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## Position Statement on High-Stakes Assessments and Accountability

- Declaración de posición sobre las evaluaciones de alto riesgo y la responsabilidad de las escuelas y los programas (<https://www.nad.org/declaracion-de-posicion-sobre-las-evaluaciones-de-alto-riesgo-y-la-responsabilidad-de-las-escuelas-y-los-programas/>)

### **Position Statement on High-Stakes Assessments and Accountability (2002)**

The *No Child Left Behind Act of 2001*, otherwise known as the Elementary & Secondary Education Act of 2001 (ESEA), reiterates that all children, including those who are deaf and hard of hearing, must be included in district and statewide assessments designed to measure achievement and hold schools and programs accountable. Other federal laws, including Section 504 of the

Rehabilitation Act of 1973 (Section 504), Title II of the Americans with Disabilities Act of 1990 (ADA), Title I of the Elementary and Secondary Education Act, and the Individuals with Disabilities Education Act Amendments of 1997 (IDEA) also mandate that special education students be included in district and statewide assessments. These assessments are frequently associated with promotion, graduation, and access to selective educational programming, and are thus, in these circumstances, often referred to as “high-stakes tests.”

The National Association of the Deaf (NAD) fully supports the involvement of deaf and hard of hearing individuals in State and district-wide assessments, and believes information obtained from them should be used to measure an individual’s progress towards benchmarks and goals considered essential for ALL students. The NAD also believes that information obtained from such testing is a critical aspect of the educational accountability system and should primarily be used to evaluate schools and programs. In essence, the NAD believes that children do not fail, but that schools and programs, including social service delivery systems, fail children.

As noted in a National Research Council publication titled: *High Stakes: Testing for Tracking, Promotion and Graduation* (Jay P. Heubert & Robert M. Hauser eds., 1999), “When test use is inappropriate, especially in making high-stakes decisions about individuals, it can undermine the quality of education and equality of opportunity. . . . This lends special urgency to the requirement that test use with high-stakes consequences for individual students be appropriate and fair. (p. 4)

### **Fairness and the Assessment of Deaf Learners**

Given the high-stakes nature of some State and district-wide assessments, the NAD calls attention to and supports implementation of the principles espoused in the *Standards for Educational and Psychological Testing*, developed by the American Psychological Association (APA), the American Educational Research Association, and the National Council on Measurement in Education.<sup>1</sup> They include:

- Any decision about a student’s continued education, such as retention, tracking, or graduation, should not be based on the results of a single test, but should include other relevant and valid information.
- When test results substantially contribute to decisions made about student promotion or graduation, there should be evidence that the test addresses only the specific or generalized

content and skills that students have had an opportunity to learn. For tests that will determine a student's eligibility for promotion to the next grade or for high school graduation, students should be granted, if needed, multiple opportunities to demonstrate mastery of materials through equivalent testing procedures.

- When a school district, state, or some other authority mandates a test, the ways in which the test results are intended to be used should be clearly described. It is also the responsibility of those who mandate the test to monitor its impact, particularly on racial and ethnic-minority students or students of lower socioeconomic status, and to identify and minimize potential negative consequences of such testing.
- In some cases, special accommodations for students with limited English proficiency may be necessary to obtain valid test scores. If students with limited English skills are to be tested in English, their test scores should be interpreted in light of their limited English skills. For example, when a student lacks proficiency in the language in which the test is given (students for whom English is a second language for example), the test could become a measure of their ability to communicate in English rather than a measure of other skills.
- Likewise, special accommodations may be needed to ensure that test scores are valid for students with disabilities. Not enough is currently known about how particular test modifications may affect the test scores of students with disabilities; more research is needed. As a first step, test developers should include students with disabilities in field testing of pilot tests and document the impact of particular modifications (if any) for test users.

A determination of the extent in which a deaf or hard of hearing student should be included in State or district-wide assessments, and any accommodations or modifications in administration of district or statewide assessments to a deaf or hard of hearing child, must be made by the Individual Educational Plan (IEP) team. Section 300.347(a)(5) of the IDEA Regulations states that

- (i) A statement of any individual modifications in the administration of State or district-wide assessments of student achievement that are needed in order for the child to participate in the assessment; and
- (ii) If the IEP team determines that the child will not participate in a particular State or district-wide assessment of student achievement (or part of an assessment), a statement of –
  - (A) Why that assessment is not appropriate for the child; and
  - (B) How the child will be assessed.

While the exclusion of some individual deaf or hard of hearing children may be warranted, based on a careful review of the child's abilities and needs, such exclusions should be extremely rare and the result of the child having additional disabilities that severely affect learning and development. In most instances deaf and hard of hearing learners must be included in all district and statewide assessments, though they may require, and are entitled to, accommodations<sup>2</sup> and modifications consistent with their unique abilities and needs. In each instance a decision on an individual's level of involvement, the type of assessment used, and any accommodations or modifications should be discussed and documented by the IEP team.

Regarding alternative assessments, the IDEA specifically requires that States develop alternate assessment instruments and guidelines governing the participation of special education students in alternate assessments. Like State and district-wide tests, these instruments must be aligned with the general curriculum benchmarks and standards that are established for all students. Deaf and hard of hearing students are entitled to the same opportunities to achieve the requisite knowledge and skills that are provided to and expected of their hearing peers.

The NAD strongly supports the involvement of deaf and hard of hearing students in the general curriculum<sup>3</sup> in ways that are instructionally appropriate and educationally meaningful, and insists that assessment of an individual's abilities be consistent with their curricular experiences and opportunities to master its content. Deaf and hard of hearing students must be exposed to a rigorous program of study and development that focuses on the delivery of a challenging curriculum in a manner consistent with their unique abilities and needs, especially their need for

full and uninhibited language and communication access. As stated by the APA, “[t]ests, when used appropriately, can be valid measures of student achievement. However, test users must ensure that results are truly indicative of student achievement rather than a reflection of the quality of school resources or instruction. It is only fair to use test results in high-stakes decisions when students have had a real opportunity to master the materials upon which the test is based.” (APA, May 2001)

To some educators and policy-makers simply placing deaf or hard of hearing students in public school classrooms, with communication supports (e.g., interpreters and notetakers), provides adequate access to the general curriculum. To others access to the general curriculum is synonymous with public school placement, regardless of the supports provided. **The reality is that real and meaningful access to ANY curriculum begins with uninhibited language and communication access to teachers and other school personnel entrusted with its delivery.** Schools and programs specifically designed to serve deaf and hard of hearing students, staffed by individuals competent in the language and communication modes and preferences of the population, **are an essential option**, if deaf or hard-of-hearing individuals are going to have equal opportunities to access and master the general curriculum. This is especially true if these schools begin their curricular efforts by using the same benchmarks and standards required of all public school students in a State or district. In many instances, residential and day schools and programs specifically designed to serve this population actually enhance a deaf or hard of hearing individual’s ability to access and master the curriculum, and achieve the benchmarks and standards required by the governing entity. The NAD is profoundly concerned that many deaf and hard of hearing students are being inappropriately placed in public school settings where they are not being provided with the language and communication access needed, including the need for direct and uninhibited communication access,<sup>4</sup> to acquire the requisite knowledge and skills essential for success in State and district-wide assessments.

In the case of many deaf and hard of hearing children, the failure to properly apply and adhere to the Special Factors requirements of the 1997 Amendments to the IDEA effectively creates language and communication barriers that impair meaningful access to the general curriculum, are potentially harmful, and consequently deny many of these children a free and appropriate public education (FAPE) in the least restrictive environment (LRE).

As stated in the Special Factors section of the IDEA, Part B, Section 614(d)(3)(B)(iv) – the Individualized Education Program (IEP) Team shall – “consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child’s language and communication needs, opportunities for direct communication with peers and professional personnel in the child’s language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child’s language and communication mode”.

Congress further clarified the intent of this provision in accompanying Report language, (Report 105-95, p. 104-5):

“The Team also is to consider the communication needs of the child in order to ensure that local educational agencies better understand the unique needs of children who are deaf or hard of hearing; section 614(d)(3)(B)(iv) includes special factors that must be considered in developing IEPs for these children. The policy included in the bill provides that, in the case of the child who is deaf or hard of hearing, the IEP Team must consider the language and communication needs of the child; opportunities for direct communication with peers and professional personnel in the child’s language and communication mode; the child’s academic level; and the child’s full range of needs, including the child’s social, emotional, and cultural needs and opportunities for direct instruction in the child’s language and communication mode. The Committee also intends that this provision will be implemented in a manner consistent with the policy guidance entitled “Deaf Students Education Services,” published in the *Federal Register* (57 Fed. Reg. 49274, October 30, 1992) by the U.S. Department of Education.”

This October 1992 policy guidance states:

“Meeting the unique communication needs of a student who is deaf is a fundamental part of providing a free and appropriate public education (FAPE) to the child. Any setting, including a regular classroom that prevents a child who is deaf from receiving an appropriate education that meets his or her needs, including communication needs, is not the LRE for that individual child.” (p. 49275)

Clearly, there is an indisputable link between performance on State and district-wide assessments and the level of access to the content of the general curriculum upon which these assessments are composed. It is also clear and indisputable that access to curricular content is dependent upon the degree of language and communication access provided. Deaf and hard of hearing children, to be given an equal opportunity to access and acquire the general curriculum, must be educated in a setting that is based upon and driven by the individual's language and communication abilities and needs.

## **Accountability**

As previously stated, a major purpose of the No Child Left Behind Act of 2001 is to hold schools and program accountable for the education of America's children. The NAD supports the use of district and statewide assessments as a means of determining if a program is providing deaf and hard of hearing children with an education commensurate with their abilities and capabilities, and with what is provided to ALL children.

Deaf and hard of hearing children are fully capable of becoming productive and economically independent citizens if provided with an equal opportunity to succeed. In the case of a deaf or hard of hearing child, that path to success begins with the opportunity to access the curriculum in their preferred language and communication mode, and to do so in an environment that presents the fewest possible barriers to language and communication access. Given the well documented history of misapplication of the FAPE in the LRE provisions of the IDEA,<sup>5</sup> the NAD is profoundly concerned that in many instances deaf and hard of hearing children are being inappropriately placed in educational environments that do not provide for their individual language and communication needs. Consequently, these students are being directly or indirectly denied normal and uninhibited access to the general curriculum and an academically rigorous program of studies. This lack of an appropriate educational placement, based upon and driven by the language and communication needs of the child, has the unintended effect of denying the child equal opportunity to access and master the required curriculum content and relevant skills. This unintended consequence of this misapplication of FAPE in the LRE is the creation of a situation that NAD believes is inherently unfair and unequal. Consequently, the first variable or factor used in any examination or evaluation of programs or schools serving deaf or hard of hearing children,

including their performance on State or District-wide assessments, must begin with and be centered on an examination of the level of language and communication access provided by the school or program.

The NAD also believes that when auditing programs for effectiveness, States and Local Educational Agencies must consider several additional critical intervening variables and factors. Research and anecdotal evidence suggests that for many deaf and hard of hearing students, an appropriate educational placement remains an elusive entity, sometimes for the duration of their educational experience and other times until they reach adolescence. Consequently, any effort to examine the performance of a State Educational Agency or Local Educational Agency, with regard to the effective provision of educational programming and services to deaf or hard of hearing children, must carefully examine and take into consideration the child's performance during each juncture in his/her placement history. The NAD is concerned that recently some SEAs and LEAs have conducted expedited and incomplete reviews of schools and programs, often using statewide assessments in a manner counter to the APA and Office for Civil Rights guidelines, and without careful consideration of the students' placement history and other pertinent variables, and are using these reviews to make policy and statewide programming decisions.

As indicated above an evaluation or audit of educational delivery systems for deaf and hard of hearing students must begin with an examination of language and communication access and take into careful consideration the placement history of the individual. Such audits or program evaluations must also consider additional variables such as: a) the degree and type of hearing loss, b) age of onset, c) etiology and presence of additional disabilities that affect learning, d) socio-economic status, e) use of language(s) and the level of communication access in the home and community, f) parental hearing status, and g) early identification and intervention history. The NAD believes that for an audit or program evaluation to be valid it must incorporate evaluation instruments and procedures that yield fair and equitable results, and which portray the actual conditions that contributed to the level of student achievement noted in State or district-wide assessments.

Consistent with the principles espoused by the APA the NAD advocates that single assessment measures not be used to make high-stakes decisions. Assessments must be based on the identified needs of the individual child, and must include multiple measures such as criterion-referenced tests, standardized tests, teacher and student accountability records and other



authentic assessment procedures and instruments. High-stakes assessments should also adhere to the guidelines issued by the U.S. Department of Education Office for Civil Rights, *“The use of tests as part of high-stakes decision-making for students: A resource guide for educators and policy-makers”* (December, 2000).

Assessment and accountability programs are valuable components of the overall educational delivery system and the NAD supports their use provided they do not have the unintended effect of penalizing a child or program through misapplication or misuse of the assessment and accountability data and information. As stated by the American Educational Research Association, American Psychological Association, and the National Council on Measurement in Education, “[t]he proper use of tests can result in wiser decisions about individuals and programs than would be the case without their use and also can provide a route to broader and more equitable access to education ... The improper use of tests, however, can cause considerable harm to test takers and other parties affected by test-based decisions.” (*Standards of Educational and Psychological Testing*, p. 1 (1999)).

*Prepared by the NAD Education Policy and Program Development Center.*

*Approved by the NAD Board of Directors on January 26, 2002.*

<sup>1</sup> American Educational Research Association, American Psychological Association, and National Council on Measurement in Education (1999). *Standards for Educational and Psychological Testing*. Washington, DC: American Educational Research Association.

<sup>2</sup> Including but not limited to granting time extensions and use of interpreters, translators, or transliterators.

<sup>3</sup> The curriculum provided to ALL students in State and District school systems.

<sup>4</sup> Access without the need for third-party interventions, or needing to overcome communication barriers.

<sup>5</sup> “Deaf Students Education Services,” published in the *Federal Register* (57 Fed. Reg. 49274, October 30, 1992) by the U.S. Department of Education.

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