



WYOMING
DEPARTMENT OF EDUCATION

SPECIAL EDUCATION STAFFING GUIDELINES

JANUARY 2019

EXECUTIVE SUMMARY

The wisdom of Wyoming's legislative body to require special education staffing guidelines for the Wyoming Department of Education (WDE) to use in oversight demonstrates an understanding of the individualized nature of educating students with disabilities. This allows local districts flexibility to meet the needs of all students. The WDE organized a stakeholder task force to collaboratively review research regarding staffing policies and practices across the nation and within Wyoming. The work informed the creation of the contained staffing guidelines, and is built on a philosophy that recognizes the various aspects of consideration in decision-making and the need for oversight. The philosophy and resulting guidelines are in alignment with all federal requirements surrounding the education of students with disabilities. This document provides the guidelines for districts in the consideration of adequate staffing of special education and for the WDE in oversight of such practices. The WDE recognizes the need for ongoing evaluation of these recommendations, the development of monitoring and evaluation processes, and the development of district requested support materials.

BACKGROUND

The 2018 Session House Bill 14-HEA No.0068, Section 4(b) states:

On or before January 1, 2019, the State Superintendent of Public Instruction shall establish statewide guidelines for adequate special education staffing levels as required by W.S. 21-2-202(a)(xxiii).

The aforementioned statute identifies a requirement of the Superintendent of Public Instruction to "Establish statewide guidelines for adequate special education staffing levels, to be used in assessing special education programs and services provided by school districts."

The WDE convened a taskforce to address this requirement. The composition of the taskforce ensured representation from various sized districts from the state's largest to smallest and geographical locations spanning the state. The task force began meeting virtually in March, held a two-day work-session November 1-2, that was followed by virtual meetings on November 26, 2018 and December 18, 2018. In addition to the large group meetings, the task force used individual and small group activities to accomplish the goal of creating staffing guidelines.

To inform the work and decision making of the task force, several sources of staffing practices were considered. These included survey results from 47 districts about current staffing practices, and models from Wyoming districts and other states. Representatives from several districts presented information to the task force about their processes that led to the development, refinement, and implementation of staffing practices. Through survey results and presentations, districts demonstrated having systematic

processes in place for making staffing decisions that included consideration of students' needs, local factors, fiscal stewardship, and federal requirements. This information was used in the development of the staffing guidelines.

The staffing guidelines outlined within are intended to provide local districts with guidelines to ensure their staffing practices are adequate as they work to meet students' needs and federal requirements and provide the WDE the basis for oversight in assessing district practices. The task force recommended caseload determination should be evidence-based to the greatest extent possible. While authors Russ and Chaing and Rylance and Bongers (2001) suggest that research provides clear empirical direction for states and "school systems" in setting consistent caseload policies, they suggest this is challenging given the individual nature of special education and corresponding related services.

Programming for each student identified with a disability is unique, which makes it difficult for states and districts to set uniform caseload policies. For example, one teacher could have 15 identified students consisting of a range of learning and behavioral challenges, yet the caseload is manageable with all students making progress toward their Individualized Education Program (IEP) goals. This could be contrasted with another teacher working with 6 students, but because of the severity and unique needs of each student, will necessitate the assistance of a paraprofessional to support the group of students in progressing toward IEP goals.

PHILOSOPHY

When determining caseloads, an unwavering focus must be on individualized programming, which includes specialized instruction, services, and supports required to provide the student with a Free Appropriate Public Education (FAPE). Staffing patterns are derived from the total programming required to adequately implement the professionally crafted IEPs.

There are several principles informing this approach:

- There must be compliance with federal and state special education rules, regulations, and policies, including maintaining a continuum of services and serving students in the least restrictive environment appropriate for their needs;
- The services and supports described in a student's IEP are carefully determined with the intent of producing appropriate growth and progress and are crucial in determining reasonable caseloads;
- There must be flexibility evidenced in the provision of local decision making to allow for changes in student needs, unexpected situations which occasionally arise during a school year, and cost effectiveness;
- Differences in opinion regarding caseloads should be resolved locally and at the level closest to the situation whenever and wherever possible.

FEDERAL COMPLIANCE REQUIREMENTS

Many federal mandates protect the rights to a public education for children with disabilities. The U.S. Constitution's 14th amendment provides a protection clause that federal courts have applied in establishing that all students have a constitutional right to an education, including those with an identified disability (Johnson, 2017). Cases ranging back to the early 1970s have supported this perspective in determining that schools cannot discriminate on the basis of a student's disability (Wright, 2010). The Rehabilitation Act of 1973, among other federal laws, reinforced similar principles by requiring the recipients of federal funds from discriminating against individuals based on a disability. The primary federal law protecting the educational rights of children with a disability by ensuring each receives a FAPE is the Individuals with Disabilities Education Act (IDEA), originally the Education for all Handicapped Children Act of 1975. IDEA was most recently reauthorized in 2004. This mandate, supported through court rulings, has required school districts to provide students with disabilities access to programs designed to meet their unique needs, and has been recently reaffirmed through the ruling of the U.S. Supreme Court in the *Endrew F. v. Douglas County School District Re-1*, 137 S. Ct. 988. Protections under IDEA include the provision of special education and related services, such as orientation and mobility services and psychological services. A main tenet of IDEA is that services must be designed to meet each child's unique needs in the "least restrictive environment," meaning that children with disabilities must be educated to the maximum extent appropriate with children without an identified disability. IDEA identifies the use of supplementary services in the general education setting as desired when programming for students with disabilities, and only when satisfactory results cannot be achieved, should the use of separate classes or schools be considered.

IDEA has two separate sections addressing the requirements for children in different age groups. The WDE has oversight of districts ensuring compliance of Part B of the act which pertains to special education and related services for children ages 3 to 21. Part C regulates early intervention services to infants and toddlers with disabilities, birth through age two, and is managed by the Wyoming Department of Health. States and districts must comply with the requirements of IDEA, regardless of the State's choice to accept federal funds for special education. These federal funds are made available to states providing assurances that they meet all requirements of the law.

PURPOSE

The purpose of this document is to provide guidelines to Wyoming's school districts for staffing determinations in special education programs as the IDEA Amendment of 2004 has no provision governing special education caseloads or class size. These guidelines can be used by districts, and will guide the WDE's oversight as required by W.S. 21-2-202(a)(xxiii) and W.S. 21-13-320(f), in evaluating district staffing practices in regards to adequacy as they staff to meet students' needs identified in their IEPs. The application of these guidelines can assist districts in the identification of potential staffing shortages or overages.

Using and applying this information should result in districts developing the following:

- A consistent method and procedure in determining special education caseload size across schools and districts.
- A consistent method and procedure for evaluating the need for additional special education personnel and making the request at the district level.

STAFFING GUIDELINES

Districts provide programming for students with disabilities through general and special education teachers, paraprofessionals, and a variety of related service providers including, but not limited to, occupational and physical therapists, psychologists, speech and language therapists, and school nurses. The specific needs of the district's students, size, location, and ability to secure services vary greatly. It should be noted that adequacy does not imply that districts are not meeting student needs as it pertains to recommended guidelines as districts seek to meet the needs of students in a variety of ways. Additionally, the staffing guidelines presented below reflect the level of services for districts regardless of the revenue source used to fund such positions and should not be tied to funding. If this were to occur, greater research would need to be conducted as the previous work had a focus on adequacy and oversight rather than funding.

- A. Teacher and paraprofessional support:** the adequate number of school-age pupils that may be assigned to a teacher and paraprofessional support
 - i) Least Restrictive Environment (LRE) Defined Mild/Moderate** (resource and regular education students 40-100 percent in general education services)
 - (1) One teacher: 12-15 students
 - (1) One paraprofessional: 10 students (or .6 hrs of FTE per day for every student defined as a mild/moderate placement)
 - ii) LRE Defined Severe** (39 percent or less in general education services; would have code of Self-Contained on their IEP)
 - (1) One teacher: three to six students
 - (2) One paraprofessional: 2.5 students (.6 hrs of FTE per day for for every student defined as a severe placement)
- B. Related Services**
 - i) The table below addresses additional district resources needed for Special Needs Students
 - ii) Ensure the positions are mapped out as needed to make sure positions are met; if you are not meeting student need there is a legal requirement around this.

The following table attempts representation of typical districts. Ultimately, staffing patterns are determined by student needs.

Enrollment	1-500	501-1500	1501-3000	3001-8000	8001-14100
Administrative FTE					
Director	0.2 - 0.4	0.5 - 0.9	1.0	1.0	1.0
Supervisor				Up to 0.9	1.0
Coordinator			0.1 - 0.9	1.0 - 2.9	3.0
Secretary/Clerk		1.0	1.0 - 1.9	2.0 - 5.9	6.0

Direct Services FTE Ranges					
Nurse	Time charged as needed	Time charged as needed	Time charged as needed	Time charged as needed	Time charged as needed
Interpreter	1 to 1 ratio as needed	1 to 1 ratio as needed	1 to 1 ratio as needed	1 to 1 ratio as needed	1 to 1 ratio as needed
Social Workers / Counselors ¹	0.5 - 0.9	1.0 - 2.9	3 - 4.9	5.0 - 8.9	9.0 - 15
Speech Pathologists	Contracted	1.3 - 2.9	3.0 - 4.9	5.0 - 12.9	13.0 - 18.0
Additional Therapists (Occupational, physical, visual, audiology)	Contracted	0.7 - 1.5	1.6 - 2.9	3.0 - 8.8	8.9 - 15.6
Case Managers		0.4 - 0.9	1.0 - 2.4	2.5 - 6.0	6.1 - 8.9
Assistive Technology Specialists	Contracted	0.5	0.5 - 0.9	1.0	1.0

¹ The Staffing Guidelines recognize the recommendations from various national organizations. The American School Counselor Association recommends to staff at a student to counselor ratio of 250:1. The National Association of Social Workers advocates services provided at a ratio of one school social worker to each school building serving up to 250 general education students, or a ratio of 1:250 students. When a social worker is providing services to students with intensive needs, a lower ratio, such as 1:50, is suggested (NASW, 2012).

School Psychologists ²	Contracted	0.7 - 1.5	1.6 - 3.9	4.0 - 8.9	9 - 15
Behavioral Specialists	Contracted	0.4 - 0.9	1.0 - 2.4	2.5 - 7.0	7.1 - 16.0
Transition/Job/Community Living Coordinators	Contracted	1.0	1.0 - 2.0	2.1 - 2.5	2.6 - 3.0
Transition/Job/Community Living Paraprofessionals	As required by IEP	As required by IEP	Up to 3.9	4.0 - 7.9	8.0

- C. Small District Baseline:** Small districts have a challenge meeting the staffing needs of special education students. They often meet these needs through contracting with individuals in the private sector. Regardless of the number of services provided through contracts, the district will need a minimum number of district employees to support special education students. The minimum number of FTEs is three.
- D. Deviation from Guidelines:** District approval is required for needs that exceed the staffing guidelines in any area. Districts shall document their staffing processes to include steps for requesting additional staff. The process should provide provisions for approval by building administration, special education director, district superintendent, and local board of education. The district must be prepared to provide documentation of the addition of staff to the WDE upon request.
- E. Special Circumstance Clause:** For the safety of both students and staff, districts have the option of lowering the number of students in the classroom for students who receive special services for 60 percent or more of the instructional day and are highly disruptive or create an unsafe environment due to high behavioral or mental health needs.
- F. Contract Services:** Many districts choose to contract for a variety of services in lieu of hiring. This option allows for districts to secure services for students in the most economical manner. Some services may be needed, but would not warrant a full-time employee.

² The National Association of School Psychologists recommends the staffing ratio for student to school psychologist at 500-700:1. In light of mental health and safety concerns, districts may choose to staff at this level.

OVERSIGHT PROCESSES AND TIMELINE

The guidelines document is intended to be dynamic and will experience change.

Planned updates and content include:

- The identification of monitoring and evaluation will occur prior to the beginning of the 2019-20 school year.
- An FAQ will be created with hyperlinks to resources.
- Three years of implementation is necessary to determine if guidelines and monitoring are addressing adequacy in providing services to students with disabilities.
- The stakeholder group will minimally meet annually for three years to review implementation of staffing guidelines and make necessary recommendations for changes.

BIBLIOGRAPHY

- 15-827 Endrew F. v. Douglas County School Dist. Re-1. Retrieved from https://www.supremecourt.gov/opinions/16pdf/15-827_Opm1.pdf
- American School Counselor Association. Retrieved, December 12, 2018, from <https://www.schoolcounselor.org/press>
- Johnson, S. (2017). The 14th amendment protects individual rights in public education. Retrieved from <https://www.concordlawschool.edu/blog/14th-amendment-protects-rights-education/>
- National Association of School Psychologist. (2013). *NASP Recommendations for Comprehensive School Safety Policies January 2013*. Retrieved from <http://www.nasponline.org/x27124.xml>
- National Association of Social Workers. (2012). *NASW Standards for School Social Work Services*. Retrieved from <https://www.socialworkers.org/LinkClick.aspx?fileticket=1Ze4-9-Os7E%3d&portalid=0>
- Russ, S., Chaing, B., Rylance, B., & Bongers, J. (2001). Caseload of special education: an integration of research finding. *The Council for Exceptional Children*, 67(2), 161-172.
- United States Department of Education. Chapter 33—education of individuals with disabilities. Retrieved from <http://uscode.house.gov/view.xhtml?path=/prelim@title20/chapter33&edition=prelim>
- United States Department of Justice. A guide to disability rights laws. Retrieved from <https://www.ada.gov/cguide.htm#anchor66738>
- United States Department of Labor. Section 504, Rehabilitation Act of 1973. Retrieved from <https://www.dol.gov/oasam/regs/statutes/sec504.htm>
- Wright, P. (2010). The history of special education law. Retrieved from <http://www.wrightslaw.com/law/art/history.spec.ed.law.htm>