

Wyoming Administrative Rules

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Chapter 44: Rules for the Special Education Component within the Education Resource Block Grant Model

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Chapter 44
RULES FOR THE SPECIAL EDUCATION COMPONENT WITHIN THE
EDUCATION RESOURCE BLOCK GRANT MODEL

Section 1. Authority. These rules are promulgated pursuant to W.S. 21-2-202(a)(i); W.S. 21-2-203(a); and W.S. 21-13-321(d).

Section 2. Definitions.

(a) “Advertising” means costs for print (newspapers, flyers, brochures, etc.), radio, internet or television advertisements, the purpose of which is to recruit special education staff, procure special education goods or services, communicate to the public concerning special education issues such as the destruction of special education records, announcement of Child Find activities as defined by 34 CFR § 300.111(a)(i) or surplus special education goods.

(b) “Benefits” means amounts paid on behalf of special education staff in accordance with the district’s compensation policy. Examples include, but are not limited to: retirement, social security, Medicare, and health and life insurance.

(c) “Communication Services” means services provided by persons or businesses to assist in transmitting and receiving messages or information. This category includes, but is not limited to, phone services and related service personnel or other staff providing services to students with disabilities.

(d) “Contract Services” means professional services provided by a third party organization or contractor including fees paid for professional advice, training, applicable services and consultation regarding students with disabilities and their programs; this may include the delivery and accessibility of special education services.

(e) “Direct Costs” means costs which can be traced directly to or identified for the specific purpose of serving students with disabilities.

(f) “Equipment-General” means items that are tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by each district. These items are acquired for the purpose of providing general education to all students.

(g) “Equipment-Special Education” means items which extend beyond Equipment-General, are specific to providing education to students with disabilities, and are required by or related to a child’s IEP.

(h) “Evaluation” means procedures used in accordance with 34 CFR §§ 300.304 through 300.311 to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs.

(i) “Extended School Year (ESY)” means special education and related services that are provided to a child with a disability, beyond the normal school year, in accordance with the child’s IEP and at no cost to the parents of the child.

(j) “IEP” means an Individualized Education Program as defined by 34 CFR § 300.22.

(k) “Incentive” means something offered as a reward or motivator to a student for accomplishing a given task demonstrating a positive behavior or for increasing productivity. Examples include, but are not limited to: food, toys, candy, and stickers.

(l) “Indirect Costs” means costs incurred for a common or joint purpose benefitting more than one cost objective that cannot be identified specifically with serving students with disabilities. Examples include expenses that would require a percentage allocation, but are not limited to: insurance, internet access, building maintenance, and utilities.

(m) “Instructional Materials-General” means items that are designed to serve as a tool for assisting in the instruction of a general education subject or course. Materials may be available in bound, unbound, kit, or package form and may consist of hard-backed or soft-backed textbooks, consumables, learning laboratories, slides, recordings, electronic media, and other accepted instructional tools. These materials are acquired for the purpose of providing general education to all students. Hardware required for the use of these materials is not considered “instructional materials.”

(n) “Instructional Materials-Special Education” means materials which extend beyond Instructional Materials-General, are specific to providing education to students with disabilities, and are required by or related to a child’s IEP.

(o) “Legal Fees” means the payment or charge made for legal services including charges by other professionals for services rendered in conjunction with legal services performed.

(p) “Per Diem” means the daily allotted amount for employees required to travel for special education services.

(q) “Professional Development-General” means the knowledge and skills attained to succeed in providing general education services to all students. Professional development encompasses all types of facilitated learning opportunities, including, but not limited to, formal coursework, conferences and informal learning opportunities situated in practice. Professional Development-General is acquired for the purpose of providing general education to all students.

(r) “Professional Development-Special Education” means professional development that extends beyond Professional Development-General and is specific to providing education to students with disabilities, and is required by or related to a child’s IEP.

(s) “Salary” means wages paid to employees providing special education and related services to students with disabilities in accordance with 34 CFR § 300.156. Examples include, but are not limited to: teachers, substitute teachers, other certified or licensed personnel, paraprofessionals, and classified employees.

(t) “Screening” means a process that a teacher or specialist uses to determine appropriate instructional strategies.

(u) “Supplies-General” means general purpose consumable items which have a shorter life span in use than equipment and machines, are stocked for recurring use, and are expendable or incorporated into other products to provide general education to all students. These items are acquired for the purpose of providing general education to all students.

(v) “Supplies-Special Education” means items which extend beyond Supplies-General, are specific to providing special education to students with disabilities, and are required by or related to a child’s IEP.

(w) “Special Education Services” means services to be provided to a student as identified in the student’s IEP, including special education, related services, supplementary aids and services or necessary accommodations or modifications.

(x) “Technology-General” means costs for purchasing, upgrading, and maintaining computer technology hardware and software that are used when providing education to students. This technology is acquired for the purpose of providing general education to all students.

(y) “Technology-Special Education” means costs which extend beyond Technology-General, are specific to providing education to students with disabilities, and are required by or related to a child’s IEP.

(z) “Time and Effort Certification” means a document attesting to the employee spending 100% of his or her time in special education.

(aa) “Time and Effort Log” means a personnel activity report created in accordance with current OMB guidance providing clear and continuous documentation for the amount of individual employee time spent on special education duties.

(bb) “Travel Costs” means food, lodging, and other non-labor costs associated with special education staff travel directly related to working with students with disabilities. Travel costs may also include parental visitation subject to the requirements of Section 7(m)(ii).

(cc) "Tuition" means instruction fees paid on behalf of a student for the student's special education from a service provider identified in the student's IEP as necessary to provide FAPE. Tuition expenses may also include residential costs such as room and board fees and other related services as documented by the student's IEP.

(dd) "Utilities" means services usually provided by public utilities such as water, sewage, gas, and garbage collection.

Section 3. General Provisions.

(a) Special Education reimbursement shall specifically and directly relate to a service or program provided to a student with a disability beyond what is provided as general education to all students. Services or items that are resourced through the Education Resource Block Grant Model, as defined by W. S. 21-13-101(a)(xiv), and made available to special education students and staff are not reimbursable through special education reimbursement under W. S. 21-13-321. Some of the most common non-reimbursable services and items resources through the model are Professional Development-General, Supplies-General, Instructional Materials-General, Technology-General, Equipment-General, and summer school and extended day programs not specific to a child's IEP or ESY services.

(b) Reimbursement for expenditures incurred to provide special education programs and services to children with disabilities shall not duplicate any other reimbursement or revenue source used to offset district special education costs. Examples include, but are not limited to:

(i) Costs previously or simultaneously covered elsewhere in the Wyoming School Finance System.

(ii) Special school district tax levied under W.S. 21-20-109 for Boards of Cooperative Educational Services (BOCES) providing services to children with disabilities, but not passed through to the BOCES for which the tax was levied, and considered by the Department to be revenue under W.S. 21-13-310(a).

(iii) Federal Funds awarded to the district under the Individuals with Disabilities in Education Act (IDEA) (20 U.S.C. § 1400 et seq.).

Section 4. Non-reimbursable Expenses.

Reimbursement shall only include costs that extend beyond the amount necessary to provide a general education to all students. Expenses which shall not be included in Special Education reimbursement include, but are not limited to:

(a) Contracted services for the screening of the general student population not receiving special education services, such as the federal Child Find mandate.

(b) Expenses typically covered with major maintenance, minor/component-level or major capital construction funds, including, but not limited to: remodel expenses, local building enhancements, and electrical or plumbing upgrades.

(c) Food, except when used as part of the curriculum or as directed by a child' IEP.

(d) Incentives, except when used as part of the curriculum or as directed by a child's IEP. Although allowable incentives do not have to be specifically detailed in the IEP, they must be directly related to a service or goal in the IEP. For a particular incentive cost to be allowed, it must be necessary and reasonable for the purpose of offering a reward/motivator for accomplishing a given task promoting positive behavior or for increasing productivity.

(e) Indirect Costs.

(f) Items specifically disallowed by statute including, but not limited to: expenditures for additional employee's contribution to Wyoming Retirement System. W.S. 21-13-321(d).

(g) Legal Fees.

(h) Professional Development-General.

(i) Supplies-General.

(j) Instructional Materials-General.

(k) Technology-General.

(l) Equipment-General.

(m) Utilities.

Section 5. Reimbursable Expenses.

The reimbursable special education expenses included in the Education Resource Block Grant Model shall be limited to those actual costs required to provide special education services to children with disabilities that extend beyond the amount necessary to provide general education to all students. Although reimbursable expenses do not have to be specifically detailed in the IEP, they must be directly related to a service in the IEP, or be direct costs as follows:

(a) Advertising.

(b) Communication Services. Reimbursement shall be limited to those actual and direct costs required to provide special education services, related services, supplementary aides and services to children with disabilities. Non-personnel expenses requiring a percentage allocation are non-reimbursable.

(c) Contract Services.

(i) Charges for contracted special education services related to individual children with disabilities shall be supported by an itemized billing document with enough specificity to tie the charge back to the student(s) served. Reimbursement shall not exceed actual costs for services as stated in the contract without fully executed amendment in place.

(ii) Costs in excess of the original contract shall be supported by an amendment executed by all parties. A contract/amendment shall be executed and in place before services can be provided.

(iii) With the exception of those payments to BOCES or other Wyoming school districts that have been pre-approved by local boards of trustees, payment for services shall be made only after the services have been provided.

(iv) School districts offering special education services, related services, supplementary aides and services through a case management arrangement utilizing individuals other than district staff. A personal services contract setting out and describing those case-management services provided by the case manager must be executed.

(v) Each contract for out-of-district or out-of-state placement shall be executed for only one child.

(vi) Contracted services shall only be provided by appropriately certified, licensed, or registered providers.

(vii) All contracts for services shall be on file for review as required by state retention policies.

(d) Evaluations to determine whether a child qualifies for special education.

(e) Per Diem. Per Diem rates shall not exceed the published federal travel regulation rates, established by the U.S. General Services Administration in effect at the time of travel.

(f) Professional Development-Special Education.

(g) Salary and Benefits.

(i) Personnel providing full-time special education services to children with disabilities shall be subject to one hundred percent (100%) reimbursement provided that the following support documentation is on file at the district office:

(A) Appropriate position description.

(B) Certification. Certification must be in compliance with current OMB guidance, prepared semi-annually; signed by the employee or direct supervisor and the district superintendent, or district superintendent designee, attesting to such full-time involvement; and clearly reference the school year for which reimbursement is claimed.

(ii) Reimbursement for personnel not devoting one-hundred percent (100%) of their time providing special education services to children with disabilities shall be supported by clear and continuous documentation via a time and effort log.

(iii) Reimbursement for personnel costs of teachers and related service staff providing special education services to children with disabilities shall be limited to those individuals having appropriate special education certification or licensure. Substitute teachers need not be certified as special education instructors.

(iv) Reimbursement for personnel costs of appropriately trained or substitute aides and paraprofessionals shall be based on the amount of time devoted to special education and/or related services, working under the supervision of certified special education personnel. This includes aides and paraprofessionals providing transportation services as documented in the student's IEP.

(h) Screening. Screening that extends beyond what is normally administered to students who are not receiving special education services.

(i) Supplies-Special Education. Reimbursement may also include those items necessary to evaluate a child to determine the need for special education services or programs. General supplies for staff providing services are not a reimbursable cost. Examples of reimbursable supplies include, but are not limited to: diapers, wipes, disposable gloves, special feeding utensils, Braille paper, and batteries.

(j) Instructional Materials-Special Education. Reimbursement may also include those items necessary to evaluate a child to determine the need for special education services or programs. General supplies for staff providing services are not a reimbursable cost. Examples of reimbursable instructional materials include, but are not limited to: Braille textbooks and curriculum purchased to address the specific needs of students with disabilities.

(k) Technology-Special Education. Computers, including laptops and notepads, must be purchased for specific use by a student with a disability. When no longer needed by the

student with a disability, the technology must continue to be used in the broader special education program.

(l) Equipment-Special Education. When no longer needed by the student with a disability, the equipment must continue to be used in the broader special education program.

(m) Travel Costs.

(i) Reimbursement for fuel or mileage allowance for special education staff providing services within the scope of duties using a personal vehicle shall not exceed the state standard mileage rate in effect at the time of travel.

(ii) Each local school district shall develop, implement, and enforce a reasonable policy setting forth the conditions, limitations, and allowable frequency of travel by parents to visit their child with disabilities when the child has been placed in a specialized setting away from the home in accordance with the child's IEP.

(n) Tuition Expense.