



Behavioral Health Division
6101 Yellowstone Road, Suite 220
Cheyenne, WY 82002
(307) 777-6494 • 800-535-4006
Fax (307) 777-5849 • www.health.wyo.gov



Thomas O. Forslund
Director

Matthew H. Mead
Governor

February 12, 2018

HB-2018-001

Dear Regional Child Development Center Director:

Eligibility Requirements

It is the Wyoming Department of Health, Behavioral Health Division, Early Intervention and Education's responsibility to ensure that all children who meet eligibility requirements consistent with the Individuals with Disabilities Education Act (IDEA), Part 300 and Wyoming §21-2-202 are provided a Free Appropriate Public Education. A request by the Child Development Centers (CDC) for formal guidance on Eligibility Requirements was made. Through consultation with the Wyoming Department of Education, and consistent with the IDEA, the following guidance must be considered by all CDCs in determining eligibility for IDEA services:

The IDEA describes evaluation procedures according to 34 CFR 300.304(b) which states that in conducting an evaluation, the public agency must use a variety of assessment tools and strategies to gather relevant functional, developmental and academic information.

Eligibility is a two prong test. According to Wyoming Department of Education Chapter 7(c)(i) and consistent with 34 CFR §300.8, *to be eligible for special education and related services under the IDEA a child must meet the criteria for one (1) or more of the disability categories listed in this section, and the disability must adversely affect the student's educational performance such that the student needs special education, as defined in 34 CFR §300.39.* A child may have the required test scores, however, if the second prong of educational need is not documented the child is not eligible for special education services.

The determination of educational need is required as part of the eligibility process. Comprehensive evaluations must be completed to determine all areas of need. The eligibility determination and evaluation report must contain the documentation of educational need. This documentation may be difficult when the team has not completed a comprehensive enough evaluation to determine the true educational need which, in turn, can be used to determine which eligibility category may be most appropriate. During the eligibility meeting, the Individual Education Program team should be discussing what the child's needs are, and how those needs are impacting education. If there is no impact on education, the child is not eligible for special education services.

Educational need must be documented in addition to the evidence that a student meets the definition of the disability as outlined in Chapter 7. Together, the two prongs of eligibility are used to determine the most appropriate eligibility category. Some developmental areas are so interrelated that it may be difficult to determine, with limited assessment results, what the educational disability

is which may lead to denying necessary services. Many CDC staff have expressed that a speech language disability must be eliminated before another category may be used. This belief is not accurate. If the team does not have enough information to confidently make an eligibility determination, they may not have conducted a comprehensive evaluation and need to further evaluate to determine if there are any lingering educational concerns. If additional evaluations are required for student eligibility that are outside of the expertise of CDC staff, the CDC is responsible to pay for those evaluations.

The Division is committed to assisting each CDC to ensure these requirements are met to assure compliance with the IDEA and our Memorandum of Understanding with the Wyoming Department of Education.

Thank you for all you do for Wyoming's children and their families.

Sincerely,

A handwritten signature in blue ink that reads "Heather Babbitt".

Heather Babbitt, MPA
Administrator

cc: Chris Newman, Senior Administrator, Behavioral Health Division, Department of Health
Anne-Marie Williams, Director of Individual Learning, Department of Education