



Wyoming
Department
of Health

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Thomas O. Forslund
Director

Matthew H. Mead
Governor

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Dear Regional Child Development Center Director:

Preschool Requirements

It is the Wyoming Department of Health, Behavioral Health Division, Early Intervention and Education's (EIEP) 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 (FAPE). A request for formal guidance on Preschool Requirements was made by the Child Development Centers (CDC). Through consultation with the Wyoming Department of Education (WDE), and consistent with the IDEA, the following requirements must be met by all CDCs in the provision of preschool services:

Chapter 7 Section 5(a)(i) mandates that "a Free Appropriate Public Education (FAPE) is available to all children with disabilities residing in Wyoming no later than the child's third (3rd) birthday through the completion of the school year the child turns twenty-one (21)..." In addition, WS §21-2-703 and 34 C.F.R. §300.102(a)(1) require compliance with the IDEA and regulations for that age group.

34 CFR §300.114(a) establishes that children with disabilities are educated along with children who are nondisabled, and that "special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily". For example, children should not be removed from the regular education setting to attend a CDC preschool program if appropriate programming can take place within the child's regular preschool program. The burden to remove students from the general education environment is specific only to the severity of their disability to ensure that students are not discriminated. A justification for removal must be exactly that; a justification rather than a description of the removal from the regular education environment.

34 CFR §300.115 establishes that schools, including CDCs, must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities. The continuum of placement options for the Individual Education Program (IEP) team to consider includes, but is not limited to, instruction in regular classes, special classes, special schools,

home instruction, and instruction in hospitals and institutions. 34 CFR §300.115(b)(1). Classrooms with same age peers without disabilities should be the placement of first consideration and any removal to a more restrictive environment must include the justification why the student's disability requires the removal. Any removal not based on the student's disability is a violation of the provision of FAPE.

Removal from the regular education environment shall occur only if education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. 34 CFR §300.114(a)(2). Supplementary aids and services in the regular education environment must first be considered before removal can be justified. This consideration and justification is documented in the Least Restrictive Environment (LRE) section of the IEP.

In determining the educational placement of a child with a disability, each CDC must ensure that the placement decision is made by a group of persons, including the parents, and is made in conformity with the least restrictive provisions, according to 34 CFR §300.116. The IEP should contain a robust description of the team's consideration of the least restrictive environment and contain full justification for removal from this environment. This is the team's opportunity to inform all parties involved on what LRE is and what that means for the individual student the team is meeting to discuss.

34 CFR §330.116(c) specifies that, unless the IEP requires some other arrangement, the child should be educated in the school of attendance if nondisabled. All children who are of school age should be educated with same age peers to the fullest extent possible.

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,



Heather Babbitt, MPA
Operations Administrator

cc: Chris Newman, Senior Administrator, Behavioral Health Division, Department of Health
Anne-Marie Williams, Director of Individual Learning, Department of Education
Kathy Escobedo, Unit Manager, Early Intervention and Education Unit, Department of Health

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