



# Wyoming Department of Education

Richard Crandall, Director  
320 West Main Street  
Riverton, WY 82501

Phone: 307-857-9250 | Fax: 307-857-9257 | Website: [edu.wyoming.gov](http://edu.wyoming.gov)

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

**Complainant:**

**Respondents:**

**Date of Decision:** November 8, 2013

Case #: C-0128-13

### COMPLAINT DECISION AND ORDER FOR CORRECTIVE ACTION

#### **Introduction:**

On September 3, 2013 the Wyoming Department of Education (WDE) received a special education complaint and supporting documentation filed by \_\_\_\_\_ (“Complainant”) alleging violations of special education law on behalf of all preschool students with disabilities receiving services from the \_\_\_\_\_ in Region \_\_\_\_\_ part of Wyoming’s Regional Early Intervention and Education Programs (Region).

Consistent with W.S. §21-2-701(a)(iii), the “Regional developmental preschool system” means the regional developmental preschool programs and the operating units or centers of those programs in this state. The Wyoming Department of Health, Behavioral Health Division, has the statutory authority to contract with the regional developmental centers to provide services to preschool children with disabilities. The Behavioral Health Division is the Local Education Agency (Agency) responsible for ensuring the provision of Free Appropriate Public Education (FAPE) to eligible preschool age students consistent with the Individuals with Disabilities Education (IDEA), Federal Regulations and Wyoming Rules. The IDEA makes WDE responsible for general supervision of the Agency and its preschool programs as it pertains to special education compliance. WDE and the Agency jointly executed a Memorandum of Understanding on January 23, 2012 to memorialize WDE’s supervisory role relevant to special education compliance and dispute resolution. Therefore, the authority and responsibility to

receive and investigate special education complaints filed pursuant to the regulatory authority of the IDEA rests with WDE. The decision, including all findings of violations and corrective action, is directed to the Agency as the entity responsible for ensuring the provision of FAPE.

In compliance with the IDEA, Federal Regulations, and the Wyoming Department of Education Chapter 7 Rules, WDE issues the following Findings of Fact, Conclusions, Decision and Order for Corrective Action.

**Procedural Matters:**

The decision timeline was extended by WDE for seven (7) days due to the exigent circumstance of resolving a novel question of law in Wyoming. During the extension period, the Agency was encouraged to provide an explanation with respect to documentation that was not found during the electronic file review.

**Complaint Issues:**

**Issue #1**

Whether the Agency denied students FAPE by:

- a. Failing to provide special education and related services in conformity with students' IEPs consistent with 34 C.F.R. §300.17, and 34 C.F.R. §§300.320 through 300.324.
- b. Failing to ensure that students' IEPs were reasonably calculated to meet learners' unique educational needs and provide meaningful educational benefit consistent with 34 C.F.R. §§300.101 and 300.320.

**Issue #2**

Whether the Agency failed to comprehensively evaluate students in all suspected areas of disability and educational need consistent with 34 C.F.R. §§300.301 through 300.311.

**Issue #3**

Whether the Agency provided special education and related services to students through the service of highly qualified teachers and providers consistent with 34 C.F.R. §§300.18 and 300.156.

**Investigatory Process:**

- Review of records consisting of the following:
  - Original letter of complaint and supporting documents;
  - The Agency's response to the allegations;

- An individual examination of the electronic files of over 50% of all special education students enrolled in the Region during either the 2012-2013 or 2013-2014 school years (96 total files reviewed); and
- The corresponding provider service logs for the 96 files reviewed.
- Follow up inquiries with the Agency.

WDE provided the Agency and Complainant the opportunity to submit additional information for consideration throughout the investigation of this complaint.

**Applicable Federal Statutes, Regulations, State Statutes or Rules:**

20 U.S.C. 1400 <i>et seq.</i>	Individuals with Disabilities Education Act
34 C.F.R. §300.17	Free Appropriate Public Education
34 C.F.R. §300.18	Highly Qualified Special Education Teachers
34 C.F.R. §300.34	Related Services
34 C.F.R. §300.101	Free Appropriate Public Education
34 C.F.R. §300.156	Personnel Qualifications
34 C.F.R. §300.300	Parental Consent
34 C.F.R. §§300.301 through 300.311	Evaluations and Reevaluations
34 C.F.R. §§300.320 through 300.324	Individualized Education Programs
Wyoming Statutes, Title 21	
Wyoming Department of Education Rules, Chapter 7	
Wyoming Professional Teaching Standards Boards Rules	

**Relevant Time Period:**

Pursuant to 34 C.F.R. §300.153(c), WDE has the authority to investigate alleged violations of law that occurred not more than one year prior to the date the complaint was received. In light of this limitation, the investigation and any findings of noncompliance will be limited to the period commencing September 4, 2012 through September 3, 2013. However, the sample of student records reviewed is composed of students enrolled in the Region during the 2012-2013 and 2013-2014 school years. The educational records preceding the investigatory timeframe are referenced when deemed relevant to provide additional context, but do not serve as the foundation for a finding of noncompliance.

## **Findings of Fact:**

1. In response to the systemic complaint allegations, the Agency provided records relevant to the specific issues raised in this complaint covering the 2012-2013 and 2013-2014 school years, including:
  - a. A list of teachers and providers with their respective caseloads serving students with disabilities within the Region;
  - b. The credentials for each teacher and provider serving students with disabilities in the Region;
  - c. Copies of provider logs documenting services provided to students with disabilities in the Region; and
  - d. Electronic access to all student special education files during the time period relevant to the complaint.
2. WDE conducted a review of 96 electronic student files during the investigation, which represents a sample of over 50% of the files of special education students receiving services in the Region during the time period relevant to the complaint.
3. WDE assigned a reference number to each of the 96 student files reviewed. A complete list of the student identification numbers with the corresponding assigned reference numbers is attached as Appendix A. The contents of Appendix A shall be treated as confidential, as it contains personally identifiable information. It will be protected from disclosure pursuant to 34 C.F.R. §300.610. As a result, Appendix A shall only be released to the Agency.
4. Several procedural anomalies were evident in the electronic student files. The degree to which those procedural anomalies rise to the level of procedural IDEA violations, or in some instances substantive IDEA violations, shall be specifically noted for each issue.
5. Procedural anomalies in the electronic files included:
  - a. Blank or partially completed pages (present in all files reviewed; reference number 61 – entire file is blank);
  - b. Forms dated and completed prior to the issue date of the model form, e.g. forms with an adoption date of July 2013 in the bottom margin were completed with student specific information and dates prior to the form's adoption date (present in all files with special education referrals commencing prior to July 2013);
  - c. Missing pages or documents (all files reviewed);
  - d. Forms completed prior to the actual date (Reference number 95 in its entirety and many files where progress reports precede the date of the IEP);

- e. Many electronic forms contained identical language, as opposed to student specific language, and appeared prepared in advance as some type of template. This as noted across student files. (reference number 93);
  - f. No parent signatures (missing from all files reviewed).
- 6. In response to an inquiry during this investigation, the Agency confirmed the electronic system does not replace original hard copy records, which are maintained in the Region's preschools.
- 7. With regard to Issue 1(a), the provision of services in conformity with student IEPs, WDE verified the provision of service by comparing the provider logs documenting special education and related services to students with the amount stated in the IEPs reviewed. Relevant to this issue, it is important to note the following:
  - a. The Agency monitored the Region for compliance with IDEA in May 2013. The Agency found the Region to be in violation of its obligation to provide FAPE consistent with student IEPs and developed a Corrective Action Plan to remedy this deficiency. Those corrections were ongoing at the time this complaint was filed.
  - b. Staff absence was considered a factor in determining compliance with IEPs. (Reference number 1 indicates service was not provided on 11 days due to staff absence for staffings or trainings; reference number 3 indicates service was not provided for 14 days due to staff unavailability.)
  - c. Student absence was not considered to be within a service provider's control. Therefore, files in which the hours of service were reduced by frequent student absence or unavailability were not considered noncompliant.
- 8. Approximately 70% of the 96 files reviewed contained evidence to support the provision of special education service consistent with student IEPs. In approximately 30% of the files reviewed, the provision of services consistent with IEPs could not be verified.
- 9. With respect to Issue 1(b), ensuring that IEPs were reasonably calculated to meet learners' unique educational needs and provide meaningful educational benefit, WDE verified the benefit of service through reviewing each IEP goal to determine if progress resulted, or if lack of progress was addressed. Relevant to this issue, it is important to note the following:
  - a. IEP goals that were implemented at the very end of the 2012-2013 school year, or at the beginning of this school year were too recently implemented to measure progress. WDE did not use these files to be noncompliant.

- b. Progress reports that measured progress in a method different than that stated in the goal were not considered measurable for the purpose of demonstrating educational benefit.
  - c. In many instances, progress reports predated many IEPs. In practice, the IEP must be adopted and then progress measured. This inaccuracy is of concern to WDE, as it is likely representative of a data collection problem, but was not a determining factor for noncompliance.
  - d. Many progress reports were blank or missing. The lack of documentation regarding educational benefit is of concern to WDE. Missing or blank progress reports were considered to be noncompliant, as there was no evidence to support meaningful educational benefit.
  - e. A note on the staffing list provided by the Agency indicates that students in two remote communities were served by staff traveling to those sites weekly. Determining the frequency of service based on staff availability or geography is of concern to WDE, as the type and amount of service must be based on individual student need.
10. WDE reviewed the 278 goals contained within 96 files. The following is a breakdown of progress noted on the goals:

Progress Noted	No Progress Noted or Not Measurable	Blank Progress Reports	Too Soon to Measure Progress
157 goals	38 goals	43 goals	40 goals

11. Based on the documentation available in the electronic records, few files (less than 10) evidenced reconvening the team to review lack of progress, or revising a student's IEP to address lack of progress.
12. Relevant to Issue 2, whether students were comprehensively evaluated to determine eligibility and need, WDE utilized the Referral, Prior Written Notice/Consent for Evaluation, and the Evaluation Report to determine whether the evaluation addressed all noted areas of concern. It is important to note the following:
- a. The Agency monitored the Region for compliance with IDEA in May 2013. The Agency found the Region to be in violation of its obligation to use a variety of assessment tools and strategies as part of a comprehensive evaluation and developed a Corrective Action Plan to remedy this deficiency. Those corrections were ongoing at the time this complaint was filed.

- b. During this investigation, if all areas of concern noted in the Referral and/or Prior Written Notice were addressed in the evaluation, it was considered comprehensive for compliance purposes.
  - c. The Prior Written Notice/Consent for Evaluation could not be located in some files (Reference numbers 49 and 50 are examples).
  - d. No file contained a parent signature evidencing the parents' participation or informed consent.
13. The following is a breakdown depicting the number of comprehensive evaluations during the time period relevant to this complaint:

	Comprehensive Evaluation	Evaluation NOT Comprehensive	Record Missing or Incomplete
Total Number	46 students	40 students	10 students
Number within the Complaint Timeline	33 students	20 students	8 students

14. Regarding Issue 3, whether services were provided to students by highly qualified teachers and providers, the following is a summary table of service providers compiled from the Agency's list of the Region's staff and credentials:

Professional Service Area:	Teacher	Speech/ Language Therapy	Occupational Therapy	Physical Therapy
Fully Certified (Highly Qualified Teacher or Provider)	ECSE Teachers 4	SLP 9	OT 3	PT 4
Provisionally Certified, Aide, or Assistant	Provisional Certification 3	SLP-A 4		

ECSE – Early Childhood Special Education; SLP – Speech Language Pathologist; SLP-A – Speech Language Pathologist Aide; OT – Occupational Therapist; PT – Physical Therapist

15. The total number of students served by provisionally certified ECSE teachers is 19 during the 2012-2013 school year, and 8 during the 2013-2014 school year.
16. The total number of students served by SLP-Aides is not clearly articulated in the caseload lists provided by the Agency. Although the staff list indicates that the SLP-Aides are “assisting” an SLP, the review of student records reveals that the SLP-Aides

are completing referrals, conducting assessments, providing services to students, and reporting progress toward IEP goals.

**Conclusions:**

1. The Agency, serving as the Local Education Agency as defined in 34 C.F.R. §300.28, must provide WDE with information necessary to enable WDE to carry out its duties under Part B of the IDEA, including complaint investigations. *See 34 C.F.R. §300.211.*
2. Therefore, the Agency was responsible for providing WDE with the documentation necessary to evidence compliance with the requirements of the IDEA. WDE must rely on the documentation within the student files, as was provided at the time of the file review. To the extent that electronic documentation was missing or incomplete at the time of the file review, such anomalies or omissions may serve as the basis for findings of noncompliance.
3. The Agency is obligated to ensure that the Student receives FAPE by providing special education and related services in conformity with an IEP developed using the procedures set out in the IDEA. *34 C.F.R. §§300.17 and 300.101.*
4. The hallmark United States Supreme Court decision in the *Rowley* case set the FAPE standard that remains operative today. The Court held that an IEP must provide a “basic floor of opportunity.” Determining the “contours of an appropriate education must be decided on a case by case basis.” *Board of Educ. of the Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 553 IDELR 656 (1982).
5. The *Rowley* Court established a two-part test to decide whether FAPE was provided:
  - a. Has the state (i.e. public agency) complied with the procedures set forth in the IDEA?
  - b. Is the IEP developed through IDEA’s procedures reasonably calculated to enable the child to receive educational benefit?
6. If the two-part test is satisfied, then courts can expect no more. The FAPE obligation has been satisfied.
7. The first level of inquiry under the *Rowley* test is to determine if the IDEA’s procedures were followed.
8. Not all procedural violations rise to the level of a denial of FAPE. Consistent with 34 C.F.R. §300.513(a), a denial of FAPE is found only if the procedural inadequacies –
  - a. Impeded the student’s right to FAPE;
  - b. Significantly impeded the parents opportunity to participate in the decision-making process regarding the provision of FAPE; or

- c. Caused deprivation of educational benefit.
9. The same standard is used in the complaint resolution process.
10. As applied to this complaint, WDE concludes the procedural deficiencies found during the investigation of Issue 1(a), regarding the implementation of IEPs, constitute a procedural violation of IDEA.
11. WDE's general supervisory responsibilities include ensuring the correction of all noncompliance, including procedural noncompliance. *See OSEP Memorandum 09-02.* The United States Department of Education, Office of Special Education Programs has provided the following guidance in *Dispute Resolution Procedures Under Part B of the Individuals with Disabilities Education Act (Part B)*, 61 IDELR 232 (OSEP 2013):

The SEA must ensure that the public agency involved in the complaint implements the written decision on the complaint in a timely manner. The State's complaint procedures must include procedures for effective implementation of the SEA's final decision, if needed, including technical assistance activities, negotiations, and corrective actions to achieve compliance. *34 C.F.R. §300.152(b)(2).*

To ensure corrective action and pursuant to its general supervisory responsibilities in 34 CFR §§ 300.149 and 300.600, the SEA must inform the public agency that is involved in the complaint of any findings of noncompliance and the required corrective action, and ensure that the corrective action is completed as soon as possible and within the timeframe specified in the SEA's written decision, and in no case later than one year of the State's identification of the noncompliance. *34 C.F.R. §300.600(e).*
12. Consistent with OSEP's guidance, WDE concludes that the Corrective Action Plan currently imposed on the Region by the Agency is sufficient to address the procedural violations noted in Issue 1(a). No additional corrective action steps are warranted at this time.
13. The second prong of the *Rowley* test focuses on substantive compliance with IDEA's provisions resulting in IEPs that are reasonably calculated to confer meaningful educational benefit to students with disabilities.
14. Issue 1(b) addresses the Agency's obligation to provide IEPs based on the unique needs of individual learners, resulting in educational benefit.
15. If a student fails to make progress within a reasonable period of time, the Agency must review the IEP to address the student's lack of progress. *34 C.F.R. §300.324(b)(1)(ii)(A).*
16. A public agency's continuation of inadequate services will almost certainly be regarded as a denial of FAPE. See, e.g., *District of Columbia Pub. Schs.*, 49 IDELR 267 (D.D.C. 2008).

17. Documentation of progress toward IEP goals is a mandatory component of the IDEA. 34 C.F.R. §§300.320(a)(3) and 300.324(b)(1)(i).
18. IEPs that lack the required documentation are considered to be a procedural violation of the requirements of the IDEA.
19. IEPs that evidence a lack of progress without a subsequent review to address the lack of progress are considered substantively deficient, and support a finding of no meaningful educational benefit.
20. The file review addressing Issue 1(b) resulted in findings of incomplete data and lack of progress. WDE concludes that the Agency failed to meet its obligation to ensure IEPs meet the unique learner needs and provide an opportunity for meaningful educational benefit.
21. This violation is of a procedural and substantive nature. In addition to the corrective action plan already in place as a result of the Agency's May 2013 monitoring, which will provide increased oversight, additional training is warranted for staff regarding the obligation to provide IEPs to meet learners' unique individual needs and confer an opportunity for meaningful educational benefit.
22. Issue 2 addresses the requirement that students receive a comprehensive evaluation prior to the initial provision of special education services under Part B of the IDEA or as the educational or related service needs, including improved performance, warrant a comprehensive evaluation. See 34 C.F.R. §§300.301(a) and 300.303((a)(1).
23. A comprehensive evaluation must include the use of a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about a child. The Agency must ensure that a comprehensive evaluation is used to determine a child's disability under 34 C.F.R. §300.8 and the educational needs of the child. 34 C.F.R. §300.304(b).
24. The Agency must ensure that a child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. 34 C.F.R. §300.304(c)(4).
25. The file review evidences that in many cases, the Agency documented on the Prior Written Notice/Consent for Evaluation form that additional data was needed in one or more of the areas listed in 34 C.F.R. §300.304(c)(4), but the Evaluation Report documented that the standard battery of assessments was administered without collecting the data deemed necessary on the Prior Written Notice.

26. In addition, several files contained information that the team suspected another disability, such as Attention Deficit Disorder or Autism, but no assessments were conducted in those areas to determine if the child qualified under one of those disability categories.
27. WDE finds, consistent with the Agency's finding in the May 2013 monitoring, that a violation of the duty to provide comprehensive evaluations that use a variety of assessment tools to assess students in all areas related to the suspected disability. WDE accepts the corrective action plan that resulted from the May 2013 monitoring by the Agency, and additional training in this area is warranted.
28. Issue 3 addresses the applicability of the highly qualified teacher and provider requirements to preschool teachers and providers within Wyoming's preschool system. The Federal Regulations implementing the IDEA require **any public elementary or secondary school** special education teacher teaching core academic subjects to be highly qualified, as the IDEA and the Elementary and Secondary Education Act (ESEA) define the term. (Emphasis added.) *34 C.F.R. §300.18*.
29. This provision does not apply to preschools under the authority of the Agency, as the developmental preschool system in Wyoming is not included in the definition of elementary school.
30. OSEP offers the following guidance in the 2007 Q & A On Highly Qualified Teachers Serving Students with Disabilities:
- Question: What are the HQT requirements for preschool teachers?
- Answer: The highly qualified special education teacher requirements apply to all public elementary and secondary school special education teachers, including early childhood or preschool teachers if a State includes the early childhood or preschool programs as part of its elementary and secondary school system. If the early childhood or preschool program is not a part of a State's public elementary and secondary school system, the highly qualified special education teacher requirements do not apply.
31. In light of the plain language of the highly qualified teacher regulatory provision and OSEP's guidance, WDE concludes that the highly qualified teacher requirements do not apply to preschool teachers in Wyoming's developmental preschool system under the authority of the Agency.
32. This same exclusion does not exist in the language of 34 C.F.R. §300.156 addressing personnel qualifications. This provision requires qualifications for related services personnel and paraprofessionals to be consistent with any State-approved or State-

recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline. See 34 C.F.R. §300.156(b).

33. According to W.S. §21-2-802(a)(i), the Professional Teaching Standards Board (PTSB) shall promulgate rules and regulations for the certification of school administrators, teachers and other personnel to require either examination in specified subjects or the completion of courses in approved institutions, or both.
34. PTSB has adopted a Professional Services Endorsement in Speech Pathology utilizing the American Speech Language Hearing Association (ASHA) standards for licensure. *PTSB Rules, Chapter 4, Section 4, Table 1.*
35. Professionals meeting the PTSB endorsement requirements as a Speech Language Pathologist are considered qualified personnel under the IDEA pursuant to 34 C.F.R. §30.156(b).
36. WDE has the obligation to ensure that related services personnel who deliver services in their discipline or profession meet the PTSB requirements and have not had certification or licensure waived on an emergency, temporary, or provisional basis. 34 C.F.R. §300.156(b)(2).
37. For the reasons stated above, individuals working as a Speech Language Pathologist Aide do not meet the licensure requirements to be considered qualified personnel under Wyoming requirements or the IDEA. Therefore, Speech Language Pathology Aides must be considered paraprofessionals or assistants under the IDEA pursuant to 34 C.F.R. §300.156.
38. IDEA and the Federal Regulations allow assistants and paraprofessionals who are adequately trained and supervised to be used to assist in the provision of special education and related services. See 34 C.F.R. §300.156(b)(2)(iii).
39. OSEP offers the following guidance on interpreting the above provision with regarding the use of paraprofessionals and assistants:

However, this provision should not be construed to permit or encourage the use of paraprofessionals as a replacement for teachers or related service providers who meet State qualification standards. To the contrary, using paraprofessionals and assistants as teachers or related service providers would be inconsistent with the State's duty to ensure that personnel necessary to carry out the purposes of Part B of the Act are appropriately and adequately prepared and trained.

...

It is critical that States that use paraprofessionals and assistants do so in a manner that is consistent with the rights of children with disabilities to FAPE under Part B of the Act.

*71 Federal Register 46612.*

40. Related service providers who do not meet the personnel qualifications established by the State would not be considered qualified to serve children with disabilities under the Act even with supervision by qualified personnel. *71 Federal Register 46611.*
41. In summary, paraprofessionals or assistants are permitted to support or reinforce the service delivered by a qualified provider, but are not permitted to be the service provider on the Student's IEP. The paraprofessional or assistant may be an important supplemental aid or service if determined appropriate by an individual student's IEP team.
42. The delivery of special education services by a non-qualified provider is considered contrary to the Agency's duty to provide FAPE that meets the requirements of Part B of the IDEA.

**Decision:**

**Issue #1**

Whether the Agency denied students FAPE by:

- a. Failing to provide special education and related services in conformity with students' IEPs consistent with 34 C.F.R. §300.17, and 34 C.F.R. §§300.320 through 300.324.

**WDE finds the Agency violated the duty to provide services in conformity with students' IEPs. This is a procedural violation that does not result in a substantive denial of FAPE at the student level. Therefore, no student specific corrective action shall be ordered. WDE accepts the Corrective Action Plan currently being implemented by the Agency as sufficient to address this violation.**

- b. Failing to ensure that students' IEPs were reasonably calculated to meet learners' unique educational needs and provide meaningful educational benefit consistent with 34 C.F.R. §§300.101 and 300.320.

**WDE finds the Agency violated the duty to ensure that students' IEPs were reasonably calculated to meet learners' unique educational needs and provide meaningful educational benefit. This violation results in a denial of FAPE for the affected students, requiring corrective action as outlined below.**

**Issue #2**

Whether the Agency failed to comprehensively evaluate students in all suspected areas of disability and educational need consistent with 34 C.F.R. §§300.301 through 300.311.

**WDE finds the Agency failed to comprehensively evaluate students in all suspected areas of disability and educational need. This violation rises to the level of a denial of FAPE, as it significantly impedes a parent's right to participate in the evaluative process, and causes deprivation of educational benefit. Corrective action as outlined below is required.**

### **Issue #3**

Whether the Agency provided special education and related services to students through the service of highly qualified teachers and providers consistent with 34 C.F.R. §§300.18 and 300.156.

**WDE finds the highly qualified teacher requirements in 34 C.F.R. §300.18 do not apply to preschool teachers in the state of Wyoming under the authority of the Agency. WDE finds no violation with respect to the provision of services by highly qualified teachers. However, WDE finds the qualified provider requirements in 34 C.F.R. §300.156 do apply to preschool service providers in the state of Wyoming. Therefore, WDE finds the Agency in violation for failing to ensure that qualified providers delivered special education and related services. Corrective action as outlined below is required.**

#### **Corrective Action Plan:**

1. The Agency shall develop a plan to provide all special education and related services by highly qualified providers, utilizing assistants, aides, or paraprofessionals to reinforce skills introduced by the highly qualified provider. The plan shall address:
  - a. Documentation of the Agency's policy and/or procedure regarding the permissible professional tasks and job responsibilities for non-highly qualified providers.
  - b. A timeline for realigning highly qualified providers to fulfill the role as service providers on students' IEPs, and ceasing the use of non-highly qualified providers to deliver IEP services (as opposed to a supplemental aid or service to reinforce the services provided by a qualified provider). The timeline shall demonstrate realignment of staff at the earliest practicable opportunity, but in no case later than the commencement of the 2014-2015 school year.
2. The Agency shall provide the equivalent to one full school day of inservice training by an independent professional, external to all professional staff within the Agency or Region for the purpose of providing targeted technical assistance in the following areas:

- a. Comprehensive evaluations for the purpose of determining IDEA eligibility and student needs;
- b. Drafting IEPs to confer meaningful educational benefit; and
- c. Documenting progress or addressing lack of progress within the IEP process.

The requirements include:

- a. The inservice training must be completed by February 1, 2014.
  - b. The Agency shall provide WDE with the following documentation:
    - i. The date, time, location, agenda and presenter(s) ten (10) days prior to the training; and
    - ii. Copies of any materials or handouts used, in addition to sign-in sheets documenting the attendance of special education staff within ten (10) days of completion of the mandatory inservice training.
3. WDE refers the Region and the Agency to the Monitoring Unit of the Special Programs Division to develop a collaborative framework to review the monitoring corrective action plan and determine if any modifications are warranted in light of this complaint decision. A copy of this decision shall be forwarded to WDE's Monitoring Unit.

All required submissions must be sent to WDE to the attention of Diana Currah. Please direct questions regarding this complaint investigation to the Wyoming Department of Education, Special Programs Division at 307-857-9285 or 800-228-6194.

Sincerely,



Diana Currah  
Dispute Resolution Coordinator

cc: Sarah Compton, Part B/619 Coordinator  
Richard Crandall, WDE Director  
Mackenzie Williams, WDE Legal Counsel  
Joe Simpson, DD Program Manager  
Travis Kirchhefer, DOH Legal Counsel