

## Provision of FM Technology in Educational Settings: What the Law Requires

*Donna L. Sorkin, M.A.*  
*Vice President, Consumer Affairs*  
*Cochlear America*

### **Introduction**

There are a number of Federal laws that support provision of FM technology for children and adults with hearing loss. All of these laws arise from the perspective that as a society we will make buildings, programs and services accessible to people with disabilities. With passage of the Americans with Disabilities Act (ADA) in 1990, Federal law introduced the principle of *reasonable accommodation*. This principle requires employers, schools, colleges, or other entities; both public and private, to provide specific accommodations that allow children and adults with disabilities to have access to all aspects of life. The provision of FM technology is widely recognized as being a reasonable accommodation for an individual with a hearing loss.

### **Access for Children at School: IDEA, Section 504 and ADA**

For children in (public) educational settings, the Individuals with Disabilities Education Act (IDEA) requires that children with disabilities be provided with a free and appropriate public education that includes special education and related services. IDEA is not prescriptive as to what a school should provide for an individual child because school personnel, together with the child and her family, work together to develop an Individualized Education Program (IEP). The aim of the IEP is to address the child's *unique* needs and the communication preferences of a family. Although IDEA law requires that schools address the individual needs of a child with an "educationally significant" disability, there is considerable variability in the way school districts address the needs of a child with hearing loss.

There are two parts of IDEA that are relevant to a discussion of the provision of FM systems for children. Part B includes procedural safeguards for children ages 3 to 21. Part C authorizes grants to states to carry out early intervention programs for infants and toddlers (birth to 3 years) and their families. Parts B and C of IDEA both provide mechanisms for provision of FM technology for appropriate children with hearing loss.

Every child with a cochlear implant should be evaluated for FM amplification. The child's cochlear implant center should be involved and should counsel on whether the child will benefit and what type of FM is appropriate. FM technology is an eligible accommodation under IDEA. FM systems for infants and toddlers are eligible as an early intervention service but clients may advise waiting until the child is experienced enough with technology to provide information on what he is hearing via the FM.

### **Children Not Covered by IDEA**

In recent years, some cochlear implant children have been excluded from receiving services under IDEA because they are performing at an age appropriate level and have been determined

to not have an “educationally significant” disability. Without attempting to argue the appropriateness of such exclusions, it is important to know that such children are still covered by other laws that require that schools make classroom activities accessible to children with hearing impairments. Provision of FM systems must be provided for any child who needs such services under Section 504 of the Rehabilitation Act of 1973. Section 504 required that programs receiving Federal funds must be accessible to individuals with disabilities and virtually all public schools receive Federal funds.

### **Coverage of Children in Private School**

Children in private schools are not covered by either IDEA or Section 504. They are covered by the Americans with Disabilities Act (ADA) because private schools are considered to be “public places.” Provision of communication access is required at a private school unless doing so is deemed to be an undue burden. Since providing an FM system entails minimal cost and effort, its provision is almost always regarded as a required accommodation.

### **College Students**

College students are covered by Section 504 if the educational entity receives federal funds. Even if a college receives no federal monies, it still must abide by the provisions of the Americans with Disabilities Act. The ADA requires that individuals with disabilities be given equal opportunity to participate in the programs and services provided by governmental or private entities. FM systems are auxiliary aids and are mandated under the ADA.

### **Summary**

Federal laws require that FM systems (or other assistive listening devices) be provided in educational settings—public or private—if needed by a child to access their educational program. FM technology should be provided by the school, even if a child is determined to not have an educationally significant hearing loss (i.e., meaning they are not covered by an IEP). FM systems are also a required accommodation for a college student under Section 504 if the school receives federal funds, and by ADA as a reasonable accommodation, if it does not.

### **Selected References**

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