



U.S. Department of Justice
Civil Rights Division



U.S. Department of Education
Office for Civil Rights
Office of Special Education and
Rehabilitative Services

November 12, 2014

Dear Colleague:

Students with disabilities, like all students, must be provided the opportunity to fully participate in our public schools. A critical aspect of participation is communication with others. We have enclosed a document, entitled "[Frequently Asked Questions on Effective Communication for Students with Hearing, Vision, or Speech Disabilities in Public Elementary and Secondary Schools](#)" ([FAQs](#)), which explains the responsibility of public schools to ensure that communication with students with hearing, vision, or speech disabilities is as effective as communication with all other students.

Three Federal laws – the Individuals with Disabilities Education Act (IDEA), Title II of the Americans with Disabilities Act of 1990 (Title II), and Section 504 of the Rehabilitation Act of 1973 (Section 504) – address the obligations of all public schools to meet the communication needs of students with disabilities, but do so in different ways. In particular, the IDEA requires that schools make available a free appropriate public education (FAPE), consisting of special education and related services, to all eligible children with disabilities (including those with disabilities that result in communication needs). Title II requires schools to ensure that students with disabilities receive communication that is as effective as communication with others through the provision of appropriate auxiliary aids and services.¹

Public schools must apply both the IDEA analysis and the Title II effective communication analysis in determining how to meet the communication needs of an IDEA-eligible student with a hearing, vision, or speech disability. In many circumstances, an individualized education program under the IDEA will also meet the requirements of Title II. However, as a recent Federal court decision highlighted, the Title II effective communication requirement differs

¹ Because compliance with the IDEA can satisfy Section 504's requirement to provide FAPE to a student with a disability for the vast majority of students covered by the FAQs, and because, in general, a violation of Section 504 is a violation of Title II, the focus of the FAQs is on the IDEA and the specific Title II regulatory requirements for effective communication.

Page 2 – Dear Colleague Letter: Effective Communication

from the requirements in the IDEA.² In some instances, in order to comply with Title II, a school may have to provide the student with auxiliary aids or services that are not required under the IDEA. In other instances, the communication services provided under the IDEA will meet the requirements of both laws for an individual student.

The FAQs address the interplay of these IDEA and Title II requirements. Our hope is that the FAQs are helpful to schools, parents, and others in explaining students’ rights and schools’ obligations to address the communication needs of students with hearing, vision, or speech disabilities.

Thank you for your continued efforts to ensure that all students, including students with disabilities, have access to equal opportunities at school.

Sincerely,

/s/

Vanita Gupta
Acting Assistant Attorney General
Civil Rights Division
U.S. Department of Justice

/s/

Michael K. Yudin
Acting Assistant Secretary
Office of Special Education and
Rehabilitative Services
U.S. Department of Education

/s/

Catherine E. Lhamon
Assistant Secretary
Office for Civil Rights
U.S. Department
of Education

Attachment as stated

² The United States Court of Appeals for the Ninth Circuit addressed the IDEA and Title II effective communication obligations in *K.M. v. Tustin Unified School District*, 725 F.3d 1088 (9th Cir. 2013), *cert. denied*, 134 S. Ct. 1493 (2014), available at <http://cdn.ca9.uscourts.gov/datastore/opinions/2013/08/07/11-56259%20web%20revised.pdf>. The United States government filed an amicus (friend of the court) brief in this case when it was before the Ninth Circuit; that brief can be found at <http://www.justice.gov/crt/about/app/briefs/kmtustinbr.pdf>.

The Americans with Disabilities Act authorizes the Department of Justice (the Department) to provide technical assistance to individuals and entities that have rights or responsibilities under the Act. This document provides informal guidance to assist you in understanding the ADA and the Department's regulations.

This guidance document is not intended to be a final agency action, has no legally binding effect, and may be rescinded or modified in the Department's complete discretion, in accordance with applicable laws. The Department's guidance documents, including this guidance, do not establish legally enforceable responsibilities beyond what is required by the terms of the applicable statutes, regulations, or binding judicial precedent.