HOUSE DOCKET, NO. 1959 FILED ON: 1/19/2023

HOUSE . . . . . No. 3943

The Commonwealth of Massachusetts

PRESENTED BY:

Brian M. Ashe

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act ensuring language readiness in deaf, deafblind, and hard-of-hearing children entering kindergarten.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Brian M. Ashe	*2nd Hampden*	*1/19/2023*
Joan B. Lovely	*Second Essex*	*4/6/2024*

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HOUSE . . . . . No. 3943

By Representative Ashe of Longmeadow, a petition (accompanied by bill, House, No. 3943) of Brian M. Ashe relative to the language readiness of deaf, deafblind, and hard-of-hearing children entering kindergarten. Education.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act ensuring language readiness in deaf, deafblind, and hard-of-hearing children entering kindergarten.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 69 of the General Laws is hereby amended by inserting after section 1T the following section:

Section 1U. (a) For the purposes of this section the following terms shall, unless the context requires otherwise, have the following meanings:-

“504 plan”, and individualized education plan authorized by section 504 of the Federal Rehabilitation Act of 1973.

“ASL”, American Sign Language.

“IEP”, an individualized education program authorized by the Federal Individuals with Disabilities Education Act.

"IFSP", an individualized family service plan authorized by the Federal Individuals with Disabilities Education Act.

"Language developmental milestones", are milestones of development aligned with the existing state standard used to meet the requirements of federal law for the language assessment, to be determined by the work group, of children from birth to age 6, inclusive.

"Language" any language in American Sign Language or English.

"English", spoken English, written English or English with the use of visual supplements as specified in Definition (a)(4).

"Total Communication", the methodology of spoken English and the use of sign language simultaneously.

"Language Readiness Services", to provide an accessible language such as visual or spoken to build a language rich environment to interact, to play, to share a focus, and to take turns.

For the purposes of developing and using language as defined in subsection (c)(2), for a child who is deaf, deafblind or hard-of-hearing the milestones and assessments will be focused on American Sign Language or English. There are other modalities that would support the acquisition of language that would support the learning of English and ASL. Recognition of heritage language shall be honored and supported.

(b) The commission of the deaf and hard of hearing, working with the department of public health and the department of elementary and secondary education, shall:

(i) jointly select language development milestones from existing standardized norms pursuant to the process specified in subsection (f):

(ii) develop a resource for use by parents to monitor and select assessments to track deaf, deafblind and hard-of-hearing children's expressive and receptive language acquisition and developmental stages toward English literacy regardless of services received:

(iii) publish annually a joint report of disaggregate data based on demographics, services received and language modality; and

(iv) address systemic processes and gaps for deaf, deafblind, and hard of hearing children ages 0 through 6.

(c) The parent resource required by paragraph (ii) of subsection (b) shall be made available in any language and shall:

(i) include the language developmental milestones selected pursuant to the process described in subsection (f);

(ii) be appropriate for use, in both content and administration, with deaf, deafblind, and hard-of-hearing children from birth to age 6, inclusive, who use ASL, English or both languages;

(iii) present the developmental milestones in terms of typical development of all children, by age range;

(iv) be written for clarity and ease of use by parents;

(v) be aligned with the departments' existing infant, toddler and preschool guidelines, the existing instrument used to assess the development of children with disabilities pursuant to federal law and state standards in ASL and English language arts;

(vi) provide acquisition and development milestones that meet current developmental standards for non-deaf children.

(vii) make clear the parent resource is not a formal assessment of language and literacy development and that a parent's observations of their children may differ from formal assessment data presented in an IFSP or IEP meeting or a 504 plan;

(viii) emphasize the importance of placing the child on an IFSP, IEP or 504 plan and make clear that a parent may bring the parent resource to an IFSP, IEP or 504 plan meeting for purposes of sharing their observations about their child's development; and

(ix) include fair, balanced and comprehensive information about language and communication modes as well as available services and programs.

(d) The department of public health and the department shall select existing tools and for educators that can be used to assess the language and literacy development of deaf, deafblind and hard-of-hearing children. These educator tools or assessments shall:

(i) be in a format that shows stages of language development;

(ii) be selected for use by educators to track the development of deaf, deafblind and hard-of-hearing children's expressive and receptive language acquisition and developmental stages toward English literacy;

(iii) be selected from applicable existing instruments, tools or assessments used to assess the development of all children from birth to age 6, inclusive.

(iv) be appropriate, in both content and administration, for use with deaf, deafblind and hard-of-hearing children.

(v) be used, in addition to the assessment required by federal law, by the child's IFSP, IEP or 504 plan team, as applicable, to track deaf, deafblind and hard-of-hearing children's progress and to establish or modify IFSP, IEP or 504 plans. A parent of a child who is deaf, deafblind or hard of hearing may opt the child out of the annual assessment. To opt out of an annual assessment required under this section, a parent of a child who is deaf, deafblind or hard of hearing must provide, in writing, to the local educational agency the parent's intent to opt out of the annual assessment for the child; and

(vi) reflect the recommendations of the committee on kindergarten readiness established pursuant to subsection (g).

(e) (1) The departments shall disseminate the parent resource developed pursuant to subsection (b) to parents and guardians of deaf, deafblind and hard-of-hearing children and,

pursuant to federal law, shall disseminate the educator tools and assessments selected pursuant to subsection (d) to local educational agencies for use in the development and modification of IFSP, IEP and 504 plans and shall provide technical assistance on its use to assist deaf, deafblind and hard-of-hearing children in becoming linguistically ready for kindergarten

(2) If a deaf, deafblind or hard-of-hearing child does not demonstrate progress in expressive and receptive language skills as measured by one of the educator instruments, tools or

assessments selected pursuant to subsection (d), or by the existing instrument used to assess the development of children with disabilities pursuant to federal law, the child's IFSP, IEP or 504 plan team, as applicable, shall, as part of the process required by federal law, explain in detail the reasons why the child is not meeting the language developmental milestones or progressing toward them and shall recommend specific strategies, services and programs that shall be provided to assist the child's success toward English literacy.

(f) (1) On or before March 1, 2024, the Massachusetts commission for the deaf and hard of hearing along with the department and the department of public health shall provide the committee on kindergarten readiness established pursuant to subsection (g) with a list of existing language developmental milestones from existing standardized norms and any relevant information held by the departments regarding those language developmental milestones for possible inclusion in the parent resource developed pursuant to subsection (b). The language developmental milestones shall be aligned to the department's existing infant, toddler and preschool guidelines, the existing instrument used to assess the development of children with disabilities pursuant to federal law and the state standards in English language arts.

(2) On or before June 1, 2024, the committee on kindergarten readiness shall recommend language developmental milestones for selection pursuant to subsection (b).

(3) On or before June 30, 2024, the departments shall inform the committee on kindergarten readiness of the language developmental milestones selected pursuant to paragraph (1).

(g) (1) The commission of deaf and hard of hearing shall work with the department of public health and the department of elementary and secondary education to appoint a full

standing committee, hereafter referred to as the committee on kindergarten readiness, for purposes of supporting all deaf, deafblind and hard of hearing children's language and education needs including the selection of language developmental milestones for deaf, deafblind and hard of hearing children that are equivalent to those for children who are not deaf, deafblind and hard of hearing for inclusion in the parent resource developed pursuant to subsection (b).

(2) The committee on kindergarten readiness may make recommendations on the selection and administration of the educator tools or assessments selected pursuant to subsection (d). The committee on kindergarten readiness may make recommendations on the materials to add to the parent resource; provided, that any such recommended materials are unbiased and comprehensive. The committee shall review the annual joint report to be produced by the department and department of public health using disaggregated data that considers the language and English literacy development of children who are 6 years of age and under, deaf, deafblind and hard of hearing; in relation to the age appropriate milestones of their peers who are not deaf or hard of hearing by July 1, 2024, and every year thereafter. The committee shall address systemic processes and address gaps of deaf, deafblind and hard of hearing children between the ages of 0 and 6 in any recommendations made pursuant to this paragraph.

(3) The committee on kindergarten readiness shall consist of 18 individuals who have an expertise in, and knowledge of, issues concerning the education of children, the majority of

whom shall be deaf, deafblind or hard-of-hearing. The committee on kindergarten readiness shall have a balance of members who use ASL and English in a personal or professional context and members who use only spoken English in a personal or professional

context. The committee on kindergarten readiness shall be comprised of the following voting members:

(i) 1 parent of a child who is deaf or hard-of-hearing who uses the dual languages of ASL and English;

(ii) 1 parent of a child who is deaf or hard-of-hearing who uses only spoken English and who may use visual supplements;

(iii) 1 expert who researches language outcomes for deaf, deafblind and hard-of-hearing children using ASL and English;

(iv) 1 expert who researches language outcomes for deaf, deafblind and hard-of-hearing children using spoken English and who may use visual supplements;

(v) 1 early intervention specialist who works with deaf and hard-of-hearing infants and toddlers using the dual languages of ASL and English;

(vi) 1 teacher of the deaf and hard-of-hearing who is licensed in the area of ASL or Total Communication whose expertise is in ASL and English language assessment.

(vii) 1 speech pathologist of spoken English who may use visual supplements and who has expertise in assessment of English language.

A representative from each of the following agencies or committees, as determined by the agency head or committee chair, shall serve as non-voting members of the committee:

(i) Universal Newborn Hearing Screening Program;

(ii) 4 special service programs for the deaf and hard-of-hearing; provided, that the representatives of such special service programs shall be service providers who serve diverse populations and who do not practice in the same location as the other special service program representatives; and

(iii) Massachusetts State Association of the Deaf, Inc.

(h) The committee on kindergarten readiness established pursuant to subsection (g) may advise the department and the department of public health on the content and administration of the existing instrument used to assess the development of children with disabilities pursuant to federal law and as used to assess and track deaf, deafblind and hard-of-hearing children's language and literacy development to ensure the appropriate use of that instrument with those children. The committee may make recommendations regarding future research to improve the measurement of progress of deaf, deafblind and hard-of-hearing children in language and literacy.

(i) Commencing on or before July 31, 2024, and on or before each July 31 thereafter, the department and the department of public health shall annually produce a joint report on the language and literacy development of deaf, deafblind and hard-of-hearing children from birth to 6 years of age, inclusive, including those who are deaf, deafblind or hard-of-hearing and have other disabilities, relative to their peers who are not deaf, deafblind or hard-of-hearing. The report shall be based on disaggregated data reported in compliance with the federally required state performance plan on pupils with disabilities. The disaggregated data should include geographical data, race, services received, and language modality. The department and the department of public health shall make this report available on their respective Internet websites.

(j) All activities of the departments in implementing this section shall be consistent with federal law regarding the education of children with disabilities and federal law regarding the privacy of pupil information.

(k) This section shall apply only to children from birth to age 6, inclusive.

SECTION 2. Section 1 of chapter 111G of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by striking out the definition of "Early intervention services" and inserting in place thereof the following definition:- "Early intervention services", services provided to children and the families of children, who are between birth and three years of age and who have identified handicapping conditions or who are at risk for developmental delays due to biological, established, or environmental factors. Such services are for the purpose of minimizing the potential for developmental delay and for preventing the institutionalization of such children and shall be developmental services, including but not limited to speech, occupational and physical therapy, social work, psychological, educational, and nursing services. Early intervention services shall include language readiness services provided pursuant to section 1U of chapter 69.

SECTION 3. Section 2 of said chapter 111G, as so appearing, is hereby amended by adding the following paragraph: -

The department shall, in coordination with the department of elementary and secondary education, develop and promulgate uniform rules and regulations for the provision of language readiness services provided pursuant to section 1U of chapter 69.