

ABSTRACT

Statutes Speak Louder Than Words: An In-depth Analysis of Deaf Education Legislation in the United States.

Amelia Baumgardner

Director: Marnie C. Abrahams

From the inclusion of American Sign Language (ASL) interpreters on Chance the Rapper's *Be Encouraged* tour to the Academy Award win for the short film "The Silent Child" to Apple Inc.'s inclusion of a new ASL signing emoji, 2018 has been a blockbuster year for the Deaf community. Often forgotten by the hearing world around them, the Deaf minority in the United States has remained strong and grown a culturally distinct identity for the last century. However, like many American minorities, they face many systemic inequalities in their daily lives as showcased in the current climate of Deaf education. This thesis looks at the history of Deaf education in America and highlights the federal legislation that provided Deaf individuals with a foundation for equal education and the state legislation that makes it a reality. Focusing on the Americans with Disabilities Act and Individuals with Disabilities Education Act, I address one of the main paradoxes facing the Deaf community: allowing themselves to be labeled a "disability group" to receive much-needed services, while rebelling against the idea that deafness is in fact a disability. Similarly, I take a comprehensive look at the legislation in California and Kansas, serving to apportion more rights to Deaf individuals across their states and overcome the remediable ignorance many people have toward the Deaf community. An amalgamation of history, sociology and policy, this is the first attempt to review how legislation in America targets the Deaf community and helps to address some of the audistic inequalities the hearing world is often unaware of.

APPROVED BY DIRECTOR OF HONORS THESIS:

Marnie Abrahams, Communication Science & Disorders

APPROVED BY THE HONORS PROGRAM:

Dr. Elizabeth Corey, Director

DATE: _____

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AN IN-DEPTH ANALYSIS OF DEAF EDUCATION LEGISLATION IN THE
UNITED STATES

A Thesis Submitted to the Faculty of
Baylor University
In Partial Fulfillment of the Requirements for the
Honors Program
By
Amelia Baumgardner

Waco, Texas

May 2018

TABLE OF CONTENTS

Preface	i
Acknowledgments	v
Chapter One: An Introduction to the Deaf Community	1
Chapter Two: The Americans with Disabilities Act.	13
Chapter Three: The Individuals with Disabilities Education Act	28
Chapter Four: Deaf Education in California.	44
Chapter Five: Deaf Education in Kansas.	57
Chapter Six: The Conclusion on Deaf Education and its Policies.	68
Bibliography	75

ACKNOWLEDGEMENTS

This thesis only became a reality through the support and encouragement of various individuals in my life, and I'd like to extend my sincerest thanks to them.

Particularly, I'd like to take an opportunity to thank the Lord who led me to this topic, which I will be deeply invested in for the rest of my life. Thank you for inspiring me to follow this path and guiding Thomas Gallaudet before me to do your work joyfully.

Next, I'd like to thank my family for supporting me in my deep dive into this topic. All of you have upheld my conviction for this paper and supported me these past two years. Particularly, I'd like to thank my mom, who is my biggest inspiration because of her passion and unswerving dedication to others. You are a mother to the state of Kansas and an exemplar of a legislator.

Similarly, I'd like to thank my thesis advisor, Mrs. Marnie Abrahams. You've been the most incredible mentor to me throughout this process. Even when you were similarly fatigued, you always made time to listen and never grew tired of reminding me why this work is important. Your advocacy and understanding is essential. Thank you.

To all my friends that encouraged me in my writing, and let me explain and exclaim at them, you mean so much to me. There are pieces of you on every page.

Finally, in the Homeric tradition, many libations to the Muses for the inspiration they gave me. Calliope and her sister sung to me the story of many and channel their narratives into this book

CHAPTER ONE

An Introduction to the Deaf Community

From the inclusion of American Sign Language (ASL) interpreters on Chance the Rapper's *Be Encouraged* tour to the Academy Award win for the short film "The Silent Child" to Apple Inc.'s proposal to include a new ASL signing emoji, 2018 has already been a blockbuster year of recognition for the Deaf community. While often forgotten by the hearing world around them, the Deaf minority in the United States has remained strong and has grown a culturally distinct identity over the last century. However, like many other minority groups in this country, they face many systemic inequalities in their daily lives as showcased in the current climate of Deaf education. In my thesis, I look at the history of Deaf education in the United States and highlight the federal legislation that provided Deaf individuals with a foundation to attain equal education to their hearing peers and the state legislation that actually makes it a reality. Focusing first on the Americans with Disabilities Act and Individuals with Disabilities Education Act, I address one of the main paradoxes facing the Deaf community: allowing themselves to be labeled a "Disability group" to receive much-needed services, while rebelling against the idea that deafness is in fact a disability. Similarly, I take a comprehensive look at the legislation in California and Kansas, serving to apportion more rights to Deaf individuals across their states and overcome the remediable ignorance many people have toward the Deaf community. An interdisciplinary amalgamation of history, sociology and policy,

this is the first attempt to review how legislation in America specifically targets the Deaf community and helps to address some of the inequalities the hearing world is often unaware of.

To truly understand the differences and necessity of equality between the education of hearing and Deaf students, one must first understand the history of the Deaf community. First, let me start with some clarification about the term “Deaf”. In this paper, I will follow the Deaf cultural standard of capitalizing Deaf to refer to that group. Lowercase “d” deaf is used in reference to a person’s audiometric condition or physical characteristic. People who are deaf, deafened or hard-of-hearing do not necessarily culturally identify as a member of the Deaf community and oftentimes utilize English as their primary language to communicate with others. Capitalized- D Deaf refers to the “particular group of (physically) deaf people who share a language – American Sign Language (ASL) – and a culture.” (Padden, 1988). This group of people adheres to a completely separate culture than people who can hear. More so, they share values, beliefs and exhibit mutual behaviors. The most central of these beliefs is that the Deaf community does not see their hearing loss as a disability or impairment. They are not ashamed or distraught at their lack of hearing; instead the Deaf community has embraced it and chosen to cherish it as a characteristic that unites the members of their culture together.

Deaf culture, which unites the community together, is characterized by values distinctly antonymous with American culture. The chief value defining Deaf culture is collectivism. While America culture has prided itself with a capitalistic and individually-

minded focus, members of the Deaf community view themselves as an interlocked and unified group, not impeded by physical distance, race, age or gender. Rather than focusing on the personal needs or sense of individuality, Deaf people put the group or family before the self. They view it as a responsibility to take the community's or family's needs first before their own and develop a deep sense of reciprocity between community individuals. This reciprocity is seen as "giving to and taking from the collective pool of skills of a group," (Mindess, 110) and provides continuity as it connects Deaf persons together and ensures that the Deaf community continues to flourish. This collectivism also spurns the respect for open communication between individuals and people groups. Emotions and opinions are routinely shared with intense candor, as the focus of privately-kept information fights against the idea of community interconnection. Candor is necessary because the Deaf community sees getting facts right from the sources as an essential facet of trust. If you cannot get the real opinions from others, how then can you truly know how the world sees you? As Anna Mindess best summarizes:

"This family-like connection helps explain many things about Deaf culture.

Because of their familial sentiments, topics that might be inappropriate for casual friends in hearing American culture would not be considered off-limits in the Deaf community. People are more involved in each other's lives...As we know, it is hard to keep a secret in a family." (Mindess, 100).

Tied in with that tenet of open communication is the modality in which Deaf people communicate. The usage of ASL is paramount in the understanding of American Deaf

culture. While many hearing people can state what the acronym ASL stands for, the actual understanding of what American Sign Language is or is not can be less clear. To simply define it, American Sign Language is a comprehensive and complex language that uses signs, which are made through hand movements in combination with body movements, facial expressions and the use of space, to communicate. What American Sign Language is NOT is English on the hands, miming or charades. ASL is a legitimate language used by the American Deaf community and Deaf individuals in the English-speaking provinces of Canada and should not be used as an umbrella term for all types of gestural communications in these areas. ASL goes much further than that for the Deaf community, though. As hearing author, Harlan Lane says, “It can be argued that ASL is the most powerful and important solution created by Deaf people for an effective living...” (Harlan, 114). ASL gives Deaf individuals the ability to express any thought idea or concept just like in spoken languages. It is a legitimate language, not a primitive system concocted by an isolated group of individuals. Deaf communities in other countries have their own corresponding sign languages; according to Gallaudet University, there are 271 total “sign languages, dialects and other sign systems” being used across the globe (Harrington, 2007). The use of these languages is interwoven with the cultural identity of the Deaf community; to undermine or disregard the ancestry and importance of signed languages undercuts respect for the Deaf individuals. As Mindess shows us, “ASL is loved and cherished by the Deaf community... Yet, it is oppressed by those who do not recognize its existence, its validity as a language, or its value in allowing deaf children to access education with a language naturally suited to their

needs.” (Mindess, 110). This oppression and misconception still hurts ASL and has curbed its usage to many students who would benefit from it across the United States.

The History of American Sign Language

The Important Players in ASL History

Given American Sign Language’s essential role in Deaf culture, it is no wonder that ASL is also essential to the education of Deaf individuals. In essence, the United States has a Deaf community because of the quest for a system to communicate and educate deaf individuals. A dozen years after the start of the 19th Century, Reverend Thomas Hopkins Gallaudet changed the course of history for the American Deaf community. While traveling in Europe in an attempt to find an education method for his neighbor’s deaf daughter, Alice Cogsworth, Gallaudet made the acquaintance of two of the most prominent Deaf educators in Europe: Abbe Roch-Ambroise Cucurron Sicard and Laurent Clerc. Sicard was the director of Institution Nationale des Sourds-Muets à Paris (the institute for Deaf individuals in France) and the protégé of Abbé Charles-Michel de l’Épée, the man widely considered to be the “Father of the Deaf” (Savage, 267). Clerc was one of the Institution’s students who then went on to serve as a faculty member. After showcasing their methods to Gallaudet in Britain, Clerc convinced him to travel to France and learn their teachings of manual communication. In conjunction with Clerc, Gallaudet returned to the United States in 1817 and the duo opened the first school for the deaf in the United States, now called the American School for the Deaf. After the American School’s opening, Clerc used his foundation of French Sign Language, or

Langue des Signes Française (LSF), in collaboration with the signs of the school's students to invent the preliminary basis for American Sign Language. By the beginning of the twentieth century, there were more than fifty Deaf schools open across the United States, all spreading the language of ASL and setting up the cultural foundations for the modern Deaf community. Forty years after the original opening of the American School for the Deaf, Edward Minor Gallaudet, Thomas Gallaudet's son, opened Columbia Institution of the Deaf and Dumb, which would later develop into Gallaudet University, in the nation's capital. Over 160 years later, Gallaudet University continues to serve as the only university in the world chartered so that every course, major and service offered is designed for Deaf and hard-of-hearing students. For that reason, it has been an integral fixture of Deaf education throughout American history (The History of Gallaudet, 1997).

Movements Against the Deaf Community and Deaf Education

Factors That Evolved Deaf Education

While the history of American Deaf Education had a rosy beginning, the realities of contemporary life for deaf individuals are significantly less aesthetically pleasing. One of the biggest flashpoints in Deaf education in the Western world and in America was the decision from the Milan Conference in 1880. In 1880 in Milan, Italy at the 2nd International Congress for the Instruction of the Deaf, often referred to as the Milan Conference, passed resolutions that promoted "the incontestable superiority of speech

over signs in restoring the deaf-mute to society." (Moore, 309). The Congress was made up primarily of voting European instructors who had worked overwhelmingly to advocate for oral only instruction. In truth, the organizers of the summit had manipulated the Congress and in turn, passed resolutions that would send the Deaf community to the Dark Ages by attempting to end the widespread usage of sign language in Deaf education. As Lane describes it, "Despite its devastating impact on deaf children and adults for over a century, the Milan meeting was merely a brief rally conducted by hearing opponents of sign language. The congress amounted to two dozen hours, in which three or four audists reassured the rest of the rightness of their actions in the face of troubling difficulties." (Lane, 113). With it, the pure oral method quickly cloaked Europe as the main educational method for deaf children and school in the United States soon followed in suit. Even the American School for the Deaf, Gallaudet and Le Clerc's brainchild, became an oral-only school. Another factor that contributed to that quick change in method was the backing of the oral method by Alexander Graham Bell. His funds, notoriety and focus on eugenics truly "cleared the way for its progress from east to west," (Lane, 1984). Though passed over a century ago, the Milan Conference had sweeping consequences on the United States, consequences that can still clearly be seen in modern times. The banishment of sign language paired with the glorification of the oral method set the foundation for the widely-held belief that deaf need to assimilate with their hearing counterparts. This assimilation- particularly dealing with the vocalization of language and the degradation of sign languages- clings to the current American consciousness and comes up in traces in current deaf education policies. As Lane

continues, “Nevertheless, the meeting at Milan was the single most critical event in driving the languages of deaf communities beneath the surface; I believe it is the single most important cause of limited educational achievements of modern deaf men and women.” (Lane, 113). From that decision all the way back in 1880, the topography of Deaf education was distinctly changed and helped solidify the trust and acceptance of oralism and the oral method in America.

This belief and acceptance in oralism is just one of several factors, in conjunction with the advancement of technology and political change, that have become points of tension with the Deaf community and have led to the current climate of Deaf education. The primary source from which many other tensions about Deaf education and Deaf culture stem, can be traced to one subconscious belief: audism. Audism, according to Deaf culture scholar, Dr. Tom L. Humphries, is “the notion that one is superior based on one’s ability to hear or behave in the manner of one who hears.” (Humphries, 1975). Fundamental in human nature and highlighted by the United States is the disconnect in understanding between cultures. As a native to one culture, it can be hard to understand why a separate culture may not share the same values or beliefs and can lead to many misconceptions and misgivings. The Deaf community has a different culture and values than American culture, which can influence the way hearing Americans view them. What we do is based on what we believe and that stems from subconscious feelings and ideologies. If our subconscious belief is that deaf individuals are seemingly not whole because of their hearing loss, surely that belief will seep into our actions and opinions. Audistic subliminal beliefs shows up in other ways; they can be seen in the definitions of

what constitutes normalcy and language to a hearing person and the judgment of what a Deaf person's body should look like. Since these views are often so subconscious in the Hearing world, there is the paradox of benevolent ignorance toward Deaf individual's struggles that stem from deeper feelings of superiority. While that subconscious drive may be standard for cultural minorities in America, it is especially troublesome because, as the Milan Conference illustrates, disallowing the Deaf community from making decisions that directly affect them can have dire consequences.

What makes audism a double-edged sword, though, is that it can also be seen beyond subconscious beliefs and opinions. Like other systemic inequalities, audism relates not only to the internalized beliefs about deaf people in the Hearing world, but also the outward oppression that is clearly visible in our society. Like racism, audism can be identified in both explicit actions, like the direct isolation of individuals who sign or the oppression of Deaf bodies, and subconscious opinions, like when hearing individuals are under "the assumption...that the deaf person's happiness depends on acquiring fluency in the language of the hearing culture," (6). While the explicit actions are easier to identify as prejudiced, it is the implied opinions and underlying social structures ensuring oppression continues that remain harder to identify. Again, paralleling racism, audism is ubiquitous throughout hearing society- which is the population majority- in individualized and institutional categories, meaning it can visibly spread through "...cultural messages and institutional policies and practices as well as the beliefs and actions of individuals." (Tatum, 7). The only positive to take away from this recognition

of oppression is knowing that if it is obvious, it means that it can pointed to and combatted.

What are harder to destroy are the aspects of audism seemingly ingrained in the conscience of every individual in Western society. The final and perhaps most toxic type of audism is metaphysical audism. According to Dirksen L. Bauman, metaphysical audism is the “orientation that links human identity and cognition to language defined as speech.” (Bauman, 242). In essence, all of the things that make humanity separate and unique can be reduced down to one trait: speech. As will be discussed later in this paper, the way in which the government and their policies choose to define language can be enormously consequential to deaf students. If the legalese of a statute defines language as vocalization only, that can irreparably define humanity and give both conscious and subliminal classifications to a population. If Deaf people are then classified as primitive beings, the logical consequence is that deafness, to the Hearing world, becomes a problem of immense proportions. If “poor deaf creatures” are to be included in hearing humanity, they must be made to be more fully like hearing people. At this point, the metaphysics of audism give way to the systemic level where the institutions of education, medicine, and law work to strip away the cultural and autonomous identity of the Deaf people and recreate those individual in their hearing image. The traces of this metaphysical audism that already crop up in the world today have had enormous effects, like promoting the continuance of oralism, the ideological practice that pushes for communication that is based only on speech, and the ubiquity of benevolently ignorant opinions toward the cochlear implant process. Oralistic attitudes have been around since

before Gallaudet founded what is now the American School for the Deaf, and established ASL with the help of Laurent Clerc. Before he traveled over to France, Gallaudet originally sought an audience with the Braidwood Academy in Scotland, which was an oral-method only institution (Nordstrom, 2). Though they obviously turned Gallaudet away, the mere presence of a school functioning solely with the intent of having deaf individuals learn and communicate the same way as hearing people is paternalistic, but solidifies the notion of metaphysical audism's consequences.

Modern American Deaf Education. How do these factors affect Deaf education in modern times? Well, that is reflected in several different ways and brings up other points of tension that I tackle in this paper. From Thomas Gallaudet's time leading the standards of Deaf education in America, things have evolved quite a bit, due to the advancement of technology in our everyday lives. With the standardization of publicly-funded and universal education in the United States, the options laid out to deaf and hard-of-hearing students have diversified. They can choose to attend state-sponsored Deaf residential schools and be taught in ASL or some other signed language. Deaf children can also choose to learn in classrooms that adhere to the total communication system of teaching, which essentially says that any and all forms of language are welcomed for communication because the most important issue is to ensure that the student receives their message. Finally, deaf or hard-of-hearing students can choose to use the oral method, in conjunction with a cochlear implant or hearing aid, and participate in a mainstreamed, hearing classroom. While more options are available than existed in 1817,

they boil down again to two basic philosophies: children with hearing losses can conform to the hearing majority's ideals for communication or they can pursue a culturally-driven education that embraces the language and principles of the Deaf community.

In my personal opinion, and through the lens of which I write this paper, I believe that deaf students should be educated in the tradition of the Deaf community and primarily communicating through ASL. However, to make that view a reality, the levels of education and curriculum between hearing school and Deaf school would need to be equal, which they very much are not. The thrust of this paper is analyzing the federal and state policies that have or are currently addressing this inequality and critiquing the actual effectiveness of their measures of equalization. While discussing those policies and their efficacy, I bring up several of the modern day problems facing the Deaf community, like the lack of recognition of their struggle toward legitimizing ASL in the eyes of the hearing world and the paradoxical nature that a "disability group" label bestows upon their community members. Similarly, I analyze the ideologies of Deaf education that make it unique, like the autonomous cultural identity characteristic of the Deaf world in comparison to other minorities, the rise in bilingual-bicultural education for Deaf children and the progression of how legislatures have shifted their intention in bill-writing to include a diversity of voices with varying connections to hearing loss and the Deaf world.

CHAPTER TWO

The Americans with Disabilities Act

A fundamental part of America's societal status quo is the culmination of federal legislation that aimed to accommodate for and protect the opportunities of disability groups in the United States (Feldblum, 91). Modern deaf education would not have been able to specialize to the extent that it has today without the vital protections laid out in earlier national mandates like the Americans with Disabilities Act (ADA). Though its scope reaches far beyond the Deaf community, the Americans with Disabilities Act was a clear catalyst for the rise in equality among federally defined disabled minorities. While laws like the 1973 Rehabilitation Act had laid a tremendous amount of groundwork for those designated disabled Americans, the Americans with Disabilities Act, originally passed in 1990 and reauthorized in 2008, became a major statute for civil rights in the United States. As the Department of Technology Assessment said, back in 1994, the Americans with Disabilities Act became "...the most far-reaching legislation ever enacted against discrimination of people with disabilities" up to that point in history (U.S. Congress, Office of Technology Assessment, 1994). Brought before Congress in 1988, the bill held the belief that our disabled minorities should not be relegated or alienated away from our society; rather, they should be welcomed and accommodated. That structure soon became a fundamental focus of the ADA.

The bill, authored by Robert L. Burgdorf Jr., a legal advocate at the National Council on Disability, penned the bill in “response to an appalling problem: widespread, systemic, inhumane discrimination against people with disabilities,” (Americans With Disabilities Act of 1990, Sec. 12102-1). The ADA defines a person with a disability as someone with “a physical or mental impairment that substantially limits... life activities of such individual; a record of such an impairment; or being regarded as having such an impairment,” (12102-1). The authors of the bill defined this term so it could broadly cover a plethora of different physical and psychological conditions, and the text itself makes no attempt to list particular impairment specifications. Since the ADA’s enactment, though, the term impairment has come to encompass everything from sensory impairments to mobility issues to intellectual disabilities; most notable being autism, cancer, deafness, post-traumatic stress disorder, and other physical or mental health conditions. In the findings portion of the bill, Congress had found that the people with these aforementioned disabilities were routinely denied rights that most members of our society take for granted. While the United States had taken a number of steps through legislation, Congress found that the social isolation and discrimination facing these disability groups had, in fact, not lessened, but rather spread to many of the essential facets of everyday life (Americans With Disabilities Act of 1990, 12101a). Trumpeted as an attempt to provide an “equality of opportunity, full participation, independent living, and economic self-sufficiency,” (12101a) the ADA was the first major attempt to fight the overwhelming discrepancies in ease of life among an unignorably pertinent American minority group.

The larger burden, though, is that unlike racial or religious minorities, people with disabilities could not fight discrimination through the legal system, leaving them at a distinct disadvantage in the social, vocational and economic realms. In the findings on the original ADA text and the reauthorized version, Congress recognized that “physical and mental disabilities in no way diminish a person's right to fully participate in all aspects of society,” yet members of these aforementioned disability groups were consistently excluded from that principle because of discrimination or, as the 2008 findings came to show, societal prejudices (Americans With Disabilities Act of 1990, 12101). As legal professor Larry Gostin explained in his book, the rejection of disability discrimination should in fact be held as an obligation of all members of society, “not just persons with disabilities and persons charged with respecting and enforcing human rights, but virtually every segment of our society—all Americans” (Gostin, 8). By passing the ADA, it was Congress’s intention to tackle all of the parts of our society in which discrimination had run rampant and to essentially force the obligation of individual equality on everyone.

The heart of the ADA’s purpose was to create civil rights law protections for people with disabilities that would be permanent and would not be able to be reversed or weakened, and to address and eradicate the discrimination of disability groups in our society. After its signing, President H. W. Bush heralded the bill as a “historic new civil rights act.... the world’s first comprehensive declaration of equality for people with disabilities” (National Council on Disability, 30). While there were already many policies in place focused on people with disabilities, both on a federal level like the IDEA of 1975, and more specialized local ordinances, were already in place, the ADA brought the

most dramatic change to those individual's daily lives in American society. The ADA was significantly more spacious than any previously enacted centralized mandates, focusing on bolstering the accommodations publicly available to persons with disabilities, while also interdicting the discrimination ubiquitously staining public services and the employment process. Although predominately focused on aiding individuals, the ADA also set up the framework for both public and private employers to follow for reasonable accommodation requests (Miller, 189). From public transport accommodations to employment protections, the ADA touches on many facets of everyday life to ease the daily strain that people with disabilities bear and ensure that they can have "equality of opportunity, full participation... and economic self-sufficiency" (Americans With Disabilities Act of 1990, 12101b). Divided into several sections, the ADA tackles the five big areas of discrimination: Employment, State and Local Government, Public Accommodations, Telecommunications, and Miscellaneous Provisions; and the law expands individual's protections, along with providing a legal and enforcement mechanism for any violations.

ADA Legislative Descriptions

The Legalese Behind Implementation

Title I deals with enforcing compliance within the employment realm. In essence, this title is designed to appropriate assistances and opportunities to any groups with disabilities that are outlined in the opening portion of the bill. Done to help balance out the previous occupational inequalities inherent to American capitalism, Title I requires

that companies and their management must provide “reasonable accommodations” to qualified applicants or employees, with the ADA defining “reasonable accommodation” as any modification or adjustment to a job or the work environment that will enable an applicant or employee with a disability to participate in the application process or to perform essential job functions (Americans With Disabilities Act of 1990, 12111-9). Overseen by the Equal Employment Opportunity Commission, Title I fleshes out rules and procedures for enacting reasonable accommodations, outlines what ailments fall under the definition of a disability, along with addressing the processes necessary for maintaining personal health and safety for disabled employees (12111-3).

Next, Title II directly addresses acts of discrimination and bias toward the outlined disability groups in public settings. Essentially, Title II delineates all of the systems, services and actions in which disabled persons have protections and accommodations. One of the broadest sections of the bill, this title shows the realms of its real-world applications and give instructions to governmental departments of all scales on how they must treat their prospective applicants and employees through the hiring and work process. The most visible changes seen in American society came from Title II, as it clarified many of the aspects of coverage dealing with public transport, such as assigning liability measures to federally assisted transportation services and detailing the coverage protections allotted to disabled groups. Finally, Title II cleared up the necessary measures that needed to be taken in the rehabilitation and restoration changes for these systems, while also fleshing out the measures needed to avert discrimination and remove any hindrances toward communication that need to be addressed.

Similarly, Title III bans private businesses and places of public accommodation from separating the quality of their services toward disabled groups or disallowing adaptations in a number of private setting like places of lodging, recreation, or education. While laying out the benchmarks for renovations and accommodation levels, Title III is the clearest outline of what private businesses must do to accommodate disabled individuals. Most pointedly, this title sets the minimum standards for accessibility for alterations and renovations in public facilities. The modifications also speak to the communication paradigms that employees should be held to when engaging with clients and customers. Both Title II and III are regulated by the US Justice Department in an effort to redress the lack of legal discourse previously allowed for persons with disabilities facing discrimination.

While significantly narrower in content than the previous titles, Title IV covers the lion's share of public accommodations relevant to the Deaf community. Regulated by the Federal Communications Commission, Title IV compels Internet providers and telephone companies to supply telecommunication services across the United States to those groups defined as disabled by the ADA. This means that people with hearing impairments as documented by the ADA must have equal accessibility to relay systems and assistive telephone technology. Similarly, Title IV provides funding and enforces widespread participation for closed captioning and other subtitle services on public service announcements. The final Title of the ADA, Title V, addresses the loose ends of the bill and outlines any issues that may be unclear in earlier sections. This includes issues like the effects of the ADA on the insurance market, interactions and precedence

of the ADA over other state and federal laws, and the consequences of outside criminal liabilities on the ADA's powers, (ADA, Sec. 12201-211). Finally, like the bill did in its earlier definition section, Title V fleshes out the conditions that do not qualify for accommodations and discrimination protections allotted through the ADA. This provision helps to combat any illegitimate claims for accommodations and continues to help safeguard the legitimacy of the protections that the ADA provides. Though the language of the bill can be quite dense, the protections it gives to persons with disabilities are incredibly simple and all encompassing, helping to target the realms of life in which peoples with disabilities are most vulnerable.

While all of the aforementioned intentions of the ADA are wonderful goals to reach for, it is important to first see the overall impact of the bill in action before focusing on how it helps the Deaf community. In the two decades since the ADA's original enactment, a plethora of different outcomes have come to light regarding discrimination and accommodation standards in the United States. In that light, accurately measuring the efficacy of the ADA can become increasingly skewed and variable to the bias of the reviewer (Donahue, 29). Coupled with the vagueness in which disability groups are defined, attempting to reach specific numbers may never truly be achieved. Similarly, quantifying what can be defined as total impact, either negative or positive, can be completely subjective when taking into account enforcement mechanisms, legal process, and popular opinion. When computing abstract concepts related to legislation such as approval rating, societal reform may be nearly impossible, but even seemingly concrete statistics like job creation and wage increases can be misleading in pointing to the general

direction of impact. This is even harder to quantify based on the ever-shifting context of the term “disability” in our society, (Blanck, 304). With that in mind, the ADA’s direct impact on jobs and wage increases are mixed among economic studies. Researchers S. Moon and J. Shin argue that their analysis showed a 6% national drop in the duration of employment among women and men with disabilities, between 20 and 60 years of age in the early 2000s, (Moon & Shin, 266). In a different study, taking into account the same variables, there were distinct spikes in employment rates among other disabled age groups during that same time period, (Burkhauser & Houtenville, 2004). Perceptually though, the ADA has had visible effects across the United States, from the ubiquity of structures with wheelchair accessibility to the widespread inclusion of captioning services in audiovisual entertainment platforms. If this year has taught Americans anything, it is that perception is seemingly equivalent in legitimacy to statistical significance, so one could argue that the ADA has truly achieved the societal goals it was set up to enforce.

Sociological Impacts of the ADA

The Deaf Community’s View of the ADA

Like the legalese of the bill itself, the views of the ADA held by the Deaf community in America are similarly complex, as it pits the appreciation for the protections allowed by disability status with the intrinsic cultural belief that the inability to hear is not, in fact, a disability. Those protections allotted by the ADA bring out extensive benefits to the Deaf community. The difference in cultural understanding is showcased here because the provision considered the most important to hearing

legislators is the ADA keeping the Deaf community up to speed with medical research and developments surrounding hearing loss. To start, Title I of the ADA prohibits both public and private employers from refusing to hire or promote an individual because of a hearing loss, while also requiring employers to provide reasonable accommodations for said employees and applicants. These aptly named reasonable accommodations include, but are not limited to, the supplementation of assistive equipment, like assistive listening devices or videophones, and services like closed captioning, signed language interpreters or interpretation relay channels. All of these required accommodations are put into effect through the Department of Justice in order to allow employees to perform their jobs at the highest level (Americans With Disabilities Act of 1990, 12117-107). Likewise, these services and programs were not meant to be held only in the private sectors, but also by local and state governments and any entities stemming from them. This means that events held at or in conjunction with any arm of state and local governments, must provide the aforementioned services of signed interpretations, assistive listening devices, relay systems and videophones as necessary to have equivalent involvement by the Deaf community and deaf or hard of hearing individuals, (Americans With Disabilities Act of 1990, 12181-9).

Correspondingly, Title II further dives into the role of local municipalities in providing captioning and other announcement services. With the intention to help push the visible improvements, the section laid out the physical improvements of access for people with disabilities within government-funded buildings and workplaces. One clear improvement was the inclusion of tele-typewriters and interpreting relay services to

municipalities, along with uniform availability to emergency service and assistance. Another accessibility measure is that of the upward flux of closed and open captioning services added to public-funded service announcements and programming, allowing increased access to social goods like television and other various entertainment platforms along with accessibility to updates and notices on public transport for those with audiovisual impairments. Though these listed areas seem very narrow and technical, their enactment led to increased accountability and necessary improvements to the overall public safety and ease of accessibility for allotted disability groups.

Title III of the ADA requires that all the U. S. services and goods are uniformly offered in and they must be available and guaranteed to both hearing and deaf individuals. Public accommodations including places of lodging and those that serve food and drink, along with places of public entertainment, transportation, gathering and social services are then required to make reasonable accommodations through the Department of Justice. The foregoing types of public accommodations must make reasonable modifications in their practices or provide necessary reasonable accommodations to allow equivalent access and benefit to people who fall on the spectrum of physiological hearing impairment. A predominant example of these modifications is the increased usage of sign language interpreters in public and vocational settings. The allocation of interpreters as an accommodation resource has substantially increased the modality of everyday communications between hearing and deaf persons. Similarly, by calling for an increase in the accessibility of tele-typewriters, the ADA increased the rights of effective communication and overall openness toward deaf or hard of hearing clients and

employees across the nation. Furthermore, since its enactment, Title III compels that places like hotels, hospitals or assistive care centers must have accessibility measures available for use. While this may place a financial liability on public accommodations, it is necessary that these measures were put in place back in 1990 for both increased accessibility and safety of deaf and hard of hearing persons. An addition safety measure enforced through Title III is the availability of alarms and devices with visual alerting capabilities. From smoke alarms to alarm clocks, these further accommodations have been helpful in uniformly streamlining the overall safety of public venues for all Americans, (Americans With Disabilities Act of 1990, 12181-9).

In addition, Title III requires that all newly constructed and altered places of public accommodation and commercial facilities be fully accessible to people with hearing impairments. Similar to Title II, videophones, or tele-typewriters before they became redundant, and interpreting services must be placed in newly constructed or altered buildings and fit the certain quota requirements for those devices and services. Another important aspect that is included in both Titles II and III is the requirement that graduate programs and other post-secondary establishments have to make their programs accessible to applicants and students with hearing losses. This can be done through a number of different mediums, from providing sign language interpreters to supplying a student with pre-outlined notes and assignments, in all educational settings. Similarly, Title IV helps to expand accommodations into the telecommunication realm. This title of the ADA amends the Communication Act of 1934 to requires that all telephone companies provide continuous telecommunications relay services to allow deaf and

hearing- impaired persons to access the telephone, (United States, 16). Because tele-typewriters can communicate only with one another, coupled with their lack of prevalence across the nation, communication relay companies and services have become intrinsic to communication in a predominately hearing world. Through Title IV, the channels of communication between persons with all levels of hearing ability then became accessible and mainstreamed for best success in society.

As this brief summary illustrates, the ADA provides tremendous benefits to persons who are deaf and hard-of-hearing. The modifications and accommodations that must be made to ensure society's accessible to people with so-called "hearing impairments" are in many cases extensive and costly. In recognition of the fact that people with disabilities are entitled to participate as first-class citizens in our society, Congress has placed the burden of providing and paying for the necessary accommodations on the private sector and on state and local government entities. So, instead of forcing individuals to take on any financial burdens to have accessibility services, the ADA ensures that states will cover any potential costs.

The paradoxical tension that stems from the passage of the ADA is the discrepancy between the bill's definition of what constitutes a disability and the cultural identity that the Deaf community adheres to. What most of the American population fails to realize is that there are several distinct cultural characteristics that separate it from the surrounding national culture. "The non-hearing world often divides itself between people who are deaf and people who define themselves as members of the Deaf culture" (Dolnick, 37-53). To put it more clearly, there are people who physically cannot hear,

but choose not to assimilate themselves into the Deaf community, while others have knitted together their own culture, with shared experiences, values, and beliefs to tie them together. As is discussed in the previous chapter, this distinct culture, nonaligned from the surrounding hearing culture, fulfills all the characteristics needed to have autonomy from American culture. Authors Carol Padden and Tom Humphries define a culture as "a set of learned behaviors of a group of people who have their own language, values, rules for behaviors, and traditions" (Padden & Humphries, 4). This definition applies entirely to Deaf culture, as it is made up of a group of individuals sharing commonalities between personal conduct, principles and language. When referring to deaf people, it is important to make the cultural distinction between these groups out of respect and to avoid confusion. Since the 1970s, "...the practice of capitalizing the "d" in Deaf has been utilized...to make the distinction between people who do not hear but choose not to participate in the Deaf community and those who embrace Deaf culture" (Holcomb, 38). The generalization of these two groups is one of the factors that play into the Deaf community's tensions with the ADA. While hearing Americans may not view the need to differentiate as an eminent issue, synonymizing deaf people and the Deaf community is extremely disrespectful, because as Thomas Holcomb puts it, "Stereotypes, generalizations, and labels can be dangerous weapons...often based on incorrect or inadequate information. Any sentence that starts with an overarching statement...has a high probability of being erroneous from its very attempt to be all-inclusive" (Holcomb, 37). Unlike other disability groups, the Deaf community has bolstered a proud and

divergent culture, not restrained with the feelings of inferiority that many other minorities listed in the ADA have.

Keeping all of that in mind, it is quite obvious that being labeled as a disabled person to the world puts the Deaf community in a contradiction. To hearing people, it would seem that the inability to hear would be a major interruption to daily life and therefore should be marked as such by the ADA. (Americans With Disabilities Act of 1990, Sec. 12102-1). Though similar to other people with disabilities listed in the ADA's text, by attempting to live and function in a society that does not automatically accommodate their needs, Deaf community members often have taken different private views of that label. The Deaf community and its supporters feel strongly that deafness is not in fact a disability. Yet, the people in the Deaf community were leaders in aligning themselves and deaf people with the disability movement in supporting the passage of the ADA (Tucker, 4). To receive adequate accommodations in a hearing world, Deaf individuals must accept the disability label, as long as the ADA and other laws continue to label them as such. However, this puts them in constant war with their sense of self. These individuals are rightfully entitled to embrace this distinctive "ethnicity, with [their] own language and culture" (Rosen, 6) and also to view their lack of hearing as "something to be cherished rather than fixed and erased" (8). While they deeply benefit in their everyday lives by receiving accommodations under the "disability" label, Deaf community members are essentially allowing themselves to be defined by the Hearing world and forfeiting a fundamental definition of their personal identity (Dirksen, 246).

Changing the wording within these laws could, however, could free them from this conundrum.

While many groups can point to the immediate positive impact that the ADA has brought forth during its two decades of enactment, Deaf individuals are often left with unsettled feelings. Although accessibility to interpreters and telecommunication systems has clearly been a positive influence, there are still many circumstances in which deaf individuals and members of the Deaf community are inherently unequal in their accessibility to services and accommodations in comparison to their hearing peers. Coupled with the personal difficulties that the definitions of the ADA imparted, the bill may not have had the widespread impact on the daily lives of Americans that President H. W. Bush and the bill's co-authors would have hoped.

CHAPTER THREE

The Individuals with Disabilities Education Act

In 1975, Congress enacted what may be considered the hallmark special education law ever attempted on a national level. Originally titled as the Education for All Handicapped Children Act, this piece of legislation, later changed to the Individuals with Disabilities Education Act, was written and reauthorized with the purpose of providing support and individualized protection to children of all ages with disabilities, while also aiding states and local municipalities to do so (IDEA: Sec. 446, 1997). The Individuals with Disabilities Education Act, known by the acronym IDEA, was written with the intention to give free and appropriate education to all students with disabilities, focused on serving their individual needs and preparing them for the future beyond the public school systems. From higher education to vocational training, the IDEA makes it so its recipients are prepared for life in the real world and independent living.

Before this law came into effect, it is estimated that around four million children that fall under the bill's definition of disabled were deprived of the education they deserved through public schools, from being cordoned off into special classrooms or more commonly, failing to get the necessary instructional support they needed (Katsiyannis, Yell, Bradley, 2001). Though the IDEA has its flaws, those of which affecting the Deaf community will be discussed at further length in this chapter, the core

purpose of it remains to help expand the prospects and prosperity of American students and their families.

Set up into four separate parts, the IDEA is like the ADA, as it spends a portion of the beginning defining its purpose. Part A of IDEA lays out the basic foundation for the rest of the Act, defining all the necessary language, while also instigating the creation of the Special Education Programs office and giving it the jurisdiction to carry out the implementation of IDEA on a federal scale (IDEA: Sec 611, 1997). The next portion, Part B, outlines the first specific set of guidelines in the bill. Focused on students from preschool to college age, IDEA requires that the public education systems within the states be tailored to those within the special education program (Martin, Martin, & Terman, 1996). Other than just giving the focused guidelines to states and local municipalities, IDEA also helped to allot government funding for special education services. To accept this federal financial assistance, though, all of these public school systems have to conform to the following tenets laid out by the IDEA:

- All children, regardless of socioeconomic status, race, or gender, are eligible for public education, freely and appropriately.
- Children from preschool to college age are allowed a total educational evaluation if scholastic professionals suspect there may be a disability worthy of special education support.
- The IDEA established the usage of an IEP or Individualized Education Plan, which contours out all the necessary guidelines and goals that school districts and other adults need to support students in reaching their customized education goals.

A team of educators, faculty members, or specialists provided by the school district should execute IEPs and specifically tailor them to each individual student.

- The bill outlines that students deemed to have disabilities should be afforded a learning environment that is termed the “least restrictive” to them. If at all possible, these students should be moved into a “typical” learning setting with their peers and non-disabled students.
- Throughout the IEP process, both students and their parents or guardians must have the feedback and responses of the child and their parents continually enacted throughout their tenure in the special education program.
- Finally, the IDEA gives parents and guardians the right to due process when it comes to their child’s education. If at any point they feel that the special education services of their child are insufficient, they have a legal entitlement to contest it.

Next, IDEA’s Part C acknowledges that there is a distinct need for early identification of disabilities in children. While the bill as a whole addresses funding guidelines across all public school systems, Part C addresses specific subsidies for children from birth to 2 years old. This portion allows for multiple other services to the families of these children (IDEA: Sec 615, 1997). The services start by stating that identification of learning disabilities should be done in a timely manner and the families of toddlers identified must then be provided with appropriate intervention strategies. Next, like the student IEP, families should be allotted IFSP or Individualized Family Service plans to help them

outline their familial ambitions, apprehensions and their avenues of resources. Similarly, that same plan template should be allocated to their children as well, coupled with additional sections about transitioning to mainstreaming and its wider effects. As would be expected, IDEA carves out the due process rights of those participating in the IFSP and defines the need for consent within the process. Likewise, any complaints or grievances about the IFSP or IDEA-protected services must be handled in a judicious and timely manner.

Lastly, Part D identifies the actions that must commence for the federally-funded public education systems to shoulder the new focus on special education. From transitional amenities to necessary legalese tied with funding mechanisms, Part D summarizes the necessary actions that make the bill a reality on a wide scale. It takes into account the social aspects essential to dealing with learning disabilities and special education, like counseling resources and support groups. All of these are intended to improve the overall atmosphere and results of the IDEA principles (IDEA: Sec 631, 1997). Altogether, this bill has language built into it to protect not just students, but also their families, laying out protections and *recourse* for guardians of its recipients to ensure that the task of education is not burdened alone.

Key Changes in the 2004 Reauthorization

Built on important additions found by Congress in the subsequent years after its original passage, the reauthorized version of the IDEA from 2004 provided extensive guidance on the dealings and channels for detecting students with learning disabilities,

redefines key aspects within the bill, and alters many of the responsibilities of parents and teachers of IDEA-protected children. Changes like this stem from a wanting to simplify and enable the early identification and increase the availability of intervention strategies that have been studied and proven for increased effectiveness and success.

In the reauthorized version of IDEA, three main provisions have been added in light of the new times. The first is the inclusion of specialization of criteria amongst individual states. These criteria must lead to the discernment of learning disabilities and flesh out achievement requirements for children within the special education programs, as well as focusing on interventions with distinct and highly researched intervention strategies. All these criteria must be followed by the state-funded public school systems. Next, the student's IEP team and guardians should hold the power to discern the presence of any learning disabilities and make the decisions to take any further steps necessary to identify the magnitude of a "disability". Finally, and most importantly, the reauthorization of the IDEA helps to further define the features of a learning disability. It starts by showcasing what IEP members should define as inadequate achievement. IDEA of 2004 illustrates a student's achievement by comparing it to the standards of their peers or to state-outlined expectancies. Similarly, by focusing on the assets and flaws in a disabled student's performance makes it easier to show of their individual progress and the progress of all children within the state's records. Altogether, these definitions set the reauthorization apart by giving greater detail into the process and clarifying what the qualifications of learning disabilities should be to receive these services.

Like the previously mentioned definitions, the reauthorization helps to illuminate the origins of a learning disability. While lack of progress, defining achievement, and identifying the strengths or weakness clearly show what a learning disability is under federal law, things like socioeconomic discrepancies, cultural differences, and dissatisfactory teaching methods cannot be taken into account as factors for special education services inclusion. Likewise, motor, auditory, or ophthalmic problems, mental health problems and intellectual disabilities do not classify students as recipients of IDEA services or benefits.

Similarly, IDEA reauthorization provides parents of the federal service recipients with more intensive rights in the realm of notification. Their children's achievement must be properly documented and guardians made aware of their ability to request evaluation or reevaluation within a reasonable timeframe and clear consent. Similarly, the reauthorization gives way to a great focus on ameliorating record-keeping, laying out the case for guardians and parents to have updated "documentation of assessments of achievement used as part of an intervention process and must be notified of their right to request an evaluation under IDEA" (Highlights of Key Provisions and Important Changes in the Final Regulations for IDEA 2004). While the change in evaluation transparency is a helpful standard to have for the inclusion of parents in the education process, the 2004 version of the IDEA also subtracts some of their access to important data on their children. Reports toward annual goal achievement are no longer a necessity under federal law and neither is the necessity for timelines in report progress. The IDEA still has inequalities within it; the reporting methods used for disabled and children without

disabilities are not required to be given out with the same frequency. This means that parents of IDEA-recipients may be able to request the evaluations to get their children federally mandated help and protections, but after being placed in to the system, they cannot truly track the progress of their children.

Another important change to the IDEA is its affect on the members that make up IEP teams. The reauthorized version provides details on how IEP responsibilities will be assigned, levels of qualification and the inclusion of peer-reviewed research. An incredibly influential provision change is the scope of the term 'highly qualified'. The 2004 version of IDEA redefines the certification and educational requirements needed by teachers. Special education teachers who teach core academic subjects (as defined by the No Child Left Behind Act) in the public school settings must be both highly qualified in special education and also be highly qualified in the academic subjects they teach. Nonetheless, private schools are not held to the same standards, even though their teaching and curriculum can have the same ramifications. This revision puts the burden of adequate special education more heavily on the public school sector and allows private schools to lessen their funding for special education. Similarly, the reauthorized bill's definitions are more ambiguous than the original IDEA; so-called "peer-reviewed research" is perhaps the most strenuous term to nail down and execute in the entire bill. Despite its ambiguity, many important instructional pieces of a child's IEP like supplemental materials and activity-related services must fall under this definition. While a definition of "peer-reviewed research" is not included in the final regulations, the Analysis of Comments and Changes indicate that "peer-reviewed research" refers to

research that is reviewed by qualified and independent reviewers to ensure that the quality of the information meets the standards of the field before the research is published (IDEA: Sec. 653, 1997). As dictated by the federal Department of Education, the methodology behind effective research should strictly be peer-based, with the small reprieve of understanding that some of that research may not currently exist. The open-ended nature of that resulting clause leaves gaping holes in its effectiveness, since classroom methods can seemingly be left out because proper research may not be available.

IDEA's Impact on the Deaf Community.

Since its passage, one of the major goals of the IDEA was to more holistically assimilate deaf individuals into the hearing world around them. This was predominately done through mainstreaming and allowance of additional hearing services, seen by the hearing world and political world as the most effective channel. The IDEA wanted students that they recognize as deaf or hard of hearing to partake in IEPs and all the bill's structured tenets, like additional services, progress reports and coursework accommodations. These individuals were explained initially as those "processing linguistic information through hearing, with or without amplification, which adversely affects educational performance" (Sec. 602). These deaf and hard-of-hearing students should be placed in the least restrictive environment of their school settings. As previously mentioned a least restrictive environment or LRE, refers to classrooms that place disabled students amongst their normal peers. Seen as the antecedent to total

assimilation, mainstreaming was seen as an opportunity to give Deaf students the oral and auditory skills that they need to engage with their peers. Stemming from that belief, there has been a major influx in the incorporation of Deaf students into mainstream classroom settings. According to research conducted by Gallaudet University, the number of Deaf students that were mainstreamed increased by almost 20% in the late 1980s to a whopping 91% by 2003 (Gallaudet Research Institute, 2004).

While those numbers seem indicative of an improvement within the Deaf or hard-of-hearing populace, there was one dominant consequence affecting that group which stems from the bill's original enactment. Though the act of mainstreaming has been prevalent in American education for the past three decades, those students classified under the IDEA as deaf have not shied away from the use of sign language to auditory verbal practices. Rather, the enactment of this bill's reauthorization has put the conflict over all portions of the bill up for debate. School districts, educators and parents all have different views and opinions over the communicative needs and personal predilection of the children who favor sign language as their main method of communication. While this debate has often rehashed the needs of students with hearing loss, the bright side is that it has propagated the appeal and interest in the cultural differences of the Deaf community and the use of ASL. General students in the public school districts across the country have had their interest piqued towards the attitudes and customs of Deaf communities. Since this is a direct contradiction of IDEA's initial intentions, increasing the autonomy and acceptance of a culturally opposite minority group, it begs the question: how in the world did this phenomenon come to fruition?

Focusing on the progression of this general acceptance and interest toward signing in the United States, we'll look at how this countermovement led to the revisions toward the IDEA that remove the audistic tendency of the legislators that authored it and into the positive inclusion of Deaf customs and values in public school systems. One of the primary motivations for pushing the importance of language preference within the enactment of the IDEA is the understanding that many Deaf students who use ASL as their main mode of communication continually lack the opportunities to adequately communicate with their hearing classmates and instructors. Backed by many studies from throughout the United States, the evidence points toward a separation between signing students and their hearing cohorts within public schools who focus on mainstreaming education methods (Stinson & Liu, 1999). School systems seemingly do not deliver on their requirement to allow for satisfactory interactions and expansion on socialization proficiencies between signing and hearing students (Gaustad & Kluwin, 1992). Just because Deaf or hard-of-hearing students sit in the same classrooms with hearing students does not mean that dialogue about cultural issues and social variances actually happens (Foster, 19). More often than not, interpreters acting as "go-betweens" receive and respond to those communication attempts and not the students themselves, cutting out the essential social portions of the communicative model (Charlson, Strong, & Gold, 1992). Similarly, the distinct cultural difference and general ignorance between the hearing world and Deaf world can mute or completely deaden those social connections (Foster, 1989; Kiger, 1997; Lee & Anita, 1992). While not necessarily sprung from a deep-seated prejudice or hatred, this incongruity and divergence of mutual understanding and apathy

leads to further isolation between the two worlds. Though sprung from good intentions, the public school systems cannot meet that connection just by putting the two cohorts in one place.

Responses to IDEA and ASL's role. After the full enactment of the IDEA and its aforementioned consequences, researchers and ASL or Deaf culture advocates began pointing out the flaws in the communication status quo of many public mainstreamed classrooms across the United States. One of the loudest voices, the National Association of the Deaf or NAD, appealed for a wider inclusion of signing-centered services across mainstreamed classroom like interpreters and technological advancements focused on total communication. Another option proposed was the instruction of faculty, staff, and peers of deaf students in ASL to better facilitate more interpersonal exchanges (Stinson & Liu, 1999; Stinson & Colarossi, 2002). Lastly, one of the other proposed changes was a call for co-matriculation of both hearing and Deaf students, where both a mainstream education teacher and a Deaf education specialist lead classrooms and teachings. Though this avenue would lead to the highest occurrences of hearing and Deaf student interactions, the lack of qualified educators and non-traditional teaching dualities make it an unrealistic option for many public school settings (Kreimeyer, 2000).

These appeals to the IDEA have a marked and distinct effect on the bill that is oftentimes unseen in politics. Within five years of its original enactment, NAD, the premiere advocate of the Deaf community, had already procured several assemblies with the federal Department of Education and the Office of Special Education Programs

(founded by the IDEA) to further discuss regulatory measures on evaluations of Deaf students, leading to a specialized missive on Deaf students sent out to all states from the Office of Special Education Programs. Along with further delineating the necessary requirements on student evaluations and IEP structuring, the Office's actions pressed Congress to acknowledge the lack of improvement by Deaf students in general education settings and to find legislative avenues to fix them. Clearly, these urgings had an effect, leading to the directive for a Deaf education report and the creation of the Commission on the Education for the Deaf. After almost half a decade of hearings and surveys, the commission compiled a report called *Toward Equality: Education of the Deaf*, which listed around 50 recommendations for public school systems to realistically enact (Commission on the Education of the Deaf, 1988). A prime recommendation called for sensitivity toward the Deaf community and the structures allotted to Deaf students under IDEA in both mainstreamed and deaf school systems. The process for evaluating, placing, and IEP intervention should be respected by all school districts and allotted proper funding and administrative efforts. Likewise, the report findings called for the legitimization of ASL within classroom settings and the utilization of the bilingual/bicultural or Bi-Bi approach in states across the nation (15). These recommendations have helped to shape the current Deaf education climate, as the reauthorization is truly the first example of Deaf education needs being further distinguished from their "disabled" counterparts.

These recommendations did more than just highlight the unique nature of Deaf education; they actually caused some results. In the early 2000s, Congress took the

report's findings into account for the IDEA's next reauthorization. In a bold move, the next reauthorization of the IDEA cut out the predication of oralism from their classification of deafness, expanded the validity of signed languages for Deaf children, and made it so IEP members must recognize the diversity of communication needs within that populace (IDEA: Sec 346, 1997). This last tenet is important because it more adequately takes the wants of the student and their communicative preferences into account, forcing the school systems to provide openings for equal peer interactions and better adjustments toward the student's academic achievement level, and to modify educational instruction toward individual students' likings (Sec 614). Similarly, modified regulations emphasized ASL as the language for deaf student, allowing them to preference it over other languages (Sec 634). This also helps students because it allows for them to receive testing accommodations that may not previously have been provided to them (Sec. 641). All together, these new changes helped children to define the mode of communication that best highlights their educational progress. On a larger scale, it also ensured that public school systems could not merely ignore sign language at their own convenience.

Along with forcing more responsibilities onto the school districts, the reauthorized provisions of the IDEA have also reworked the general protocol for Deaf students within the classroom setting. Specifically, IDEA has increased the prevalence and visibility of sign language interpreters in general, mainstreamed and integrated classrooms (Gallaudet Research Institute, 2004). That increased visibility of interpreters has also led to a corresponding increase in interest of ASL and Deaf culture. The clearer

recognition of interpreting service allocated by the IDEA is also said to link to the legitimization of ASL as a course option for language credit in public high schools and universities across the nation. While the IDEA has increased the social popularity of ASL and other signed languages, one of the bill's shortfalls is how it allows states to forgo formal recognition of ASL's validity. As is the case for many school districts, state governments, which dole out funding to public schools, still must officially approve ASL and Interpreting courses first before they can start being used in curriculum.

While local Deaf community members usually spearhead the campaign to get state legislatures approval, the status quo for securing approval varies wildly from state to state. In some cases, state chapters of the NAD take on the burden of deciding curriculum and assessment processes for teacher certification in their state, while others depend solely on state college faculty for those decisions. Even more, states like California pull from all three of those groups to come to a consensus (Pfeffier, 2003). Though every state legislature has the right of autonomy to make these decisions, it leaves wide discrepancies between states and municipalities. Even more so, it could provide a number of legal challenges in how federally binding laws apply in these situations. State legislatures and public school systems get portions of their budget from the federal government by following federal guidelines, like accepting the tenets put forth by the IDEA to provide children with the least restrictive environment and evaluation and learning in the language they are most comfortable with, yet if a state fails to formally recognize that language as official and therefore will not give certification to teachers in that modality, then IDEA recipients cannot receive the protections they deserve. At the

same time, they do not hold a strong legal case for forcing the state to formalize their language. Thankfully though, many public colleges have not been deterred in establishing ASL programs based solely on their state education department's views (Rosen, 2005).

With the discoveries uncovered by the Americans with Disabilities act, Congress and many Americans began to realize that there were vast discrepancies between the opportunities allotted to citizens with disabilities compared to their average peers. Stemming from those revelations, the IDEA was authored to bring protections to members of that minority that were not previously covered: children. While the ADA wanted to give societal benefits to balance out the injustices people faced as adults, the IDEA is focused on providing appropriate education to students who were previously underrepresented. The bill acknowledges that adequate education is essential to the growth of American society and the overall prosperity of the country, but there are large numbers of children that are consistently left behind. The IDEA helps to give children with federally-defined disabilities more opportunities to receive transformative education and give their guardians more control over their children's educational journey. The bill helps to bring free and appropriate education, individualized education and family service plans, and adaptations for timely evaluations and legal protections on a larger scale. In summation, the IDEA was passed and reauthorized to make sure that education in the public school systems was something that could bring forth real change.

=Those good intentions, though, brought forth loaded consequences for the Deaf community. When IDEA provisions allowed for extended interpreting and sign language

services, it also tried to normalize deaf students with their hearing peers. Through the 2004 Reauthorization, IDEA allowed deaf students to pick the language and communication method they were most comfortable with, opened up interaction between them and their hearing cohorts and expanding the services they'd most benefit from in the everyday world. However, with the increased recognition toward mainstreaming, hearing world became infatuated with the idea of normalizing Deaf people and muscling in on tenets of the Deaf world. While the IDEA drew the attention of the hearing world toward deaf education and the Deaf community, it do not do much in the way of dispelling misconceptions about them. The IDEA's passage and reauthorization did not bring about great acceptance of ASL as a form of communication, but rather focused in on trying to make Deaf students more like their hearing counterparts. Indeed, it made the IDEA the forefront of struggles between politics and education, pushing a hearing-based agenda while trying to expand the educational opportunities for Deaf children. Though the recognition of ASL brought an increased emphasis on mainstreaming and Deaf customs, what is truly best for Deaf education is making sure that ASL and vital services like VRS and interpreting are recognized and protected on all levels of government.

CHAPTER FOUR

Deaf Education in California

With the advent of federal legislation targeted at deaf Education, it would be the reasonable next step to look at how state governments have extended their resolve. At the beginning of the twenty-first century, states started taking cues from their federal counterpart and began looking to see what further protections they could extend to culturally Deaf, mainstreamed deaf and hard-of-hearing students. This manifested most often in the legislative attempts to introduce amendments to states' constitutions, arguing for the legal right to language of all native children. By developing a legal framework for protecting the rights of American deaf children, Deaf advocates and lobbying groups were trying to hold education departments and state legislatures accountable for the amount of funding allocated to Deaf children. Furthermore, this funding legislation was oftentimes proposed with the implicit goal of securing support, and therefore recognition, of sign language usage. Although federal law and international treaties focus on anti-discrimination and adequate access to education and language, a stronger right to access to education and language can be found in state law, which is underpinned by corresponding state constitutions' guarantees of education.

Before we can dissect the moral drive for a constitutional right to language, we must first understand some of the biological behind language development. It is important to take a second to look at some of the linguistic urgencies tied to the struggles of Deaf education. The years leading up to preschool seem to be the most essential for

properly developing language in children. As Padden and Humphries tell us, consistent exposure to language before the age of five is critical, as the plasticity of the brain is at its peak for fluent language acquisition (Humphries, 872). In, fact, the most pertinent pieces of evidence for this are showcased in studies on children with traumatic brain injuries (Snow, 1114) and, unsurprisingly, children with hearing losses.

One important misconception to dispel is the idea of spoken language reception being in ultimate savior or predictor of language fluency. In many cases, sound exposure to language via hearing aids or cochlear implants does not equal automatic fluency. In fact, studies have shown that children that have received cochlear implants must still go through extensive habilitative auditory training to gain fluency (Mayberry, 740). That means that merely giving a deaf child an amplification device or cochlear implant will not automatically make them fluent in a language like spoken English. Language fluency in Deaf children, in a chosen language, must be introduced and reinforced early in their lives or they will suffer from linguistic deprivation. When this lack of sufficient language development unfolds and communication with others is limited, the effects on those children and their families can be devastating.

The Validity of Sign Language for Communication

Signed languages are fully and immediately accessible to deaf children, as those languages are both visually- and tactilely-based (Mesch, 2001). The main point is that exposure to any type of available language, whether signed or spoken, is absolutely essential to the linguistic growth of children. Another caveat to that is early exposure is

that it can often lead to an ease in the further acquisition of other languages throughout a child's life (Emmorey, 1229). That principle translates to the increased academic performance of deaf children who learned and use a signed language. In a compilation of data over a five-year period, researchers found that from a test group of 197 Deaf students who signed and spent an average of two hours a day in mainstream classrooms, a majority of them had standardized assessment scores at or above average in the subjects of reading, language and mathematics (Hartinski, 2016). Along with scholastic competence, exposure to ASL helps expand the pragmatic and social abilities of deaf children. Because motor skills tend to start developing sooner than vocalization in human development, it makes sense to introduce all children to signed language. More to the point, ASL is a visual language, which makes it accessible and compatible for deaf children from birth. When a deaf child grows up being exposed to sign language, the child is absorbing the language of a social group of individuals who are Deaf as well. In other words, sign language is accessible because it is an artifact of generations of Deaf people who have transmitted it across time. In effect, sign language is ideally designed for deaf children by the generations of Deaf children before them who learned it and passed it along. As an evolved visual-manual language, deaf children acquire it just as children who hear acquire spoken language (Newport, 884). Because children who learn ASL have a similar developmental schedule as their spoken English counterparts (Lilo-Martin, 1999), learning a sign language is the only reliable way of ensuring that a deaf child gains language and thus is protected with respect to equal opportunities (Goldin-Meadow, 225).

The goal of the original states' laws discussed below is to facilitate and protect the child's access to language, to protect the child's access to education via language, and, finally, to protect everyone's access to health care via language. Hence, these laws recognize the right to language, regardless of its modality. With the advent of the National Institutes of Health Consensus Development Program in the early 1990s, newborn hearing screens became more ubiquitous across the United States. With the recommendations from the Joint Committee on Infant Hearing, the national precedent of infant hearing losses being "identified before 3 months of age and receiving intervention by 6 months of age," (Joint Committee on Infant Hearing, 1994) a majority of states and U.S. territories were able to catch hearing losses sooner and craft better policies from it. Almost half of the states in America, plus sovereignties like Guam, Puerto Rico, and the District of Columbia ensure that the cost for newborn hearing screenings falls on insurance companies and the states of Massachusetts, Ohio, and West Virginia have provisions that the state itself will cover the cost if parents cannot afford it. This measure help in achieving early identification and intervention to deaf babies, further ensure a better shot for them to acquire language fluency. Without measures like this, the biological side of hearing loss would never be understood and addressed, leaving countless individuals deprived of a basic human right.

Legislative and Legal Precedents to Equal Education

Along with newborn screening policies, a majority of American state constitutions have provisions directly listing the innate guarantee to public education and

expand on its nature as a fundamental human right. Along with these educational guarantees, it is implicitly understood that protections and provisions also then address the right to language of American citizens. The status quo in America is that state legislatures must provide their citizens with direct access to schools and in turn, the state must also fund these entities. Furthermore, the school districts funded by each state must be accessible to all residents of the state, native or naturalized alike (Institute for Educational Equity & Opportunity, *Education in the 50 States*, 2008). Policies have not stopped there; throughout the decades, successive court decisions and local statutes have arisen to provide greater clarity and protections to American children. Because the right to education is not merely aspirational, the judicial systems throughout the country have conferred a number of protection to students, while similarly holding state governments accountable for the ever-evolving requirements of publicly-funded education. The assumption then must be that special student populaces whom have been restricted in their access to education must undergo strict review to be constitutional in these states.

A number of states seem to have taken the idea of uniformity among all education and the right of judiciaries to hold policies under extensive scrutiny to heart and embraced a deeper understanding of their responsibility. Pennsylvania, for example, holds that "...under the Equal Protection Clause of the United States Constitution, having undertaken to provide free public education, Pennsylvania must educate all children, including those with disabilities." (*Association for Retarded Children v. Pennsylvania*, 1971). The state of Kansas also took steps to clarifying the burden of the state about education when it came to school segregation. Citing the decision from the Supreme

Court case Brown v. Board of Education of Topeka, state governments must embrace uniformity within the classroom, “placement in a regular public school class is preferable to placement in a special public school class and placement in a special public school class is preferable to placement in any other type of program of education and training” (*Brown vs. Board of Educ.*, 1954). Brown v. Board as laid out the basic principle that isolation or segregation amongst particular groups of students will always be inherently unequal, as balancing the resources and discrepancies between groups cannot legally be kept in check by the state. Expanding on that, the courts also took into account the nuances of special populations and their educational necessities by outlining the need for class status in children with disabilities. Mills v. Board of Education of District of Columbia found that does more than just ensure uniformity in funding amongst state school districts, but it also requires the inclusion of special class students and holds state governments accountable for burdening any additional expenses (D.D.C. 1972). The passage of IDEA ensured its speedy enactment amongst the states and helped segue into further state policy expansions. Consequently, the following laws being analyzed all rest on the basis that all humans have the right to language, a right protected by the judicial system and mandated by federal and state municipalities.

The Climate of Deaf Education in California.

The state of California is unique in comparison to many other states in America. Before the most recent piece of Deaf education legislation, the state's overview of Deaf education was significantly less reaching. The previous legislation dealing with Deaf education, titled AB 1836, while historic in the time that it was released, provided only baser protections and exemption to deaf children in the state of California. Assembly Bill (AB) 1836 addressed some central human issues: the right toward communication with other people and having an atmosphere that allows those others to be present. It addressed the need for Deaf and hard-of-hearing children to have faculty and staff around them that have fluency in said student's language along with highlighting the importance of equal education among classmates to allot for spontaneous communication (AB 1836). This legislation acknowledged the essential need for children who are deaf and hard-of-hearing grow in the educational environment that they prefer, preferably one that respects the language they use everyday. Spearheaded by the Deaf Education Coalition, approximately 25 organizations united to lobby for changes in the way that California provided educational service for their deaf and hard-of-hearing constituents.

AB 1836 was ahead of its time by addressing some fundamental human issues that were discussed at the beginning of this chapter-- the ability to communicate with others and the ability to have friends who can both talk to you and listen to you. AB 1836 stood for the inclusion of peers and faculty whom used ASL or spoken English for deaf and hard-of-hearing students, while also placing stipulation for spontaneous communication opportunities and the incorporation deaf and hard-of-hearing students in

social functions tantamount to the educational experience. Though it did not try to preference one language above or before another, AB 1836 laid out the case for respect of both American Sign Language and spoken English in California classrooms. Most importantly, AB 1836 acknowledged that policies must address some for the nuances inherent to the educational experience; it made provision explicitly dealing with the interactions between peers and encouraged regularly contact and association between all communication groups that exist within the state. well as with professionals, including teachers and other school personnel. These provisions are expressed in the participation requirements of deaf and hard-of-hearing students in recess, athletic functions, and after-school extracurriculars. It was especially important that unfettered access to vocational programs was added in to allow the Deaf or hard-of-hearing student equal opportunity to prepare for life beyond the school experience. AB 1836 was also quintessential in the enactment of Individualized Education Program (IEP) team and how their conventions must take into consideration the personalized needs of deaf and hard-of-hearing students. This bill stipulated that when the IEP team is developing goals and objectives for a Deaf or hard-of-hearing child, it must consider several important issues of their support system and linguistic development. While AB 1836 was a vast extension of protections for Deaf students beyond the national status quo, it was by no means perfect.

One deterrent is that SB 1836 did not endorse one language over the other, targeted toward ASL or spoken English. While the bill shows the understanding of language preference among students, failing to give a nod to a particular language is a big downfall. What AB 1836 needed to do was recognize that ASL is often forgotten or

disrespected by many individuals, so by giving it preferential treatment to ASL would have helped overcome usage discrepancies. While children and families should have the opportunity to pick whichever form of communication works best for them, the ubiquity of English must be taken into account. Faced with the choice between letting their children learn English or a manual language, the overwhelming majority of families would pick written or spoken English without question. Keeping that understanding in mind, the bill set up American Sign Language users at a disadvantage because they had no one advocating for them and entrenching their position as a linguistic minority.

Despite the vagueness of communication written into AB 1836, the bill did acknowledge the importance of culturally Deaf, audiometrically deaf and hard-of-hearing children to be able to associate with peers and adults that communicate via their same language. Everything being said, it is important to note that AB 1836 will go down as the first expansive attempt to narrow the gap of inequality among deaf, hard-of-hearing and hearing student in California. The next big step was through the passage of SB 210 in the spring of 2015. SB 210 states that the Department of Education for California must “select language benchmarks to monitor and track the language acquisition and development of students who are Deaf and hard-of-hearing” (SB 210, 2015). Similarly, SB 210 has language to ensure state-funded schools arrange for “safeguards to help ensure children who are Deaf or hard-of-hearing are progressing on a developmental path commensurate with their peers” (2015). Beginning from birth, SB 210 helps children who are Deaf or hard-of-hearing develop the necessary language skills to be successful in

school and in life. More so, this bill allows them to develop those skills in the language they prefer, whether that is American Sign Language or written English.

Specifically, this bill requires the California Department of Education's (CDE) Deaf and Hard-of-hearing unit, and the CDE's Deaf education resource centers located in Fremont and Riverside, to jointly select language benchmarks from existing standardized norms for purposes of monitoring and tracking Deaf and hard-of-hearing children's expressive and receptive language acquisition and developmental stages toward ASL proficiency and English literacy. These benchmarks, chosen by the proposed list of individuals within this bill, are required to be used by a child's individualized family service plan (IFSP) or individualized education program (IEP) team to assess the progress of the child's language development. These benchmarks are established for both ASL and written English. IFSP and IEP groups must report the progress of their students in reaching these benchmarks directly to the CDE and insurance companies to which they bill their services. Correspondingly, SB 210 assures that the CDE will “track development stages that are equivalent to a child's linguistically age-appropriate peers who are not Deaf or hard-of-hearing,” (2015) with the endgame being Californian deaf and hard-of-hearing children are prepared for their entrance of a public school system.

Along with that, SB 210 also has stipulation for reassessing and explaining possible failures of student benchmarks. The IEP or IFSP teams are held accountable for any shortcomings of their students in reaching their intended expressive and receptive language milestones. This accountability measure is essential as it forces the child's team to find justification for this lack of progress and come up with ASL or English strategies

and programs to bring students up to speed in their fluency. On a larger scale, though, accountability also rests with the CDE to ensure all teams across the state have the information, guidance, and adaptive strategies to reach the literacy and fluency benchmarks. More so, the CDE must work in conjunction with those IFSP or IEP groups to ensure that all recipients of this program are linguistically ready for the public school setting, meaning they are age-appropriately proficient in their understanding of ASL, should they choose to go into a culturally Deaf institution, or spoken English, if they go into a mainstreamed classroom. Because of the socio-cultural climate of California, though, many students gain proficiency in both ASL and written English.

SB 210 goes on to outline who will legally be required to sit on the committee making these linguistic and developmental benchmarks. The Superintendent of Public Instruction (SPI) is mandated to establish an ad hoc advisory committee for purposes of soliciting input from experts on the selection of language benchmarks for children who are Deaf or hard-of-hearing that are equivalent to those for children who are not Deaf or hard-of-hearing. The advisory committee is required to “consist of 13 volunteers, the majority of whom must be Deaf or hard-of hearing, and all of who must be within the field of education for the Deaf and hard-of-hearing” (2015). In further detail, SB 210 stipulates members must be comprised of:

- A. One parent of a child who is Deaf or hard-of-hearing who uses the dual languages of ASL and English.
- B. One parent of a child who is Deaf or hard-of-hearing who uses only spoken English, with or without visual supplements.

- C. One credentialed teacher of Deaf and hard-of-hearing students who use the dual languages of ASL and English.
- D. One credentialed teacher of Deaf and hard-of-hearing students from a state certified non-public, non-sectarian school.
- E. One expert who researches language outcomes for Deaf and hard-of-hearing children using ASL and English.
- F. One expert who researches language outcomes for Deaf and hard-of-hearing children using spoken English, with or without visual supplements.
- G. One credentialed teacher of Deaf and hard-of-hearing students whose expertise is in curriculum and instruction in ASL and English.
- H. One credentialed teacher of Deaf and hard-of-hearing students whose expertise is in curriculum and instruction in spoken English, with or without visual supplements.
- I. One advocate for the teaching and use of the dual languages of ASL and English.
- J. One advocate for the teaching and use of spoken English, with or without visual supplements.
- K. An early intervention specialist who works with Deaf and hard-of-hearing infants and toddlers using the dual languages of ASL and English.
- L. A native professional who communicates through ASL and spoken English.
- M. A native professional that communicates primarily through spoken English, with or without the use of visual supplements (2015).

As much great work as this bill does, one fatal flaw is that its amendment limits the latitude of the bill to only Californian children starting from birth to five years old. This means that the state of California has much less jurisdiction to help children, as the state control over toddler/infant care in public venues is incredibly limited. If extended beyond kindergarten, the effect could be significantly more far-reaching and beneficial to families fighting to give their children equal education and equality in the usage of American Sign Language as a legitimately language within the state of California.

Clearly, this bill enacted in California is a significant step forward from the services outlined by the ADA and IDEA. The provisions within it serve to increase the support of the state for culturally Deaf, audiometrically deaf and hard-of-hearing students by attempting to equivocate their language standards to their hearing peers. By bringing in the perspective of Deaf and hard-of-hearing educators to shape the language assessments and evaluate the results, SB 210 makes the first successful attempt at inclusivity in legislation. Going beyond the baseline of federal mandates to an embrace of Deaf student rights, California set the example for what appropriate state assistance can look like in structure and execution. While it helped designate the correct procedure for crafting deaf education policies at the state level, California did have its shortcomings. Though the passage of SB210 has greatly improved the status quo of Deaf and hard-of-hearing students across the state, cutting off important assistance after the early childhood is detrimental to continued success and growth of California's children.

CHAPTER FIVE

Deaf Education in Kansas

The deaf education policies for the state of Kansas are unique to the state centered policies previously discussed. Though they did not take immediate legislative action after the implementation of the ADA and IDEA bills in the 1990s, the state as a whole is significantly more dedicated and cognizant toward the Deaf community as compared to their regional neighbors. More so, Kansas has lead the recent charge in advocating for Deaf education that follows the communication and learning preferences of Deaf students and their families, along with a civic focus on Deaf cultural awareness. The most recent pieces of public policy put into law by the state legislature are in a class by themselves in terms of how they address the educational rights of Deaf students. For those advocates of Deaf children using and learning in the language they are most comfortable with, this bill cannot seemingly be improved. The goal of this legislation is to allow for the acceptance of ASL as a legitimate language, while also preparing students with the skills they need to live in a hearing world and be professionally successful.

One of the leading reasons for this understanding and advocacy is the stalwart effectiveness of the Kansas School for the Deaf. Quintessential to understanding why Kansas' legislation is uniquely ahead of its neighbors is recognizing the importance that the government-run Deaf school has played in state history. Established in 1861, the Kansas School for the Deaf, or KSD, was an original provision in the state's constitution and is the longest continuously running state institution in Kansas (JOCO History,

Celebrating Kansas' Deaf Heritage, 2003). KSD has been the center of instruction for Kansas's deaf children as well as an important part of the city of Olathe's community. Throughout the years, the nature and scope of the school has grown and developed to become a fully integrated environment. Students not only receive an education but also find a community that encourages social and emotional development.

Following some of the fundamental philosophies laid out by Thomas Gallaudet at the advent of deaf education in the United States, KSD continues to maintain its reputation as the premier Deaf residential school in the Midwest. Throughout the years, the institution has grown and developed as it responds to the needs of the Deaf world. This growth has included both the physical and the philosophical. Today, the KSD recognizes that Deaf students must exist in two different cultures: the hearing world and the Deaf community. Therefore, both American Sign Language and written English are integrated into the school curriculum. ASL, which is a recognized uniquely suited for deaf children, is usually taught first to the students. All who live, learn, and work at the institution are expected to sign. English, which contains a completely different set of grammar and syntax than ASL, is learned later as a second language. ASL has autonomous grammar, meaning the pragmatic, morphological and semantic properties are not mere carbon copies of English. Beyond language, the students learn to become a part of the larger Deaf world. This culture provides a social framework that is different from the hearing community. Altogether, the school provides an educational environment that includes classes, extracurricular activities and on-campus residency, which allow for each student to develop socially, emotionally and academically (JOCO History, 2003). The

current curriculum corresponds very closely to public schools in Kansas, with students having classes in English, literature, math, science, computers, as well as Deaf studies and vocational training (JOCO History, 2003). Beyond these basic roles, the institution continues to be an integral part of Deaf culture and maintains its voice for the Deaf community at large.

With this understanding of the structure and primacy of KSD, it should come as no surprise that the state of Kansas has proposed and successfully passed policy to recognize the continued improvements necessary to Deaf education. The importance of providing children in public school districts with a solid educational foundation has been a flash point for many Americans since the early 2000s. The advent of standardized testing, especially seen in America, points to acknowledgement of the magnitude of education on the well-being and societal success across the globe. While there are discrepancies in educational achievement in students across the globe, there should not be wide gaps of understanding among students in one country. While factors like population and socio-economic status can speak to the varying levels of education throughout the world, there should not be cases of underdevelopment occurring in a connected minority group across several continents, as can be seen in American Deaf education systems on a micro-scale. While I understand that minority groups across this country can claim similar educational achievement gaps and widespread segregation throughout American history, it is important to appreciate the example of Deaf education overhaul demonstrated by Kansas because it shows that these hurdles can, in fact, be overcome.

Returning to the case of Kansas Deaf education, the ingrained role of KSD in Kansas's history has led to an interesting paradox for deaf or hard-of-hearing students not attending it. KSD has striven to provide the highest quality of culturally-driven Deaf education the country has to offer, but for many of those outside the KSD populace, they are faced with the acknowledgement that certain facets of their education as deaf individuals are inherently unequal to hearing education. In simple terms, education departments have to account for two different educational populations: hearing students, and deaf students. Though these student groups is seen throughout the country, Kansas is unique because they focus their funding and policies primarily on Deaf students and not their deaf or hard-of-hearing counterparts. Because of this, the problem of educational equality is more nuanced because deaf and hard-of-hearing mainstreamed students are left in limbo, falling behind *both* groups. While both Deaf schools and mainstreamed deaf education services have distinct necessities that broker more support in state-sponsored funding, even ensuring that the quality of educational achievement is the same between those student groups can be a challenge. It is from the recognition of that antonymous comparison that the Kansas legislature has passed a more intensive Deaf education law. The governing body recognized that even though they have distinct pride in the achievement of their state-sponsored Deaf school, many children with hearing loss, whether or not they identify as culturally Deaf, are victims of systemic inequalities in the levels of education they receive.

Senate Bill 444 Overview

Passed unanimously during the Kansas Senate session of 2016, Senate Bill 444 could easily be considered the most ambitious Deaf education bill that has been signed into law by a state. While on a surface level reading of this bill, it may seem like all it does is set up a mandatory language assessment program for Deaf students in the state of Kansas, the bill has a much larger magnitude (Kansas Senate, Sect. 1a, 2016). The enactment of the program forces schools to more accurately track the developmental milestone of their deaf and hard-of-hearing students, and, most importantly, pushes school districts to actually ensure their Deaf students graduate with language levels commensurate with their hearing peers, regardless of language choice: ASL or spoken English (KS, Sect. 1b, 2016). The bill strives for these intended outcomes by establishing a language assessment program with the purpose of assessing, monitoring, and tracking the language developmental milestones of children who are Deaf or hard of hearing from birth to age eight and instituting, at a minimum, that annual assessments will be given to each child who is Deaf or hard of hearing and who is less than 9 years old in ASL and/or English, (KS, Sect. 1c, 2016).

Since this bill, even though it has already been passed and signed into law, will not officially be implemented until July 1st of 2018, the outlined committee overseeing the bill's enactment had to build from scratch many of its standardized mandates. They include (KS, Sect.2e, 2016):

- Develop language milestones in ASL and English
- Review, recommend, and monitor the use of language

assessments

- Identify and recommend qualifications of language professionals who can advocate at IEP/IFSP meetings
- Identify qualifications of language assessment evaluators
- Identify procedures and methods for communicating assessment results and data to families and professionals

While the wording of each of these mandates seems fairly straightforward, the mandate that makes this bill so unique is how it mandates language. Intentionally placed in the heart of this policy's language is the idea that Deaf students have the right to pick the language that they are most comfortable with for their assessments. SB 444 explicitly states that the protocol for annual assessments must be provided in ASL or English: a measure not generally taken when evaluating the language of Deaf children (KS, Sect. 2eiv, 2016). Similarly, it speaks to the understanding of the assembly that passed it that ASL is a separate, but equally valid channel of communication, which many in the hearing world- even in universities like Baylor- fail to recognize.

Another asset of this bill that had to be built from nothing is the logistics of how its impacts and data will be overseen. While many education bills targeted at children with hearing loss only take into consideration the opinions and guidance of mainstream and spoken language instructors, SB 444 relies almost solely on Deaf educators and ASL advocates to oversee the transition and implementation of its policy logistics. The official advisory committee is called the Kansas Committee for the Deaf and Hard of Hearing (KCDHH) and consists of three licensed teachers of the Deaf, four KCDHH members,

three early education and intervention coordinators, one ASL and English teaching advocate, one ASL and English language outcomes specialist and one parent of a Deaf or hard of hearing child (KS, Sect. 1c, 2016). All members have to have experience with both English and ASL or teaching proficiency in both languages. This puts the reins in the hands of professionals and advocates who truly have an understanding of what many variations of Deaf education can look like and who can legitimately balance the focus and frequency of spoken and signed modalities.

Finally, the intended outcomes of the bill are directed toward the development and longevity of language in Kansas, deaf and hard-of-hearing students. Both implicitly and explicitly, SB 444 strives to increase the overall fluency of Deaf students' early communication and to provide effective, data-based intervention methods to students in need of it. Through those two actions, teachers and school districts can grow the language development and capacity of their students, reducing previous limitations and increasing the outcomes for comprehensive and life-long learning in children throughout the state. Quantifiably, the bill intends to provide Deaf students with age-appropriate language, augmenting their likelihood of success in school and helping to adjust the efficacy of curriculum used throughout state school districts (KS, Sect. 2e, 2016). All of these projected outcomes are synthesized from the writing of the bill itself, but also from the feedback and personal visions of the advisory board members overseeing SB 444's implementation. These measures were taken in an attempt to equalize the education quality of all Kansas students. It strives to bring equality of learning and opportunity to a minority population that had been previously underserved.

SB 444 Policy Flaws

As mentioned previously, this bill will not be put into effect until July 1st of this year (KS, Sect. 1b, 2016). This means that many of the effects of legislation discussed in previous chapters cannot be truly recognized or applied to this bill yet. Speculatively, though, there are several potential flaws to recognize. While this law provides service to a larger age group than the California legislation discussed in the last chapter, assessing children's linguistic milestones only from birth to eight years of age is arguably still too little coverage. Though much of the syntactic rules and grammar of language is absorbed within the first decade of life, stopping the assessment of language after elementary school could be a critical mistake in the attempt to improve personal language. Not only does it jeopardize the accuracy of the data gathered by the states, it fails to take into account the communicative learning that occurs throughout adolescent education. Logistically, there also comes the question of how the state will find qualified individuals to monitor these assessments. While the bills states that all testing and tracking of language will be overseen by the Kansas School for the Deaf and the Kansas Commission for the Deaf and Hard of Hearing, do they have the preventative structures in place that can adequately track and sustain this influx? Currently, the budget provisions tied to this bill allot over \$200,000 dollars for the first phases of implementation, however the Senate did not budget any additional funding for the first two years should any hiccups occur. Also, the implementation schedule for SB 444 will not fully include students at the ceiling of their age requirements (five to eight years old) until the summer of 2023 (KS,

Sect. 2f, 2016). It would be unrealistic to assume that an immediate and simultaneous implementation could take place. The fact that no contingency measures for children aging out of the service's age range means that many students will miss the benefits of this legislation.

Refuting the Hearing World's Misconceptions.

Though many of the effects of this bill cannot yet be commented on, it has not stopped opposition from swiftly coming, particularly highlighted in the pushback the bill has already received from mainstreamed and oral communication advocates within the state. Within six days of its formal introduction to the Kansas Senate, the President and Executive director of the Kansas Speech-Language-Hearing Association had released testimony on behalf of the state's speech pathologists in opposition to the bill. The organization's main grievances were centered on the fact that the task of assessing deaf and hard-of-hearing students was being shifted to Deaf education teachers and administrators ("Testimony in Opposition to SB 444", 2016). Admittedly, one of the primary jobs of a speech pathologist (SLP) is to conduct language assessments but considering the lack of standardized protocols used to assess ASL comprehension and fluency currently available to the average SLP, it begs the question if the KSLHA is truly concerned with adequately tracking students' progress (ASHA, 2003). They also protested that the legislation contains "a strong bias toward American Sign Language" ("Testimony", 2016). There is legitimacy in the claim that not every child with a hearing

loss will choose to use ASL as their first or even second language for communication, but there is an undeniably patronizing and ignorant attitude underlying this complaint. What makes the Deaf community such an inimitable minority population is the fact that they are so rarely identified by the hearing majority around them. Like in the experience of my own peers and friends, most people simply do not know that Deaf communities and Deaf cultural identity exist. Many censuses do not take into account cultural identity, so the fact that the government cannot seemingly quantify culturally Deaf individuals really chips away at the argument that this bill's language is too in favor of Deaf community.

There are no current or accurate numbers in terms of appropriate cultural quantification- meaning culturally Deaf individuals who use ASL as their primary system of communication at home and in school- reflecting ASL usage. The closest population estimate that could be pointed to is Schein and Delk's quantifications that there may have been as many as 500,000 people, regardless of hearing status, who used ASL in their homes in 1972 (Schein & Delk, 1974). Similarly, many statistics fail to account for the fact that ASL is used in homes with family members who are not deaf (Mitchell & Karchmer, 2005). Less than five percent of deaf children have deaf parents and more than eighty percent of the children born to deaf couples have no hearing loss (Mitchell, 2004b). Deafness and ASL use should not be conflated. Not all persons with a significant degree of hearing loss use ASL or participate in a signing community (Dugan, 2003; Kisor, 1990) while, at the same time, persons with no hearing loss are born into families who use ASL and grow up with ASL as their first language (Finton, 1996; Mudgett-DeCaro, 1996). Signed language use in the United States is undoubtedly related to the

existence of deafness in the population, but the prevalence of its use in the home is certainly not restricted to those who are deaf. KSLHA's inference that validating ASL as a legitimate option for language assessments somehow downgrades the ubiquity of spoken English, truly highlights the overwhelmingly attitudes of audism within the organization. In fact, it is subconscious audistic inferences like that, the belief that a person's ability to hear or to behave like a hearing person makes them superior (Harrington & Jacobi, 2009), that have repressed and relegated the Deaf community into the shadows for decades.

Even though Senate Bill 444 is not perfect, the recognition that it provides to ASL and the Deaf community should not be overlooked or downgraded. It holds the state's Department of Education accountable for the efficacy of the curriculum it enforces on state-funded school districts. It forces ASL to be recognized and relegated to the same level of legitimacy and usage as English. It provides essential support to children so that their language and long-term learning prospects will be equal to that of their peers. Most important of all, the bill gives a voice and leadership to Deaf educators to properly direct the services and curriculum of students that they are most qualified to serve. Senate Bill 444 is important in many ways, far beyond just providing assessments. It is not perfect; it may in fact fail at implementation or reach none of its intended outcomes, but the fact that it exists should serve as a beacon of hope and guidance for Deaf education advocates across the country.

CHAPTER SIX

A Summation of Deaf Education Policy Ideologies

To fully appreciate the impact of the policy analysis you just read, every casual and previously uninformed reader of this text must first hold with them the inherent understanding that as hearing people, we cannot automatically and unreservedly understand the life experiences of Deaf individuals. Growing up with the privilege of being a part of the hearing majority makes it so that the concept of Deaf culture's existence is a struggle to wrap our minds around. How could a miniscule population, in comparison to the total American population number, have existed for so long and still be so unheard of in the twenty-first century? Even more, how could that group have grown its own independent culture pitted directly against the beliefs of the surrounding majority? It is because at its very core, the Deaf community in the United States, and across the world, is innately unique.

People who identify as Deaf have experiences unlike those of hearing people and it draws them together. As Mindess explains, "Our human hunger to connect, to relate to people like ourselves will never be eradicated. For this reason a large majority of deaf people gravitate to the Deaf community, regardless of educational background or communication mode used by their parents or school." (Mindess, 84). The principles and values by which they order their lives are unique, but not lesser than our own. Just because they are different does not mean that we can put off our duty of respecting them as fellow human beings, however that is exactly what we have done. As author Lennard

Davis put it, “Deaf people, and others who might not even consider themselves as having a disability, have been relegated to the margins by the very people who have celebrated and championed the emergence of multiculturalism, class consciousness, feminism, and queer studies, from the margins.” (Davis, 1995). While many other minority groups have successfully fought for recognition and rights on a social and political scale in the United States, it appears that the Deaf community has been disregarded and discounted. They have similar needs to other minority groups- equality in education and recognition as examples- yet the Deaf community has not received assistance in fulfilling them.

Why? Why are they the minority that is overlooked? It is of my personal opinion that the paradox at the heart of the Deaf community and the ignorance toward it from the hearing world has led to this neglect. As hearing individuals, we could never understand how living without a function that we take for granted could be anything but a disability. Hearing is a seemingly quintessential part of our lives: just think of the number of times we rely on auditory cues to keep us from potential dangers or to lead us to the actual intentions of people around us. It is a reflex we rely on in our daily lives and living without that can seem baffling. That disconnect is what I believe keeps many people from approaching or educating themselves about Deaf culture. The gap in understanding seems insurmountable and isolating, when in actuality, it is not so unattainable. If the hearing majority merely took it upon themselves to recognize that the Deaf community is unique, but not inferior, then the divide in cultural understanding would not be so marked. More so, merely committing to accepting the Deaf community’s ipseity would put all of us in a better position to address other issues that they face.

Since it is from the unique cultural language of the Deaf community that its differences in education stems, it is absolutely essential that hearing educators and lawmakers can grasp that cultural difference to make effect curriculum and policy. If you cannot understand the existence of a group and the complexities of their language, how can you expect to make decisions that actually benefit them? It is from the progression of awareness that I chose legislation for this paper. As we go through the history of American Deaf education, the increase in nuance toward legislation is more prevalent. The federal legislation we analyzed at the beginning of this paper, both the ADA and the IDEA, are steeped in audistic sentiments. Both bills are really aimed toward deaf and hard-of hearing individuals, with the implicit intention of integrating them into the Hearing world, and just so happen to also cover some of the needs of Deaf individuals like access to interpreters and closed captioning. More importantly, the ADA and IDEA normalized the notion that deaf individuals should be viewed as handicapped or disabled, appropriating and diminishing the Deaf community's principles in the general consciousness of the American public. This label still exists decades later, and while both bills did aid the facilitation of certain Deaf-friendly services, it would be easy to argue that the harm has yet to be undone.

Part of the reason why I picked both of those bills to analyze is because it set up an opportunity to dissuade the hearing majority from falling easily into the habit of viewing Deaf people as a disability group. To me, the largest motivation for rejecting the view of disability toward Deaf people is because the cultural group does not hold themselves to that same label and definition. As Harlan explains it, :People who have

grown up Deaf and have become integrated into Deaf culture are naturally aware of their biological difference, but they do not, as a rule, see in that difference a reason to consider themselves members of a disability group” (Harlan, 2005). This, perhaps, should be the ultimate measure for classifying a minority group, their own personal belief in their identification.

Another good comparison for the Deaf community is the LGBTQ+ community. They, too, were marginalized by a majority of American society for many decades of the twentieth century. The sexuality of gay men and women were often seen as marks of mental illness or a disabled by society, just like the early Deaf community has. As Conrad and Schneider equivocate, “In rejecting that disability categorization, the gay rights movement was not simply trying to avoid a stigma; it was trying instead to promote a new representation of gay men and women that would be better for them, their families, and the wider society” (Conrad & Schneider, 1980). There are many marginalized groups in society, but the cultural disconnect in understanding between the Deaf and Hearing worlds is unequivocally insurmountable. Some writers, convinced that Deaf people have a disability and baffled by their refusal to acknowledge it, conclude that Deaf people are simply denying the truth of their disability to avoid stigma (Baynton, 2002). I. King Jordan, a notable Gallaudet alumnus, was once questioned if he would prefer to hear, he responded: “I don't think of myself as missing something or as incomplete. ... It is a common fallacy if you don't know Deaf people or Deaf issues. You think it is a limitation” (Fine & Fine, 1990). And that opinion has held in the mind of lawmakers during that decade, leading them to pass legislation with a benevolent, yet

fundamentally misguided intention. By forcing a label onto the Deaf community, they fumbled the opportunity to understand and dispel the complex nuances of this cultural group to a wider audience.

While United States Congress may have dropped the ball in clarifying and broadcasting the secondary tension inherent to the Deaf community, many state legislatures have taken the initiative to comprehend those fine distinctions and take them into account when enacting policies targeted toward Deaf children. If the ADA and IDEA may not have been perfect legislation, state laws have incrementally taken steps to push toward that. California's Senate Bill 210 makes strides to ensure that education between Deaf and hearing toddlers in the state is in fact equivalent. By forcing the state's Education department to have language benchmarks that must be consistently tracked, Deaf children are being routinely recognized and their personal communication and learning style are becoming more accepted by the hearing majority around them. While the largest drawback of the California bill is that it does not extend this benchmark tracking beyond the age of five, it has significantly more understanding of the Deaf community than either federal bill. By including ASL advocates and Deaf teachers, Deaf students have a better chance of getting the recognition and acceptance they need in their education.

If the California SB 210 is a big step beyond the ADA and IDEA, the Kansas Senate Bill 444 is a gigantic bound. While like California SB 210, it does not cover the full age range of public education (five years of age to eighteen years of age); it truly is the first bill of its kind to be written with a Deaf partiality. Due to the sui generis

relationship between the state government and the Kansas School for the Deaf, there is an understanding held by legislators that has been previously unseen. While they may not have perfect understanding of the struggles facing Deaf people in their everyday lives, the focus of education within Kansas has led to policy firmly based on the acceptance of ASL as legitimate language equal to any spoken language and prioritizing the guidance of Deaf educators. The commission overseeing the language milestone testing of Deaf students is made up predominately of KSD staff, Deaf educators and advocates from across the state. This strong representation, in combination with the lack of mention of the label “disability” or “disabled” speaks to the acceptance and embrace that should be taken when drafting legislation for the culturally Deaf minority. If all states raised their level of discourse to the heights that Kansas has, I truly believe that some of the disconnect between the Hearing world and the Deaf community could be overcome. And more than that, children would receive the concrete benefits of equal education and mutual recognition with their hearing peers. Who could say no to that?

In summation, the purpose of this thesis is three-pronged. First and foremost, it is to bring recognition to a group of Americans that are often overlooked. While a plethora of minority groups exist in the United States, the characteristics that define the Deaf community make it unlike any other. And it is in that marked nuance that we in the majority, or even other minority groups, tend to shy away from. Their history, culture and struggles are all unique, as is the benevolent ignorance held toward all three of those aspects of the Deaf community. Next, it was necessary to discuss the history and nuances of Deaf education in the United States. Just as their principles are exceptional, so should

the way that Deaf children learn and communicate also be. Deaf children have different needs and resources, from interpreters to closed captioning to the language they use in the classroom. Even from state to state and district to district, services requested can vary greatly, especially when Deaf students are lumped in with oral, non-signing deaf or hard-of-hearing peers. Those populations are not interchangeable, and their needs are all unique. What is not unique, however, is the fact that many of the resources and amenities Deaf students truly need are often unmet by their public-school district, either from the lack of budget or lack of understanding. Finally, I wanted to showcase the features of education policy that make it effective to the Deaf community. From the analysis of these four bills and others being debated across America, the key to success is in execution and in the reaction from its constituents. Going into the writing and lobbying processes with balanced input from a variety of viewpoints allows policy to make the most impact on the Deaf community. Obviously, there are many variables in a state that will affect a bill's effectiveness, but failing to go in with the correct intentions can have major impacts. In the end, the Deaf community, their educational needs and the policies that shape the lives of deaf students, are all unique. While they share some commonalities of unwanted systemic subordination with other minorities, the Deaf community is truly like no one else. Just because they are different, though, does not mean they are wrong or that they deserve less than the hearing majority around them. We should respect their differences and make the effort to step out of our comfort zone and overcome any disconnect in understanding. In the end, we are all human, and every single one of us deserves the opportunity to reach our full potential.

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