

WYOMING DEPARTMENT OF EDUCATION
SPECIAL EDUCATION PROGRAMS DIVISION
SPECIAL EDUCATION COMPLAINT INVESTIGATION

Complaint Case: C-015-22

Decision Date: December 5, 2022

Public Agency: Behavioral Health Division
Wyoming Department of Health
122 West 25th Street
Herschler 2 West, Suite B
Cheyenne, Wyoming 82002

Issues Investigated and Decision:

1. Whether the BHD, through the Center, denied the students a Free Appropriate Public Education (FAPE) in violation of 34 C.F.R. §§300.17 and 300.101. Specifically,
 - a. Whether the Center has a policy, procedure, or practice of developing and providing Individualized Education Program (IEP) services for students based on classroom schedules or other programmatic considerations rather than individualized need contrary to 34 C.F.R. §300.320.

WDE finds the BHD in violation for students attending Center-based programming, where services are provided based primarily on session and or staff schedules without regard to whether a student may need more intensive full day programming.

- b. Whether the Center has a policy, procedure, or practice of determining student placements based on classroom schedules or other programmatic considerations contrary to the requirements of least restrictive environment (LRE) contrary to 34 C.F.R. §§300.114 through 300.117.

WDE finds the BHD to be in violation of its obligation to provide services in the LRE for all students receiving only Center-based services, as each IEP failed to address how to maximize the student's time with nondisabled peers.

2. Regarding the named Student, whether the BHD, through the Center, met its obligation to the student. Specifically,

- a. Whether the Student received FAPE through an IEP that was reasonably calculated to result in educational benefit based on his unique circumstance, as required by 34 C.F.R. §§300.17 and 300.101, in the LRE as mandated by 34 C.F.R. §§300.114 through 300.117.

WDE finds the BHD in violation. There is no information in the record to indicate that the Student could not benefit from a placement with nondisabled peers. Because the Student made progress, this violation is procedural in nature and did not cause deprivation of educational benefit.

- b. Whether services were implemented consistent with the Student's IEP as required by 34 C.F.R. §§300.17(d) and 300.320.

WDE finds no violation. Provider logs verified that services were provided in conformity with the Student's IEP.

- c. Whether the BHD, through the Center, provided Parents with a meaningful opportunity to participate in the IEP process and all placement decisions without unilaterally predetermining educational placements as required by 34 C.F.R. §§300.321, 300.322, and 300.327.

WDE finds no violation. The Parents participated in the IEP decision making process, and the Student's IEP was amended to reflect Parents' input, providing them with an opportunity to participate. Disagreement is not the same as denial of meaningful parental participation.

The district is required to correct the identified violations via a corrective action plan. The WDE will monitor and document compliance with the corrective action order. Once all corrective action is complete, the WDE will close the case.