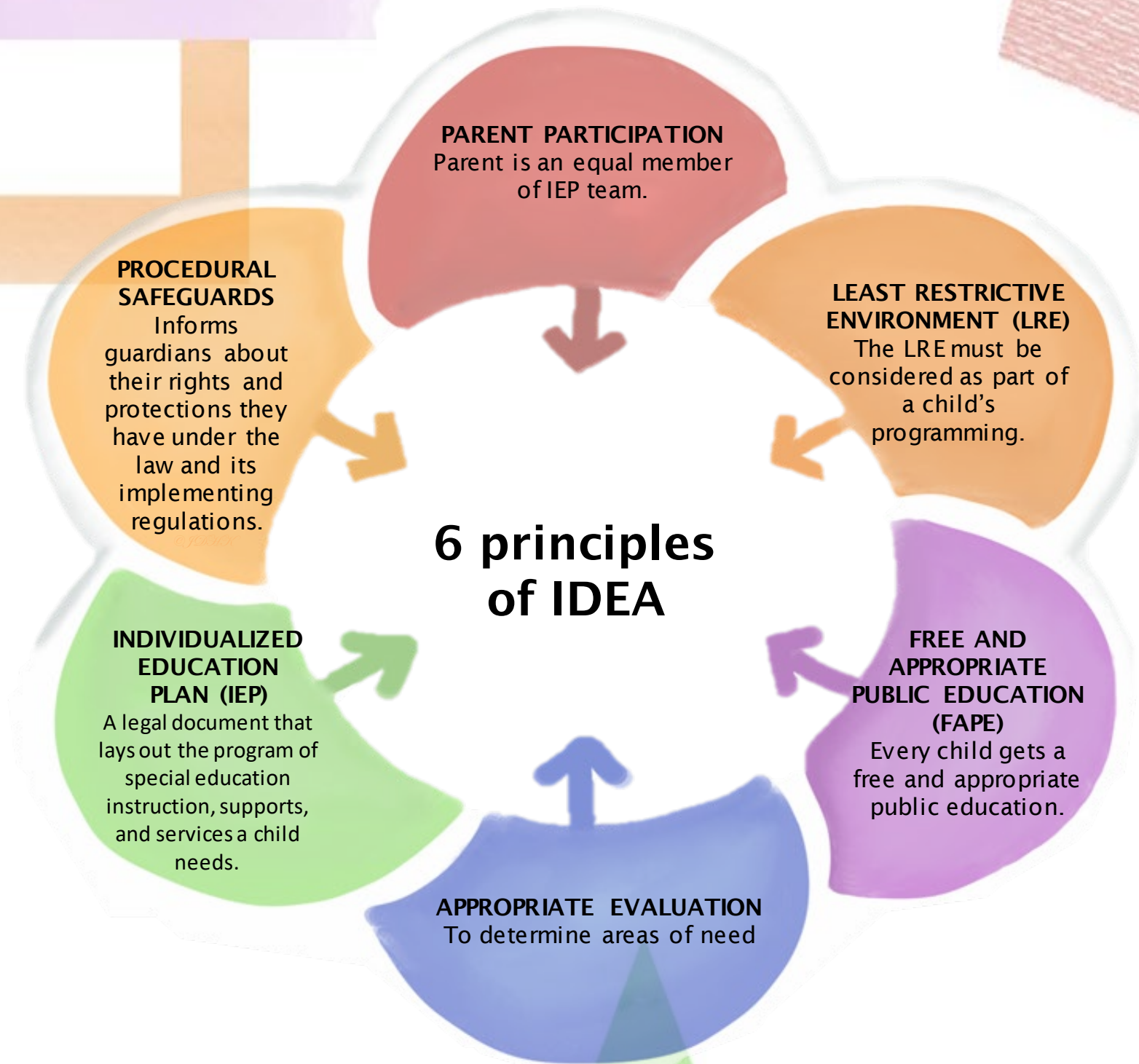


The rules to qualify for school services are different than the rules used to qualify for First Steps. The child will need to be evaluated to gather the data needed. The IEP Team, also called the case conference committee (CCC), will use the data to decide if the child needs school-based services. Guardians are part of the CCC. This initial evaluation and case conference (CC) must occur before the child's 3rd birthday.



The term **guardian** includes people who have the legal authority to make decisions for the child. This could be a parent, educational surrogate, foster parent, guardian ad litem, etc.

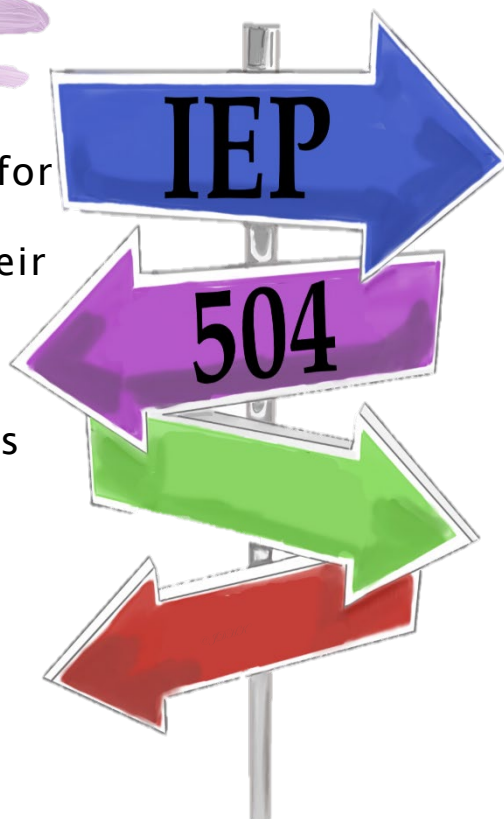
**Guardians may decide that they do not want an evaluation or services for their child.**



# IEP and 504 Plans for Children Who are Deaf and Hard of Hearing?

## 504 Plan: Civil Rights Rehabilitation Act of 1973

- Section 504 is under the Office for Civil Rights (OCR)
- A child can have a 504 Plan if their hearing impacts a major life function
- A 504 Plan will afford a child with accommodations and services access to school programs
- An individual can have a 504 Plan at any age
- An individual with a diagnosed hearing loss is eligible for a 504 Plan



## IEP: Individuals with Disabilities Act (IDEA)

- IDEA is under the Department of Education (DOE)
- A student can have an IEP if
  - They meet IDEA requirements
  - Their hearing negatively impacts their education
  - Their needs require specialized services
- An IEP will afford students with specialized education services, accommodations, and related services
- A student can have an IEP until they exit public school or the CCC determines the child is ineligible



# Educational Evaluations Process

Educational evaluations help find out if students are eligible for school-based services. Evaluators should have training and experience testing children who are deaf and hard of hearing.



## Initial evaluations will include:

- Social Developmental History
- Adaptive Behavior
- Pre-academic/academic skills
- Communication/language skills
- Audiological report
- Observation of child in natural/classroom setting
- Additional areas based on needs

## The evaluation team will at least include:

- School Psychologist
- Speech-Language Pathologist
- Teacher for the Deaf and Hard of Hearing
- Optimal: Audiologist

Children may have more professionals (e.g., ASL specialist, occupational therapist (OT), physical therapist (PT)) working with them.

## A re-evaluation may occur:

- To determine if the child's needs have changed.
- If there's a concern that the child needs additional services.
- For progress monitoring purposes; to gather updated baseline information.
- To determine if the child qualifies for additional special education services.

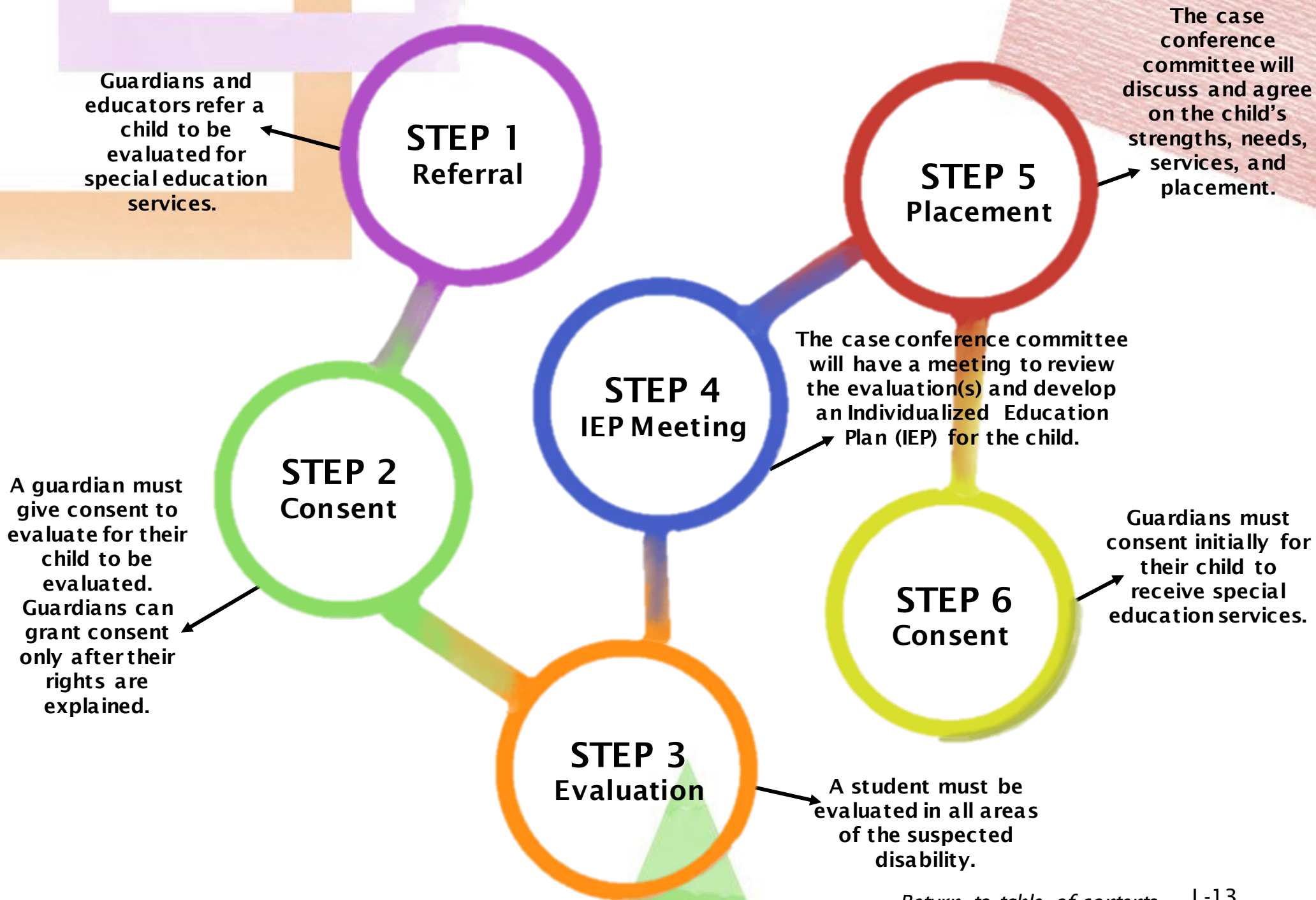
Guardians may be asked to complete checklists. Staff may observe the child. A child may participate in informal and/or formal testing. The evaluation will be able to paint a picture of the child's strengths and identify areas of need.

There are specific timelines that schools must follow. Timelines vary based on the reason for the evaluation.

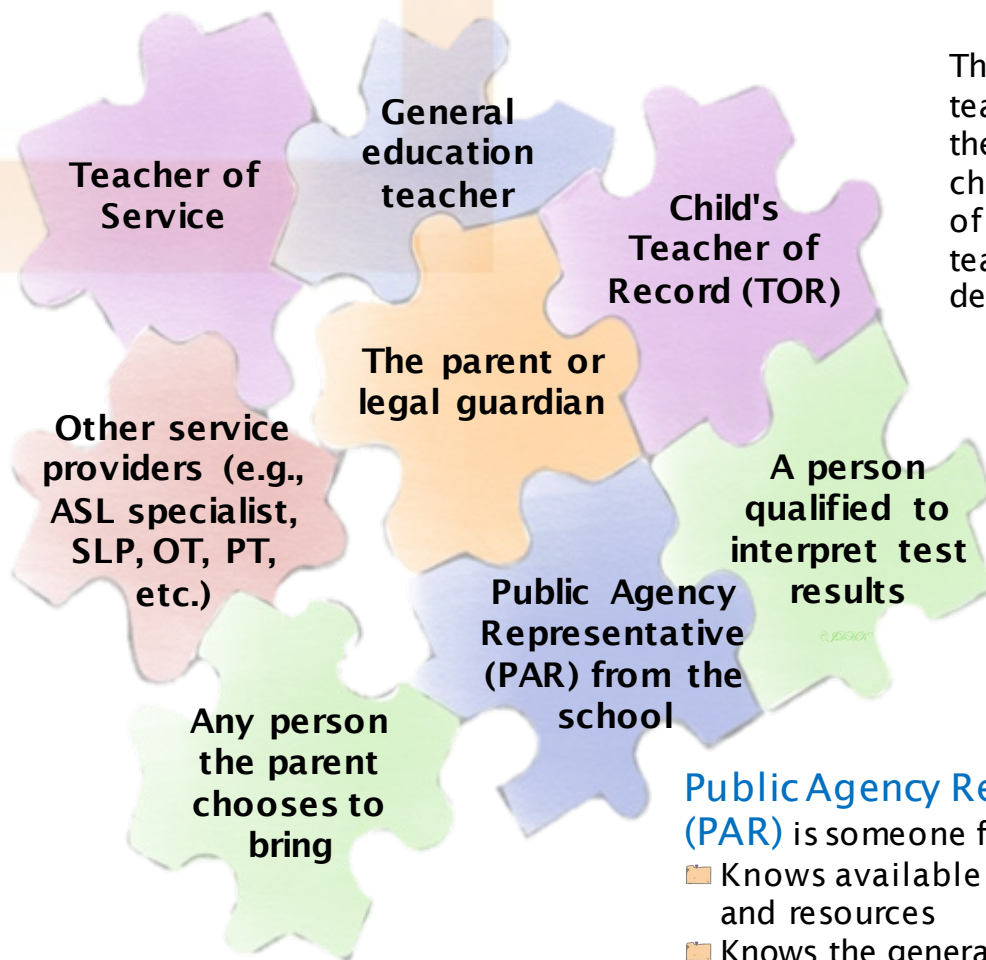
Guardians can request a meeting prior to the case conference to have the test results explained to them. They may also request more testing at any time.



# Educational Evaluation Process



# Case Conference Committee (CCC) or IEP Team



The **Teacher of Record** is a teacher trained and licensed in the suspected area of need. For children who are deaf and hard of hearing, the TOR is likely a teacher of students who are deaf and hard of hearing.

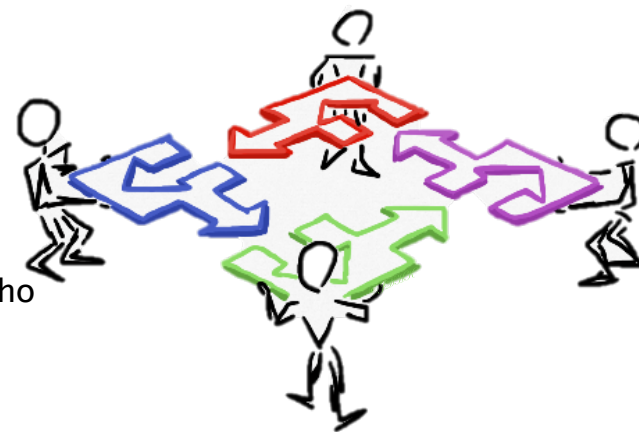
Decisions made at the IEP meeting (or case conference) are made as a team. No one person/entity can make decisions without CCC consensus.

The CCC will meet at least annually. Guardians can request a case conference at any time.

## Public Agency Representative (PAR)

(PAR) is someone from the school who

- Knows available services and resources
- Knows the general education curriculum
- Has the authority to approve services and supports
- Can provide or supervise the provision of special education services



# Basic Parts of the IEP

- Child's information (name, address, date of birth, etc.)
- Meeting purpose
- Testing results, progress monitoring information
- Student strengths
- Concerns of parents
- Eligibility information
- Special considerations for communication and language
- Accommodations for educational environment and statewide assessment
- Annual goals
- Special Education Services
- Related services
- Assistive technology (e.g., HAT)
- Extended school year services (ESY)
- Emergency evacuation plan (if applicable)
- Health plan (if applicable)
- Placement (Least Restrictive Environment)
- Staff in-service training

## Hearing Assistive Technology (HAT)

Hearing Assistive Technology (HAT) are devices that support access to sound. They can overcome distance, background noise, and reverberation. Some of the most used HAT are Frequency Modulation (FM) systems, Digital Modulation (DM) systems, Bluetooth, Infrared systems, Audio Induction Loop systems, and other accessories to couple prescribed hearing devices to media such as phones, music players, computers, and tablet devices.

An **Individualized Education Plan (IEP)** is the legal paperwork created by the IEP Team/Case Conference Committee (CCC). It addresses the child's needs in the educational environment.

## Assistive Technology (AT)

AT is defined as any device, piece of equipment or system that helps bypass, work around, or compensate for an individual's specific learning needs.



A parent's guide to IEP Planning can be found at <http://www.handsandvoices.org/IEPmeetingplanner>

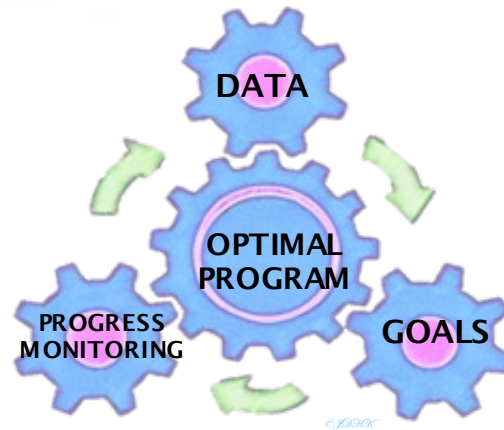


# Additional IEP Details

**Data** is information from testing and functional assessments.

**Goals** are created based on data. Goals must be measurable and address areas that need improvement.

**Progress Monitoring** is regular informal and formal data collection. It shows how much progress the student has made toward meeting goals and objectives. Parents can expect progress reporting.



**Benchmarks** are objectives, checkpoints, or steps needed to meet a goal

**Provisions** are supports (services and related services) needed to work on goals and meet the student's needs.

**Services** are special instruction provided by the public schools at no cost. They can be provided in the educational environment, at home, in hospitals, institutions, or other settings

**Related Services** are services necessary to allow the student to benefit from their education such as occupational therapy (OT), physical therapy (PT), an educational interpreter (EI), educational audiology, CART, transportation, etc.

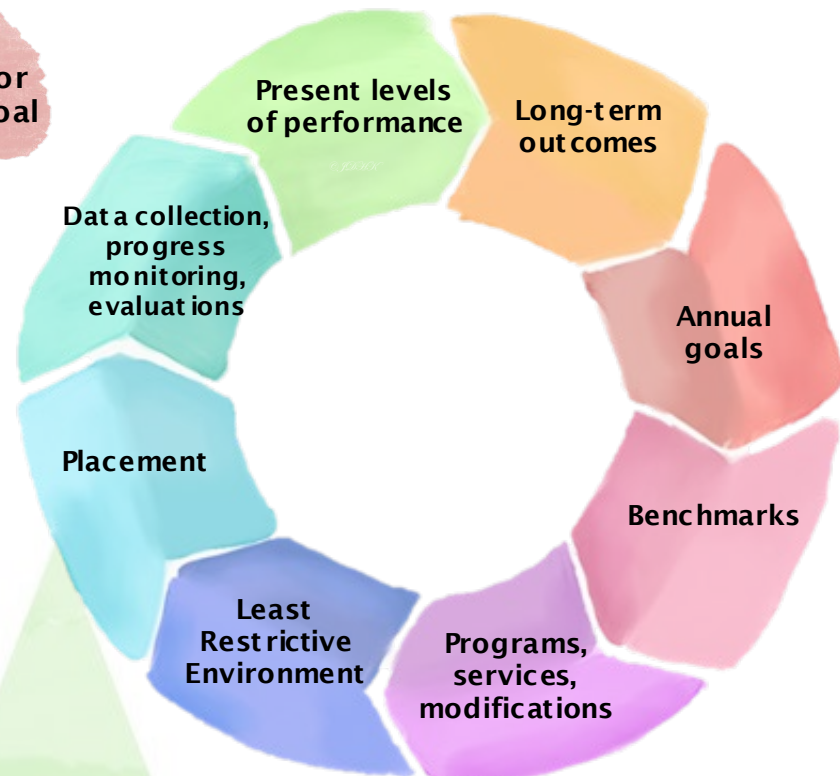
Students who are deaf and hard of hearing may need instructional or testing accommodations to be able to access the educational setting.

**Accommodations** ensure equal access similar hearing peers without changing curriculum or assessments. Accommodations may include changes in the environment, curriculum, and how assignments/tasks will be completed. Examples are:

- Strategic seating
- Checking often for understanding
- Use of Hearing Assistive Technology (HAT)
- Extended time on assignments/tasks
- Allowable sections of tests read/signed to student
- Use of specialized materials
- Closed -captioning on visual media

Additional accommodations can be found at

[https://www.handsandvoices.org/pdf/IEP\\_Checklist.pdf](https://www.handsandvoices.org/pdf/IEP_Checklist.pdf)





# Considerations of Special Factors and Adverse Effects



A child's disability must have an adverse effect on their education to receive special education service. **Adverse effect** means there must be a relationship between the child's disability and academic performance. Students who are deaf and hard of hearing have additional areas that need to be considered due to the overall educational impact their hearing levels have on school access, performance, and outcomes. When determining eligibility for special education services, school teams should consider:

- Academic performance
- Audiological/visual access factors
- Functional listening/vision
- Language
- Personal adjustment and transition
- Social and emotional needs
- Use of personal or Hearing Assistive Technology (HAT)
- Vocabulary
- Vocational performance

To find out about this topic, see this guide:  
<http://successforkidswithhearingloss.com/wp-content/uploads/2012/12/Support-for-Showing-Adverse-Educational-Effect-Due-to-Hearing-Loss.pdf>

IDEA requires **Consideration of Special Factors** for some situations when creating an IEP. Students who are deaf and hard of hearing need to have the following unique language needs considered when creating their IEP

- Language and communication needs
- Opportunities for direct communication with peers and professional personnel in the student's language and communication mode
- Academic level
- Full range of needs; including opportunities for direct instruction in the student's language and communication mode

This worksheet helps the CCC ensure all special factors in the law are documented in the IEP:  
<https://www.in.gov/health/cdhhe/files/Consideration-of-Special-Factors-fillable.docx>



# Placement Considerations

The Case Conference Committee will determine a child's placement, or Least Restrictive Environment (LRE), based on the needs and services discussed during the IEP process. All placement and LRE options should be discussed and considered during the case conference. Families are encouraged to visit all placement options for their child. A student receiving special education services should be educated with typical peers to the extent possible. Considerations of special factors may impact placement options.

Placement possibilities may include a full continuum of options with supports including:

- General education classroom
- Resource room
- Separate special education classroom
- Separate public or nonpublic nonresidential school or facility (e.g., Indiana School for the Deaf, local school programs, St. Joseph Institute for the Deaf, etc.)
- Public or nonpublic residential school or facility (e.g., Indiana School for the Deaf)
- Homebound or hospital setting



General education classroom considerations:

- ★ General education classrooms are set up for typical hearing students. This includes language and curricular design. It also includes the use of phonics to teach reading.
- ★ Language-rich classrooms encourage children to develop social language, academic language, reasoning skills, and numeracy.
- ★ Children lacking language skills or opportunities to fully engage using language are at high risk of failure when the environment does not match their strengths and needs.
- ★ A general education setting could be more restrictive for children who are deaf and hard of hearing. This occurs when a student who is deaf or hard of hearing is not given appropriate access. This access includes classroom curriculum and instruction.

For more information, visit <https://www.ceasd.org/wp-content/uploads/2019/10/What-Constitutes-the-Least-Restrictive-Environment-for-a-Deaf-or-Hard-of-Hearing-Student.pdf>

# Roles and Responsibilities of Personnel Serving Children who are Deaf and Hard of Hearing

Services should be provided by qualified professionals with specific experience and background working with children who are deaf and hard of hearing. Personnel may include:

## Teachers of students who are Deaf and Hard of Hearing (TODHH)

Teachers of students who are deaf or hard of hearing are important for a child who is deaf or hard of hearing's education. They assist with the provision of appropriate evaluations and educational programming. The TODHH will help with planning and ensure student-centered instruction. They are essential to the student's achievement of their academic, linguistic, and social-emotional potential. Qualified TODHH work with the educational team to meet the requirements of the IEP.

### ● CEC Position Statement

[https://dcdcec.files.wordpress.com/2020/03/dccd\\_position\\_statement\\_tagged.pdf](https://dcdcec.files.wordpress.com/2020/03/dccd_position_statement_tagged.pdf)

### ● CEC Professional Standards

● <https://exceptionalchildren.org/standards#:~:text=The%20Council%20for%20Exceptional%20Children,accreditation%20organizations%2C%20and%20credentiaing%20agencies.Indiana Content Standards>

● <https://www.in.gov/doe/files/exceptional-needs-deaf-hard-hearing.pdf>

**Speech-Language Pathologists (SLP)** are professionals that work with children who are deaf or hard of hearing. They provide speech and language evaluations. An SLP will provide therapy and consultative services as determined by the IEP team. They focus on speech and language development. This can include reading and writing. <https://www.asha.org/public/who-are-speech-language-pathologists/>



For more information about the specialized roles for SLPs and TODHH when working with children who are deaf and hard of hearing:

<http://successforkidswithhearingloss.com/wp-content/uploads/2014/07/Roles-of-SLPs-and-TODs.pdf>

Visit *Optimizing Outcomes for Students who are Deaf and Hard of Hearing: Educational Service Guidelines* p. 67 for more detail on professional roles <http://www.nasdse.org/docs/nasdse-3rd-ed-7-11-2019-final.pdf>



## **American Sign Language Specialist**

is a person who is Deaf and a native American Sign Language user. They provide cultural and linguistic expertise and language services to students who are deaf and hard of hearing and their families. They also work with a Speech-Language Pathologist to provide ASL assessments for students who are deaf and hard of hearing. The ASL Specialist analyzes, adapts, modifies, and/or creates teaching and assessment material. They consult with Teachers of the Deaf and Hard of Hearing.

## **CART Provider**

CART stands for Communication Access Realtime Translation. CART services provide text support to spoken information. The person typing what is being said is a CART provider or captioner. This can be done by an in-person or remote captioner.

## **Educational Audiologists**

are trained to identify a child's hearing, listening, and auditory processing skills to understand their access to learning through audition. The role may vary from one educational setting to another. The Educational Audiologist may provide assessments and screenings. They may also work with a child's hearing aid and provide listening therapy.

Recommended roles:

<https://successforkidswithhearingloss.com/wp-content/uploads/2014/07/Roles-of-Educational-Audiologists-EAA-Position-Statement-2015.pdf>

**Educational Interpreters** provide sign language translation or transliteration based on the decision of the IEP team. Since the interpreter observes and provides access for the student daily, they are an integral member of the IEP team. Educational Interpreters must be competent in both expressive and receptive skills and matched to the communication language and approach used by the student. In Indiana, Educational Interpreters must have a score of 3.5 or higher on the Educational Interpreter Performance Assessment (EIPA) or be nationally certified through the Registry of Interpreters for the Deaf

[http://www.in.gov/legislative/iac/iac\\_title?iact=511&iaca=18](http://www.in.gov/legislative/iac/iac_title?iact=511&iaca=18)

**Interveners** are professionals who have received specialized training to work with people who are deafblind. They help the person with deafblindness gain access to environmental information and facilitate communication. They help promote social and emotional development. <https://indbervices.org/images/forms/IntervenerTrainingBrochure.pdf>

**Language Facilitators** facilitate communication between the student who is deaf or hard of hearing and school staff and peers. Language facilitators do not hold educational interpreter certification.

## **Listening and Spoken Language (LSL) Specialists**

are either teachers of the deaf, speech-language pathologists, or audiologists who are specially trained and certified to develop listening and spoken language for children who are Deaf or Hard of Hearing. An LSL Specialist follows developmental models in listening, language, speech, social, and thinking skills. LSL Specialists support and coach parents and caregivers to learn how to teach their children spoken language naturally at home. They may also work in school settings, especially at preschool and elementary levels, to develop spoken language skills that support school-age reading and academics.



**FAMILY**

**SUPPORTS**

**LAWS**

**COMMUNICATION**

