



# Certification Page Regular and Emergency Rules

Revised September 2016

**Emergency Rules** *(After completing all of Sections 1 through 3, proceed to Section 5 below)*

**Regular Rules**

## 1. General Information

a. Agency/Board Name		
b. Agency/Board Address	c. City	d. Zip Code
e. Name of Agency Liaison	f. Agency Liaison Telephone Number	
g. Agency Liaison Email Address	h. Adoption Date	
i. Program		

## 2. Legislative Enactment

For purposes of this Section 2, "new" only applies to regular rules promulgated in response to a Wyoming legislative enactment not previously addressed in whole or in part by prior rulemaking and does not include rules adopted in response to a federal mandate.

a. Are these rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?

No.  Yes. Please provide the Enrolled Act Numbers and Years Enacted:

## 3. Rule Type and Information

a. Provide the Chapter Number, Title, and Proposed Action for Each Chapter.  
*(Please use the Additional Rule Information form for more than 10 chapters and attach it to this certification)*

Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
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Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed

**3. State Government Notice of Intended Rulemaking**

a. Date on which the Proposed Rule Packet (consisting of the Notice of Intent as per W.S. 16-3-103(a), Statement of Principal Reasons, strike and underscore format and a clean copy of each chapter of rules were: **August 17, 2018**

- approved as to form by the Registrar of Rules; and
- provided to the Legislative Service Office and Attorney General:

**4. Public Notice of Intended Rulemaking**

a. Notice was mailed 45 days in advance to all persons who made a timely request for advance notice.  No.  Yes.  N/A

b. A public hearing was held on the proposed rules.  No.  Yes. Please complete the boxes below.

Date: <b>October 23, 2018</b>	Time: <b>6:00 - 8:00 p.m.</b>	City: <b>Cheyenne, WY</b>	Location: <b>Laramie County School District #1 Board Room and via Zoom</b>
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c. If applicable, describe the emergency which requires promulgation of these rules without providing notice or an opportunity for a public hearing:

**5. Final Filing of Rules**

a. Date on which the Certification Page with original signatures and final rules were sent to the Attorney General's Office for the Governor's signature: **11/9/2018**

b. Date on which final rules were approved as to form by the Secretary of State and sent to the Legislative Service Office:

c.  The Statement of Reasons is attached to this certification.

**6. Agency/Board Certification**

The undersigned certifies that the foregoing information is correct.

Signature of Authorized Individual

Printed Name of Signatory

Honorable Jillian Balow

Signatory Title

State Superintendent of Public Instruction

Date of Signature

**11/8/18**

**7. Governor's Certification**

I have reviewed these rules and determined that they:

1. Are within the scope of the statutory authority delegated to the adopting agency;
2. Appear to be within the scope of the legislative purpose of the statutory authority; and, if emergency rules,
3. Are necessary and that I concur in the finding that they are an emergency.

Therefore, I approve the same.

Governor's Signature

Date of Signature

**Chapter 8: School Foundation Program**  
**Chapter 44: Rules for the Special Education Component**  
Within the Education Resource Block Grant Model

**STATEMENT OF REASONS**

During the 2018 Legislative Session, HEA0068 Section 4 directed the Wyoming Department of Education to *“review state statutes relating to special education and its rules relating to special education for any possible fiscal efficiencies. By June 1, 2018, the department of education shall report to the joint education interim committee on its review and shall include suggested changes to statute or rule and any rulemaking conducted as a result of its review.”* Chapter 44 Rules and Regulations have been drafted as a result of this legislation and are also based on a recommendation from the Department of Audit to *“revise rules governing reimbursable expenditures to give clearer guidance on the types of expenditures that would be appropriate to claim for reimbursement on the WDE401.”* This recommendation was made after a blitz audit on special education reimbursements to districts for Fiscal Year 2008-09.

Current guidance in Chapter 8, Section 11(b) is fairly broad, allowing wide interpretation by districts as to what are reimbursable expenditures. This new chapter will provide more detailed guidance to school districts on reimbursable special education expenditures within the Wyoming Education Resource Block Grant Model.

Proposed rules have been vetted through the State Superintendent of Public Instruction's statutory School Finance Data Advisory Committee (SFDAC), Wyoming Association of Special Education Administrators (WASEA), and the Special Education Efficiencies Stakeholder task force. The SFDAC membership is comprised of representatives from school districts, the Department of Audit, the Legislative Service Office and a member from the private Certified Public Accountant community. WASEA membership is comprised of Special Education Directors from each district. The Special Education Efficiencies Stakeholder Task Force is comprised of Special Education Directors, Business Managers, and a representative from a Board of Cooperative Educational Services (BOCES).

Chapter 8: School Foundation Program

The proposed changes to Chapter 8 are a result of the creation of Chapter 44. The existing language in Chapter 8, Section 11(b) regarding special education reimbursement will be removed. Updated numbering was also needed to Sections 14 through 18 and will now be Sections 12 through 16.

My comment is . . .	Proposed Response
<p>Changing funding for the Education Resource Block Grant Model is moving the students and staff backwards not forwards. The state has made great strides in towards funding and educating students, so why would we move backwards. We should strive for further progress.</p>	<p>The proposed Chapter 44 rules do not seek to change the way the Wyoming Funding Model reimburses special education. Current rules and regulations are fairly broad, allowing wide interpretation by districts as to what are reimbursable expenditures. The proposed Rules and Regulations provide more detailed guidance to school districts on reimbursable special education expenditures within the Wyoming Education Resource Block Grant Model. Pursuant to W.S. 21-13-321, the proposed Rules and Regulations will continue to reimburse districts for costs that exceed the amount necessary to provide a basic education to students.</p> <p style="text-align: center;"><i>No change</i></p>
<p>Overall I believe the new proposed rules provide additional clarity. However there are there areas that may need additional specifics, examples or clarity.</p> <p style="text-align: center;">Chapter 44, Page 44-4 Section 3, Line 7</p> <p>I believe this states previous practice well, and should not be changed. To add more clarity, in our District when explaining this to other administrators and the Business Manager, I tell them, "if you bought it for Gen Ed, you need to buy it for SPED as well." We can't purchase Gen Ed supplies for SPED students. So using a similar statement may add clarity.</p> <p style="text-align: center;">Page 44-4 Section 4, (a)</p> <p>Not using reimbursable SPED funds for Screening when the WY legislature has mandated Dyslexia screening and other means for a federal mandated law does not make sense. If we are mandated to do this, as a part of both Child Find in Federal Law and State Mandates, funds should be reimbursed for these State Laws.</p> <p style="text-align: center;">Page 44-5, Section 4, (h)</p> <p>Professional development, not unlike Child Find in Section (a) should be reimbursable, especially when the State Legislature has mandated such trainings as Restraint and Seclusion and the Jason Platt Act awareness training. While SPED has provided these in the past, because of the Social Emotional and behavioral component, with these added State Mandates, the District has to train the entire District, purchase curriculums for staff, pay for extra days for staff and pay staff to provide the training. While this has predominantly a SPED training in the past, the state legislature has mandated this for every staff member, from transportation, custodians, food service, para's, teacher and admin. Because of these reasons, this should be reimbursable.</p>	<p>The proposed Chapter 44 rules provided detailed clarification is in Section 2. Definitions, Section 3. General Provisions, Section 4. Non-Reimbursable Expenses, and Section 5. Reimbursable Expenses.</p> <p style="text-align: center;"><i>No change</i></p> <p>Section 5(h) of the proposed Chapter 44 rules states, "screening that extends beyond what is normally administered to students who are not receiving special education services" as a reimbursable cost. Section 4(a) relates to contracted services for the screening of the general student population not receiving special education services.</p> <p style="text-align: center;"><i>No change</i></p> <p>Section 4(h) of the proposed Chapter 44 rules reflects the Department of Audit (DOA) in their Statewide Special Education Audit Report Dated 7/27/2011 which says, "Through this analysis, it would appear there is significant funding being generated by special education student ADM to account for costs such as professional development and technology, as well as other general costs such as for basic items not specific to special education such as regular office equipment (desks, chairs, file cabinets, printers, etc. )."</p> <p style="text-align: center;"><i>No change</i></p>

<p>Section 4, Chapter 44: ("But for" rule) how do you draw line for students who need services? So if teacher is providing gen ed services through lens of SpED, will service not be reimbursed? Major maintenance: if change to building is for sped student, is this an allowable expense? PD, Supplies, Technology: what if schools can buy supplies in bulk and some portion goes to gen ed? Is this reimbursable? Legal Fees: WY has avoided sped litigation, and if we fail a student due to negligence, LEA is responsible, but what about state's responsibility toward sped students?</p>	<p><u>Supplies, Technology, and PD:</u> The DOA in their Statewide Special Education Audit Report Dated 7/27/2011 wrote, "Through this analysis, it would appear there is significant funding being generated by special education student ADM to account for costs such as professional development and technology, as well as other general costs such as for basic items not specific to special education such as regular office equipment (desks, chairs, file cabinets, printers, etc. )." The 2010 Recalibration Report states, "the Evidence-Based model provides resources at each prototypical school to provide special education services for students with mild and moderate disabilities." The 2010 Recalibration Report also addresses, regarding costs of textbooks and instructional supplies, "the total figure would also provide sufficient funds for adequate instructional materials and texts for most non-severe special education students. Modifications for severe special education cases would need to be funded from Special Education Funds."</p> <p style="text-align: center;"><i>No change</i></p> <p><u>Major Maintenance:</u> The proposed Chapter 8 and 44 rules state, "Special Education reimbursement shall specifically and directly relate to a service or program provided to a student with a disability beyond what is provided as general education to all students. Services or items that are resourced through the Education Resource Block Grant Model, as defined by W. S. 21-13-101(a)(xiv), and made available to special education students and staff are not reimbursable through special education reimbursement under W. S. 21-13-321. Some of the most common non-reimbursable services and items resources through the model are Professional Development-General, Supplies-General, Instructional Materials-General, Technology-General, Equipment-General, and summer school and extended day programs not specific to a child's IEP or ESY services. Reimbursement for expenditures incurred to provide special education programs and services to children with disabilities shall not duplicate any other reimbursement or revenue source used to offset district special education costs."</p> <p style="text-align: center;"><i>No change</i></p> <p><u>Legal Fees:</u> Legal fees are not reimbursable through the WDE401. This was identified in 2007 as a result of a contested case hearing from a DOA full audit finding. The final order from the hearing states that legal fees are not considered to be actual costs required to provide services to children with disabilities.</p> <p style="text-align: center;"><i>No change</i></p>
<p>Had a severe needs student move into our district from another LEA. Will be a long-term placement, with no guarantee of what reimbursement will be (student will cost over \$500k over two years); our sped program is bare bones, no room to cut; would need to cut into gen ed fund; is there a way to handle special circumstances?</p>	<p style="text-align: center;">This comment is not related to the proposed rules.</p> <p style="text-align: center;"><i>No change</i></p>

<p>Section 4: Special education includes the responsibility to identify students suspected of a disability and who are in need of special education because of the disability. The exclusion of a method, contracting, creates issues with our goal to work seamlessly with all students.</p> <p>Section 5(b): Comment: Consider inserting the phrase Non-personnel to the last sentence in this section, "Non-personnel Expenses requiring a percentage allocation are not reimbursable.</p> <p>Section 5(i): Currently general supplies are reimbursable. A change to the rules would reduce special education funding in an area previously funded.</p> <p>Section 5(u): We believe it would be beneficial to begin the new rules coinciding with the following school year and selecting July 1, 2019 as the date the Rules go into effect. This will avoid the scenario that part of the year reimbursement can be claimed, another part of the year the cost is not reimbursable.</p> <p>General comments: While we are under the assumption the Rules are in alignment with and are supportive of federal regulations and law regarding Incidental Benefit, Early Intervening Services and funding which supports services in the Least Restrictive Environment it would be beneficial to specifically identify within the Rules the alignment and agreement with federal regulations and laws.</p>	<p>Section 5(h) of the proposed Chapter 44 rules states, "screening that extends beyond what is normally administered to students who are not receiving special education services" as a reimbursable cost. Section 4(a) relates to contracted services for the screening of the general student population not receiving special education services.</p> <p style="text-align: center;"><i>No change</i></p> <p>The changes suggested to Section 5(b) of the proposed Chapter 44 rules do not constitute a substantive change and was accepted.</p> <p style="text-align: center;"><i>Change accepted</i></p> <p>Special education students are currently counted in the calculation for supplies and materials. The proposed Rules and Regulations provide more detailed guidance to school districts on reimbursable special education expenditures within the Wyoming Education Resource Block Grant Model. Pursuant to W.S. 21-13-321, the proposed Rules and Regulations will continue to reimburse districts for costs that exceed the amount necessary to provide a basic education to students.</p> <p style="text-align: center;"><i>No change</i></p> <p>The proposed Chapter 44 rules do not seek to change the way the Wyoming Funding Model reimburses special education. There are no modifications for allowable expenses and reimbursement as a result of these rules.</p> <p style="text-align: center;"><i>No change</i></p> <p>The proposed Chapter 44 rules do not supercede nor in conflict with any federal laws and regulations.</p> <p style="text-align: center;"><i>No change</i></p>
<p>More training for sped would save money for state (i.e. trained in communication issues); Use money we have for better training/implementation; work with parents who have children with disabilities who understand children's issues.</p>	<p style="text-align: center;">This comment is not related to the proposed rules.</p> <p style="text-align: center;"><i>No change</i></p>
<p>I propose that Section 4(a) be placed under Section 5, Reimbursable Expenses. Child Find is mandated under IDEA, and therefore should be funded with special education funding. Child Find is not a universal screening process, but a targeted screening based on concerns observed by an adult who knows the child and is experienced in typical child development, such as physicians, caregivers, and preschool. Some children may be referred through a universal screening process, and once referred to Child Find, a different screening process occurs. Whether these services are contracted or conducted by the district should not be a determination factor for reimbursement (see Section 5(h)). In smaller districts, it can be more cost-efficient for the district to provide Child Find through another organization.</p> <p>Under Section 5(g)(i)(B), Certification, Goshen County SD #1 proposes that the certification requirement of "semi-annual" be changed to "annual." For larger districts, this creates an undue paperwork burden. Certifying once a year that staff have worked 100% of the time with special education students should be sufficient.</p> <p>Chapter 44 repeatedly refers to 100% reimbursement for special education costs. How can costs be funded at 100% if a cap is placed on special education funding? It is a contradiction.</p>	<p>Section 5(h) of the proposed Chapter 44 rules states, "screening that extends beyond what is normally administered to students who are not receiving special education services" is a reimbursable cost.</p> <p style="text-align: center;"><i>No change</i></p> <p>A semi-annual certification of time &amp; effort is required pursuant to OMB federal guidance.</p> <p style="text-align: center;"><i>No change</i></p> <p>These rules do not address the cap or guarantee any amount of reimbursement. These rules provide guidance as to what is allowable and not allowable for state special education reimbursement through the funding model.</p> <p style="text-align: center;"><i>No change</i></p>

<p>Thank you for hosting this session! Regarding Section 2 (k), I would recommend adding, "demonstrating a positive behavior" after "accomplishing a given task." Regarding Section 2 (p), please consider adding "or training" to end of the sentence. Regarding Section 4 (d), in the second sentence, please add "or goal" after "directly related to a service." In the third sentence, please add "promoting positive behavior" after "for accomplishing a given task." Regarding Section 5, please consider adding "or support" after "they must be directly related to a service" in the last sentence. Regarding Section 5 (m)(i), please consider adding reimbursement for fuel or mileage allowance "or fuel or mileage expenses related to professional development and are required by or related to child's IEP. Thank you again for soliciting input.</p>	<p>The changes suggested to Sections 2(k) and 4(d) of the proposed Chapter 44 rules do not constitute a substantive change and were accepted.</p> <p style="text-align: center;"><i>Changes accepted</i></p> <p>The changes suggested to Sections 2(p), 5, and 5(m)(i) are redundant to what is already included in other sections of the proposed Chapter 44 rules.</p> <p style="text-align: center;"><i>No change</i></p>
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## **Chapter 8 School Finance**

**Section 1. Authority.** These rules are promulgated pursuant to W.S. 21-2-202(a)(i) and (e); W.S. 21-2-203(a); W.S. 21-3-314(a); W.S. 21-6-219(a); W.S. 21-7-501(f)(iii); W.S. 21-13-101(c).

### **Section 2. Definitions.**

(a) “Acquired” means gained possession. Examples of acquire include, but are not limited to, lease agreement, purchase, or gift.

(b) “Actual site acreage” means the site acreage amount that appears on the actual land’s title or deed. If the acreage amount does not appear on land’s title or deed, actual site acreage is the amount reported by the School Facilities Division of the State Construction Department.

(c) “Case manager” means an individual working under a personal-services contract with a school district or Board of Cooperative Educational Services to provide general supervision of special education programs and services provided to children with disabilities.

(d) “Co-located school” means two (2) or more schools, each with its own unique identifier, that exist within the same school facility.

(e) “Combined school” means two (2) or more existing schools in a district that are joined together to form a single school as a result of one or more schools closing within a district.

(f) “Data correction” means corrections necessary to ensure funding model operation and current school year district payments are using the correct data supplied by school districts, other state agencies, and outside consultants to properly compute school foundation program payments to school districts as required by law.

(g) “Days of operation” means the term of operation for a school including pupil-teacher contact days and days used exclusively for registration, professional development, report card distribution, teacher/parent conferences, in-service programs, and similar activities.

(h) “Department” means the Wyoming Department of Education.

(i) “English language learner (ELL) student” means any student reported as primarily enrolled by a district on the October snapshot who has been identified as an ELL or former ELL in Year 1 or Year 2 monitor status in compliance with required identification criteria presented in a format specified by the Department.



(j) “Facility” means a standalone or combination of buildings owned or leased by the district that support the delivery of educational programs necessary to meet state accreditation standards and federal laws.

(k) “Format change” means any change to the funding model that results in a different appearance or layout and maintains the integrity and functionality of the funding model.

(l) “Foundation program report” means the accumulation and aggregation of student attendance and membership statistics, school district financial data, reimbursement claims, estimates, and other representations including, but not limited to, the following reports: the WISE Annual District Report, the WISE Attendance & Membership Report, the Foundation Program Funding Worksheet, the Annual Special Education Expenditure Report, the Annual Student Transportation Expenditure Report, the Vocational Education Student FTE Worksheet, Vocational Education Teacher FTE Worksheet, and the Annual District Budget.

(m) “Foundation program review” means the examination, analysis, testing, and verification of a school district’s foundation program report and system of student accounting by the Department or its representative (whether on-site at the school district or in the form of a desk review at the offices of the Department) to confirm, verify, validate, and, if necessary, correct the student attendance and membership statistics, school district financial data, reimbursement claims, estimates, and other representations appearing in the district’s foundation program report.

(n) “Free and reduced lunch (FRL) student” means any student reported as primarily enrolled by a district on the October snapshot who meets the eligibility requirements for the free and reduced priced lunch program established by 42 U.S.C. §1751 et seq. regardless of the school’s participation in the free and reduced priced lunch program.

(o) “Funding model” means the enumeration of components defined in “Attachment A” as referenced in W.S. 21-13-101(a)(xvii) and (c), including any technical and data corrections implemented in accordance with W.S. 21-2-202(e).

(p) “Membership” means the inclusion of an enrolled student in a school’s student accounting records, whether the student is attending or absent on that day.

(q) “Mobile student” means any student reported as primarily enrolled in any grade six (6) through twelve (12) by a district on the annual Department spring accountability snapshot date where the student’s school entry date falls after the October snapshot of the same school year.

(r) “National Board Certification” means advanced teaching credentials awarded through the National Board Certified Teacher program by the National Board for Professional Teaching Standards.

(s) “New school” means a school that is assigned a unique identification number from the Department for reporting purposes and is funded as a first-year school in the funding model.

(t) “Part-time student” means a student that is enrolled in fewer daily hours or periods than normally scheduled in the school they are enrolled.

(u) “Reconfigured school” means a school in which grades served has been changed from the previous school year.

(v) “Replacement school” means a school in which a new building has been constructed and is used in place of a previously existing school with the same grade configuration.

(w) “School day” means the starting time of a pupil-teacher contact day to the ending time of a pupil-teacher contact day as established by school district board of trustee policy.

(x) “School Facilities Division (SFD)” means the School Facilities Division of the State Construction Department.

(y) “Site” means a parcel of land that has been acquired by a district, and is identified by the SFD by a site identification number.

(z) “State Board” means the Wyoming State Board of Education.

(aa) “Student accounting” means the process of enrolling students, taking attendance, appropriately withdrawing students and removing them from student accounting records, and maintaining accurate and verifiable computer-based records within the student information system for the purpose of uniform and timely reporting of student attendance and membership statistics at each school district’s school.

(bb) “Technical correction” means a correction necessary to ensure funding model operation and current school year district payments are in accordance with law and the funding model is properly computing school foundation program payments to school districts as required by law.

**Section 3. Basis of Accounting.** With the exception of accounting operations necessary to properly compute a school district’s operating balance and cash reserves under W.S. 21-13-313(e) and Section 14, all school districts shall, for purposes of preparing individual reports within the Foundation Program Report, use the cash basis of accounting. Any exceptions shall have prior approval of the Department.

#### **Section 4. School and Operational Days.**

(a) Each school shall meet both the 175-day pupil-teacher contact requirement required by W.S. 21-4-301 or the number of days required under an alternative schedule approved by the State Board and the minimum applicable number of hours established by State Board rules and regulations.

(b) Each school shall be in operation for at least the equivalent of 185 days unless an alternative schedule has been approved by the State Board and shall conduct classes for a majority (greater than 50 percent) of the school day for at least 175 student days. Days used exclusively for registration, professional development, report card distribution, teacher/parent conferences, in-service programs, and similar activities shall only be counted as days of operation beyond the 175-day pupil-teacher contact minimum.

**Section 5. Reporting a School's Status to the Department.**

(a) School districts shall give written notification to the Department within two (2) weeks upon the occurrence of any of the following events:

(i) A school closes and students are no longer attending classes (this does not apply to replacement schools); or

(ii) Emergency conditions such as weather, utility failure, or safety conditions requiring the temporary closure of one or more schools for a half school day or more.

**Section 6. School Reconfiguration Reporting for Purposes of Funding.**

(a) A school district shall file a written report to the Department that it has or intends to change a school's grade configuration or open a new school for the next school year.

(b) Reports submitted under this section indicating the opening of a school or modifying a school's grade configuration for the upcoming school year shall be provided to the Department no later than June 15 of each year.

(c) The reports submitted under this section shall provide documentation verifying compliance with the district's facility plan on file with the SFD and with the criteria outlined in W.S. 21-13-309(m)(vi).

(d) Reports submitted under this section will be reviewed by the Department and a determination will be rendered to the district as soon as practicable following receipt of the report. In some instances, a reconfigured school or combined school may result in a new school. If a replacement school is built, the school shall not be considered a new school.

**Section 7. Minimum Attendance Taking Requirements.**

- (a) All Wyoming public schools shall take and record attendance to verify and ensure accurate attendance and membership calculations.
- (b) In elementary schools, attendance shall be taken a minimum of two (2) times during the school day, once in the morning and once in the afternoon.
- (c) In middle schools, junior high schools, and high schools, attendance shall be taken each class period.
- (d) Virtual education attendance shall be measured by approved participation requirements defined by Department rules and regulations.

**Section 8. Mathematical Calculation of Average Daily Membership (ADM).**

- (a) The mathematical calculation of ADM is derived by dividing each student's aggregate membership days for the period of time under aggregation by the actual number of school days over which the aggregation occurred. The resulting calculation for each student shall not exceed one (1.000) ADM. Student data used to report membership shall be provided by each school's student information system. ADM calculations shall be carried out and rounded to three (3) decimal places for reporting to the Department. Students enrolled at least eighty percent (80%) of a full-time equivalency shall be considered full-time for membership (1.000 ADM). Students enrolled less than eighty percent (80%) of a full-time equivalency shall be counted equal to their part-time membership calculation as determined in Section 8(e).
- (b) Schools shall exclude from their membership students for whom the school district is no longer actively or prospectively providing appropriate instructional services. Examples include, but are not limited to, students who:
  - (i) Withdraw from school;
  - (ii) Are absent more than ten (10) consecutive school calendar days;
  - (iii) Are full-time virtual education students not meeting participation requirements for more than ten (10) consecutive program days as defined by Department rules and regulations;
  - (iv) Do not attend a school in a Wyoming school district;
  - (v) Transfer from one school to another within a district (the sending school shall cease to include the transferred student in its membership);
  - (vi) Move out of the area, or are otherwise no longer receiving appropriate district instructional services; or

(vii) Are enrolled in school and do not actually attend for at least one (1) day during the current school year.

(c) A school district that receives a student from another school district shall immediately include that student in its membership. The school district that sends a student to another school district shall immediately cease including that student in its membership. No student shall be included in two schools' memberships at the same time, whether those schools are in the same or different districts.

(d) No reduction in aggregate membership shall occur when a student completes a virtual education course before the end of the term if the student has completed the participation requirements. A weighted day calculation shall be used for the time the student was enrolled in the course. The weighting shall be calculated using the number of scheduled term days divided by the actual days it took the student to complete the course (e.g., a course term is 88 days and a student completed the course in 50 days. The 88 term days are divided by the 50 course days to equal a 1.76 weighted day equivalent for each of the 50 days in the course. The 50 days the student took to complete the course is multiplied by the weighted figure of 1.76 resulting in 88 course days). For each course, the number of days completed shall be divided by the regularly scheduled number of courses in the school to compute the aggregate membership (e.g., if a student completed 88 course days and the school offered 8 courses per day, the student's aggregate membership for the course would be 11.000).

(i) Virtual education student membership shall be prorated at less than one (1.000) ADM if the number of virtual education courses in which the student is enrolled is less than the regularly scheduled courses for that school, but the virtual education membership may be combined with any non-virtual education membership on a daily basis to result in a larger fractional membership not to exceed one (1.000) ADM.

(e) Students in membership less than eighty percent (80%) of the school day shall be counted equal to their part-time membership using one (1) of the following methods and apply that one (1) method to all part-time students in the school:

(i) Calculate the ratio of periods in membership to the total periods normally offered at that school (e.g., a student in membership two (2) periods a day in a school that offers seven (7) periods per day would generate a  $\frac{2}{7}$  aggregate membership, or 0.286 ADM for the number of days over which the aggregation occurred).

(ii) Calculate the ratio of hours (or minutes) in membership to the total hours (or minutes) normally offered at that school (e.g., a student in membership three (3) hours (180 minutes) a day in a school that offers eight (8) hours (480 minutes) per day would generate  $\frac{3}{8}$  aggregate membership, or .375 ADM for the number of days during which the aggregation occurred).

(iii) Alternative schools without a set bell schedule may use the normally scheduled hours from the closest district-operated non-alternative school offering the same grade level services to determine the proportion of membership (e.g., a student in membership for 350 hours of pupil-teacher contact time, measured against a school that normally provides 1100 contact hours would generate  $350/1100$  aggregate membership, or 0.318 ADM, for the school year).

(f) When school is dismissed for emergencies pursuant to W.S. 21-13-307(a)(ii) or Section 5(a)(ii), membership inclusion shall be continued as if the entire session had been completed if students are in attendance for greater than fifty percent (50%) of the school day. No membership shall be counted when school is canceled before the school day begins or when ended before completing fifty percent (50%) of the school day.

(g) Prior school year ADM, for purposes of calculating the funding model's ADM three-year average, shall be adjusted in the current funding model in the following instances:

(i) A new school opens;

(ii) A school closes;

(iii) A district changes boundaries;

(iv) A school reconfigures; or

(v) A district moves specific programs from one school to another school, as well as the students in those programs.

(h) The district shall submit a list of schools and the number of students, by grade, which transferred to another school within the district due to one of the instances in subsection (g). The Department shall subtract the number of students that transferred to another school within the district from the two (2) years of ADM they were already included.

(i) The Department shall subtract the number of students that transferred to another school within the district from the two (2) years of ADM they were already included.

(i) The adjustment under subsection (h) of this section does not apply to:

(i) Co-located schools that combine to create a single school and the combination does not cause a transfer of students to other schools within the district and the grades served are not adjusted (e.g., a co-located K-5 school and 6-8 school reconfigure to a single K-8 school. The K-8 school serves the same students as if it was the co-located K-5 and 6-8 schools. The prior years' K-5 school and 6-8 school ADM will be transferred to the combined school); or

(ii) Two (2) or more schools that combine to create a single school and the combination does not cause a transfer of students to other schools within the district and the grades served are not adjusted (e.g., a separate K-5 school, 6-8 school, and 9-12 school combine to create a single K-12 school. The single K-12 school serves the same students as if the separate schools still existed. The prior years' K-5 school, 6-8 school, and 9-12 school ADM will be transferred to the combined school).

### **Section 9. Corrections and Changes to the Funding Model.**

(a) Technical corrections. The Department shall evaluate each suggested technical correction in consultation with school finance advisers and state agencies as necessary. If the Department determines the suggested technical correction is necessary, then it will:

- (i) Notify the Legislative Service Office and outside school finance consultants;
- (ii) Document the correction and the calculated fiscal impact;
- (iii) Send the proposed corrected funding model to outside school finance consultants for review;
- (iv) Request a letter from outside school finance consultants certifying the technical corrections made by the Department allocate resources in accordance with Wyoming law;
- (v) Inform the School Finance Data Advisory Committee of the proposed correction;
- (vi) Notify all school districts; and
- (vii) Forward the revised funding model to the Secretary of State's office along with the certification letter.

(b) Data corrections. The Department shall evaluate each suggested data correction in consultation with school finance advisers and state agencies as necessary. If the Department determines that the suggested data correction is necessary, then it will:

- (i) Notify the Legislative Service Office and school finance advisers;
- (ii) Document the correction and the calculated fiscal impact; and
- (iii) If the data correction is made after the Foundation Program Funding Worksheet is released for the current school year, notify district(s) affected.

(c) Format changes. The Department shall document each format change and print a before and after worksheet to illustrate the format changes. The Department shall attach each printed worksheet to the Department's format change form.

**Section 10. Funding Model Operations and Maintenance.**

(a) The Department shall annually update necessary operations and maintenance data components in the funding model with the following data supplied by the SFD:

(i) District sites and their associated site identification number, actual site acreage, and acquired date.

(ii) District school building information, including:

(A) Actual educational gross square footage;

(B) SFD allowable gross square footage;

(C) The year built; and

(D) The number of classrooms.

(iii) No gross square footage created by any district enhancement shall be included within the districts educational gross square footage for funding model determinations unless the enhancement is included within the statewide adequacy standards as determined by the SFD.

(iv) If a single Department school identification number contains more than one (1) school building, a weighted average of the year built for each building under this section shall be calculated for use in the funding model. The weighted average shall be calculated by multiplying each building's year built by the proportion of the school's total educational gross square feet. The weighted year built amount for each building will be summed to equal an adjusted year built.

(b) The funding model generates groundskeeper full-time equivalent (FTE) resources for district sites acquired after July 1, 1997, based on the following:

(i) The site acreage shall be the lesser of the actual site acreage or the following SFD guidelines:

(A) Elementary school sites will be allowed a maximum acreage amount of four (4) acres, plus one (1) acre for every one hundred (100) ADM;



(B) Middle school sites will be allowed a maximum acreage amount of ten (10) acres, plus one (1) acre for every one hundred (100) ADM; and

(C) High school sites will be allowed a maximum acreage amount of twenty (20) acres, plus one (1) acre for every one hundred (100) ADM.

(ii) If a site contains more than one (1) school, the site will be allowed a maximum acreage amount equal to the highest level of the opened schools on the site, but count all the schools' ADM (e.g., if a site has a middle school and a high school on the same site, the site will be allowed twenty (20) acres, plus one (1) acre for every one-hundred (100) combined middle school and high school ADM). The site shall be resourced upon the lesser of the allowed acreage amount or actual site acreage.

(iii) If a site was acquired through an exchange of land with another government entity and the acreages involved in the exchange were originally acquired by the district and the government entity on or before July 1, 1997, the site will generate groundskeepers for the actual site acreage. The district shall provide the following documentation to the Department:

(A) The dates the district and the government originally acquired the acreages involved in the exchange; and

(B) The completed contract between the district and the government entity to acquire the acreages that identifies the date the exchange occurred.

(iv) Any other district site acquired after July 1, 1997, with a facility other than an elementary school, middle/junior high school, or high school located on it will be resourced groundskeepers for the site's actual site acreage.

(v) If a district has a parcel of land with a school under construction or without a facility located on it, the funding model will not generate groundskeeper FTE resources for the acreage.

(c) The funding model will generate groundskeeper FTE resources for all district sites acquired on or before July 1, 1997, and shall use the actual site acreage in the calculation to generate groundkeeper FTE resources.

(d) If a district's site acquisition date is different than when the district obtained the title or deed to the site, the district shall provide documentation identifying the exact date when the district acquired the site.

**Section 11. Reimbursable Expenditures.** For all categories of reimbursable school district expenditures, reimbursement shall be limited to incremental costs for which funding is

not already directly provided in the funding model. No reimbursement shall be provided for costs previously or simultaneously recovered elsewhere in the Wyoming school finance system.

(a) Student Transportation Reimbursement. The following applies to the funding model's student transportation reimbursement under W.S. 21-13-320.

(i) Pro rata reimbursement for personnel not devoting one hundred percent (100%) of their time to student transportation issues and operations shall be supported by clear and continuous documentation.

(ii) Personnel dealing with pupil transportation issues and operations on a full-time basis shall be subject to one hundred percent (100%) reimbursement provided that an appropriate position description exists and an affidavit specific to the year for which reimbursement is expected, signed by the employee and the district superintendent or district superintendent designee, attesting to full-time involvement, is on file at the district office. The affidavits shall be renewed annually and clearly reference the school year for which reimbursement is claimed.

(iii) No reimbursement for student transportation facility major maintenance or capital construction shall be allowed under this section.

(b) School District Organization Reimbursement. The following applies to reimbursable expenses pursuant to school district organization under W.S. 21-6-219(a).

(i) The Department will reimburse each involved school district remaining after reorganization up to \$100,000 for professional fees actually paid and for other expenses specifically and directly related to the reorganization process. Reimbursement paid to school personnel for services provided solely due to reorganization shall be reimbursed only upon the Department receiving an itemized statement setting forth the wage computation and itemizing the service or services provided on an hourly basis. Compensation shall be calculated at the same rate as the district compensates the employee for other educational services. The district may be reimbursed for unemployment claims due to layoffs directly resulting from reorganization.

(ii) School districts remaining after reorganization shall submit reimbursement claims to the Department within one (1) year of signing the final consolidation agreement. Each reimbursement claim shall include copies of invoices from practitioners describing work done and showing professional fees charged and proof of payment by the district. The Department shall reimburse involved school districts submitting qualified reimbursement claims in equal amounts over a period not to exceed three (3) fiscal years. At the discretion of the Department, reimbursement may be made in single payments to districts within sixty (60) days of receiving qualified reimbursement claims.

(c) National Board Certified Teacher Incentive Reimbursement. The following applies to reimbursable incentive payments under W.S. 21-7-501(f).

(i) School districts may choose to pay either the gross or net amount to qualifying employees.

(ii) The Department may request additional information before issuing reimbursement to a district in order to ensure the district has complied with W.S. 21-7-501(f).

(iii) District staff submitted for reimbursement under this authority shall meet the following requirements:

(A) Hold a qualifying position:

(I) Licensed classroom teachers who work directly with students in a classroom setting teaching grade-level or subject-matter appropriate classes;

(II) Certified tutors;

(III) Instructional facilitators;

(IV) Counselors; and

(V) Librarians.

(B) Be employed full-time within the reporting school district as one (1.0) full-time equivalent (FTE) as a measure of quantified, standardized employee workload.

(I) Employees with split assignments qualify as employed full-time when:

(1.) The combination of assignments are equivalent to one (1.0) FTE; and

(2.) All job assignments meet the requirements provided in subsection (iii) of this section.

(C) Hold valid National Board certification through the National Board for Professional Teaching Standards, and are actively employed at the time payment is generated by the district.

(iv) Non-qualifying positions under this section include, but are not limited to:

(A) District and school administrators;

(B) Nurses;

(C) Paraprofessionals;

(D) Library media aides;

(E) Computer network technicians; and

(F) Speech pathologists.

#### **Section 12. Cash Reserves.**

(a) A school district's committed, assigned and unassigned end-of-year general-fund fund balance as reported in the district's audited financial statements will be considered to be its operating balance and cash reserves for that year.

(b) A school district shall not transfer funds or accumulated reserves from its general fund to another fund to avoid including the amounts as state revenues under W.S. 21-13-310(a). Any amount transferred in violation of this subsection shall be state revenue under W.S. 21-13-310(a).

(c) District revenues received from settlements of prior protested twenty-five (25) and six (6) mill tax payments may be excluded from the cash reserve calculation for the fiscal year in which the payments were received.

(i) A district wishing to exclude a tax settlement from the cash reserves calculations shall submit a letter to the Department requesting exclusion within thirty (30) days after the end of the fiscal year in which the protest payment was received.

(ii) The letter shall include a certification from the county treasurer on the amount of the tax settlement receipt.

**Section 13. At-Risk Data Used for the Funding Model.** The data constituting a district's at-risk count shall be the unduplicated count of ELL students, FRL students and mobile students.

**Section 14. Internal Consistency of Reports and Mathematical Integrity.** The individual reports making up the foundation program report shall be operationally and mathematically consistent. The Annual District Report shall serve as the hub and master repository of district financial data. The other reports making up the foundation program report shall, where applicable, reconcile with the Annual District Report. Each school district superintendent shall review the individual reports making up the foundation program report for his or her district as appropriate and necessary before they are forwarded to the Department and, based upon his or her review, certify that, to the best of his or her knowledge and belief, the foundation program report and its subparts are complete, accurate, and conform with all reporting requirements.

**Section 15. Retention of Foundation Program Reports.** Each school district shall maintain foundation program reports along with all supporting data in accordance with the retention schedule for school districts on file with the Wyoming State Archives office.

**Section 16. School Finance Audits.**

(a) Within the thirty (30) days provided by W.S. 9-1-513(c), a school district may request the Department review findings identified by the Department of Audit. A school district requesting a review shall do so in writing to the Superintendent of Public Instruction. The request shall contain:

- (i) The finding(s) made by the Department of Audit the district disputes;
- (ii) An explanation of why the district disputes the finding(s);
- (iii) The legal authority the district relies on;
- (iv) Changes in the amount the Department of Audit has determined should be repaid to the public School Foundation Program Account;
- (v) Any additional facts, information, or documents to support the district's position.

(b) The Superintendent of Public Instruction or a designee shall issue a decision as soon as reasonably practicable. The Department shall follow up the decision in writing and outline the basis for that decision.

(c) Upon receiving a final audit report and district response under W.S. 9-1-513(c) and described in subsection (a) of this section, the Department will issue a written order stating amounts to be recovered from or due to the school district.

(i) If the Department requires payment to the school district, the Department will issue payment no later than thirty (30) days after it issues the final order.

(ii) If the Department requires repayment by the school district to the public School Foundation Program Account, the district shall remit payment to the Department no later than thirty (30) days after receipt of the final order.

(d) Any order issued under this section is final agency action subject to judicial review in accordance with W.S. 16-3-114 and the Wyoming Rules of Appellate Procedure.

(e) If a school district petitions for judicial review, execution of the Department's order shall be stayed until final judicial resolution.

## Chapter 8 School Finance

Section 1. **Authority.** These rules are promulgated pursuant to W.S. 21-2-202(a)(i) and (e); W.S. 21-2-203(a); W.S. 21-3-314(a); W.S. 21-6-219(a); W.S. 21-7-501(f)(iii); W.S. 21-13-101(c).

### Section 2. **Definitions.**

(a) “Acquired” means gained possession. Examples of acquire include, but are not limited to, lease agreement, purchase, or gift.

(b) “Actual site acreage” means the site acreage amount that appears on the actual land’s title or deed. If the acreage amount does not appear on land’s title or deed, actual site acreage is the amount reported by the School Facilities Division of the State Construction Department.

(c) “Case manager” means an individual working under a personal-services contract with a school district or Board of Cooperative Educational Services to provide general supervision of special education programs and services provided to children with disabilities.

(d) “Co-located school” means two (2) or more schools, each with its own unique identifier, that exist within the same school facility.

(e) “Combined school” means two (2) or more existing schools in a district that are joined together to form a single school as a result of one or more schools closing within a district.

(f) “Data correction” means corrections necessary to ensure funding model operation and current school year district payments are using the correct data supplied by school districts, other state agencies, and outside consultants to properly compute school foundation program payments to school districts as required by law.

(g) “Days of operation” means the term of operation for a school including pupil-teacher contact days and days used exclusively for registration, professional development, report card distribution, teacher/parent conferences, in-service programs, and similar activities.

(h) “Department” means the Wyoming Department of Education.

(i) “English language learner (ELL) student” means any student reported as primarily enrolled by a district on the October snapshot who has been identified as an ELL or former ELL in Year 1 or Year 2 monitor status in compliance with required identification criteria presented in a format specified by the Department.

(j) “Facility” means a standalone or combination of buildings owned or leased by the district that support the delivery of educational programs necessary to meet state accreditation standards and federal laws.

(k) “Format change” means any change to the funding model that results in a different appearance or layout and maintains the integrity and functionality of the funding model.

(l) “Foundation program report” means the accumulation and aggregation of student attendance and membership statistics, school district financial data, reimbursement claims, estimates, and other representations including, but not limited to, the following reports: the WISE Annual District Report, the WISE Attendance & Membership Report, the Foundation Program Funding Worksheet, the Annual Special Education Expenditure Report, the Annual Student Transportation Expenditure Report, the Vocational Education Student FTE Worksheet, Vocational Education Teacher FTE Worksheet, and the Annual District Budget.

(m) “Foundation program review” means the examination, analysis, testing, and verification of a school district’s foundation program report and system of student accounting by the Department or its representative (whether on-site at the school district or in the form of a desk review at the offices of the Department) to confirm, verify, validate, and, if necessary, correct the student attendance and membership statistics, school district financial data, reimbursement claims, estimates, and other representations appearing in the district’s foundation program report.

(n) “Free and reduced lunch (FRL) student” means any student reported as primarily enrolled by a district on the October snapshot who meets the eligibility requirements for the free and reduced priced lunch program established by 42 U.S.C. §1751 et seq. regardless of the school’s participation in the free and reduced priced lunch program.

(o) “Funding model” means the enumeration of components defined in “Attachment A” as referenced in W.S. 21-13-101(a)(xvii) and (c), including any technical and data corrections implemented in accordance with W.S. 21-2-202(e).

(p) “Membership” means the inclusion of an enrolled student in a school’s student accounting records, whether the student is attending or absent on that day.

(q) “Mobile student” means any student reported as primarily enrolled in any grade six (6) through twelve (12) by a district on the annual Department spring accountability snapshot date where the student’s school entry date falls after the October snapshot of the same school year.

(r) “National Board Certification” means advanced teaching credentials awarded through the National Board Certified Teacher program by the National Board for Professional Teaching Standards.



(s) “New school” means a school that is assigned a unique identification number from the Department for reporting purposes and is funded as a first-year school in the funding model.

(t) “Part-time student” means a student that is enrolled in fewer daily hours or periods than normally scheduled in the school they are enrolled.

(u) “Reconfigured school” means a school in which grades served has been changed from the previous school year.

(v) “Replacement school” means a school in which a new building has been constructed and is used in place of a previously existing school with the same grade configuration.

(w) “School day” means the starting time of a pupil-teacher contact day to the ending time of a pupil-teacher contact day as established by school district board of trustee policy.

(x) “School Facilities Division (SFD)” means the School Facilities Division of the State Construction Department.

(y) “Site” means a parcel of land that has been acquired by a district, and is identified by the SFD by a site identification number.

(z) “State Board” means the Wyoming State Board of Education.

(aa) “Student accounting” means the process of enrolling students, taking attendance, appropriately withdrawing students and removing them from student accounting records, and maintaining accurate and verifiable computer-based records within the student information system for the purpose of uniform and timely reporting of student attendance and membership statistics at each school district’s school.

(bb) “Technical correction” means a correction necessary to ensure funding model operation and current school year district payments are in accordance with law and the funding model is properly computing school foundation program payments to school districts as required by law.

Section 3. **Basis of Accounting.** With the exception of accounting operations necessary to properly compute a school district’s operating balance and cash reserves under W.S. 21-13-313(e) and Section 14, all school districts shall, for purposes of preparing individual reports within the Foundation Program Report, use the cash basis of accounting. Any exceptions shall have prior approval of the Department.

#### **Section 4. School and Operational Days.**

(a) Each school shall meet both the 175-day pupil-teacher contact requirement required by W.S. 21-4-301 or the number of days required under an alternative schedule approved by the State Board and the minimum applicable number of hours established by State Board rules and regulations.

(b) Each school shall be in operation for at least the equivalent of 185 days unless an alternative schedule has been approved by the State Board and shall conduct classes for a majority (greater than 50 percent) of the school day for at least 175 student days. Days used exclusively for registration, professional development, report card distribution, teacher/parent conferences, in-service programs, and similar activities shall only be counted as days of operation beyond the 175-day pupil-teacher contact minimum.

#### **Section 5. Reporting a School's Status to the Department.**

(a) School districts shall give written notification to the Department within two (2) weeks upon the occurrence of any of the following events:

(i) A school closes and students are no longer attending classes (this does not apply to replacement schools); or

(ii) Emergency conditions such as weather, utility failure, or safety conditions requiring the temporary closure of one or more schools for a half school day or more.

#### **Section 6. School Reconfiguration Reporting for Purposes of Funding.**

(a) A school district shall file a written report to the Department that it has or intends to change a school's grade configuration or open a new school for the next school year.

(b) Reports submitted under this section indicating the opening of a school or modifying a school's grade configuration for the upcoming school year shall be provided to the Department no later than June 15 of each year.

(c) The reports submitted under this section shall provide documentation verifying compliance with the district's facility plan on file with the SFD and with the criteria outlined in W.S. 21-13-309(m)(vi).

(d) Reports submitted under this section will be reviewed by the Department and a determination will be rendered to the district as soon as practicable following receipt of the report. In some instances, a reconfigured school or combined school may result in a new school. If a replacement school is built, the school shall not be considered a new school.

#### **Section 7. Minimum Attendance Taking Requirements.**

(a) All Wyoming public schools shall take and record attendance to verify and ensure accurate attendance and membership calculations.

(b) In elementary schools, attendance shall be taken a minimum of two (2) times during the school day, once in the morning and once in the afternoon.

(c) In middle schools, junior high schools, and high schools, attendance shall be taken each class period.

(d) Virtual education attendance shall be measured by approved participation requirements defined by Department rules and regulations.

**Section 8. Mathematical Calculation of Average Daily Membership (ADM).**

(a) The mathematical calculation of ADM is derived by dividing each student's aggregate membership days for the period of time under aggregation by the actual number of school days over which the aggregation occurred. The resulting calculation for each student shall not exceed one (1.000) ADM. Student data used to report membership shall be provided by each school's student information system. ADM calculations shall be carried out and rounded to three (3) decimal places for reporting to the Department. Students enrolled at least eighty percent (80%) of a full-time equivalency shall be considered full-time for membership (1.000 ADM). Students enrolled less than eighty percent (80%) of a full-time equivalency shall be counted equal to their part-time membership calculation as determined in Section 8(e).

(b) Schools shall exclude from their membership students for whom the school district is no longer actively or prospectively providing appropriate instructional services. Examples include, but are not limited to, students who:

(i) Withdraw from school;

(ii) Are absent more than ten (10) consecutive school calendar days;

(iii) Are full-time virtual education students not meeting participation requirements for more than ten (10) consecutive program days as defined by Department rules and regulations;

(iv) Do not attend a school in a Wyoming school district;

(v) Transfer from one school to another within a district (the sending school shall cease to include the transferred student in its membership);

(vi) Move out of the area, or are otherwise no longer receiving appropriate district instructional services; or

(vii) Are enrolled in school and do not actually attend for at least one (1) day during the current school year.

(c) A school district that receives a student from another school district shall immediately include that student in its membership. The school district that sends a student to another school district shall immediately cease including that student in its membership. No student shall be included in two schools' memberships at the same time, whether those schools are in the same or different districts.

(d) No reduction in aggregate membership shall occur when a student completes a virtual education course before the end of the term if the student has completed the participation requirements. A weighted day calculation shall be used for the time the student was enrolled in the course. The weighting shall be calculated using the number of scheduled term days divided by the actual days it took the student to complete the course (e.g., a course term is 88 days and a student completed the course in 50 days. The 88 term days are divided by the 50 course days to equal a 1.76 weighted day equivalent for each of the 50 days in the course. The 50 days the student took to complete the course is multiplied by the weighted figure of 1.76 resulting in 88 course days). For each course, the number of days completed shall be divided by the regularly scheduled number of courses in the school to compute the aggregate membership (e.g., if a student completed 88 course days and the school offered 8 courses per day, the student's aggregate membership for the course would be 11.000).

(i) Virtual education student membership shall be prorated at less than one (1.000) ADM if the number of virtual education courses in which the student is enrolled is less than the regularly scheduled courses for that school, but the virtual education membership may be combined with any non-virtual education membership on a daily basis to result in a larger fractional membership not to exceed one (1.000) ADM.

(e) Students in membership less than eighty percent (80%) of the school day shall be counted equal to their part-time membership using one (1) of the following methods and apply that one (1) method to all part-time students in the school:

(i) Calculate the ratio of periods in membership to the total periods normally offered at that school (e.g., a student in membership two (2) periods a day in a school that offers seven (7) periods per day would generate a  $\frac{2}{7}$  aggregate membership, or 0.286 ADM for the number of days over which the aggregation occurred).

(ii) Calculate the ratio of hours (or minutes) in membership to the total hours (or minutes) normally offered at that school (e.g., a student in membership three (3) hours (180 minutes) a day in a school that offers eight (8) hours (480 minutes) per day would generate  $\frac{3}{8}$  aggregate membership, or .375 ADM for the number of days during which the aggregation occurred).

(iii) Alternative schools without a set bell schedule may use the normally scheduled hours from the closest district-operated non-alternative school offering the same grade level services to determine the proportion of membership (e.g., a student in membership for 350 hours of pupil-teacher contact time, measured against a school that normally provides 1100 contact hours would generate  $350/1100$  aggregate membership, or 0.318 ADM, for the school year).

(f) When school is dismissed for emergencies pursuant to W.S. 21-13-307(a)(ii) or Section 5(a)(ii), membership inclusion shall be continued as if the entire session had been completed if students are in attendance for greater than fifty percent (50%) of the school day. No membership shall be counted when school is canceled before the school day begins or when ended before completing fifty percent (50%) of the school day.

(g) Prior school year ADM, for purposes of calculating the funding model's ADM three-year average, shall be adjusted in the current funding model in the following instances:

(i) A new school opens;

(ii) A school closes;

(iii) A district changes boundaries;

(iv) A school reconfigures; or

(v) A district moves specific programs from one school to another school, as well as the students in those programs.

(h) The district shall submit a list of schools and the number of students, by grade, which transferred to another school within the district due to one of the instances in subsection (g). The Department shall subtract the number of students that transferred to another school within the district from the two (2) years of ADM they were already included.

(i) The Department shall subtract the number of students that transferred to another school within the district from the two (2) years of ADM they were already included.

(i) The adjustment under subsection (h) of this section does not apply to:

(i) Co-located schools that combine to create a single school and the combination does not cause a transfer of students to other schools within the district and the grades served are not adjusted (e.g., a co-located K-5 school and 6-8 school reconfigure to a single K-8 school. The K-8 school serves the same students as if it was the co-located K-5 and 6-8 schools. The prior years' K-5 school and 6-8 school ADM will be transferred to the combined school); or

(ii) Two (2) or more schools that combine to create a single school and the combination does not cause a transfer of students to other schools within the district and the grades served are not adjusted (e.g., a separate K-5 school, 6-8 school, and 9-12 school combine to create a single K-12 school. The single K-12 school serves the same students as if the separate schools still existed. The prior years' K-5 school, 6-8 school, and 9-12 school ADM will be transferred to the combined school).

**Section 9. Corrections and Changes to the Funding Model.**

(a) Technical corrections. The Department shall evaluate each suggested technical correction in consultation with school finance advisers and state agencies as necessary. If the Department determines the suggested technical correction is necessary, then it will:

- (i) Notify the Legislative Service Office and outside school finance consultants;
- (ii) Document the correction and the calculated fiscal impact;
- (iii) Send the proposed corrected funding model to outside school finance consultants for review;
- (iv) Request a letter from outside school finance consultants certifying the technical corrections made by the Department allocate resources in accordance with Wyoming law;
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- (vi) Notify all school districts; and
- (vii) Forward the revised funding model to the Secretary of State's office along with the certification letter.

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- (i) Notify the Legislative Service Office and school finance advisers;
- (ii) Document the correction and the calculated fiscal impact; and
- (iii) If the data correction is made after the Foundation Program Funding Worksheet is released for the current school year, notify district(s) affected.

(c) Format changes. The Department shall document each format change and print a before and after worksheet to illustrate the format changes. The Department shall attach each printed worksheet to the Department's format change form.

Section 10. **Funding Model Operations and Maintenance.**

(a) The Department shall annually update necessary operations and maintenance data components in the funding model with the following data supplied by the SFD:

(i) District sites and their associated site identification number, actual site acreage, and acquired date.

(ii) District school building information, including:

(A) Actual educational gross square footage;

(B) SFD allowable gross square footage;

(C) The year built; and

(D) The number of classrooms.

(iii) No gross square footage created by any district enhancement shall be included within the districts educational gross square footage for funding model determinations unless the enhancement is included within the statewide adequacy standards as determined by the SFD.

(iv) If a single Department school identification number contains more than one (1) school building, a weighted average of the year built for each building under this section shall be calculated for use in the funding model. The weighted average shall be calculated by multiplying each building's year built by the proportion of the school's total educational gross square feet. The weighted year built amount for each building will be summed to equal an adjusted year built.

(b) The funding model generates groundskeeper full-time equivalent (FTE) resources for district sites acquired after July 1, 1997, based on the following:

(i) The site acreage shall be the lesser of the actual site acreage or the following SFD guidelines:

(A) Elementary school sites will be allowed a maximum acreage amount of four (4) acres, plus one (1) acre for every one hundred (100) ADM;

(B) Middle school sites will be allowed a maximum acreage amount of ten (10) acres, plus one (1) acre for every one hundred (100) ADM; and

(C) High school sites will be allowed a maximum acreage amount of twenty (20) acres, plus one (1) acre for every one hundred (100) ADM.

(ii) If a site contains more than one (1) school, the site will be allowed a maximum acreage amount equal to the highest level of the opened schools on the site, but count all the schools' ADM (e.g., if a site has a middle school and a high school on the same site, the site will be allowed twenty (20) acres, plus one (1) acre for every one-hundred (100) combined middle school and high school ADM). The site shall be resourced upon the lesser of the allowed acreage amount or actual site acreage.

(iii) If a site was acquired through an exchange of land with another government entity and the acreages involved in the exchange were originally acquired by the district and the government entity on or before July 1, 1997, the site will generate groundskeepers for the actual site acreage. The district shall provide the following documentation to the Department:

(A) The dates the district and the government originally acquired the acreages involved in the exchange; and

(B) The completed contract between the district and the government entity to acquire the acreages that identifies the date the exchange occurred.

(iv) Any other district site acquired after July 1, 1997, with a facility other than an elementary school, middle/junior high school, or high school located on it will be resourced groundskeepers for the site's actual site acreage.

(v) If a district has a parcel of land with a school under construction or without a facility located on it, the funding model will not generate groundskeeper FTE resources for the acreage.

(c) The funding model will generate groundskeeper FTE resources for all district sites acquired on or before July 1, 1997, and shall use the actual site acreage in the calculation to generate groundkeeper FTE resources.

(d) If a district's site acquisition date is different than when the district obtained the title or deed to the site, the district shall provide documentation identifying the exact date when the district acquired the site.

**Section 11. Reimbursable Expenditures.** For all categories of reimbursable school district expenditures, reimbursement shall be limited to incremental costs for which funding is



not already directly provided in the funding model. No reimbursement shall be provided for costs previously or simultaneously recovered elsewhere in the Wyoming school finance system.

(a) Student Transportation Reimbursement. The following applies to the funding model's student transportation reimbursement under W.S. 21-13-320.

(i) Pro rata reimbursement for personnel not devoting one hundred percent (100%) of their time to student transportation issues and operations shall be supported by clear and continuous documentation.

(ii) Personnel dealing with pupil transportation issues and operations on a full-time basis shall be subject to one hundred percent (100%) reimbursement provided that an appropriate position description exists and an affidavit specific to the year for which reimbursement is expected, signed by the employee and the district superintendent or district superintendent designee, attesting to full-time involvement, is on file at the district office. The affidavits shall be renewed annually and clearly reference the school year for which reimbursement is claimed.

(iii) No reimbursement for student transportation facility major maintenance or capital construction shall be allowed under this section.

~~(b) Special Education Reimbursement. The following applies to the funding model's special education reimbursement under W.S. 21-13-321.~~

~~(i) Reimbursement for expenditures incurred to provide special education programs and services to children with disabilities shall not duplicate any other reimbursement or revenue source used to offset district special education costs. For example, any amount received by a district from the special school district tax levied under W.S. 21-20-109 for Boards of Cooperative Educational Services (BOCES) providing services to children with disabilities but not passed through to the BOCES for which the tax was levied, shall be deemed state revenue under W.S. 21-13-310(a).~~

~~(ii) Special education reimbursement shall be limited to those actual costs required to provide special education programs and services to children with disabilities. Imputed or indirect costs, such as those for utilities and other overhead, shall not be claimed.~~

~~(iii) Salaries and employee benefits for personal services paid to licensed teachers, substitute teachers, and other certified or licensed personnel, or to paraprofessionals and classified employees, are subject to the following requirements:~~

~~(A) Personnel providing special education programs and services to children with disabilities on a full time basis shall be subject to one hundred percent (100%) reimbursement provided that an appropriate position description exists and an affidavit specific to the year for which reimbursement is expected, signed by the employee and the district~~

~~superintendent or district superintendent designee, attesting to full-time involvement is on file at the district office. The affidavits shall be renewed annually and shall clearly reference the school year for which reimbursement is claimed.~~

~~(B) — Pro rata reimbursement for personnel not devoting one hundred percent (100%) of their time providing special education programs and services to children with disabilities shall be supported by clear and continuous documentation.~~

~~(C) — Reimbursement for personnel costs of teachers providing special education programs and services to children with disabilities shall be limited to those individuals having appropriate special education certification. Substitute teachers need not be certified as special education instructors.~~

~~(D) — Reimbursement for personnel costs of aides and other paraprofessionals shall be based on the amount of time devoted to special education or related services, working under the supervision of certified special education personnel.~~

~~(iv) — Instructional materials, supplies and equipment, and other items will be reimbursed in the amount necessary to provide beneficial services for children with disabilities as determined by their IEP team. Reimbursable costs would also include those items necessary to evaluate a child to determine the need for special education services as well as those day-to-day supplies, materials, and equipment used by special education staff and programs. Supplies, equipment, and materials generally available to all students shall not be reimbursed under this section.~~

~~(v) — Contracts for special education services shall be executed on forms approved by the Department, and the following requirements apply:~~

~~(A) — Charges for contracted special education programs and services related to individual children shall be supported by an itemized billing statement showing each child served during each billing period. Reimbursement shall not exceed actual costs for services.~~

~~(B) — With the exception of those payments to BOCES or other Wyoming school districts that have been pre-approved by local boards of trustees, payment for services shall be made only after the services have been provided.~~

~~(C) — School districts offering special education programs and services through a case management arrangement using individuals other than district staff shall develop a personal services contract setting out and describing services provided by the case manager.~~

~~(D) — Each contract for out-of-district or out-of-state placement shall be written for only one child.~~

~~(E) Contracted services shall only be provided by appropriately certified, licensed, or registered providers.~~

~~(F) All providers shall adhere to Department and State Board rules and regulations.~~

~~(G) All contracts for services shall be subject to Department review.~~

~~(vi) Each district shall develop, implement, and enforce a reasonable policy setting forth the conditions, limitations, and allowable frequency of travel by parents to visit their child with disabilities when the child has been placed in a specialized setting away from their home in accordance with the child's IEP.~~

(b) School District Organization Reimbursement. The following applies to reimbursable expenses pursuant to school district organization under W.S. 21-6-219(a).

(i) The Department will reimburse each involved school district remaining after reorganization up to \$100,000 for professional fees actually paid and for other expenses specifically and directly related to the reorganization process. Reimbursement paid to school personnel for services provided solely due to reorganization shall be reimbursed only upon the Department receiving an itemized statement setting forth the wage computation and itemizing the service or services provided on an hourly basis. Compensation shall be calculated at the same rate as the district compensates the employee for other educational services. The district may be reimbursed for unemployment claims due to layoffs directly resulting from reorganization.

(ii) School districts remaining after reorganization shall submit reimbursement claims to the Department within one (1) year of signing the final consolidation agreement. Each reimbursement claim shall include copies of invoices from practitioners describing work done and showing professional fees charged and proof of payment by the district. The Department shall reimburse involved school districts submitting qualified reimbursement claims in equal amounts over a period not to exceed three (3) fiscal years. At the discretion of the Department, reimbursement may be made in single payments to districts within sixty (60) days of receiving qualified reimbursement claims.

(c) National Board Certified Teacher Incentive Reimbursement. The following applies to reimbursable incentive payments under W.S. 21-7-501(f).

(i) School districts may choose to pay either the gross or net amount to qualifying employees.

(ii) The Department may request additional information before issuing reimbursement to a district in order to ensure the district has complied with W.S. 21-7-501(f).

(iii) District staff submitted for reimbursement under this authority shall meet the following requirements:

(A) Hold a qualifying position:

(I) Licensed classroom teachers who work directly with students in a classroom setting teaching grade-level or subject-matter appropriate classes;

(II) Certified tutors;

(III) Instructional facilitators;

(IV) Counselors; and

(V) Librarians.

(B) Be employed full-time within the reporting school district as one (1.0) full-time equivalent (FTE) as a measure of quantified, standardized employee workload.

(I) Employees with split assignments qualify as employed full-time when:

(1.) The combination of assignments are equivalent to one (1.0) FTE; and

(2.) All job assignments meet the requirements provided in subsection (iii) of this section.

(C) Hold valid National Board certification through the National Board for Professional Teaching Standards, and are actively employed at the time payment is generated by the district.

(iv) Non-qualifying positions under this section include, but are not limited to:

(A) District and school administrators;

(B) Nurses;

- (C) Paraprofessionals;
- (D) Library media aides;
- (E) Computer network technicians; and
- (F) Speech pathologists.

**Section ~~14~~ 12. Cash Reserves.**

(a) A school district's committed, assigned and unassigned end-of-year general-fund fund balance as reported in the district's audited financial statements will be considered to be its operating balance and cash reserves for that year.

(b) A school district shall not transfer funds or accumulated reserves from its general fund to another fund to avoid including the amounts as state revenues under W.S. 21-13-310(a). Any amount transferred in violation of this subsection shall be state revenue under W.S. 21-13-310(a).

(c) District revenues received from settlements of prior protested twenty-five (25) and six (6) mill tax payments may be excluded from the cash reserve calculation for the fiscal year in which the payments were received.

(i) A district wishing to exclude a tax settlement from the cash reserves calculations shall submit a letter to the Department requesting exclusion within thirty (30) days after the end of the fiscal year in which the protest payment was received.

(ii) The letter shall include a certification from the county treasurer on the amount of the tax settlement receipt.

**Section ~~15~~ 13. At-Risk Data Used for the Funding Model.** The data constituting a district's at-risk count shall be the unduplicated count of ELL students, FRL students and mobile students.

**Section ~~16~~ 14. Internal Consistency of Reports and Mathematical Integrity.** The individual reports making up the foundation program report shall be operationally and mathematically consistent. The Annual District Report shall serve as the hub and master repository of district financial data. The other reports making up the foundation program report shall, where applicable, reconcile with the Annual District Report. Each school district superintendent shall review the individual reports making up the foundation program report for his or her district as appropriate and necessary before they are forwarded to the

Department and, based upon his or her review, certify that, to the best of his or her knowledge and belief, the foundation program report and its subparts are complete, accurate, and conform with all reporting requirements.

Section ~~17~~ 15. **Retention of Foundation Program Reports.** Each school district shall maintain foundation program reports along with all supporting data in accordance with the retention schedule for school districts on file with the Wyoming State Archives office.

Section ~~18~~ 16. **School Finance Audits.**

(a) Within the thirty (30) days provided by W.S. 9-1-513(c), a school district may request the Department review findings identified by the Department of Audit. A school district requesting a review shall do so in writing to the Superintendent of Public Instruction. The request shall contain:

- (i) The finding(s) made by the Department of Audit the district disputes;
- (ii) An explanation of why the district disputes the finding(s);
- (iii) The legal authority the district relies on;
- (iv) Changes in the amount the Department of Audit has determined should be repaid to the public School Foundation Program Account;
- (v) Any additional facts, information, or documents to support the district's position.

(b) The Superintendent of Public Instruction or a designee shall issue a decision as soon as reasonably practicable. The Department shall follow up the decision in writing and outline the basis for that decision.

(c) Upon receiving a final audit report and district response under W.S. 9-1-513(c) and described in subsection (a) of this section, the Department will issue a written order stating amounts to be recovered from or due to the school district.

(i) If the Department requires payment to the school district, the Department will issue payment no later than thirty (30) days after it issues the final order.

(ii) If the Department requires repayment by the school district to the public School Foundation Program Account, the district shall remit payment to the Department no later than thirty (30) days after receipt of the final order.

(d) Any order issued under this section is final agency action subject to judicial review in accordance with W.S. 16-3-114 and the Wyoming Rules of Appellate Procedure.

(e) If a school district petitions for judicial review, execution of the Department's order shall be stayed until final judicial resolution.

**Chapter 44**  
**RULES FOR THE SPECIAL EDUCATION COMPONENT WITHIN THE**  
**EDUCATION RESOURCE BLOCK GRANT MODEL**

Section 1. **Authority.** These rules are promulgated pursuant to W.S. 21-2-202(a)(i); W.S. 21-2-203(a); and W.S. 21-13-321(d).

Section 2. **Definitions.**

(a) “Advertising” means costs for print (newspapers, flyers, brochures, etc.), radio, internet or television advertisements, the purpose of which is to recruit special education staff, procure special education goods or services, communicate to the public concerning special education issues such as the destruction of special education records, announcement of Child Find activities as defined by 34 CFR § 300.111(a)(i) or surplus special education goods.

(b) “Benefits” means amounts paid on behalf of special education staff in accordance with the district’s compensation policy. Examples include, but are not limited to: retirement, social security, Medicare, and health and life insurance.

(c) “Communication Services” means services provided by persons or businesses to assist in transmitting and receiving messages or information. This category includes, but is not limited to, phone services and related service personnel or other staff providing services to students with disabilities.

(d) “Contract Services” means professional services provided by a third party organization or contractor including fees paid for professional advice, training, applicable services and consultation regarding students with disabilities and their programs; this may include the delivery and accessibility of special education services.

(e) “Direct Costs” means costs which can be traced directly to or identified for the specific purpose of serving students with disabilities.

(f) “Equipment-General” means items that are tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by each district. These items are acquired for the purpose of providing general education to all students.

(g) “Equipment-Special Education” means items which extend beyond Equipment-General, are specific to providing education to students with disabilities, and are required by or related to a child’s IEP.



(h) “Evaluation” means procedures used in accordance with 34 CFR §§ 300.304 through 300.311 to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs.

(i) “Extended School Year (ESY)” means special education and related services that are provided to a child with a disability, beyond the normal school year, in accordance with the child’s IEP and at no cost to the parents of the child.

(j) “IEP” means an Individualized Education Program as defined by 34 CFR § 300.22.

(k) “Incentive” means something offered as a reward or motivator to a student for accomplishing a given task demonstrating a positive behavior or for increasing productivity. Examples include, but are not limited to: food, toys, candy, and stickers.

(l) “Indirect Costs” means costs incurred for a common or joint purpose benefitting more than one cost objective that cannot be identified specifically with serving students with disabilities. Examples include expenses that would require a percentage allocation, but are not limited to: insurance, internet access, building maintenance, and utilities.

(m) “Instructional Materials-General” means items that are designed to serve as a tool for assisting in the instruction of a general education subject or course. Materials may be available in bound, unbound, kit, or package form and may consist of hard-backed or soft-backed textbooks, consumables, learning laboratories, slides, recordings, electronic media, and other accepted instructional tools. These materials are acquired for the purpose of providing general education to all students. Hardware required for the use of these materials is not considered “instructional materials.”

(n) “Instructional Materials-Special Education” means materials which extend beyond Instructional Materials-General, are specific to providing education to students with disabilities, and are required by or related to a child’s IEP.

(o) “Legal Fees” means the payment or charge made for legal services including charges by other professionals for services rendered in conjunction with legal services performed.

(p) “Per Diem” means the daily allotted amount for employees required to travel for special education services.

(q) “Professional Development-General” means the knowledge and skills attained to succeed in providing general education services to all students. Professional development encompasses all types of facilitated learning opportunities, including, but not limited to, formal coursework, conferences and informal learning opportunities situated in practice. Professional Development-General is acquired for the purpose of providing general education to all students.

(r) “Professional Development-Special Education” means professional development that extends beyond Professional Development-General and is specific to providing education to students with disabilities, and is required by or related to a child’s IEP.

(s) “Salary” means wages paid to employees providing special education and related services to students with disabilities in accordance with 34 CFR § 300.156. Examples include, but are not limited to: teachers, substitute teachers, other certified or licensed personnel, paraprofessionals, and classified employees.

(t) “Screening” means a process that a teacher or specialist uses to determine appropriate instructional strategies.

(u) “Supplies-General” means general purpose consumable items which have a shorter life span in use than equipment and machines, are stocked for recurring use, and are expendable or incorporated into other products to provide general education to all students. These items are acquired for the purpose of providing general education to all students.

(v) “Supplies-Special Education” means items which extend beyond Supplies-General, are specific to providing special education to students with disabilities, and are required by or related to a child’s IEP.

(w) “Special Education Services” means services to be provided to a student as identified in the student’s IEP, including special education, related services, supplementary aids and services or necessary accommodations or modifications.

(x) “Technology-General” means costs for purchasing, upgrading, and maintaining computer technology hardware and software that are used when providing education to students. This technology is acquired for the purpose of providing general education to all students.

(y) “Technology-Special Education” means costs which extend beyond Technology-General, are specific to providing education to students with disabilities, and are required by or related to a child’s IEP.

(z) “Time and Effort Certification” means a document attesting to the employee spending 100% of his or her time in special education.

(aa) “Time and Effort Log” means a personnel activity report created in accordance with current OMB guidance providing clear and continuous documentation for the amount of individual employee time spent on special education duties.

(bb) “Travel Costs” means food, lodging, and other non-labor costs associated with special education staff travel directly related to working with students with disabilities. Travel costs may also include parental visitation subject to the requirements of Section 7(m)(ii).

(cc) "Tuition" means instruction fees paid on behalf of a student for the student's special education from a service provider identified in the student's IEP as necessary to provide FAPE. Tuition expenses may also include residential costs such as room and board fees and other related services as documented by the student's IEP.

(dd) "Utilities" means services usually provided by public utilities such as water, sewage, gas, and garbage collection.

### Section 3. **General Provisions.**

(a) Special Education reimbursement shall specifically and directly relate to a service or program provided to a student with a disability beyond what is provided as general education to all students. Services or items that are resourced through the Education Resource Block Grant Model, as defined by W. S. 21-13-101(a)(xiv), and made available to special education students and staff are not reimbursable through special education reimbursement under W. S. 21-13-321. Some of the most common non-reimbursable services and items resources through the model are Professional Development-General, Supplies-General, Instructional Materials-General, Technology-General, Equipment-General, and summer school and extended day programs not specific to a child's IEP or ESY services.

(b) Reimbursement for expenditures incurred to provide special education programs and services to children with disabilities shall not duplicate any other reimbursement or revenue source used to offset district special education costs. Examples include, but are not limited to:

(i) Costs previously or simultaneously covered elsewhere in the Wyoming School Finance System.

(ii) Special school district tax levied under W.S. 21-20-109 for Boards of Cooperative Educational Services (BOCES) providing services to children with disabilities, but not passed through to the BOCES for which the tax was levied, and considered by the Department to be revenue under W.S. 21-13-310(a).

(iii) Federal Funds awarded to the district under the Individuals with Disabilities in Education Act (IDEA) (20 U.S.C. § 1400 et seq.).

### Section 4. **Non-reimbursable Expenses.**

Reimbursement shall only include costs that extend beyond the amount necessary to provide a general education to all students. Expenses which shall not be included in Special Education reimbursement include, but are not limited to:

(a) Contracted services for the screening of the general student population not receiving special education services, such as the federal Child Find mandate.

(b) Expenses typically covered with major maintenance, minor/component-level or major capital construction funds, including, but not limited to: remodel expenses, local building enhancements, and electrical or plumbing upgrades.

(c) Food, except when used as part of the curriculum or as directed by a child's IEP.

(d) Incentives, except when used as part of the curriculum or as directed by a child's IEP. Although allowable incentives do not have to be specifically detailed in the IEP, they must be directly related to a service or goal in the IEP. For a particular incentive cost to be allowed, it must be necessary and reasonable for the purpose of offering a reward/motivator for accomplishing a given task promoting positive behavior or for increasing productivity.

(e) Indirect Costs.

(f) Items specifically disallowed by statute including, but not limited to: expenditures for additional employee's contribution to Wyoming Retirement System. W.S. 21-13-321(d).

(g) Legal Fees.

(h) Professional Development-General.

(i) Supplies-General.

(j) Instructional Materials-General.

(k) Technology-General.

(l) Equipment-General.

(m) Utilities.

#### Section 5. **Reimbursable Expenses.**

The reimbursable special education expenses included in the Education Resource Block Grant Model shall be limited to those actual costs required to provide special education services to children with disabilities that extend beyond the amount necessary to provide general education to all students. Although reimbursable expenses do not have to be specifically detailed in the IEP, they must be directly related to a service in the IEP, or be direct costs as follows:

(a) Advertising.

(b) Communication Services. Reimbursement shall be limited to those actual and direct costs required to provide special education services, related services, supplementary aides and services to children with disabilities. Non-personnel expenses requiring a percentage allocation are non-reimbursable.

(c) Contract Services.

(i) Charges for contracted special education services related to individual children with disabilities shall be supported by an itemized billing document with enough specificity to tie the charge back to the student(s) served. Reimbursement shall not exceed actual costs for services as stated in the contract without fully executed amendment in place.

(ii) Costs in excess of the original contract shall be supported by an amendment executed by all parties. A contract/amendment shall be executed and in place before services can be provided.

(iii) With the exception of those payments to BOCES or other Wyoming school districts that have been pre-approved by local boards of trustees, payment for services shall be made only after the services have been provided.

(iv) School districts offering special education services, related services, supplementary aides and services through a case management arrangement utilizing individuals other than district staff. A personal services contract setting out and describing those case-management services provided by the case manager must be executed.

(v) Each contract for out-of-district or out-of-state placement shall be executed for only one child.

(vi) Contracted services shall only be provided by appropriately certified, licensed, or registered providers.

(vii) All contracts for services shall be on file for review as required by state retention policies.

(d) Evaluations to determine whether a child qualifies for special education.

(e) Per Diem. Per Diem rates shall not exceed the published federal travel regulation rates, established by the U.S. General Services Administration in effect at the time of travel.

(f) Professional Development-Special Education.

(g) Salary and Benefits.

(i) Personnel providing full-time special education services to children with disabilities shall be subject to one hundred percent (100%) reimbursement provided that the following support documentation is on file at the district office:

(A) Appropriate position description.

(B) Certification. Certification must be in compliance with current OMB guidance, prepared semi-annually; signed by the employee or direct supervisor and the district superintendent, or district superintendent designee, attesting to such full-time involvement; and clearly reference the school year for which reimbursement is claimed.

(ii) Reimbursement for personnel not devoting one-hundred percent (100%) of their time providing special education services to children with disabilities shall be supported by clear and continuous documentation via a time and effort log.

(iii) Reimbursement for personnel costs of teachers and related service staff providing special education services to children with disabilities shall be limited to those individuals having appropriate special education certification or licensure. Substitute teachers need not be certified as special education instructors.

(iv) Reimbursement for personnel costs of appropriately trained or substitute aides and paraprofessionals shall be based on the amount of time devoted to special education and/or related services, working under the supervision of certified special education personnel. This includes aides and paraprofessionals providing transportation services as documented in the student's IEP.

(h) Screening. Screening that extends beyond what is normally administered to students who are not receiving special education services.

(i) Supplies-Special Education. Reimbursement may also include those items necessary to evaluate a child to determine the need for special education services or programs. General supplies for staff providing services are not a reimbursable cost. Examples of reimbursable supplies include, but are not limited to: diapers, wipes, disposable gloves, special feeding utensils, Braille paper, and batteries.

(j) Instructional Materials-Special Education. Reimbursement may also include those items necessary to evaluate a child to determine the need for special education services or programs. General supplies for staff providing services are not a reimbursable cost. Examples of reimbursable instructional materials include, but are not limited to: Braille textbooks and curriculum purchased to address the specific needs of students with disabilities.

(k) Technology-Special Education. Computers, including laptops and notepads, must be purchased for specific use by a student with a disability. When no longer needed by the

student with a disability, the technology must continue to be used in the broader special education program.

(l) Equipment-Special Education. When no longer needed by the student with a disability, the equipment must continue to be used in the broader special education program.

(m) Travel Costs.

(i) Reimbursement for fuel or mileage allowance for special education staff providing services within the scope of duties using a personal vehicle shall not exceed the state standard mileage rate in effect at the time of travel.

(ii) Each local school district shall develop, implement, and enforce a reasonable policy setting forth the conditions, limitations, and allowable frequency of travel by parents to visit their child with disabilities when the child has been placed in a specialized setting away from the home in accordance with the child's IEP.

(n) Tuition Expense.

**Chapter 44**  
**RULES FOR THE SPECIAL EDUCATION COMPONENT WITHIN THE**  
**EDUCATION RESOURCE BLOCK GRANT MODEL**

Section 1. Authority. These rules are promulgated pursuant to W.S. 21-2-202(a)(i); W.S. 21-2-203(a); and W.S. 21-13-321(d).

Section 2. Definitions.

(a) “Advertising” means costs for print (newspapers, flyers, brochures, etc.), radio, internet or television advertisements, the purpose of which is to recruit special education staff, procure special education goods or services, communicate to the public concerning special education issues such as the destruction of special education records, announcement of Child Find activities as defined by 34 CFR § 300.111(a)(i) or surplus special education goods.

(b) “Benefits” means amounts paid on behalf of special education staff in accordance with the district’s compensation policy. Examples include, but are not limited to: retirement, social security, Medicare, and health and life insurance.

(c) “Communication Services” means services provided by persons or businesses to assist in transmitting and receiving messages or information. This category includes, but is not limited to, phone services and related service personnel or other staff providing services to students with disabilities.

(d) “Contract Services” means professional services provided by a third party organization or contractor including fees paid for professional advice, training, applicable services and consultation regarding students with disabilities and their programs; this may include the delivery and accessibility of special education services.

(e) “Direct Costs” means costs which can be traced directly to or identified for the specific purpose of serving students with disabilities.

(f) “Equipment-General” means items that are tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by each district. These items are acquired for the purpose of providing general education to all students.

(g) “Equipment-Special Education” means items which extend beyond Equipment-General, are specific to providing education to students with disabilities, and are required by or related to a child’s IEP.



(h) “Evaluation” means procedures used in accordance with 34 CFR §§ 300.304 through 300.311 to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs.

(i) “Extended School Year (ESY)” means special education and related services that are provided to a child with a disability, beyond the normal school year, in accordance with the child’s IEP and at no cost to the parents of the child.

(j) “IEP” means an Individualized Education Program as defined by 34 CFR § 300.22.

(k) “Incentive” means something offered as a reward or motivator to a student for accomplishing a given task demonstrating a positive behavior or for increasing productivity. Examples include, but are not limited to: food, toys, candy, and stickers.

(l) “Indirect Costs” means costs incurred for a common or joint purpose benefitting more than one cost objective that cannot be identified specifically with serving students with disabilities. Examples include expenses that would require a percentage allocation, but are not limited to: insurance, internet access, building maintenance, and utilities.

(m) “Instructional Materials-General” means items that are designed to serve as a tool for assisting in the instruction of a general education subject or course. Materials may be available in bound, unbound, kit, or package form and may consist of hard-backed or soft-backed textbooks, consumables, learning laboratories, slides, recordings, electronic media, and other accepted instructional tools. These materials are acquired for the purpose of providing general education to all students. Hardware required for the use of these materials is not considered “instructional materials.”

(n) “Instructional Materials-Special Education” means materials which extend beyond Instructional Materials-General, are specific to providing education to students with disabilities, and are required by or related to a child’s IEP.

(o) “Legal Fees” means the payment or charge made for legal services including charges by other professionals for services rendered in conjunction with legal services performed.

(p) “Per Diem” means the daily allotted amount for employees required to travel for special education services.

(q) “Professional Development-General” means the knowledge and skills attained to succeed in providing general education services to all students. Professional development encompasses all types of facilitated learning opportunities, including, but not limited to, formal coursework, conferences and informal learning opportunities situated in practice. Professional Development-General is acquired for the purpose of providing general education to all students.

(r) “Professional Development-Special Education” means professional development that extends beyond Professional Development-General and is specific to providing education to students with disabilities, and is required by or related to a child’s IEP.

(s) “Salary” means wages paid to employees providing special education and related services to students with disabilities in accordance with 34 CFR § 300.156. Examples include, but are not limited to: teachers, substitute teachers, other certified or licensed personnel, paraprofessionals, and classified employees.

(t) “Screening” means a process that a teacher or specialist uses to determine appropriate instructional strategies.

(u) “Supplies-General” means general purpose consumable items which have a shorter life span in use than equipment and machines, are stocked for recurring use, and are expendable or incorporated into other products to provide general education to all students. These items are acquired for the purpose of providing general education to all students.

(v) “Supplies-Special Education” means items which extend beyond Supplies-General, are specific to providing special education to students with disabilities, and are required by or related to a child’s IEP.

(w) “Special Education Services” means services to be provided to a student as identified in the student’s IEP, including special education, related services, supplementary aids and services or necessary accommodations or modifications.

(x) “Technology-General” means costs for purchasing, upgrading, and maintaining computer technology hardware and software that are used when providing education to students. This technology is acquired for the purpose of providing general education to all students.

(y) “Technology-Special Education” means costs which extend beyond Technology-General, are specific to providing education to students with disabilities, and are required by or related to a child’s IEP.

(z) “Time and Effort Certification” means a document attesting to the employee spending 100% of his or her time in special education.

(aa) “Time and Effort Log” means a personnel activity report created in accordance with current OMB guidance providing clear and continuous documentation for the amount of individual employee time spent on special education duties.

(bb) “Travel Costs” means food, lodging, and other non-labor costs associated with special education staff travel directly related to working with students with disabilities. Travel costs may also include parental visitation subject to the requirements of Section 7(m)(ii).

(cc) “Tuition” means instruction fees paid on behalf of a student for the student’s special education from a service provider identified in the student’s IEP as necessary to provide FAPE. Tuition expenses may also include residential costs such as room and board fees and other related services as documented by the student’s IEP.

(dd) “Utilities” means services usually provided by public utilities such as water, sewage, gas, and garbage collection.

### **Section 3. General Provisions.**

(a) Special Education reimbursement shall specifically and directly relate to a service or program provided to a student with a disability beyond what is provided as general education to all students. Services or items that are resourced through the Education Resource Block Grant Model, as defined by W. S. 21-13-101(a)(xiv), and made available to special education students and staff are not reimbursable through special education reimbursement under W. S. 21-13-321. Some of the most common non-reimbursable services and items resources through the model are Professional Development-General, Supplies-General, Instructional Materials-General, Technology-General, Equipment-General, and summer school and extended day programs not specific to a child’s IEP or ESY services.

(b) Reimbursement for expenditures incurred to provide special education programs and services to children with disabilities shall not duplicate any other reimbursement or revenue source used to offset district special education costs. Examples include, but are not limited to:

(i) Costs previously or simultaneously covered elsewhere in the Wyoming School Finance System.

(ii) Special school district tax levied under W.S. 21-20-109 for Boards of Cooperative Educational Services (BOCES) providing services to children with disabilities, but not passed through to the BOCES for which the tax was levied, and considered by the Department to be revenue under W.S. 21-13-310(a).

(iii) Federal Funds awarded to the district under the Individuals with Disabilities in Education Act (IDEA) (20 U.S.C. § 1400 et seq.).

### **Section 4. Non-reimbursable Expenses.**

Reimbursement shall only include costs that extend beyond the amount necessary to provide a general education to all students. Expenses which shall not be included in Special Education reimbursement include, but are not limited to:

(a) Contracted services for the screening of the general student population not receiving special education services, such as the federal Child Find mandate.

(b) Expenses typically covered with major maintenance, minor/component-level or major capital construction funds, including, but not limited to: remodel expenses, local building enhancements, and electrical or plumbing upgrades.

(c) Food, except when used as part of the curriculum or as directed by a child' IEP.

(d) Incentives, except when used as part of the curriculum or as directed by a child's IEP. Although allowable incentives do not have to be specifically detailed in the IEP, they must be directly related to a service or goal in the IEP. For a particular incentive cost to be allowed, it must be necessary and reasonable for the purpose of offering a reward/motivator for accomplishing a given task promoting positive behavior or for increasing productivity.

(e) Indirect Costs.

(f) Items specifically disallowed by statute including, but not limited to: expenditures for additional employee's contribution to Wyoming Retirement System. W.S. 21-13-321(d).

(g) Legal Fees.

(h) Professional Development-General.

(i) Supplies-General.

(j) Instructional Materials-General.

(k) Technology-General.

(l) Equipment-General.

(m) Utilities.

#### **Section 5. Reimbursable Expenses.**

The reimbursable special education expenses included in the Education Resource Block Grant Model shall be limited to those actual costs required to provide special education services to children with disabilities that extend beyond the amount necessary to provide general education to all students. Although reimbursable expenses do not have to be specifically detailed in the IEP, they must be directly related to a service in the IEP, or be direct costs as follows:

(a) Advertising.

(b) Communication Services. Reimbursement shall be limited to those actual and direct costs required to provide special education services, related services, supplementary aides and services to children with disabilities. Non-personnel expenses requiring a percentage allocation are non-reimbursable.

(c) Contract Services.

(i) Charges for contracted special education services related to individual children with disabilities shall be supported by an itemized billing document with enough specificity to tie the charge back to the student(s) served. Reimbursement shall not exceed actual costs for services as stated in the contract without fully executed amendment in place.

(ii) Costs in excess of the original contract shall be supported by an amendment executed by all parties. A contract/amendment shall be executed and in place before services can be provided.

(iii) With the exception of those payments to BOCES or other Wyoming school districts that have been pre-approved by local boards of trustees, payment for services shall be made only after the services have been provided.

(iv) School districts offering special education services, related services, supplementary aides and services through a case management arrangement utilizing individuals other than district staff. A personal services contract setting out and describing those case-management services provided by the case manager must be executed.

(v) Each contract for out-of-district or out-of-state placement shall be executed for only one child.

(vi) Contracted services shall only be provided by appropriately certified, licensed, or registered providers.

(vii) All contracts for services shall be on file for review as required by state retention policies.

(d) Evaluations to determine whether a child qualifies for special education.

(e) Per Diem. Per Diem rates shall not exceed the published federal travel regulation rates, established by the U.S. General Services Administration in effect at the time of travel.

(f) Professional Development-Special Education.

(g) Salary and Benefits.

(i) Personnel providing full-time special education services to children with disabilities shall be subject to one hundred percent (100%) reimbursement provided that the following support documentation is on file at the district office:

(A) Appropriate position description.

(B) Certification. Certification must be in compliance with current OMB guidance, prepared semi-annually; signed by the employee or direct supervisor and the district superintendent, or district superintendent designee, attesting to such full-time involvement; and clearly reference the school year for which reimbursement is claimed.

(ii) Reimbursement for personnel not devoting one-hundred percent (100%) of their time providing special education services to children with disabilities shall be supported by clear and continuous documentation via a time and effort log.

(iii) Reimbursement for personnel costs of teachers and related service staff providing special education services to children with disabilities shall be limited to those individuals having appropriate special education certification or licensure. Substitute teachers need not be certified as special education instructors.

(iv) Reimbursement for personnel costs of appropriately trained or substitute aides and paraprofessionals shall be based on the amount of time devoted to special education and/or related services, working under the supervision of certified special education personnel. This includes aides and paraprofessionals providing transportation services as documented in the student's IEP.

(h) Screening. Screening that extends beyond what is normally administered to students who are not receiving special education services.

(i) Supplies-Special Education. Reimbursement may also include those items necessary to evaluate a child to determine the need for special education services or programs. General supplies for staff providing services are not a reimbursable cost. Examples of reimbursable supplies include, but are not limited to: diapers, wipes, disposable gloves, special feeding utensils, Braille paper, and batteries.

(j) Instructional Materials-Special Education. Reimbursement may also include those items necessary to evaluate a child to determine the need for special education services or programs. General supplies for staff providing services are not a reimbursable cost. Examples of reimbursable instructional materials include, but are not limited to: Braille textbooks and curriculum purchased to address the specific needs of students with disabilities.

(k) Technology-Special Education. Computers, including laptops and notepads, must be purchased for specific use by a student with a disability. When no longer needed by the

student with a disability, the technology must continue to be used in the broader special education program.

(l) Equipment-Special Education. When no longer needed by the student with a disability, the equipment must continue to be used in the broader special education program.

(m) Travel Costs.

(i) Reimbursement for fuel or mileage allowance for special education staff providing services within the scope of duties using a personal vehicle shall not exceed the state standard mileage rate in effect at the time of travel.

(ii) Each local school district shall develop, implement, and enforce a reasonable policy setting forth the conditions, limitations, and allowable frequency of travel by parents to visit their child with disabilities when the child has been placed in a specialized setting away from the home in accordance with the child's IEP.

(n) Tuition Expense.