CHAPTER 7

SERVICES FOR CHILDREN WITH DISABILITIES

Section 1. Authority.

- (a) These rules are authorized by W.S. § 21-2-202(a)(xviii) and have been adopted by the Wyoming State Superintendent of Public Instruction as authorized by the Wyoming Administrative Procedure Act, W.S. §§ 16-3-101 through 16-3-115.
- (b) These rules govern the operation of all special education programs and services provided to children with disabilities ages three (3) through the completion of the school year in which the child turns twenty-one (21), pursuant to Wyoming law, by a school district, by State and local juvenile and adult correctional facilities, and by other public agencies within the State of Wyoming.

Section 2. Scope.

- (a) All provisions under the Individuals with Disabilities Education Act 2004 (IDEA) (20 U.S.C. §1400 et seq.) and all federal regulations pertaining to the IDEA, including any subsequent amendments or revisions of the law, regulations, and/or rules, apply to each political subdivision in Wyoming, regardless of whether the political subdivision received any federal IDEA Part B funds. The IDEA requires the state educational agency, or the Wyoming Department of Education (WDE), ensure the requirements of the IDEA and Wyoming educational standards are met in all education programs administered by the State or any school district or other public agency within Wyoming providing services to children with disabilities.
- (b) For purposes of services to children with disabilities between the ages of three (3) through completion of the school year in which the child turns twenty-one (21), unless specifically addressed in these rules, WDE hereby adopts all requirements in the IDEA and supporting federal regulations at 34 C.F.R. Parts 300 and 301, including the 2008 Amendments. The public may view the IDEA and federal regulations on WDE's website at www.k12.wy.us/se.asp. All references to a specific rule include, but are not limited to, any applicable provision in the IDEA and the federal regulations. The requirements of the IDEA are binding on each school district or public agency that has direct or delegated authority to provide special education and related services to children with disabilities in Wyoming. This does not limit the responsibility of any school district or public agency for providing or paying appropriate costs for a Free Appropriate Public Education for children with disabilities in Wyoming.
- (c) WDE shall ensure that federal special education funds are appropriated to and spent by school districts or public agencies in accordance with these rules, the IDEA, including but not limited to 34 C.F.R. §§300.200 through 300.230 and that school districts or public agencies submit a plan to provide assurances to WDE that they provide for the education of children with disabilities within their jurisdiction, having in effect policies, procedures, and programs that are consistent with the Wyoming policies and procedures established under Part B of the IDEA. These funds shall be recovered

by WDE for services to any child determined to be erroneously classified and reported to WDE as a child with a disability. WDE may use whatever State, local, federal or private sources of support that are available to meet the requirements of the IDEA.

Section 3. Definitions.

- (a) All terms defined in the following federal laws and regulations and any other federally defined terms are incorporated herein by reference for purposes of these rules:
- (i) The Individuals with Disabilities Education Act of 2004 (IDEA), 20 U.S.C. §1400 et seq.; and,
- (ii) The IDEA regulations at 34 C.F.R. Part 300 (governing Part B programs for school-aged children with disabilities), and 34 C.F.R. Part 301 (governing programs for preschool children with disabilities).
- (b) The following definitions are specifically defined by WDE for the purposes of these rules.
- (i) "Developmental Delay" means a child with a disability ages three (3) through nine (9) who is determined, through appropriate diagnostic instruments, and procedures, to be experiencing delays in the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development and who, by reason thereof, needs special education and related services.
- (ii) "Elementary school" means a school consisting of kindergarten through grade five (5), or any appropriate combination of grades within this range, as determined by the plan of organization for schools authorized by the board of trustees, including a nonprofit institutional day or residential school or a public elementary charter school that provides elementary education as determined by Wyoming law. [See 34 C.F.R. § 300.13 and W.S. 21-13-101(a)(iv)]
- (iii) "High school" means a school consisting of grades nine (9) through twelve (12), or any combination of grades within this range, as determined by the plan of organization for schools authorized by the district board, including a nonprofit institutional day or residential school or a public secondary charter school as determined by Wyoming law, except that it does not include education beyond grade 12. [See 34 C.F.R. § 300.36 and W.S. 21-13-101(a)(vi)]
- (iv) "Home based education" means a program of educational instruction provided to a child by the child's parent or legal guardian or by a person designated by the parent or legal guardian. An instructional program provided to more than one family unit does not constitute a home-based educational program. [See W.S. §21-4-101(a)(v)]
- (v) "Middle school" means a school, consisting of grades six (6) through eight (8) or any combination of grades within this range, as determined by the plan of organization for schools authorized by the district board of trustees, including a nonprofit

institutional day or residential school or a public charter school. [See 34 C.F.R. §§300.13 and 300.36 and W.S. 21-13-101(a)(vii)]

- (vi) "Preschool children with disabilities" means children three (3) through five (5) years of age in Wyoming identified as eligible for special education and related services. [See W.S. §21-2-701]
- (vii) "Private school" means, for the purpose of these rules, any nonpublic, elementary or secondary school providing basic academic educational programs for children and may include parochial and church or religious schools and home-based educational programs. [See W.S. §21-4-101(a)(iii)]

Section 4. Identification, Evaluation, and Eligibility Determinations.

- (a) Child find. Consistent with 34 C.F.R. §300.111, each school district or public agency shall adopt and implement policies and procedures to ensure that all children with disabilities who reside within the school district's or public agency's educational jurisdiction, including children with disabilities attending private schools or facilities such as residential treatment centers, day treatment centers, hospitals, mental health institutions, detention and correctional facilities, children who are highly mobile, and children who are advancing from grade to grade, regardless of the severity of their disability, and who are in need of special education and related services, are located, evaluated and identified in compliance with all applicable requirements of IDEA, including but not limited to 34 C.F.R. §§ 300.111, 300.131, 300.301 through 300.306 and these WDE rules and standards.
- (i) School districts or public agencies must provide parents with public notice of its child find activities pursuant to 34 C.F.R. §300.612(b).
- (ii) School districts or public agencies must implement procedures to ensure protection of the confidentiality of any personally identifiable information collected, used, or maintained in child find activities in accordance with the federal regulations, including but not limited to 34 C.F.R. §§300.32, 300.134 and 300.610 through 300.627.
- (iii) Consistent with 34 C.F.R. §§300.130 through 300.144, if a child is parentally enrolled in a private elementary or secondary school outside the boundaries of the school district or public agency in which the student is living, the school district or public agency where the private school is located is responsible for child find activities, evaluations, and provision of services.
- (iv) School districts and public agencies shall coordinate child find responsibilities for children ages birth through two (2) with early intervention providers or agencies.
 - (b) Initial evaluation.
- (i) In accordance with 34 C.F.R. §300.301, either a parent, school district, or public agency may initiate a request for a full and individual initial evaluation.
- (A) A school district or public agency shall establish procedures for requesting an initial evaluation.

- (B) If a comprehensive initial evaluation is determined warranted, consent must be obtained consistent with 34 C.F.R. §300.300, and the evaluation must be conducted consistent with 34 C.F.R. §§300.301 through 300.311.
- (C) A comprehensive evaluation shall include, as needed, evaluative services provided by a licensed physician to determine a child's medically related disability that results in the child's need for special education and related services. [See 34 C.F.R. §300.34(c)(5)]
- (D) If the school district or public agency does not suspect that the child has a disability and refuses a parent's request for an initial evaluation, the school district or public agency must provide written notice to the parent consistent with 34 C.F.R. §300.503. The parent may challenge the refusal by utilizing the dispute resolution procedures in these rules.

(c) Eligibility under the IDEA.

- (i) Consistent with 34 C.F.R. §300.8, to be eligible for special education and related services under the IDEA a child must meet the criteria for one (1) or more of the disability categories listed in this section, and the disability must adversely affect the student's educational performance such that the student needs special education, as defined in 34 C.F.R. §300.39, and related services, as defined in 34 C.F.R. §300.34.
- (ii) Limitation. Speech Language Impairment is the only disability category that would be considered either:
 - (A) A special education service if eligibility criteria is met, or
- (B) A related service if the eligibility criteria for one (1) of the other disability categories is satisfied.
 - (d) Disability categories and eligibility criteria.
- (i) Autism Spectrum Disorder. Autism Spectrum Disorder means a developmental disability significantly affecting verbal and nonverbal communications and social interaction, generally evident before age three (3) that adversely affects a child's educational performance. Other characteristics often associated with Autism Spectrum Disorder are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. Autism Spectrum Disorder does not apply if a child's educational performance is adversely affected primarily because the child has an Emotional Disability as defined in this section.
- (A) Autism Spectrum Disorder eligibility criteria: Eligibility is established through a comprehensive evaluation in accordance with the requirements of these rules. The initial evaluation shall be conducted by qualified professionals as determined appropriate by the school district or public agency. The initial evaluation process shall include recommendations for instruction from a qualified diagnostician, such as a licensed psychologist, psychiatrist or other qualified professional. The initial evaluation process shall be comprehensive and address all areas of need resulting from the suspected disability. In accordance with the requirements of these rules, a child is

identified as a child with Autism Spectrum Disorder if four (4) out of five (5) following criteria are satisfied:

- (I) Impaired communication: The child is unable to use expressive and receptive language for social communication in a developmentally appropriate manner; lacks nonverbal communication skills or uses abnormal nonverbal communication; uses abnormal form or content when speaking; or is unable to initiate or sustain conversation with others;
- (II) Inappropriate relationships: The child exhibits deficits relating to people; marked lack of awareness of others' feelings; abnormal seeking of comfort at times of distress; absent or abnormal social play; or inability to make friends. The child does not relate to or use objects in an age appropriate manner;
- (III) Abnormal sensory processing: The child exhibits unusual, repetitive, or non-meaningful responses to auditory, visual, olfactory, taste, tactile or kinesthetic stimuli:
- (IV) Impaired cognitive development: The child has difficulty with concrete versus abstract thinking, awareness, judgment or the ability to generalize. The child may exhibit perseverative thinking or impaired ability to process symbolic information; or
- (V) Abnormal range of activities: The child demonstrates a restricted repertoire of activities, interests, and imaginative development evident through stereotyped body movements, persistent preoccupation with parts of objects, distress over trivial changes in the environment, unreasonable insistence on routines, restricted range of interests, or preoccupations with one (1) narrow interest.
- (ii) **Cognitive Disability.** Cognitive Disability means significantly sub-average general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period that adversely affects a child's educational performance.
- (A) Cognitive Disability eligibility criteria: Eligibility is established through a comprehensive evaluation in accordance with the requirements of these rules. The initial evaluation shall be conducted by qualified professionals as determined appropriate by the school district or public agency. The initial evaluation process shall be comprehensive and address all areas of need resulting from the suspected disability. In accordance with these rules, a child is identified as a child with a Cognitive Disability if all of the following criteria are met:
- (I) Documentation on an individual test of intelligence that the child's intellectual functioning is two (2) or more standard deviations below the mean, taking into consideration the standard error of measurement. In the event that an individual test of intelligence is not able to be administered to the child, the evaluation team shall document how they determined that the child's profile of intellectual functioning indicates sub-average performance in a majority of areas;
- (II) Documentation on an individually administered test or assessment that the child's academic or pre-academic skills are coexistent with the child's deficits in

intellectual functioning. Behavior observations, criterion-referenced tests, or documentation of classroom performance may be used when a child's level of functioning cannot appropriately be measured by standardized tests; and

- (III) Documentation on standardized adaptive behavior measurements, that includes information gathered from parents and school staff, that the child's deficits in adaptive behavior are coexistent with the child's deficits in intellectual functioning.
- (iii) **Deaf-Blindness.** Deaf-Blindness means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for a child with deafness or a child with blindness.
- (A) Deaf-Blindness eligibility criteria: Eligibility is established through a comprehensive evaluation in accordance with these rules. The initial evaluation process shall include a licensed audiologist, certified teacher of the visually impaired, and other qualified professionals as determined appropriate by the school district or public agency. The initial evaluation process shall be comprehensive and address all areas of need resulting from the suspected disability. In accordance with the requirements of these rules, a child is identified as a child with Deaf-Blindness if all of the following criteria are met:
- (I) Eligibility criteria for Hearing Impairment, Including Deafness, are met;
- (II) Eligibility criteria for Visual Impairment, Including Blindness, are met; and
- (III) The child's current level of performance indicates significant problems with motor functioning, communication, self-help/adaptive skills, social skills, or pre-academic or academic skills.
- (iv) **Developmental Delay.** Developmental Delay means a child with a disability ages three (3) through nine (9) who is determined through appropriate diagnostic instruments and procedures to be experiencing developmental delays in the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development, that adversely affects educational performance and who, by reason thereof, needs special education and related services. Developmental Delay is a category available to children ages three (3) through nine (9) who do not qualify in other categories under these rules, but meet the Developmental Delay criteria. School districts or public agencies are free to utilize Developmental Delay as a disability category if adopted by the local governing board and annual assurances are provided to WDE that the criteria is implemented consistent with these rules.
- (A) Developmental Delay eligibility criteria: Eligibility is established through a comprehensive evaluation in accordance with these rules. The initial evaluation shall be conducted by qualified professionals as determined appropriate by the school district or public agency. The initial evaluation process shall be comprehensive and address all areas of need resulting from the suspected disability. In

accordance with these rules, a child is identified as a child with a Developmental Delay if the following criteria are met:

- (I) The child's performance is significantly below the mean of expected performance, measured at 1.75 standard deviations below the expected performance for children of comparable chronological age in one (1) area (physical, cognitive, social/emotional, communication, or adaptive functioning); or
- (II) The child's performance is markedly below the mean of expected performance, measure at 1.5 standard deviations below the expected performance for children of comparable chronological age in two (2) or more areas (physical, cognitive, social/emotional, communication, or adaptive functioning); and
- (III) Results of hearing and vision screening that provide evidence that the child's performance is not the result of hearing or vision impairments.
- (B) Exceeding the age of eligibility: Consistent with 34 C.F.R. §300.305(e)(1), the school district or public agency must evaluate the child before determining the child is no longer a child with a Developmental Delay.
- (v) Emotional Disability. Emotional Disability means a condition exhibiting one (1) or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance: an inability to learn that cannot be explained by intellectual, sensory, or health factors; an inability to build or maintain satisfactory interpersonal relationships with peers or teachers; inappropriate types of behavior or feelings under normal circumstances; a general pervasive mood of unhappiness or depression; or a tendency to develop physical symptoms or fears associated with personal or school problems. The term includes schizophrenia. The term does not apply to children who are socially maladjusted, unless they have an Emotional Disability as defined in these rules.
- (A) Emotional Disability eligibility criteria: Eligibility is established through a comprehensive evaluation in accordance with the requirements of these rules. The initial evaluation shall be conducted by qualified professionals as determined appropriate by the school district or public agency. The initial evaluation process shall include recommendations for social, emotional, or behavioral instruction from a qualified diagnostician, such as a licensed psychologist, school psychologist, psychiatrist, or other qualified professional. The initial evaluation process shall be comprehensive and address all areas of need resulting from the suspected disability. In accordance with the requirements of these rules, a child is identified as a child with an Emotional Disability if the following criteria are met:
- (I) Documentation from regular education positive behavioral interventions evidences that the behavior adversely affects the child's educational performance.
- (II) The child continues to exhibit behavioral or emotional characteristics over a long period of time and to a marked degree that adversely affects the child's educational performance as evidence by one (1) or more of the following:

- (1.) An inability to learn that cannot be explained by intellectual, sensory, or health factors;
- (2.) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
- (3.) Inappropriate types of behavior or feelings under normal circumstances;
 - (4.) A general pervasive mood of unhappiness or depression; or
- (5.) A tendency to develop physical symptoms or fears associated with personal or school problems.
- (III) The term does not apply to children who are socially maladjusted, unless it is determined that they have an Emotional Disability consistent with the criteria above.
- (vi) Hearing Impairment, Including Deafness. Hearing Impairment, Including Deafness means a hearing impairment including deafness that, with or without amplification, adversely affects educational performance, may be permanent or fluctuating, and may be so severe that the child is impaired in processing linguistic information through hearing, with or without amplification.
- (A) Hearing Impairment, Including Deafness eligibility criteria: Eligibility is established through a comprehensive evaluation in accordance with these rules. The initial evaluation process shall include a licensed audiologist and other qualified professionals as determined appropriate by the school district or public agency. The initial evaluation process shall be comprehensive and address all areas of need resulting from the suspected disability. In accordance with these rules, a child is identified as a child with a Hearing Impairment, Including Deafness, if the following criteria are met:
- (I) Documentation of the child's potential requirement for amplification and one (1) of the following hearing losses:
 - (1.) Sensorineural hearing loss; or
 - (2.) Conductive hearing loss.
- (II) Documentation that the hearing loss interferes with the student's ability to function in an educational program using traditional materials and techniques due to the child's difficulty in using or understanding spoken language.
- (vii) **Multiple Disabilities.** Multiple Disabilities means concomitant impairments (such as Cognitive Disability-Blindness; Traumatic Brain Injury-Orthopedic Impairment), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one (1) of the impairments. The term does not include Deaf-Blindness unless eligibility criteria in an additional disability category are satisfied.
- (A) Multiple Disabilities eligibility criteria: Eligibility is established through a comprehensive evaluation in accordance with the requirements of these rules. The

initial evaluation shall be conducted by qualified professionals as determined appropriate by the school district or public agency. The initial evaluation process shall be comprehensive and address all areas of need resulting from the suspected disability.

- (viii) **Orthopedic Impairment.** Orthopedic Impairment means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by a congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and impairments from other causes (e.g., cerebral palsy, amputations and fractures or burns that cause contractures).
- (A) Orthopedic Impairment eligibility criteria: Eligibility is established through a comprehensive evaluation in accordance with the requirements of these rules. The initial evaluation shall be conducted by qualified professionals as determined appropriate by the school district or public agency. The initial evaluation process shall be comprehensive and address all areas of need resulting from the suspected disability. In accordance with the requirements of these rules, a child is identified as a child with an Orthopedic Impairment if the following criteria are met:
- (I) Documentation of an Orthopedic Impairment from a physician within the previous twelve (12) months for an initial evaluation; and
- (II) Documentation that the child's impaired motor functioning significantly interferes with educational performance; and either
- (III) Documentation that the child exhibits deficits in muscular or neuromuscular functioning that significantly limit the child's ability to move about, sit, or manipulate materials required for learning; or
- (IV) Documentation that the child's bone, joint, or muscle problems affect ambulation, posture, or gross and fine motor skills.
- (ix) Other Health Impairment. Other Health Impairment means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that is due to chronic or acute health problems, such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette Syndrome, and adversely affects a child's educational performance.
- (A) Other Health Impairment eligibility criteria: Eligibility is established through a comprehensive evaluation in accordance with the requirements of these rules. The initial evaluation shall be conducted by qualified professionals as determined appropriate by the school district or public agency. The initial evaluation process shall be comprehensive and address all areas of need resulting from the suspected disability. In accordance with the requirements of these rules, a child is identified as a child with an Other Health Impairment if the criteria below are met:
- (I) Subject to the provision below regarding attention deficit disorder or attention deficit hyperactivity disorder, documentation of an acute or chronic health problem from a licensed physician within the previous twelve (12) months for an initial evaluation;

- (1.) In concert with the above provision, as determined appropriate by a school district or public agency, a licensed psychologist or certified psychologist, in lieu of a physician may document the child meets eligibility requirements for an Other Health Impairment with respect to attention deficit disorder or attention deficit hyperactivity disorder for an initial evaluation; and
- (II) Documentation that educational performance is adversely affected due to acute or chronic limited strength, vitality, or alertness.
- (x) Specific Learning Disability (SLD). Specific Learning Disability means a disorder in one (1) or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia. A Specific Learning Disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, cognitive disability, emotional disability, or of environmental, cultural or economic disadvantage.
- (A) Specific Learning Disability eligibility criteria: Eligibility is established through a comprehensive evaluation in accordance with the requirements of these rules. The initial evaluation shall be conducted by a group of qualified professionals as determined appropriate by the school district or public agency. The initial evaluation process shall be comprehensive and address all areas of need resulting from the suspected disability. In accordance with these rules, a child is identified as a child with a Specific Learning Disability if the criteria in this section are satisfied.
- (B) Consistent with 34 C.F.R. §300.308, the determination of whether a child suspected of having a Specific Learning Disability is a child with a disability as defined in 34 C.F.R. §300.8, must be made by a group, which includes the child's parents and qualified professionals, including:
- (I) The child's regular teacher, or if the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age; or
- (II) For a child of less than school age, an individual qualified by Wyoming to teach a child of his or her age; and
- (III) At least one (1) person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher.
- (C) With respect to the evaluation described in paragraph (A) above, and consistent with 34 C.F.R. §300.310, the school district or public agency must ensure that the child is observed in the child's learning environment, including the regular classroom setting, to document the child's academic performance and behavior in the areas of difficulty. In the case of a child of less than school age or out of school, a group member must observe the child in an environment appropriate for a child of that age. The group, in determining whether a child has a Specific Learning Disability, must decide to:

- (I) Use information from an observation in a routine classroom instruction and monitoring of the child's performance that was done before the child was referred for evaluation; or
- (II) Have at least one (1) member of the group conduct an observation of the child's academic performance in the regular classroom after the child has been referred for an evaluation and parental consent, consistent with 34 C.F.R. §300.300(a), is obtained.
- (D) Consistent with 34 C.F.R. §300.309(a), the group determines that a child has a Specific Learning Disability if:
- (I) The child does not achieve adequately for the child's age or meet Wyoming grade-level standards in one (1) or more of the following areas, when provided with learning experiences and instruction appropriate for the child's age or Wyoming grade-level standards:
 - (1.) Oral expression;
 - (2.) Listening comprehension;
 - (3.) Written expression;
 - (4.) Basic reading skill;
 - (5.) Reading fluency skills;
 - (6.) Reading comprehension;
 - (7.) Mathematics calculation;
 - (8.) Mathematics problem solving; and
- (II) The child does not make sufficient progress to meet age or Wyoming grade-level standards in one (1) or more of the above areas when using a process based on the child's response to scientific, research-based intervention.
- (E) The group shall use either the Wyoming Severe Discrepancy Formula or a response to intervention process when determining whether a child is not making sufficient progress to meet age or Wyoming grade-level standards.
- (I) Wyoming Severe Discrepancy Formula: The group may determine that the child demonstrates a severe discrepancy between current achievement level and expected achievement level of at least 22 points upon an initial evaluation, utilizing Appendix A of these rules. Expected achievement is based on the correlation between tests of the child's composite intellectual standard score compared to the child's composite achievement score in one (1) or more core achievement areas.
- (1.) The Wyoming Severe Discrepancy Formula in Appendix A of these rules must be utilized when making an eligibility determination based on a severe discrepancy between intellectual ability and achievement.

- (2.) A severe discrepancy exists when application of the Wyoming Severe Discrepancy Formula results in a difference between expected and actual achievement greater than or equal to 1.5 standard deviations (See Appendix A).
- (II) Response to intervention process: The group may determine that the child does not make sufficient progress to meet age or Wyoming grade-level standards in one (1) or more of the areas in paragraph (D)(I)) of this section when using a process based on the child's response to scientific, research-based intervention.
- (F) Consistent with 34 C.F.R. §300.309, to ensure that underachievement in a child suspected of having a Specific Learning Disability is not due to lack of appropriate instruction in reading or math, as part of the evaluation the group must consider:
- (I) Data that demonstrate that prior to, or as a part of, the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel; and
- (II) Data based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child's parents.
- (G) Consistent with 34 C.F.R. §300.309, the group must determine that underachievement of a child suspected of having a Specific Learning Disability is not primarily the result of:
 - (I) A visual, hearing, or motor disability;
 - (II) Cognitive disability;
 - (III) Emotional disability;
 - (IV) Cultural factors;
 - (V) Environmental or economic disadvantage; or
 - (VI) Limited English proficiency.
- (H) Consistent with 34 C.F.R. §300.309(c), a school district or public agency must promptly request parental consent to evaluate the child to determine if the child needs special education and related services, and must adhere to the timeframes in 34 C.F.R. §§300.301 through 300.303, unless extended by mutual written agreement of the child's parents and the group of qualified professionals under the following circumstances:
- (I) If, prior to a referral, a child has not made adequate progress after an appropriate period of time when provided instruction described in (F) above, and
 - (II) Whenever a child is referred for an evaluation.
- (I) Specific documentation required for the eligibility determination. Consistent with 34 C.F.R. §300.311, for a child suspected of having a Specific Learning

Disability, the documentation of the determination of eligibility must contain a statement of each of the following:

- (I) Whether the child has a Specific Learning Disability;
- (II) The basis for making the determination, including an assurance that the determination has been made in accordance with 34 C.F.R. §300.306(c)(1);
- (III) The relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to the child's academic functioning;
 - (IV) The educationally relevant medical findings, if any;
 - (V) Whether:
- (1.) The child does not achieve adequately for the child's age or to meet Wyoming grade-level standards consistent with 34 C.F.R. §300.309(a)(1); and
- (2.) The child does not make sufficient progress to meet age or Wyoming grade-level standards consistent with 34 C.F.R. §300.309(a)(2)(i).
- (VI) The determination of the group concerning the effects of a visual, hearing, or motor disability; cognitive disability; emotional disability cultural factors; environmental or economic disadvantage; or limited English proficiency on the child's achievement level.
- (VII) If the child has participated in a process that assesses a child's response to scientific, research-based intervention:
- (1.) The instructional strategies used and the student-centered data collected; and
- (2.) The documentation that the child's parents were notified about:
- a. Wyoming's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided;
 - b. Strategies for increasing the child's rate of learning; and
 - c. The parents' right to request an evaluation.
- (VIII) Each group member must certify in writing whether the report reflects the member's conclusion. If it does not, the group member must submit a separate statement presenting the member's conclusions.
- (xi) **Speech or Language Impairment.** Speech or Language Impairment means a communication disorder, such as Stuttering, impaired Articulation, a Language Impairment or a Voice Impairment, that adversely affects a child's educational performance.

- (A) Speech or Language Impairment eligibility criteria: Eligibility is established through a comprehensive evaluation in accordance with the requirements of these rules. The initial evaluation shall be conducted by a Speech Language Pathologist (SLP) and other qualified professionals as determined appropriate by the school district or public agency. The initial evaluation process shall be comprehensive and address all areas of need resulting from the suspected disability. In accordance with the requirements of these rules, a child is identified as a child with a Speech or Language Impairment in the qualifying area(s) of Articulation, Stuttering, Language Impairment, or Voice Impairment if the following specific criteria are met.
- (I) Articulation eligibility criteria. Articulation means speech sound production or phonological errors atypical of a child of comparable age and development.
- (1.) Eligibility criteria: One (1) of the following criteria must be met:
- a. Documentation that the child exhibits errors of speech sound production beyond the age at which 85% of typically developing children have achieved mastery (based on current developmental norms);
- b. Documentation that the child's performance on a standardized evaluation instrument is 1.5 standard deviations or greater below the mean for the child's chronological age based on a norm-referenced test of articulation or phonology;
- c. Documentation that one (1) or more phonological patterns of sound are significantly disordered and evidence that the child's conversational intelligibility is affected; or
- d. Documentation that the child's scores are at a moderate, severe, or profound rating on appropriate evaluation instruments.
- (II) Stuttering eligibility criteria. Stuttering means abnormal flow of speech evident in interruptions by hesitations, repetitious or prolongation of sounds, syllables, words or phrases or articulary positions or by avoidance and struggle behaviors.
- (1.) Eligibility criteria: Either criteria a or b must be met in addition to criteria c.
- a. Documentation that the child demonstrates at least a moderate rating or its equivalent on a formal fluency rating scale; or
- b. Documentation that the child exhibits stuttering on 5% or more of words spoken in a representative language sample or demonstrates stuttering in varied speaking situations; and
- c. An observation documenting that the child's stuttering interferes with communication and calls attention to itself.

- (III) Language Impairment eligibility criteria. Language Impairment means a deficiency in language comprehension or production evident in the content, form or use of oral communication or its equivalent.
 - (1.) Eligibility criteria: Both of the following criteria must be met:
- a. The child demonstrates on standardized measures an understanding and use of morphologic, syntactic, semantic, or pragmatic patterns at 1.5 standard deviations below the mean for the child's chronological age; and
- b. Documentation that receptive or expressive language interferes with the child's oral communication or primary mode of communication.
- (IV) Voice Impairment. Voice Impairment means a significant deviation in pitch, intensity or quality, which significantly interferes with communication for an extended period of time and is atypical for a child of comparable age and development.
- (1.) Voice Impairment eligibility criteria: Voice Impairment must be evidenced by:
- a. Documentation that the child exhibits significantly abnormal voice quality, pitch, resonance, loudness, or duration; and
- b. Documentation that the condition is present for an extended period of time.
- (B) The evaluation process must take into account that the child does not exhibit any one (1) of the following exclusionary factors:
- (I) Mild, transitory, or developmentally appropriate speech or language difficulties that children experience at various times to various degrees;
- (II) Speech or language difficulties resulting from dialectical difference or from learning English as a second language, unless the child has a Language Impairment in his or her native language;
- (III) Difficulties with auditory processing without a concomitant impairment in speech sound production;
- (IV) A tongue thrust which exists in the absence of a concomitant impairment in speech sound production; or
- (V) Elective or selective mutism or school phobia without a documented oral Speech or Language Impairment.
- (xii) **Traumatic Brain Injury.** Traumatic Brain Injury means acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. Traumatic Brain Injury applies to open or closed head injuries resulting in impairments in one (1) or more areas such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory; perceptual and motor abilities; psychosocial behavior; physical functions; information processing; and speech.

Traumatic Brain Injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

- (A) Traumatic Brain Injury eligibility criteria: Eligibility is established through a comprehensive evaluation in accordance with the requirements of these rules. The initial evaluation shall be conducted by qualified professionals as determined appropriate by the school district or public agency. The initial evaluation process shall be comprehensive and address all areas of need resulting from the suspected disability. In accordance with these requirements, a child is identified as a child with a Traumatic Brain Injury if the following criteria are satisfied:
- (I) Documentation from a physician, within the previous twelve (12) months, that the child has sustained a brain trauma (e.g., skull fracture, contusions, and/or bullet wound, etc.) resulting in the onset of an impairment; and
- (II) Documentation that the Traumatic Brain Injury adversely affects the child's educational performance in one (1) or more of the following areas: cognitive ability, social behavior, use of adaptive skills, physical ability, vision, hearing, or ability to communicate.
- (xiii) Visual Impairment, Including Blindness. Visual Impairment, Including Blindness means an impairment in vision, even with correction, that adversely affects a child's educational performance. The term includes both partial sight and blindness.
- (A) Visual Impairment eligibility criteria: Eligibility is established through a comprehensive evaluation in accordance with these rules. The initial evaluation team shall consist of a certified teacher of the visually impaired and other qualified professionals as determined appropriate by the school district or public agency. The initial evaluation process shall be comprehensive and address all areas of need resulting from the suspected disability. In accordance with the requirements of these rules, a child is identified as a child with a Visual Impairment, Including Blindness if criteria in paragraph (I) is met in addition to one (1) additional criteria in paragraphs (II) through (V).
- (I) Documentation of loss of vision which adversely affects the child's educational performance and requires the use of specialized tests, techniques, materials, or assistive technology devices; and
- (II) Documentation of visual acuity in the better eye with the best possible correction of:
 - (1.) 20/200 or less (blind); or
 - (2.) 20/50 or less (partially sighted);
- (III) Documentation of reduced visual field to 20 degrees or less in the better eye;
- (IV) Documentation of a progressive loss of vision which may, in the future, affect the child's ability to learn; or

(V) Visual acuity, which cannot be measured, but in which the child has a functional loss of vision as determined through a functional vision assessment.

Section 5. Special Education Process.

- (a) Free Appropriate Public Education (FAPE).
- (i) Consistent with 34 C.F.R. §§300.101 and 300.102 and W.S. §21-2-501, school districts and public agencies shall ensure that a Free Appropriate Public Education (FAPE) is available to all children with disabilities residing in Wyoming no later than the child's third (3rd) birthday through the completion of the school year the child turns twenty-one (21), including those children who have been suspended or expelled from school.
- (ii) Preschool children with disabilities means children age three (3) through five (5) in Wyoming who are identified as eligible for special education and related services under the IDEA, federal regulations and these rules.
- (iii) Any preschool children with disabilities who are five (5) years of age on or before September 15th and who are receiving services from a school district shall be the responsibility of that school district for the purpose of ensuring the provision of FAPE. [See W.S. §21-2-704.]
 - (b) Least Restrictive Environment (LRE).
- (i) Consistent with 34 C.F.R. §§300.114 through 300.120 and any Wyoming LRE policy or procedure adopted pursuant to 34 C.F.R. §300.165, except as provided in §300.324(d)(2) (regarding children with disabilities in adult prisons), WDE must ensure that school districts and public agencies have policies and procedures in place to ensure that:
- (A) To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and
- (B) Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.
- (ii) Each school district or public agency must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.
- (iii) The continuum of alternative placements must include the alternative placements listed in 34 C.F.R. §300.39 and make provisions for supplementary services, defined in 34 C.F.R §300.42, to be provided in conjunction with regular class placement.
- (iv) The placement decision: In determining the educational placement of a child with a disability, including a preschool child with a disability, the school district or public agency must ensure that:

- (A) The placement decision:
- (I) Is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and
- (II) Is made in conformity with the LRE provisions above and 34 C.F.R. §§300.114 through 300.118.
 - (B) The child's placement:
 - (I) Is determined at least annually;
 - (II) Is based on the child's IEP; and
 - (III) Is as close as possible to the child's home.
- (v) Unless the IEP of a child requires some other arrangement, the child shall be educated in the school that he or she would attend if nondisabled.
- (vi) In selecting the LRE, consideration shall be given to any potentially harmful effect on the child or on the quality of services that he or she needs:
- (vii) A child with a disability shall not be removed from education in ageappropriate regular classrooms solely because of needed modifications in the general curriculum.
 - (c) Extended School Year (ESY).
- (i) Consistent with 34 C.F.R. §300.106 and any Wyoming ESY policy or procedure adopted pursuant to 34 C.F.R. §300.165, each school district or public agency must ensure that extended school year services are available as necessary to provide FAPE.
 - (A) ESY services means special education and related services that:
 - (I) Are provided to a child with a disability:
- (1.) Beyond the normal school year of the school district or public agency;
 - (2.) In accordance with the child's IEP; and
 - (3.) At no cost to the parents of the child; and
 - (II) Meet the standards of Wyoming.
- (B) ESY services must be provided only if a child's IEP team determines, on an individual basis, that the services are necessary for the provision of FAPE to the child. In implementing the requirements of this section, the school district or public agency must consider a multi-factor approach in determining whether ESY services are necessary, and may not:

- (I) Limit extended school year services to particular categories of disability; or
 - (II) Unilaterally limit the type, amount, or duration of those services.
 - (d) Individualized Education Program (IEP) and placement decisions.
- (i) School districts and public agencies shall develop, implement, review and revise IEPs consistent with 34 C.F.R. §§300.320 through 300.328.
- (ii) IEP teams shall make placement decisions in accordance with the rules herein and with the least restrictive environment provision at 34 C.F.R. §§300.114 through 300.118.
- (e) Reevaluations. A school district or public agency must ensure that a reevaluation of each child with a disability is conducted in accordance with 34 C.F.R. §§300.303 through 300.311.
 - (f) IEPs for transfer students.
- (i) Procedures for children with disabilities who transfer between school districts or public agencies in Wyoming in the same school year shall be consistent with 34 C.F.R. §300.323(e).
- (ii) Procedures for children with disabilities who transfer to Wyoming school districts or public agencies from another state shall be consistent with 34 C.F.R. §300.323(f).
- (iii) Procedures for preschool children with disabilities transitioning from developmental preschool centers in the state of Wyoming to school districts or other public agencies shall be consistent with 34 C.F.R. §300.323(e).
- (iv) Procedures for children identified as Developmentally Delayed who transfer to a school district or public agency that has not adopted the Developmentally Delayed criteria shall be consistent with the procedures in 34 C.F.R. §300.323(f) for students who transfer from another state.
- (A) The school district or public agency, consistent with the consent requirements, shall:
- (I) Conduct an evaluation and eligibility determination consistent with 34 C.F.R. §§300.301 through 300.311; and
- (B) Meet the requirements above with respect to continuing to provide FAPE to the child, including services comparable to those described in the child's IEP from the previous public agency until completion of the evaluation and eligibility determination consistent with these rules and IDEA.
- (g) Inter-district placements. Each school district or public agency shall provide FAPE to children with disabilities residing within its boundaries. If the school district or public agency is unable to provide the programs and services necessary for the child with a disability to receive FAPE, the school district or public agency shall

contract with another school district or public agency to provide those programs and/or services. [See W.S. §21-2-502.]

- (h) Residential placement by another entity.
- (i) If a child with a disability has been placed in a residential treatment facility or psychiatric hospital by another public agency or court, the residential treatment facility or hospital shall initiate action to develop, review, or revise the child's IEP consistent with IDEA and these rules, or if necessary, evaluate and identify the child as a child with a disability according to IDEA and these rules.
- (ii) The facility or hospital shall notify the child's resident school district or public agency of the child's placement at the facility or hospital. The resident school district or public agency shall participate in planning and implementing FAPE for the child.
- (iii) In the event that the residential treatment facility is unable or unwilling to provide FAPE to the child as required under the IDEA, the resident school district or public agency is responsible for ensuring that the child receives FAPE. (See W.S. §21-2-502.)
 - (i) Court-ordered placements.
- (i) The Department of Family Services (DFS) shall pay residential and treatment costs excluding educational and medical costs of court ordered placements of children in private residential treatment facilities and group homes located in Wyoming.
- (ii) Programs providing education services including programs for children with disabilities provided by a Board of Cooperative Educational Services (BOCES), shall bill WDE directly for educational costs of court ordered placements.
- (iii) All costs billed to WDE under this section shall be in the manner and form required by WDE, and consistent with W.S. §21-13-315 and Chapter 14 of WDE Rules and Regulations.
- Section 6. **Procedural Safeguards.** Each school district or public agency shall implement procedural safeguards consistent with the requirements of 34 C.F.R §§300.500 through 300.536, including dissemination of a procedural safeguards notice that meets the requirements of 34 C.F.R. §300.504.
- (a) Parent participation and involvement. The parents of a child with a disability must be afforded an opportunity to participate in the special education process and examine educational records pursuant to 34 C.F.R. §300.501.
- (b) Parental consent. The school district or public agency shall implement parental consent and the revocation of parental consent procedures consistent with 34 C.F.R. §§300.9 and 300.300 (including the 2008 Amendment and any subsequent amendments).

- (c) Independent educational evaluation (IEE). Consistent with 34 C.F.R. §300.502, the parents of a child with a disability shall have the right to obtain an independent educational evaluation of the child.
- (d) Prior written notice. Prior written notice shall be given to the parents of a child with a disability a reasonable time before the school district or public agency proposes to, or refuses to, initiate or change the identification, evaluation, educational placement of the child, or the provision of FAPE to the child consistent with 34 C.F.R. §300.503.
- (e) Discipline procedures. Discipline of a child with a disability shall be implemented consistent with the requirements of 34 C.F.R. §§300.530 through 300.536 and any Wyoming discipline policy or procedure adopted pursuant to 34 C.F.R. §300.165.
- (f) Surrogate parents. The procedures for appointment of a surrogate parent shall comply with 34 C.F.R. §§300.30 and 300.519.
- (g) Transfer of parental rights at age of majority. When a student reaches the age of 18, parental rights under the IDEA shall transfer to the student in accordance with 34 C.F.R. §§300.320(c) and 300.520. [See W.S. §14-1-101.]
- (h) Unilateral private placements. Requirements for unilateral placement by parents of children with disabilities in private schools shall be consistent with 34 C.F.R. §§300.129 through 300.144 and §300.148.
- (i) Special education records. The school district or public agency must protect the confidentiality of student education records consistent with the Family Educational Rights and Privacy Act (FERPA) and its implementing regulations at 34 C.F.R. §99, and consistent with the IDEA and 34 C.F.R. §§300.610 through 300.627.
- Section 7. **Dispute Resolution.** In compliance with 34 C.F.R. §§300.151, 300.506, and 300.508, WDE shall ensure the adoption of dispute resolution policies and/or procedures pursuant to 34 C.F.R. §300.165.
- (a) Mediation. In accordance with the procedures specified in 34 C.F.R. §300.506 WDE shall offer parties to disputes involving any matter arising under Part B of the IDEA, including disputes arising prior to a due process hearing request, an opportunity to resolve the dispute through mediation.
- (b) Wyoming state complaint procedures. In compliance with 34 C.F.R. §§300.151 through 300.153, WDE shall resolve any state complaint, including a complaint filed by an organization or individual from another state, that alleges a violation of Wyoming or Federal laws, and meets the requirements of the above referenced complaint provisions.
- (i) In resolving a state complaint in which a failure to provide appropriate services has been found, WDE, pursuant to its general supervisory authority under Part B of the IDEA, shall address:

- (A) The failure to provide appropriate services, including corrective action appropriate to address the needs of the child; and
- (B) The appropriate future provision of services for all children with disabilities.
- (c) Due process hearing procedures. A parent or public agency may file a due process complaint on any of the matters relating to the identification, evaluation, educational placement, or provision of FAPE to the child consistent with procedures outlined in 34 C.F.R. §§300.507 through 300.518 and 300.532.
- (d) Child's status during proceedings. Except as provided in 34 C.F.R. §300.533 (regarding disciplinary removals), during the pendency of any administrative or judicial proceeding regarding a due process hearing, unless the Wyoming school district, or public agency and the parents of the child agree otherwise, the child that is the subject of the dispute must remain in his or her current educational placement consistent with 34 C.F.R. §300.518.

Section 8. Special Education Funding.

- (a) School district or public agency eligibility. School district or public agency Part B funding shall be implemented in accordance with 34 C.F.R. §§300.200 through 300.230 and any other applicable provisions.
- (b) Compliance with applicable laws and regulations. Each school district or public agency shall adopt and implement appropriate policies, procedures, programs and services to ensure that children with disabilities who reside within the agency's educational jurisdiction, including children who are enrolled in private schools or facilities such as residential treatment centers, day treatment centers, hospitals, mental health institutions are identified and evaluated, and have access to FAPE in compliance with all applicable requirements of Wyoming laws and any applicable federal laws and regulations.
- (c) Condition of assistance. A school district or public agency is eligible for federal funding under Part B of the IDEA for a fiscal year if the school district or public agency submits a plan that provides assurances to the WDE that the school district or public agency meets each of the conditions set forth in this section and these rules.

Section 9. General Supervision.

- (a) Pursuant to its general supervisory responsibility, WDE shall ensure that the requirements of the IDEA and federal regulations are carried out and that each school district or public agency implements programs that meet the standards of Wyoming, consistent with 34 C.F.R. §300.149 and any formally adopted Wyoming policy or procedure.
- (b) In accordance with W.S. §§21-2-701(a)(1) and 21-2-703 the Department of Health, Developmental Disabilities Division (Division), is assigned responsibility for ensuring the provision of FAPE to preschool children with disabilities. Pursuant to W.S.

- §21-2-702, the Division shall be deemed an intermediate educational unit, and as such, shall function as an educational service agency consistent with 34 C.F.R. §300.12(c). [See 34 C.F.R. §300.12 and W.S. §§21-2-701 through 21-2-703.]
- (c) Monitoring focus. WDE shall enforce the requirements of the IDEA and monitor the implementation of these rules by school districts and public agencies in accordance with 34 C.F.R. §§300.600 through 300.608 (including the 2008 Amendment and any subsequent amendments). The primary focus of the monitoring activities shall be on:
- (i) Improving educational results and functional outcomes for all children with disabilities; and
- (ii) Ensuring that the school districts or public agencies meet the program requirements under Part B of the IDEA, with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities.
- (d) Priority areas. Consistent with 34 C.F.R. §300.600(d), WDE shall monitor school districts and public agencies using quantifiable indicators in each of the following priority areas, and using such qualitative indicators as are needed to adequately measure the performance in those areas:
 - (i) Provision of FAPE in the least restrictive environment,
- (ii) Wyoming exercise of general supervision, including child find, effective monitoring, the use of resolution meetings, mediation, and a system of transition services defined in 34 C.F.R. §§300.43 and 300.124.
- (iii) Disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation involves inappropriate identification, pursuant to data collected in accordance with 34 C.F.R. §300.646.
- (e) Wyoming use of targets. WDE shall use the targets established in Wyoming's performance plan under 34 C.F.R. §300.601 and the priority areas described in 34 C.F.R. §300.600(d) to analyze the performance of each school district or public agency.
- (f) Public reporting and privacy. Consistent with 34 C.F.R. §300.602 (including the 2008 Amendment and any subsequent amendments) WDE shall:
- (i) Make Wyoming's performance plan, under 34 C.F.R. §300.601(a) available through public means.
- (ii) Make Wyoming's annual performance report under 34 C.F.R. §300.602(b)(2) available through public means.
- (iii) Report annually to the public on the performance of each school district or public agency in Wyoming under 34 C.F.R. §300.602(b)(1)(i)(A).

- (g) Determinations. Based on the information provided by school district or public agencies, information obtained through monitoring visits, and any other public information made available, WDE shall determine if the school district or public agency:
 - (i) Meets the requirements and purposes of Part B of the IDEA;
- (ii) Needs assistance in implementing the requirements of Part B of the IDEA;
- (iii) Needs intervention in implementing the requirements of Part B of the IDEA; or
- (iv) Needs substantial intervention in implementing the requirements of Part B of the IDEA.
- (h) Enforcement. WDE shall enforce the requirements of the IDEA using appropriate enforcement mechanisms consistent with 34 C.F.R. §§300.600 through 300.606 (including the 2008 Amendment and any subsequent amendments):
- (i) Needs assistance. If WDE determines, for two (2) consecutive years, that a school district or public agency needs assistance in implementing the requirements of Part B of the IDEA, WDE shall take one (1) or more of the following actions:
- (A) Advise the school district or public agency of available sources of technical assistance that may help the school district or public agency address the areas in which it needs assistance. Such technical assistance may include:
- (I) The provision of advice by experts to address the areas in which the school district or public agency needs assistance, including explicit plans for addressing the area for concern within a specified period of time;
- (II) Assistance in identifying and implementing professional development, instructional strategies, and methods of instruction that are based on scientifically based research;
- (III) Designating and using distinguished superintendents, principals, special education administrators, special education teachers, and other teachers to provide advice, technical assistance, and support; and
- (IV) Devising additional approaches to providing technical assistance, such as collaborating with institutions of higher education, educational service agencies, national centers of technical assistance, and private providers of scientifically based technical assistance.
- (B) Direct the use of school district or public agency Part B funds on the area or areas in which it needs assistance.
- (C) Identify the school district or public agency as a high-risk grantee, and impose special conditions on the use of Part B funds by the school district or public agency.

- (ii) Needs intervention. If WDE determines, for three (3) or more consecutive years; that a school district or public agency needs intervention in implementing the requirements of Part B of the IDEA, the following shall apply:
 - (A) WDE may take any of the actions described in paragraph (i) above.
 - (B) WDE shall take one (1) or more of the following actions:
- (I) Require the school district or public agency to prepare a corrective action plan or improvement plan if WDE determines that the school district or public agency should be able to correct the problem within one (1) year.
- (II) Require the school district or public agency to enter into a compliance agreement if WDE has reason to believe that the school district or public agency cannot correct the problem within one (1) year.
- (III) For each year of the determination, withhold not less than 20% and not more than 50% of the school district's or public agency's IDEA Part B funds until WDE determines that the school district or public agency has sufficiently addressed the areas in which it needs intervention.
- (IV) Seek to recover funds paid to the school district or public agency under Part B of the IDEA consistent with 34 C.F.R. §300.604(b)(2)(iv).
- (V) Withhold, in whole or in part, any further payments to the school district or public agency made under Part B of the IDEA.
- (VI) Refer the matter for appropriate enforcement action, which may include a referral to the Office of the Wyoming Attorney General or the United States Department of Justice.
- (iii) Needs substantial intervention. Notwithstanding paragraphs (i) and (ii) above, at any time WDE determines that a school district or public agency needs substantial intervention in implementing the requirements of Part B of the IDEA or that there is a substantial failure to comply with any condition of the school district's or public agency's eligibility under Part B of the IDEA, WDE shall take one (1) or more of the following actions:
 - (A) Recover IDEA Part B funds consistent with 34 C.F.R. §300.604(c).
- (B) Withhold, in whole or in part, any further payments to the school district or public agency under Part B of the IDEA.
- (C) Refer the matter for appropriate enforcement action, which may include a referral to the Office of the Wyoming Attorney General or the United States Department of Justice.
- (iv) In exercising its monitoring responsibilities under this section, WDE shall ensure that when it identifies noncompliance with the requirements of IDEA by a school district or public agency, the noncompliance is corrected as soon as possible, and in no case later than one (1) year after WDE's identification of the noncompliance in

accordance with 34 G.F.R. §300.600(e) (including the 2008 Amendment and any subsequent amendments).

- (v) Findings of noncompliance: For the purpose of this section, a finding of noncompliance is a written notification that includes the citation of the statute, regulation, or rule and a description of the quantitative and/or qualitative data supporting the conclusion that there is noncompliance.
- (vi) Correction of noncompliance: WDE must address all noncompliance, whether collected through the on-site monitoring system, other monitoring processes such as self-assessment or desk review of records, Wyoming complaint or due process hearing decisions, or data systems. In an effort to correct noncompliance, WDE may request that the state superintendent take appropriate administrative action with the state board, including but not limited to the changing of accreditation status against any school district or public agency failing to comply with any applicable laws. [See W.S. §§21-2-202(c)]
- (vii) Opportunity for hearing. Prior to withholding any funds under Part B of the IDEA, WDE shall provide reasonable notice and an opportunity for hearing in accordance with 34 C.F.R. §§300.155, 300.221 and 300.222.

APPENDIX A

Wyoming Severe Discrepancy Formula

Consistent with 34 C.F.R. §300.307, a school district or public agency is not required to use the Wyoming Severe Discrepancy Formula in order to find a child eligible for special services under the category of Specific Learning Disability (SLD). In the event a school district or public agency elects to establish a child's eligibility under the category of SLD through use of a severe discrepancy model, the school district or public agency must use the Wyoming Severe Discrepancy Formula and document compliance on the eligibility report.

The assessment of intellectual ability and academic functioning level must include individually administered norm-reference tests that are reliable and valid, and administered by an individual specifically trained to administer and interpret the instruments. Criterion-referenced tests, informal measures, work samples, classroom observations, and the child's educational history may be used as needed to corroborate norm-referenced test scores.

A child whose disability is a Specific Learning Disability must demonstrate a severe discrepancy between current achievement level and expected achievement level of 22 points upon initial evaluation. Expected achievement level (obtained from Table A) is based on the correlation between tests of the child's composite intellectual standard score compared to the child's composite achievement score in one (1) or more core achievement areas.

Instructions:

In all cases, intellectual and achievement standard scores should be based on age norms rather than grade norms and, when available, on cluster scores rather than on subtest scores. Using the most current editions and norms of any chosen standardized tests is preferable to using older editions with outdated norms.

The table on the following page entitled Correlation Coefficient Between Ability and Achievement Test Scores should be used to determine the child's expected achievement level. This table takes into account the correlation between the intellectual and achievement measures being used as well as regression toward the mean. To use this table, the steps outlined below must be followed:

Step 1: Determine the correlation between the intellectual and achievement measures being used, if available. If the correlation between intellectual and achievement measures is not known, .65 may be used as an adequate median correlation between such measures.

Step 2: Locate the child's intellectual standard score in the side columns of Table A, entitled Correlation Coefficient Between Ability and Achievement Test Scores.

Step 3: Follow the row determined in Step 2 to the column with the correlation value closest to the correlation between the chosen measures of intellectual functioning and achievement or to a correlation of .65 if a specific correlation coefficient is not known.

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Score												1
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130	112	114	115	117	118	120	121	123	124	126	127	130
129	112	113	115	116	117	119	120	122	123	125	126	129
128	111	113	114	115	117	118	120	121	122	124	125	128
127	111	112	114	115	116	118	119	120	122	123	124	127
126	110	112	113	114	116	117	118	120	121	122	123	126
125	110	111	113	. 114	115	116	118	119	120	121	122	125
124	110	111	112	113	114	116	117	118	119	120	122	124
123	109	110	112	113	114	115	116	117	118	120	121	123
122	109	110	111	112	113	114	115	117	118	119	120	122
121	108	109	111	112	113	114	115	116	117	118	119	121
120	108	109	110	111	112	113	114	115	116	117	118	120
119	108	109	110	110	111	112	113	114	114	116	117	119
118	107	108	109	110	111	112	113	114	114	115	116	118
117	107	108	109	109	110	111	112	113	114	114	115	117
116	106	107	108	109	110	110	111	112	113	114	114	116
115	106	107	108	108	109	110	111	111	112	113	114	115
114	106	106	107	108	108	109	110	111	111	112	113	114
113	105	106	107	107	108	108	109	110	110	111	112	113
112	105	105	106	107	107	108	108	109	110	110	111	112
111	104	105	106	106	107	107	108	108	109	109	110	111
110	104	105	105	106	1.06	106	107	1.08	108	1.09	109	110
109	104	104	105	105	105	106	106	107	107	10.8	108	109
108	103	104	104	104	105	105	106	106	106	107	107	108
107	103	103	104	104	105	105	105	105	106	106	106	107
106	102	103	103	103	104	104	104	105	105	105	105	106
105	102	102	103	103	103	103	104	104	104	104	104	105
104	102	102	102	102	102	103	103	103	103	103	104	104
103	101	101	102	102	102	102	10.2	102	102	103	103	103
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101	100	1.00	101	101	101	10.1	101	101	101	101	101	101
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Ability			Та					ient Be				Ability
	0.4	0.45	0.5	0.55	0.6	0.65	0.7	0.75	0.8	0.85	0.9	Score
	Expec	ted Ac	hieven	nent Sco	ore witl	h Correc	ction fo	r Regre	ssion T	oward th	ne Mear	ן [
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75	90	89	88	86	85	84	83	81	80	79	78	75
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73	89	88	87	85	84	82	81	80	78	77	76	73
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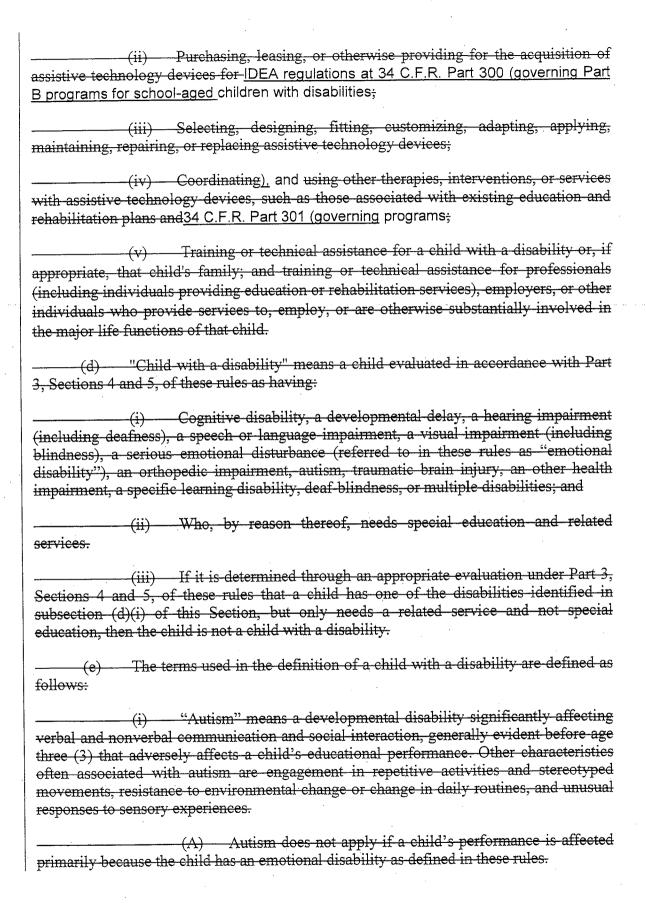
CHAPTER 7

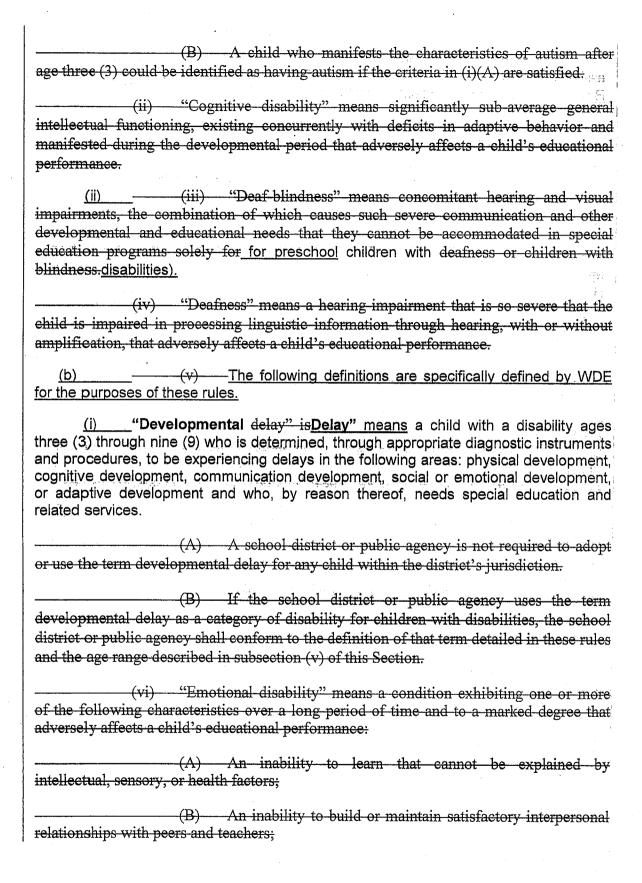
SERVICES FOR CHILDREN WITH DISABILITIES

PART 1 GENERAL PROVISIONS

Geoloff 1. Marie 1137.
(a) The Wyoming These rules are authorized by W.S. § 21-2-202(a)(xviii) and have been adopted by the Wyoming State Superintendent of Public Instruction as authorized by the Wyoming Administrative Procedure Act, W.S. §§§ 16-3-101 through 16-3-115.
(b)
Section 2. (c)—Scope.
(a) All Provisions provisions under the Individuals with Disabilities Education Act 2004 (IDEA_04) (20 U.S.—C. §1400 et seq.) and all Federalfederal regulations pertaining to this legislationthe IDEA, including any subsequent amendments or revisions of the law, regulations, and/or rules, apply to each political subdivision of the State, irrespective Wyoming, regardless of whether the political subdivision received any Federal IDEA Part B funds. The IDEA requires the state educational agency, or the Wyoming Department of Education (WDE), ensure the requirements of the IDEA and Wyoming educational standards are met in all education programs administered by the State or any school district or other public agency within Wyoming providing services to children with disabilities.
three (3) through completion of the school year in which the child turns twenty-one (21), unless specifically addressed in these rules, WyomingWDE hereby adopts Federal legislation all requirements in the IDEA 04- and the supporting Federal regulations at 34 CFRC.F.R. Parts 300.1 through 300.818. and 301, including the 2008 Amendments. The public may view the IDEA and federal regulations on WDE's website at www.k12.wy.us/se.asp. All references to a specific rule include, but are not limited to any applicable provision in the IDEA and the federal regulations. The requirements of the IDEA-04 are binding on each school district or public agency that has direct or

delegated authority to provide special education and related services to children with disabilities in Wyoming. This does not limit the responsibility of any school district or public agency for providing or paying appropriate costs for a Free Appropriate Public Education (FAPE) for children with disabilities in Wyoming.
ensure that Federalfederal special education funds are appropriated to and spent by school districts or public agencies in accordance with these rules, the IDEA, including but not limited to 34 CFR C.F.R. §§300.200 through 300.210230 and that school districts or public agencies submit a plan to provide assurances to the WDE that they provide for the education of children with disabilities within their jurisdiction, having in effect policies, procedures, and programs that are consistent with the StateWyoming policies and procedures established under Part B of the IDEA-04. These funds shall be recovered by the WDE for services to any child determined to be erroneously classified and reported to the StateWDE as a child with a disability. The WDE may use whatever State, local, Federalfederal or private sources of support that are available to meet the requirements of the IDEA-04.
ing services and the services of the services
(e) These rules are effective as provided by W.S. § 16-3-104 and govern entitlement and programs for the 2006-07 school year and each year thereafter.
Section 3. Section 2. Definitions.
Section 3. Section 2. Definitions. (a) (a) "Act" means the All terms defined in the following federal laws and regulations and any other federally defined terms are incorporated herein by reference for purposes of these rules:
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(C) Inappropriate types of behavior or feelings under normal
circumstances;
(D) A general, pervasive mood of unhappiness or depression;
(E) A tendency to develop physical symptoms or fears
associated with personal or school problems.
(F) The term includes schizophrenia, but does not apply to
children who are socially maladjusted, unless they have an emotional disability as
defined in these rules.
(vii) "Hearing impairment" means an impairment in hearing, whether
permanent or fluctuating, that adversely affects a child's educational performance but that
is not included under the definition of deafness in this subsection.
is not metaded under the definition of deamess in this subsection.
(viii) "Multiple disabilities" means concomitant impairments (such as
cognitive disability blindness, cognitive disability orthopedic impairment, and cognitive
disability-deafness, etc.), the combination of which causes such severe educational needs
that they cannot be accommodated in special education programs solely for one of the
impairments, except the term does not include deaf-blindness.
(ii) (ix) "Orthopedic impairment" means a severe orthopedic
impairment that adversely affects a child's educational performance. "Elementary
school" means a school consisting of kindergarten through grade five (5), or any
appropriate combination of grades within this range, as determined by the plan of
organization for schools authorized by the board of trustees, including a nonprofit
institutional day or residential school or a public elementary charter school that provides
elementary education as determined by Wyoming law. [See 34 C.F.R. § 300.13 and
W.S. 21-13-101(a)(iv)]
(iii) "High school" means a school consisting of grades nine (9) through
twelve (12), or any combination of grades within this range, as determined by the plan of
organization for schools authorized by the district board, including a nonprofit
institutional day or residential school or a public secondary charter school as determined
by Wyoming law, except that it does not include education beyond grade 12. [See 34
C.F.R. § 300.36 and W.S. 21-13-101(a)(vi)]
"Home based education" means The term includes impairments caused by a
congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone
tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations,
and fractures or burns that cause contractures).
(x) "Other health impairment (OHI)" means having limited strength,
vitality, or alertness, including a heightened alertness to environmental stimuli, that
results in limited alertness with respect to the educational environment, that is due to
chronic or acute health problems, such as asthma, attention deficit disorder or attention
deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead

poisoning, leukemia, nephritis, rheumatic fever, siekle cell anemia, and Tourette syndrome; and adversely affects a child's educational performance.
(xi) "Specific learning disability" (SLD) means a disorder in one or more of the basic psychological processes involved in understanding or using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. SLD does not include learning problems that are primarily the result of visual, hearing, or motor disabilities; of cognitive disabilities; of emotional disability; or of environmental, cultural or economic disadvantage.
(xii) "Speech or language impairment" means a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment that adversely affects a child's educational performance.
(xiii) "Traumatic brain injury" (TBI) means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. TBI applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem solving; sensory, perceptual and motor abilities; psychosocial behavior; physical functions; information processing; and speech. TBI does not apply to brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.
(xiv) "Visual impairment," including blindness means an impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes partial sight and blindness.
(f) "Consent" means the following:
(i) The parent has been fully informed, in his or her native language or other mode of communication, of all information relevant to the activity for which consent is sought;
(ii) The parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and
(iii) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at anytime. If a parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).

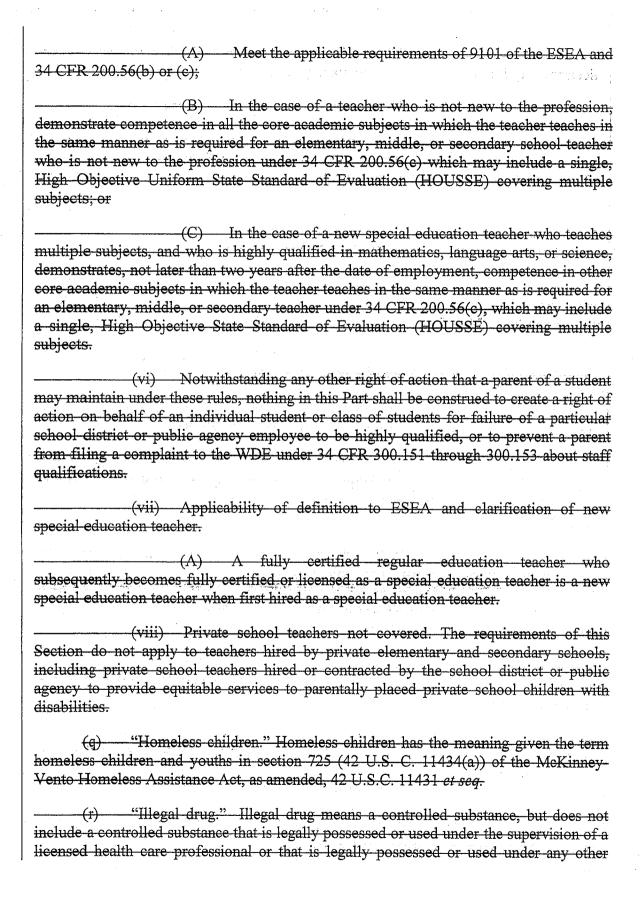
"Core academic subjects" means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography. (h) "Controlled substance" means a drug or other substance identified under schedules I, II, III, IV, or V in Section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)(1): "Day; business day; school day." These terms mean: "Day" means calendar day unless otherwise indicated as business day or school day; "Business day" means Monday through Friday, except for Federal and State holidays unless holidays are specifically included in the designation of business day as described in Part 7, Section 2(c)(i); and (iii) "School day" means any day, including a partial day that children are in attendance at school for instructional purposes. The term "school day" has the same meaning for all children in school, including children with and without disabilities. "Educational Service Agency" (ESA) means a regional, public, multiservice agency authorized by State law to develop, manage, and provide services or programs to school districts or public agencies; and recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary and secondary schools of the State; includes any other public institution or agency having administrative control and direction over public elementary or secondary schools, including entities that meet the definition of intermediate educational unit in Section 602(23) of the Act as in effect prior to June 4, 1997. "Equipment" means machinery, utilities, and built in equipment and any necessary enclosures or structures to house the machinery, utilities, or equipment; and all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture; printed, published and audio-visual instructional materials; telecommunications, sensory and other technological aids and devices; and books, periodicals, documents and other related materials. - "Evaluation" means procedures used in accordance with Part 3, Sections 4 and 5, of these rules to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs. The term means procedures used selectively with an individual child and does not include basic tests administered to or procedures used with all children in a school, grade, or class.

per-student expenditure in a school district or public agency during the preceding year for

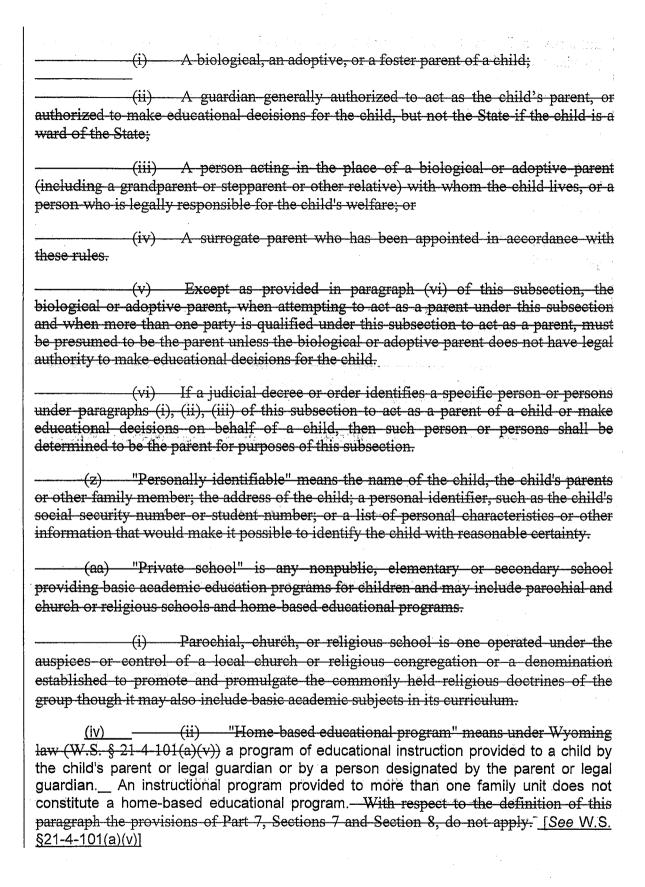
"Excess costs" means those costs that are in excess of the average annual

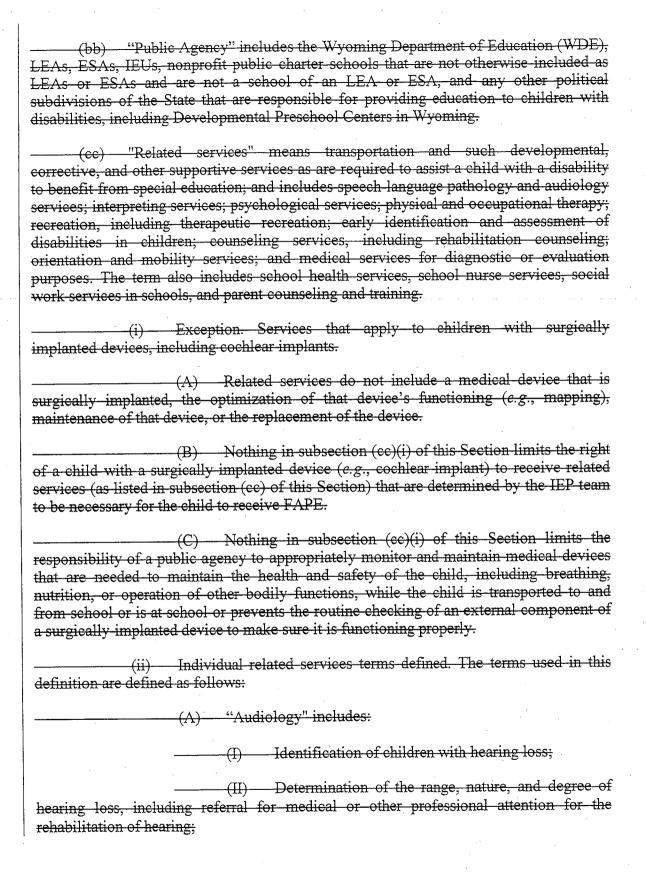
an elementary school or secondary school student, as may be appropriate, and that musbe computed after deducting:
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(A) Under Part B of IDEA 04;
(B) Under Part A of Title I of the ESEA; and
(C) Under Parts A and B of Title III of the ESEA.
(ii) Any State or local funds expended for programs that would qualify for assistance under any of the parts described in paragraph (i) of this subsection, but excluding any amounts for capital outlay or debt services.
(n) "Extended School Year" (ESY) means special education and related services provided to a child with a disability only if the child's IEP determines on an individual basis that the services are necessary for the provision of FAPE. The term means special education and related services that are provided to a child with a disability beyond the normal school year of the school district or public agency, in accordance with the child's IEP, and at no cost to the parents of the child. With respect to implementing extended school year services, a public agency may not limit extended school year services to particular categories of disability or unilaterally limit the type, amount, or duration of those services.
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(p) "Highly qualified." For any public elementary or secondary school special education teacher teaching core academic subjects, the term highly qualified has the meaning given the term in section 9101 of the ESEA and 34 CFR 200.56, except that the requirements for highly qualified also include the following:
(i) Requirements for special education teachers in general. When used with respect to any public elementary or secondary school special education teacher teaching in Wyoming, highly qualified requires that:
(A) The teacher has obtained full State certification as a special education teacher (including certification obtained through alternative routes to certification), or passed the State special education teacher certification examination, and holds a certificate to teach in the State of Wyoming as a special education teacher, except that when used with respect to any teacher teaching in a public charter school, highly qualified means that the teacher meets the certification or licensing requirements set forth in the State's public charter school law;

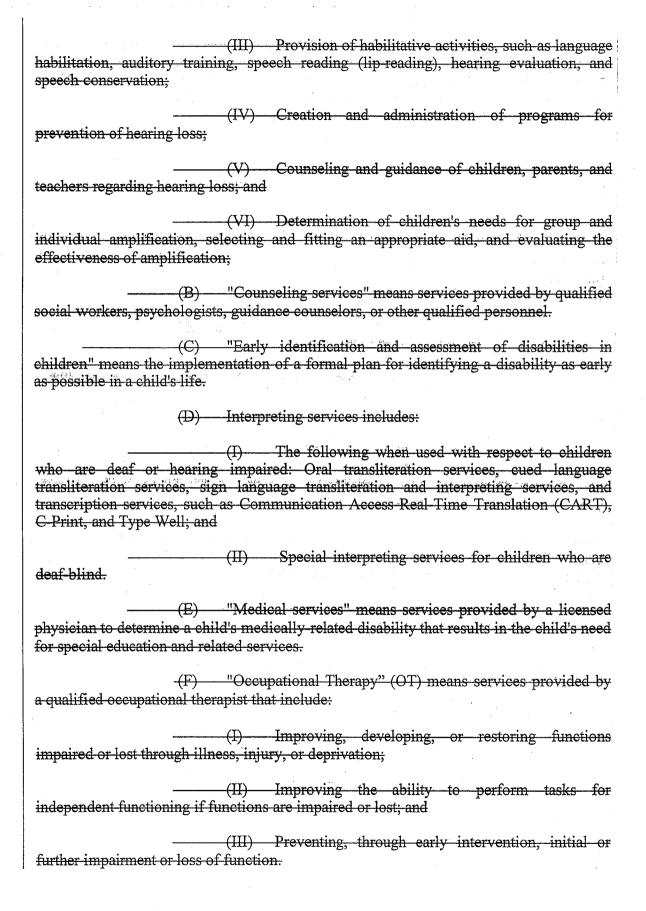
(B)	The teacher has not had special education certification or
licensure requirements wai	ved on a temporary, emergency, or provisional basis; and
(C)	The teacher holds at least a bachelor's degree.
(ii) A te	acher will be considered to meet the standard in paragraph (i)
	teacher is participating in an alternative route to a special
education certification prog	gram under which:
(A)	The teacher receives high quality professional development
that is sustained, intensive	, and classroom focused in order to have a positive and lasting
impact on classroom instru	ction, before and while teaching;
(B)	The teacher participates in a program of intensive
supervision that consists o	f structured guidance and regular ongoing support for teachers
or a teacher mentoring pro	gram;
	The teacher assumes functions as a teacher only for a
specified period of time no	t to exceed three years; and
———— (D)	The teacher demonstrates satisfactory progress toward full
certification as prescribed	by Wyoming certification requirements.
(iii) Any	public elementary or secondary school special education
teacher in Wvoming who i	s not teaching a core academic subject is highly qualified if the
teacher meets the requirer	nents of paragraph (i) or the requirements of paragraph (ii) of
this subsection.	
(iv) Req	uirements for special education teachers teaching to alternate
achievement standards. V	When used with respect to a special education teacher who
teaches core academic sub	jects exclusively to children with disabilities who are assessed
against alternate achievem	ent standards, highly qualified means the teacher, whether new
or not new to the profession	n, may either:
(<u>\lambda</u>)	Meet the applicable requirements of section 9101 of the
	for any elementary, middle, or secondary school teacher who
is new or not new to the pr	rofession; or
(B)	Meet the requirements of paragraph (B) or (C) of section
9101 (23) of the ESEA a	as applied to an elementary school teacher, or, in the case of
instruction above the e	lementary level, meet the requirements of subject matter
knowledge appropriate to	the level of instruction being provided and needed.
(v) Rec	uirements for special education teachers teaching multiple
subjects. When used with	respect to a special education teacher who teaches two or more
core academic subjects ex	sclusively to children with disabilities, highly qualified means
that the teacher-may either	:

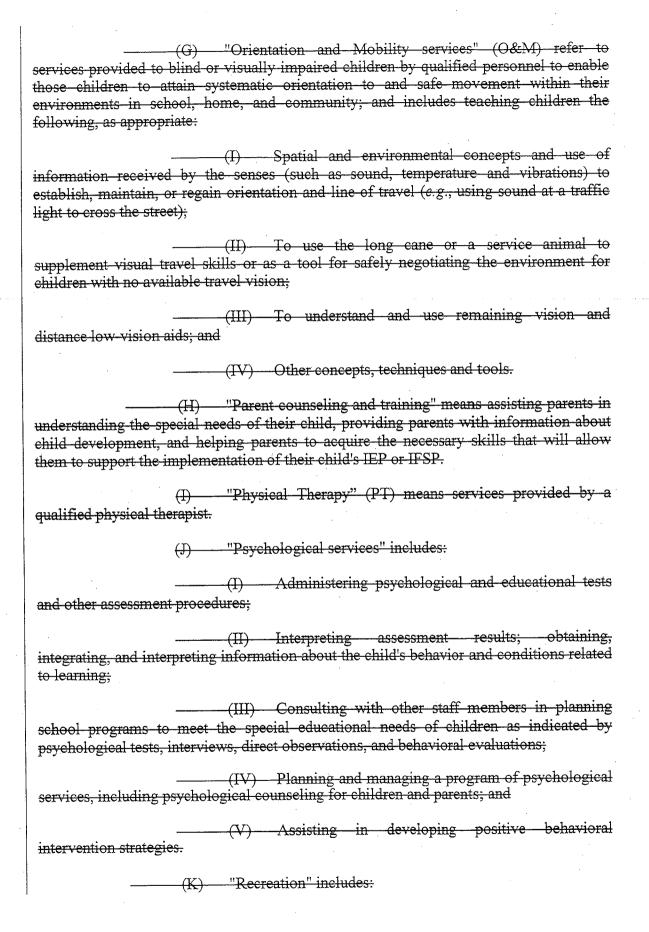


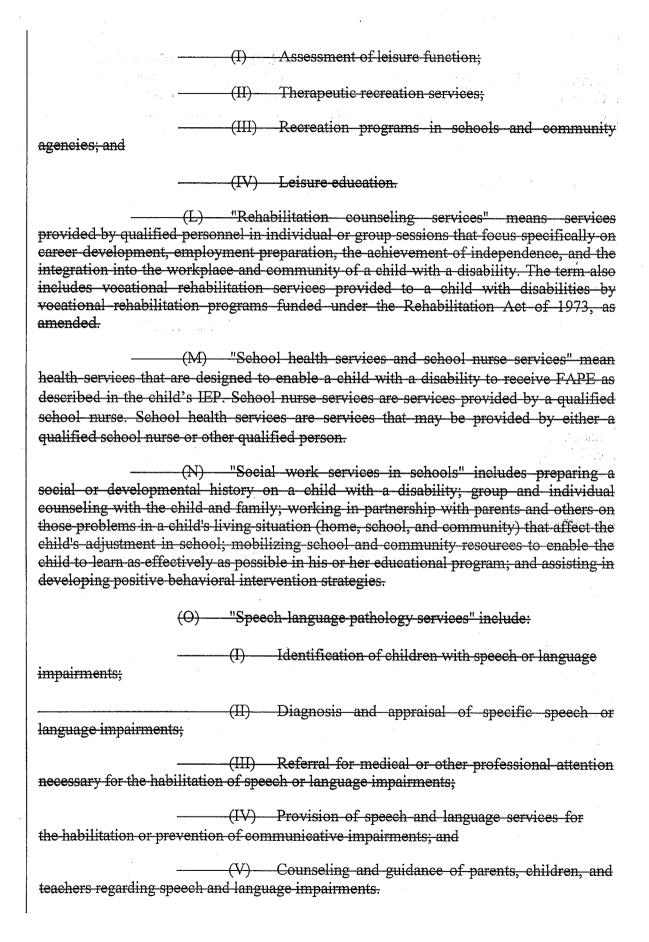
authority under the Controlled Substances Act (21 U.S.C. 812(c))or under any other
provision of Federal law.
(s) "Individualized Education Program" (IEP) means a written statement for child with a disability that is developed, reviewed, and revised in accordance with
Chapter 7 rules.
(t) "Individualized education program team" means a group of individual
described in Chapter 7 rules responsible for developing, reviewing, or revising an IEP for a child with a disability.
(u) "Individualized Family Service Plan" (IFSP) is the specially designe program for an eligible child under three (3) years of age.
(v) "Intermediate Educational Unit (IEU)." The Wyoming Department of Health, Division of Developmental Disabilities, is deemed an intermediate educations unit as defined in W.S. § 21-2-702.
other public authority legally constituted within the State for either administrative control or direction of, or to perform a service or function for, public elementary, or secondar schools in a city, county, township, school district, or other political subdivision of the State, or for a combination of school districts or counties as recognized by the State as a administrative agency for public elementary schools or secondary schools. The terrincludes:
(i) An educational service agency (ESA) described in subsection (j) this Section; and
(ii) Any other public institution or agency having administrative control and direction of a public elementary school or secondary school.
(x) "Native language," when used with respect to an individual who is Limited English Proficient (LEP) means the following:
(i) The language normally used by that individual, or, in case of child, the language normally used by the parents of the child;
(ii) In all direct contact with the child (including evaluation of the child) the language normally used by the child in the home or learning environment;
(iii) For an individual with deafness or blindness, or for an individual with no written language, the mode of communication that is normally used by the individual, such as sign language, Braille, or oral communication.
(v) "Doront" moons:

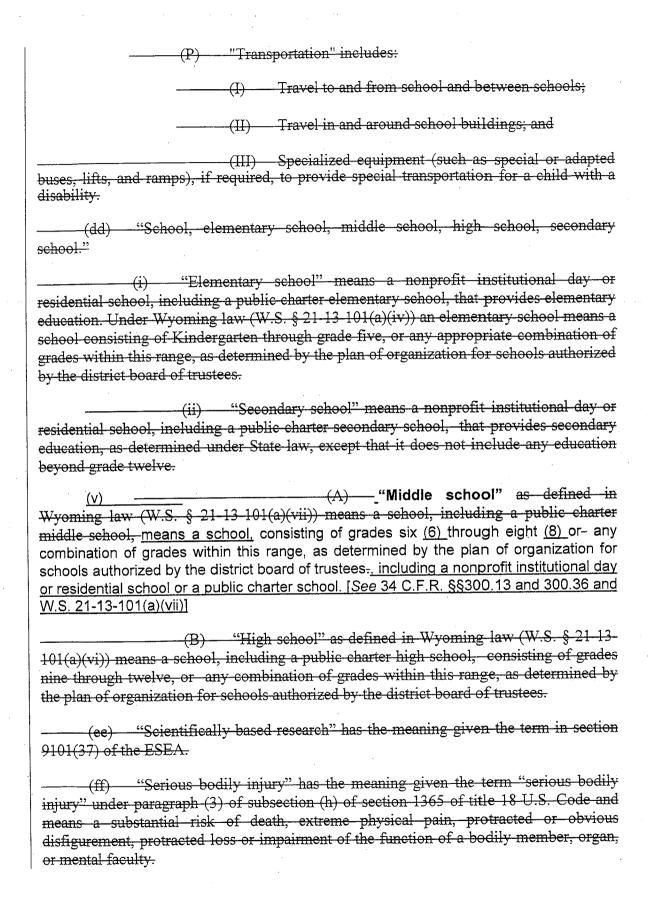


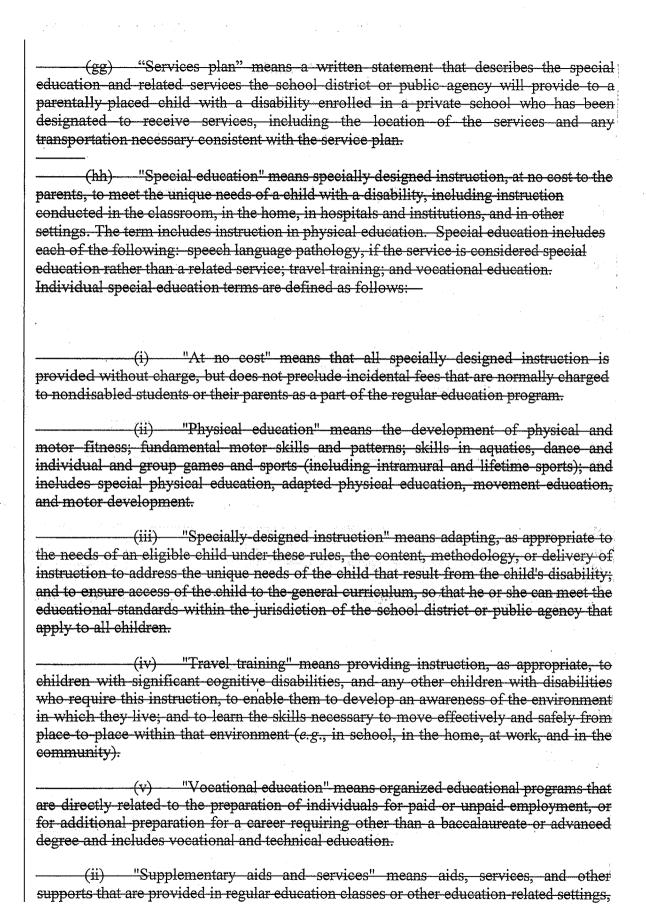












and in extracurricular and nonacademic settings, to enable children with disabilities to be
educated with nondisabled children to the maximum extent appropriate.
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(i) Is designed within a results-oriented process, that is focused on improving the academic and functional achievement of a child with a disability to facilitate the child's movement from school to post school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living or community participation;
(ii) Is based on the individual child's needs, taking into account the child's strengths, preferences and interests;
(iii) And includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives; and, if appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.
(iv) Transition services for children with disabilities may be special education, if provided as specially designed instruction, or a related service, if required to assist a child with a disability to benefit from special education.
(kk) Ward of the State.
(i) Subject to paragraph (ii) of this subsection, ward of the State means a child who, as determined by the State where the child resides, is a foster child, a ward of the State, or is in custody of a public child welfare agency.
ii) Exception. Ward of the State does not include a foster child who has a foster parent who meets the definition of a parent in subsection (y) in this Section.
(II) "Weapon" means dangerous weapon as described in 18 U.S.C., Section 930.

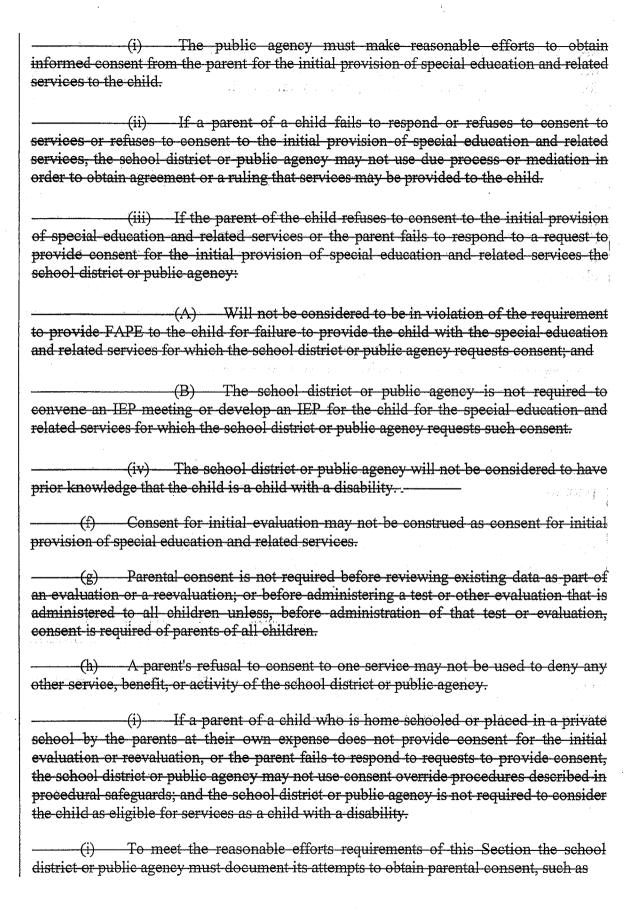
PART 2 PROCEDURAL SAFECUARDS

Section 1. Prior Written Notice.	
(a) Written notice must be given to the pare within a reasonable time before the school district or publ	
(i) Proposes to initiate or change the educational placement of the child or the provision of FA	ne identification, evaluation, or PE to the child; or
(ii) Refuses to initiate or change the educational placement of the child or the provision of FA.	
(b) The content of the notice must include:	
(i) A description of the action prop- district or public agency;	osed or refused by the school
(ii) An explanation of why the sch proposes or refuses to take the action;	ool district or public agency
(iii) A description of other options the reasons why those options were rejected;	EP team considered and the
(iv) A description of each evaluation preport the school district or public agency used as a baaction;	
(v) A description of other factors the district's or public agency's proposal or refusal;	nat are relevant to the school
(vi) A statement that the parents of protection under the procedural safeguards; and if the no evaluation, the means by which a copy of a description of be obtained;	tice is not an initial referral for
(vii) Sources for parents to contact to ob	stain assistance in understanding
——————————————————————————————————————	itten notice must be:
(i) Written in language understandable	to the general public;

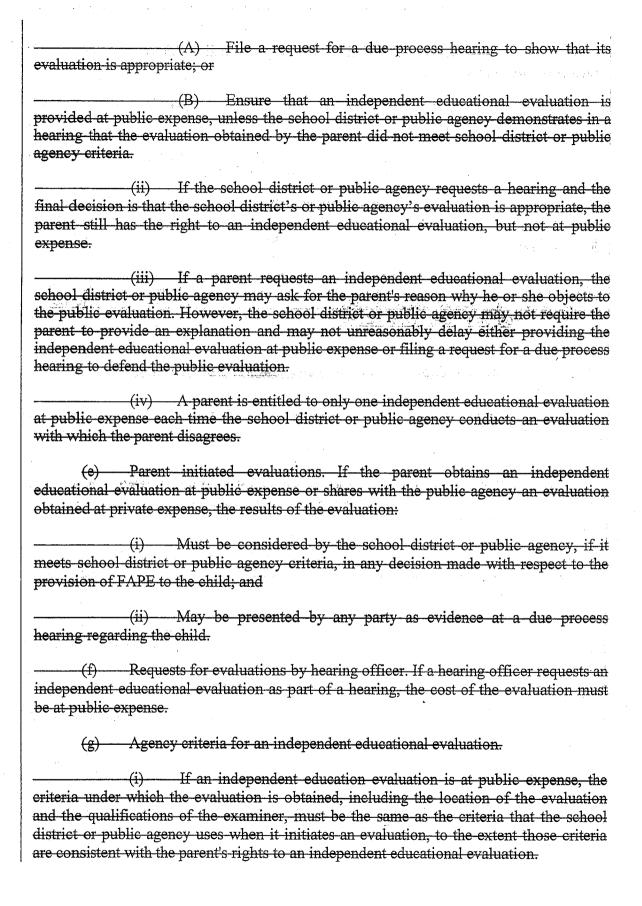
(ii) Provided in the native language of the parent or other mode of
communication used by the parent, unless it is clearly not feasible to do so; and
(iii) If the native language or other mode of communication of the parent is not a written language, the school district or public agency must take steps to ensure that the notice is translated orally or by other means to the parent in his or her native language or other mode of communication, and that the parent understands the
content of the notice;
(iv) And that there is written evidence that the requirements in subsection (c)(i), (ii), (iii) have been met.
(d) Graduation from high school with a regular diploma constitutes a change in placement, requiring prior written notice.
Section 2. Notice of Procedural Safeguards.
(a) A copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents only one time a year, except that a copy must also be given to the parents:
(i) Upon initial referral or parent request for evaluation;
(ii) Upon receipt of the first State complaint filed in that school year under the complaint procedures established through these rules and upon receipt of the first request for a due process hearing in a school year;
(iii) In accordance with the discipline procedures in Part 6;
(iv) Upon request by a parent.
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(c) Contents of the procedural safeguards notice shall be in plain language per the rules of Section 1, subsection (c), of this Part and shall include a full explanation of the procedural safeguards under these rules relating to:
(i) Independent educational evaluation;
(ii) Prior written notice;
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(iv) Access to education records;

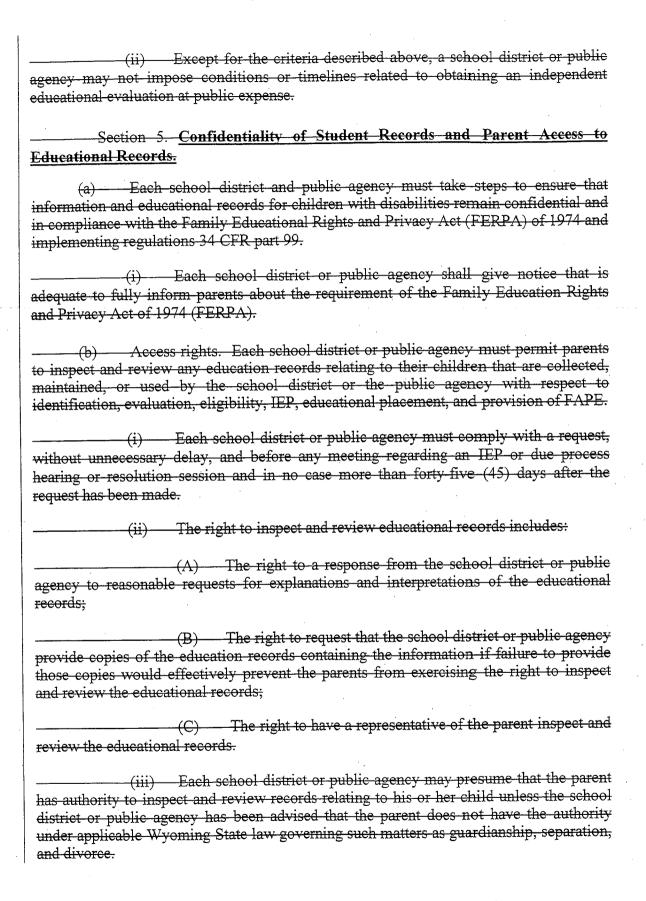
(V) Opportunity to present and resolve complaints through the du
process hearing procedure and the State complaint procedures, including informatio
about the difference between a due process hearing procedure and the State complain
procedure, including information about the jurisdiction of each procedure, what issue
may be raised, and filing and decisional timelines and relevant procedures, including the
following:
tonowing.
(A) The time period of which to file a complaint; and
(B) The opportunity for the agency to resolve the complaint.
(vi) The availability of mediation and the child's placement during the
pendency of any due process hearing proceedings;
policine, of any due process nearing proceedings,
(vii) Procedures for children who are subject to placement in an interir
(vii) I roccoures for cinitaren who are subject to placement in an intern
alternative educational setting;
(viii) Requirements for unilateral placement by parents of children i
private schools at public expense;
r
71_A - (TT-sectific or) 1 or - Grandillo, Galillo or Grandillo (Galillo or Grandillo (Galillo or)) or or or
(ix) Hearing on due process requests, including requirements fo
disclosure of evaluation results and recommendations;
(x) Civil actions, including the time period in which to file thos
actions; and
dolloilo, und
(xi) Attorney's fees.
and the second of the second o
(d) The parent of a child with a dischility may aloot to marine water a marine
(d) The parent of a child with a disability may elect to receive notices required
under this Section by electronic mail communication if the public agency makes that
option-available.
——————————————————————————————————————
(a) Consent for initial evaluation.
(a) Consont for mittal evaluation.
(i) The school district or public agency proposing to conduct as
initial evaluation to determine if the child qualifies as a child with a disability must, afte
initial evaluation to determine if the entire quantities as a cliffer with a disability must, after
providing prior written notice as discussed in Section 1 of this Part and a copy of
procedural safeguards as discussed in Section 2 of this Part, obtain informed consen
from the parent of the child before conducting the evaluation.
nom the parent of the office conducting the evaluation.
(ii) For initial evaluations only, if the child is a ward of the State and it
not residing with the child's parent, the school district or public agency is not required to
abtain informed consent from the nament for an initial and initial and in its initial and
obtain informed consent from the parent for an initial evaluation to determine whether the
child is a child with a disability if, despite reasonable efforts to do so, the public agency
cannot discover the whereabouts of the parent of the child; the rights of the parents have

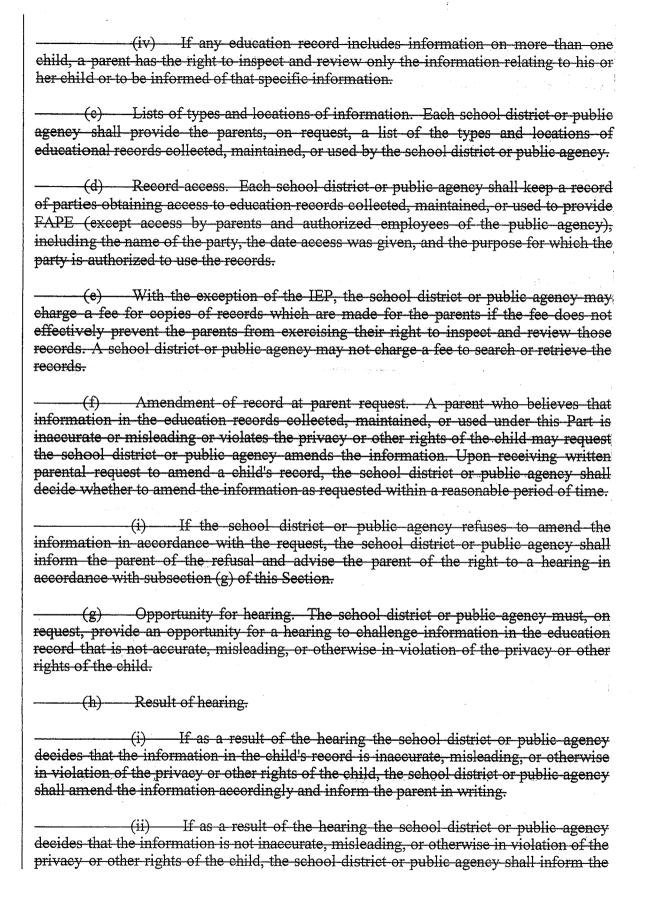
been terminated under Wyoming law; or the rights of the parent to make educational
decisions have been subrogated by a judge in accordance with Wyoming law and consent
for an initial evaluation has been given by an individual appointed by the judge to
represent the child.
(b) If a parent of a child enrolled in a school district or public agency or
seeking to be enrolled in a school district or public agency does not provide consent for
initial evaluation or the parent fails to respond to a request to provide consent, the school
district or public agency may, but is not required to, pursue the initial evaluation by
district of public agency may, but is not required to, parsac the initial evaluation by
utilizing the procedural safeguards, including mediation or due process. The school
district or public agency does not violate its obligations relative to Child Find and
obligations for evaluation of children or determination of the child as being eligible as a
child with a disability if it declines to pursue the evaluation.
(e) If the parent refuses to provide consent for an initial evaluation and the
school district or public agency does not obtain agreement or a ruling that the initial
evaluation may be conducted per due process or mediation efforts, the school district or
public agency will not be considered to have prior knowledge that the child is a child
with a disability.
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(i) Each school district or public agency must obtain informed consent
prior to conducting any reevaluation of a child with a disability.
(ii) Informed parental consent described in subsection (d)(i) of this
Section need not be obtained if the school district or public agency can demonstrate that
it made reasonable efforts to obtain such consent and the child's parent has failed to
respond.
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(iii) If the parent refuses to consent to the reevaluation, the school
district or public agency may, but is not required to, pursue the reevaluation by using the
consent override procedures described in Section 3(b) of this Part. The public agency
does not violate its obligations relative to Child Find and obligations for evaluation and
reevaluation of children or determination of the child as being eligible as a child with a
disability if it declines to pursue the evaluation.
disability if it declines to parsue the evaluation.
(e) Informed parental consent for provision of initial services. A public
agency that is responsible for making FAPE available to a child with a disability must
obtain informed consent from the parent of the child before the initial provision of special
education and related services to the child.

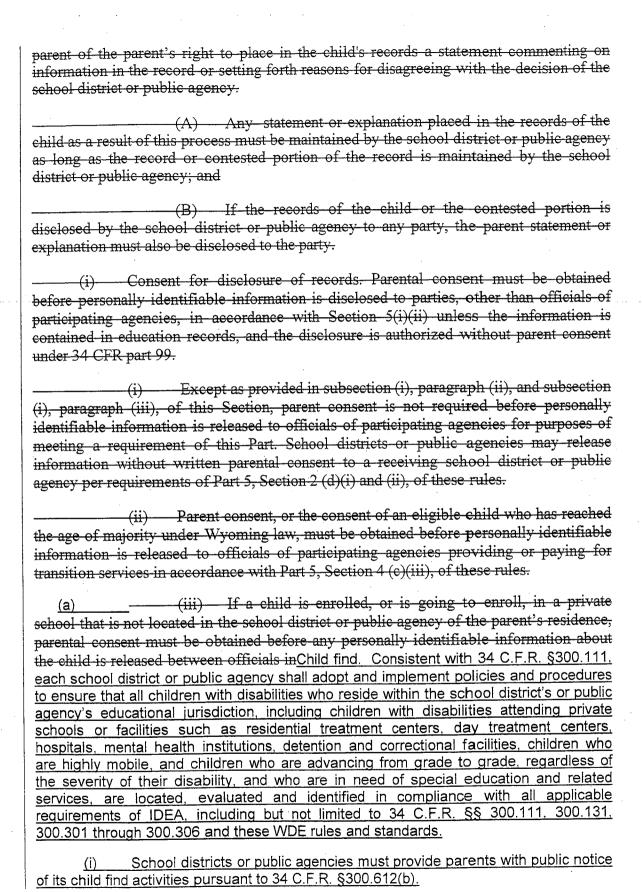


(A) Detailed records of phone calls made or attempted and the
results of those calls;
(B) Copies of correspondence sent to the parents and any
responses received; and
(C) Detailed records of visits made to the parent's home or place of employment and the results of those visits.
(vi) Section 4. <u>Independent Educational</u> "Preschool children with disabilities" means children three (3) through five (5) years of age in Wyoming identified as eligible for special education and related services. [See W.S. §21-2-701]
(vii) "Private school" means, for the purpose of these rules, any nonpublic, elementary or secondary school providing basic academic educational programs for children and may include parochial and church or religious schools and home-based educational programs. [See W.S. §21-4-101(a)(iii)]
Section 4. Identification, Evaluation, and Eligibility Determinations.
(a) An independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the school district or public agency responsible for the education of the child in question.
(b) Public expense means that the school district or public agency either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent.
(c) The parents of a child with a disability have the right to obtain an independent education evaluation of the child subject to subsections (d) through (e) of this Section.
(i) Each school district or public agency shall provide to parents, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained and the school district or public agency criteria applicable for independent education evaluations.
(d) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the school district or public agency subject to the conditions in subsection (d)(i)(A) or (B) and subsections (f) and (g) of this Section.
(i) If a parent requests an independent educational evaluation at public expense, the school district or public agency must, without unnecessary delay, either,

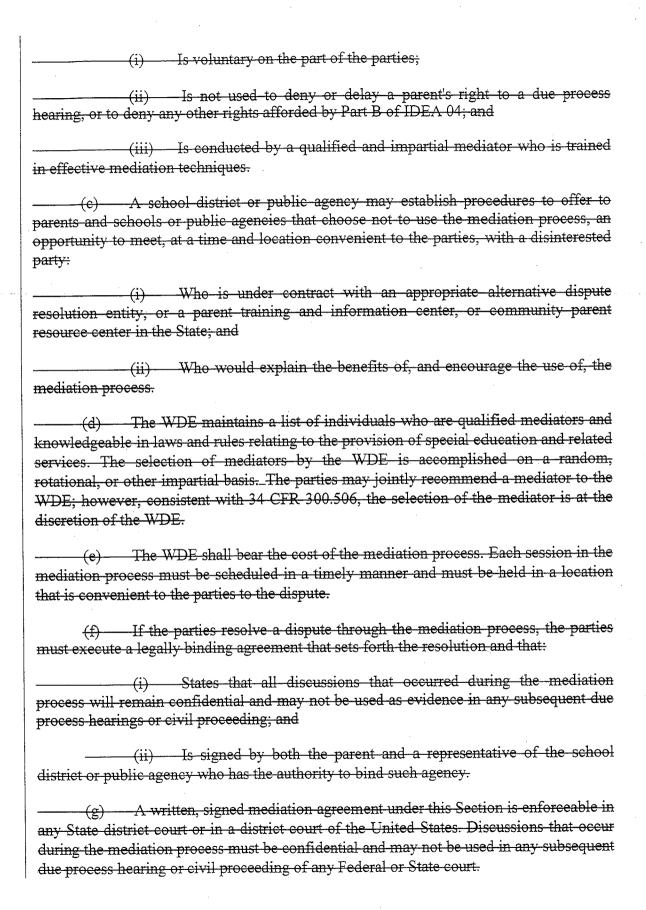


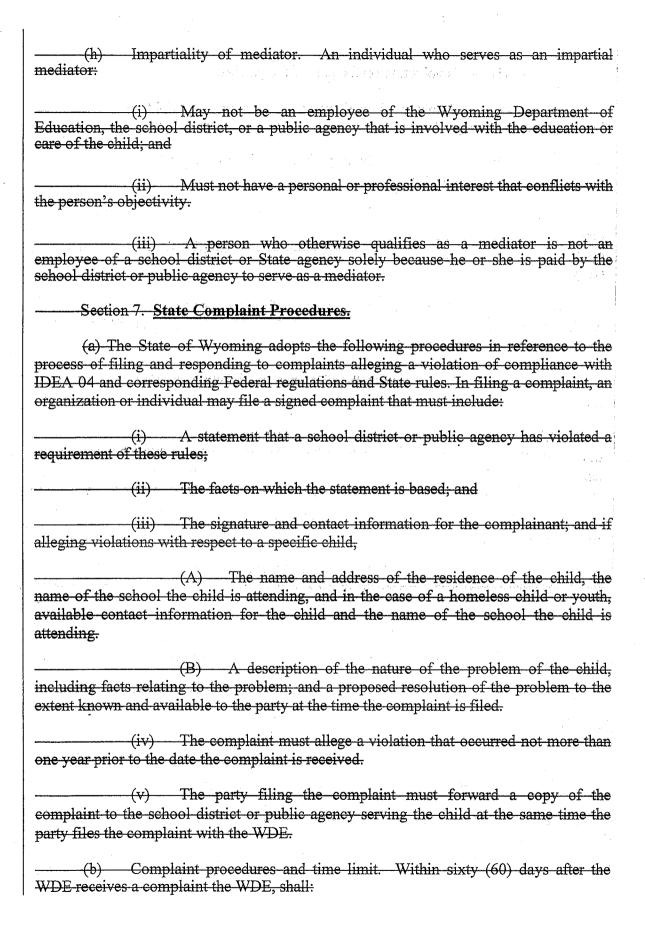


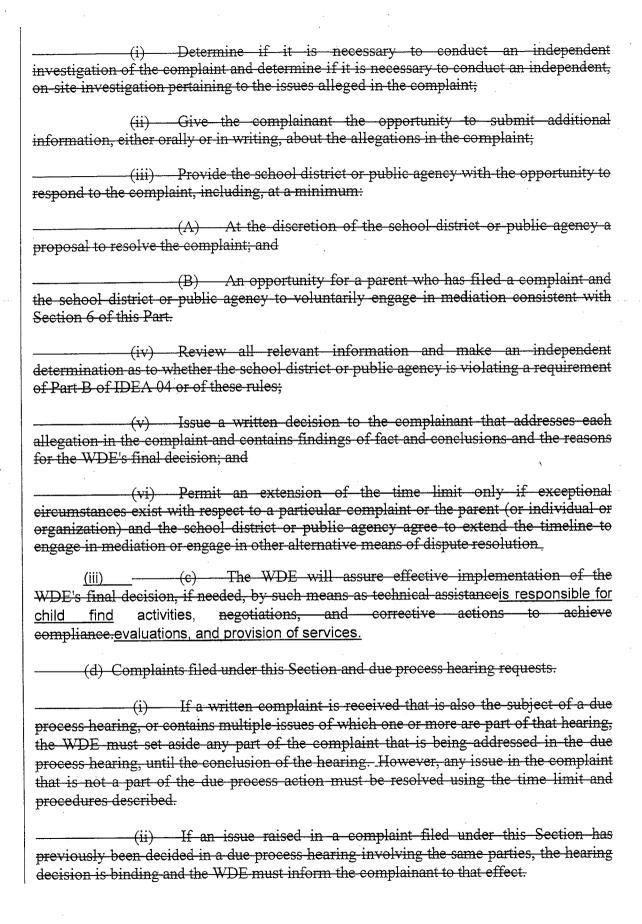


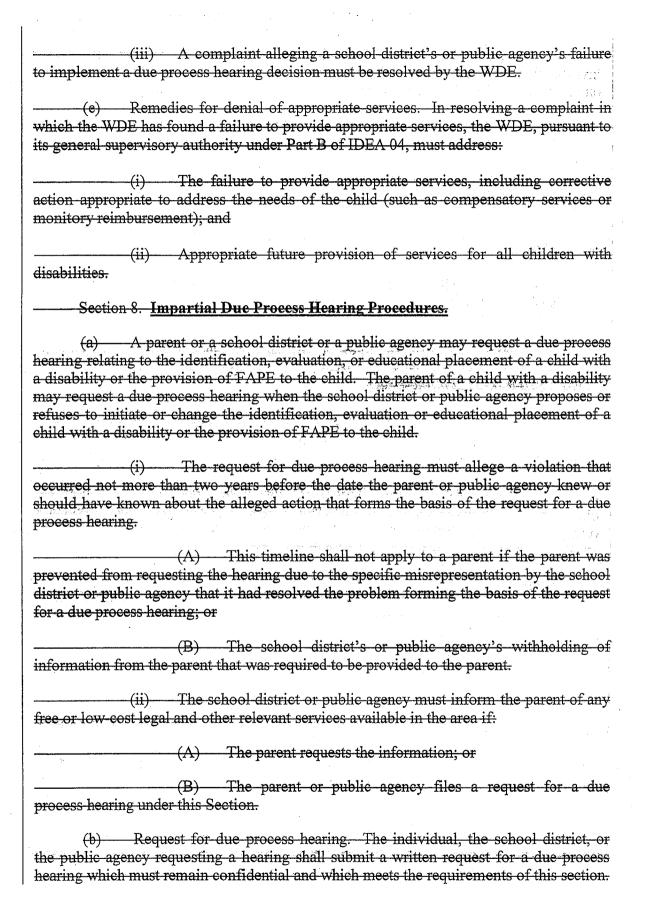


(ii) School districts or public agencies must implement procedures to ensure
protection of the confidentiality of any personally identifiable information collected, used,
or maintained in child find activities in accordance with the federal regulations, including
but not limited to 34 C.F.R. §§300.32, 300.134 and 300.610 through 300.627.
Consistent with 34 C.F.R. §§300.130 through 300.144, if a child is parentally enrolled in
a private elementary or secondary school outside the boundaries of the school district or
public agency in which the student is living, the school district or public agency where
the private school is located and officials in the school district or public agency of the
parent's residence.
(j) Safeguards. Each school district or public agency shall protect the
confidentiality of personally identifiable information at collection, storage, disclosure and
destruction stages and designate one person by position to assume responsibility for
ensuring the confidentiality of any personally identifiable information.
(i) All persons collecting or using personally identifiable information
shall receive training and instruction regarding policies and procedures set forth in this
Section and FERPA.
(ii) Each school district or public agency shall maintain for public
inspection a current list of names and positions of employees who have access to
personally-identifiable-information.
(k) Destruction of information. Each school district or public agency shall
inform the parents when personally identifiable information collected, maintained, or
used under this Section is no longer needed to provide educational services to the child.
asset affect this pootion is no longer houses to provide outdoubting services to the clinic.
(i) The information must be destroyed at the request of the parent.
However, the school district or public agency may keep a permanent record of the child's
name, address, phone number, grades, attendance record, classes attended, grade level
completed, and year completed; and it may be maintained without time limitation.
(I) The parent represents the child with disabilities in all matters covered by
these rules. Any child who has reached the age of majority and has not been declared
incompetent by a Wyoming court is afforded the same rights as those of the parent. If the
rights under this Section are transferred to the student who reaches the age of majority
per procedures described in these rules, the school district or public agency shall provide
the student and parent with any copy of the procedural safeguards notice.
Section 6. Mediation Procedures.
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(a) Each school district or public agency must ensure that procedures are
established and implemented to allow parties to disputes involving any matter under
these rules, including matters arising prior to the filing of a request for a due process
hearing, to resolve the disputes through a mediation process.
neuring, to resorve the disputes through a mediation process.
(b) The procedures must ensure that the mediation process:

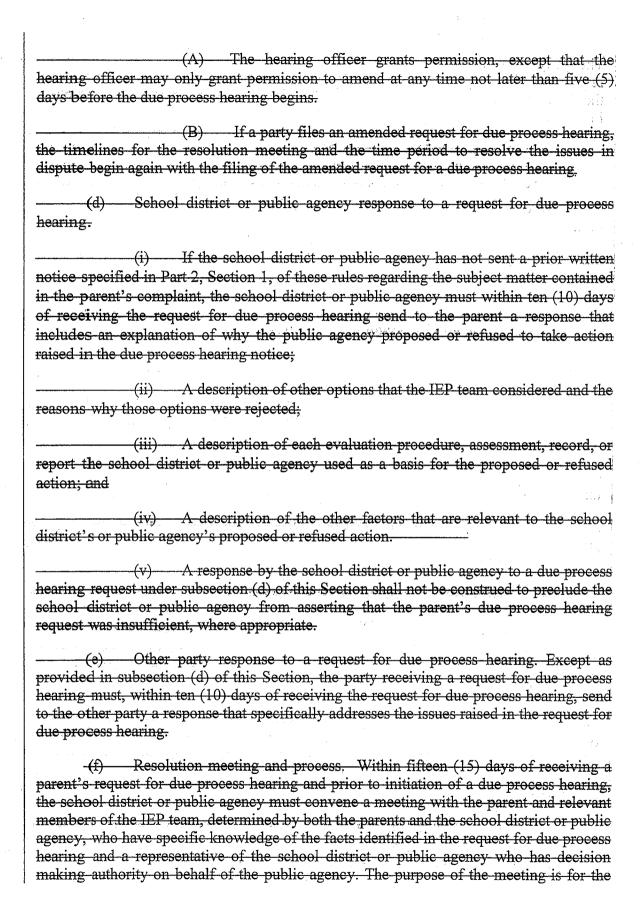


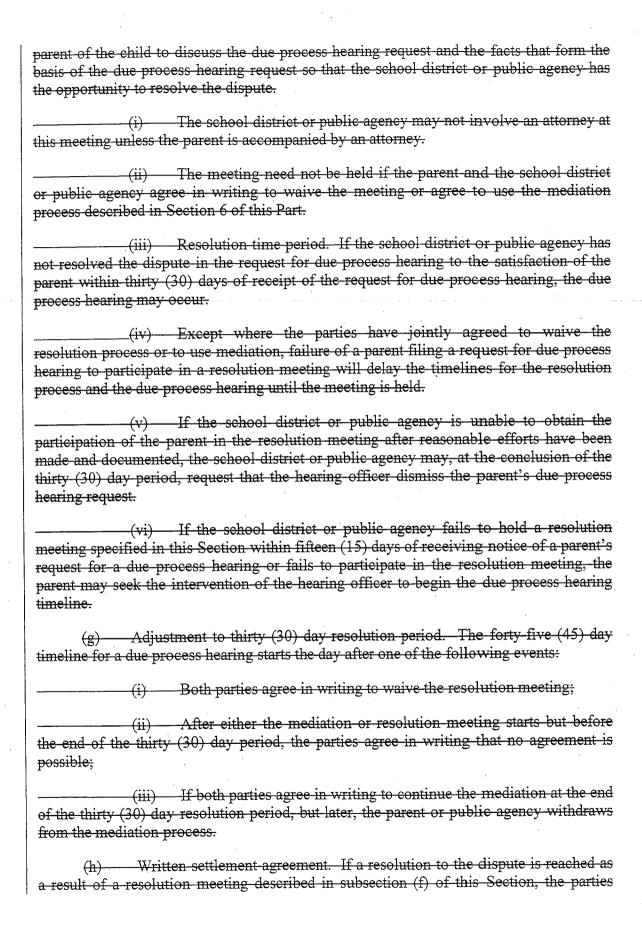






requesting a due process hearing to the other party and forward a copy of the document to the Wyoming State Superintendent of Public Instruction, Wyoming Department of Education, 2300 Capitol Avenue, Hathaway Building 2 nd Floor, Cheyenne, Wyoming 82002 0050, (307) 777 7675. Parents, school districts, public agencies, and other parties may use the appropriate model form described in this subsection, or another form or other document, so long as the form or document that is used meets the content requirements for filing a request for due process hearing described in subsection (b)(i) and (ii) of this Section or the requirements for filing a State complaint as described in Section 7 of this Part.
(i) The content of the written request for due process hearing must include:
(A) The name and address of the child or in the case of a homeless child, available contact information for the child;
(B) The name of the school the child attends;
(C) A description of the nature of the problem of the child relating to the proposed or refused initiation or change, including facts relating to the problem; and
(D) A proposed resolution of the problem to the extent known and available to the party at the time.
(ii) A party may not have a due process hearing until the party or the attorney representing the party files a request for due process hearing that meets the requirements of this Part.
(c) Sufficiency of request for due process hearing. The request for due process hearing required by this Section must be deemed sufficient unless the party receiving the request notifies the WDE appointed hearing officer and the other party in writing, within fifteen (15) days of receipt of the due process hearing request, that the receiving party believes the due process hearing request does not meet the requirements of subsection (b) of this Section.
(i) Within five (5) days of receipt of notification under subsection (c) of this Section, the WDE appointed hearing officer must make a determination on the face of the request for due process hearing, whether the request meets the requirements of subsection (b) of this Section and immediately notify the parties in writing of that determination.
(ii) A party may amend its request for due process hearing only if the other party consents in writing to the amendment and is given the opportunity to resolve the issues in the due process hearing request through a resolution meeting; or





must execute a legally binding agreement that is signed by both the parent and a representative of the school district or public agency who has the authority to bind the school district or public agency. The agreement is enforceable in State District Court or district court of the United States. Agreement review period. A party signing an agreement pursuant to subsection (h) of this Section may void the agreement within three (3) business days of the agreement's execution. Due process hearing conveniences and timeline. The school district or public agency shall ensure that within forty five (45) days after the expiration of the thirty (30) day period for the resolution meeting session described in subsection (f) of this Section or the adjusted time period discussed in subsection (g) of this Section the hearing will be completed and a final decision reached and mailed to each of the parties, unless a continuance has been granted. -A hearing officer may grant specific extensions of time beyond the periods of time described above at the request of either party. Each hearing involving oral arguments must be conducted at a time and place that is reasonably convenient to the parents and child involved. Child's status during due process hearing proceedings. Except as provided for in subsection (1) of this Section pertaining to a request for a due process hearing relative to placement in an interim alternative educational setting or other decisions relating to discipline, during mediation, due process hearings or judicial proceedings, the child involved shall remain in the child's present educational placement unless the school district or public agency and the parents agree otherwise. If the hearing involves an application for initial admission to a school district or public agency, the child, with consent of the parents, shall be placed in the school district or public agency until all proceedings are completed. If at the conclusion of a hearing, the hearing officer agrees with the child's parents that a change of placement is appropriate, the placement must be treated as an agreement of all parties for the purposes of this paragraph. If the hearing involves an application for initial services from a child who is transitioning from Part C to Part B of IDEA 04 and is no longer eligible for services because the child has turned three, the school district or public agency is not required to provide Part C services that the child had been receiving. If the child is found eligible for special education and related services under Part B of IDEA 04 and the parent consents to the initial provision of special education and related services, then the school district or public agency must provide those special education and related services that are not in dispute between the parent and the school district or public agency. When a request for a due process hearing is made by either the parent or the school district or public agency concerning issues related to placement of the child in

an interim alternative educational setting or other decisions relating to discipline, the child must remain in the interim alternative setting pending the decision of the hearing officer or until the expiration of the time period provided for with respect to placement in interim alternative educational settings, whichever comes first, unless the parent and the school district or public agency agree otherwise.

Section 9. Impartial Due Process Hearing - Agency Responsibility and
Hearing Officer Determination, Disclosure and Parent Rights at Hearing.
(a) Agency responsible for conducting the due process hearing. The WDE is responsible for conducting the due process hearing consistent with these rules and shall ensure that the parents or the school district or public agency involved in the dispute have the opportunity for an impartial due process hearing consistent with these procedures.
(b) Determination of hearing officer. The independent hearing officer shall conduct hearing activities in conformance with the WDE hearing procedures. The following people are excluded from acting as qualified independent hearing officers:
(i) Any person who is an employee of a school district or public agency involved in the education or care of children with disabilities; or
(ii) Any person who, with respect to the particular hearing, has any personal or professional interest which might conflict with the person's objectivity in the hearing.
officer by submitting a written objection to the WDE within ten (10) days of notification of the appointment of the hearing officer. The written objection must include information supporting a claim of personal or professional bias or interest leading to lack of objectivity. Within ten (10) days of receipt of such a written objection, the WDE shall rule on the objection and:
(iv) Appoint another person from the list of qualified independent hearing officers (if another hearing officer is appointed, the procedures for objecting also apply to the newly appointed hearing officer); or

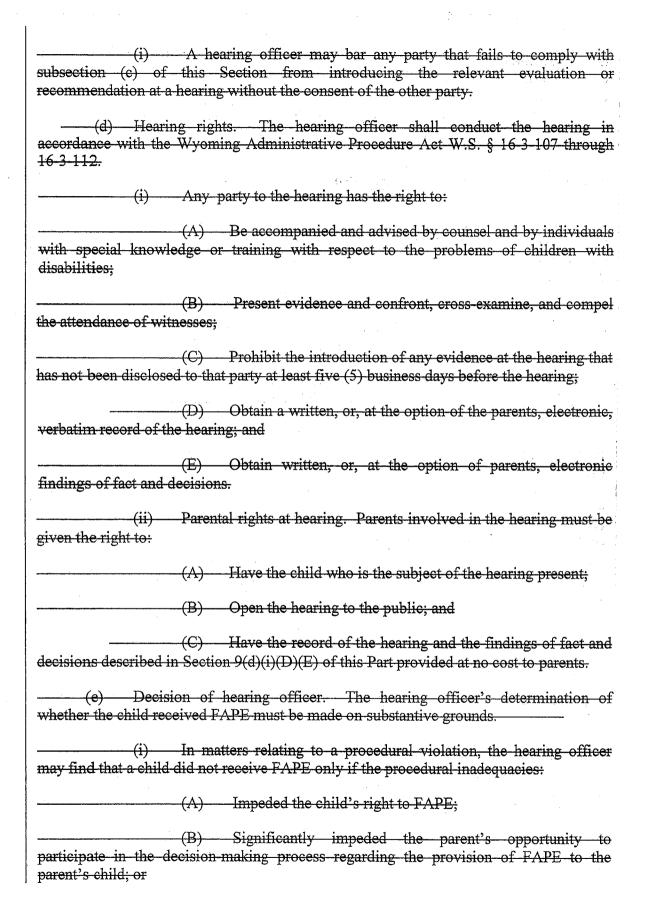
(e) Disclosure. At least five (5) business days prior to a hearing, each party shall disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing.

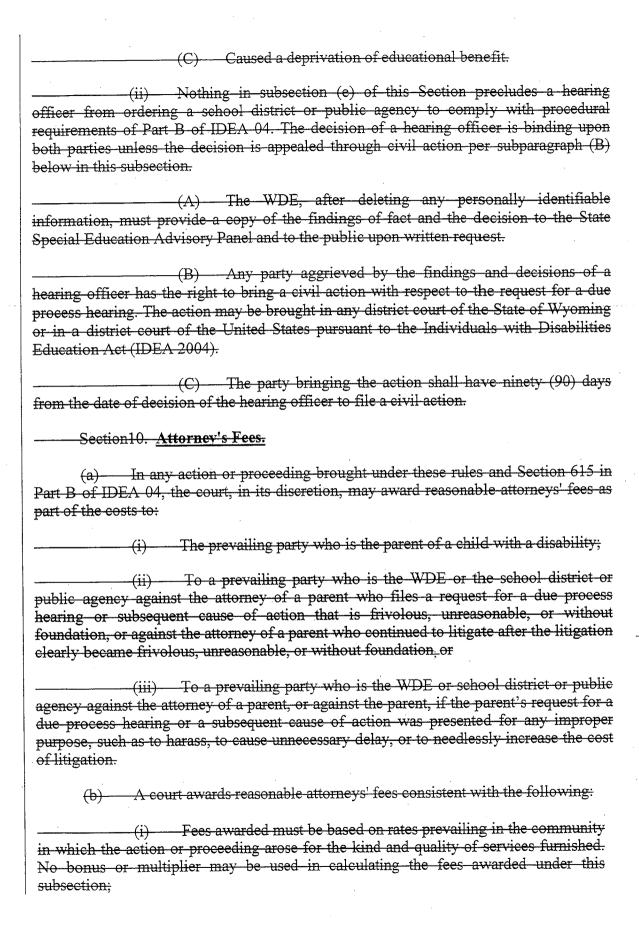
from service in any hearing in which the hearing officer believes a personal or professional bias or interest in any of the issues to be decided in the hearing might

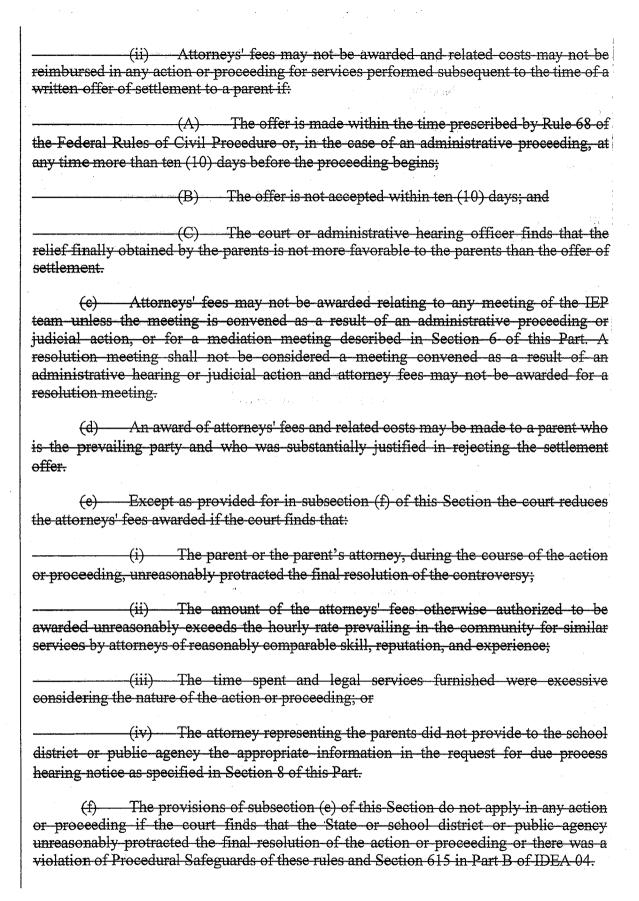
conflict with the hearing officer's objectivity.

Verify that the individual originally proposed is qualified.

A hearing officer may at any point withdraw from consideration or



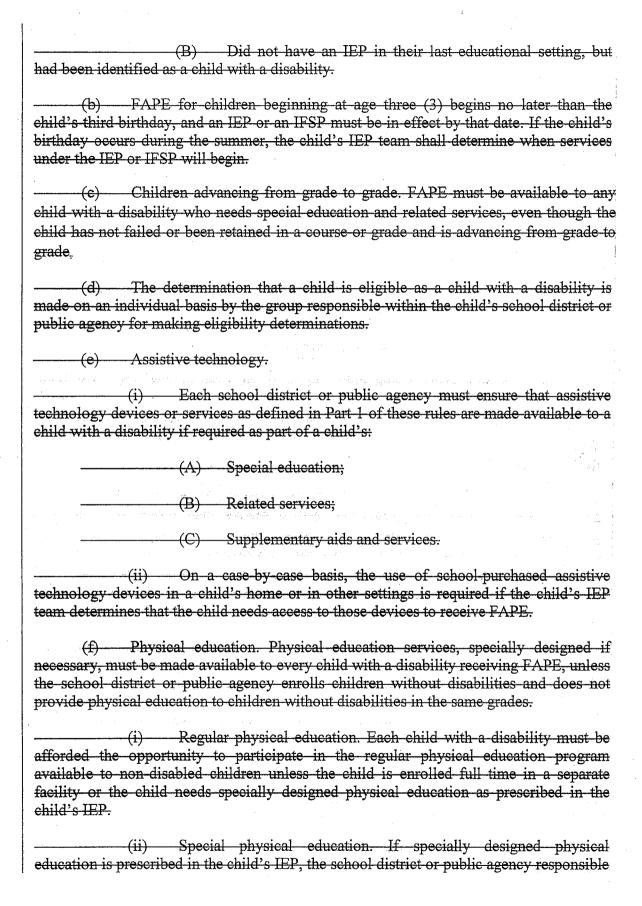




PART 3 SPECIAL EDUCATION PROCESS

Section 1. Free Appropriate Public Education.

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(a) School districts and public agencies shall ensure that Free Appropriate Public Education (FAPE) is available to all children with disabilities, aged three (3) through the completion of the school year the child turns twenty one (21), residing in Wyoming, including those who have been suspended or expelled from school as provided for in Part 6 of these rules.
(i) School districts and public agencies are not obligated to provide FAPE to students who have graduated with a regular high school diploma. This exception does not apply to students with disabilities who have graduated from high school, but have not been awarded a regular high school diploma. The term regular high school diploma does not include an alternative degree that is not fully aligned with State academic standards, such as a certificate or a general educational development credential (GED).
(ii) The obligation to provide FAPE does not apply to children with disabilities ages eighteen (18) through twenty one (21), who in their last educational placement prior to their incarceration in an adult correctional facility:
(A) Were not identified as being a child with a disability and did not have an IEP.
(iii) The exception in paragraph (ii)(A) above does not apply to children aged eighteen (18) through twenty one (21) who in their last educational placement prior to their incarceration in an correctional facility:
(A) Had been identified as a child with a disability and had received services in accordance with an IEP but left school prior to their incarceration; or

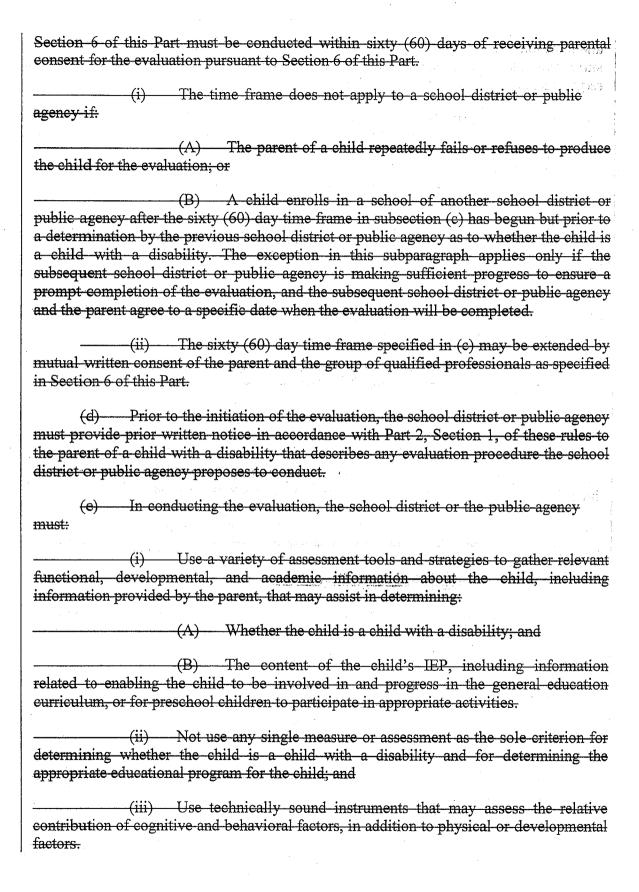


for the education of the child must provide the services directly or make arrangements for those services to be provided through other public or private programs.
(iii) Physical education in separate facilities. The school district or public agency responsible for the education of a child with a disability who is enrolled in a separate facility must ensure that the child receives appropriate physical education services in compliance with this subsection.
(g) Nonacademic services.
(i) Each school district or public agency must take steps, including the provision of supplementary aids and services determined appropriate and necessary by the child's IEP team, to provide nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities.
(ii) Nonacademic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational services, special interest groups or clubs sponsored by the school district or public agency, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the school district or public agency, and assistance in making outside employment available.
(h) Routine checking of hearing aids and external components of surgically implanted medical devices.
(i) Hearing aids. Each school district or public agency must ensure that hearing aids worn in school by children with hearing impairments, including deafness, are functioning properly.
(ii) External components of surgically implanted medical devices. Consistent with subsection (h)(iii) of this Section, each school district or public agency must ensure that external components of surgically implanted medical devices are functioning properly.
(iii) For a child with a surgically implanted medical device who is receiving special education and related services, a school district or public agency is not responsible for post surgical maintenance, programming, or replacement of the medical device that has been surgically implanted (or of an external component of the surgically implanted medical device).
(i) Residential Placement. If placement in a public or private residential program is necessary to provide special education and related services to a child with a disability, the program, including non medical care and room and board, must be at no cost to the parents of the child.
Section 2. Educational Surrogate Parents.

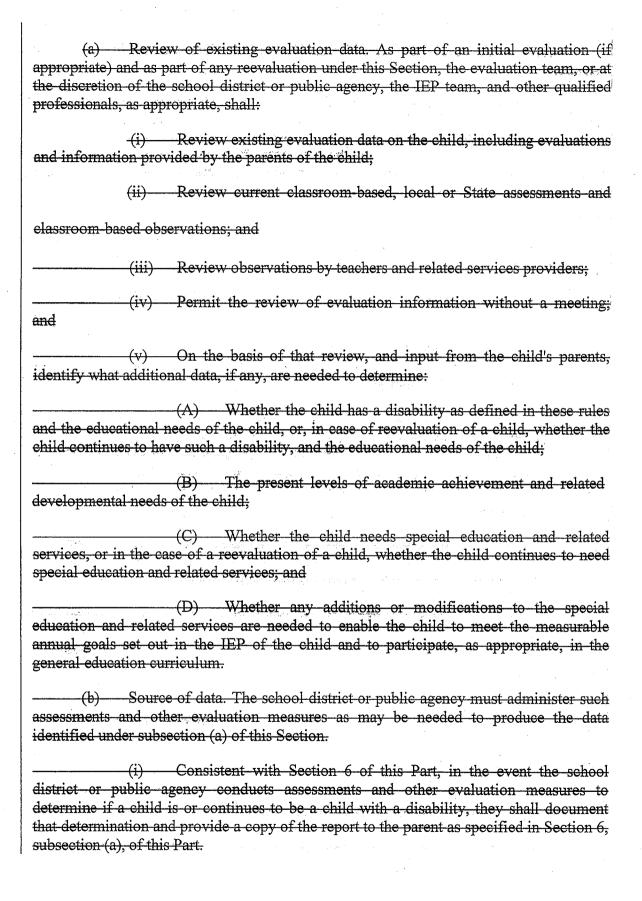
Each school district or public agency shall ensure that the rights of a child with a disability are protected when: No parent as defined in these rules can be identified; The school district or public agency, after reasonable efforts, cannot locate a parent; The child with a disability is a ward of the State under Wyoming State law; or (iv) The child is an unaccompanied homeless youth as defined in section 725(6) of the McKinney-Vento Homeless Assistance Act. The duty of a school district or public agency includes the assignment of an individual to act as an educational surrogate for the parents. This must include a method: For determining whether a child with a disability needs an educational surrogate parent; and For assigning an educational surrogate parent to the child. The school district or public agency shall select an educational surrogate parent based on the following criteria: The individual is not an employee of the WDE, the school district. or any other public agency that is involved in the education or care of the child; (A) A surrogate parent is not considered an employee solely because he or she received compensation as a surrogate. The individual has no personal or professional interests that conflict with the interest of the child the surrogate parent represents; and (iii) The individual has knowledge and skills that ensure adequate representation of the child with a disability. (iv) A foster parent may serve as an educational surrogate parent if he/she meets the above requirements. In the case of a child who is a ward of the State, the surrogate parent alternatively may be appointed by a judge overseeing the child's case, provided that the surrogate meets the requirements of subsection (c)(i-iv) of this Section. In the case of a homeless child who is an unaccompanied youth,

appropriate staff of emergency shelters, transitional shelters, independent living programs

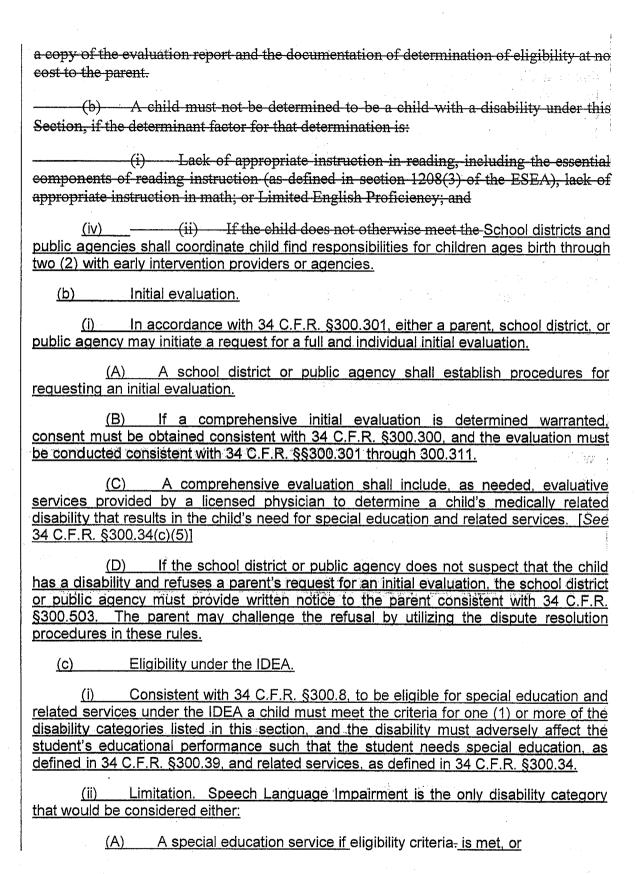
and street outreach programs may be appointed as temporary surrogates without regard to subsection (c)(i-iv) of this Section, until a surrogate can be appointed that meets all of the requirements of subsection (c) of this Section.
(f) The educational surrogate parent may represent the child with a disability in all matters relating to the identification, evaluation, eligibility, programming, and educational placement of the child and to the provision of FAPE.
Section 3. Transfer of Rights at the Age of Majority.
(a) Beginning not later than one year before a child reaches the age of majority, the IEP must include a statement that the child has been informed of his or her rights that will transfer to the child on reaching the age of majority.
(b) Transfer of parental rights at age of majority. When a child reaches the age of majority that applies to all children except for a child with a disability who has been determined to be incompetent under Wyoming law,
(i) The school district or public agency shall provide any notice required under these rules to both the child and the parents;
(ii) All rights accorded to the parents under these rules transfer to the child; and
(iii) All rights accorded to the parents transfer to children who are incarcerated in an adult or juvenile, State, or local correctional institution.
(iv) — Whenever the State provides for the transfer of rights, the school district or public agency shall notify the child and the parents of the transfer of rights.
Section 4. General Evaluation Procedures.
(a) Initial evaluations. School districts and public agencies shall conduct full and individual initial evaluation to determine eligibility before the initial provision of special education and related services to a child with a disability.
(b) Consistent with consent requirements in these rules, either a parent of child or a school district or public agency may initiate a request for an initial evaluation to determine if the child is a child with a disability.
(i) The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.
(c) The initial evaluation to determine if the child is a child with a disability as defined in these rules and to determine the educational needs of the child pursuant to



(f) Other evaluation procedures. Each school district or public agency must
ensure:
(i) — Assessments and other evaluation materials used to assess a child are selected and administered so as not to be discriminatory on a racial or cultural basis and are provided and administered in the child's native language or other mode of communication, and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally unless it is clearly not feasible to provide or administer; and are used for purposes for which the assessments or measurements are valid and reliable;
(ii) Assessments are administered by trained and knowledgeable personnel; and
(iii) Assessments are administered in accordance with any instructions provided by the producer of the assessments;
(iv) — Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single intelligence quotient;
(v) Assessments are selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure);
(vi) The child is assessed in all areas of suspected disabilities, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities;
(vii) That assessments of children with disabilities who transfer from one school district or public agency to another in the same school year are coordinated with those child's prior and subsequent school districts or public agencies as necessary and as expeditiously as possible to ensure prompt completion of full evaluations; and
(viii) In evaluating each child with a disability, the evaluation is sufficiently comprehensive to identify all of the child's special education and related service needs, whether or not commonly linked to the disability category in which the child has been classified.
(ix) Assessment tools and strategies that provide relevant information that directly assist persons in determining the educational needs of the child are provided.
Section 5. Additional Requirements for Evaluations and Recvaluations.



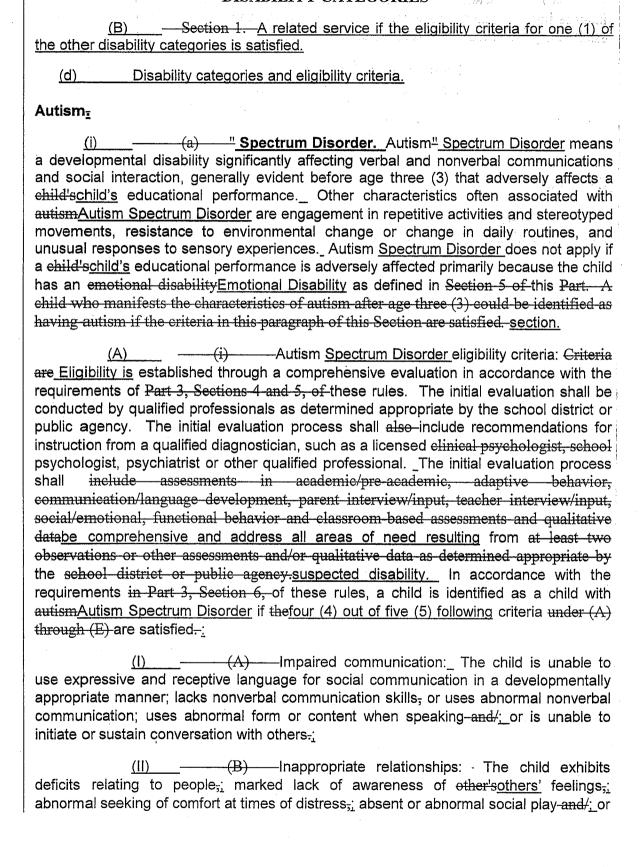
(c) Requirements if additional data are not needed. If the determination is that no additional evaluation data are needed to determine whether the child continues to be a child with a disability and to determine the child's educational needs, the school district or public agency shall notify the child's parents of that determination, the reasons for that determination, and the right of the parents to request an assessment to determine whether the child continues to be a child with a disability and to determine the child's educational needs.
(i) The school district or public agency is not required to conduct the additional assessment unless requested to do so by the child's parents.
(d) Evaluations before a change in eligibility. A school district or public agency must evaluate a child in accordance with this Section before determining that the child is no longer a child with a disability:
(i) Except that an evaluation is not required before the termination of a child's eligibility due to graduation from a secondary school with a regular diploma; or
(ii) Due to exceeding age eligibility for FAPE.
(e) For a child whose eligibility terminates under the circumstances in subsection (d)(i) or (d)(ii), the school district or public agency must provide the child with a summary of the child's academic and functional performance, including recommendations on how to assist the child in meeting the child's post secondary goals.
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(i) The school district or public agency must ensure that a reevaluation of each child with a disability is conducted if the school district or public agency determines that the educational or related service needs, including improved academic achievement and functional performance of the child, warrant a reevaluation; or
(ii) If the child's parent or teacher requests a reevaluation.
(iii) A reevaluation must occur at least once every three (3) years, unless the parent and the public agency agree that a reevaluation is unnecessary.
(iv) A reevaluation may not occur more than once per year, unless the parent and public agency agree otherwise.
Section 6. Determination of Eligibility.
(a) Upon completion of the administration of assessments and other evaluation measures, a group of qualified professionals and the parent of the child determines whether the child is a child with a disability as defined in Part 1, Section 2(d) and the educational needs of the child. The school district or public agency must provide

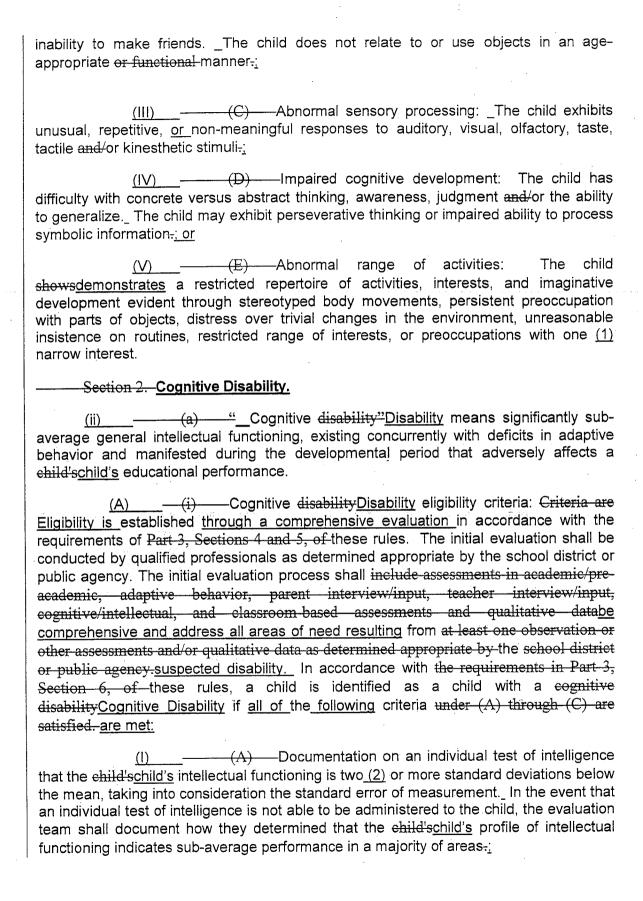


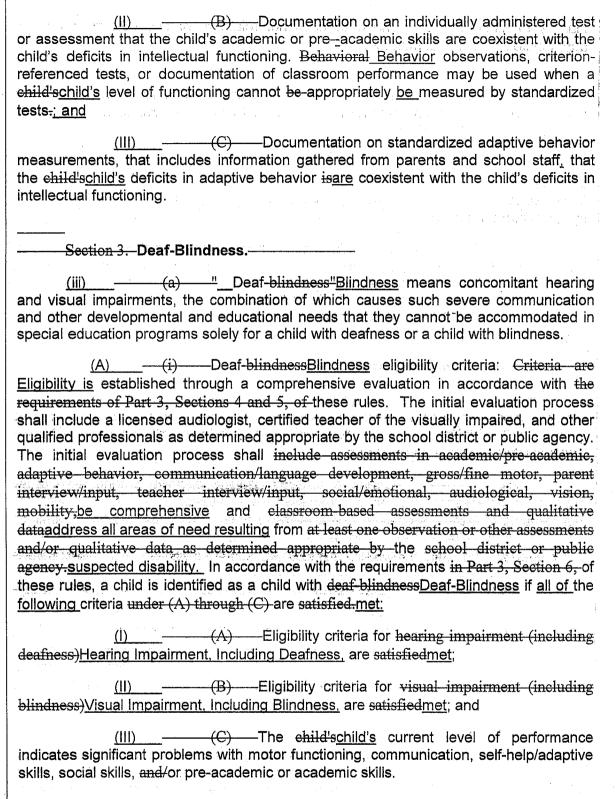
(e)	Procedures -	for de	termining	eligibility	and e	ducational-	need.	-In
interpreting ev	valuation data	a for the	purpose of	determinin	g if a ch	ild has a dis	ability a	and
establishing th	re educationa	l needs, c	each school	l district or p	oublic ag	ency must:		
aptitude and a information a adaptive beha	bout the ch	tests, par	ental input	, and teache	r recom i	mendations,	, as well	l as
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PART 4

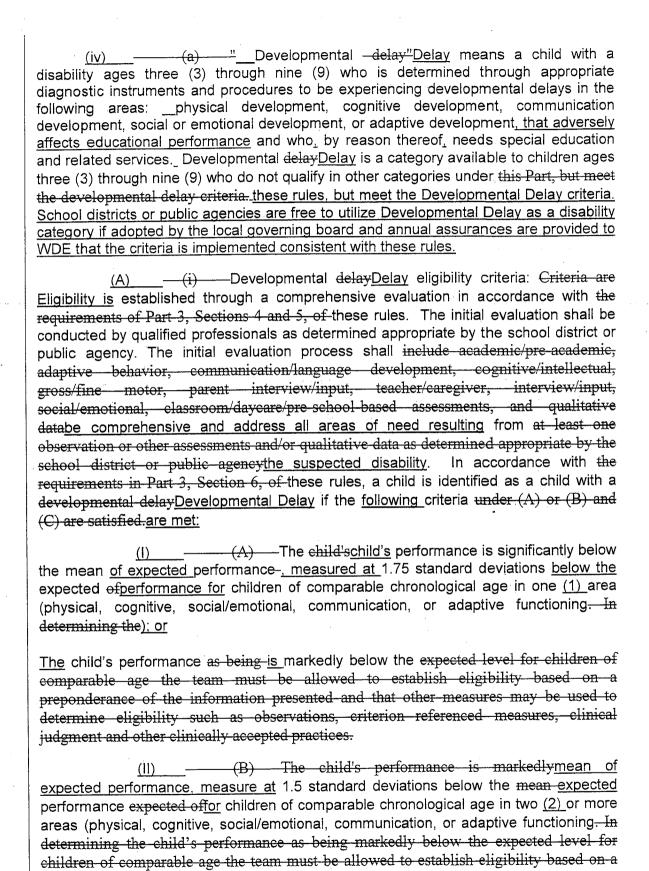
DISABILITY CATEGORIES



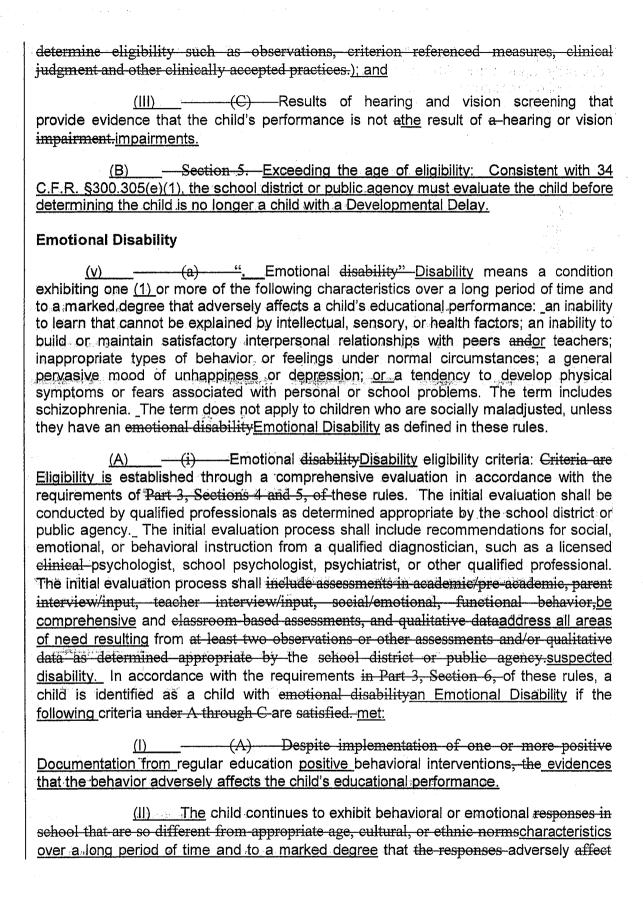


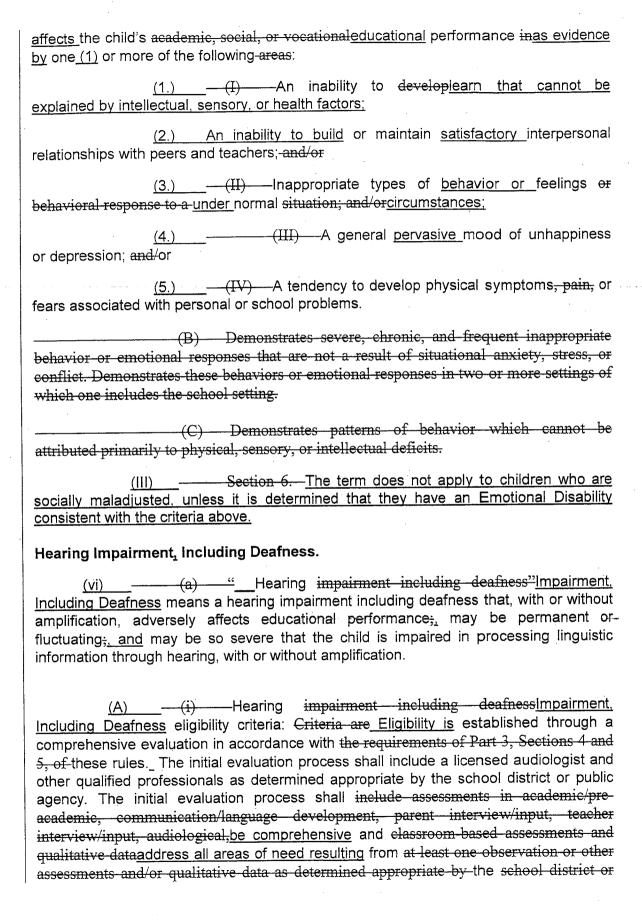


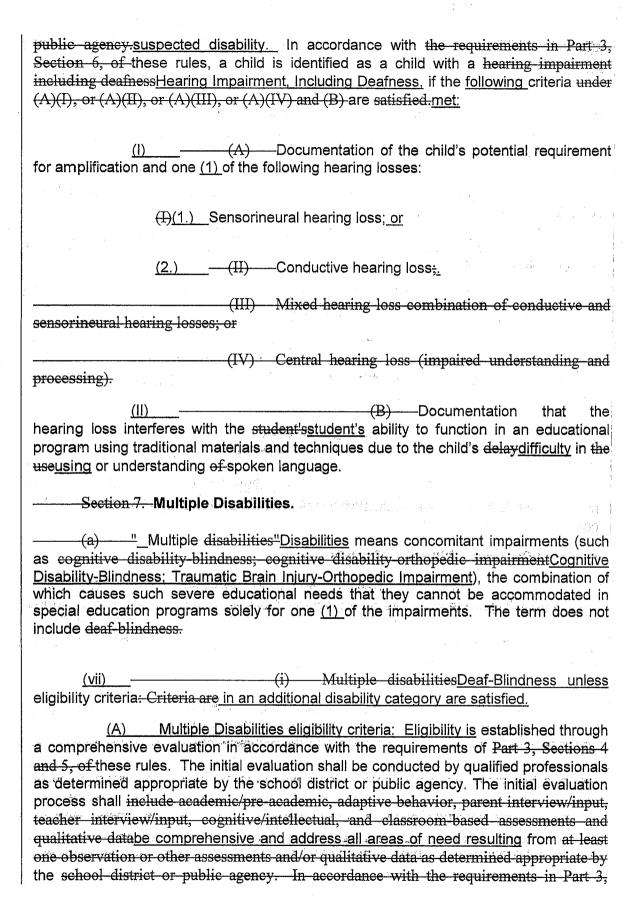
Section 4. Developmental Delay.

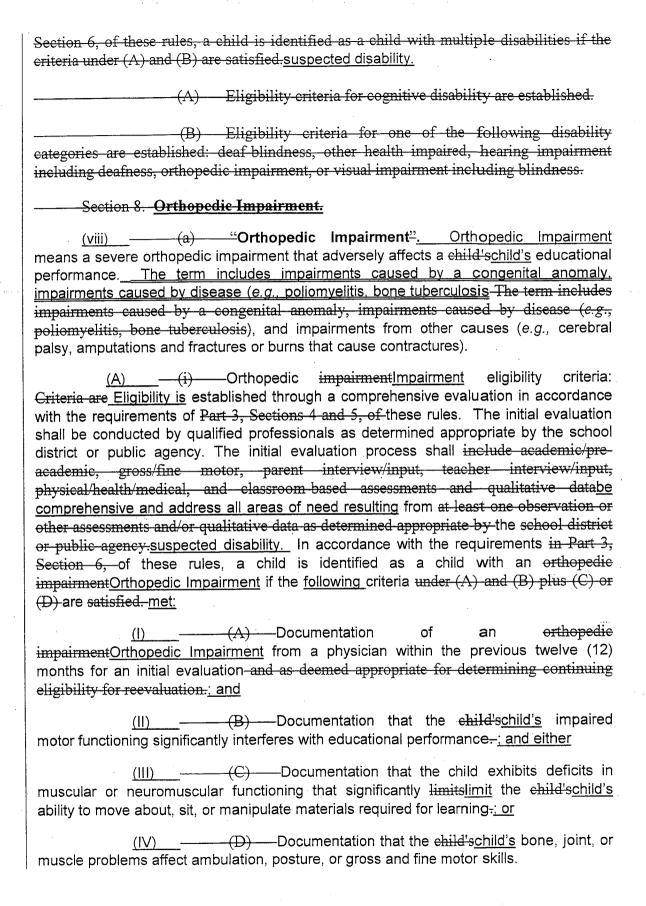


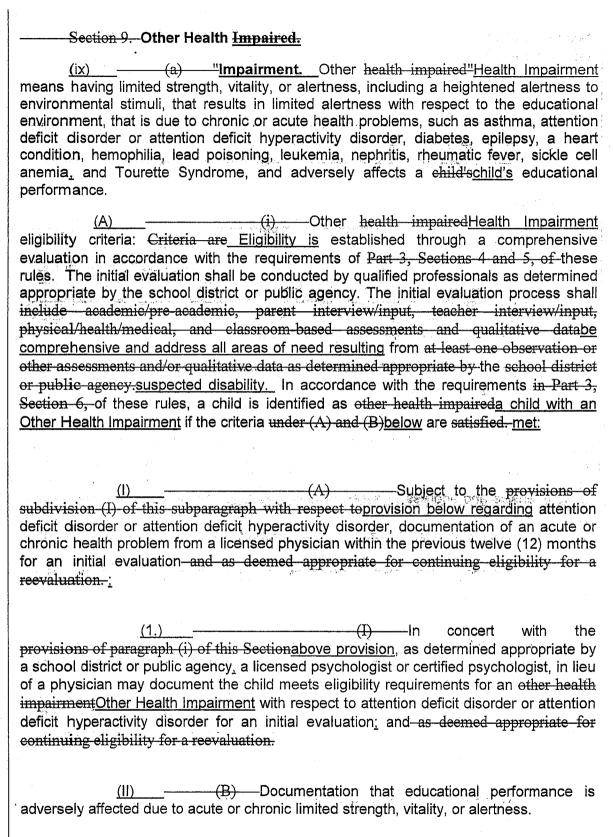
preponderance of the information presented and that other measures may be used to



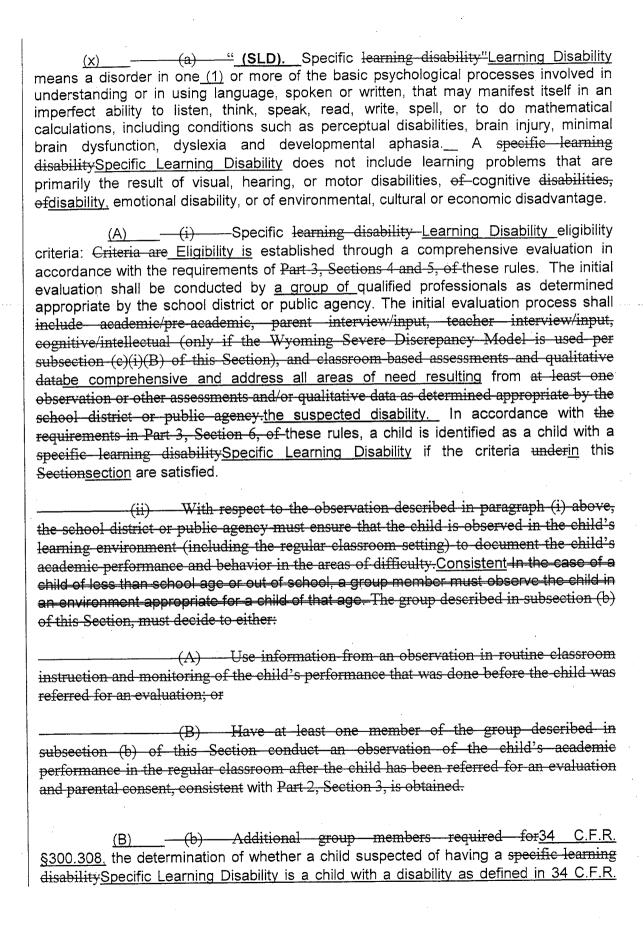


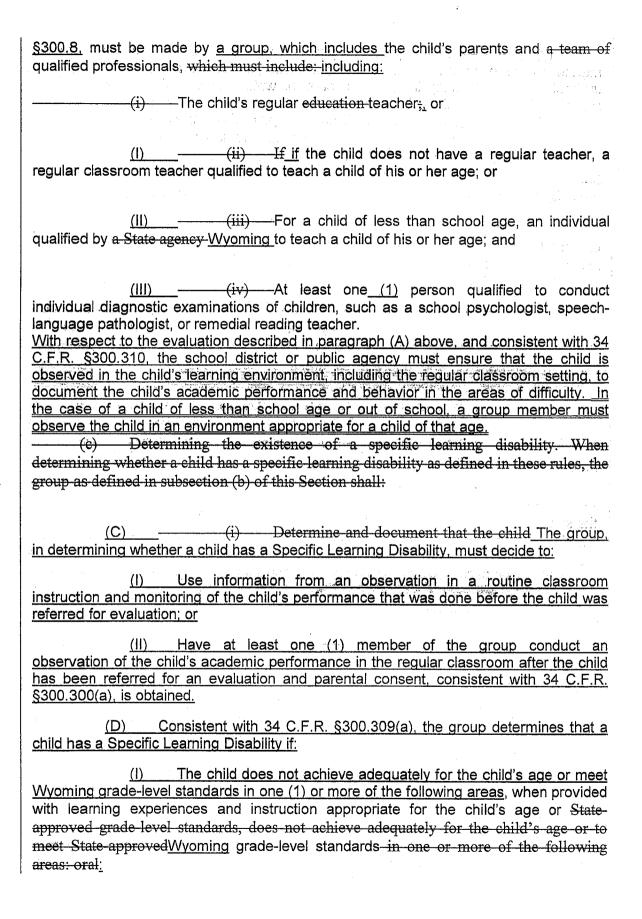




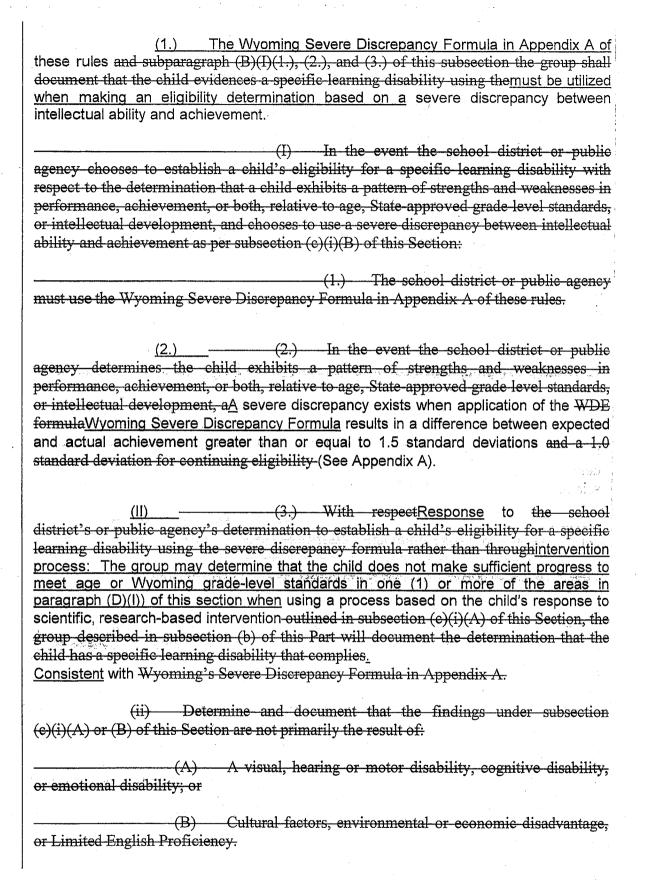


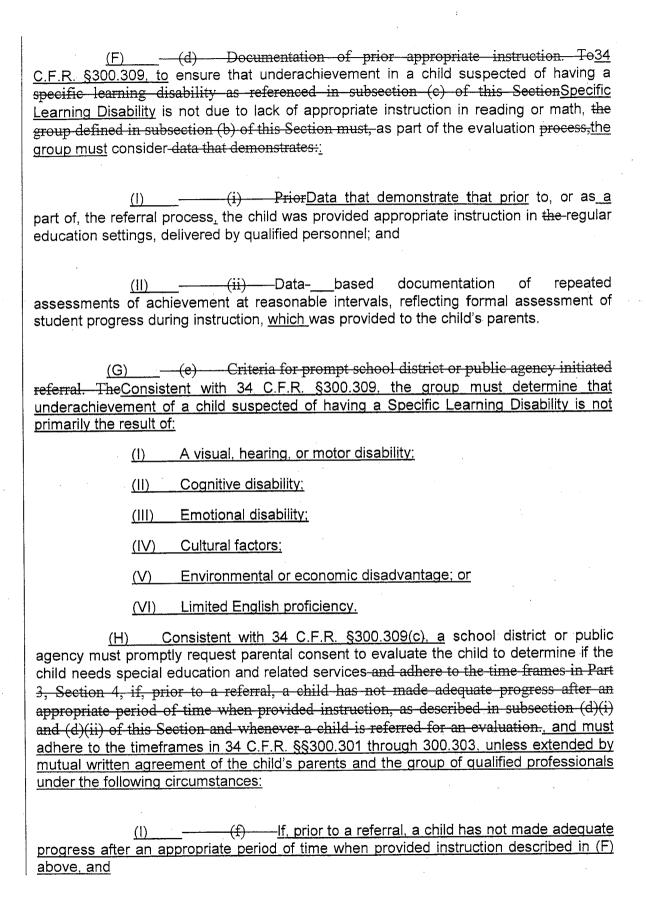
Section 10. Specific Learning Disability:



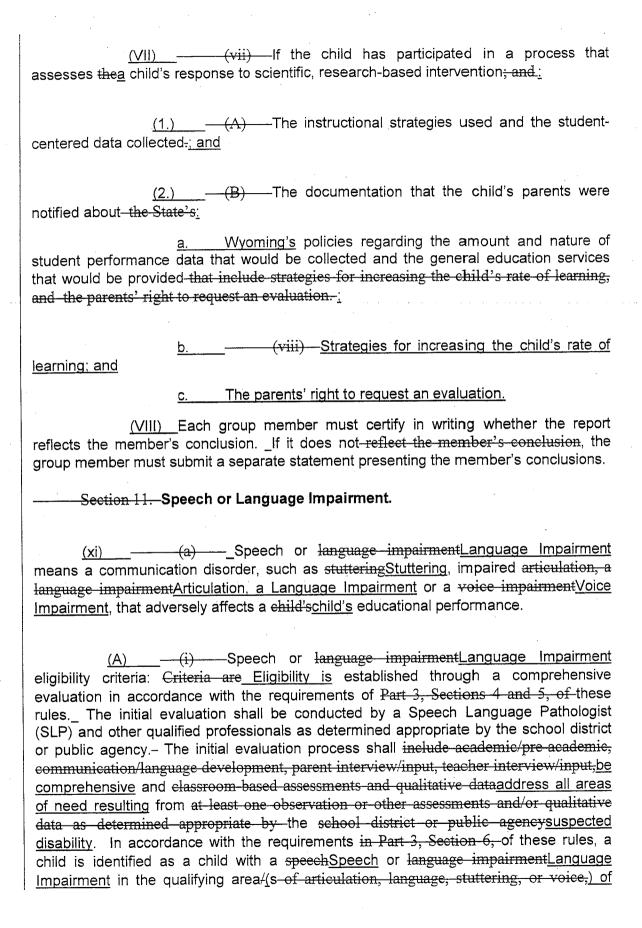


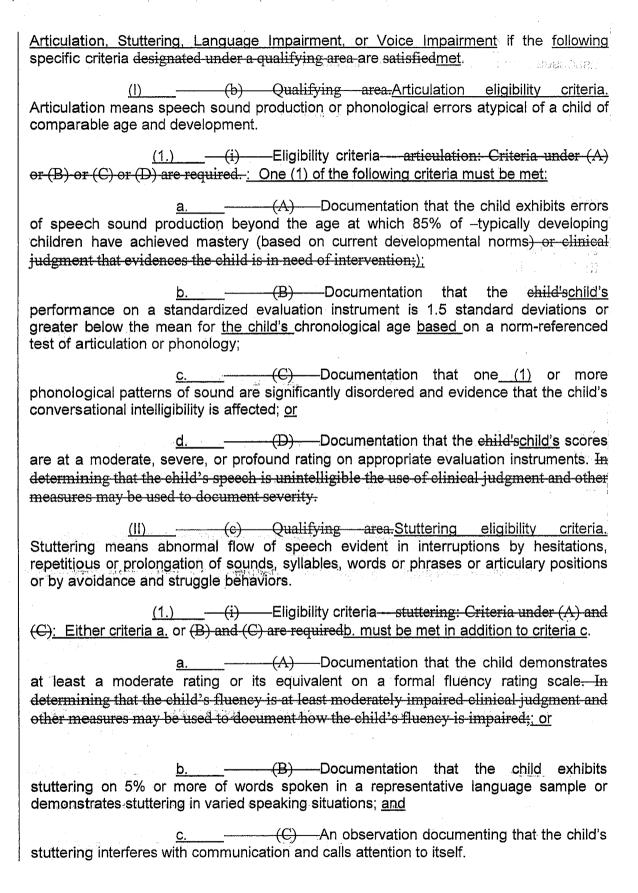
	(1.) Oral expression, listening;
	(2.) <u>Listening</u> comprehension, written:
	(3.) Written expression, basic:
	(4.) Basic reading skill, reading:
	(5.) Reading fluency skills, reading:
	(6.) Reading comprehension, mathematics;
	(7.) Mathematics calculation, or mathematics:
	(8.) Mathematics problem solving. The group can make this ough the procedures described in subparagraphs (A) or (B) under this
subsection.; and	
progress to mee more of the areas process based Consistent with determination th	(A) Response to scientific research based group may determine that the child The child does not make sufficient age or State approved Wyoming grade-level standards in one (1) or identified in subsection (c)(i) of this Sectionabove areas when using a on the child's response to scientific, research-based intervention evaluation requirements in these rules, the group must document the at the child has a specific learning disability that complies with a child based intervention; and
these rules unless	(I) In addition, the school district or publication to the timeframes described in Part 3, Section 4, subsection (c), of sextended by mutual written agreement of the child's parents and a team essionals, as described in subsection (b) of this Section; or
the Wyoming Se determining whe grade-level stand	(B) Wyoming severe discrepancy. The group shall use either evere Discrepancy Formula or a response to intervention process when ther a child is not making sufficient progress to meet age or Wyoming dards.
determine that the achievement, ordemonstrates achievement leverage these rules. Exchild's composite to the identified Consistent with	Wyoming Severe Discrepancy Formula: The group may ne child exhibits a pattern of strengths and weaknesses in performance r both, relative to age, State-approved grade level standards a severe discrepancy between current achievement level and expected el of at least 22 points upon an initial evaluation, utilizing Appendix A of spected achievement is based on the correlation between tests of the intellectual development, that is determined by the group to be relevantation of a specific learning disability using appropriate assessments evaluation requirements in standard score compared to the child's
composite achie	vement score in one (1) or more core achievement areas.

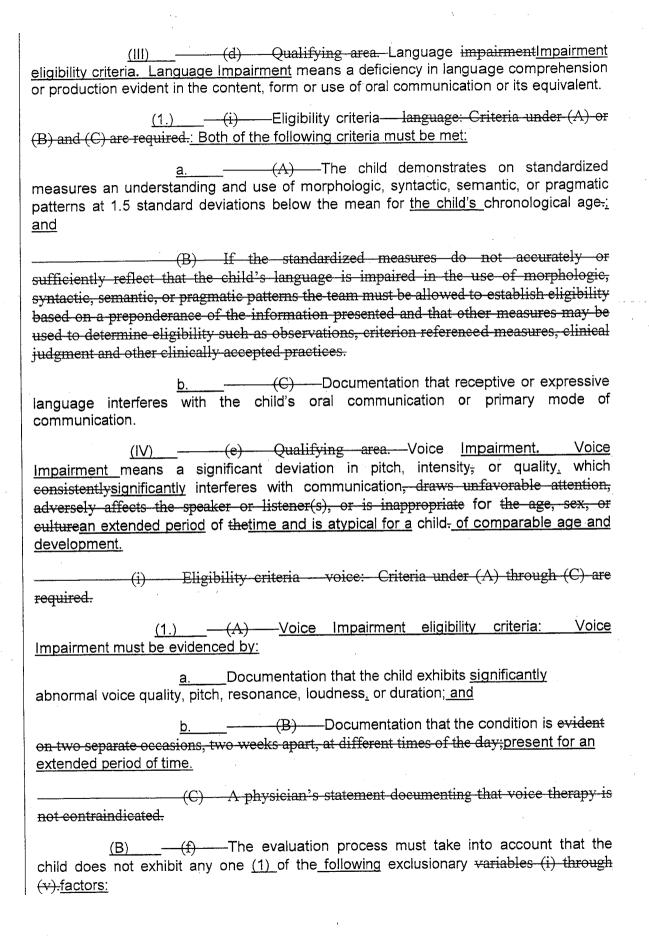


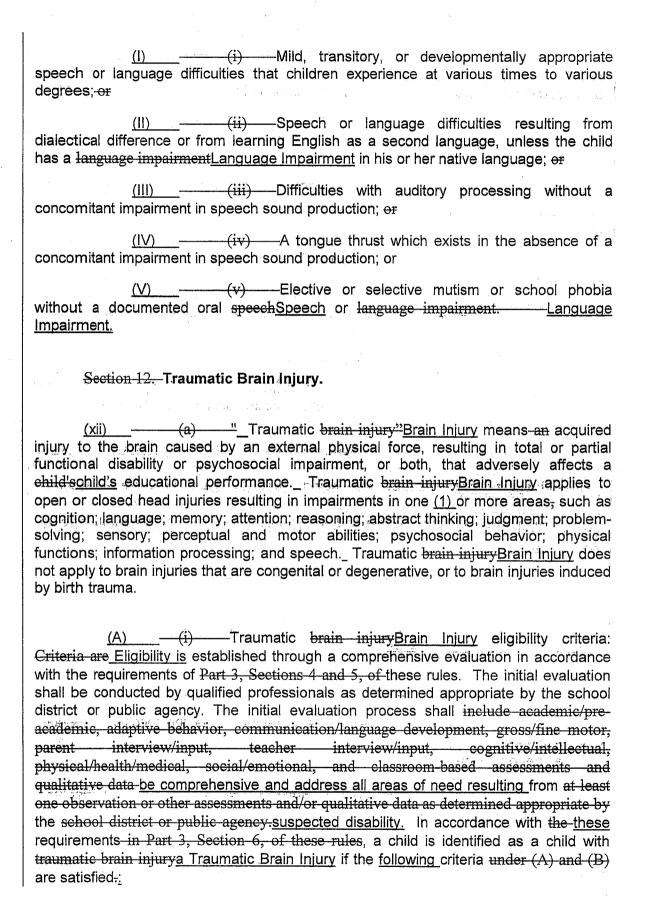


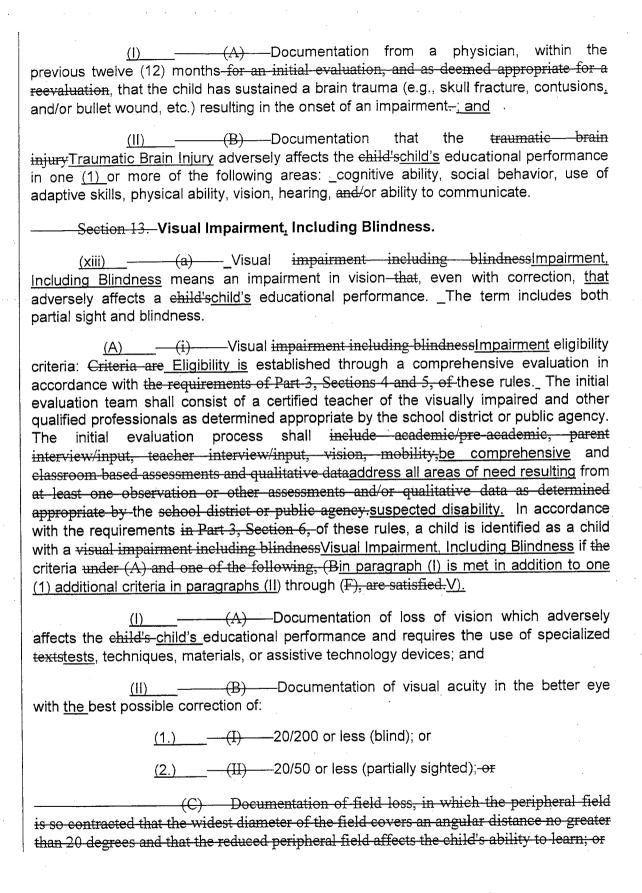
(ii) vynenever a child is referred for an evaluation.
(I) Specific documentation <u>required</u> for the eligibility determination <u>Consistent with 34 C.F.R. §300.311</u> , for a child suspected of having a specific learning <u>disability</u> , as required in Part 3, Section 6, of these rules <u>Specific Learning Disability</u> , the <u>documentation of the determination of eligibility</u> must <u>also</u> contain a statement of: <u>each</u>
of the following:
(I) — (i) Whether the child has a specific learning disabilitySpecific Learning Disability;
(II) ———————————————————————————————————
(III) (iii) Relevant The relevant behavior, if any noted, during the observation of the child and the relationship of that behavior to the child's child's academic functioning;
<u>(IV)</u> — <u>(iv) EducationallyThe educationally</u> relevant medical findings, if any;
(V) (v) Whether the:
(1.) The child does not achieve adequately for the child's age or to meet State approved Wyoming grade-level standards consistent with subsection (c)(i) of this Section; 34 C.F.R. §300.309(a)(1); and
(2.) (A) The child does not make sufficient progress to meet age or State approved Wyoming grade-level standards consistent with subsection (c)(i)(A); or 34 C.F.R. §300.309(a)(2)(i).
(B) The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State approved grade level standards or intellectual development consistent with subsection (c)(i)(B) of this Section.
(VI) (vi) The determination of the group concerning the effects of a visual, hearing, or motor disability; cognitive disability; emotional disability; cultural factors; environmental or economic disadvantage; or limited English Proficiency on the child's achievement level; and.



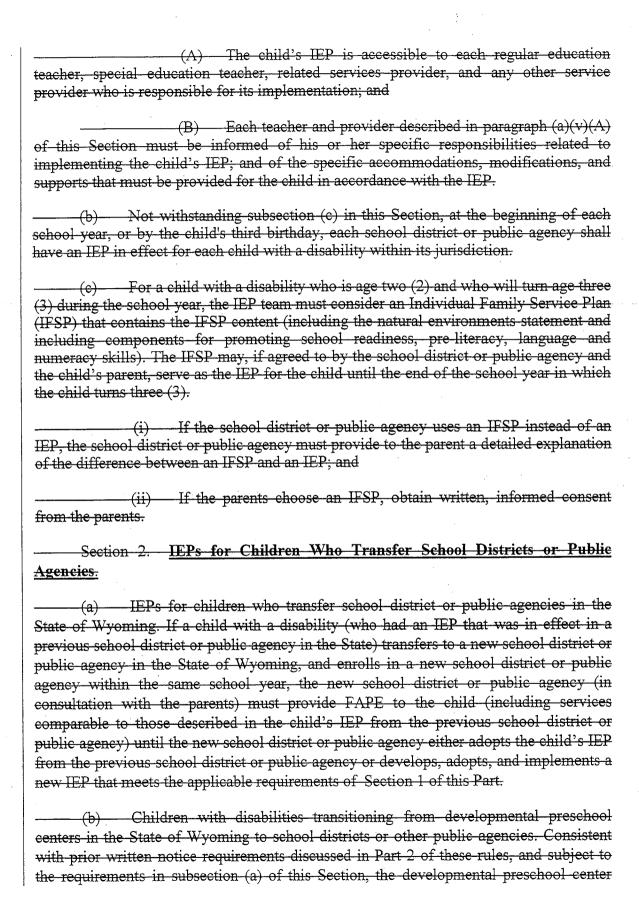


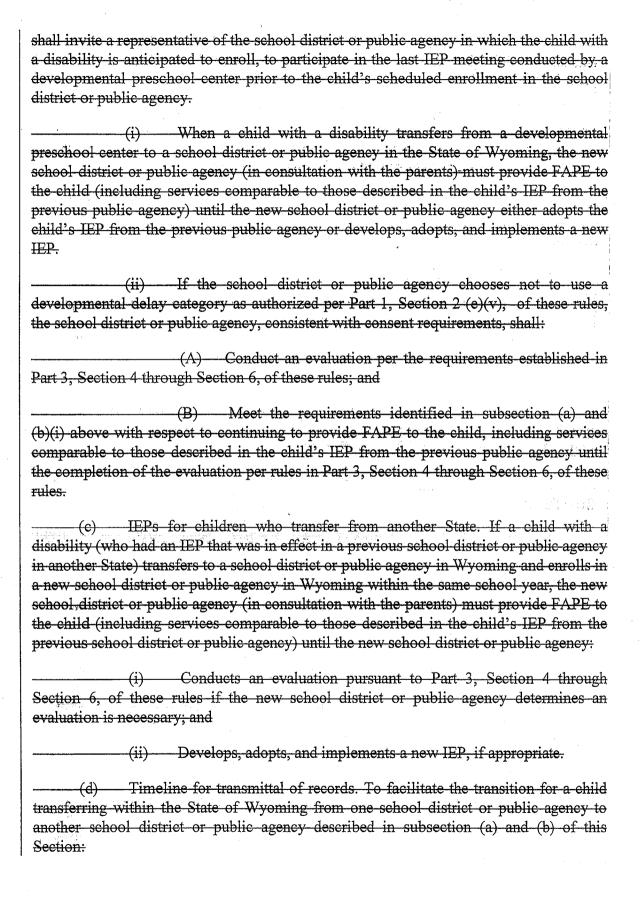


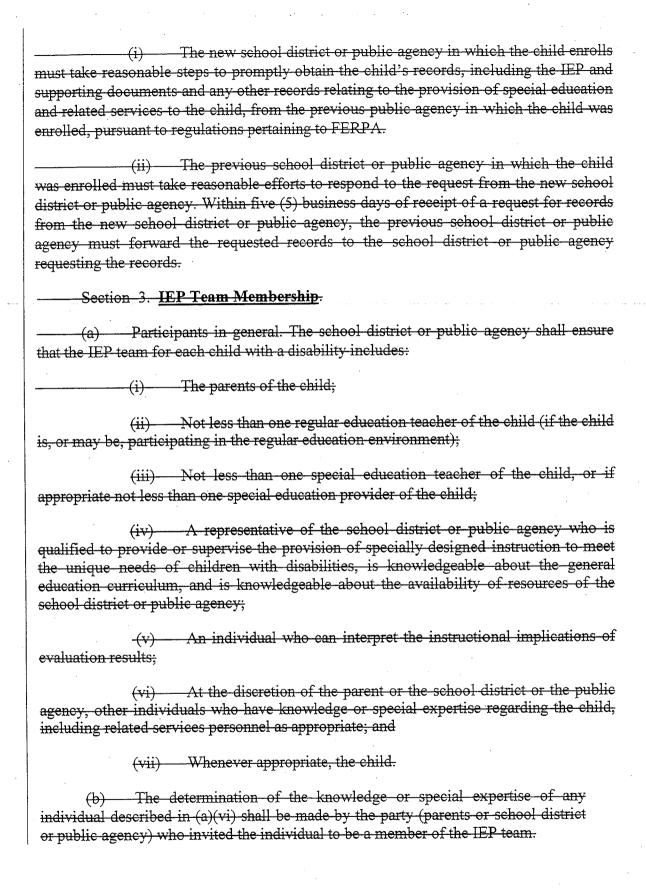




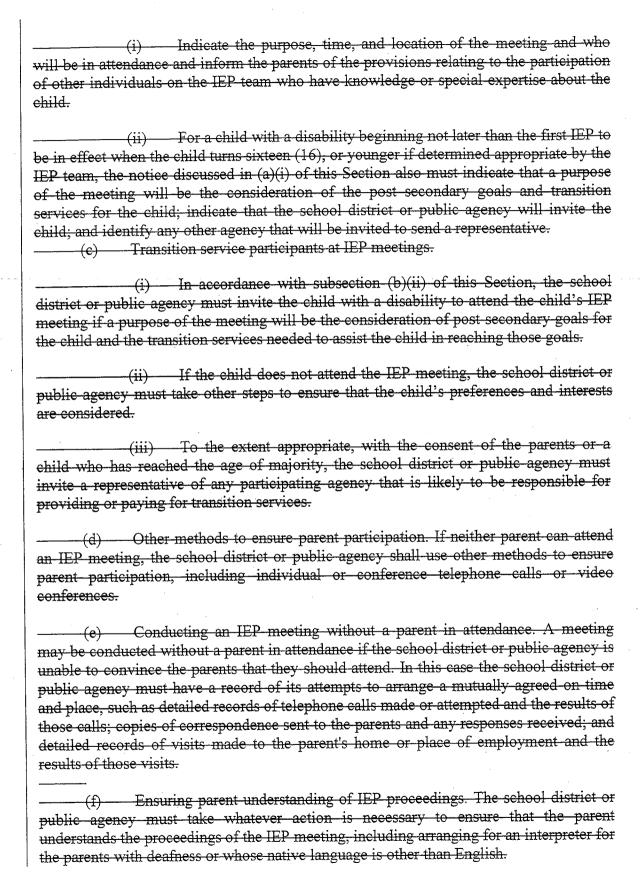
(III) Documentation of reduced visual field to 20
degrees or less in the better eye;
(IV) Documentation of a progressive loss of vision which may, in the future, affect the ehild'schild's ability to learn; or
(E) Documentation of blindness resulting from an active
disease process; or
$\underline{(V)}$ ————————————————————————————————————
PART 5
THE IEP PROCESS
Section 5. Section 1. General Provisions - IndividualizedSpecial
Education Programs (IEP). Process.
(a) General. The term Individualized Education Program (IEP) means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with these rules. (i) Initial IEPs; provision of services. Each school district or public agency is responsible for initiating and conducting meetings for the purpose of developing, reviewing, and revising the IEP of a child with a disability and must ensure that a meeting to develop an IEP for the child is conducted within thirty (30) days of a determination that a child is a child with a disability and needs special education and related services; and (ii) As soon as possible following the development of the IEP, special
education and related services are made available to the child in accordance with the child's IEP.
(iii) A meeting does not include informal, unscheduled conversations regarding teaching methodology, lesson plans, service coordination, or preparatory activities to develop proposals for a later meeting.
(iv) Parent access to the IEP. The school district or public agency shall give the parent a copy of the child's IEP at no cost to the parent.
(v) Accessibility of the child's IEP to teachers and others. The school district or public agency must ensure that:

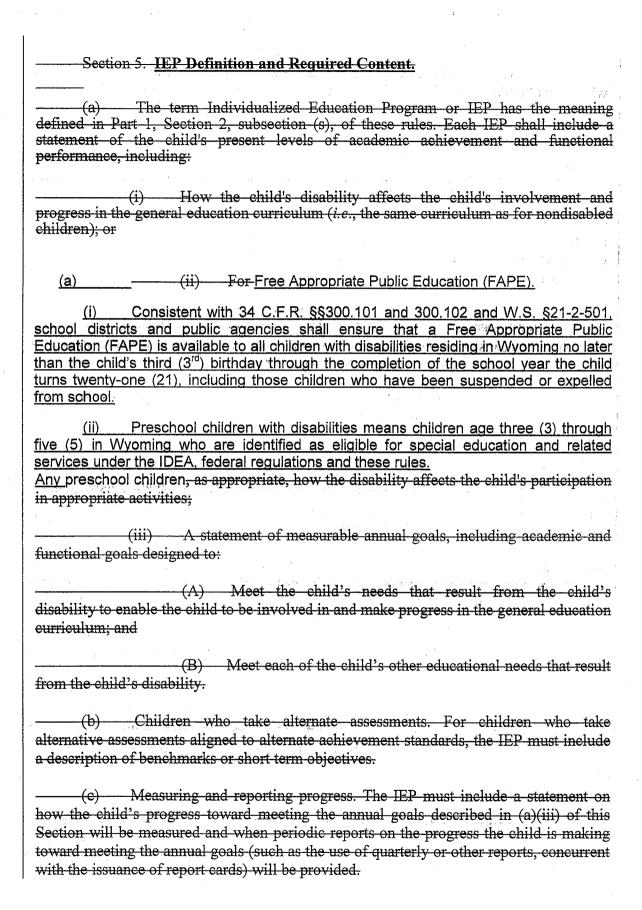


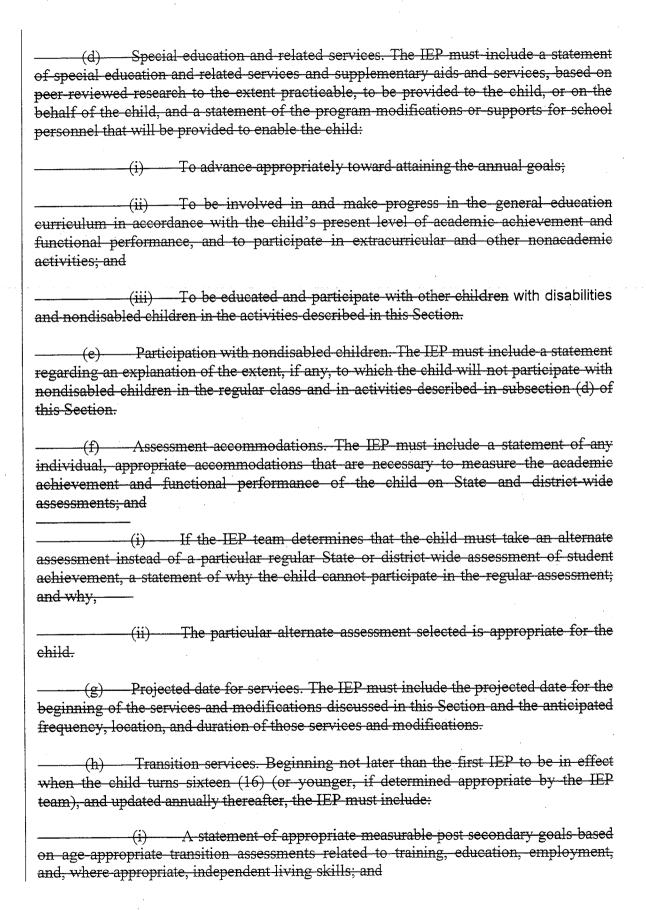


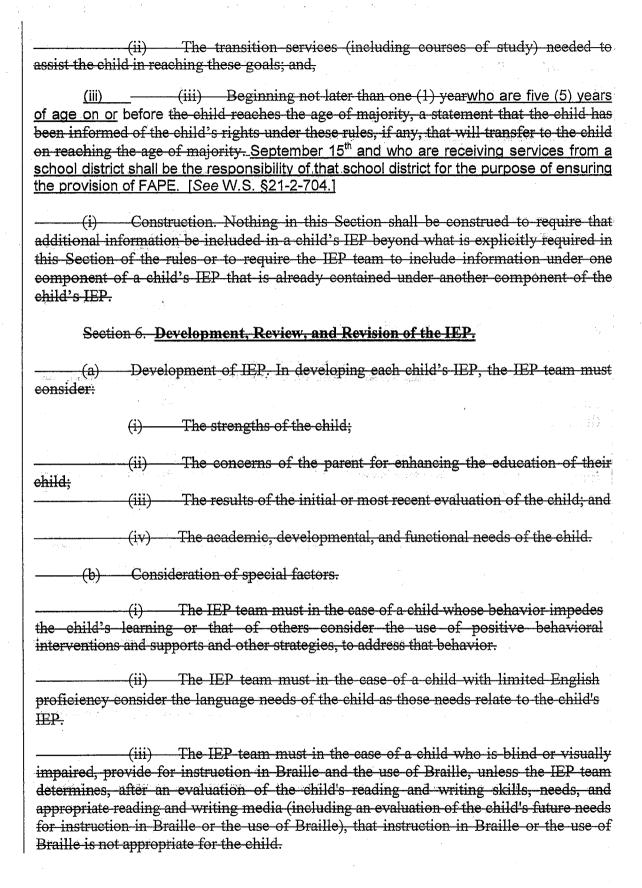


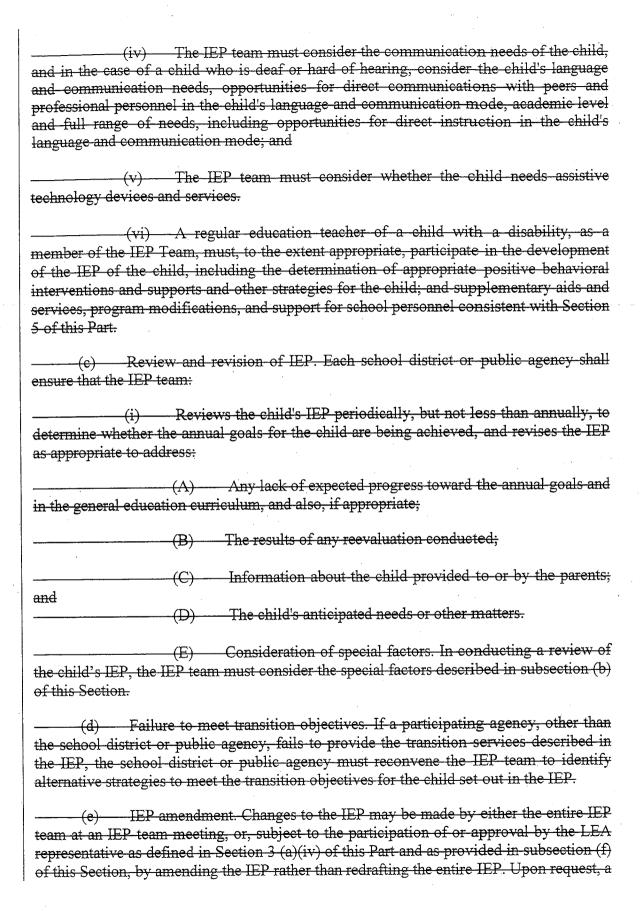
(c) A school district or public agency may designate a member of the IEP
team to serve also as the school district or public agency representative if the criteria
in (a)(iv) are satisfied.
(d) IEP team attendance.
(i) A member of the IEP team described in subsections (a)(ii) through
(a)(v) of this Section is not required to attend an IEP meeting, in whole or in part, if the
parent of a child with a disability and the school district or public agency agree in writing
that the attendance of the member is not necessary because the member's area of the
curriculum or related service is not being modified or discussed in the meeting.
(ii) A member of the IEP team described in subsection (d)(i) of this
Section may be excused from attending the IEP meeting, in whole or in part, when the
meeting involves a modification to or a discussion of the member's area of the
curriculum or related services if the parent, in writing, and the school district or public
agency consent to the excusal; and
(iii) The member submits, in writing to the parent and the IEP team,
input into the development of the IEP prior to the meeting.
(e) IEP requirement with respect to regular education teacher. A regular
education teacher of a child with a disability, as a member of the IEP team, must, to the
extent appropriate, participate in the development, the review, and the revision of the IEP
of the child, including the determination of:
(i) Appropriate, positive behavioral interventions and supports and
other strategies for the child; and
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(ii) Supplementary aids and services, program modifications, and
support for school personnel.
, and the same of
Section 4. Parent Participation in IEP Meetings and Child and Other Agency
Participation in Transition IEP Meetings.
(a) Public agency responsibility. Each school district or public agency shall
take steps to ensure that one or both of the parents of a child with a disability are present
at each IEP meeting or are afforded the opportunity to participate, including:
11· , · · · · · · · · · · · · · · · · ·
(i) Notifying parents of the meeting early enough to ensure that
they will have an opportunity to attend;
(ii) Scheduling the meeting at a mutually agreed time and place.
(b) Information to parents about the meeting. The notice required under (a)
(i) of this Section must:



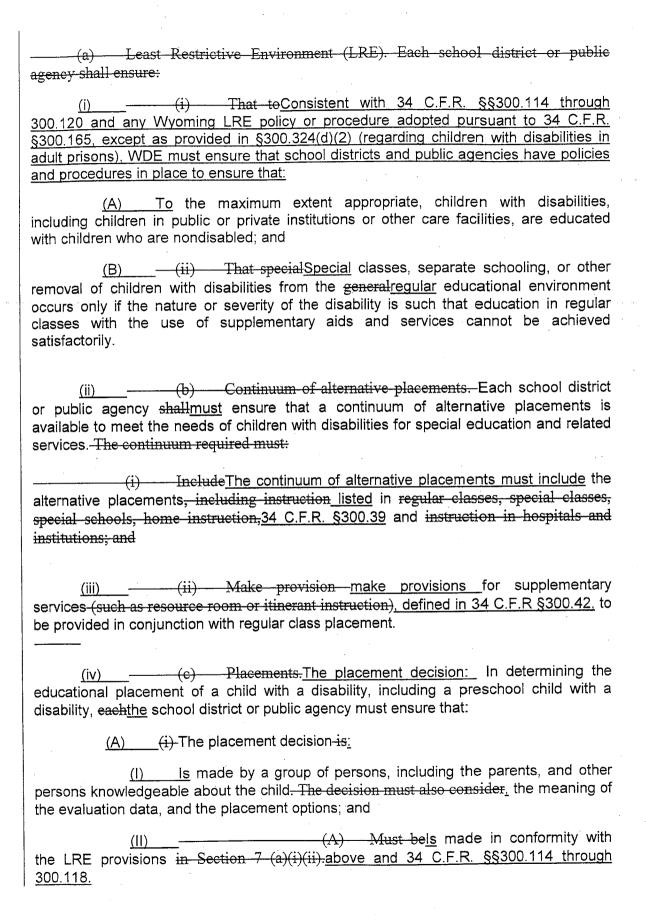


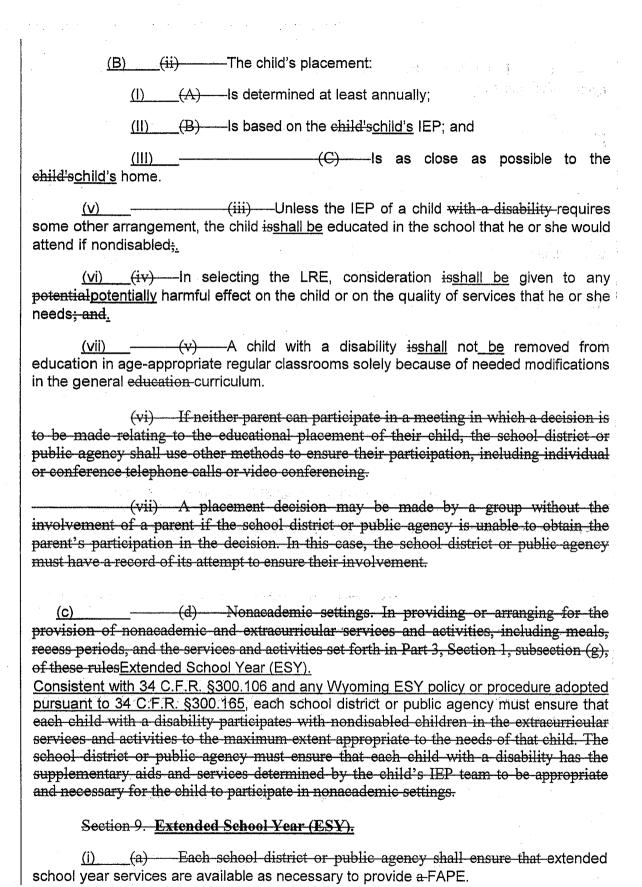






incorporated.	
——————————————————————————————————————	
(1) Timenament agreement.	
(i) In making changes to a child's IEP after the	annual IEP team
meeting for a school year, the parent of a child with a disability and the	
public agency may agree not to convene an IEP team meeting for the pu	
those changes; and instead may, with participation of or approval by the	school district or
public agency representative as defined in Section 3 (a)(iv) of this Part,	develop a written
document to amend or modify the child's current IEP.	_
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(ii) If changes are made to a child's IEP in acc	
provisions of this subsection, the public agency must ensure that the cliniforms of a fellower share and a fellower share a share and a fellower share a share	alid's IEP team is
informed of those changes.	
(g) Consolidation of the IEP meetings. To the extent pos-	scible the school
district or public agency must encourage the consolidation of reevalua	tion meetings for
the child and other IEP team meetings for the child.	mon moonings for
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Section 7. Children with Disabilities in Adult Prisons.	
(a) The following requirements do not apply to children wit	h disabilities who
are convicted as adults under Wyoming State law and incarcerated in ad	ult prisons:
	0 .1.11
(i) Requirements pertaining to participation of	children with
disabilities in general assessments;	
(ii) Requirements relating to transition planning	and transition
services do not apply with respect to the children whose eligibility wi	11 and because of
their age before they will be released from prison based on consi	deration of their
sentence and eligibility for early release.	deration of their
being the transfer of the tran	
(b) Modifications of IEP or placement for incarcerated stude	n ts.
(i) The IEP Team of a child with a disability who i	s convicted as an
adult under Wyoming State law and incarcerated in an adult prison	
child's IEP or placement if the State has demonstrated a bona fide se	eurity-compelling
penological interest that cannot otherwise be accommodated.	
(ii) The requirements relating to least restricti	ve environment
transition services, and planning and participation in general assessment	
with respect to children with disabilities incarcerated in adult prisons.	and not apply
(b) <u>Section 8. Placement and Least Restrictive Environment</u>	IL (LKE).



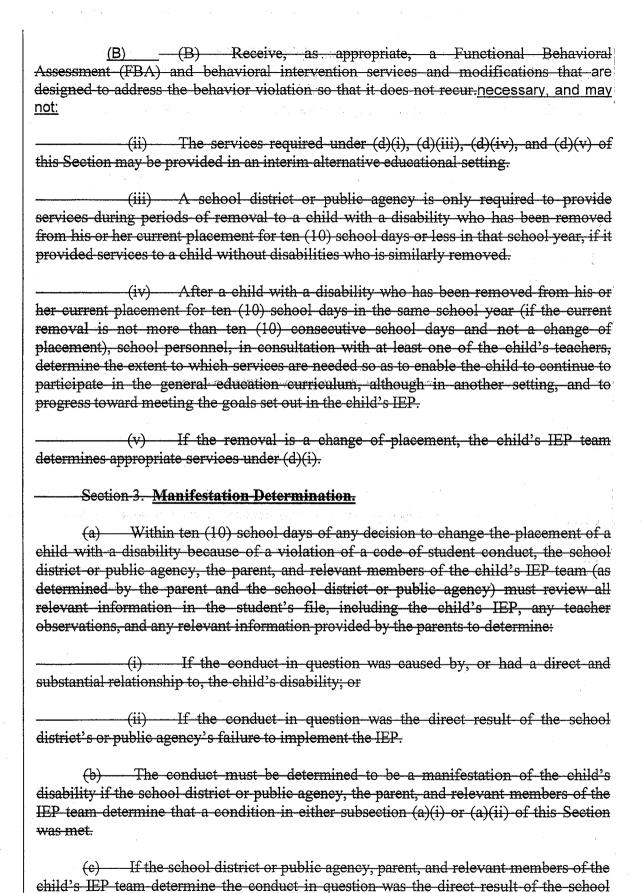


(b) Extended school year services must be provided only if a child's IEP team determines, on an individual basis, that the services are necessary for the provision of a FAPE to the child.
(e) In implementing these requirements, a school district or public agency may not:
(i) Limit extended school year services to particular categories of disability; or
(ii) Unilaterally limit the type, amount, or duration of those services.
(A) Extended school year services mean ESY services means special education and related services that:
(I)Are provided to a child with a disability-beyond:
(1.) Beyond the normal school year of the school district or public agency:
(2.) — (A) —In accordance with the <u>child'schild's</u> IEP; and
(3.) At no cost to the parent parents of the child; and
(II)(C)Meet the standards of the WDE.Wyoming.

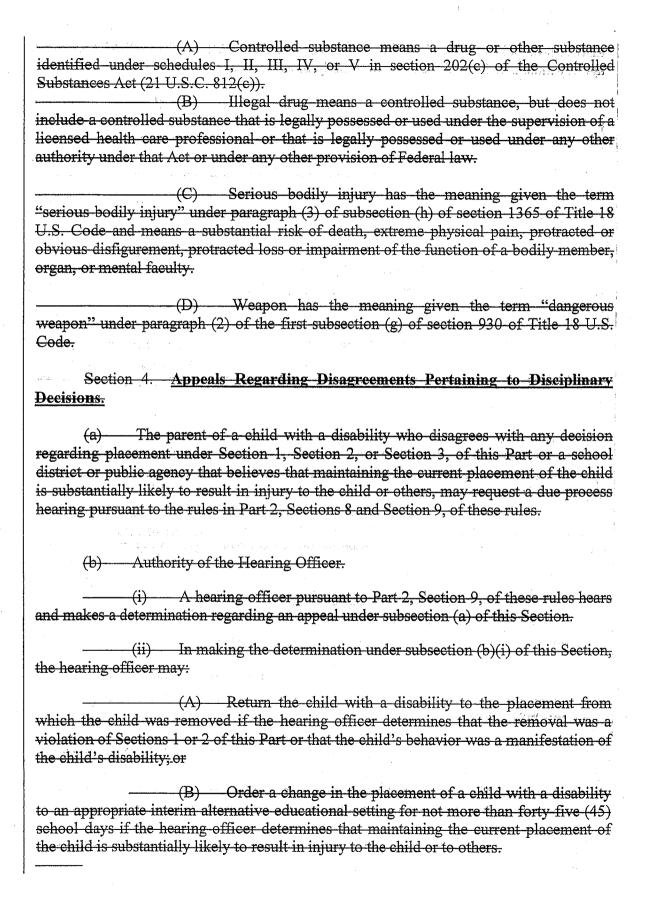
PART 6 DISCIPLINE PROCEDURES FOR CHILDREN WITH DISABILITIES

Section 1. Change of Placement for Disciplinary Removals.
(a) For purposes of removals of a child with a disability from the child's current educational placement, a change of placement occurs if:
(i) The removal is for more than ten (10) consecutive school days; or
(ii) The child has been subjected to a series of removals that constitute
a pattern;
(Λ) Because the series of removals total more than ten (10) school days in a school year;
(B) Because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and
(C) Because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.
(b) The school district or public agency determines on a case-by-case basis whether a pattern of removals constitutes a change of placement. This determination is subject to review through due process and judicial proceedings.
(c) Disciplinary information. A school district or public agency shall include in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child and transmit the statement to the same extent that the disciplinary information is included in, and transmitted with, the student records of nondisabled children.
(i) The statement may include a description of any behavior engaged in by the child that required disciplinary action, a description of the disciplinary action taken, and any other information that is relevant to the safety of the child and other individuals involved with the child.
(ii) If the child transfers from one school to another, the transmission of any of the child's records must include both the child's IEP and any statement of current or previous disciplinary action that has been taken against the child.
Section 2. Authority of School Personnel.

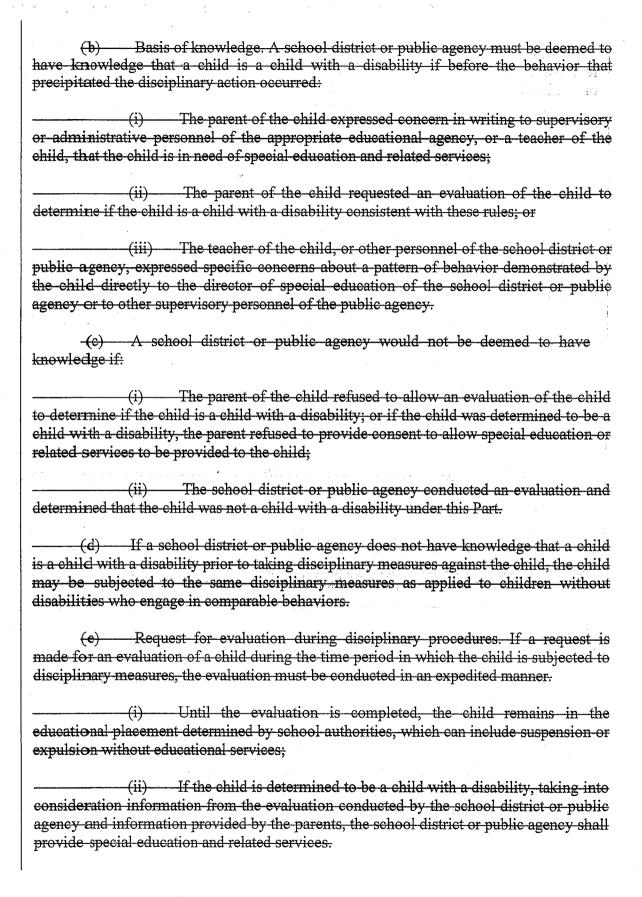
(a) Case by case determination. School district or public agency personnel may consider any unique circumstances on a case by case basis when determining whether a change in placement, consistent with the other requirements of this Section, is appropriate for a child with a disability who violates a code of student conduct.
(b) General.
(i) School personnel under this Section may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than ten (10) consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than ten (10) consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement).
(ii) After a child with a disability has been removed from his or her current placement for ten (10) school days in the same school year, during any subsequent days of removal the school district or public agency must provide ESY services to the extent required under subsection (d) of this Section.
(iii) Determination of Setting. The must be provided only if a child's IEP team determines—, on an individual basis, that the interim alternative educational setting for services.
(c) Additional authority. For disciplinary changes in placement that would exceed ten (10) consecutive school days, if are necessary for the behavior that gave rise provision of FAPE to the violation of the school code is determined not to be a manifestation of the child's disability pursuant to child. In implementing the requirements of this section, school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities except as provided in subsection (d) of this Section.
(d) Services for children when behavior is not a manifestation of the disability.
(i) A child with a disability who is removed from the child's current placement pursuant to subsections (c) of this Section, or pursuant to Section 3, subsection (e) of this Part, must:
(A) Continue to be provided educational the school district or public agency must consider a multi-factor approach in determining whether ESY services so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and



agency must take immediate steps to remedy those deficiencies.
(d) Determination that behavior was a manifestation. If the school district or public agency, the parent, and relevant members of the IEP team make the determination that the conduct was a manifestation of the child's disability, the IEP team must:
(i) Either conduct a Functional Behavioral Assessment (FBA), unless the school district or public agency conducted a FBA before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or
(ii) If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior; and
(iii) Except as provided in subsection (e) of this Section, return the child to the placement from which the child was removed, unless the parent and the school district or public agency agree to a change in placement as part of the modification of the behavioral intervention plan.
(e) Special circumstances. School personnel may remove a student to an interim alternative educational setting for not more than forty five (45) school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child:
(i) Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of a school district or public agency; or
(ii) Knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of a school district or public agency; or
(iii) Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of a school district or public agency.
(f). Notification. On the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of student conduct, the school district or public agency must notify the parents of that decision and provide the parents the procedural safeguards notice.
(i) Definitions. For purposes of this Section, the following definitions



repeated if the school district or public agency believes that returning the child to the
original placement is substantially likely to result in injury to the child or to others.
——————————————————————————————————————
Expedited due process neumig.
(i) Whenever a hearing is requested under this Part, the parents or the
school district or public agency involved in the dispute must have the opportunity for an
impartial due process hearing as described in Part 2, Sections 8 and 9, of these rules,
except as provided in this subsection.
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(A) The WDE and school district or public agency must
arrange for an expedited due process hearing, which must occur within twenty (20)
school days of the date the hearing is filed. The hearing officer must make a
determination within ten (10) school days after the hearing.
(B) Unless the parents and school district or public agency
agree in writing to waive the resolution meeting or agree to use the mediation process
discussed in Part 2 of these rules:
(I) A resolution meeting must occur within seven (7)
days of receiving notice of the request for a due process hearing; and
(II) The due process hearing may proceed unless the
matter has been resolved to the satisfaction of both parties within fifteen (15) days of the
receipt of the request for a due process hearing.
(e) Placement during appeals. When an appeal has been made under this Part
by either the parent or the school district or public agency, the child must remain in the
interim alternative educational setting pending the decision of the hearing officer, or until
the expiration of the time period for placement in an interim alternative educational
setting, or until the time period for the disciplinary action specified in Section 2 (c) of this
Part expires, whichever occurs first, unless the parent and the school district or public
agency agree otherwise.
Section 5. Protections for Children not yet Eligible for Special Education and
Related Services.
(a) A child who has not been determined to be eligible for special education
and related services and who has engaged in behavior that violated a code of student
conduct of the school district or public agency may assert any of the protections provided
for if the school district or public agency had knowledge (in accordance with subsection
(b) of this Section) that the child was a child with a disability before the behavior that
precipitated the disciplinary action occurred.



Section 6. Referral to and Action by Law Enforcement and Judicial Authorities.

- (a) Nothing in these rules prohibits a school district or public agency from reporting a crime committed by a child with a disability to appropriate authorities or to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.
- (b) Transmittal of records. A school district or public agency reporting a crime committed by a child with a disability shall ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom it reports the crime.

PART 7 CHILDREN WITH DISABILITIES IN PRIVATE SCHOOLS

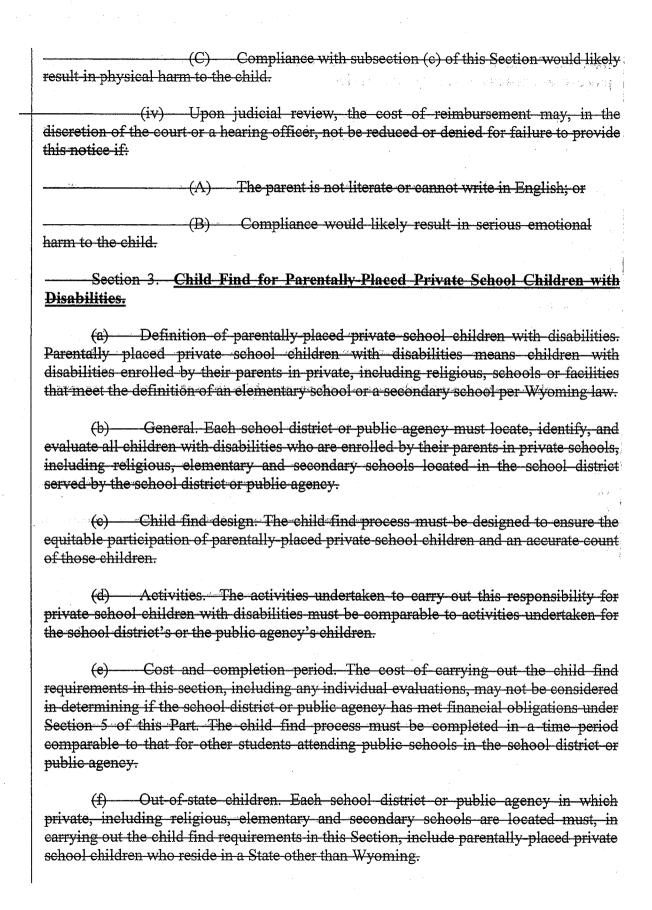
Section 1. Private School Placements by Public Agencies.
(a) Developing IEPs. Before a school-district or public agency places a child with a disability in, or refers a child to, a private school or facility, the school district or public agency shall initiate and conduct a meeting to develop an IEP for the child.
(b) The school district or public agency shall ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the school district or public agency shall use other methods to ensure participation by the private school or facility, including individual or conference telephone calls or video conferencing.
(c) Reviewing and revising IEPs. After a child with a disability enters a private school or facility, any meetings to review and to revise the child's IEP may be initiated and conducted by the private school or facility at the discretion of the school district or public agency:
——————————————————————————————————————
(A) Are involved in any decision about the child's IEP and agree to any proposed changes in the IEP before those changes are implemented.
(d) Responsibility. Even if a private school or facility implements a child's IEP, responsibility for compliance with this Part remains with the school district or public agency and the WDE.
Section 2. Placement of Children by Parents if FAPE is at Issue.
(a) General.
(i) The school district or public agency is not required to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if the school district or public agency made FAPE available to the child and the parents elected to place the child in a private school or facility. However, the school district or public agency must include that child in the population whose needs are addressed consistent with these rules in this Part.
(ii) Disagreements about FAPE. Disagreements between the parents and a school district or public agency regarding the availability of a program appropriate

for a child and the question of financial reimbursement are subject to due process procedures pursuant to Part 2 of these rules. Reimbursement for private school placement. If the parents of a child with a disability, who previously received special education and related services under the authority of a school district or public agency, enroll the child in a private preschool, elementary or secondary school without the consent of or referral by the school district or public agency, a court or a hearing officer may require the school district or public agency to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the school district or public agency had not made FAPE available to the child in a timely manner prior to that enrollment and that the private placement is appropriate. A parental placement may be found to be appropriate by a hearing officer or a court even if it does not meet the State standards that apply to education provided by the school districts or public agencies. (c) Limitation on reimbursement. The cost of reimbursement may be reduced or denied if at the most recent IEP meeting that the parents attended prior to removal of the child from the school district or public agency, the parents did not inform the IEP team that they were rejecting the placement proposed by the school district or public agency to provide FAPE to their child, including stating their concerns and intent to enroll their child in a private school at public expense; or At least ten (10) business days (including any holidays that occur on a business day) prior to the removal of the child from the school district or public agency, the parents did not give written notice to the school district or public agency of their intent to reject the placement proposed by the school district or public agency and their intent to enroll their child in a private school; or (ii) If, prior to the parents' removal of the child from the school district or public agency, the school-district or public agency informed the parents, through the notice requirements of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for the evaluation; or upon a judicial finding of unreasonableness with respect to actions taken by the parents. -(iii) Not withstanding this notice requirement of subsection (c)(i) of this Section, the cost of reimbursement must not be reduced or denied for failure to provide the notice if:

explaining the written notice requirement included in subsection (c)(i) of this Section;

(A) The school prevented the parents from providing notice; or

The parents had not received the procedural safeguards

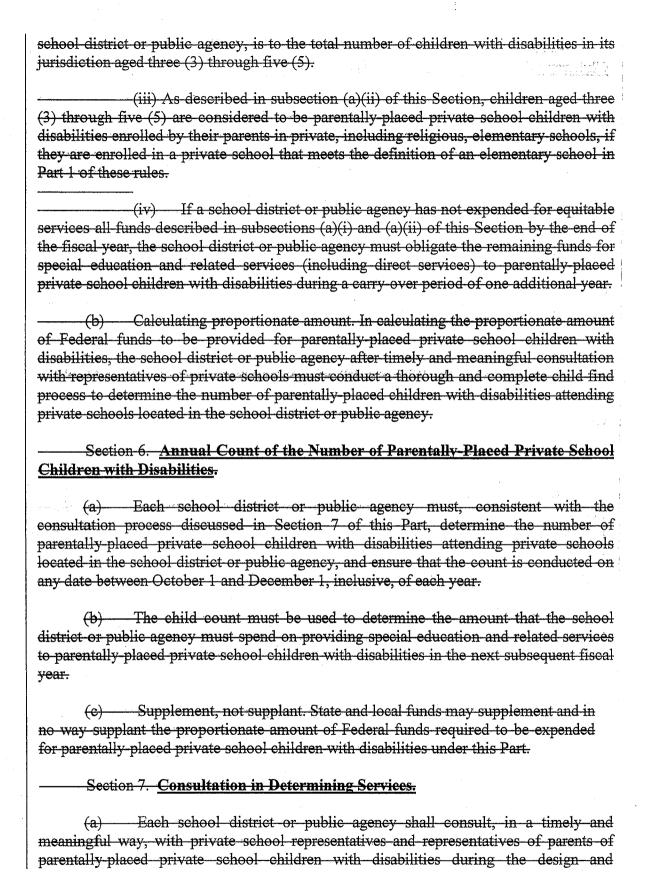


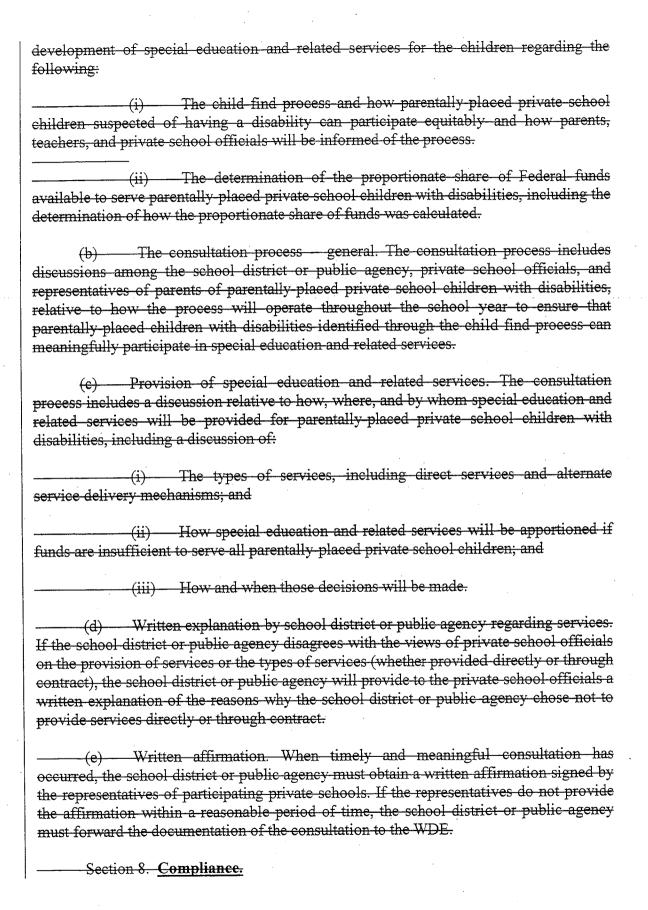
Section 4. <u>Provision of Services for Parentally-Placed Private School</u> Children with Disabilities Basic Requirements.

- (a) To the extent consistent with the number and location of children with disabilities who are enrolled by their parents in private, including religious, elementary and secondary schools located in the school district served by the school district or public agency, provisions must be made for the participation of those children with disabilities in the program assisted or carried out under Part B of IDEA 04, by providing them with special education and related services, including direct services determined in accordance with Sections 9 and 10 of this Part.
- (b) Services plan for parentally-placed private school children with disabilities. A services plan consistent with the requirements of this Part must be developed and implemented for each private school child with a disability who has been designated by the school district or public agency in which the private school is located to receive special education and related services under this Part.
- (c) Record keeping. The school district or public agency must maintain records, and provide to the WDE the following information related to parentally placed private school children with disabilities: the number of children evaluated, the number of children determined to be children with disabilities, and the number of children served.

Section 5. Expenditures.

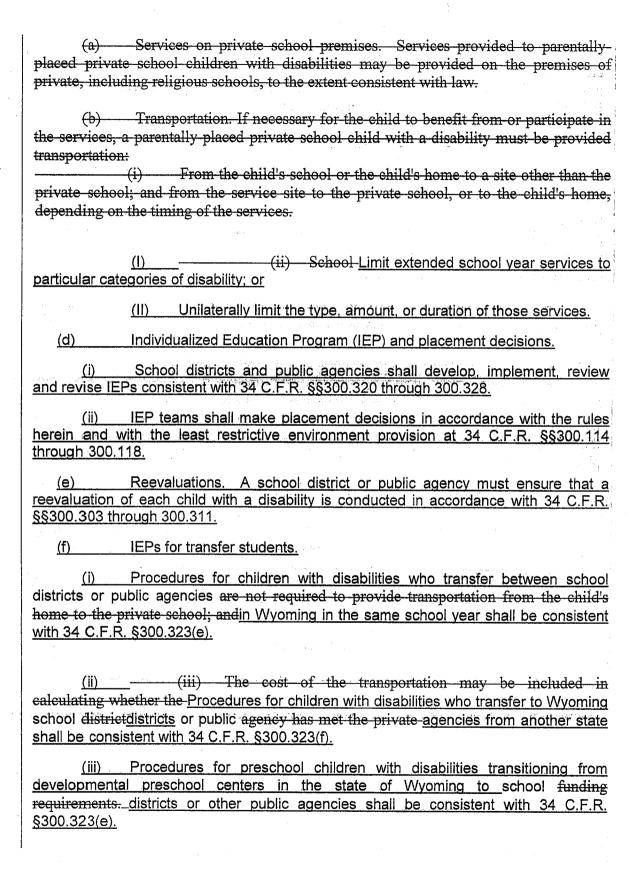
- (a) Formula. To meet the requirements of this Part, each school district or public agency must spend the following on providing special education and related services (including direct services) to parentally placed private school children with disabilities:
- (i) For children aged three (3) through the completion of the school year the child turns twenty one (21), an amount that is the same proportion of the school district's or public agency's total subgrant under Section 611(f) of Part B of IDEA 04 as the number of private school children with disabilities aged three (3) through the completion of the school year the child turns twenty one (21) who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the school district or public agency, is to the total number of children with disabilities in its jurisdiction aged three (3) through the completion of the school year the child turns twenty one (21).
- (ii) For children aged three (3) through five (5), an amount that is the same proportion of the school district's or public agency's total subgrant under Section 619(g) of Part B of IDEA 04 as the number of parentally placed private school children with disabilities aged three (3) through five (5) who are enrolled by their parents in a private, including religious, elementary school located in the school district served by the

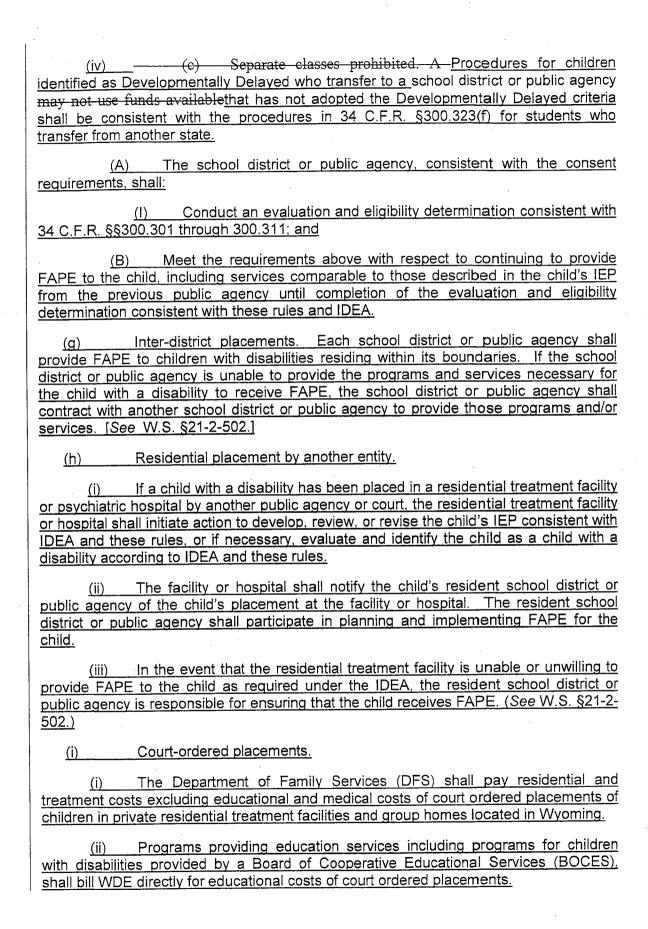




(a) General. A private school official has the right to submit a complaint to the WDE that the school district or public agency:
(i) Did not engage in consultation that was meaningful and timely; or
(ii) Did not give due consideration to the views of the private school official.
(b) Procedure.
(i) If the private school official wishes to submit a complaint, the official must provide the WDE the basis of the noncompliance by the school district or public agency with the applicable private school provisions in this Part; and
(ii) The school district or public agency must forward the appropriate documentation to the WDE.
(iii) If the private school official is dissatisfied with the decision of the WDE, the official may submit a complaint to the Secretary of Education by providing the information on noncompliance described in (b)(i) of this Section, and the WDE must forward the appropriate documentation to the Secretary of Education.
Section 9. Equitable Services Determined.
(a) No individual right to special education and related services. No parentally-placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school.
(i) Decisions about the services that will be provided to parentally placed private school children with disabilities must be made in accordance with the service plan discussed in subsection (b) of this Section.
(ii) Decisions. The school district or public agency shall make the final decisions with respect to the services to be provided to eligible parentally placed private school children with disabilities.
(b) Services Plan. If a child with a disability is enrolled in a religious or other private school by the child's parents and will receive special education or related services from a school district or public agency, the school district or public agency must:
monit a solicor district or public agency, and solicor district or public agency mass.

(ii) Ensure that a representative of the religious or other private school attends each meeting. If the representative cannot attend, the school district or public agency shall use other methods to ensure participation by the private school, including individual or conference calls or video conferencing.
Section 10. Equitable Services Provided.
(a) The services provided to parentally placed private school children with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public schools except that private elementary school and secondary school teachers who are providing equitable services to parentally placed private school children with disabilities do not have to meet the highly qualified teacher requirements discussed in Part 1 of these rules.
(b) Parentally-placed private school children with disabilities may receive a different amount of services than children with disabilities in public schools.
(c) Services provided in accordance with service plan. Each parentally placed private school child with a disability who has been designated to receive services must have a services plan that describes the specific special education and related services that the school district or public agency will provide to the child in light of the services that the school district or public agency has determined it will make available to parentally placed private school children with disabilities.
(d) The services plan must, to the extent appropriate:
(i) Meet the IEP content requirements as described in Part 5, Section 5, of these rules; or for preschool children aged three (3), meet the IEP or IFSP requirements discussed in Part 5, Section 1, subsection (c), of these rules with respect to the services provided; and
(ii) Be developed, reviewed, and revised consistent with IEP requirements described in Part 5, Section 6, of these rules.
(e) Provision of equitable services. The provision of services pursuant to this Section must be provided by employees of a school district or public agency or through contract by a school district or public agency with an individual, association, organization, agency, or other entity.
(f) Special education and related services provided to parentally placed private school children with disabilities, including materials and equipment, must be secular, neutral, and non-ideological.
Section 11. Location of Services and Transportation.



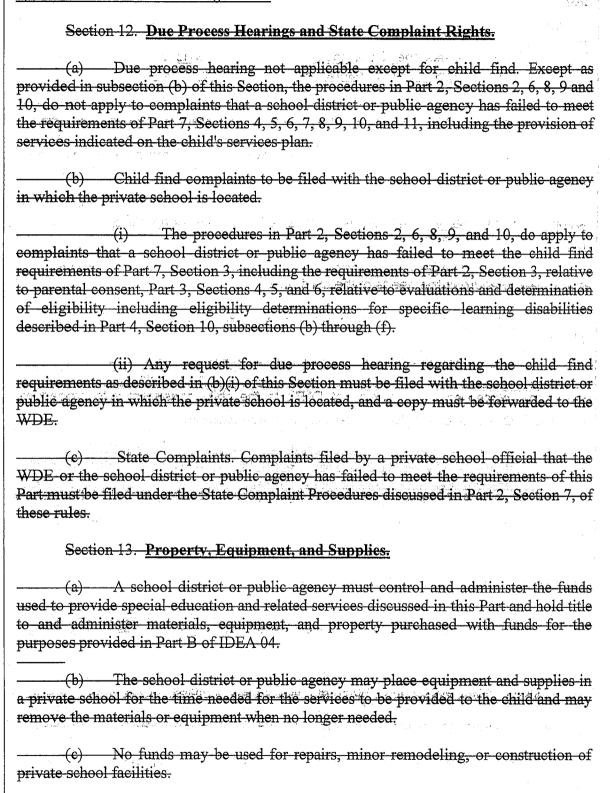


All costs billed to WDE under this section shall be in the manner and form. required by WDE, and consistent with W.S. §21-13-315 and Chapter 14 of WDE Rules and Regulations. Procedural Safeguards. Each school district or public agency shall implement procedural safeguards consistent with the requirements of 34 C.F.R. §§300.500 through 300.536, including dissemination of a procedural safeguards notice that meets the requirements of 34 C.F.R. §300.504. Parent participation and involvement. The parents of a child with a disability must be afforded an opportunity to participate in the special education process and examine educational records pursuant to 34 C.F.R. §300.501. Parental consent. The school district or public agency shall implement parental consent and the revocation of parental consent procedures consistent with 34 C.F.R. §§300.9 and 300.300 (including the 2008 Amendment and any subsequent amendments). Independent educational evaluation (IEE). Consistent with 34 C.F.R. §300.502 the parents of a child with a disability shall have the right to obtain an independent educational evaluation of the child. Prior written notice. Prior written notice shall be given to the parents of a child with a disability a reasonable time before the school district or public agency proposes to, or refuses to, initiate or change the identification, evaluation, educational placement of the child or the provision of FARE to the child consistent with 34 C.F.R. \$300.503. Discipline procedures. Discipline of a child with a disability shall be implemented consistent with the requirements of 34 C.F.R. §§300.530 through 300.536 and any Wyoming discipline policy or procedure adopted pursuant to 34 C.F.R. §300.165. Surrogate parents. The procedures for appointment of a surrogate parent shall comply with 34 C.F.R. §§300.30 and 300.519. Transfer of parental rights at age of majority. When a student reaches the age of 18, parental rights under the IDEA shall transfer to the student in accordance with 34 C.F.R. §§300.320(c) and 300.520. [See W.S. §14-1-101.] Unilateral private placements. Requirements for unilateral placement by parents of children with disabilities in private schools shall be consistent with 34 C.F.R. §§300,129 through 300,144 and §300,148. (i) Special education records. The school district or public agency must protect the confidentiality of student education records consistent with the Family Educational Rights and Privacy Act (FERPA) and its implementing regulations at 34 C.F.R. \$99, and consistent with the IDEA and 34 C.F.R. \$\$300.610 through 300.627.

Dispute Resolution. In compliance with 34 C.F.R. §§300.151, 300.506, Section 7. and 300.508, WDE shall ensure the adoption of dispute resolution policies and/or procedures pursuant to 34 C.F.R. §300.165. Mediation. In accordance with the procedures specified in 34 C.F.R. (a) 8300.506 WDE shall offer parties to disputes involving any matter arising under Part B of IDEA 04 for classes that the IDEA, including disputes arising prior to a due process hearing request, an opportunity to resolve the dispute through mediation. Wyoming state complaint procedures. In compliance with 34 C.F.R. §§300.151 through 300.153, WDE shall resolve any state complaint, including a complaint filed by an organization or individual from another state, that alleges a violation of Wyoming or Federal laws, and meets the requirements of the above referenced complaint provisions. In resolving a state complaint in which a failure to provide appropriate services has been found, WDE, pursuant to its general supervisory authority under Part B of the IDEA, shall address: The failure to provide appropriate services, including corrective action appropriate to address the needs of the child; and The appropriate future provision of services for all children with disabilities. Due process hearing procedures. A parent or public agency may file a due process complaint on any of the matters relating to the identification, evaluation, educational placement, or provision of FAPE to the child consistent with procedures outlined in 34 C.F.R. §§300.507 through 300.518 and 300.532. Child's status during proceedings. Except as provided in 34 C.F.R. §300.533 (regarding disciplinary removals), during the pendency of any administrative or judicial proceeding regarding a due process hearing, unless the Wyoming school district, or public agency and the parents of the child agree otherwise, the child that is the subject of the dispute must remain in his or her current educational placement consistent with 34 C.F.R. §300.518. Special Education Funding. Section 8. School district or pubic agency eligibility. School district or public agency Part B funding shall be implemented in accordance with 34 C.F.R. §§300.200 through 300.230 and any other applicable provisions. Compliance with applicable laws and regulations. Each school district or public agency shall adopt and implement appropriate policies, procedures, programs and services to ensure that children with disabilities who reside within the agency's educational jurisdiction, including children who are organized separately on the basis of school enrollment or religion of the children if the classes are at the same site, and the classes include children enrolled in public schools and children enrolled in private

schools or facilities such as residential treatment centers, day treatment centers,

hospitals, mental health institutions are identified and evaluated, and have access to FAPE in compliance with all applicable requirements of Wyoming laws and any applicable federal laws and regulations.



- (d) Use of public school personnel. The school district or public agency may use Federal funds under Part B of IDEA 04 to make public school personnel available in other than public facilities to serve parentally-placed private school children with disabilities if those services are not provided by the private school.
- _____(e) Use of private school personnel. A school district or public agency may use federal funds under Part B of IDEA 04 to pay for services of an employee of a private school to provide services to a parentally placed private school child with a disability if the employee performs the services outside of his or her regular hours of employment and the employee performs the services under public supervision and control.

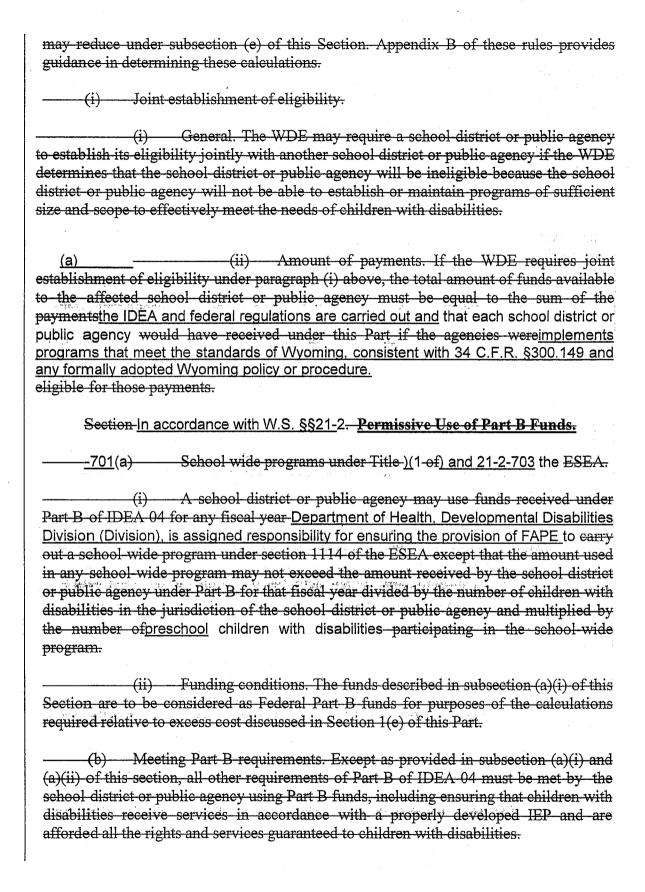
PART 8 SCHOOL DISTRICT OR PUBLIC AGENCY USE OF PART B FEDERAL FUNDS AND STATE ENFORCEMENT

Section 1. School District or Public Agency Eligibility for Federal Part B Funds. -Condition of assistance. A school district or public agency per procedures authorized in State law is eligible for Federal federal funding under Part B of the IDEA-04 for a fiscal year if the school district or public agency submits a plan that provides assurances to the WDE that the school district or public agency meets each of the conditions set forth in this Part:section and these rules. -Consistency with WDE policy. The school district or public agency, in providing for the education of children with disabilities within its jurisdiction. must have in effect policies, procedures, and programs that are consistent with WDE policies and procedures established to address these rules. Use of funds. Funds provided to the school district or public agency under Part B of IDEA 04 must be used to pay only the excess cost of providing special education and related services to children with disabilities and must be used to supplement and not supplant State and local funds consistent with subsection (b) of this Section. (b) Excess cost requirement. The excess cost requirement prevents a school district or public agency from using funds provided under Part B of IDEA 04 to pay all the costs directly attributable to the education of a child with a disability. A school district or public agency meets the excess cost requirement if it has spent at least the minimum average amount for the education of its children with disabilities before Part B funds are used. - Maintenance of effort. Except as provided for in sub-paragraphs (d) and (e) of this section, Federal funds provided to a school district or public agency under Part B of IDEA 04 must not be used to reduce the level of expenditures for the education of children with disabilities made by the school district or public agency from local funds below the level of those expenditures for the preceding year. Section 9. A school district or public agency that relies on local funds only for any fiscal year must General Supervision.

<u>Pursuant to its general supervisory responsibility, WDE shall</u> ensure that the amount of local funds it budgets for the education of children with disabilities in that year is at least the same, either in total or per capita, as the amount it spent for that purpose in the most recent fiscal year for which information is available.

Exception to maintenance of effort. A school district or public agency may reduce the level of expenditures by the school district or public agency under Part B of IDEA 04 below the level of those expenditures for the preceding fiscal year if the reduction is attributable to any of the following: The voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related services personnel, (ii) A decrease in the enrollment of children with disabilities or the termination of the obligation of the school district or public agency to provide a program of special education to a particular child that is an exceptionally costly program because the child has left the jurisdiction of the school district or public agency or has reached the age at which the obligation of the school district or public agency to provide FAPE to the child has terminated or the child no longer needs the special education program; (iii) The termination of costly expenditures for long term purchases, such as the acquisition of equipment or construction of school facilities. Adjustments to local fiscal efforts in certain fiscal years. For any fiscal year for which the Federal funds Part B allocation received by the school district or public agency exceeds the amount the school district or public agency received for the previous fiscal year, the school district or public agency may reduce the level of maintenance of effort expenditures discussed in subsection (c) of this Section by not more than 50% of the amount of that excess. Use of amounts to carry out activities under ESEA. If a school district or public agency exercises the authority under this provision, the school district or public agency must use an amount of local funds equal to the reduction in expenditures discussed in paragraph (e) to carry out any activities that could be supported with funds under the ESEA regardless of whether the school district or public agency is using funds under the ESEA for those activities. (g) State prohibition. Not withstanding subsection (e) of this Section, if the WDE determines the school district or public agency is unable to establish and maintain programs of FAPE that meet the requirements of IDEA 04 or that the WDE has taken action against the school district or public agency relative to section 616 of IDEA 04 and the rules in this Part, the WDE must prohibit the school district or public agency from reducing the level of expenditures under subsection (e) of this Section for that fiscal vear. Special rule, application of early intervening services to reduction in maintenance of effort. The amount of funds expended by a school district or public agency for early intervening services discussed in Section 3 of this Part shall count

toward the maximum amount of expenditures that the school district or public agency



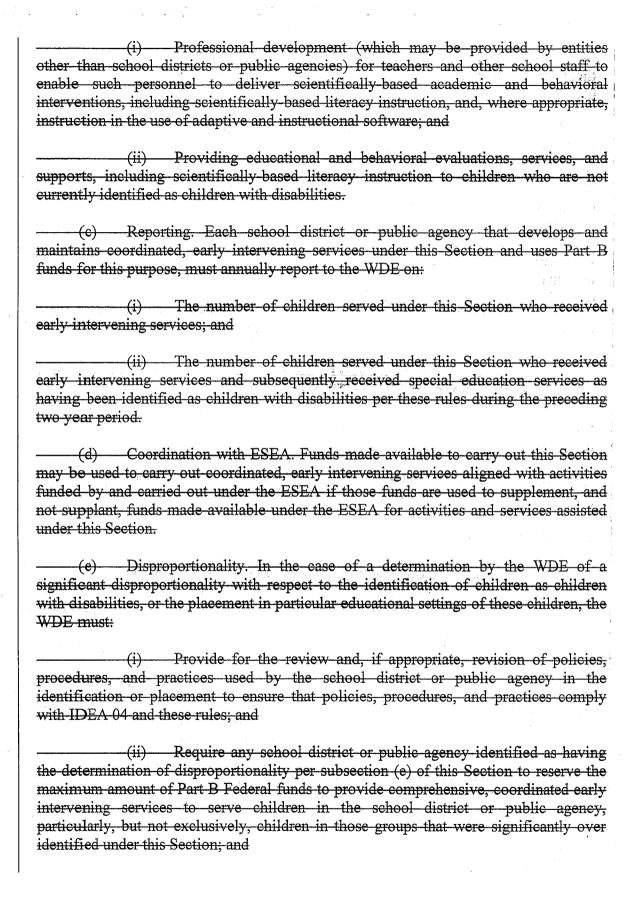
- (c) Personnel development. The school district or public agency must ensure that all personnel necessary to carry out the requirements of these rules are appropriately and adequately prepared and may use Part B funds to address these matters.

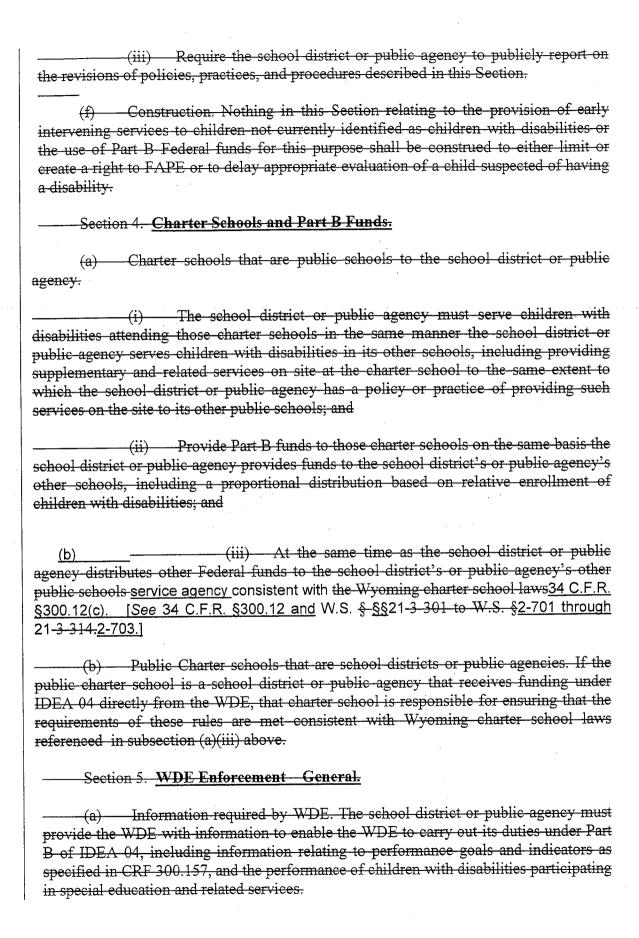
 (d) Use of funds that also benefit nondisabled children. A school district or public agency may use Part B funds for the costs of special education and related services, and supplementary aids and services provided in a regular class or other education related setting, to a child with a disability in accordance with the IEP of the child, even if one or more nondisabled children also benefit from these aids and services.

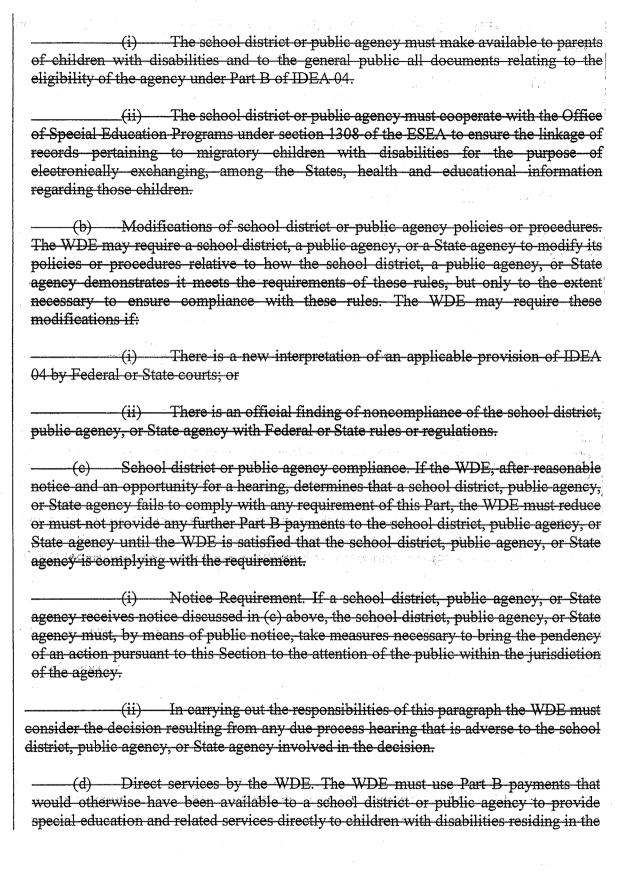
 (e) Administrative case management. A school district or public agency may
- (e) Administrative case management. A school district or public agency may use funds received under Part B of IDEA 04 to purchase appropriate technology for recordkeeping, data collection, and related case management activities of teachers and related service personnel providing services to children with disabilities that is needed for the implementation of those case management activities.
- deemed an intermediate educational services. A school district or public agency may use Part B funds received under IDEA 04 to implement coordinated early intervening unit, and as such, shall function as an educational services in accordance with Section 3 of this Part.

Section 3. Early Intervening Services.

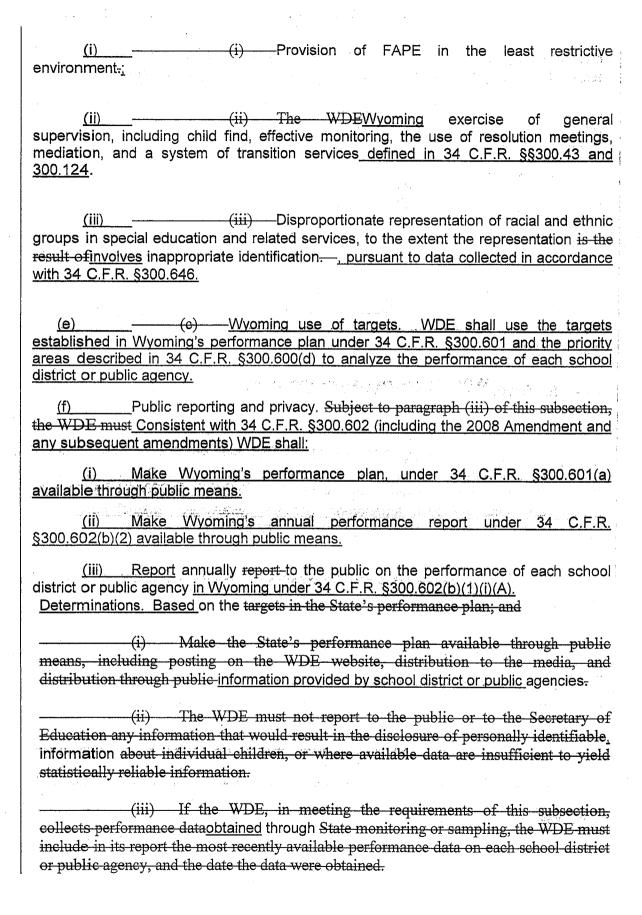
- (a) General. A school district or public agency may not use more than 15% of the amount the school district or public agency receives under Part B of IDEA 04 for any fiscal year, less any amount reduced by the school district or public agency pursuant to Section 1, subsection (e), of this Part, if any, in combination with other amounts (which may include amounts from other sources), to develop and implement coordinated, early intervening services, which may include interagency financing structures, for students in Kindergarten through grade 12 (with a particular emphasis on students in Kindergarten through grade 3) who are not currently identified as needing special education or related services, but who need additional academic and behavioral support to succeed in a general education environment. Appendix B of these rules provides technical assistance for examples of how maintenance of effort reductions relative to Section 1, subsection (e), of this Part, and funds for early intervention services affect one another.
- (b) Activities. In implementing coordinated, early intervening services under this Section, a school district or public agency may carry out activities that include:

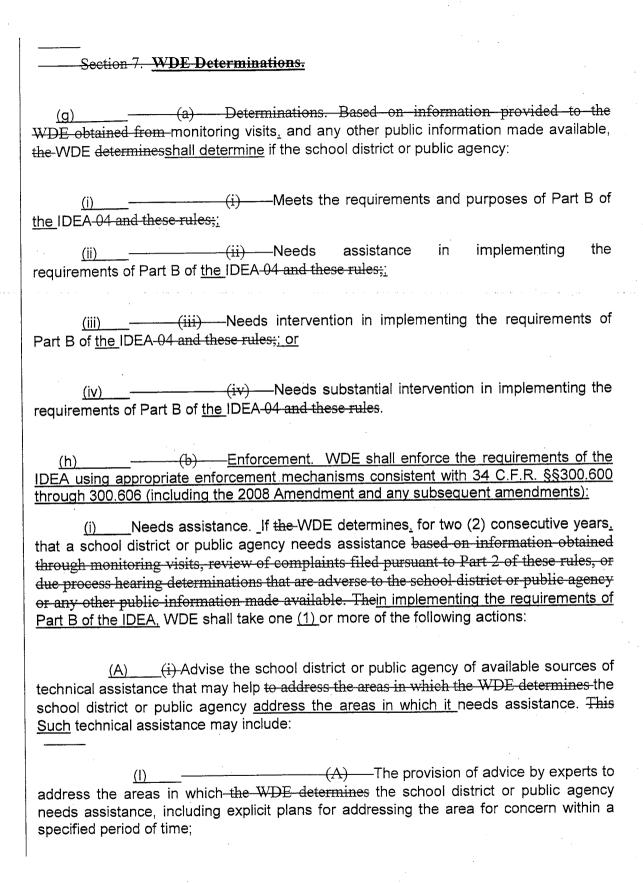


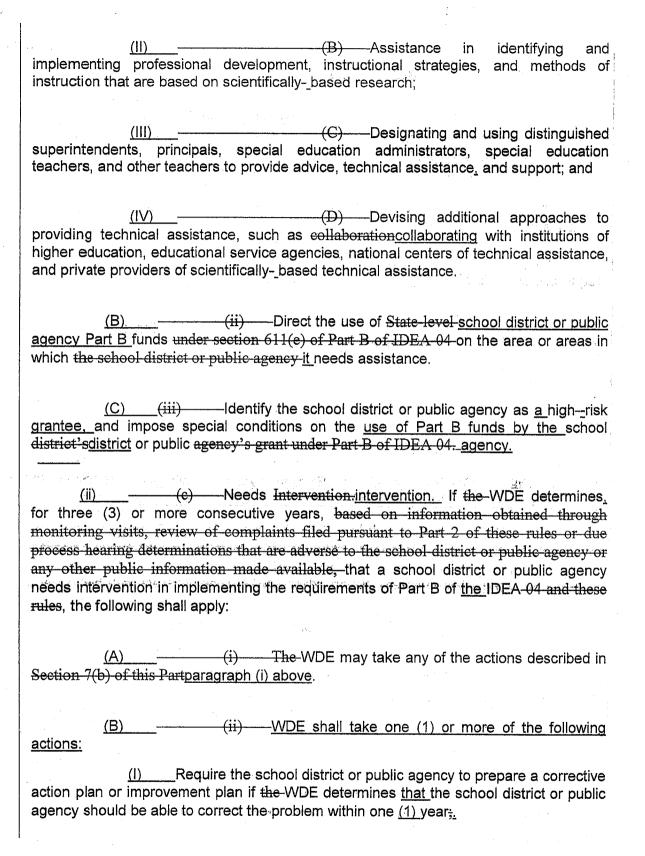


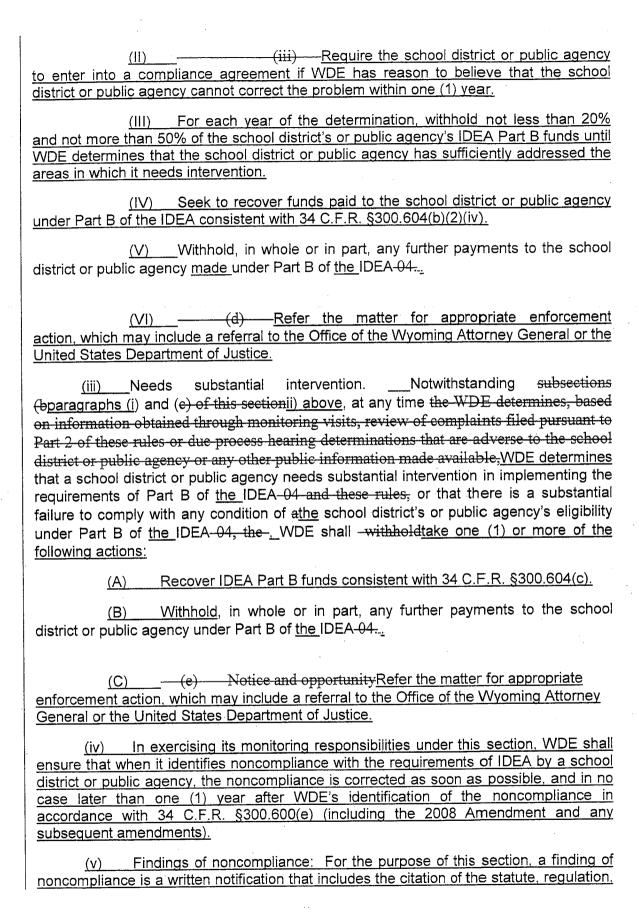


area served by the school district or public agency, or for whom that public agency is responsible, if the WDE determines that the school district or public agency:
(i) Has not provided the information needed to establish the eligibility of the school district or public agency, or elected not to apply for its Part B allotment under the IDEA 04;
(ii) — Is unable or unwilling to establish and maintain programs of FAPE that meet the requirements of these rules;
(iii) Is unable or unwilling to be consolidated and coordinate with one or more school districts or public agencies in order to establish and maintain programs; or
(iv) Has one or more children with disabilities who can be best served by a regional or State program or service delivery system designed to meet the needs of these children.
Section 6. WDE Monitoring Focus and Targets.
(c)(a)Monitoring focus— general. The WDE must_ WDE shall enforce the requirements of the IDEA and monitor the implementation of these rules and enforce the requirements of IDEA 04-by school districts or and public agencies in accordance with applicable Federal regulations 34 CFR C.F.R. §§300.604.600 through 300.608 (including the 2008 Amendment and any subsequent amendments). The primary focus of the WDE-monitoring activities mustshall be on:—
(i) (i) Improving the educational results and functional outcomes for all children with disabilities; and
(ii)
(d) (b) Monitoring focus, targets. The WDE mustPriority areas. Consistent with 34 C.F.R. §300.600(d), WDE shall monitor school districts and public agencies using quantifiable indicators in each of the following priority areas, and using such qualitative indicators as are needed to adequately measure the performance in those areas:









or rule and a description of the quantitative and/or qualitative data supporting the conclusion that there is noncompliance.

(vi) Correction of noncompliance: WDE must address all noncompliance, whether collected through the on-site monitoring system, other monitoring processes such as self-assessment or desk review of records, Wyoming complaint or due process hearing decisions, or data systems. In an effort to correct noncompliance, WDE may request that the state superintendent take appropriate administrative action with the state board, including but not limited to the changing of accreditation status against any school district or public agency failing to comply with any applicable laws. [See W.S. §§21-2-202(c)]

Opportunity for hearing. For determinations made Prior to withholding any funds under subsection (c) and (d)Part B of this Section, the IDEA. WDE shall provide reasonable notice to the school district or public agency of an opportunity for a hearing on those determinations. The hearing consists of and an opportunity to meet with the State Superintendent to demonstrate why the WDE should not make the determination described in subsection (c) and (d) of this Section.

(vii) for hearing in accordance with 34 C.F.R. §§300.155, 300.221 and 300.222.

APPENDIX A

Wyoming's Wyoming Severe Discrepancy Formula A School

Consistent with 34 C.F.R. §300.307, a school district or public agency is not required to use the Wyoming Severe Discrepancy Formula in order for to find a child to be considered eligible as a child with a disability for special services under the category of Specific learning disability Learning Disability (SLD) as per Part 4 Section 10 of these rules.). In the event a school district or public agency elects to establish a child's eligibility as a child with a disability under the category of SLD through use of a severe discrepancy model, the school district or public agency must use the Wyoming Severe Discrepancy Formula as per Appendix A of these rules and document compliance on the eligibility report.

The assessment of <u>intellectual ability and</u> academic functioning level must include individually administered norm-reference tests that are <u>highly</u> reliable and valid—(see <u>Salvia & Ysseldyke, 1981; 1985)</u>, and administered by an individual specifically trained to administer and interpret the <u>instrument.instruments</u>. Criterion-referenced tests, informal measures, work samples, classroom observations, and the child's educational history <u>shouldmay</u> be used as needed to corroborate norm-referenced test scores. Achievement measures should be administered in each of the areas of the suspected disability (core achievement areas: oral expression, listening comprehension, written expression, basic reading skills, problem solving, reading fluency, reading comprehension, mathematical calculations, or mathematical reasoning).

A child whose primary disability is a learning disability Specific Learning Disability must demonstrate a severe discrepancy between current achievement level and expected achievement level, of 22 points upon initial evaluation. Expected achievement level (obtained from Table A) is based on the correlation between tests of the child's assessed composite intellectual standard secresscore compared to the child's composite achievement score in one (1) or more core achievement areas that are 22 (15 upon reevaluation) standard score points or more below the anticipated achievement level as predicted by a measure of intellectual functioning.

Notes of Clarification Instructions:

In all cases, intellectual and achievement standard scores should be based on age norms rather than grade norms.

• The severe discrepancy criterion should not be viewed as a rigid cut-off. The evaluator should consider factors such as and, when available, on cluster scores rather than on subtest scores. Using the standard errors of measurement of the instruments, the child's behavior during the evaluation, the cultural, environmental, or economic disadvantage and language background of the child, and other individual characteristics of the child in determining if a severe discrepancy exists. If a child does not meet the criterion for a severe discrepancy,

yet the IEP Team nonetheless determines the childmost current editions and norms of any chosen standardized tests is learning disabled, a specific written justification must be provided for such a decision, including the basis for concluding that a severe discrepancy exists, documentation of the child's inability preferable to progress adequately in one or more basic academic areas in the regular class setting and other related information.

- When using the Wechsler Intelligence Scale for Children Revised, (or other applicable editions) the Full Scale Score should generally be used as an indicator of potential. However, if the Verbal and Performance IQ Scores differ significantly, the Full Scale Score is less useful for documenting potential. (In such cases, the difference between Verbal and Performance Scores should be statistically significant and diagnostically meaningful). When such a difference exists, the higher score may be used as an estimate of potentialolder editions with outdated norms.
- The table on the following page entitled <u>Expected</u>—Correlation <u>Coefficient</u> <u>Between Ability and Achievement <u>Levels with Correction For Regression (STD-Test Scores)</u> should be used to determine the child's expected achievement level. This table takes into account the correlation between the intellectual and achievement measures being used as well as regression toward the mean. To use this table, the <u>following</u>-steps <u>should</u>outlined <u>below must</u> be followed:</u>
 - >—Step 1:_Determine the correlation between the intellectual and achievement measures being used. Correlations between such tests are generally, if available in the extensive research literature on this topic or in the test manual.
- Note: If the correlation between intellectual and achievement measures is not known, it is recommended that .65 may be used as an adequate median correlation between such measures.
- Step 2: Locate the child's intellectual standard score in the first column (X)side columns of the table located on TABLE BTable A, entitled ExpectedCorrelation Coefficient Between Ability and Achievement Levels with Correction For Regression (STD.Test Scores).
- Step 3: Follow that the row determined in Step 2 to the column with the correlation—(xy) value closest to the correlation between the chosen measures of intellectual functioning and achievement or to a correlation of .65 if a specific correlation coefficient is not known.

TABLE

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APPENDIX B

Maintenance of Effort and Early Intervening Services.

LEAs that seek to reduce their local maintenance of effort in accordance with Part 8 Section 1 subsection (h) of these rules and CFR. 300.205(d) and use some of their Part B funds for early intervening services under Part 8 Section 3 of these rules must do so with caution because the local maintenance of effort reduction provision and the authority to use Part B funds for early intervening services are interconnected. The decisions that an LEA makes about the amount of funds it uses for one purpose affect the amount that it may use for the other. Below are examples that illustrate how maintenance of effort reductions and early intervening services affect one another.

Example 1:

In this example, the amount that is 15% of the LEAs total grant which is the maximum amount that it may use for early intervening services(EIS) is greater than the amount that may be used for local maintenance of effort(MOE) reduction (50% of the increase in the LEA's grant from the prior year's grant).

Prior year Allocation-	\$900,000
Current Years Allocation	\$1,000,000
Increase	-\$100,000
Maximum Available for MOE Reduction	\$50,000
Maximum Available for EIS	\$150,000

If the LEA chooses to set aside \$150,000 for EIS, it may not reduce MOE (MOE maximum \$50,000 minus \$150,000 for EIS means \$0 can be used for MOE).

If the LEA chooses to set aside \$100.000 for EIS, it may not reduce its MOE (MOE maximum \$50,000 less \$100,000 means \$0 can be used for MOE).

If the LEA chooses to set aside \$50.000 for EIS; it may not reduce its MOE (MOE maximum \$50,000 less \$50,000 means \$0 can be used for MOE).

If the LEA chooses to set aside \$30,000 for EIS, it may reduce its MOE by \$20,000 (MOE maximum \$50,000 less \$30,000 for EIS means \$20,000 can be used for MOE).

If the LEA chooses to set aside \$0 for EIS, it may reduce its MOE by \$50,000 (MOE maximum \$50,000 less \$0 for EIS means \$50,000 can be used for MOE).

Example 2:

In this example, the amount that is 15% of the LEA's total grant, which is the maximum amount that the LEA may use for EIS, is less than the amount that may be used for MOE reduction (50% of the increase in the LEA's grant from the prior year's grant).

Prior Year's Allocation \$1,000,000

Current Year's Allocation \$2,000,000

Increase \$1,000,000

Maximum Available for MOE Reduction \$500,000

Maximum Available for EIS \$300,000

If the LEA chooses to use no funds for MOE, it may set aside \$300,000 for EIS (EIS Maximum \$300,000 less \$0 for MOE means \$300,000 for EIS).

If the LEA chooses to use \$100,000 for MOE, it may set aside \$200,000 for EIS (EIS Maximum \$300,000 less \$100,000 for MOE means \$200,000 for EIS).

If the LEA chooses to use \$150,000 for MOE, it may set aside \$150,000 for EIS (EIS Maximum \$300,000 less \$150,000 for MOE means \$150,000 for EIS).

If the LEA chooses to use \$300,000 for MOE, it may not set aside anything for EIS (EIS Maximum \$300,000 less \$300,000 for MOE means \$0 for EIS).

If the LEA chooses to use \$500,000 for MOE, it may not set aside anything for EIS (EIS Maximum \$300,000 less \$500,000 for MOE means \$0 for EIS).

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