

Chapter 3

Rules of Practice and Procedure

Section 1. Authority. These rules are promulgated by the Wyoming Department of Education and the State Board of Education under the authority of W.S. §§ 16-3-106, 21-2-202(d), 21-2-204(d)(vi), 21-2-304(a)(i), and 21-2-402(d).

Section 2. Contested Case Hearings.

(a) Contested cases shall be conducted pursuant to the Office of Administrative Hearings rules, Chapter 2, *Contested Case Proceedings* (“Uniform Rules”), which are incorporated into this chapter by reference. In doing so, the Superintendent and Board find as follows:

(i) Incorporating the full text of the Uniform Rules would be cumbersome and inefficient given the length and nature of the rules;

(ii) The incorporation is limited to the Uniform Rules adopted by the Office of Administrative Hearings and effective July 20, 2017, and shall not include any later editions of or amendments to the Uniform Rules;

(iii) Copies of the Uniform Rules are available to the public at the Wyoming Department of Education offices at 122 West 25th Street, E200, Cheyenne, Wyoming 82002.

(iv) An electronic copy of the Uniform Rules is available at the following web address:
<https://docs.google.com/a/wyo.gov/viewer?a=v&pid=sites&srcid=d3lvLmdvdxvYWh8Z3g6MzYzM2VmNTk3Y2NlZmI3Mg>.

(b) Where a contested case hearing is required by law, an aggrieved person may file a request according to the Uniform Rules § 5(a) with the Superintendent or the Board, as applicable, within thirty (30) days of the date of the administrative decision at issue or the date of mailing of the administrative decision as evidenced by a postmark, whichever is later.

(c) The request for a hearing shall be served on the Superintendent or Board and other necessary parties. Service shall be made to the Wyoming Department of Education, 122 West 25th Street, E200, Cheyenne, Wyoming 82002. Service may be made in person or by mail.

(d) A request for a contested case hearing shall include the following:

(i) The name, telephone number, and mailing address of the person requesting a hearing and the same information for the representing attorney;

(ii) A statement in ordinary and concise language of the facts and of the

errors alleged to have been committed and issues that the petition is based on, including particular reference to statutory sections, contract provisions or rules, regulations, and orders involved;

(iii) A copy of the decision or relevant material that relates to the decision at issue;

(iv) The specific relief sought; and

(v) The signature of the petitioner and the representing attorney.

(e) The notice of hearing required under the Uniform Rules § 5(b) shall be served on each party at least thirty (30) days before the hearing date unless an expedited hearing is otherwise required by law. In that event, parties shall be served the notice of hearing as soon as practicable.

(f) The Superintendent or Board, as applicable, may appoint a hearing officer to conduct the contested case and may request that the hearing officer issue a recommended decision.

(g) If a recommended decision is requested, the recommended decision and proposed order shall be submitted to the Superintendent or Board, as applicable, no later than thirty (30) days after the end of the contested case hearing.

(h) The Superintendent or Board, as applicable, shall make and enter a written decision and order containing findings of fact and conclusions of law.

(i) The written decision issued by the Superintendent or Board shall be the final agency action and be subject to judicial review under W.S. § 16-3-114.

Section 3. Informal Review of School Performance Ratings.

(a) The Department shall provide preliminary annual performance ratings to districts for schools within those districts. Before the ratings are final, the schools shall review the ratings and the underlying calculations. Districts may suggest corrections to the Department within fourteen (14) days. Ratings become final on the fifteenth (15) day.

(b) Districts may file a request for informal review in a form and manner prescribed by the Department. The request shall include all relevant documents. The request shall state the basis for changing a school's performance rating. The basis for an informal review shall be limited to the following:

(i) To examine whether the Department improperly computed and reported the school's overall performance rating, including indicator-level performance, or

(ii) To examine whether the school was unable to administer the statewide

assessment for good cause.

(c) When it receives the complete informal review request from a district, the Department shall review the documentation. A complete informal review request shall include:

(i) The name, telephone number, mailing address, and email address of the district superintendent and school principal seeking review; and

(ii) The specific reason for the review request, including data, facts, and evidence to support the review.

(d) If the review request is complete, the Department shall notify the district to that effect. If initial documents submitted do not constitute a complete request, the Department shall notify the district of the reason for the deficiencies. No request or related documentation may be submitted after notification from the Department that the request is complete or fifteen (15) days after the ratings are final, whichever is later.

(e) The Department shall submit a recommendation of either maintaining or amending a school's performance rating and the reasons for the recommendation to the Board not later than fourteen (14) days after the request for informal review is complete. The Department shall serve the recommendation on the district at the same time that it is submitted to the State Board.

(f) The Board shall hear the district's request for informal review no later than thirty (30) days after the request is complete. The Board shall notify the Department and the district of the date, time, and location of the meeting in which the Board will consider the request for review.

(i) The district shall be allotted thirty (30) minutes to address the Board. The district may reserve a portion of its time for rebuttal.

(ii) The Department shall be allotted thirty (30) minutes to address the Board.

(iii) No additional documentation may be submitted at the meeting.

(iv) Presentations shall be limited to the basis raised by the district in its request for informal review.

(v) Districts may waive appearance before the Board and rely on the written documents already submitted. If a district waives appearance, it shall notify the Department no later than seven (7) days before the meeting. If a district waives appearance, the Department shall not be permitted to address the Board on the subject of that school's performance rating.

(g) The Board may deliberate and render a decision at the meeting in which it heard

presentations by the district and the Department.

(h) The Board decision is final agency action subject to judicial review under W.S. 16-3-114.

(i) Data maintained by the Department used to calculate performance level ratings shall not be subject to review under these rules.

Section 4. Petition of Education Rules.

(a) A petition to promulgate, amend, or repeal Education rules shall be submitted to the Wyoming Department of Education, 122 West 25th Street, E200, Cheyenne, Wyoming, 82002.

(b) The agency rules liaison shall provide a petition to promulgate, amend, or repeal education rules to all appropriate Department or Board staff within thirty (30) calendar days of receiving a complete petition.

(c) A complete petition includes:

(i) The name, telephone number, mailing address, and email address of the petitioner;

(ii) Applicable legal authority supporting the petition, if any;

(iii) A description of the change the petitioner requests. The petitioner shall include the specific reason for the petition and contain data, facts, and evidence to support the request.

(d) A complete petition shall be processed by the Department or Board as soon as practicable. They may request additional information from the petitioner.

(e) The Board or Department shall notify the petitioner of any public meetings related to the petitioner's request.

Section 5. COVID-19 Closure Exception Requests.

(a) For the 2019-2020 school year, districts shall submit a request for an informal review on a form and in a manner required by the Department. The Department shall establish a date by which all requests under this section are due.

(b) The form shall include notice that the school was unable to administer the statewide assessment due to the state of emergency resulting from the COVID-19 pandemic event.

(c) The State Board of Education shall receive all requests and consider all requests at its next scheduled meeting but in no event later than 30 days from the date that the requests are due.

(d) Section 3 of this chapter shall not apply to requests submitted under this section.