



Wyoming Department of Education

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MEMORANDUM NO. 2007 - 166

TO: School District Superintendents, Special Education Directors

FROM: Peg Brown-Clark, State Special Education Director

DATE: October 5, 2007

SUBJECT: Developmental Delay - Chapter 7 Rules, Part I, Section 2 (v)

On July 14, 2007, Governor Dave Freudenthal signed into effect the Wyoming Department of Education Chapter 7 Rules Governing Services for Children with Disabilities. One of the significant changes in the Chapter 7 Rules pertains to the disability category known as Developmental Delay. It is the only provision within the Chapter 7 Rules that requires a district to adopt the use of a particular disability area.

The language in Chapter 7 Rules concerning the Developmental Delay provision is found in Part I, Section 2 (v) where Developmental Delay is defined as follows: *A child who is determined to have a "developmental delay" is one with a disability ages three through nine who is determined, through appropriate diagnostic instruments and procedures, to be experiencing delays in the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development and who, by reason thereof, needs special education and related services.*

Section 2 (v)(A) states: *A school district or public agency is not required to adopt or use the term developmental delay for any child within the district's jurisdiction.* When the IDEA was reauthorized in 1997 and the State promulgated rules, the decision was made as a State not to allow the use of Developmental Delay once the child entered kindergarten. The category was only used by our Child Developmental Centers and then only as a category of "last resort." Due to overwhelming public input and extensive research regarding the Developmental Delay category, the State chose with this reauthorization to adopt the federal language verbatim. (More information regarding this decision is contained in the *Summary of Public Comment* found on the Special Education Unit webpage www.k12.wy.us).

Section 2(v)(B) states: *If the school district or public agency uses the term developmental delay as a category of disability for children with disabilities, the school district or public agency shall conform to the definition of that term detailed in these rules and the age range described in subsection (v) of this Section.*

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As a result, the district must either: 1) use the Developmental Delay category by adopting the above definition; or, 2) not allow the use of the category once children enter the district's jurisdiction. Because this decision will impact the services provided by the district for children with disabilities it is not one that should be made unilaterally by district personnel. This decision will require input from the appropriate stakeholders and action by the district's Board of Trustees. The State's authority for this requirement is set forth in 34 CFR §300.200: *According to federal and state statute and rule, the district, in providing for the education of children with disabilities within its jurisdiction, must have in effect policies, procedures, and programs that are consistent with the State policies and procedures established under §§300.101 through 300.163 and §§300.165 through 300.174 of CFR 34.*

Please notify the WDE, Special Programs Unit, and State Special Education Director, in writing of the district's decision regarding the use of the Developmental Delay category. That information will be posted by district on our webpage no later than December 31, 2007. If you have questions or need more information, please call Peg Brown-Clark at 307-777-2555.