



**Continuous Improvement  
Focused Monitoring Report  
for**

**WASHAKIE COUNTY SCHOOL DISTRICT #1**

**May 4 – 8, 2009**

**Special Programs Unit  
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**Wyoming Department of Education  
Dr. Jim McBride, Superintendent of Public Instruction**

# Wyoming Department of Education Continuous Improvement – Focused Monitoring Report

**Washakie County School District #1**  
**School Year: 2008 – 2009**  
**Date of On-Site Review: May 4 – 8, 2009**

## Introduction

The Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004), Part B, Section 300.600(a) of the Federal Regulations states: *The state must monitor the implementation of this part, enforce this part in accordance with §300.604 (a)(1) and (a)(3), (b)(2)(i) and (b)(2)(v), and (c)(2), and annually report on performance under this part. (b) The primary focus of the State's monitoring activities must be on: (1) improving educational results and functional outcomes for all children with disabilities; and (2) ensuring that public agencies meet the program requirements under Part B of the Act, with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities.*

## Process

### A. Performance Indicator Selection

Consistent with the requirements established in Federal Regulations §§300.600 through 300.604, the Wyoming Department of Education (WDE) focuses on those elements of information and data that most directly relate to or influence student performance, educational results and functional outcomes for children with disabilities.

The Focused Monitoring Stakeholder Group<sup>1</sup> worked with the WDE Special Programs Unit to set the priority indicators and weighted scoring system to be used in determining which districts would be selected for on-site monitoring. IDEA 2004 places a strong emphasis on positive educational results and functional outcomes for students with disabilities ages three through 21. This factor greatly influenced the selection of two key indicators of student performance from the State's Performance Plan as priorities for the focused monitoring process. The ultimate goal of focused monitoring is to promote systems change which will positively influence educational results and functional outcomes for students with disabilities.

Districts were selected for on-site monitoring through the application of a weighted formula applied to all 48 districts using two variables. These variables are taken from Indicator 3C of the State Performance Plan (SPP), which can be viewed in its entirety at [www.k12.wy.us](http://www.k12.wy.us). With Stakeholder Group input, the focused indicator for the 2008 – 2009 school year was narrowed to include PAWS proficiency rates for secondary school students only in both mathematics and reading.

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<sup>1</sup> The Focused Monitoring Stakeholder Group is comprised of principals, special education directors, teachers, parents, advocates and superintendents from across the state.

## B. Individual District Selection

Districts were divided into four population groups based on overall enrollment numbers:

- Large Districts – more than 1,950 students
- Medium Districts – 860 to 1,949 students
- Small Districts – 500 to 859 students
- Extra Small Districts – 499 or fewer students

Washakie County School District #1 (WCSD #1) is considered a medium school district and reported a special education population of 343 students on its 2008 WDE-427 report. Thus, the district's 2007 – 2008 data was ranked against data from all other medium districts for the same time period. The two lowest performers in each population group were selected for an on-site monitoring visit using the comparison to state rates found below. Districts who received on-site monitoring visits during the 2007 – 2008 school year were excluded from consideration for monitoring this year in order to give them adequate time to implement their Corrective Action Plans. Additionally, one district is chosen at random each year, and Washakie #1 was the randomly selected district for 2008 – 2009. Below is a table comparing the district's rates on the focused indicator to those of Wyoming's 47 other districts:

SPP Indicators	WCSD #1 Rate	Overall State Rate excluding WCSD #1
#3C Secondary Reading Proficiency	52.56%	27.58%
#3C Secondary Math Proficiency	41.77%	34.12%

In terms of the variables that are included in the weighted formula, WCSD #1 nearly doubled the overall state rate for secondary reading proficiency. Moreover, the district's rate was the highest among all other medium districts. Likewise, the district's proficiency rate for secondary mathematics also exceeded the state rate, although two other medium districts had higher rates in this area.

After a district has been selected for on-site monitoring, the WDE then analyzes district data to determine potential areas of noncompliance that may account for the district's performance. For example, if a school had low performance in math and low rates of regular class placement, the question of whether children had access to the general curriculum might be reviewed.

### Focused Monitoring Conditions for Washakie County School District #1

In preparation for the on-site monitoring visit, WDE reviewed the district's most recent and trend data from a variety of sources including the WDE-425 (December 1) and WDE-427 (July 1) data collections, assessment data (PAWS and PAWS-ALT), stable and risk-based self-assessment data, and discipline data from the WDE-630 and 631. The data led the WDE to create hypotheses in four areas: 1) FAPE – Extended School Year; 2) Child Find – Eligibility Determination; 3) Least Restrictive Environment; and 4) FAPE – Educational Benefit.

1. **FAPE – Extended School Year** This hypothesis was based on the district's relatively low percentage of students receiving Extended School Year services.

2. **Child Find – Eligibility Determination** This hypothesis was formulated in response to district data reporting a comparatively high percentage of students identified as having a disability in Washakie #1.
3. **Least Restrictive Environment** The WDE created this hypothesis based on district data showing a comparatively high percentage of students with disabilities in 'Resource Room' placements.
4. **FAPE – Educational Benefit** This hypothesis was formulated due to the district's PAWS proficiency rates for students with disabilities.

Details regarding the development of each hypothesis and information on how the WDE determined its samples for each are found below in the introduction to each finding area.

In addition to the four hypotheses chosen for on-site focused monitoring, the WDE also monitored other areas for IDEA compliance through a procedural compliance review of each file reviewed during testing of the aforementioned hypotheses. Results of the review are included with this report in Appendix A. Appendix B contains the results of a parent survey that was conducted in the district during a four-week window that included the dates of the on-site monitoring visit.

## **Results of On-Site Monitoring for Washakie County School District #1**

These areas were monitored on-site through a focused file review, staff interviews, and classroom observations, as deemed necessary. Each area is defined by statute, summarized by evidence gathered on-site, and a finding of noncompliance listed as applicable.

### **Area 1: FAPE – Extended School Year**

#### **A. Citation**

§300.106(a) Extended School Year Services

(a) *General.*

(1) *Each public agency must ensure that extended school year services are available as necessary to provide FAPE, consistent with paragraph (a)(2) of this section.*

(2) *Extended school year services must be provided only if a child's IEP Team determines, on an individual basis, in accordance with §§300.320 through 300.324, that the services are necessary for the provision of FAPE to the child.*

(3) *In implementing the requirements of this section, a public agency may not—*  
 (i) *Limit extended school year services to particular categories of disability; or*  
 (ii) *Unilaterally limit the type, amount, or duration of those services.*

(b) *Definition. As used in this section, the term extended school year services means special education and related services that—*

(1) *Are provided to a child with a disability—*

(i) *Beyond the normal school year of the public agency;*

(ii) *In accordance with the child's IEP;*

(iii) *At no cost to the parents of the child; and*

(2) *Meet the standards of the SEA.*

## **B. Evidence**

### **1. Data**

According to the combined December 2007 WDE-425 and July 2008 WDE-427 data collections, four students in WCSD #1 received Extended School Year (ESY) services. These four students represented slightly more than 1% of the district's students with disabilities. This reported data is noteworthy, especially compared to the overall rate of students with disabilities receiving ESY in Wyoming, which stood at approximately 6.8% during the same period.

### **2. File Review**

The WDE created a purposeful sample of 35 students in Washakie #1 who did not receive ESY during the 2007-2008 school year. The sample was composed of 17 students who were eligible for special education under one of the following disability categories: Autism (AT), Traumatic Brain Injury (BI), Cognitive Disability (CD), Hearing Impairment (HI), Multiple Disability (MU), or Visual Impairment (VI). The other 18 students were placed in 'Resource Room' or 'Self-Contained' settings and scored 'Below Basic' on at least two PAWS or PAWS-ALT subtests. In fact, none of these 35 students scored proficient or above on any two subtests (reading, writing, mathematics) of the 2008 statewide assessment.

Once on-site in Worland, the WDE reviewed these 35 students' special education files. At the conclusion of the WDE's file review, seventeen files were removed from the sample for the following reasons:

- Thirteen student files contained IEPs that appeared reasonably calculated to result in educational benefit without the provision of ESY services.
- Three students' files indicated that they were actually receiving ESY services.
- One student graduated in the spring of 2008.

For the remaining eighteen students, one or more of the following characteristics kept them in the sample:

- All of the 18 files contained an ESY box on the IEP form that was checked 'no' with little or no further explanation. Two of these 18 files indicated that the team would meet in the spring to determine the students' need for ESY.
- 8 of the 18 files indicated a lack of adequate or expected progress toward at least one of the students' IEP goals. Of these eight files, only one contained evidence that the IEP teams reconvened to address the students' lack of progress.
- In 10 of the 18 files, the student's levels of progress were unclear due to inconsistent or non-existent progress reporting. In addition, the WDE team could not review progress for one of these ten students due to the fact that there were no goals specified in his/her file.
- 1 of the 18 students was failing at least one core academic class (mathematics, language arts, science, social studies) according to his/her most recent grade report.

### **3. Interviews**

After the file reviews were completed, WDE team members interviewed resource room teachers, support staff, and related service providers regarding these eighteen students'

potential need for ESY. Through the interview process, eight additional students were removed from the sample for the following reasons:

- For six of the students, district staff presented compelling evidence that the students were making adequate progress and were not in need of ESY in order to receive FAPE.
- Two students were reportedly being required to attend summer school, and district staff explained how this instruction would be appropriate in stead of Extended School Year.

However, while discussing the ten remaining students, district staff shared a number of concerns about these students' possible need for ESY. District staff comments included some of the following:

- Regarding a student's need to continue to build social skills during the summer, a teacher stated, "I don't think his social skills are that good; I think that (ESY) would help."
- With regard to a student's need for ESY for language needs, a service provider reported, "[Student name] needs ESY; he will regress this summer."
- "[Student] would benefit from counseling in summer but would likely refuse." The WDE found no evidence that ESY was offered during the student's IEP meeting.
- When asked whether or not a certain student might need ESY, a teacher replied, "Yes, [student] would (benefit), but I can't always sign up everybody I want to because of limited space."
- A related service provider indicated that at the student's most recent IEP meeting, ESY was recommended for this related service. The IEP dated April 2009 was reviewed, and the ESY box was checked 'no' with no additional information.
- Regarding one student's need for additional instruction, a teacher reported, "For kids like this, [student name] needs to go all summer long. That one month is not long enough." The student in question was to receive summer school but not ESY.
- A service provider stated "Yes, [student name] would definitely benefit from ESY." However, there were no ESY plans evident in the student's current IEP.
- When asked why ESY was not being provided in one student's particular area of need, a district staff member agreed that the service in question would be beneficial but added, "Our issue here would be finding somebody to do it. We don't have the resources."
- One interviewee reported that a student would benefit from speech and occupational therapy services over the summer, but the staff member was unsure if these services were available outside of the regular school year.
- One staff member stated bluntly, "I never recommend ESY."
- One district staff member illustrated his/her incorrect understanding of IDEA's ESY standard by explaining, "In order to get ESY, you have to show that the student actually backslides over the summer."
- When asked the difference between Summer school and ESY, a special educator said, "I truly don't know the difference."

### **C. Finding**

The WDE finds that special education services in WCSD #1 are not always provided in accordance with the FAPE requirements established in 34 CFR §300.106. The district is required to address this finding and correct the noncompliance through the development and implementation of a Corrective Action Plan (CAP).

## **Area 2: Child Find – Eligibility Determination**

### **A. Citation**

§ 300.111 Child find.

(a) General.

(1) *The State must have in effect policies and procedures to ensure that—*

*(i) All children with disabilities residing in the State, including children with disabilities who are homeless children or are wards of the State, and children with disabilities attending private schools, regardless of the severity of the disability, and who are in need of special education and related services, are identified, located, and evaluated; and*

*(ii) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services.*

(c) *Other Children in Child Find. Child find also must include (1) Child who are suspected of being a child with a disability under §300.8 and in need of special education, even though they are advancing from grade to grade; and (2) Highly mobile children, including migrant children.*

(d) *Construction. Nothing in the Act requires that children be classified by their disability so long as each child who has a disability that is listed in §300.8 and who, by reason of that disability, needs special education and related services is regarded as a child with a disability under Part B of the Act.*

§300.306 Determination of Eligibility

(a) *Special rule for eligibility determination. A child must not be determined to be a child with a disability under this part—*

(1) *If the determinant factor for that determination is—*

*(i) Lack of appropriate instruction in reading, including the essential components of*

*reading instruction (as defined in section 1208(3) of the ESEA);*

*(ii) Lack of appropriate instruction in math; or*

*(iii) Limited English proficiency*

Wyoming Chapter 7 Rules Governing Services for Students with Disabilities

Part 4, Section 11

(f) *The evaluation process must take into account that the child does not exhibit any one of the exclusionary variables (i) through (v)*

*(ii) Speech or language difficulties resulting from dialectical difference or from learning English as a second language, unless the child has a language impairment in his or her native language*

## **B. Evidence**

### **1. Data**

After “drilling down” into the district’s combined December 2007 and July 2008 (WDE-425 and WDE-427) data collections, the WDE made several observations regarding the composition of Washakie #1’s population of students with disabilities.

- The district’s overall identification rate for students with disabilities was approximately 22%, compared to a state rate of about 13.8%.
- A seemingly disproportionate share of Hispanic students in the district was identified when compared to these students’ representation in the overall district enrollment: 21% of white students were identified as having a disability, while 27% of Hispanic students were so identified.
- 42 of Washakie #1’s students with disabilities were also reportedly English Language Learners (ELL)—34 of these were identified in the category of ‘Learning Disability’ (LD), and six were identified as having a ‘Speech Language Disability’ (SL).
- In addition, the WDE noted that the district’s overall LD identification rate was 59%—approximately 20% higher than the state’s overall rate in that category.

The WDE hypothesized that some of the district’s ELL students who are identified as having a disability might not actually meet the state’s eligibility criteria for the category in which they are identified.

### **2. File Review**

In probing this hypothesis, the WDE created a purposeful sample of 37 ELL students who were reportedly identified under the LD and/or SL eligibility criteria. All of these 37 students were also coded as Hispanic according to district data. The WDE began its exploration of this hypothesis by reviewing each student’s special education file to determine how eligibility determination teams had accounted for these students’ limited English proficiency in finding them eligible under IDEA.

Through the file review process, eighteen students were removed from the sample for the following reasons:

- Eight of the files contained details showing that the students’ abilities in English were not the determinant factor in the team’s eligibility decision.
- Six of the files contained adequate documentation to show that the students’ language difficulties were evident in both English and Spanish.
- Two students had recently moved or transferred out of the district.
- One student dropped out of school.
- One student graduated in the spring of 2008.

### **3. Interviews**

For the nineteen remaining students, however, the WDE found evidence in files to support the notion that these students’ eligibility determination teams may not have adequately ruled out the students’ limited English proficiency as the determinant factor in the eligibility decision. The WDE proceeded by interviewing several district staff to determine how these eligibility teams reached the decisions they did in light of the students’ English Language Learner status.



Through this interview process, the WDE was able to remove all but one of the nineteen students from the sample. Below are the reasons for each student's removal:

- For fifteen students, Washakie #1 staff members were able to explain adequately how the eligibility decision was made appropriately, despite the students' limited English proficiency.
- District staff reported that two of the students are fluent English speakers and should not have been included in the district's count of ELL students.
- One of the students was found eligible in another Wyoming district, and the Washakie #1 team adopted the prior district's eligibility determination.

For one remaining student, however, Washakie #1 staff shared comments indicating that this student's limited English proficiency may have been the determinant factor in the team eligibility decision.

- District staff confirmed that the student's primary language is Spanish
- When asked about how the district determined that the student was eligible under IDEA, a district staff member reported, "I feel his delay was really in English, and he wasn't evaluated in Spanish."
- Another staff member stated, "He does very well academically and needs to be exited" (from special education).

### **C. Finding**

The WDE does not find WCSD #1 noncompliant in this area. The State's compliance hypothesis related to Child Find – Eligibility Determination was not substantiated through the WDE's on-site file review and interviews with district staff. The district is not required to address this area in a Corrective Action Plan (CAP).

However, for the single student discussed under Section 3 above, the district must reconvene the student's IEP team within 45 business days of the date of this report and reconsider his eligibility for special education under Wyoming's Chapter 7 Rules Governing Services to Children with Disabilities. The team must clearly ascertain whether the student truly meets Wyoming's Speech Language criteria or if the student's English proficiency is the "need" that requires attention. The student's WISER I D number can be found in the report's cover letter. If the IEP team is unsure about determining the student's eligibility, the team should consider additional assessment in both Spanish and English to assist in its decision making. The WDE must be notified in writing regarding any resulting change in eligibility or and changes made to the student's IEP.

### **D. Recommendation**

The WDE recommends that the district provide training to its special education teachers and/or case managers to ensure that eligibility determinations for students who are English Language Learners are made in a manner consistent with § 300.306. Limited English proficiency cannot be the determinant factor in any team's eligibility determination under IDEA.

Furthermore, the WDE is troubled by the fact that some students who were reported to be ELL students in the district's WDE-425 and WDE-427 reports are not considered to be ELL students according to special education files and district staff members. The

district must report data accurately in these reports and maintain up-to-date information regarding each student's ELL status.

### **Area 3: Least Restrictive Environment**

#### **A. Citation**

§300.114 Least Restrictive Environment (LRE)

*(a) General. (2) Each public agency must ensure that –*

*(i) To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and*

*(ii) Special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disabilities is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.*

§300.115 Continuum of alternative placements.

*(a) Each public agency must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.*

*(b) The continuum required in paragraph (a) of this section must –*

*(1) Include the alternative placements listed in the definition of special education under § 300.38 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and*

*(2) Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.*

§300.116 Placements.

*In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency must ensure that –*

*(a) The placement decision-*

*(1) Is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and*

*(2) Is made in conformity with the LRE provision of this subpart, including §§300.114 through 300.118;*

*(b) The child's placement –*

*(1) Is determined at least annually;*

*(2) Is based on the child's IEP; and*

*(3) Is as close as possible to the child's home;*

*(c) Unless the IEP of a child with a disability requires some other arrangement; the child is educated in the school that he or she would attend if nondisabled;*

*(d) In selecting the LRE, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs; and*

*(e) A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum.*

§300.117 Nonacademic settings.

*In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in §300.107, each public agency must ensure that each child with a disability participates with nondisabled children in the extracurricular services and activities to the maximum extent appropriate to the needs of that child. The public agency must ensure that each child with a disability has supplementary aids and services determined by the child's IEP Team to be appropriate and necessary for the child to participate in nonacademic settings.*

## **B. Evidence**

### **1. Data**

As previously noted in this report's introduction, the WDE team noticed that Washakie #1 appeared to have a comparatively high percentage of its students with disabilities placed in 'Resource Room' or 'RR' settings (spending 21 - 60% of their time in non-general education environments). According to the combined December 2007 WDE-425 and July 2008 WDE-427 reports, the district's percentage of students in RR placements was about 34%, which was roughly 5 % higher than the state's overall rate. The WDE hypothesized that there may be some students in RR placements who could be successfully served in less restrictive settings with the use of appropriate supports & services.

### **2. File Review**

In preparation for the on-site visit, the WDE created a purposeful sample of certain Washakie #1 students in Resource Room settings. The students selected all scored 'Proficient' on one or more PAWS subtest during the 2008 administration, which brought the total number of students in the State's LRE sample to 42 students. The WDE hypothesized that some of these WCSD #1 students might be successfully educated in a less restrictive environment if provided with appropriate supplementary aids and services.

Once on-site in Worland, WDE staff reviewed these 42 students' special education files. Through the file review process, twelve of the 42 students were removed from the sample for the following reasons:

- Six students' placement justifications appeared to be appropriate.
- Four students were recently moved to a less restrictive environment and were spending larger amounts of time in general education classrooms.
- One student had two WISER ID numbers on the system and was included in the State's sample twice. The WDE team dropped one of the duplicative ID numbers.
- 1 student recently exited special education after being found no longer eligible for services.

Thirty files remained in the core sample following the file review, and one or more of the following characteristics kept them in the subsample:

- 19 of 30 files contained no evidence that the IEP team had considered a less restrictive environment for the students in question.

- 13 out of 30 files contained similar or identical placement justifications in the LRE section of the IEP (usually referring to students' need for extra time or direct instruction).
- For 11 of the 30 students, challenging behavior appeared to have been a factor in the placement decision. Of these 11 student files, none contained a functional behavior assessment (FBA), and none contained a current Behavior Intervention Plan (BIP).
- For 7 of the 30 students, the WDE could not determine their levels of progress in the RR setting due to inconsistent or non-existent progress reports.

### 3. Interviews

After the file reviews were completed, WDE team members interviewed special education teachers, support staff, and related service providers regarding the learning environments for these thirty students. Nineteen more files were removed from the core LRE sample for the following reasons:

- For nine students, staff provided compelling reasoning to explain why their IEPs could not be implemented in less restrictive environments even with the provision of supplementary aids and services.
- According to district staff, eight students would have been correctly reported as being educated in the 'Regular Environment' or 'RE' given the location of the services they were receiving.
- One student was in the midst of transitioning into the regular education environment.
- The WDE team could not determine whether or not one student's placement was appropriate when it learned that the student has not been attending school for some time. This student was added to the FAPE – Educational Benefit sample during the interview process (see Area 4 below for additional details).

For the eleven remaining students, however, the following comments shared during interviews lend further support for a finding in this area:

- When asked about the barriers to including a certain student in more regular education classes, a staff member stated, "With support, it could be done."
- Regarding inclusion in the regular classroom, a teacher explained that it "would be very workable" and added, "If the schedule allowed it, that would certainly be a possibility."
- A general education teacher proposed that fewer students would be removed from his/her classroom if it was possible to have "the SpEd teacher come in and do the guided reading with us."
- When asked about learning environments for one student, a teacher stated, "[Student name] probably would have done ok in her (general education classroom)." Later in the interview, the same teacher added, "By middle school, [student] will be in the regular classroom." The teacher was unable to explain why the regular education setting was not appropriate *this* school year.
- When asked why a particular student needed to be removed from the general education classroom for an academic service, a service provider replied, "We're working on getting kids in regular classes. [Student name] could do that."
- A district staff member stated that a particular student could be in regular education classes for reading, writing, and math; however, the staff member

- explained that the school “weans” students off /out of the resource room which “usually takes about six or seven weeks.”
- When asked whether or not a less restrictive setting was considered by the IEP team, a district staff member responded, “Seems like once they’re in (resource room), they’re in.”
  - When asked if a particular student could be in a regular education classroom, a teacher replied, “[Student] could be in all regular education classes. [Student name] would benefit from a regular education classroom, but he never shows up so he goes to PSA.” The student had no attendance goal or behavior intervention plan in his special education program.
  - According to a service provider, one student could reportedly spend more time with non-disabled peers “if he could get in t he mind se t” and “improve his attitude”. However, the team has not attempted common interventions in the regular classroom, opting instead to place the student in a restrictive setting. A Functional Behavior Assessment has not been conducted.
  - When asked about how the school has responded to one student’s frequent absences, a district staff member replied that nothing had been done “because he’s in Special Education. I don’t think they put any pressure on them for that.”
  - One district staff member explained that one student’s pull-out services were intended to help the student improve his ability to focus for longer periods. However, the staff member added, “Study Skills classes are notoriously not super quiet.”
  - A district explained one student’s restrictive placement by stating, “I offered to him that he could go back into regular classroom if he would read some at home, but he hasn’t done it.”

### **C. Finding**

The WDE finds that special education services in WCSD #1 are not always provided in accordance with the LRE requirements established in 34 CFR §§300.114 - 300.117. The district will be required to address this finding and correct the noncompliance through the development and implementation of a Corrective Action Plan (CAP).

## **Area 4: FAPE – Educational Benefit**

### **A. Citation**

§300.101 Free appropriate public education (FAPE).

*(a) General. A free appropriate public education must be available to all children residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school, as provided for in §300.530(d).*

*(c) Children advancing from grade to grade.*

*(1) Each State must ensure that FAPE is available to any individual child with a disability who needs special education and related services, even though the child has not failed or been retained in a course or grade, and is advancing from grade to grade.*

*(2) The determination that a child described in paragraph (a) of this section is eligible under this part, must be made on an individual basis by the group responsible within the child’s LEA for making eligibility determinations.*

§300.324 Development, review, and revision of IEP.

(b) Review and revision of IEPs—(1) General. *Each public agency must ensure that, subject to paragraphs (b)(2) and (b)(3) of this section, the IEP Team—*

*(i) Reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and*

*(ii) Revises the IEP, as appropriate, to address—*

*(A) Any lack of expected progress toward the annual goals described in*

*§300.320(a)(2), and in the general education curriculum, if appropriate;*

*(B) The results of any reevaluation conducted under §300.303;*

*(C) Information about the child provided to, or by, the parents, as described under §300.305(a)(2);*

*(D) The child's anticipated needs; or*

*(E) Other matters.*

## **B. Evidence**

### **1. Data**

As noted above in the introduction of this report, the WDE noted that 2008 PAWS proficiency rates among students with disabilities in Washakie #1 were above the overall state targets for both language arts and mathematics at the middle and high school levels. However, probing deeper into the data, the WDE discovered that 40 of the district's students with disabilities scored 'Below Basic' on two or more PAWS subtests (reading, writing, and math) during the 2008 or 2007 test administration. In addition, the WDE learned that six of the district's students with a primary disability label of Emotional Disability (ED) were reportedly not receiving Counseling (CS), Psychological Services (PS), or Social Work (SW) as related services, which are often provided to students with emotional needs. After reviewing these data, the WDE hypothesized that some of these students might have IEPs that are not reasonably calculated to result in educational benefit.

### **2. File Review**

Using these 46 students described above as its purposeful sample, the WDE reviewed students' special education files as the first step in its exploration of this hypothesis. Through the file review process, seventeen students were removed from the sample for the following reasons:

- Seven students' IEPs appeared to be reasonably calculated to result in educational benefit, and each was making adequate/expected progress.
- Four students graduated in the spring of 2008.
- Three students recently moved or transferred out of district.
- Two students had dropped out of school.
- One student had recently been found not eligible for special education.

This reduction left 29 students remaining in the original sample. However, as the team reviewed files, three additional students were added to the FAPE sample when pertinent concerns were noted in their files. Thus the total number of students in the sample after the file review concluded was 32. Each of these files exhibited one or more of the following characteristics, prompting the WDE to further examine these student situations:

- 20 of the 32 files exhibited a “disconnect” between needs identified in assessment reports and the needs listed in the IEP. In other words, not all of the student needs identified through the evaluation process were included in these students’ IEPs.
- 20 out of 32 files listed needs in the IEP which were not addressed by goals.
- 18 of the 32 files contained one or more goals that were not measurable.
- 9 of the 32 files indicated a lack of adequate or expected progress toward at least one of the students’ IEP goals. Of these nine files, only one contained evidence that the IEP teams reconvened to address the students’ lack of progress.
- In 19 of the 32 files, the student’s levels of progress were unclear due to inconsistent or non-existent progress reporting (two additional IEPs were implemented recently and had not yet reached a progress reporting period at the time of the WDE’s visit).
- 5 out of 32 files contained a program of special education and related services that did not appear to address the student’s needs and goals adequately.
- 16 out of 32 files indicated that accommodations were to be provided on an “as needed,” “as appropriate,” “at student’s request,” or other similar basis, indicating an unclear commitment to the delivery of these supports and services.
- 5 of the 32 files indicated that the students were failing at least one core academic class (mathematics, language arts, science, or social studies).

### 3. Interviews

Following the file review, WDE team members interviewed special education staff, general education teachers and related service providers regarding these 32 specific students. Through the interview process, eleven additional students were removed from the sample for the following reasons:

- Regarding seven students, district personnel were able to provide details demonstrating that each of the students were now making progress and receiving educational benefit.
- For four of the students, those interviewed were able to provide compelling evidence that these students’ needs were in fact being adequately addressed through special education and related services. In most of these cases, the students’ needs had changed since their most recent triennial evaluation.

These reductions left 21 students remaining in the subsample. The following comments made by district staff lend further support for a finding in this area:

- When asked whether a student’s IEP team had reconvened in light of his/her clear lack of progress, a district staff member responded, “There is no established district policy about reconvening an IEP.”
- When asked why a particular student was not receiving specialized instruction in an area of identified need, a service provider explained, “Sometimes, if there is a para in the classroom, the student may not qualify in that area.”
- When asked about the provision of hearing aids for a student with a documented hearing impairment, a staff member responded, “The parent’s financial situation is why the student is not aided.”
- When asked whether or not counseling might help address one particular student’s behavioral/emotional issues, a general education teacher responded, “Yes, I would think so. [Student] is just totally lost.” Regarding the same student,

- another staff member explained, “He would have benefitted from counseling, but we can’t save them all.”
- Regarding a student with low vision, a teacher reported, “I think [student] would benefit from some vision services. Yes, a functional vision assessment would be good. He needs an AT evaluation.”
  - When asked about a student’s identified needs in the areas of comprehension and vocabulary, a teacher replied, “I suppose [student] could use more services, he really struggles with comprehension and vocabulary.”
  - Regarding a student identified as having a Learning Disability in the area of written expression, a teacher confirmed that the student “doesn’t have a goal; [student] just does what all the regular education kids do.”
  - When questioned regarding the need to reconvene an IEP for a student who is struggling, “The IEP is set in my mind as an annual review. I do not feel there should be an IEP for failing grades.”
  - When asked about a student whose IEP did not contain any goals, a district staff member replied, “It should have said, ‘continuation of existing goals’.” However, the eligibility of the student in question had recently changed from one category to another.
  - With regard to consulting services with the speech/language provider, a teacher stated, “I have very limited contact with the speech person. That’s all I will say. I don’t see the speech therapist.”
  - When asked about the lack of goals in areas of identified need, a teacher explained, “If a student does not have a primary disability of language at the high school, then (we) didn’t write a goal. If they do have primary disability in language, then (we) write a consult goal.”
  - The WDE learned that one student in the sample is not doing well and has struggled “since February.” The IEP team has not reconvened, although the student could be sent to the resource room as a sanction for not working in the general education classroom.
  - A service provider reported that the IEP team is looking for a communication device for a particular student, but they “haven’t found anything.” The service provider added, “We’ve talked about it off and on for several years.” The student’s speech is unintelligible to those who don’t know him.
  - Regarding one student with a documented visual impairment, district staff confirmed that the student is not working with or consulting with a Teacher of the Visually Impaired.
  - For a middle school student who is “very difficult to understand”, a special educator stated, “We are waiting to try a (communication board) in high school.”
  - When asked about a student who does not ask for help and who is failing a class, a teacher stated, “Getting him to speak up for himself is a goal. If he needs help he has to ask for it.” The IEP team has not reconvened to address the student’s lack of progress.
  - When asked if a student would graduate with a regular diploma, one teacher stated, “No. I don’t see it. I don’t think so. But I don’t think that applies for special ed kids, does it?”

### **C. Finding**

The WDE finds that special education services in WCSD #1 are not always provided in accordance with the FAPE requirements established in 34 CFR §§300.101 and 300.324.



The district will be required to address this finding and correct the noncompliance through the development and implementation of a Corrective Action Plan (CAP).

#### **D. Recommendation**

In its exploration of this hypothesis, the WDE also noted several atypical district practices in the area of reevaluation. Although the monitoring team did not track the issue systematically, the WDE found that at least 20% of the IEPs reviewed during the on-site visit in Washakie #1 contained a notice of “No Need to Conduct a Reevaluation.” While IEP teams are allowed to forego triennial reevaluations in certain circumstances, the WDE located some students who could certainly benefit from reevaluation in order to accurately determine their present levels of academic and functional performance so that the teams might craft IEPs that are reasonably calculated to result in educational benefit. In short, conducting a reevaluation should be the rule rather than the exception to the rule.

Furthermore, the WDE monitoring team noted the district’s practice of referring special education students to the Building Intervention Team (BIT) in order to determine whether or not a reevaluation is necessary. This practice is also problematic, since a BIT process is designed to be used when a student is being considered for an *initial* evaluation. The WDE recommends that the district review the regulations governing reevaluation of students with disabilities described under 34 CFR §300.303 and 300.305. Evaluation and reevaluation data are the foundation of any IEP and are crucial to the district’s efforts to provide FAPE.

### **OTHER AREAS OF POTENTIAL NONCOMPLIANCE**

#### **A. General File Review**

Each member of the WDE monitoring team also had the responsibility of conducting a procedural compliance check in each file reviewed during the on-site visit. In all, 106 files were reviewed for this purpose. In Appendix A of this report, these file review results may be found. For any file review item in which the district’s compliance is below 95%, the WDE requires that the district evidence correction of the noncompliance in a Corrective Action Plan and conduct additional self assessment to assure full compliance in these areas. More detailed guidance is provided on the CAP form.

#### **B. Parent Survey Results**

As part of the monitoring process, the WDE developed a Parent Survey in order to provide all parents an opportunity to give input on their children’s special education experiences in Washakie #1. The Department mailed a hard copy of the Parent Survey and a cover letter to each parent of a student currently receiving special education services in the district. Parents had the option of completing the survey on paper or completing it online. The WDE mailed a total of 321 surveys, and 32 parents returned completed surveys to the WDE. In Appendix B of this report, the complete survey results are included for the district’s review.

File Review 2201000	Number of files reviewed	Percent of files compliant
<b>B. Most Recent Evaluation / Reevaluation</b>		
B1. The file contains a current evaluation	106	96.23 %
B2. The file contains documentation that a reevaluation was conducted by the public agency at least once in the past three years .(300.303(b)(2))	106	96.23 %
B5. Prior written notice includes a description of the action the public agency is proposing or refusing. (300.503(b)(1))	106	96.23 %
B17. The initial evaluation/reevaluation includes a variety of assessment tools and strategies that provide relevant information that directly assist persons in determining the educational needs of the child and is administered by qualified evaluators. (300.304(b)(1)), (300.304(b)(2), (300.204(c)(7))	106	92.45 %
B19. As part of the initial evaluation/reevaluation, the IEP team reviewed current classroom based, local or state assessments. (300.305(a)(1)(ii))	106	* 91.51 %
B22. The file contains documentation that, as part of the initial evaluation/reevaluation, the child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status and motor abilities. (300.304)(c)(4))	106	91.51 %
<b>C. Eligibility Determination</b>		
C6. In the evaluation/ reevaluation, the file documents whether the child has or continues to have a disability, the present level of academic achievement and related developmental needs of the child, whether the child continues to need special education and related services and whether additions or modifications to the special education and related services are needed. (300.305(a)(2))	106	83.96 %
C9. There is documentation that the public agency provided a copy of the evaluation report and documentation of the eligibility determination to the parent. (300.306(a)(2))	106	80.19 %
<b>E. The IEP Process</b>		
E2. The file contains a current written IEP that was completed prior to the ending date of the previous IEP.(300.323(a))	106	56.60 %
E13. The IEP includes documentation if the student is being removed from general education for any part of the school day, such removal occurs only if the nature or severity of the disability is such that education in regular classes with the use of modifications, supplementary aids and services cannot be achieved satisfactorily. (300.114(a)(2)(ii))	106	62.26 %
E20. The IEP includes a statement of special education and related services and any supplementary aids and services to enable the child to advance toward attaining the annual goals involved in and make progress in the general education curriculum and be educated and participate with other children with and without disabilities.	106	91.51 %
E24. If the child participates in the alternate assessment the IEP contains a statement of why the child cannot participate in the regular assessment. (300.320(a)(6)(ii)(A))	106	98.11 %
E26. The IEP includes the child's present levels of academic and functional performance including how the child's disability affects his/her progress in the general curriculum (or for preschool children, participation in appropriate activities). (300.320(a)(1)(i)), (300.320(a)(1)(ii))	106	77.36 %

File Review --- Trained reviewers' assesment of files Percent of "Yes" responses on each item	Number of files with a yes/no response	Percent of Yes responses
E27. The IEP includes measurable annual academic, developmental and functional goals designed to meet the needs of the child and enable the child to progress in the general curriculum. (300.320(a)(2)(i)(A)), (300.324(a)(iv))	106	62.26 %
E30. The IEP includes documentation when periodic reports regarding progress toward meeting annual goals will be provided. (300.320(a)(3)(ii))	106	95.28 %
E33. The IEP documents that the public agency has informed each regular education teacher, special education teacher, related service provider and other service provider who is responsible for its implementation of his or her specific responsibilities including accommodations, modifications and supports. (300.323(d)(2))	106	91.51 %
E45. If the parent did not attend the IEP meeting there is documentation of more than one attempt to arrange a mutually agreed upon time, place and format. (300.322(c)), (300.322(d)), (300.328), (300.501(b))	106	100.00 %
E46. The file contains documentation that the public agency conducted a meeting to develop the initial IEP within 30 calendar days of a determination that a child with a disability was found eligible for special education and related services. (300.323(c)(1))	106	99.06 %
<b>F. TRANSFERS</b>		
F1. If a child with a disability transferred from a public agency within the same academic year, and had an IEP that was in effect in Wyoming, the file contains documentation that the public agency in consultation with the parents, provided FAPE to the child including services comparable to those described in the previously held IEP. (300.323(e)), (300.501(b))	106	100.00 %
F2. If a child with a disability who transferred from a public agency within the same academic year, and had an IEP that was in effect in another State, the file contains documentation that the public agency in consultation with the parents, provided FAPE to the child including services comparable to those described in the previously held IEP; until such time as the public agency conducts and evaluation, if determined to be necessary and develops a new IEP if appropriate. (300.323(f)), (300.501(b))	106	100.00 %
<b>G. ESY</b>		
G1. The file contains a parent notice that ESY services will be considered	106	8.49 %

**Continuous Improvement Focused Monitoring  
Parent Survey Results for  
Washakie County School District #1**

**Total Respondents: 32**  
**Total Parents who were mailed a survey = 321**  
**Response Rate= 10%**

	Very Strongly Disagree	Strongly Disagree	Disagree	Agree	Strongly Agree	Very Strongly Agree	Agree, Strongly Agree, Very Strongly Agree
1. At Individualized Education Program (IEP) meetings, we talk about whether my child needs special education services during the summer or other times when school is not in session.	0%	3%	7%	43%	23%	23%	89%
2. My child is included in the general education classroom as much as is appropriate for his/her needs.	3%	0%	0%	29%	16%	52%	97%
3. My child's educational needs are being adequately addressed by the school.	3%	0%	3%	33%	17%	43%	93%
4. My child has made adequate progress over the course of the past year.	0%	3%	3%	29%	19%	45%	93%
5. My child's special education program is preparing him/her for life after high school.	7%	3%	3%	23%	27%	37%	87%

6. Could your child's school be doing more to address his/her academic needs and improve your child's progress in school? 6a. If yes, what could the school be doing? <a href="#">See additional pages for responses.</a>	Yes 13%	No 47%	Don't Know 41%
7. Does your child receive Extended School Year (ESY) services? 7a. If no, do you think your child would make more progress if he/she received these services? 7b. If yes, do you think the amount/type of these services is appropriate for your child? <a href="#">See additional pages for responses</a>	Yes 25%	No 44%	Don't Know 31%
8. Are there any additional supports, services, or equipment that would enable your child to spend more time in the regular classroom? 8a. If yes, please describe. <a href="#">See additional pages for responses.</a>	Yes 21%	No 59%	Don't Know 21%

	Very Strongly Disagree	Strongly Disagree	Disagree	Agree	Strongly Agree	Very Strongly Agree	Agree, Strongly Agree, Very Strongly Agree	State Results (% who agreed)
9. My child's school provides me with information about organizations that offer support for parents of students with disabilities.	6%	0%	19%	35%	26%	13%	74%	50%
10. Teachers at my child's school are available to speak with me.	0%	0%	6%	19%	38%	38%	95%	90%
11. Teachers and administrators encourage me to participate in the decision-making process.	0%	0%	3%	25%	34%	38%	97%	84%
12. My child's school gives parents the help they may need to play an active role in their child's education.	0%	0%	3%	34%	25%	38%	97%	76%
13. My child's school explains what options parents have if they disagree with a decision of the school.	3%	3%	3%	34%	22%	31%	87%	68%

14. Any other comments that you would like to share?  
[See additional pages for responses](#)

**Continuous Improvement Focused Monitoring  
Parent Survey Open-Ended Comments for  
Washakie County School District #1**

**6. Could your child's school be doing more to address his/her academic needs and improve your child's progress in school?**

**6a. If yes, what could the school be doing?**

- At recent IEP the first thing I talked about was summer school. They told me not to worry about it unless he flunked a class. Second to last day of school I called to see what classes if any he flunked and there were two. Then they told me it was too late to go to summer school, that there was a waiting list. What happened to no child left behind? I knew he was probably going to need summer school as he has always taken summer school since he was in first grade. He is a freshman this year and school was harder than ever. They should have informed me that they can't take all the students who need summer school. They should have had me sign him up just in case he needed. They just seemed like it was no big deal.
- Doing the best my child can do but he doesn't care. Staff is very patient with my child.
- Teaching how to cross the street safely, riding her bike safely across, more sports, math, reading, writing.
- They could not be yelling at an 8 year old with a learning disability.

**7. Does your child receive Extended School Year (ESY) services?**

**7a. If no, do you think your child would make more progress if he/she received these services?**

- I do not know what ESY is.
- I think my child needs continual services but the only program offered in Washakie County School District #1 is for educational support and my child has behavior/social development problems and needs assistance in dealing with other children and social settings. He is very intelligent and finds the summer educational program frustrating since they are teaching lessons he has already learned. This in turn causes more behavior problems and he is no longer being considered for the summer program.
- N/A my child is gone for the summer visiting other parents.
- Not sure.
- No.
- Yes.
- Not applicable.
- Not sure.

**7b. If yes, do you think the amount/type of these services is appropriate for your child?**

- Yes, focus is on math and reading.
- Not applicable.
- Starts this summer esy. She needs a teacher of the deaf but can't find one that will come to this area and I think she is missing a lot not having one. So they are doing their best with an aide and trying to fill all her needs. We need lots more sign language classes so we don't forget we sometimes only get it once a week and if you don't use it you forget. She has an 80 percent chance of going deaf and something needs to be done to help her cause it's going to get harder for not having a teacher of the deaf right equipment for her she's very smart and with the right tools she can go far. But how do we get her these tools? Sign needs to be in schools.
- Yes.

**8. Are there any additional supports, services, or equipment that would enable your child to spend more time in the regular classroom?**

**8a. If yes, please describe.**

- He struggles with writing and we discussed allowing him to use a computer to aid in his writing assignments. This was not implemented. He gets frustrated when having to do his journal which causes behavior problems which results in his removal from the room. Also the teacher and aide had resounded to just removing him before he had a chance to try to self-regulate his behavior as they would fear he would have "a meltdown." I would have liked to see him be given the opportunity and guided support to try recognizing the triggers and utilize skills he was being taught to regulate his emotions and outburst.
- His problem is his behavior and rude to teachers. Staff has offered me some counseling for issues, but husband does not want that we can manage his behavior. I have said it's better to get the help now before he gets older. [REDACTED] can do his studies if he applies himself but does not care. I know the language and can defense myself [REDACTED]
- Mental health, VV office.
- Para educators.
- They need to push them a little more harder.
- A teacher of the deaf ,better fm system hers keeps cutting out.
- Not applicable.

**14. Any other comments that you would like to share?**

- [REDACTED] s doing very good. He is excited to go to school. He is very involved in sports this year and is happy when he comes home from school which is very rare at his previous school.
- I appreciated all they do.
- [REDACTED] is awesome - he has been so helpful and really encourages [REDACTED]
- My child's IEP team truly has his best interests at heart but I feel some of the solutions we come up with are forgotten and not implemented. I do not want to criticize them directly since I feel they are trying their best. I realize my child is only one of very many in the school that are receiving services and I am grateful for their assistance.
- Our school did a good job of keeping me (the parent) informed and involved on how my child was doing.
- The school and all staff members work very hard to teach [REDACTED] He is very lazy and does what he thinks is best. Staff is always willing to talk to me about [REDACTED] behavior moods. Staff is great.
- They lied to me when they wanted me to hold my child back in Kindergarten, they told me that he would have to be reading chapter books and the books that they were reading at the end of first grade were not even close to chapter books. They shouldn't have lied to me to get me to leave him back.
- We feel that the administrator and educators at this school are exceeding our expectations.
- Our schools try all they can but a student with hearing problems is new and different times now they don't have all the resources on this we now have a outreach from deaf and hard of hearing but she is only aloud so much time and it's just not enough for my child she was robbed of 3 years of learning cause we knew of nothing and sometimes it's very frustrating to know she could know more than she does now and wouldn't have to figure a way to survive by watching other kids cause no one knew how to teach her or test her.

**Continuous Improvement Focused Monitoring  
Parent Survey Demographics for  
Washakie County School District #1**

<b>Ethnicity</b>	<b>N</b>	<b>%</b>
White	19	68%
Hispanic	9	32%

<b>Primary Disability Code</b>	<b>N</b>	<b>%</b>
Cognitive Disability	2	7%
Developmental Delays	1	4%
Hearing Impaired (including Deafness)	1	4%
Other Health Impairment	3	11%
Specific Learning Disability	14	50%
Speech/Language Impairment	6	21%

<b>Grade Distribution</b>	<b>N</b>	<b>%</b>
Kindergarten	4	14%
Grades 1-6	14	43%
Grades 7-8	3	11%
Grades 9-12	9	25%

<b>Environment Code</b>	<b>N</b>	<b>%</b>
Regular Environment	19	68%
Resource Room	8	29%
Separate Classroom	1	4%