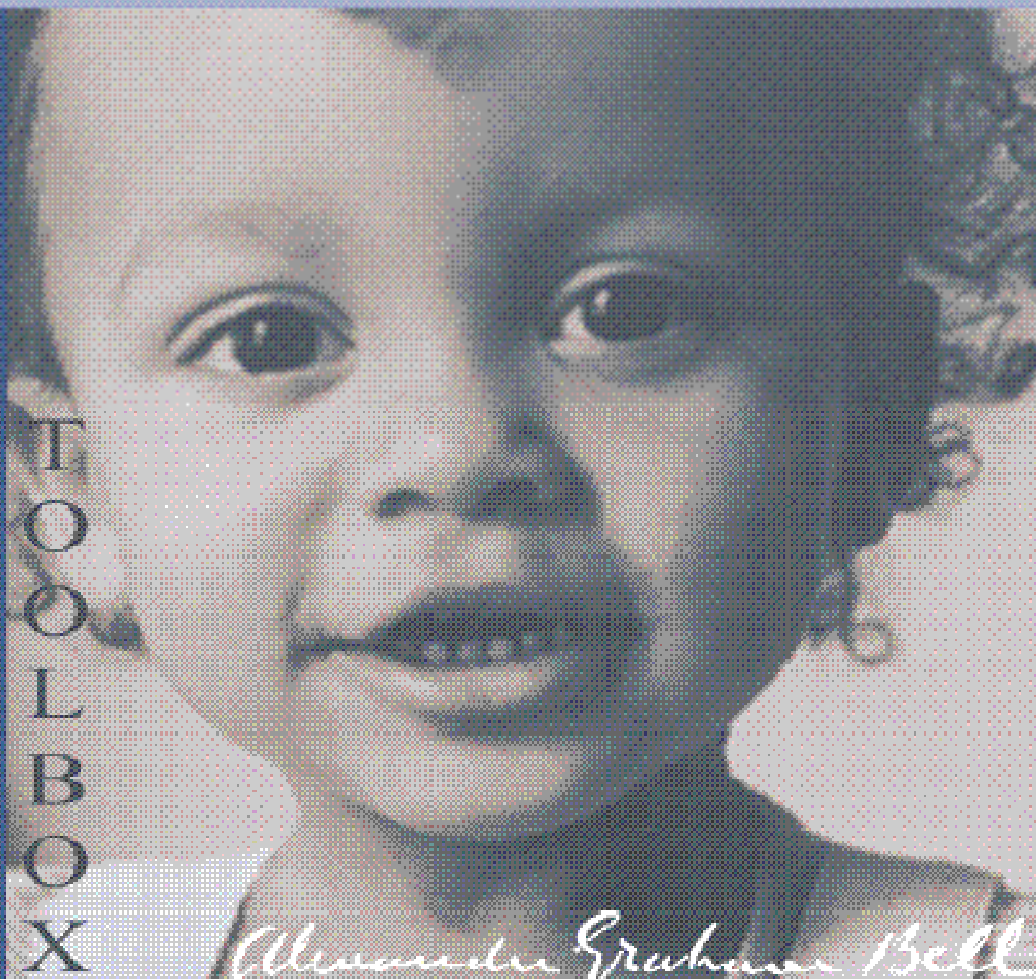


PARENT ADVOCACY  
TRAINING



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*Alexander Graham Bell*

# Parent Advocacy Training (PAT)

Online module will be available in  
August 2010 at [AGBell.org](http://AGBell.org)

# Parent Advocacy Training

- Revamped with funding from Oticon because hh/d children who use spoken language are often not provided with appropriate accommodations
- Purpose: Helping parents become stronger advocates for their children living with hearing loss as they work with local school districts and service providers

# Parent Advocacy Training (PAT)

Special thanks to AG Bell, Oticon, Bruce Goldstein, Sarah Seaburg, and Lisa Kovacs

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Executive Director for Hear Indiana

# Legal Framework

## IDEA- Individuals with Disabilities Education Act

- Education Law
- IFSP- Individualized Family Service Plan (ages 0-35 mos.)
- IEP- Individualized Education Plan (ages 3-21 yrs.)
- Disability must impact learning
- Parents play a critical role

## ADA- American's with Disabilities Act

- Discrimination Law
- Disability without mitigation (or without amplification) must impact access
- Section 504 of the Rehabilitation Act
- 504 Plan – the document is more vague and ambiguous than an IEP

# IDEA and the IEP Process



- IDEA is a federal law
- Provides for a Free Appropriate Public Education (FAPE)
- Parents play a key role

## Focusing on IDEA

- Part C Services (0-35 mos.) Our Early Intervention System is called First Steps. It is governed by Article 3.1. In Indiana, Part C is administered by the Family and Social Services Administration (FSSA).
- Part B Services (age 3 – 21yrs.) Our local school districts receive ~\$8,300 per child with and IEP for hearing loss. In IN, Part B is administered by the Dept. of Education under Article 7.

# IFSP

- Children in Indiana are eligible as soon as the hearing loss has been confirmed
- Eligible due to sensory impairment placing them at high probability of delay (doctor's signature and audiologist's report required.)
- Based on the parent driven Outcomes, the Eligibility Determination (ED) Team determines need (duration and frequency) of services
- Services must be provided in a “natural environment”- of which there are many.
- Services are developmental not medical.



## First Steps Timelines

- Within 45 days of referral, a child must be evaluated and the IFSP meeting must be held.
- An individual provider should begin services within 30 days of IFSP date.
- Review of IFSP every 6 months or whenever you request a review
- Annual re-evaluation in child's "native language" and child's "mode of communication"
- Written notice of meeting at least 10 days prior
- Transition conference with school personnel held 90 days- 9 mos. before 3<sup>rd</sup> birthday

A stylized illustration of two hands shaking, rendered in shades of blue, positioned behind the text. The hands are reaching towards each other from the left and right sides of the frame, with fingers slightly curled as if in a firm grip.

# Focusing on Part B of IDEA

The IEP Process

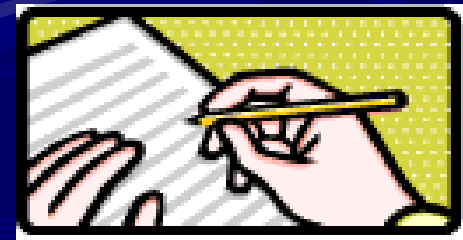
# Steps to Create an IEP

1. Identification of the child
2. Evaluation of the child
3. Developing the plan (IEP)
4. Implementing and evaluating the plan (IEP)



# Identification of the Child

- Schools must identify each child
- Parents can have some control by taking the first step
  - Make a request in writing
  - List every issue
  - Read literature and talk with service providers to determine possible delays or problems



# Evaluation of the Child

The evaluation must assist in determining:

- ✓ Whether the child has a disability
  - ✓ Eligibility/educational impact and deficits
- ✓ All potential problems
- ✓ The educational needs of the child

# Evaluation of the Child

- Initial Evaluation
  - 60 days to complete
  - Screening is not Evaluation
  - Evaluation copies must be share with parents
    - Entitled to a copy of the report
    - Request it in advance of IEP Meeting (aka Case Conference)
    - Always put your requests in writing.

# Re-evaluation Time Frames

- Maximum of once per year
- Minimum of every three years
  - District must notify the parent in writing if they choose not to do new testing
  - Parents have the right to require that new testing be done
  - District can move forward with re-eval if parent ignores requests repeatedly

# Evaluation Continued

- Re-evaluations

- The School District must consider parents' concerns (1 eval per year is typical)
- You have the right to request additional testing
- School has the right to request a re-eval but they must obtain parental consent
- Either party has the right to pursue a hearing if both do not agree on need for re-eval



# Requirements for the Evaluation

- Tests may not be discriminatory
- Must be child's native language
- Variety of assessment tools must be used
- May (and should) include information from parents
- Tests should be given by personnel who are properly trained

## Requirements for the Evaluation

- Test for educational need, not intelligence
- Reflect needs based on disability and other educational needs
- No single evaluation factor, e.g. grades
- Technically sound instruments



# Independent Education Evaluation (IEE)

- You can request the school district to pay for additional testing by independent professional
- The IEP team must consider the request
- The school can select the evaluator
- When an IEE demonstrates additional significant info the school should be responsible for the fee, but...
- You or the school district can initiate a hearing to dispute who pays the fee

# Options if the team says “NO” to IEE

## Pay fee for IEE yourself

- Send the evaluation with the bill.
  - School district can pay the bill or take you to a hearing
  - If the evaluation offers significant additional info, school will have to pay
  - If you get the evaluation done first then you can decide whether or not to share it with school

## Or Go to a Hearing over fees before or after the IEE

- Judge will determine if the evaluation done by the district was appropriate
  - If deemed inappropriate, then the school will have to pay for the independent evaluation.

# Developing the IEP

- The Team includes the parents and the school district representative(s)
- must be considered by the team:
  - Strengths of the child
  - Concerns of the parents
  - Evaluation results
  - Child's academic, developmental, & functional needs



# The IEP Team Consists of...

- Parents
- Regular Ed. Teacher and Special Ed. Teacher
- Local Education Agency (LEA) Rep-
  - eg. The person who oversees Special Ed in District
- Someone to review evaluation results
- One person may fill more than one role
- Anyone else the parent or LEA would like to invite (e.g., LSLS Cert AVT or AVEEd)

# GETTING READY FOR THE IEP

- You need to know for what you are asking and back it up in writing
- Do what you can to understand the district's point of view
- [www.wrightslaw.com](http://www.wrightslaw.com) Created by a parent & has lots of free legal information regarding special education.
- [www.nasdse.org](http://www.nasdse.org) – Deaf Education Initiative webpage you can order a guide called, “Meeting the Needs of Students who are deaf/hh” for \$25.
- More at [HearIndiana.org/advocacy](http://HearIndiana.org/advocacy)

## During the Meeting: Ask Questions

- “Please show me in the law where that is stated.” (without sarcasm)
- “Please tell me how services are individualized for my child?”
- “I think what I heard was ... did I hear you right?”
- “Can you help me understand how that approach will work in practice?”



# IEP Team Attendance New Provisions

- ❖ Attendance not necessary
- ❖ Excusal
- ❖ Written Agreement & Consent Required
- ❖ Incorporate Changes by amendment
- ❖ Part C Invitation to attend IEP Initial Meeting

# Special Factors for D/HH

- ❖ Child's language and communication needs
- ❖ Opportunities for direct communication
  - ❖ With peer and professionals in the child's language and communication mode
- ❖ Full range of needs and Academic Level
  - ❖ Direct instruction in communication mode of child
- ❖ Assistive technology devices and services
- ❖ Acoustical modifications



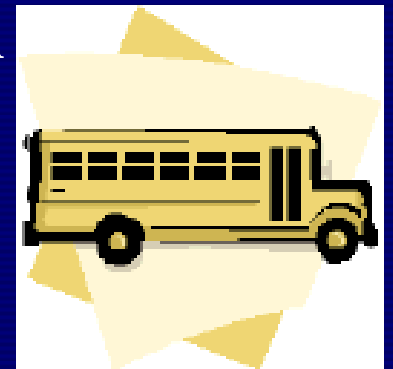
# Preferred Mode of Communication

- The LEA must consider the child's preferred mode of communication (e.g., oral only, TC, ASL only).
- Note: The educational placement is not about arguing educational methodology (which can be decided by a school)

# Other Considerations

## Related services, e.g.

- Audiology
  - Hearing test is covered
  - Excludes a medical device surgically implanted
- Auditory training and Rehabilitation
- Speech-Language Pathology
- Physical & Occupational Therapy
- Psychological service
- Rehabilitation counseling
- Parent counseling & training
- Medical & school health services
- Interpreting Services
- Transportation
- Recreation



Alexander Graham Bell

Association of Deaf and Hard of Hearing

# Audiology Services on IEP

- Identification of children with hearing loss;
- Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;
- Provision of habilitative activities, such as language habilitation, auditory training, speech reading, AVT, hearing evaluation, and speech conservation;

## Audiology Continued

- Creation and administration of programs for prevention
- Counseling and guidance of children, parents, and teachers regarding hearing loss; and
- Determination of children's needs for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.

# Transition Services

- A coordinated set of activities for a child with a disability
  - Takes into account child's interests
- Designed to be within results oriented process
  - Ask who is measuring the results?
- Focused on improving the academic and functional achievement

## Transition Continued

- Used to facilitate movement from school to post-school activities including
  - Post-secondary education, vocational education, employment, continuing education, adult services, independent living, community participation, and special education if appropriate
- Includes:
  - Related services



# Program Requirements

- Present levels of academic achievement functional performance
- Measurable annual goals
- Special education and related services
- When child will not be with non-disabled peers
- State and District wide assessment accommodations



# Program Requirements

- Timing to implement special education
- How the child's progress will be assessed
- Testing modifications
- Extra curricular activities
- Children who transfer school districts
- Extended school year



## Extended School Year 12 months of services

- If child shows regression during school breaks
  - Measure skills before/after Winter or Summer, Spring Breaks
- If the child is at a “critical point” of instruction
- See ESY handout for more info

# Reaching Consensus

- School district makes a recommendation
  - IEP team must have a decision maker
  - In absence of consensus, the LEA rep. is the decision maker
  - The school district moves forward unless the parents disagree and request a hearing
  - “Stay put” Policy during a hearing request

# Placement

- Least Restrictive Environment (LRE)<sup>\*\*\*</sup>
- As close to home as possible
- Outside Placements when required for specific services
- Continuum of Placement Options
- Must be made by Team including parents



# Placement should be discussed last, first...

- Determine child's individual needs
- Establish the goals and services to address those needs
- Finally, discuss where these services will be provided.
- Sometimes you can lead the team in the right direction.

# Least Restrictive Environment (LRE)

- LRE requires that child must be educated in the classroom where s/he would normally be placed without the disability.
- Placement outside of the “mainstream” room is allowed, “only if the nature or severity of the disability is such that education in regular classes **with** the use of supplementary aids and services cannot be achieved satisfactorily.”
- Continuum of alternative placements.

## LRE Continued

- Deaf/hh may need setting where they can receive more intensive speech and language training or AVT.
- All things being equal, the placement must be as close to the child's home as possible. (Districts are permitted to centralize services for cost efficiency.)
- Finally, no child may be taken from a regular classroom solely because of the need for modification of the general curriculum.



# Implementing & Evaluating the IEP

- Parents must receive regular progress reports
- Parents may request a new meeting to revise the child's IEP



# Disagreements

- Due process – mediation or hearing
  - Written Due Process Complaint Notice
  - Resolution Session
  - Burden of Proof
- Stay Put
- Attorney fees
- Unilateral placement, written notice and tuition reimbursement
- Compensatory education costs

# Precedents

- D.D. v. Foothill SELPA
  - Found that the school staff did not possess the proper qualifications for speech-language therapy.
  - The background, training, and experience in spoken language training are required.
  - A LSLS certified provider or a provider who can demonstrate the requisite skills.

## Another Precedent

- E.N. v. St. Johns County School Board
  - Found that the school had improper qualifications and had made an improper placement
  - Found that a multi-categorical class was not appropriate for a child who was learning to listen and speak.

# IEP Meeting Reminders

- Don't...
  - use words like “best”, “most”, “maximum”, “optimum” and “full potential”
  - Have emotional outbursts, raise your voice or make accusations
  - Immediately focus on specific remedies
  - Assume mainstreaming is required

# Meeting Don't's

- Don't
  - Interrupt
  - Accuse
  - Make personal attacks
  - Question another person's motives
  - Be intimidated

## More IEP Pointers

- Don't...
  - Unilaterally place your child in a private school without knowing the ramifications
  - Assume the school knows all or can “fix” your child
  - Over-rely on due process



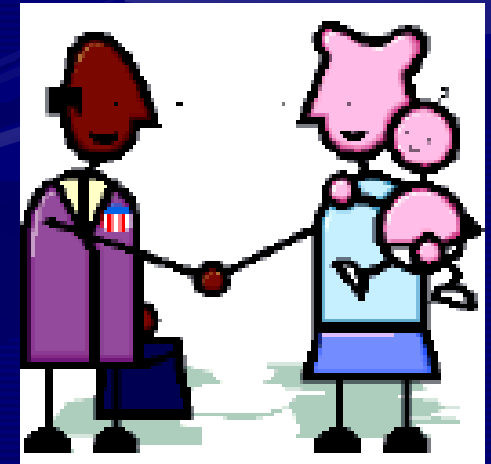
# Unilateral Placement

- You have the right to make a unilateral placement
- You will be reimbursed IF you can prove placement recommended by LEA was inappropriate
- **MUST** provide notice:
  - Written notice at least 10 days prior to placement
  - Notice at IEP meeting in advance of placement



## IEP Do's . . .

- ✓ Show respect
- ✓ State the child's needs
- ✓ Prepare for questions
- ✓ Use "appropriate"
- ✓ Know your rights
- ✓ Build a relationship
- ✓ Know the district's issues



# Disagreements

- First put your request in writing
- Bring someone who “looks” like a lawyer or an advocate
- Ask to record the meeting for your “spouse”
- Share case precedents with the school district

# Hearing and Due Process

- When parents prevail:
  - The school district pays for fees under Part B (ages 3–21)
  - The parents pay the fees under Part C (ages 0–3)
  - Courts can require the parents to pay if the complaints that are
    - Frivolous, unreasonable, without foundation, and/or unnecessary continued litigation

# What to DO after the meeting

- Follow-up if needed:
  - Write a clarification or dissent letter
  - Make sure the IEP includes all required elements
  - Ask for an amendment
    - IEP can be reworded or changed
    - Portions can be removed or added

## Footnotes –References to deaf/hh in Article 7

- **511 IAC 7-32-65 "Multidisciplinary team" defined**
  - (4) For a student who is blind or has low vision, is deaf or hard of hearing, or has suspected multiple disabilities, the public agency may request that representatives of the state-operated schools serve as part of the multidisciplinary team **only if the parent has provided written consent**, in addition to the written consent to conduct the initial educational evaluation, for the representative's participation in the educational evaluation.

## References

- **511 IAC 7-36-2 Special education program personnel**
  - (d) Personnel working with deaf or hard of hearing students who provide sign language transliteration and interpreting services must:
    - (1) meet the requirements of subsections (a) and (c); and be certified to interpret in an educational setting.

A stylized illustration of two hands reaching towards each other from the left and right sides of the frame. The hands are rendered in a dark blue color with a slight gradient, giving them a three-dimensional appearance. The background is a solid, darker blue.

**Break**

Questions?

# References

- **511 IAC 7-36-7 Instructional curricula, materials, equipment, and assistive technology devices and services**
  - (1) Unless the student's CCC determines otherwise, the public agency is not responsible to provide basic equipment that may be required at home as well as in the educational setting, such as the following: (1) Wheelchairs. (2) Braces. (3) Glasses. (4) Hearing aids.
  - (m) The public agency is responsible for maintenance and repair of all equipment and devices provided by the public agency. The public agency is not responsible for the cost of repair or replacement of equipment not purchased by the public agency. However, the public agency must ensure that hearing aids worn in school by students who are deaf or hard of hearing are functioning properly.



**The following slides are sections re: deaf/hh issues taken directly from Indiana Special Ed Law.**

Article 7 can be found at:

<http://www.doe.in.gov/exceptional/speced/laws.html>

# References

## 511 IAC 7-41-4 Deaf or hard of hearing

- Sec. 4. (a) “Deaf or hard of hearing”, which may be referred to as a hearing impairment, means the following:
  - (1) A disability that, with or without amplification, adversely affects the student's:
    - (A) ability to use hearing for developing language and learning;
    - (B) educational performance; and
    - (C) developmental progress.
  - (2) The hearing loss may be:
    - (A) permanent or fluctuating;
    - (B) mild to profound; or
    - (C) unilateral or bilateral.
  - (3) Students who are deaf or hard of hearing may use:
    - (A) spoken language;
    - (B) sign language; or
    - (C) a combination of spoken language and signed systems.

- (b) Eligibility for special education as a student who is deaf or hard of hearing shall be determined by the student's CCC. This determination shall be based on the multidisciplinary team's educational evaluation report described in 511 IAC 7-40-5(e), which includes the following:
  - (1) An assessment of the following:
    - (A) Current academic achievement as defined at 511 IAC 7-32-2.
    - (B) Functional skills or adaptive behavior across various environments from multiple sources.
    - (C) Communication conducted in the:
      - (i) language or system utilized for the student's instruction; or
      - (ii) student's preferred mode of communication; that assesses the student's receptive and expressive language skills.

## Continued-

### Team Evaluation includes:

- (2) A social and developmental history that may include, but is not limited to, the following:
  - (A) Communication skills.
  - (B) Social interaction skills.
  - (C) Motor skills.
  - (D) Responses to sensory experiences.
  - (E) Relevant family and environmental information.
- (3) A written report from an educational or clinical audiologist, otologist, or otolaryngologist with information regarding the:
  - (A) etiology of the hearing loss; and
  - (B) student's potential requirement for amplification, if appropriate.
- (4) Any other assessments and information, collected prior to referral or during the educational evaluation, necessary to:
  - (A) determine eligibility for special education and related services; and
  - (B) inform the student's CCC of the student's special education and related services needs.

## 511 IAC 7-42-6 Developing an individualized education program; components and parent copy

- (4) In the case of a student who is deaf or hard of hearing or a student who is deaf-blind, the student's:
  - (A) language and communication needs;
  - (B) opportunities for direct communications with peers and professional personnel in the student's language and communication mode;
  - (C) academic level; and
  - (D) full range of needs; including opportunities for direct instruction in the student's language and communication mode.

## **RULE 43. RELATED SERVICES; TRANSITIONS; TRANSFER OF RIGHTS**

### **511 IAC 7-43-1 Related services**

- **Related services do not include the following:**
  - (1) A medical device that is surgically implanted, such as a cochlear implant.
  - (2) The optimization of a surgically implanted device's functioning, such as mapping for a cochlear implant.
  - (3) Maintenance of a surgically implanted device.
  - (4) The replacement of a surgically implanted device.

## Related Services (f) Audiological services:

- (1) may include:
  - (A) identification of students with hearing loss;
  - (B) determination of the nature, range, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;
  - (C) provision of habilitative activities, such as:
    - (i) language habilitation;
    - (ii) auditory training;
    - (iii) hearing evaluation;
    - (iv) speech/lip reading; and
    - (v) speech conservation;
  - (D) creation and administration of programs for prevention of hearing loss;
  - (E) counseling with and guidance of students, teachers, and parents regarding hearing loss; and
  - (F) determination of a student's need for group or individual amplification, selecting and fitting of an appropriate hearing aid, and evaluating the effectiveness of amplification; and
- (2) must be provided by a licensed educational or clinical audiologist.

# **RULE 43. RELATED SERVICES; TRANSITIONS; TRANSFER OF RIGHTS**

## **511 IAC 7-43-1 Related services**

- (i) Requirements for interpreting services are as follows:
  - (1) Interpreting services include the following:
- (A) When used with respect to students who are deaf or hard of hearing, the following:
  - (i) Oral transliteration services.
  - (ii) Cued language transliteration services. – 97 –
  - (iii) Sign language transliteration and interpreting services.
  - (iv) Transcription services, such as the following:
    - (AA) Communication access real time translation (CART).
    - (BB) C-Print.
    - (CC) TypeWell.