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LEA demonstrates a need for further clarification of the focus area. Targeted training will be provided, and districts may be required to submit an assurance that the appropriate staff have been trained on the discrete issue.

### **Tier 3 - Focused**

LEA demonstrates a need for sustained and in-depth training on the focus area. Intensive training will be provided and file review activities may be required. Activities will differ based on the focus area and the level of engagement.

## **One Percent Threshold and WY ALT Participation Determination**

Under IDEA and ESSA, all students, including those students identified as ones with a disability, are required to participate in State assessments. Statute also defines a 1% threshold (the percentage of total test takers per grade) for the statewide participation in the Wyoming Alternate Assessment of Academic Standards (WY-ALT). Districts are not capped at 1% of the WY-ALT participation, because the decision is made individually by each student's IEP team. SEAs are, however, required to seek a waiver if they anticipate exceeding the 1% threshold statewide.

With this in mind, districts are asked to carefully consider the determination of student participation in the WY-ALT. Only students with the most "significant cognitive disability" may take the WY-ALT. IEP teams are encouraged to use the WDE's published guidance documents when making these decisions.

The WDE will monitor these percentages annually by analyzing demographics, trends, subgroups, and population size. Districts will then be placed within the tiering system. Tier 1 districts are found to be under the 1% threshold, and they may access any available training.

Districts placed in Tier 2 are those exceeding 1% of their students taking the WY-ALT and/or those districts with an upward trend, or possible concerns, after a subgroup analysis including small population size. These districts will be asked to provide assurances of staff training and an understanding of WY-ALT guidance documents. Available training will be suggested to these districts.

Districts at Tier 3 have been found to be exceeding the 1% threshold, and they show a significant upward trend and/or concerns after subgroup analysis. These districts will be required to engage in training and/or policy review, assistance with data analysis, and coaching. Other activities may be used if a district remains at Tier 3 for multiple years.

## **Resources**

### [WY SPED](#)

- The SPED-Link site was created by the WDE's Special Education Programs Division for special education staff from districts, regions, and the State to access special education collections, data, and reports.
  - [Instruction to access Report Cards](#)
  - [Instruction to access Determination Report](#)

## Section 4: Regulations, Policies, and Procedures

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### Services for Children with Disabilities (Chapter 7)

The Chapter 7 rules govern the operation of all special education programs and services provided to children with disabilities ages three (3) through the completion of the school year in which the child turns twenty-one (21). These rules are pursuant to Wyoming law, by a school district, by state and local juvenile and adult correctional facilities, and by other public agencies within the state of Wyoming.

#### Topics Covered by Chapter 7 Include the Following List

**Authority** - Provides citations of relevant legal statutes and outlines the appropriate application of Chapter 7 rules.

**Scope** - Outlines general information on education agency obligations to students under Chapter 7.

**Definitions** - Defines terms commonly referenced in federal laws and regulations. These definitions include eligibility categories and various educational environments.

**Identification, Evaluation, and Eligibility Determinations** - Includes an overview of Child Find laws and practice as well as an overview of eligibility requirements and eligibility categories.

**Special Education Process** - Provides an overview of relevant legal statutes, common terms, and processes required for the implementation of special education. This topic also includes information on FAPE, LRE, court-ordered placement, ESY, evaluations, etc.

**Procedural Safeguards** - Gives a general overview of creating and distributing procedural safeguards.

**Dispute Resolution** - Reviews methods of dispute resolution and SEA obligations concerning dispute resolution.

**Special Education Funding** - Provides an overview of part B funding expectations and relevant legal statutes.

**General Supervision** - Lists and explains SEA obligations on general supervision under the IDEA. This topic also establishes the purposes of monitoring, explains determinations, and outlines determination ramifications.

**Wyoming Severe Discrepancy Formula (Appendix)** - Explains the discrepancy model and its intended use, and it provides a table to determine the correlation coefficient between ability and achievement test scores.

### Current Policy and Procedure Manual for Special Education

The WDE has created a revised policy and procedure manual for special education that provides legal and statutory information regarding several important special education topics.

Topics covered by the [Policy and Procedure Manual for Special Education](#) include the following 10 policies.

**Child Find** - General information on Child Find activities for students in public, private, and homeschool settings.

**Confidentiality** - In-depth information regarding student's records, access to information, fees, the keeping and destruction of records, etc.

**Disproportionality and Overidentification** - Overview of disproportionality, data collection, and correction of disproportionality once identified.

**Full Educational Opportunity Goal** - Brief explanation of the Full Educational Opportunity Goal and the assurance given by the WDE to the U.S. DOE.

**General Supervision, WDE Responsibility in** - Statute on the SEA's responsibility for General Supervision under IDEA and a brief overview of monitoring and compliance.

**Least Restrictive Environment (LRE)** - Explanation of LRE and the continuum of alternative placements along with general information on student placement, nonacademic settings, nonacademic services, and children in institutions.

**Part C to Part B Transition** - IDEA statute on the WDE's obligation under IDEA regarding the part C to part B transition process and obligations regarding FAPE.

**Personnel Qualifications** - Obligations of licensing requirements under the Wyoming Professional Teaching Standards Board (PTSB). This section does not include any detailed information on personnel qualifications.

**Private Schools, Responsibility for Children in** - Detailed information on children placed in private school by the school district or public agency, children enrolled in private school by their parents when FAPE is at issue, requirements for children voluntarily enrolled in private schools by their parents, and Child Find for children with disabilities parentally- placed in private school.

**Response to Intervention (RTI) in Specific Learning Disability (SLD) Eligibility Determinations** - Deeply detailed overview of RTI and SLD determination definitions, components of RTI, the identification decision making process, exclusions, and limitations.

Topics in the [Policy and Procedure Manual for Special Education](#) also include the one procedure section listed below.

**Dispute Resolution Procedures** - In-depth overview of dispute resolution procedures (found in Section 5 of this handbook).

## **Fiscal Policies and Procedures**

The Special Programs Division of the WDE has developed its own Fiscal Policy Guidebook that is available to all LEAs and Special Education Directors. Please contact the Special Education Fiscal Analyst for access and information.

## **Seclusion and Restraint in Schools (Chapter 42)**

Schools must include their seclusion and restraint policies within their district/school handbooks, and handbooks should be posted on the district website where they are accessible to both the WDE and the public. The State Superintendent shall review the seclusion and restraint policy of each school district for compliance with the State statute governing seclusion and restraint in schools. The State Superintendent will approve these seclusion and restraint policies only after determining that compliance has been achieved.

Chapter 42 defines relevant terms related to seclusion and restraint, reviews policy and data requirements, and covers the enforcement of those required policies. Chapter 42 also provides in-depth coverage of policy information around seclusion and restraint in schools. Topics Covered by the Seclusion and Restraint in Schools Chapter (Chapter 42) include the following seven topics listed below.

**Authority** - Provides citations of relevant legal statutes and outlines the appropriate application of Chapter 42 rules.

**Scope** - Outlines general information about education agency obligations to students under Chapter 42.

**Definitions** - Defines terms commonly referenced in discussing seclusion, restraint, and behavioral interventions. These definitions are vital in understanding discussions around seclusion and restraint, and they provide clarification on some of the more subjective terms such as “escort” or “imminent risk”.

**Policy Requirements** - Details the expectations for LEA policy and training surrounding seclusion and restraint.

**Enforcement of Policy** - Outlines LEA requirements pertaining to dispute resolution in cases of seclusion and restraint.

**Publication of Policy** - Discusses expectations on posting an LEA policy and the accessibility of such a policy.

**Data Collection Requirements** - Defines data collection and reporting requirements for LEAs.

## **Grant Applications & Grants Management System (GMS)**

### **Grants Management System (GMS)**

People in Wyoming must apply for grants using the Grants Management System (GMS). GMS houses and organizes each step of the grant process including the announcement of opportunities along with the application, awarding, execution, and reporting steps. When a grant opportunity arises, it is posted to the WDE GMS system and may be applied for using that system.

## **WDE Guidance and Policy Documents**

WDE provides Technical Assistance Resources and Guidance documents on a variety of topics. These documents are updated as needed and provide the most current guidance.

WDE Technical Assistance Resources and Guidance Documents Include:

- [Developmental Delay Eligibility Guidance](#)
- Emotional Disability (ED) [Child Find Eligibility Guidance](#)
- Extended School Year (ESY) [Reference Guide](#)
- [Evaluation Reference Guide](#)
- [LRE Reference Guide](#)
- [Reference Guide – Out of District Placements](#)
- [Reference Guide – Out of District Placements Appendix A](#)
- [Parental Placements in Private Schools/Homeschools SPED Guidance](#)
- [Residential Placements Reference Guide](#)
- [Special Education Staffing Guidelines](#)
- [WY-TOPP/WY-ALT Accommodations Guide](#)

## IDEA and SPED Resources

- Wyoming State Model Forms
- General Forms
- Evaluation Forms
- IEP Forms
- Dispute Resolution Forms
- Miscellaneous (Emergency Model Form I-4 Services and NIMAC Eligibility Form)
- IDEA Regs: <https://sites.ed.gov/idea/regs/b>

## Section 5: Dispute Resolution

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### Overview of Dispute Resolution

The United States Department of Education, Office of Special Education and Rehabilitative Services issued a memorandum introducing a question and answer document providing clarification to SEAs on the implementation of the IDEA Part B Dispute Resolution Procedures. This document's purpose was not only for assisting SEAs but to encourage, "...parents and local educational agencies (LEAs) to work collaboratively, in the best interests of children, to resolve the disagreements that may occur when working to provide a positive educational experience for all children, including children with disabilities." ([OSEP: Dispute Resolution Procedures under Part B of the Individuals with Disabilities Education Act](#)).

The WDE is deeply committed to utilizing the dispute resolution process to improve outcomes for children with disabilities. The State director fully supports LEAs and parents engaging in the process together when necessary. Moreover, parents should feel free to engage in the dispute resolution process without fear of retaliation, and parents should not be discouraged from engaging in dispute resolution for any reason. Dispute resolution gives parents the opportunity to feel heard and to participate in their child's education.

### Legal Context and Definitions

The WDE has adopted the IDEA's dispute resolution procedures as described in the Act, and these procedures are further defined in the code of federal regulations (CFR), specifically, 34 C.F.R. §§300.151, 300.506, and 300.508. The SEA has provided additional clarification for LEAs concerning mediation, complaint investigation, and due process procedures in Chapter 7, Section 7 of the Wyoming Rules Governing Children with Disabilities (Chapter 7 Rules). The definitions of terms often used in dispute resolution are listed below.

**Complaint Investigation** - A formal process for resolving allegations stating an LEA/public agency has violated the IDEA or Wyoming Chapter 7 Rules. A complaint may be filed on behalf of an individual student or a group of students.

**Complaint Investigator** - An impartial individual with expertise in special education issues and law whose primary purpose is to independently review the relevant facts and weigh the evidence of a complaint investigation and then recommend findings and corrections.

**Dispute Resolution** - A continuum of informal, to highly formal, processes for resolving disagreements between parents and school districts concerning special education issues.

**Due Process Hearing** - A highly formal process for resolving disagreements or allegations of violation to the IDEA or Wyoming Chapter 7 Rules relating to the identification, evaluation, educational placement, or provision of FAPE to a child.

**Due Process Hearing Officer** - A licensed attorney who oversees a due process hearing.

**Mediation** - A process in which a neutral party, a mediator, facilitates communication between the parents and the school district to find a mutually agreed-upon resolution of a dispute at no cost to the parties involved.

**Mediation Settlement Agreement** - A legally binding written agreement signed by both parties that describes what each party will or will not do in order to resolve the dispute.

**Mediator** - An individual specifically trained in special education matters whose role is to facilitate communication between the parties of a dispute resolution. The mediator is a neutral party and does not make decisions or enforce any action.

**Resolution Session** - A mandatory procedure, required of all parties, to discuss the potential settlement of a due process dispute within the 30-calendar day period that begins on the LEA/public agency's receipt of a due process complaint filed by the parent.

### Levels of Dispute Resolution Options

Prevention - Building strong relationships with parents and communicating effectively can reduce the need for dispute resolution procedures.

- Family Engagement
- Parent Partnerships
- Resources
  - University of Michigan - [Useful Questions for Dialogue Facilitation](#).
  - The Fact Finder - [The Art of Asking Good Questions](#).
  - CADRE - [Capacity Building and Prevention](#) (Family Engagement, Participant & Stakeholder Training, Stakeholder Council, & Collaborative Rule Making).
  - CADRE - [Working Together Series](#) (IEP Meetings and Beyond, Listening and Responding Skills, Managing and Responding to Emotions, and Focusing on Interests to Reach Agreement).

Local-Level Options - The least formal option.

- Usually begins with a disagreement, misunderstanding, or miscommunication.
- Options (all are bulleted below to show no specific order is required.)
  - Request an IEP Team Meeting to discuss concerns/issues.
  - Direct the parent/guardian to the Notice of Procedural Safeguards for contact information at the Parent Information Center (PIC). The PIC provides a variety of services to parents and districts such as IEP facilitation.
  - WDE Dispute Resolution Technical Assistance.
- Positives of Pursuing Local-Level Dispute Resolution Options.
  - The parent and IEP team have more authority over the outcome via IEP Team Meeting(s).
  - Stronger parent/school relationships are built through local level resolution.
  - Resolved faster than State-level dispute resolution options.

State-Level Options – From the least to most formal options.

- Mediation
  - Either party may request mediation to resolve a special education dispute.
  - Positives for mediation:
    - Voluntary.
    - No cost to the parent or district.
    - Resolved faster than a State complaint investigation and due process hearing.
    - The parent and LEA have more authority over the outcome.
    - An opportunity for all parties involved to learn and apply conflict resolution skills through working with a mediator.
- State Complaint Investigation
  - A parent or third party may request a State complaint investigation if/s/he suspects the LEA violated the IDEA or Chapter 7 Rules.
  - Positives for a State complaint investigation:
    - May reach a resolution sooner than the 60-day timeline through informal, local-level resolution options and mediation.
    - Less intimidating than a due process hearing.
    - No cost to the parties.
    - A helpful remedy if federal and State regulations were violated.
  - Even though a State complaint has been filed, a student's individualized education program (IEP) will continue.
  - Additionally, the LEA/public agency is encouraged to engage in a local-level resolution to resolve the issues identified in a State complaint as quickly as possible upon receipt of a request for investigation.
- Due Process Hearing
  - A parent or LEA/public agency may request a due process hearing.
  - Positives for due process hearing:
    - Early resolution options are available to reach a resolution sooner than the 75-day timeline.
    - A very formal legal process.
    - Offers a remedy if applicable.

## Dispute Resolution Methods

The dispute resolution procedures set out in the Part B regulations are mediation, State complaint investigation, and due process hearing. Each method of dispute resolution differs in formality, timeline, initiating party, and issues that may be addressed by the process. These methods may be used simultaneously or separately, and they are not required to be used in any particular order. The simultaneous use of methods may not be used as an excuse to delay the timeline for either method unless otherwise agreed upon by both parties. For example, a parent may file a State complaint and then file a mediation request halfway through the State complaint investigation. Unless the parent and LEA agree, the additional request for mediation may not delay the timeline for the decision on the State complaint. See the following table comparing each State-level dispute resolution method.

Question	Mediation	State Complaint Investigation	Due Process Hearing
What issues can be resolved?	Any issues related to special education.	Any alleged violation of IDEA or Wyoming Chapter 7 rules.	Any matter relating to the identification, evaluation, educational placement, or provision of a Free Appropriate Public Education (FAPE).
What is the timeline for resolving the issue(s)?	Mediation meetings must be scheduled in a timely manner.	60 calendar days.	75 calendar days. The LEA must convene a resolution meeting within 15 days of receiving a parents' due process hearing request, and the resolution meetings may continue for up to 30 days. If no resolution can be achieved from these meetings, the due process hearing must proceed and a decision must be issued within 45 days of the 30-day resolution period.
What are some examples?	Staffing issues such as wanting your child to work with a different teacher or paraeducator. Program preferences such as wanting your child to use one Dyslexia program over another.	Procedural violations such as not receiving prior written notice for a change in placement or a scheduled IEP meeting.	Reimbursement for tuition or for an independent evaluation.



Question	Mediation	State Complaint Investigation	Due Process Hearing
Who determines the outcome?	Both parties.	State education agency.	Due process hearing officer.
What is the potential outcome?	A full settlement agreement that must be signed by all parties involved to be enforceable in a court of law.	A written decision including findings of fact and conclusions. If an IDEA violation occurred, corrective action will be ordered.	A written decision that orders remedial action if the due process hearing officer determines the IDEA violations require remedies.
Is an appeal process available?	Allegations of a settlement being breached may be addressed in any State or federal court of competent jurisdiction to enforce its terms.	The State complaint investigation decision is final, but either party may request a due process hearing on issues relating to identification, evaluation, educational placement, or the provision of FAPE.	A due process hearing officer's decision may be appealed in State or federal court within 90 days of the date of the decision.
What are some resources I can reference for additional information about dispute resolution procedures?	<a href="#">OSEP FAQ Mediation</a> (pgs. 1-14)	<a href="#">OSEP FAQ State Complaint</a> (pgs. 15-33)	<a href="#">OSEP FAQ Due Process Complaints and Hearing Procedures</a> (pgs. 34-48)  <a href="#">OSEP FAQ Resolution Process</a> (pgs. 49-59)
	<a href="#">WDE Policy and</a>	<a href="#">WDE Policy and</a>	<a href="#">WDE Policy and Procedure Manual for for Special Education</a> (pgs. 45-50)

## Complaint Investigation: District Expectations

### Receipt of Request for Complaint Investigation

- The district will receive a copy of the request for an investigation.
- Upon receipt, the district must send a copy of the Procedural Safeguards to the complainant.
- The district may continue to work with the complainant to resolve the issues. Mediation is an available option for resolving the complaint.
- The WDE will notify both parties of the date of receipt, and the 60-day timeline to issue a decision will begin.
- The WDE will have 10 days to determine if the alleged violations fall within the parameters of the IDEA and can be investigated.
- If the allegations do not fall within the parameters of the IDEA or Chapter 7 Rules, a formal letter closing the case will be issued to both parties.
- If the issues fall within the parameters of the IDEA, an opening investigation letter will be sent to both parties via a secure email. This letter will identify the issues to be investigated as well as important due dates, and ask the district for documentation related to the allegations.
- The district will have at least 10 days to submit the requested documentation. A folder for uploading documentation will be shared with the district as one way to submit the required documentation; however, the district may send the documentation via secure email or postal mail. Documentation sent by postal mail must be delivered no later than the due date.
- The investigator will contact the district for additional information and to conduct staff interviews, if applicable.
- The WDE will have 60 days, from the date of receipt of request, to conduct the investigation and issue a decision.

### Finding of Noncompliance

- The district will receive a decision letter detailing the finding of facts, conclusion, and determination that a violation of the IDEA and/or Chapter 7 Rules occurred.
- The district will be ordered to correct the violation(s) through a corrective action plan (CAP). The district will work with the dispute resolution coordinator to ensure all items identified in the CAP are completed.
- Once all corrective action is complete, the WDE will close the case. A formal letter will be submitted to both parties.

### No Finding of Noncompliance

- No response will be required of the district.
- The case is considered closed upon receipt of a decision that the district did not violate the IDEA or Chapter 7 Rules.

## Additional Resources

### **The Center for Appropriate Dispute Resolution in Special Education (CADRE)**

[CADRE Continuum of Dispute Resolution Processes & Practices](#): CADRE organizes dispute resolution into five Stages of Conflict on a continuum. Each stage identifies the five levels of intervention and their available options. These five Levels of Intervention are:

- Prevention
- Disagreement
- Conflict
- Procedural Safeguards
- Legal Review

[CADRE Literature Articles](#): This searchable database contains bibliographic information for literature (research-based and policy/practice) relating to dispute resolution in special education.

[CADRE Trainers and Consultants](#): CADRE's national directory of trainers and consultants is a searchable database of individuals highly experienced in policy and practice within special education, conflict prevention, and dispute resolution.