

Legislative Analysis



LANGUAGE ACQUISITION AND DEVELOPMENT OF CHILDREN WHO ARE DEAF OR HARD OF HEARING

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House Bill 5836 (H-3) as reported from committee

Sponsor: Rep. Kathy Crawford

1st Committee: Families, Children and Seniors

2nd Committee: Ways and Means

Complete to 11-5-20

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 5836 would amend the Revised School Code to require the Michigan Department of Education (MDE) to develop and provide resources, tools, and assessments for parents and educators to use in assessing and assisting the language acquisition and development of children who are deaf or hard of hearing. The bill would also create an advisory committee and require an annual report.

The bill would apply only to children who are five years old or younger. (In this summary, then, references to “child” or “children” generally mean children of that age group.)

The bill would require MDE’s activities to implement its provisions to be consistent with federal law regarding the education of children with disabilities.

Learning environment

Under the bill, and subject to the federal Individuals with Disabilities Education Act (IDEA), a child who is identified as deaf or hard of hearing would have to be provided with a learning environment that includes services that use the family’s choice for the child’s language development and that are delivered by professionals with the background, training, and experience in and who use American Sign Language (ASL), English, or both.

Parent resource

By August 31, 2022, MDE would have to develop a resource that a parent or legal guardian of a child who is deaf or hard of hearing can use to monitor and track the child’s expressive and receptive language acquisition and developmental stages toward English literacy. This resource would have to meet all of the following:

- Be written clearly for easy use by parents and guardians.
- Include fair, balanced, and comprehensive information about language, communication tools, and all services and programs.
- Include the *language developmental milestones* that were selected as described in “Advisory committee duties,” below, presented in terms of the typical development of all children by age range.
- Provide appropriate content and administration regarding language assessment and delivery of the assessment for children who are deaf or hard of hearing and who use ASL, English, or both.
- Be aligned with existing infant, toddler and preschool MDE guidelines, existing instruments used to assess development of children with disabilities under federal law, and state standards in English language arts.

- State or provide all of the following:
 - That the parent or guardian of a child who is deaf or hard of hearing has the sole discretion to choose ASL or English, or both, and a *mode of communication* for the child's language acquisition and developmental milestones.
 - That the resource is not a formal assessment of language and literacy development.
 - That the parent's or guardian's observation of the child may differ from formal assessment data presented at an *individualized family service plan* (IFSP) or *individualized education program* (IEP) meeting.
 - That a parent or guardian may bring the resource to an IFSP or IEP meeting to share observations about his or her child's development.

Language developmental milestones would mean milestones of development aligned with existing state instruments used to meet the requirements of federal law for the assessment of a child who is age five or younger.

Mode of communication would mean the means through which language is acquired and learned by a child who is deaf or hard of hearing, including the following:

- Augmentative and alternative communication.
- Cued speech.
- Listening and spoken language.
- Tactile signing.
- Total communication.
- Any other appropriate mode of communication.
- A combination of any of the above.

Individualized family service plan would mean that term as defined in section 1436 of IDEA.

Individualized education program would mean that term as defined in section 1414 of IDEA.

Subject to federal law, MDE would have to provide this resource to parents and legal guardians of children who are deaf or hard of hearing, along with materials and training on the use of the resource, to assist a child who is deaf or hard of hearing to be linguistically ready for kindergarten using ASL, English, or both.

MDE tools or assessments

MDE would also have to adopt existing tools and assessments to be used by local school districts, intermediate school districts (ISDs), public school academies (PSAs), and the Michigan School for the Deaf to assess language and literacy development. These tools or assessments would have to meet all of the following:

- Be appropriate for use with a child who is deaf or hard of hearing and is age five or younger.
- Be in a format that shows stages of language development.
- Be selected from existing instruments or assessments used to assess the development of children who are deaf or hard of hearing.
- Be used by districts, ISDs, PSAs, and the Michigan School for the Deaf to track development of the expressive and receptive language acquisition and developmental

stages toward English literacy of a child who is deaf or hard of hearing at age five or younger.

- Be designed for use, in addition to any assessment required under federal law, by a child's IFSP team or IEP team to track the progress of a child who is deaf or hard of hearing and establish or modify an IFSP or IEP.
- Reflect the recommendations of the advisory committee described below.

Subject to federal law, MDE would have to provide these tools and assessments to districts, ISDs, PSAs, and the Michigan School for the Deaf for use in developing and modifying IFSPs or IEPs. ISDs would have to provide the tools and assessments to their local districts.

By September 1, 2022, districts, ISDs, PSAs, and the Michigan School for the Deaf would have to implement the tools and assessments to track the development of the expressive and receptive language acquisition and developmental stages of a child who is deaf or hard of hearing toward English literacy at age five or younger.

A district, ISD, PSA, or the Michigan School for the Deaf would have to administer these tools or assessments, or another relevant assessment, to a child who is deaf or hard of hearing and, based on the assessment results, if that child did not meet the developmental milestones or demonstrate progress in expressive and receptive language skills necessary to meet the milestones, the child's IFSP team or IEP team, as applicable, would have to provide both of the following to each team member and to the parent or legal guardian of the child:

- A written statement explaining in detail why the child is not meeting or progressing toward the developmental milestones.
- A written recommendation that includes specific strategies, services, and programs that must be provided to assist the child toward becoming linguistically prepared for kindergarten and English literacy.

Advisory committee

On January 1, 2022, the superintendent of public instruction would have to appoint 15 volunteer members to an advisory committee within MDE for a one-year term. The committee would be made up of advocates and professionals in the field of education for the deaf or hard of hearing and parents of children who are deaf or hard of hearing.

The committee would have to include all of the following:

- One parent or legal guardian of a child who is deaf or hard of hearing who uses the dual languages of ASL and English.
- One parent or guardian of a child who is deaf or hard of hearing who uses only spoken English and a mode of communication.
- One certificated teacher of students who are deaf and hard of hearing who uses the dual languages of ASL and English.
- One certificated teacher of students who are deaf and hard of hearing from a spoken-English language program.
- One certificated teacher of students who are deaf and hard of hearing whose expertise is in curriculum and instruction in ASL and English.
- One certificated teacher of students who are deaf and hard of hearing whose expertise is in curriculum and instruction in spoken English and a mode of communication.

- One certificated teacher of students who are deaf and hard of hearing whose expertise is in ASL and English language assessments.
- One ASL expert who researches language outcomes for children who are deaf and hard of hearing using ASL and English.
- One expert who researches language outcomes for children who are deaf and hard of hearing using spoken English and a mode of communication.
- One advocate for the teaching and use of the dual languages of ASL and English.
- One advocate for the teaching and use of spoken English and a mode of communication.
- One early intervention specialist who works with infants and toddlers who are deaf and hard of hearing using the dual languages of ASL and English.
- One early intervention specialist who works with infants and toddlers who are deaf and hard of hearing using spoken language and a mode of communication.
- One speech-language pathologist proficient in ASL and English whose expertise is in assessment of and intervention with children who are deaf and hard of hearing.
- One educational audiologist licensed under Part 168 of the Public Health Code who is proficient in ASL and English.

In addition to its duties described below, the advisory committee could advise MDE on the content and administration of existing instruments used to assess the development of children with disabilities under federal law, as used to assess the language and literacy development of children who are deaf or hard of hearing, to ensure the appropriate use of those instruments with those children. The committee could also recommend future research to improve the measurement of progress of children who are deaf and hard of hearing in language and literacy.

Advisory committee duties

The advisory committee would have to solicit input from experts on the selection of language developmental milestones for children who are deaf or hard of hearing that are equivalent to those for children who are not deaf or hard of hearing, for inclusion in the parent resource described above. The committee could make recommendations on unbiased and comprehensive materials to add to the parent resource.

By March 1, 2022, MDE would have to provide the advisory committee with a list of language developmental milestones based on standardized norms, along with any relevant information held by MDE regarding those milestones, for possible inclusion in the parent resource. The language developmental milestones would have to be aligned with any applicable existing infant, toddler, and preschool MDE guidelines, existing instruments used to assess the development of children with disabilities under federal law, and state standards in English language arts.

The advisory committee would have to recommend language developmental milestones for inclusion in the parent resource by May 1, 2022, and MDE would have to inform the committee by June 30, 2022, which milestones were selected. As described above, development of the parent resource would be completed by August 31, 2022.

On December 31, 2022, the advisory committee would cease operations and be dissolved.

Report and funding

By July 1, 2022, and annually thereafter, MDE would have to produce a report, using existing data reported in compliance with the federally required state performance plan, on students with disabilities that is specific to the language and literacy development of children who are deaf and hard of hearing and are age five or younger as compared to their peers. MDE would have to make this report available on its homepage.

Finally, the bill states the intent of the legislature to appropriate sufficient funding for its purposes.

Proposed MCL 380.1705

FISCAL IMPACT:

The bill would create indeterminate costs for the state and for districts, ISDs, PSAs, and the Michigan School for the Deaf.

MDE would incur costs related to fulfilling the following requirements:

- Establish an advisory committee to advise MDE in meeting the requirements in this bill as detailed in the summary above.
- Select language developmental milestones for inclusion in a parent resource.
- Develop the parent resource and provide that resource to parents.
- Provide materials and training to parents on the use of the resource to assist a child to be linguistically ready for kindergarten.
- Adopt existing tools or assessments and provide those tools or assessments to ISDs, PSAs, and the Michigan School for the Deaf.
- Report annually on the language and literacy development of children who are deaf or hard of hearing and are age five or younger as compared to their peers.

MDE anticipates that fulfilling these requirements would result in significant costs; specifically, costs may include additional monitoring and oversight by the Office of Special Education, consultants and/or additional FTEs, publication materials, meetings and workshops, and communications and technology. Total costs for the state could vary depending on the size and scope of the parent resource, whether the resource would need to be regularly updated, and how MDE would provide information and training to parents.

An ISD would incur costs to provide to its local school districts the tools and assessments adopted and provided by MDE.

A district, ISD, PSA, or the Michigan School for the Deaf would incur costs to implement the tools and assessments adopted by MDE to track language acquisition and developmental milestones.

If a child does not demonstrate progress necessary to meet the milestones, state and local entities involved in the child's individualized family service plan team or individualized education program team could incur additional costs to provide a written explanation and a written recommendation with specific strategies, services, and programs that must be provided for the child.

State and local entities could also incur a cost, if the following requirement is beyond the scope of the current requirements in the Individuals with Disabilities Education Act (IDEA), to ensure that a child who is deaf or hard of hearing is provided a learning environment that includes services that utilize the family's choice for the child's language development and that are delivered by professionals with the background, training, and experience in—and who use—American Sign Language, English, or both.

The bill states that the legislature shall appropriate sufficient funding for the purposes of this section; however, appropriations may not be mandated and this serves as intent language. MDE has also noted that state and local entities cannot use IDEA funds beyond the requirements of IDEA, and therefore other state or local resources would be required to fulfill the associated state or local costs.

POSITIONS:

Representatives of the following entities testified in support of the bill (9-2-20):

- Language Equality and Acquisition for Deaf Kids (LEAD-K)
- Deaf Community Advocacy Network (DEAF C.A.N.!)

The following entities indicated support for the bill:

- Michigan Department of Civil Rights (9-10-20)
- American Civil Liberties Union (ACLU) (9-2-20)
- Communication Access Center (6-8-20)
- Deaf and Hard of Hearing Services (6-10-20)
- Detroit Association of the Deaf (6-14-20)
- Detroit Black Deaf Advocates (6-20-20)
- Detroit Disability Power (6-12-20)
- Flint Association of the Deaf (6-12-20)
- Flint Association of the Deaf Auxiliary (6-12-20)
- Flint Deaf Senior Citizens (9-2-20)
- Metro Detroit Deaf Senior Citizens (6-14-20)
- Michigan Deaf Association (9-2-20)
- Michigan Hands & Voices (6-22-20)

Representatives of the Michigan Alexander Graham Bell Association for the Deaf testified in opposition to the bill. (9-2-20)

The following entities indicated opposition to the bill:

- American Academy of Otolaryngology/Head and Neck Surgery of Michigan (9-2-20)
- Michigan Audiology Coalition (11-5-20)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.