



# Wyoming Department of Education

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## MEMORANDUM NO. 2012-049

**TO:** School District Superintendents  
Special Education Directors  
Human Resource Directors

**FROM:** Stephanie Weaver, Deputy Director  
Special Programs Division  
Carol Illian, Title II Supervisor  
Federal Programs Division

**DATE:** March 19, 2012

**SUBJECT:** Highly Qualified Special Education Teachers

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### Information to Share

Recently, it has come to the attention of the Wyoming Department of Education (WDE) that school districts may have received confusing and sometimes conflicting information regarding the highly qualified teacher requirements in the Individuals with Disabilities Education Act (IDEA), specific to special education teachers. The purpose of this memo is to clarify the requirements and provide school districts with an opportunity to verify internally that special education teachers providing special education services to students with disabilities are highly qualified as defined by the IDEA.

Special Education services must be delivered by teachers who meet the requirements for highly qualified teachers or providers as defined by IDEA in order for students with disabilities to receive Free and Appropriate Public Education (FAPE). 34 C.F.R. §300.18(a). *Highly Qualified, when used with respect to any public elementary school or secondary school special education teacher teaching in a State, means that the teacher has obtained full state certification as a special education teacher and holds a license to teach in the State as a special education teacher.* See 34 C.F.R. §300.18(b). A special

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education endorsement is Wyoming's *credential* verifying full certification for special educators. *Endorsement* means verification that licensure requirements have been met at the grade level(s) and in the specialization area(s) appropriate to the applicant's preparation, training, and experience. See Professional Teaching Standards Board (PTSB) Rules, Chapter 1, Section 3(k).

There is no provision in the IDEA or its implementing Federal Regulations permitting waiver of the highly qualified requirement on a temporary, emergency, or provisional basis. 34 C.F.R. §300.18(b)(1)(ii). *A teacher cannot be considered a highly qualified special education teacher if the teacher has had special education certification or licensure waived on an emergency, temporary, or provisional basis. This would include any new certification category that effectively allows special education certification or licensure to be waived on an emergency, temporary, or provisional basis.* 71 Federal Register 46557.

The Wyoming Professional Teaching Standards Board (PTSB) has provided some special education teachers with an Exception Authorization to teach in special education. Although an Exception Authorization, defined by PTSB Rules Chapter 5, Section 1, may meet the requirements of No Child Left Behind (NCLB), the Exception Authorization does not meet the IDEA's requirements, as IDEA prohibits a waiver of the highly qualified requirement for any reason.

Therefore, special education teachers must have obtained full state certification in Wyoming in order to be considered highly qualified to teach special education. The failure of a school district to provide special education services by highly qualified teachers or providers will subject the district to possible sanctions through dispute resolution or through the state's general supervisory monitoring system. It is also important to remind districts that teachers who are not highly qualified would also be considered misassigned; misassignments may affect a district's accreditation status.

Any district that currently has a special education teacher on an exception authorization will be notified by WDE prior to March 23, 2012. Districts receiving this notice will be required to provide an assurance of compliance

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that includes a description of how the district is providing Individual Education Plans (IEP) services planned, developed and delivered by a highly qualified special education teacher and how the district proposes to use teachers on an exception authorization to reinforce these services. Additionally, in order to meet the IEP team membership requirements, the district would have to make sure a highly qualified special education teacher (or provider, if appropriate) is in attendance at each required IEP team meeting.

The WDE in collaboration with the PTSB is currently working with its Board of Directors to determine the feasibility of providing special education exception authorizations in the future or whether it is more appropriate to develop an alternative route to certification that aligns with the Federal regulations 34 C.F.R. §300.18(b). The Department will work with PTSB and gather stakeholder input regarding the implementation of this decision.