



Wyoming Department of Education

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MEMORANDUM NO. 2009-098

TO: School District Superintendents

FROM: Mary Kay Hill, Director
Administration Unit 

DATE: June 19, 2009

SUBJECT: Chapter 40 Permanent Rules Governing Statewide
Administration of a Single College Entrance Examination
and Job Skills Assessment Test

PLEASE READ AND RESPOND AS NECESSARY

Please find enclosed Final Rules and signed certification page for Chapter 40 Permanent Rules Governing Statewide Administration of a Single College Entrance Examination and Job Skills Assessment. These rules were certified by the Governor on June 9, 2009.

If you have any questions or need further information, please contact Jennifer Duncan at (307) 777-6213.

MKH: jd

Enclosure

JUN 9 2009

Appendix A

CERTIFICATION PAGE FOR RULES

Adoption Date: May 12, 2009

To guarantee review by the Secretary of State within the 75 day deadline, this package must be submitted to the Secretary of State by: July 27, 2009

GENERAL INFORMATION:

1. Agency: Wyoming Department of Education
Address: 2300 Capitol Avenue
2nd Floor, Hathaway Building
Cheyenne, WY 82002-0500
Agency Contact Person for these Rules: Jennifer Duncan
Work Telephone: (307) 777-6213

2. Are these new rules? ("new" – means the first set of regular rules to be promulgated by this agency after the Legislature adopted a new statutory provision or significantly amended an existing statute) Yes X No _____

3. Chapter # and name of rules being **created**, amended or repealed Chapter 40 Rules Governing Statewide Administration of a Single College Entrance Examination and Job Skills Assessment Test

4. Does this rule replace an existing rule? Yes ___ No X If yes, which chapter(s)?

NOTICE OF INTENDED RULEMAKING TO AG, LSO AND SECRETARY OF STATE

5. Notice of intended rulemaking containing all of the information required by W.S. 16-3-103(a) was filed with the Secretary of State on: March 5, 2009.

6. Notice of intended rulemaking and proposed rules in strike and underscore format were provided to the Legislative Service Office and courtesy copies of the notice and proposed rules were provided to the Attorney General and the Governor on: March 5, 2009.

PUBLIC NOTICE OF INTENDED RULEMAKING:

7. Yes x No ___ (If applicable) Notice was mailed 45 days in advance to all persons who make a timely request for advance notice.

8. Yes ___ No X A public hearing was held on the proposed rules on: _____.

STATE OF WYOMING }
Office of the Secretary
Filed the 9th day of June
2009 at 1:40 P. M.
Max Maxfield
Secretary of State

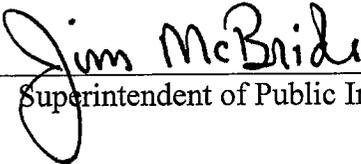
FINAL FILING FOR RULES:

- 9. Yes x No ___ A Disk with an exact copy of the attached rules is attached or the electronic copy was sent via electronic mail to the Secretary of State on May 13, 2009.
- 10. Final rules with original signatures were sent to the Attorney General's office for the Governor's signature on May 12, 2009.
- 11. Final rules were sent to the Legislative Service Office on May 13, 2009.

CERTIFICATION BY AGENCY:

The undersigned certifies that the foregoing information is correct.

Date: May 12, 2009



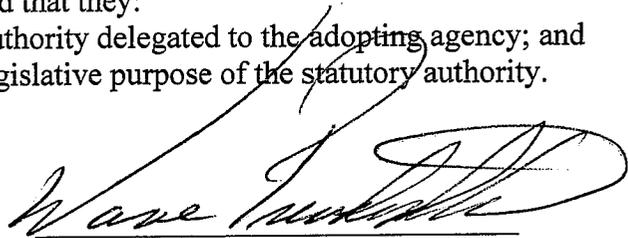
Superintendent of Public Instruction

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; and
(2) appear to be within the scope of the legislative purpose of the statutory authority.
Therefore, I approve the same.

6/8/09

Date Approved



Governor

CHAPTER 40

Wyoming Department of Education Statewide Administration of a Single College Entrance Examination and Job Skills Assessment Test

Section 1. **Authority.**

These rules are promulgated by the Wyoming Department of Education pursuant to W.S. § 21-2-202(a)(xxx) and W.S. § 21-3-110(a)(xxix).

Section 2. **Applicability.**

These rules govern the administration of a statewide standardized curriculum-based achievement college entrance examination and a job skills assessment test to all students in the eleventh grade throughout the state.

Section 3. **Promulgation, Amendment or Repeal of Rules.**

The promulgation, amendment or repeal of these rules shall become effective as provided by the Wyoming Administrative Procedures Act (W.S. § 16-3-101 through W.S. § 16-3-115) and when signed by the Governor and filed with the Secretary of State.

Section 4. **Definitions.**

(a) "ACT" means the achievement college entrance examination administered to eleventh-grade students within the state.

(b) "ACT, Inc." means the non-profit independent organization that provides research, assessment and program management services in areas of education and workforce development.

(c) "ACT score" means the composite score on the ACT.

(d) "College entrance examination" means an examination commonly administered throughout the United States and relied upon by institutions of higher education. For purposes of these rules, this examination is the ACT.

(e) "Department" means the Wyoming Department of Education as created by W.S. § 21-2-104.

(f) "Home-based education program" means a program of educational instruction that meets the requirements of W. S. § 21-4-102(b) and a basic academic educational program pursuant to W.S. § 21-4-101(a)(vi) provided to a child by the child's

parent or legal guardian or by a person designated by the parent or legal guardian. An instructional program provided to more than one (1) family unit does not constitute a home-based educational program.

(g) "Individual Educational Program (IEP)" means a written program developed for a child with a disability in accordance with Chapter 7 Rules of the Department and any subsequent amendments thereof, and the Individuals with Disabilities Education Act, 34 C.F.R. Parts 300 and 301 and the applicable rules and regulations that relate to this Act and any subsequent amendments thereof.

(h) "Institutional school" means a public or private group home, residential treatment facility, or a Board of Cooperative Educational Services (BOCES) institution receiving State funds for the provision of educational services to students within the state of Wyoming.

(i) "Job skills assessment test" means a test commonly administered throughout the United States and relied upon by institutions of higher education and potential employers that shall, at a minimum, test areas of applied math, reading for information, and locating information. For purposes of these rules, this test is the same as the WorkKeys Job Skills assessment or WorkKeys assessment.

(j) "Non-public school student" means a student receiving education in a private or institutional school or a student who participates in a home-based education program as defined in these rules.

(k) "Private school" means any non-public elementary or secondary school providing a basic academic educational program for children in grades K-12 and may include parochial and church or religious schools and home-based educational programs.

(l) "Resident public school" means the Wyoming school the student would attend based on their place of residence and local school district policy as of the date of application to participate in the ACT or WorkKeys statewide assessment.

(m) "Section 504 Plan" means an individualized plan designed to provide access to an education program as provided under the Rehabilitation Act of 1973, 29 U.S.C.A. 701 et seq. and the applicable rules and regulations that relate to this Act and any subsequent amendments thereof. In order to be eligible for this plan, the student must be determined, as the result of an evaluation, to have a physical or mental impairment that substantially limits one or more major life activities.

(n) "Test accommodations coordinator (TAC)" means the individual appointed by the school district and approved by ACT, Inc. as the person responsible for assuring all requirements to modify testing and/or the testing environment for students documented and approved for accommodations by ACT, Inc. are adhered to in such a way that the integrity of the test materials and test site are assured. The test

accommodations coordinator can also be the test supervisor or backup test supervisor if so designated by the school.

(o) "Test site" means each location approved by ACT, Inc. for the statewide administration of the ACT or WorkKeys.

(p) "Test supervisor" means the person appointed by the school district as the individual who assumes the responsibility to protect the integrity of all secure test materials and ensures that all examinees at his/her school are tested under the same conditions as examinees at every other school administering the ACT or WorkKeys.

(q) "Wyoming Integrated Statewide Education Record (WISER) Identification Number" means the unique identification number assigned to every Wyoming student which meets the criteria set forth by the Department.

(r) "WorkKeys assessment" means the job skills assessment test to be administered statewide to eleventh-grade students within the state.

(s) "WorkKeys score" means the cumulative score on the WorkKeys assessment.

Section 5. Eligibility.

(a) Any public school student deemed by his or her school district to be an eleventh-grade student anytime during the same school year as the statewide test and who will be under the age of twenty-one (21) as of the statewide testing date shall be required to take either the single college entrance examination (ACT) or job skills assessment test (WorkKeys) one (1) time at no cost to the student.

(b) Non-public school students who reside within a Wyoming public school district are eligible to take either the single college entrance examination (ACT) or job skills assessment test (WorkKeys) one (1) time at no cost to the student. These students must be deemed by their resident school district to be an eleventh-grade student anytime during the same school year as the statewide test and be under the age of twenty-one (21) as of the statewide testing date.

(c) Only students considered as eleventh-grade students at some point during the same school year as the statewide test and under the age of twenty-one (21) as of the statewide testing date are allowed to participate in the statewide administration of the ACT or WorkKeys.

Section 6. Testing of Public School Students.

(a) All public school students determined by their resident school district as being eligible eleventh-grade students shall be required to participate in the statewide administration of the ACT or WorkKeys.

(b) Students shall make the determination whether to take the ACT or WorkKeys assessment. Students may seek guidance from high school counselors in making this determination.

Section 7. Exemption of Public School Students from Testing.

(a) Students with an individual education plan (IEP) may be excused from statewide ACT or WorkKeys assessment if their parents or guardians submit a request for excusal to the test accommodations coordinator.

(b) Districts shall notify the parents or guardians of students who are potentially exempt from testing of the procedures and timelines needed to effect excusal.

(c) Upon receipt of a request of excusal from testing, the test accommodations coordinator shall respond to the parent or guardian when the request has been accepted.

Section 8. Testing of Non-Public School Students.

(a) Eligible non-public school students who elect to take the ACT or WorkKeys shall test at an approved ACT testing site on the same statewide initial or makeup testing day as public school students.

(b) In September of each year, districts shall notify private and institutional schools within the district of the availability of statewide ACT and WorkKeys assessment of eleventh-grade students. Notice shall include information on how students can indicate intent to participate in this statewide assessment and provide a schedule of deadlines to meet in order to successfully participate in statewide test administration.

(i) Private and institutional schools shall distribute this information to potentially eligible students in a timely fashion so that students are made aware of the availability of statewide assessment.

(ii) Private and institutional school students shall contact their school of attendance to indicate intent to participate in statewide ACT or WorkKeys assessment. Students must designate whether they wish to participate in the ACT or the WorkKeys at this time.

(iii) By October 1, prior to the statewide testing date, private and institutional schools shall provide to the resident public school where the student will test:

(A) Evidence of eleventh-grade eligibility, date of birth, the WISER identification number assigned by the Department, and other information required by the district and reiterated in their correspondence with the student's private or institutional school; and

(B) If requesting accommodations for the ACT or WorkKeys, a current IEP or Section 504 Plan supporting the need for all requested accommodations due to the student's disability.

(C) On a case-by-case basis, the Department may grant exceptions to the October 1 deadline in extenuating and emergency circumstances. Evidence of extenuating or emergency circumstances shall accompany any request made to the Department after the October 1 deadline.

(iv) The resident public school where the private or institutional school student plans to test shall verify age and eleventh-grade status and notify the private or institutional school and the student of eligibility determination.

(v) The resident public school shall follow the process defined by ACT, Inc. to enable the non-public school student to participate in the statewide ACT or WorkKeys assessment and shall include the student and the private or institutional school in all further correspondence relative to statewide ACT or WorkKeys assessment, including gathering of accommodation documentation when needed.

(vi) If the private or institutional school student does not have a WISER identification number assigned from the Department, the resident public school shall refer the student back to his or her current school who must then follow procedures prescribed by the Department to obtain the WISER identification number.

(vii) If it is determined by the test supervisor that private or institutional school students must be assessed in a room(s) separate from the room where public school students are being examined, the private or institutional school shall be responsible for providing a room supervisor for its students on the statewide testing date. The room supervisor must be identified and trained in advance by the testing site's designated ACT test supervisor.

(c) Students participating in home-based educational programs shall receive information from their resident public school on the availability of the statewide ACT and WorkKeys assessment at the time their high school curriculum is reviewed and approved by the district each year. Notification shall begin no later than when the student's ninth grade curriculum is approved by the district and continue each year thereafter upon the district's approval of curriculum.

(i) Students who participate in home-based education programs shall contact their resident public school to indicate intent to participate in statewide ACT or WorkKeys assessment by October 1 prior to the statewide testing date. Students shall be prepared to designate whether they wish to participate in the ACT or the WorkKeys at this time. Additionally, the student must present to the resident public school:

(A) Evidence of eleventh-grade eligibility, date of birth, WISER identification number assigned by the Department, and other information required by the district and reiterated in their correspondence with the student or his or her guardian; and,

(B) If requesting accommodations for the ACT or WorkKeys, a current IEP or Section 504 Plan supporting the need for all requested accommodations due to the student's disability.

(C) On a case-by-case basis, the Department may grant exceptions to the October 1 deadline in extenuating and emergency circumstances. Evidence of extenuating or emergency circumstances shall accompany any request made to the Department after the October 1 deadline.

(ii) The resident public school where the home-based education program student intends to test shall verify age and eleventh-grade status and notify the student or his or her parent/guardian of student eligibility determination.

(iii) The resident public school shall follow the process defined by ACT, Inc. to enable the home-based education program student to participate in the statewide ACT or WorkKeys assessment and include this student in all further correspondence relative to statewide assessment, including gathering of accommodation documentation when needed.

(iv) If the student who participates in a home-based education program does not have a specific WISER identification number assigned from the Department, the resident public school shall follow procedures prescribed by the Department to obtain this identification number.

Section 9. Administration of the Statewide Test.

(a) The Department each year shall establish a single testing day for statewide administration of both the ACT and the WorkKeys. The date shall be posted on the Department website. The date shall be selected so that following receipt of scores, students may register for senior year classes which may be needed to allow the student to qualify for a state-provided scholarship.

(b) The Department, in conjunction with ACT, Inc., shall offer a single makeup ACT/WorkKeys testing day for students verified as being unable to test on the initial statewide testing date.

(c) Students taking the ACT shall test in English, mathematics, reading, and science. Students wishing to additionally participate in the optional writing portion of the ACT cannot do so on the statewide testing date, nor is the state liable for the expense of this portion of the test.

(d) Students taking the WorkKeys shall test in applied math, reading for information, and locating information.

(e) The Department shall not reimburse school districts for costs incurred locally with administering the statewide ACT and WorkKeys assessment.

Section 10. Accommodations for the ACT.

(a) ACT test accommodations shall be considered for students with professionally diagnosed disabilities who are receiving special education services outlined in a current IEP or Section 504 Plan. Plans submitted to ACT, Inc. must support the need for all requested accommodations due to the student's disability. Accommodations shall be made in accordance with the Rehabilitation Act of 1973, 29 U.S.C.A. 701 et seq. and the applicable rules and regulations that relate to this Act and any subsequent amendments thereof, and the Individuals with Disabilities Education Act, 34 C.F.R., Part 300 and 301 and the applicable rules and regulations that relate to this Act and any subsequent amendments thereof.

(b) Test accommodations coordinators shall be responsible for communicating to students and their parents or guardians the timeline and procedures which need to be met for requesting test accommodations.

(c) Requests for accommodations to the ACT must be submitted directly by test accommodations coordinators to ACT, Inc. for eligibility determination.

(d) ACT, Inc. shall train test accommodations coordinators on detailed procedures for requesting ACT accommodations, including timelines, documentation needed, and all appropriate formats for submittal.

(e) The administration of test accommodations shall be supervised at each testing site by a test accommodations coordinator trained by ACT, Inc.

(f) A two (2)-week testing window shall be established for students approved by ACT, Inc. for specific types of accommodations to the ACT. The timeframe shall fall between the initial statewide testing date and the makeup statewide testing date.

(g) Students approved by ACT, Inc. for accommodations during the statewide administration of the ACT may also use the same approval from ACT, Inc. to apply the same accommodations in any repeat testing the student may pursue at his/her own expense. All procedures for registering for repeat testing and for requesting accommodations must be followed.

Section 11. Accommodations for the WorkKeys.

(a) Requests for accommodations to the WorkKeys shall be submitted to test accommodations coordinators who shall evaluate and approve accommodations to the

WorkKeys for students with professionally diagnosed disabilities who are receiving special education services outlined in a current IEP or Section 504 Plan. Plans must support the need for all requested accommodations due to the student's disability. Accommodations shall be made in accordance with the WorkKeys test supervisor manual, the Rehabilitation Act of 1973, 29 U.S.C.A. 701 et seq. and the applicable rules and regulations that relate to this Act and any subsequent amendments thereof, and the Individuals with Disabilities Education Act, 34 C.F.R., Part 300 and 301 and the applicable rules and regulations that relate to this Act and any subsequent amendments thereof.

(b) Test accommodations coordinators shall be responsible for communicating to students and their parents or guardians the timeline and procedures which need to be met for requesting test accommodations.

(c) ACT, Inc. shall train test accommodations coordinators on procedures for requesting WorkKeys accommodations as required by the WorkKeys test supervisor manual, including timelines and documentation needed.

(d) Test accommodations coordinators shall hold accommodations for WorkKeys testing to the same standard used for the allowance of accommodations for the ACT.

(e) The administration of test accommodations shall be supervised at each testing site by a test accommodations coordinator trained by ACT, Inc.

(f) A two (2)-week testing window shall be established for students approved by districts for specific types of accommodations to the WorkKeys test. The timeframe shall fall between the initial statewide testing date and the makeup statewide testing date.

(g) Students approved by schools for accommodations during the statewide WorkKeys test may also use the same approval from the school to apply for the same accommodations for any repeat WorkKeys testing the student may pursue at his/her own expense. All procedures for registering for repeat testing and for requesting accommodations must be followed.

Section 12. Reporting of Scores.

(a) The results of the ACT or WorkKeys shall be included on each student's high school transcript. This does not preclude the recording on the student's transcript of additional scores attained by the student from subsequent WorkKeys or ACT testing.

Section 13. Audit of Test Administration.

(a) Testing sites may be visited on the designated test dates by unannounced observers from ACT, Inc.

(b) Arrangements with ACT, Inc. must be agreed upon and made in advance in order for Department or district personnel to visit test sites to observe testing.