

DEPARTMENT OF EDUCATION ISSUES GUIDANCE ON SUFFICIENT COMMUNICATION MODALITIES

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On November 12, 2014, the U.S. Department of Education’s Office for Civil Rights (OCR), the Office of Special Education and Rehabilitative Services (OSERS), and the U.S. Department of Justice distributed a joint [Dear Colleague Letter](#) (DCL) regarding schools’ responsibilities to ensure that students with hearing, vision, or speech impairments have sufficient communication modalities. This guidance focused on the interplay between two relevant federal laws: the Individuals with Disabilities Education Act (IDEA) and Title II of the Americans with Disabilities Act.

The DCL notes that while many of the obligations between the IDEA and Title II overlap, compliance with one law does not necessarily mean compliance with the other. Title II requires school districts to take appropriate steps to ensure that communication with students with disabilities is as effective as communication with students without disabilities. School districts must provide appropriate auxiliary aids and services so students with disabilities have an “equal opportunity” to participate in the schools’ services, programs, and activities. Notably, under Title II, schools are required to give “primary consideration” to any accommodation, aid, or service that is requested by the parent and/or student with a disability.

These requirements under Title II appear to go beyond the requirements of the IDEA, which requires school districts to provide “appropriate” services to assure that students with hearing, vision, or speech impairments receive “educational benefit.”

To help illustrate school obligations, the agencies attached a [frequently asked questions \(FAQ\) sheet](#) along with hypothetical case studies.

In conclusion, districts must be aware that the provision of FAPE to a student with a communication disability does not necessarily mean that the school is absolved from any further legal liability—it must also examine whether its services and aids meet Title II requirements under the ADA.