

Cued Speech and Educational Laws: First in a 3-part series

by Nicole Dobson

Welcome to the world of deaf education. This can be a complex, confusing, nerve-wracking, confrontational and unpleasant process of evaluations, programming choices, and regular follow-ups as regards to the education of our children who are deaf and hard of hearing.

The focus of this three-part series is to introduce the laws that govern the educational programming for our children, break down the special education process and hopefully provide parents and educators with resources so that they can more confidently advocate

for their child's or student's best educational experience.

Part I provides a brief overview of educational laws in the United States. The three major educational laws that impact our children and students are:

NCLB—No Child Left Behind

ADA—Americans with Disabilities Act

IDEA—Individuals with Disabilities Education Act

No Child Left Behind

This act supports *ALL* children in their ability to access and benefit from their education in the *regular education*

classroom. As stated in the Act, the purpose of NCLB is to...

"...ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging State academic achievement standards and state academic assessments."

Educators are required to use research-based instruction to improve academic achievement of all students. The term *Response to Intervention* (RTI) encompasses practices that are applied *prior* to the special education

CS and Educational Laws, continued on page 6

A Law Review of Cued Speech in Educational Settings

by Zainab Alkebsi

Over the years, legal battles in the courts have led to mixed outcomes for students who use Cued Speech, exemplified by some of the major lawsuits brought by cueing families against school districts and boards of education.

As discussed in the *Cued Speech and Educational Laws: Part 1* article in this issue, schools are required to provide "free appropriate public education" (FAPE). The question has long been what exactly falls within that category

and whether providing Cued Speech services is required. The legal cases highlighted below illustrate that this battle still has a long way to go.

Editor's note: The term "hearing-impaired" is used throughout this law review. When discussing court cases, we must maintain consistency with the terms used in each case and not change terms to those more widely used in the general population. Also, none of these cases clarified the "hearing-impaired" students as deaf or hard of hearing.

One of the earlier cases, *Lachman v. Illinois State Board of Education*, demonstrates the struggle in getting

Cued Speech recognized as an accommodation. In this 1988 case, the debate between the parents and the school district focused on whether Benjamin, a young child at the time, should receive education via Cued Speech transliteration or Total Communication. In other words, the school district wanted Lachman to learn sign language and have that be a goal of his education. 52 F.2d 290, 297 (C.A.7 Ill.1988).

Lachman's parents argued that the Individualized Education Program (IEP) proposed by the school district would not provide Benjamin an education in

Cued Speech: A Law Review, continued on page 4

Inside this Issue

Deaf Cuers Profile: CS Services	8
Legislation to Watch	10
Transliterator Qualifications	12
Cuer Receives CEC Award	14

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Presidents's Message

by Cathy Quenin

Greetings from the Interim President. Though I have not been directly involved with leadership of the NCSA over the past few years, my history with the organization goes back many years. While a graduate student, I served as Secretary, and was President for one term in the late 90's. Since leaving the Board of Directors, I have continued to be part of the Instructor Certification Committee, and have conducted instructor training workshops all over the country with the InsCert team. I enjoyed being a part of the NCSA in its early years, and look forward to the opportunity to serve again.

The issues raised in this edition of On Cue are dear to my heart. One of the major goals of my career has been to increase the availability of Cued Speech for students who are deaf or hard of hearing. As Aaron notes, we have made some strides in this over the years. Cued language services have achieved recognition at the federal level, and many more pre-professional training programs at least mention cueing in their curricula than in prior years. However, we still have far to go to ensure that all families receive information about this



option, and that all students who could benefit from Cued Speech have access to it. And though the right to cueing services is more firmly established than in the past, increasing the numbers of well-trained service providers remains a challenge.

Over the years, I have been constantly impressed with the vision, the energy, and the commitment of so many cueing families and professionals. Through the efforts of these dedicated people who come together as the NCSA, we'll continue to work together toward our shared goals.

Make A Donation Online Today!

Click on
"Help a Deaf Child Today"
www.cuedspeech.org

Editor's Note

by Aaron Rose

In 2004, when the Individuals with Disabilities Education Act (IDEA) was reauthorized, cued language services became officially recognized by the federal government. These services are part of the broad early intervention services available to families of children with hearing loss in Part C and as interpreting services in Part B in public education. This inclusion of cued language services has reinforced Cued Speech as an option for parents in early intervention and education of children with hearing loss.

In this issue of On Cue, you will read about deaf cuers' experiences in receiving cued language services in the general education classroom and at the postsecondary level. Hilary Franklin discusses issues in transliterating and draws attention to the need for maintaining standards in providing cued language services to children. Zainab Alkebsi, a law student at University of Baltimore, presents a review of cases addressing cued language services in school systems. Nicole Dobson presents a broad review of legislation and resources in context of Cued Speech for parents and educators.

Under Part C of IDEA, families can receive cued language services. However, those services may not be available in parts of the country for various reasons. Despite advancements in hearing technology and screenings, normal language development is not guaranteed in the first three years of a deaf or hard-of-hearing child's life. Recent research has demonstrated that given an appropriate cueing model, children can acquire language through Cued Speech in a similar manner as hearing children and deaf children of deaf parents who sign. The premise that Cued Speech can facilitate natural language development is not new, but now we have research providing support to this statement. Now, more than

ever, there is an urgent need for more professionals to be appropriately trained in Cued Speech services within early intervention agencies and programs.

If written into the individualized education plan (IEP), a child can receive cued language services in the general education classroom. Despite federal protections under Part B of IDEA, some schools may not agree that cued language services are appropriate for children whose primary mode of communication at home is through Cued Speech. The responsibility is often placed on the parents to educate professionals and administrators on the differences between cued and signed language accommodations. Within Alkebsi's law review, the differences in attitudes become apparent in the context of providing education to the overall population of children with hearing loss.

Even though some deaf cuers have found success in obtaining Cued Speech services at the postsecondary level, the balance of justice has typically fallen in the favor of the educational institutions in determining what reasonable accommodations are for those who request Cued Speech services. The Rochester Institute of Technology (RIT), serving a large deaf and hard-of-hearing population, has had a mixed history with enrolled students who are native cuers. It wasn't until 2004 that RIT modified its accommodations policies after Nicole Dugan filed a complaint with the United States Department of Education. Even today, cuers struggle in successfully requesting Cued Speech services and some resort to due process as in the case of *Argenyi vs. Creighton*. The need remains for postsecondary institutions to be educated about Cued Speech transliterating and other services as a reasonable accommodation in the context of the Americans with Disabilities Act (ADA).

We are currently facing a significant

shortage of transliterators across the country, which impacts the education of children who use Cued Speech at home and in the classroom. Historically, the responsibility of transliterating has fallen on family and friends of children who cue.

Regardless of the need, no post-secondary level training programs exist for those who want to become professional cued language transliterators (CLTs). Language Matters, Inc., an independent organization, provides professional development, but we need more established programs to meet the need. CLT training often takes place within school districts, which involves on-the-job training. As such, it may be more practical for sign language programs that train interpreters to integrate Cued Speech into their curricula than creating new programs from scratch. There are many parallels between both professions, which lends credence to the idea of integrating Cued Speech and American Sign Language into the same interpreter and transliterator preparation programs.

Despite the progress that we have made in regards to Cued Speech, much work remains in educating professionals and educational institutions on the need for accommodating parents and individuals who request cued language services.

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Cued Speech: A Law Review, continued from page 1

the least restrictive environment (LRE). *Id.*

The United States Court of Appeals for the Seventh District ruled that there was nothing in the record to indicate that the school district's proposed IEP, relying primarily upon sign language as a means of communication, would prevent the student from being educated in the LRE. Thus, the Court held that the IEP provided the student with FAPE, "despite the parents' preference for cued speech technique." *Id.* Consequently, the Court further held that the parents did not have a right under "the Education for All Handicapped Children Act to compel school district to provide specific program or to employ specific methodology in providing for education of their handicapped child." *Id.*

In 1988, while the Lachmans were fighting their case, another case in Texas was occurring. *Poore v. Arlington Independent School District* resulted in a more positive outcome. In this case, the parents sued the school on behalf of their child, Michael. According to the parents, "The AISD was not offering to provide Michael with the full benefits of Cued Speech."

Michael was in elementary school when the family sued the Arlington Independent School District and requested that AISD provide Michael with a CST in a mainstreamed classroom.

"[AISD] did not want Cued Speech in their schools other than for small use in speech therapy," says Teri Poore, Michael's mother. "Our request was denied based on their belief that Michael would benefit just as much by being in a deaf education classroom with other deaf children (different ages and educational levels) whose teacher used sign language."

The AISD countered that they were not legally required to provide Michael "with the best education possible, but only one which has been

reasonably calculated to provide him with educational benefits." AISD further argued that it was only the parents' "personal opinion" weighed against the "expertise of the school officials responsible for the child's education." However, seven witnesses with formidable expertise supported the parents' position with their respective testimony.

As Teri explains, "Our goal was for them to provide Cued Speech, not just in a speech therapy setting, but in the classroom by a CST or the teacher. And of course our hope was that it would then be in place and become available for all deaf children."

The Hearing Officer assigned to this case issued the finding that "An individual education plan designed to meet Michael's unique needs must include a cued speech interpreter." From there, he ordered: "A fluent cued speech interpreter to assist Michael full time in his mainstreamed education class."

Editor's note: As this case was presided over by a Hearing Officer, not a judge, and not appealed to a higher court, citations and other legal documentation were extremely difficult to obtain. Case information was provided by Teri Poore.

Barnett by Barnett v. Fairfax County School Board, a 1991 case in Fairfax County, Virginia, is the result of parents of a hearing-impaired student bringing legal action against their local school board. The parents challenged the decision of a state hearing officer who determined that school system was not required to duplicate Cued Speech services at the student's local high school. (Cued Speech services were already provided at another high school in the county.) 927 F.2d 146, 147-156 (C.A.4 Va. 1991).

The United States Court of Appeals for the Fourth Circuit put forth several findings. First, they held that the school board did not fail to consider the

student's individual needs in placing him at the centralized high school where the Cued Speech program was offered, as the Education of the Handicapped Act (EHA) did not require the school board to duplicate the highly specialized education program at student's base school, which was a few miles closer to the student's home. *Id.* Second, they explained that affording the student an "appropriate education" under terms of the EHA did not require the school board to place the student as close as possible to his home. Finally, they found that the school board did not violate the Rehabilitation Act by centralizing Cued Speech services for "high school level handicapped students." *Id.* Overall, the school board does not have an obligation to place the child in his base school. Geographical proximity is a factor often taken into account but there is no absolute obligation placed upon the school board. *Id.*

Ultimately, the Barnett Court found that the school board did not discriminate against the student by not providing a "highly specialized Cued Speech education program at the student's neighborhood, which it offered at another high school approximately five miles farther from the student's home, as the student had the opportunity to participate fully in [the] program offered by board at the more distant school." *Id.*

The Barnett Court also found that "Although the school board should not make placement decisions under the EHA on basis of financial considerations alone, an 'appropriate public education' does not mean the best possible education that a school could provide if given access to unlimited funds; Congress intended states to balance competing interests of economic necessity on the one hand, and the special needs of the handicapped child, on the other when making education placement decisions." Therefore, it is

Cued Speech: A Law Review, continued on page 5

Cued Speech: A Law Review, continued from page 4

viewed as a balancing approach when it comes to this type of legal action.

Goodall by Goodall v. Stafford County School Board, a Virginia case that went through the court system in 1996, also illustrates the difficulties that Cued Speech parents faced. The child's parents brought a lawsuit against the county school board to compel the county to provide the student with a Cued Speech transliterator in the student's private sectarian school, alleging that the failure to provide said transliterator violated both the First Amendment and the Religious Freedom Restoration Act (RFRA). 60 F.3d 168, 170 (C.A.4 Va. 1995).

The United States Courts of Appeals for the Fourth District presented two main findings. First, the Court held that the "economic burden borne by parents, in providing the hearing-impaired child with required cued speech services, due to the fact that the parents sent the child to a private sectarian school and thus did not receive such services funded by the county, did not substantially impinge on their free exercise rights." *Id.* at 171-172.

Second, the Court ruled that the "county did not need to show a compelling interest in not providing Cued Speech services to the hearing-impaired child enrolled in a private sectarian school, despite the parents' claim that provision of such services was an 'important benefit' for which the county should pay, pursuant to the RFRA, absent evidence that the parents were compelled to engage in conduct proscribed by their religious beliefs or were forced to abstain from any action which their religion mandated that they take." *Id.*

The burden of proof was on the plaintiffs to demonstrate that their exercise of religion was *substantially burdened* by the county's policy; otherwise, the County did not have to show proof of any interest. *Id.*

According to the Court, the Goodalls did not meet the burden of proof. Therefore, essentially, it was the opinion of the Court that the Free Exercise Clause did not require that the county provide Cued Speech services to the hearing-impaired child who attended a private sectarian school.

The Louisiana case of *White ex rel. White v. Ascension Parish School Board* in 2003 was similarly frustrating. The parents of a hearing-impaired student filed a lawsuit against the school board, asserting violations of the Individuals with Disabilities Education Act (IDEA), the Americans with Disabilities Act (ADA), the Rehabilitation Act, and various state laws. Essentially, the parents wanted the child and his Cued Speech transliterator to be transferred to their nearby neighborhood school, whereas the school district made the decision to keep the child and the Cued Speech transliterator at the centralized location. 343 F.3d 373, 376 (C.A.5 La. 2003).

The school district's decision was upheld by the courts. The United States Courts of Appeals for the Fifth Circuit held that the school district had met IDEA procedural requirements for parental input; the district did not otherwise violate IDEA in assigning student to a centralized school, notwithstanding the parents' transfer request and the feasibility of moving the student's Cued Speech transliterator to the neighborhood school; and that the school district also did not violate Louisiana state law. *Id.*

Essentially, IDEA creates a presumption in favor of the school system's educational plan, placing the burden of proof on the challenging party. *Id.* at 377. Generally, the presumption also favors the school system and makes it far more difficult for parents of children who use Cued Speech to make their case. Accordingly, the Court found that the parents had not met such

a burden of proof.

It is also important to understand the test that the *White* Court formulated. This two-fold test under IDEA has been applied whenever the appropriateness of an IEP is challenged. The two factors are: 1) whether the IEP in question is "reasonably calculated" to enable the child to receive educational benefits; and (2) whether the school district has complied with the procedures set forth in IDEA; if these requirements are met, the Court will find that the State has complied with obligations imposed by Congress and thus courts can require no more. *Id.* at 379.

Another adverse outcome from this case was that the Court further mentioned in dicta that "Under IDEA, a FAPE need not maximize the child's potential; it must guarantee a basic floor of opportunity." *Id.* at 378. That aside, the main finding was that the parental right to provide input into the location of services under IDEA does not grant parents veto power over IEP team site selection decisions and that, under IDEA, it was not "possible" for the hearing-impaired child to be placed in a neighborhood school since the Cued Speech transliterator services he required were provided only at the centralized location. *Id.* at 380. The Court listed many sound reasons that the school board had presented for its centralization policy. *Id.* at 382. In other words, according to the White Court, the school board, rather than the parents, makes the ultimate decision where to provide the Cued Speech transliterator; the parents do not get the last say.

The 2002 case of *Board of Education of Paxton-Buckley-Loda Unit School District No. 10 v. Jeff* expounds the prevailing view heretofore explained. In this IDEA lawsuit, the parents alleged that the California school had unilaterally changed the student's mode of communication from a

Cued Speech: A Law Review, continued on page 14

Cued Speech and Educational Laws: Part 1, continued from page 1

identification process. Three levels of support are provided to all students: Tier 1 – Core Intervention, Tier 2 – Targeted Group Intervention, and Tier 3 – Intensive, Individual Intervention. This tiered process is designed to ensure that the level of support required for students to make progress in the regular education classroom is achieved. Then, continued documentation of student achievement deficits may be better assessed as a learning disability rather than a result of a lack of appropriate instruction.

The inclusion of the terms *fair, equal, significant opportunity*, and *high-quality education* in the definition of NCLB is significant when considering our children's educational needs. Cued Speech fits perfectly within this framework. Given that the language of the regular classroom is English, a cued language transliterator (CLT) provides equal access for the child with hearing loss via cued English without the need for interpretation between two different languages.

Furthermore, reading skills that are taught by addressing the "sounds" in words are accessible for all students, including those with hearing loss. It is also important to remember that academic achievement standards and state academic assessments in the elementary years include phonemic skills, which are the basis for developing strong reading skills.

State assessments include presenting items that require students to break words into sounds or combine sounds to create words. With cued English, these auditory-based items can be presented visually to students, thus providing for a fair assessment of phonemic skills.

Using Cued Speech, children who are hearing and those with hearing loss alike would have a multi-modal strategy for learning these phonemic skills. A "significant opportunity to obtain a high-quality education" for all students in the regular classroom can be met with the

use of Cued Speech.

ADA and SECTION 504

The Americans with Disabilities Act is designed to protect people with disabilities from discrimination and gives them an equal opportunity to participate in all aspects of community life, including their education.

Section 504 of the Rehabilitation Act of 1973 falls under the ADA. Section 504 specifically protects the rights of individuals with disabilities who participate in programs and activities that receive federal funds (programs include public school systems).

Under Section 504, illegal discrimination of individuals with disabilities in schools includes exclusion from school activities, the unnecessary provision of unequal or separate services, and disability-related harassment. This law also protects parents and school employees who advocate for children with disabilities from retaliation by others.

Section 504 also requires school districts to provide "free appropriate public education" (FAPE) for all students. The provision of a free education means providing education and related services without cost to the student with a disability or his/her parents or guardians. This excludes auxiliary fees that children and families are required to pay (e.g., fees for participating on a school sports team or field trip).

Under Section 504, children with disabilities will be provided with access to an education. Modifying classroom policies and practices may be necessary to provide a free and appropriate education. Schools must give primary consideration to the preferred mode of communication unless it can be demonstrated that another equally effective means of communication exists. Cued Speech services that provide access to a child's education are included under

Section 504. These services include cued language transliteration services provided by a qualified CLT. Related services are also required (e.g., speech-language, occupational and physical therapies, counseling and social work services, and working with a teacher of the deaf). School districts must also provide students with equal opportunity and access to non-academic and extracurricular activities.

Section 504 services must be provided unless doing so would result in a fundamental alteration of the program, or would result in undue financial or administrative burdens. The Department of Education (www.ed.gov) has never accepted an argument for undue financial burden under as a reason for not complying with Section 504.

IDEA

The Individuals with Disabilities Act (IDEA) has several purposes, which include:

- ensuring that all children with disabilities receive a free and appropriate public education (FAPE) through special education and related services and that these services are designed to meet the students' unique needs and prepare them for further education, employment and independent living;
- ensuring that the rights of children with disabilities and their parents' rights are protected;
- assisting states, local educational agencies and federal agencies to provide for the education of all children with disabilities;
- assisting states in implementing an interagency system of statewide, comprehensive, coordinated, multidisciplinary early intervention services for infants and toddlers with disabilities and their families;
- ensuring that educators and parents have the necessary tools to improve educational results for children with

CS and Educational Laws, continued on page 7

Cued Speech and Educational Laws: Part 1, continued from page 6

disabilities by supporting system improvement activities; coordinated research and personnel preparation; coordinated technical assistance, dissemination, and support; technology development and media services; and

- assessing and ensuring the effectiveness of the efforts to educate all children with disabilities.

In addition, Title I of IDEA 2004 designates cued language services as part of early intervention services provided for at-risk children.

Furthermore, Part 300 of IDEA regulations include "cued language transliteration" in the area of interpreting services.

So what does this all mean? It means

that any child with a documented disability who is eligible for special education services will have a qualified team, including the parents/guardians, develop an Individualized Education Program (IEP) to serve his or her specific educational needs.

These children and their parents and guardians have rights protected by IDEA. Early intervention services are required and this law describes how they are carried out. Compliance with IDEA also ensures the effectiveness of each child's program, and that support is provided to both the educators and parents or guardians in order to best serve these children.

I hope that the information presented

here helps to clarify the requirements in the major national education laws as they pertain to students who are deaf and hard of hearing.

The next part of this series will outline the requirements of eligibility for services under these laws, and the differences between Section 504 and IDEA.

If you have questions or comments about this article, please feel free to contact Nicole Dobson at NiCueSSS@gmail.com. You can also visit Cued Speech Support Services for more information and resources at www.CueSSS.com.

2010 NCSA Calendar of Events



Spring Camp Cheerio



Cue Camp New York



Cue Camp New England



Cue Camp Virginia

May

Spring Camp Cheerio (5/14 - 5/16)
Glade Valley, NC

June

Cue Camp New York (6/24 - 6/27)
Nazareth College, Rochester, NY

July

Cue Camp New England (7/28 - 8/1)
Governor Baxter School for the Deaf,
Falmouth, ME

September

Cue Camp Virginia (9/30 - 10/3)
Jamestown, VA

October

Basic Instructor Workshop (10/22 - 10/23)
NCSA Board Meeting (10/22 - 10/24)
Instructor Certification Exam (10/24)
Rochester, NY

For more information, go to <http://www.cuedspeech.org/sub/general/events.asp>



Nicole Dugan



Benjamin Lachman



Michael Poore

Deaf Cuer Profiles: Cued Speech Services

by Sarah Segal

Deaf individuals caught their first glimpse of freedom in when Section 504 of the Rehabilitation Act, and later the Individuals with Disabilities Education Act (IDEA) and the Americans with Disabilities Act (ADA) were signed into law.

Michael Argenyi is a living example. Unable to receive Cued Speech services for his education as a first-year medical student at Creighton University, he has taken the issue to the United States District Court. He alleges in his preliminary statement that Creighton University violated the ADA by denying him accommodations that would enable him to fully participate as a medical student.

Argenyi declined to express his views on the matter because the case is pending, so *On Cue* interviewed three other deaf cuers who also faced difficulties acquiring Cued Speech services for their education.

Editor's note: Responses from the three deaf cuers were edited for space, but not for grammar or spelling.

Nicole Dugan:

Nicole filed a formal complaint with the U.S. Department of Education's Office for Civil Rights against Rochester Institute of Technology in 2003 after RIT failed to provide her with cued language transliterating services for two years of her education. In 2004, RIT modified its policies and granted Dugan CLT and C-Print services for her remaining years at RIT.

Ben Lachman:

Ben's parents, Mary Ann and Ron Lachman, filed suit against East Maine Illinois School District No. 63 in 1986 after school administrators refused to provide Ben with a CST for his education. After they lost and the case was rendered moot, the Lachmans, teachers and other parents gathered together to found Alexander Graham Bell Montessori School in Wheeling, Illinois.

Michael Poore:

In 1985, Michael's mother filed suit against the Arlington Independent School District in Texas for not providing him with a transliterator. The case later became Poore v. State of Texas public schools and resulted not only providing Cued Speech services for Poore's education, but also set a precedent for providing Cued Speech services for deaf cuers in all public schools in Texas.

On Cue: Tell me about yourself in 3-4 sentences. What have you been up to?

ND: I am living in Rochester, NY working towards a MS in Human Resource Development. I first came here in 2001 for college and have been here ever since! I love Rochester for its networking, resources, and diversity in people.

BL: I have been living in downtown Chicago for the last year or so and enjoying it thoroughly. I am currently helping rebuild SmartTouch Biometrics,

a company that manufactures and sells biometric personal security items such as fingerprint accessible safes. My favorite hobbies are hibernating in the winter and hanging out on the lake and enjoying Chicago in general in the summer.

MP: I own *ILTSOURCE.com*, which is an online e-commerce store selling products for people with disabilities as well as hospitals and schools. I started this business in 2006 and it has grown to where I have 5 people working for me now and broke the \$1 million in sales/year. I am further expanding this store to add about 10,000 more products.

OC: How has Cued Speech affected your life?

ND: As most deaf cue adults would say, Cued Speech has made an impact in every area of my life since I can remember. It has hardwired my brain in the early development of language and given me the chance to reach my full potential and open up a myriad of opportunities.

BL: It has enabled me to be responsible for my own needs rather than relying on others around me, thanks to the communication tools that I have at my disposal. I am profoundly deaf with no benefit whatsoever from hearing aids or cochlear implants, even though I had an implant at 5 years old. Nonetheless, I still live my life among my all-hearing family and mostly-hearing friends. I have learned to coordinate my interactions with everyone around me

for maximum comprehension and that's a mindset that I don't think I would have received had I not grown up with Cued Speech.

MP: If it wasn't for Cued Speech, I would not have had the skills/language to own a business much less manage my employees as well as the financial records and the overall running of the company. I would not be able to accomplish all that I have accomplished up to this point. I am very grateful that my parents chose Cued Speech and even more grateful for Dr. Cornett for inventing it.

OC: Have you ever had to forgo using Cued Speech services? If so, what services did you have in place of Cued Speech and what was it like?

BL: The only time I did not have a CST was at the outset of my college career. I had to alternate between temporary Cued Speech Transliterations and CART. I used CART for maybe 10 days in my entire college career. It was used in an emergency situation, such as if my CST was ill. I only had one CST through my entire college career and she powered through many situations that would have been deemed unacceptable by many of the current standards put in place for CST's. Example: 6-8 hour days. I have so much respect and gratitude for her. CART was mildly acceptable, to put it nicely. The benefits were the ability to print entire lectures and re-read them at a later date but the drawback was the exhaustion factor of reading a word document one word at a time as well as the inaccuracies that would sometimes arise from real-time captioning.

OC: (Nicole), what was it like not having Cued Speech transliterating services at RIT?

ND: It was hard adjusting to RIT my first two years. It took me a long time to become very fluent in ASL so I felt "boxed" in with glass walls for a long time with not being able to have full access in the classroom as well as outside of the classroom. Just about

every person I shared my story with was very sympathetic and understanding, but in the end it was really my fight to fight alone. I had heard about prior attempts to get CST services at RIT but all had failed pretty much because they knew sign language well enough to receive ASL interpreting in the classroom. That tidbit alone deterred me from becoming fluent in ASL for two years so that I could have a real chance of winning my case and opening up more doors for others like me.

OC: What do you think should be done to resolve the issue other deaf cuers like you face in receiving reasonable accommodations for their education?

ND: This is a hard question because there isn't one clear-cut answer for this. It all depends on where you are, what kind of resources there are, and most importantly...the availability and quality of CSTs. Rochester is one of the few cities that screams "Cued Speech!" with a mix of all kinds of cuers whether they're deaf, hearing, a newbie, native, parent, teacher, or friend. So when a university in Rochester tells you, "Oh, we can't find anyone to cue for you," it's bull. Each situation is unique and I would look everywhere for support and additional resources because it'll help you a great deal in the long run.

BL: There needs to be a shift from allowing schools to dictate methodology to having the families themselves be responsible for the type and method of education that their child receives. It is basically unethical for schools to dictate life-affecting decisions onto children and their families. Educational institutions often fall into a mindset of, "we've seen this 100 times more than you have so we're the experts." So there needs to be a fundamental shift in responsibility from schools to families. Educational institutions are a service provider and students are their customers.

MP: I believe that every student should not have to pick and choose when it comes to accommodations for their educations, my parents strongly believed

this which is why they fought hard with a lawyer for over two years to ensure this. I was too young to have it affect me in any way though.

OC: Is there anything you'd like to say to deaf cuers with issues receiving reasonable accommodations for their education?

ND: Don't give up or take the alternative way out (aka the "easy way out"). If you feel something is unjust, put up a fight because it's likely that no one else is willing enough. However, choose your path wisely. I took the long hard way and it came at a great cost. It took me three years for RIT to finally agree to give me CST and C-Print services without any questions (due to some mismanaged handling in the US Dept of Education/Office of Civil Rights... to name a few instances: one manager passed away and my case was transferred to another city). It took a toll on me and I ended up changing majors twice and didn't walk with my bachelor's until 2008, seven years after I first came to RIT.

BL: Always stand up for yourself. Become an expert in self-advocacy. Do not let anybody tell you what the situation should be. The decision is yours. You may have to go to extra lengths to assist the school in finding a CST but as long as there is a spirit of cooperation, it will get done. If the school stubbornly refuses to allow CST's based on "everyone else uses so and so," they are in clear violation of your rights as a human being to access the world around you.

MP: All I can say is don't give up because Cued Speech is worth it and without Cued Speech I would not be where I am today.

Current Congressional Legislation to Watch

Four bills of special interest to the deaf and hard-of-hearing populations and their families are currently in House and Senate review committees. These include:

H.R. 3101, the Twenty-First Century Communications and Video Accessibility Act of 2009, which aims to update and reinforce the communications and video programming accessibility gains from the Federal Communications Commission's Telecommunications Act of 1996 for our Internet era.

H.R. 1646 and **S. 1019**, the Hearing Aid Assistance Tax Credit Act, are meant to amend the Internal Revenue Code of 1986 to allow credit against income tax for hearing aids.

H.R. 3024, the Medicare Hearing Health Care Enhancement Act of 2009, is intended to amend title XVIII of the Social Security Act to provide Medicare beneficiaries with more choice in accessing hearing health services and benefits.

Supporting Accessible Communication and Video Technology: H.R. 3101

The National Cued Speech Association, along with over 230 other national, state, and local organizations, is a member of the Coalition of Organizations for Accessible Technology (COAT). All COAT affiliates have pledged their support for accessible technology. This year, there is major legislation in the House being put towards guaranteeing a widely accessible Internet. COAT, and therefore the NCSA, is a major supporter of House Resolution 3101.

The increasing use of computer technology has been a wonderful thing for Americans who deaf and hard-of-hearing. However, accessibility to online media is still a problem, as captions can only be found on a small percentage of online videos, podcasts, and other

visual media. Unfortunately, there are no 'caption converter boxes' for the Internet, and the Telecommunications Act of 1996 does not cover online broadcast communications.

The technology to offer online media accessibility exists, but it is still rarely used. Few media providers offer online captions, even if the shows are captioned on broadcast television. Even large Internet media companies such as iTunes and Netflix have yet to offer widespread online video and media content that are accessible to the millions of Americans who are deaf, hard-of-hearing, or visually impaired. As a result, momentum has been building for legislation to bring the gains of the Telecommunications Act of 1996 online and into the 21st century. The Twenty-First Century Communications and Video Accessibility Act of 2009, also known as H.R. 3101, was introduced by Massachusetts congressman Ed Markey in June 2009.

If enacted, H.R. 3101 would amend national Communications Acts so that new online television and telephone products are accessible and usable by people with disabilities, as well as close gaps in existing telecommunication laws.

Major provisions include requiring:

- caption display capability on all video programming devices including PDAs, computers, iPods, cell phones, DVD and TiVo devices and battery-operated TVs.
- captioning and video description obligations for the blind on broadcast video programming distributed over the Internet, including new material, emergency broadcasts, and material previously distributed with captions on TVs (not including user-generated material, such as YouTube videos).
- accessibility to, and compatibility with, hearing aids, for phone-type equipment and services on the Internet.
- the FCC to develop real-time text digital standards to replace TTY/TDD

communication.

H.R. 3101 is currently in the House committee on Energy and Commerce, where it will be discussed and revised before general House debate. However, it needs to be moved out of committee in order to get onto the House floor. The majority of House bills never make it out of committee onto the floor, so support and persistence is crucial.

This bill currently has 41 cosponsors. The more sponsors that sign on, the greater the pressure will be to move it to the floor for a vote. Support from Republicans is especially needed, as all so far are Democrats. There are now less than 300 days before the end of the current session of Congress, so it is time to MAKE NOISE, as Marlee Matlin would say.

If your Congressional representative(s) or Senators have not yet signed on as bill cosponsors, get in touch via e-mail, phone, letter, or in person to inform them about the importance of online telecommunications accessibility, and ask them to support H.R. 3101. (A good bet is to contact those cosponsoring H.R. 1646 and/or H.R. 3024 and who are not yet declaring support for H.R. 3101). For more information, including lists of the current bill cosponsors:

<http://www.coataccess.org/>

<http://captionaction2.blogspot.com/>

<http://www.govtrack.us/congress/bill.xpd?bill=h111-3101>

Hearing Aid Credit: H.R. 1646 and S. 1019

The Hearing Aid Assistance Tax Credit Act would amend the Internal Revenue Code to give tax credits for the purchase of hearing aids for taxpaying individuals who are over 55 years of

Congressional Legislation, continued on page 11

Current Congressional Legislature to Watch, continued from page 10

age or their dependent(s), excluding taxpayers whose gross yearly income exceeds \$200,000. The maximum tax credit allowed per qualified hearing aid would be \$500 (up to \$1,000 for two). Hearing aid income tax credit would be claimable once every 5 years.

This bill was introduced to the House Committee on Ways and Means by Representative Carolyn McCarthy (D) of New York in March 2009, and currently has 114 cosponsors.

The Senate bill of the same title, S. 1019, is very similar to H.R. 1646. It offers the same tax credit, but differs in allowing the credit for all taxpayers, regardless of age or income. It was introduced to the Senate Committee on Finance by Senator Thomas Harkin (D-IA) in May 2009 and currently has seven cosponsors.

Medicare Hearing Healthcare Amendment: H.R. 3024

Introduced in the House Ways and Means committee in June 2009 by Representative Mike Ross (D-AR), the Medicare Hearing Health Care Enhancement Act of 2009 would amend the Social Security Act to allow greater choice in, and direct access to, audiologists without needing to be referred by a general physician. In addition, audiology services would be included as a 'medical service' under Medicare Part B, or Supplementary Medical Insurance. This amendment currently has 61 cosponsors.

Editor's Note: The numbers of cosponsors for each proposed bill are as of March 31, 2010.



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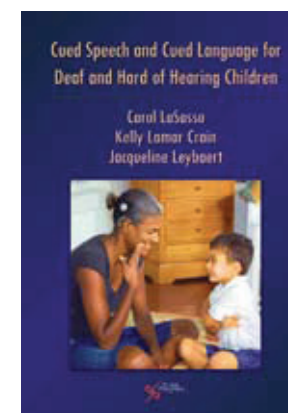
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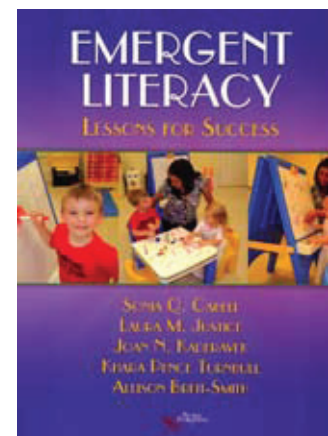
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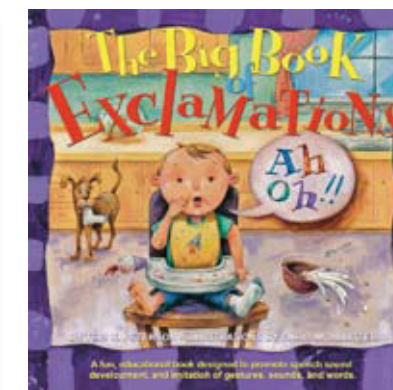
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What Makes a Transliterator Qualified?

by Hilary Franklin

When the Individuals with Disabilities Education Act (IDEA) was reauthorized in 2004, it provided a step forward for the cueing community. Language was added to the law that specifically requires school districts and systems to provide qualified cued language transliterators—provided the request is put in writing on the student’s IEP.

But what is a qualified transliterator, and how do you know if a person is qualified to work in your child or student’s classroom? In order to answer this question, we need to look to both evaluation tools and common sense.

But first, a bit of history. Cued language transliterating, as a profession, did not really begin until the late 1970s, when many more children were in public schools and using and sharing CLT services with other students. Many transliterators were parents or siblings of the first cuers—or their classmates’ parents. They considered transliterating a great part-time “job” and one that worked with their own children’s schedules.

Over the last 25 years, national and state certifications and evaluations for cued language transliterators have been developed. The first national certification exam was provided in the late 1980s by the Training, Evaluation, and Certification Unit (TECUnit). The TECUnit has also developed state-level certifications for those states that require it.

In 1991, Boystown National Research Hospital began developing an screening for sign language interpreters working in school systems. They worked with interpreters and deaf consumers who recognized that interpreting in educational settings can be, and often is, very different from working in the community or government and private sectors. In 1999, Boystown established the Educational Interpreter Performance

Assessment Diagnostic Center and began providing the EIPA screening to states and local educational agencies that wanted independent evaluations of their interpreters.

Their Educational Interpreter Performance Assessment (EIPA) is not a certification; rather, it is a screening to determine the current skill level of the interpreter. To date, K-12 educational interpreters in more than half the states are required by law to take the EIPA and achieve at least a specified rating.

In 2005, Dr. Jean Krause at the University of South Florida received a federal grant to develop a pilot version of the EIPA for cued language transliterators. A team of professionals and consumers worked together to develop an appropriate assessment for CLTs to be not only comparable to the original EIPA, but also one that measures skills specific to Cued Speech. Boystown is planning to release the EIPA-Cued Speech to the public sometime this year.

So, what makes a CLT qualified to work in your child or student’s school? The answer is unfortunately not as simple as “passing” a certification exam or scoring high enough on an evaluation. The following list provides some guidelines.

- **Production of mechanics and linguistic information**—The transliterator should cue accurately (correct handshapes and placements), and use facial expression to indicate pragmatic and other extralinguistic information, such questions or tone.
- **Understanding of role boundaries**—The CLT is essentially an “information relay” between the deaf and hearing individuals in the classroom; therefore, s/he should not act as a teacher’s aide or help the deaf student(s) with class work. CLTs should also never discipline students (deaf or hearing).
- **Ability to work with the deaf**

student(s)—The transliterator should understand that deaf consumers do not always want to look at the CLT; some students may prefer to watch the teacher and use the CLT as backup. Younger students may not fully understand that CLTs are there to “provide” the same information that the teacher is saying. CLTs should not force students to pay attention or stop cueing when the student(s) look away.

- CLTs can communicate with one another as well as with classroom teachers to determine what “tips and tricks” work best for keeping certain students’ attention. It can be something as simple as moving closer to the teacher or cueing upside-down for a minute (the latter works great with young children!).
- **Overall professionalism**—No gossiping or discussing any information about any students and teachers in the classroom. General interpreting ethics clarify this more; in a nutshell, if deaf students are not in the classroom, the transliterators would not be there and therefore not privy to what occurs in the classroom/school.
- **Communication**—Some of the best CLTs will communicate with the deaf consumer’s parents and IEP team if the student has a habit of not watching the CLT consistently or attempting to use the transliterator inappropriately (e.g., asking for help with class work or homework). Deaf students do need to learn the role of the transliterator, and the CLT can be part of that process.
- **Professional development/evaluations**—Those transliterators who truly see themselves as professionals will strive to better improve themselves, both ethically and skill-wise, regardless of job requirements. It is important to recognize that regular feedback can help prevent transliterators from continuing with bad habits or with correcting inaccuracies they may not realize exist (e.g., using the wrong vowel placement).

continued on next page

What Makes a Transliterator Qualified?, continued from page 12

The state of Virginia requires its educational interpreters and transliterators to either earn national certification or pass the state-level screening (Virginia Quality Assurance Screening). Beth Blair, a lead transliterator for Fairfax County Public Schools, which has a large Cued Speech program, said, “A CLT must be proficient in the following areas: accuracy/clarity/synchronization of cues, rhythm/mood/inflection of cueing, accents/dialects, AES (auditory environment stimuli), verbatim delivery,

paraphrasing, foreign language, speaker identification/distinction, and voicing.” Suhad Keblawi, another lead transliterator in FCPS, added, “[CLTs] also go through an extensive training in understanding and applying the Cued Language Transliterator Code of Conduct. This enables the CLTs to make sure that all consumers, hearing and deaf, are aware of the transliterator’s role. [This also] empowers the deaf consumers to understand their rights and responsibilities with regard to having a transliterator with them in the school

setting.” In short, qualified cued language transliterators serve as English language models, and so they should take their job seriously. We are just beginning to move from the idea of “helping” deaf children to being “language facilitators.” With the inclusion of cued language services in the 2004 reauthorization of the IDEA, we need to work together as a community to ensure that our CLTs are as professional and qualified as possible. This may require a lot of educating; in the long run, it will pay off.

TECUnit Code of Conduct

The following code of conduct was developed in 1989 by Earl Fleetwood, M.A., and Melanie Metzger, Ph.D., the founders of the Training, Evaluation and Certification Unit (TECUnit).

Cued Language Transliterator Code of Conduct

A cued language transliterator shall:

- Facilitate communication between deaf/hard-of-hearing cued language consumers and hearing consumers.
- Provide sound-based environmental information to deaf/hard-of-hearing consumers of cued language.
- Provide appropriate training to deaf/hard-of-hearing consumers to allow for proper transliterator utilization.
- Provide hearing consumers with appropriate demonstration/explanation of the transliterator role.
- Demonstrate and implement ongoing reverence for the preservation and pro-motion of complete and equal access.
- Promote the progression of events as if circumstances do not necessitate transliterator presence.
- Adhere to the ethical standards of transliterating for deaf/hard-of-hearing consumers.
- Support the profession of cued language transliteration by striving to improve related skills and knowledge and the application thereof.

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www.tecunit.org

Resources

The following resources provide additional information about Cued Speech, transliterating and interpreting, and working in educational settings.

- Boystown National Research Hospital EIPA page: <http://www.boystownhospital.org/hearingLoss/childhoodDeafness/Pages/EducationalInterpreter.aspx>
- Boystown EIPA Classroom Interpreting web site (applicable to transliterators): <http://www.classroominterpreting.org> (This web site also contains information about the EIPA)
- National cued language transliterator certification: TECUnit (www.tecunit.org)
- Registry of Interpreters for the Deaf (RID) Code of Professional Conduct: <http://www.rid.org/ethics/code/index.cfm>

RID Standard Practice Paper: Interpreting in Educational (K-12) Settings: <http://www.rid.org/UserFiles/File/pdfs/124.pdf>

(Editor’s note: As of press time, RID had just completed member feedback regarding updating this SPP. It has not yet been updated.)

Deaf Cuer to Receive Council of Exceptional Children International Award

-CEC Press Release

ARLINGTON, VA, April 1, 2010—Dylan Estrada, 16, has flourished academically despite being deaf. Because of his achievements, he will receive a 2010 *Yes I Can!* Award from the Council for Exceptional Children (CEC) in April.

Each year, CEC honors 27 students with disabilities who have excelled. Awards are given in nine categories: academics, arts, athletics, community service, employment, extracurricular activities, independent living skills, self-advocacy, and technology. CEC is proud to honor Dylan with this award in the academics category.

“The *Yes I Can!* Awards were developed to honor students with disabilities who have achieved remarkable things,” says CEC President Jacqueline L. Mault. “Dylan exemplifies the spirit of these awards with his hard work and perseverance.”

When he was a toddler, Dylan’s parents became concerned he wasn’t uttering sounds such as “mama” or “dada.” He began seeing a speech therapist and at age two-and-a-half, it

became clear he had profound bilateral sensorineural hearing loss.

Despite this late start, Dylan was clearly intelligent. For example, by age five, he understood computers and was able to construct his own independently. His parents home-schooled him for a short time due to a lack of available services.

The family then relocated to Ascension Parish, where Dylan joined the hearing impaired program using Cued Speech with specialized instruction, speech therapy, and transliterating services. At nine years old Dylan entered Gonzales Primary School, where a transliterator stayed with him through the day. The program proved difficult for him and he had difficulty socializing. However over time his work ethic remained strong and his receptive and expressive language abilities began to improve.

By the sixth grade Dylan had earned a 4.0 GPA. He was even able to skip the seventh grade and won academic awards in most subject areas in eighth grade at Gonzales Middle School. Now a ninth

grader at East Ascension High School, Dylan is enrolled in general education classes and meets with a certified educator for people with hearing impairments for a couple hours a week. His classmates, teachers, and family continue to support him in his academic endeavors.

“Dylan never shies away from a challenge. His name is synonymous with the word ‘hero,’” says resource teacher Cheryl Russell, who nominated him for the award.

Dylan resides in Prairieville, La. He will receive the award at the *Yes I Can!* Award Ceremony on April 23 at the Gaylord Opryland Hotel and Convention Center in Nashville as part of the CEC 2010 Convention & Expo.

CEC is an international community of educators who are the voice and vision of special and gifted education. CEC’s mission is to improve the quality of life for individuals with exceptionalities and their families through professional excellence and advocacy.

Cued Speech: A Law Review, continued from page 5

combination of Cued Speech and oralism to American Sign Language. 611 F.Supp.2d 1097, 1097 (E.D.Cal.2009).

However, the Court pointed out that it was an occasional use of sign language and also that the mother had previously agreed to try sign language because she was willing to try anything that might work, as she acknowledged in court. *Id.* at 1107. Consequently, the Court found that the “student did not establish that this occasional use of sign language constituted a change in his mode of communication without his parents’ consent. The student’s primary mode of communication remained oral and Cued Speech” through the use of a Cued Speech transliterator and the use

of oralism in the mainstream classroom. *Id.* at 1121. Thus, the Court ultimately held that the plaintiff’s procedural due process rights were not violated by a unilateral change in mode of communication and therefore the district did not deny the student a FAPE. *Id.*

This case also repeated the idea that “while a student’s individualized education plan (IEP) under IDEA must be reasonably calculated to provide him with educational benefit, school districts are required to provide only a basic floor of opportunity; thus, an appropriate public education does not mean the absolutely best or potential-maximizing education for the student.” *Id.* at 1107.

In sum, the law as it stands today is

not very encouraging; however, that is simply due to the relatively nascent position of Cued Speech as a widely used accommodation. The law has yet to catch up to the times. With more courtroom battles, the law can and will evolve further to more accurately reflect the variety of accommodations available to hearing-impaired students.

Editor’s note: With the reauthorization of the Individuals with Disabilities Education Act in 2004, which includes cued language transliteration as a recognized service, we are hopeful that future court cases will have more positive outcomes for students who use Cued Speech as their primary mode of communication.

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On Cue

On Cue, the newsletter of the National Cued Speech Association, is published three times a year; e-mail updates to members are more frequent. Letters to the Editor must include contact information of the author. The Editor reserves the right to select those letters to be published and to edit for length and language. News, calendar items, letters, classified ads, and photos are needed! Electronic transmission of all materials is preferred. Electronic photos must be high-resolution at 300 dpi.

Send to Aaron Rose, Editor, at oncue@cuedspeech.org or mail hard copy to:

On Cue

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Exhibit Volunteers and Representing the NCSA

by Esther Rimer

The NCSA has exhibits and poster sessions/presentations at conferences, sessions, and conventions all over the country throughout the year. We rely almost entirely on local volunteers to help represent us and advocate for Cued Speech. Your help is crucial! If you would like to be placed on a list of people we can contact to volunteer when we are seeking advocates to help with our exhibits, please contact me. You may e-mail me at outreach@cuedspeech.org.

Likewise, if you know of a conference or convention in your region where you think the NCSA ought to consider having a booth, please inform me! These can be events that are sponsored by regional/local organizations such as Hands and Voices or national organizations like the American Speech-Language-Hearing Association or the National Center for Family Literacy.

We cannot make it to all conferences, but it is good to know where demand for awareness exists. We also greatly appreciate our volunteers and financial donors who make it possible for us to bring Cued Speech to all corners of the United States.

Currently we are scheduled for and/or looking for volunteers to help with booths and represent us at the following events:

- *AG Bell 2010 Biennial Convention*, Orlando, FL. June 25-28, 2010.
- *South East Regional Early Hearing Detection and Intervention Conference*, Knoxville TN. July 26-27, 2010.
- *Investing in Family Support Conference*, Kansas City, MO. October 10-12, 2010.
- *American Speech-Language-Hearing Association (ASHA) Convention*, Philadelphia, PA. November 18-20, 2010.



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