

IDEA Speech-Language a primary disability in spite of confused CA DIS "related service" wording

CA Ed Code DIS amendments in AB 1662 of 2005:

When AB 1662 amended at the last minute before final passage, it ended up with some confusing wording as to related services. AB 1662 purpose was to bring California codes in line with IDEA '04 revisions. The federal language did not include California's term "designated instructional services" (DIS). AB 1662 attempted to merge DIS wording with the federal term "related services". CA's DIS wording now includes "related services" language. While CA Ed Code language as to related services is confusing, we can rely on federal law IDEA which still outlines speech and language therapy as one of the special education handicapping conditions. Thus the term "related services" in the CA Ed Code is not particularly relevant.

Speech can be either a primary service or a related service in spite of CA Ed Code DIS language.

The larger issue is does the child's handicapping condition "adversely affect educational performance" -- note this does not mean only academics but includes ability to communicate and relate to others. Watch developing models for RTI and new academic interpretations in general ed. See below.

CA CDE/SED is reported to be preparing a declaration as to Special ed speech & language disorders:

Under federal law, CFR 300.7 (c) (11) speech and language is considered one of the federal handicapping conditions-- and who "... by reason thereof, needs special education and related services.. (CFR 300.7 (a) & (c) (11):

"Speech or language impairment means a communication disorder, such as stuttering, impaired articulation, a language impairment or a voice impairment, that ADVERSELY AFFECTS A CHILD'S EDUCATIONAL PERFORMANCE..."

"CDE is not anticipating any change in the interpretation or provision of speech and language services-- only to continually emphasize that as with other related services, or special education services, even though a child qualifies for special education, services are only deemed necessary if the impairment/disability adversely AFFECTS A CHILD'S EDUCATIONAL PERFORMANCE..."

(SED staff Art Cernosia is doing an analysis comparing 1662 to IDEA 04. More to follow)

California AB 1662 (42 pages) alters Ed Code (note SLD & RTI provisions):
http://www.leginfo.ca.gov/pub/bill/asm/ab_1651-1700/ab_1662_bill_20051007_chaptered.html

Note that fed law continues to require that when a child is referred to special ed, that they shall be assessed for all suspected disabilities.

In 1980, ASHA received a policy interpretation from the U.S. Dept of Ed on the meaning of "adversely affects educational performance" as it relates to speech impaired children:

" ... an interpretation of [adversely affects educational performance] which denies services to speech impaired children who have no problem in academic performance is unreasonably restrictive ...". The impact of the child's communicative status on academic performance is not deemed the sole or even the primary determinant of the child's need for special educational services. It is the communicative status -- and the professional judgment made in regard to the communicative abilities -- which has overriding significance... ."

Reported 2/1/06 in LRP:

6th-grader to get IEP; Asperger's adversely affects performance

The court found that Asperger's was a disability that adversely affected educational performance when it had an adverse impact on a student's ability to communicate and relate to others.

See also ***NASED Paper "Ed Benefit" 4/2004***

<http://www.cde.ca.gov/sp/se/qa/documents/ncseam.pdf>

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