



Certification Page
Regular and Emergency Rules
 Revised May 2014

Emergency Rules *(After completing all of Sections 1 and 2, proceed to Section 5 below)*

Regular Rules

1. General Information

a. Agency/Board Name		
b. Agency/Board Address	c. City	d. Zip Code
e. Name of Contact Person		f. Contact Telephone Number
g. Contact Email Address		h. Adoption Date
i. Program		

2. Rule Type and Information: For each chapter listed, indicate if the rule is New, Amended, or Repealed.

If "New," provide the Enrolled Act numbers and years enacted:

c. Provide the Chapter Number, Short Title, and Rule Type of Each Chapter being Created/Amended/Repealed <i>(Please use the Additional Rule Information form for more than 10 chapters, and attach it to this certification)</i>		
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
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Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed

d. The Statement of Reasons is attached to this certification.

e. If applicable, describe the **emergency** which requires promulgation of these rules without providing notice or an opportunity for a public hearing:

3. State Government Notice of Intended Rulemaking

- a. Date on which the Notice of Intent containing all of the information required by W.S. 16-3-103(a) was filed with the **Secretary of State**:
- b. Date on which the Notice of Intent and proposed rules in strike and underscore format and a clean copy were provided to the **Legislative Service Office**:
- c. Date on which the Notice of Intent and proposed rules in strike and underscore format and a clean copy were provided to the **Attorney General**:

4. Public Notice of Intended Rulemaking

- a. Notice was mailed 45 days in advance to all persons who made a timely request for advance notice. Yes No N/A
- b. A public hearing was held on the proposed rules. Yes No

If "Yes:"	Date:	Time:	City:	Location:

5. Final Filing of Rules

- a. Date on which the Certification Page with original signatures and final rules were sent to the **Attorney General's Office for the Governor's signature**:
- b. Date on which final rules were sent to the **Legislative Service Office**:
- c. Date on which a PDF of the final rules was electronically sent to the **Secretary of State**:

6. Agency/Board Certification

The undersigned certifies that the foregoing information is correct.

<i>Signature of Authorized Individual (Blue ink as per Rules on Rules, Section 7)</i>	
<i>Printed Name of Signatory</i>	
<i>Signatory Title</i>	
<i>Date of Signature</i>	

7. Governor's Certification

I have reviewed these rules and determined that they:

1. Are within the scope of the statutory authority delegated to the adopting agency;
2. Appear to be within the scope of the legislative purpose of the statutory authority; and, if emergency rules,
3. Are necessary and that I concur in the finding that they are an emergency.

Therefore, I approve the same.

<i>Governor's Signature</i>	
<i>Date of Signature</i>	

Attorney General: 1. Statement of Reasons; 2. Original Certification Page; 3. Summary of Comments (regular rules); 4. Hard copy of rules: clean and strike/underscore; and 5. Memo to Governor documenting emergency (for emergency rules only).

LSO: 1. Statement of Reasons; 2. Copy of Certification Page; 3. Summary of Comments (regular rules); 4. Hard copy of rules: clean and strike/underscore; 5. Electronic copy of rules (PDFs) emailed to Criss.Carlson@wyoleg.gov: clean and strike/underscore; and 6. Memo to Governor documenting emergency (for emergency rules only).

SOS: 1. PDF of clean copy of rules; and 2. Hard copy of Certification Page as delivered by the AG.

**CHAPTER 3
RULES OF PRACTICE AND PROCEDURE
STATEMENT OF REASONS**

The Chapter 3 Rules have not been revised since 2007 and address the procedures for contested cases that may be brought before the Wyoming Department of Education or the State Board of Education, as applicable. The attached revisions reflect clarification to the process for contested case proceedings and incorporate by reference the Office of Administrative Hearings Chapter 2 Rules (Uniform Rules for Contested Case Practice and Procedure, October 17, 2014). This revision significantly reduces the length of these rules and eliminates duplication between Chapter 3 and Chapter 2.

Also included in Chapter 3 is the process for the informal review of the school performance ratings under the Wyoming Accountability in Education Act (see Section 4) for a school wishing to have their performance rating reviewed by the State Board of Education pursuant to W.S. 21-2-204(d)(vi).

Wyoming Department of Education

Chapter 3 Rules of Practice and Procedure

Section 1. Authority.

These rules are promulgated by the Wyoming Department of Education and the State Board of Education under the authority of Wyo. Stat. §§ 21-2-202(d), 21-2-204(d)(v), 21-2-304(a)(i), and 21-2-402(d).

Section 2. Purpose of Rules.

These rules govern proceedings held before or on the behalf of the State Superintendent of Public Instruction or the State Board of Education, as applicable.

Section 3. Contested Case Hearings.

(a) Contested cases shall be conducted pursuant to the Office of Administrative Hearings rules, Chapter 2, *Uniform Rules for Contested Case Practice and Procedure* (“Uniform Rules”), which are incorporated into this chapter by reference. In doing so, the Superintendent and Board find as follows:

(i) Incorporating the full text of the Uniform Rules would be cumbersome and inefficient given the length and nature of the rules;

(ii) The incorporation is limited to the Uniform Rules adopted by the Office of Administrative Hearings and effective October 17, 2014, and shall not include any later editions of or amendments to the Uniform Rules;

(iii) Copies of the Uniform Rules are available to the public at the Wyoming Department of Education offices at 2300 Capitol Ave., Hathaway Bldg. 2nd Floor, Cheyenne, Wyoming 82002.

(iv) An electronic copy of the Uniform Rules is available at the following web address: <http://soswy.state.wy.us/Rules/RULES/9644.pdf>.

(b) Where a contested case hearing is required by law, an aggrieved person may file a request according to the Uniform Rules § 5(a) with the Superintendent or the Board, as applicable, within thirty (30) days of the date of the administrative decision at issue or the date of mailing of the administrative decision as evidenced by a postmark, whichever is later.

(c) The request for a hearing shall be served on the Superintendent or Board and other necessary parties. Service shall be made to the Wyoming Department of Education, 2300 Capitol Avenue, Hathaway Building, 2nd Floor, Cheyenne, Wyoming 82002-0206. Service may be made in person or by mail.

(d) A request for a contested case hearing shall include the following:

(i) The name, telephone number, and mailing address of the petitioner and the same information for the representing attorney;

(ii) A statement in ordinary and concise language of the facts and of the errors alleged to have been committed and issues that the petition is based on, including particular reference to statutory sections, contract provisions or rules, regulations, and orders involved;

(iii) A copy of the decision or relevant material that relates to the decision at issue;

(iv) The specific relief sought; and

(v) The signature of the petitioner and the representing attorney.

(e) The notice of hearing required under the Uniform Rules § 6(b) shall be served on each party at least thirty (30) days before the hearing date unless an expedited hearing is otherwise required by law. In that event, parties shall be served the notice of hearing as soon as practicable.

(f) The Superintendent or Board, as applicable, may appoint a hearing officer to conduct the contested case and may request that the hearing officer issue a recommended decision.

(g) If a recommended decision is requested, the recommended decision and proposed order shall be submitted to the Superintendent or Board, as applicable, no later than thirty (30) days after the end of the contested case hearing.

(h) The Superintendent or Board, as applicable, shall make and enter a written decision and order containing findings of fact and conclusions of law stated separately.

(i) The written decision issued by the Superintendent of Board shall be the final agency action and be subject to judicial review under Wyo. Stat. § 16-3-114.

Section 4. Informal Review of School Performance Ratings.

(a) Wyoming Department of Education shall provide preliminary annual performance ratings to districts for schools within those districts. Before the ratings are final, the schools shall review the ratings and the underlying calculations. Districts may suggest corrections to the Department within fourteen (14) days. Ratings become final on the fifteenth (15) day.

(b) Districts may file a request for informal review in a form and manner prescribed by the Department. The request shall include all relevant documents. The request shall state the basis for changing a school's performance rating.

(c) When it receives the complete Informal Review Request form from a district, the Department shall review the documentation. If the request is complete, the Department shall notify the district to that effect. If initial documents submitted do not constitute a complete request, the Department shall notify the district of the reason for the deficiencies. No request or related documentation may be submitted after the later of notification from the Department that the request is complete or fifteen (15) days after the ratings are final.

(d) The Department shall submit a recommendation of either maintaining or amending a school's performance rating and the reasons for the recommendation to the State Board of Education not later than fourteen (14) days after the request for informal review is complete. The Department shall serve the recommendation on the district at the same time that it is submitted to the State Board.

(e) The State Board of Education shall hear the district's request for informal review no later than thirty (30) days after the request is complete. The Board shall notify the Department and the district of the date, time, and location of the meeting in which the Board will consider the request for review.

(i) The district shall be allotted 10 minutes to address the Board. The district may reserve a portion of its time for rebuttal.

(ii) The Department shall be allotted 10 minutes to address the Board.

(iii) No additional documentation may be submitted at the meeting.

(iv) Presentations shall be limited to the basis raised by the district in its request for informal review.

(v) Districts may waive appearance before the Board and rely on the written documents already submitted. If a district waives appearance, it shall notify the Department no later than seven (7) days before the meeting. If a district waives appearance, the Department shall not be permitted to address the Board on the subject of that school's performance rating.

(f) The Board may deliberate and render a decision at the meeting in which it heard presentations by the district and the Department.

(g) The Board decision is final agency action subject to judicial review under W.S. 16-3-114.

(h) Data maintained by the Department used to calculate performance level ratings shall not be subject to review under these rules.

Wyoming Department of Education

Chapter 3

Rules of Practice and Procedure ~~for Contested Case Proceedings~~

Section 1. Authority.

These rules are promulgated by the Wyoming Department of Education and the State Board of Education under the authority of Wyo. Stat. §§ 21-2-202(d), 21-2-204(d)(v), 21-2-304(a)(i), and 21-2-402(d), ~~16-3-102(a)(i) and 16-3-113~~.

Section 2. Purpose of Rules.

These rules govern ~~are intended to provide a uniform and understandable process for contested case~~ proceedings held before or on the behalf of the State Superintendent of Public Instruction and/or the Wyoming Department of Education or the State Board of Education, as applicable.

~~Section 3. Application of Rules.~~

~~This Chapter shall apply to contested case proceedings authorized by Wyoming Statute and brought before the State Superintendent of Public Instruction and/or the Wyoming Department of Education by a properly aggrieved party. These rules shall not apply to proceeding held in accordance with or as a result of Federal law and when alternative rules and regulations govern such proceedings, such as those proceeding and matters contained in Chapter 7 of the Wyoming Department of Education's Rules and Regulations.~~

~~Section 4. Definitions.~~

~~For purposes of contested cases brought before the State Superintendent of Public Instruction under these rules, the following definitions shall apply:~~

~~(a) —“Aggrieved party” means a person, institution or school district whose legal rights, duties or privileges have been harmed by an act of the State Superintendent and/or the Department and who is entitled to a contested case proceeding as provided by the law.~~

~~(b) —“Contested Case” means a proceeding before the State Superintendent in which the legal rights, duties or privileges of a party are required by law to be determined by an opportunity for a hearing, in accordance with the Wyoming Administrative Procedures Act.~~

~~(c) —“Department” means the Wyoming Department of Education.~~

~~(d) —“Notice” means the document served upon all parties by the State Superintendent, or the designee, stating the time, place and other pertinent material for the contested case proceeding as required by Wyo. Stat. § 16-3-107(a) and (b).~~

~~(e) — “Petition” means the formal written document filed with the State Superintendent which initiates the contested case proceeding.~~

~~(e) — “Petitioner” means an aggrieved party, who is entitled by law to a contested case hearing and who requests such a hearing in accordance with these rules and regulations.~~

~~(f) — “Presiding Officer” means the State Superintendent or a person designated pursuant to Wyo. Stat. § 16-3-112(a) and the provisions contained in this Chapter.~~

~~(g) — “State Superintendent” means the State Superintendent of Public Instruction as set forth in Wyo. Stat. §§ 21-2-201, 21-2-202.~~

~~(h) — “Wyoming Administrative Procedures Act” means Wyo. Stat. §§ 16-3-101 through 16-3-115.~~

Section 3 5. Service and Timing of Petition Contested Case Hearings.

(a) Contested cases shall be conducted pursuant to the Office of Administrative Hearings rules, Chapter 2, Uniform Rules for Contested Case Practice and Procedure (“Uniform Rules”), which are incorporated into this chapter by reference. In doing so, the Superintendent and Board find as follows:

(i) Incorporating the full text of the Uniform Rules would be cumbersome and inefficient given the length and nature of the rules;

(ii) The incorporation is limited to the Uniform Rules adopted by the Office of Administrative Hearings and effective October 17, 2014, and shall not include any later editions of or amendments to the Uniform Rules;

(iii) Copies of the Uniform Rules are available to the public at the Wyoming Department of Education offices at 2300 Capitol Ave., Hathaway Bldg. 2nd Floor, Cheyenne, Wyoming 82002.

(iv) An electronic copy of the Uniform Rules is available at the following web address: <http://soswy.state.wy.us/Rules/RULES/9644.pdf>.

~~(a b) Where a contested case hearing is required by law, A properly an aggrieved party person may file a petition request according to the Uniform Rules § 5(a) with the State Superintendent or the Board, as applicable, within thirty (30) days of the date of the administrative decision at issue or the date of mailing of the administrative decision as evidenced by a postmark, whichever is later requesting a contested case proceeding. The petition shall be in accordance with the provisions contained in this Chapter.~~

~~(b c) The petition request for a hearing shall be served on the State Superintendent or Board and other necessary parties. Service shall be made to the Wyoming Department of~~

Education, ~~e/o State Superintendent of Public Instruction~~, 2300 Capitol Avenue, Hathaway Building, 2nd Floor, Cheyenne, Wyoming 82002-0206 0050. Service ~~can~~ may be made in person, or by mail ~~or received by facsimile, 307 777 6234, during regular business hours. Any facsimile received after regular business hours will be treated as received during the regular business hours of the next working day.~~

~~(e) — The petition shall be filed with the State Superintendent within forty five (45) days of the date of the administrative decision at issue or of the date of mailing of the final administrative decision as evidenced by a postmark, whichever is later. The State Superintendent may grant an exception in circumstances where good cause is shown.~~

~~Section 6. Petition Contents and Requirements.~~

~~(a d)~~ A request To initiate for a contested case ~~proceeding, the petitioner hearing~~ shall ~~prepare and file with the State Superintendent a petition which~~ includes the following:

- (i) The name, telephone number, ~~fax number, if available,~~ and mailing address of the petitioner and the same information for the representing attorney ~~if applicable;~~
- (ii) A statement, in ordinary and concise language, of the facts and of the errors alleged to have been committed and issues ~~upon which that~~ the petition is based on, including particular reference to statutory sections, contract provisions, ~~and/or~~ rules, regulations, and orders involved;
- (iii) A copy of the decision ~~and/or~~ relevant material ~~which that~~ relates to the decision at issue;
- (iv) The specific relief sought; and,
- (v) The signature of the petitioner and the representing attorney, ~~if applicable.~~

~~Section 7. Notice of Hearing.~~

~~(a c)~~ In all contested case proceedings, the petitioner shall be afforded an opportunity for a hearing after notice served by the State Superintendent personally or by mail. The notice of hearing required under the Uniform Rules § 6(b) shall be served on each party

~~(b) — The notice shall be in accordance with Wyo. Stat. § 16-3-107 and shall contain the following:~~

- ~~(i) — The time, place, and nature of the hearing;~~
- ~~(ii) — The legal authority and jurisdiction under which the hearing is to be held;~~

~~(iii) — The particular sections of the statutes and rules involved; and,~~

~~(iv) — A short and plain statement of the matters asserted.~~

~~(e) The notice shall be served upon each petitioner at least thirty (30) days prior to before the date set for the hearing date unless an expedited hearing is otherwise required by law. In that event, parties shall be served the notice of hearing as soon as practicable.~~

~~(f) The Superintendent or Board, as applicable, may appoint a hearing officer to conduct the contested case and may request that the hearing officer issue a recommended decision.~~

~~(g) If a recommended decision is requested, the recommended decision and proposed order shall be submitted to the Superintendent or Board, as applicable, no later than thirty (30) days after the end of the contested case hearing.~~

~~(h) The Superintendent or Board, as applicable, shall make and enter a written decision and order containing findings of fact and conclusions of law stated separately.~~

~~(i) The written decision issued by the Superintendent of Board shall be the final agency action and be subject to judicial review under Wyo. Stat. § 16-3-114.~~

Section 8. General Procedure.

~~(a) — The State Superintendent or the presiding officer shall:~~

~~(i) — Examine the petition, notify the petitioner of any apparent errors or omissions, and request any additional information deemed necessary;~~

~~(ii) — Dismiss any petition not timely filed, except in instances where the State Superintendent determines good cause has been shown and an exception is necessary;~~

~~(iii) — Assign the contested case a docket number and schedule the commencement of contested case proceedings in accordance with the Wyoming Administrative Procedures Act;~~

~~(iv) — Establish a separate file for each docketed contested case in which all papers, pleadings, documents, transcripts, evidence and exhibits pertaining thereto shall be filed. All items contained in this file shall contain the assigned docket number.~~

~~(v) — Upon docketing, take appropriate action towards the ultimate decision, which may include, but is not limited to, scheduling informal conferences, pretrial hearings, motions hearings, settlement conferences and a contested case evidentiary hearing.~~

~~(b) — Each party may be ordered to file with the presiding officer and serve upon the other parties a preliminary statement or joint preliminary statement. The parties shall be~~

~~afforded at least thirty (30) days for the preparation and filing of any preliminary statement. Unless otherwise ordered, the statement shall set forth:~~

~~(i) — A brief summary of the contentions of the party;~~

~~(ii) — Significant facts about which there is no genuine issue (these may be admissions by stipulation);~~

~~(iii) — Contested issues of fact remaining for decision;~~

~~(iv) — Contested issues of law to be determined at the hearing. The parties may include memorandums of law on significant legal issues the parties wish to call to the attention of the presiding officer;~~

~~(v) — The names, addresses, and a brief description of the testimony of each witness the party intends to present at the hearing;~~

~~(vi) — A list and copies of all exhibits to be introduced. This does not foreclose the ability to introduce exhibits which become available at a later date; and,~~

~~(vii) — Estimated time required for the hearing.~~

~~(c) — The taking of depositions and discovery shall be available to the parties in accordance with the provisions of Rules 26 and 28 through 37 (excepting 37(b)(1) and (2)(D) there from) of the Wyoming Rule of Civil Procedure.~~

~~(d) — Upon application the presiding officer shall issue a subpoena requiring the appearance of witnesses for the purpose of taking evidence or requiring the production of any books, papers or other documents relevant or material to inquiry in accordance with WYO.STAT. § 16-3-107(d).~~

~~(e) — Motions shall be in writing and state the grounds and the relief sought. Prior to filing a motion for dismissal, default, or compliance with discovery procedures the moving party shall make reasonable good faith efforts to discuss the content and purpose of the motion, such efforts should be documented in writing and attached to the motion. Response to a motion shall be made within fifteen (15) days of service of the motion. All motions and responses shall be filed with the State Superintendent and the presiding officer, is applicable, and served upon all parties.~~

~~(f) — All parties shall be permitted to file a brief with the presiding officer.~~

~~(g) — Oral argument shall be allowed at the discretion of the presiding officer.~~

~~(h) — Except to the extent authorized by law, a party or that party's attorney shall not communicate, directly or indirectly, in connection with any issue of fact or law with the presiding officer concerning any pending case, except upon notice and opportunity for all~~

~~parties to participate. Should ex parte communications occur, the presiding officer shall advise all parties of the communication as soon as possible thereafter, and if requested, allow any party an opportunity to respond.~~

~~(i) — The record of the contested case shall include:
rulings;~~

~~(i) — All formal and informal notices, pleadings, motions and intermediate~~

~~(ii) — Evidence received or considered including matters officially noticed;~~

~~(iii) — Questions and offers of proof, objections and rulings thereon;~~

~~(iv) — Any proposed findings and exceptions thereto;~~

~~(v) — Any opinion, findings, decision or order of the State Superintendent and any report by the presiding officer of the hearing.~~

~~(j) — Proceedings, including all testimony, shall be reported verbatim stenographically or by any other appropriate means determined by the Agency or the officer presiding at the hearing.~~

~~(k) — The losing party shall be responsible for all reasonable costs associated with conducting the contested case hearing, excluding any attorneys' fees.~~

Section 9. Decisions and Final Agency Action.

~~(a) — The State Superintendent shall make and enter a written decision and order containing findings of fact and conclusions of law stated separately.~~

~~(b) — The findings of fact shall be based exclusively on the evidence and matters officially noticed. Technical or scientific facts within the State Superintendent's specialized knowledge may be considered in making a final determination.~~

~~(c) — Findings of fact shall be made on all material issues and ultimate facts.~~

~~(c) — The written decision shall be filed with the State and will, without further action, become the decision and order as a result of the hearing.~~

~~(d) — All written decisions and orders shall be served upon all parties upon formal filing of the State Superintendent with the Department.~~

~~(f) — If the State Superintendent acts as the presiding officer over the contested case proceeding, he/she shall have sixty (60) days from the end of the hearing to issue a written decision and order. If a presiding officer is appointed by the State Superintendent, the State Superintendent shall have thirty (30) days from receipt of the recommended decision and proposed order to enter a final decision in accordance with this Section.~~

~~(g) — In the event a recommended decision is rendered by a designee, all parties shall be afforded a reasonable opportunity to file exceptions thereto which shall be deemed a part of the record.~~

~~(h) — The decision rendered in accordance with this Section shall serve as the final decision of the State Superintendent and shall be subject to judicial review in accordance with Wyo. Stat. § 16-3-114.~~

~~Section 10. Designation and Authority of a Presiding Officer.~~

~~(a) — The State Superintendent may designate a presiding officer by assigning a contested case proceeding to an employee of the Department or an employee of another agency designated by the State Superintendent to act as presiding officer in accordance with Wyo. Stat. § 16-3-112.~~

~~(b) — The functions of all those presiding over contested cases shall be conducted in an impartial manner and in accordance with the Rules and Regulations of the Department of Education.~~

~~(c) — Presiding officers shall have the full authority to administer oaths and affirmations; issue subpoenas; rule upon offers of proof and receive relevant evidence; take or cause depositions to be taken in accordance with the provisions of the Wyoming Administrative Procedures Act and the rules of the Department; regulate the course of the hearing; hold conferences for the settlement or simplification of the issues; make recommended decision when directed to do so by the State Superintendent; and take any other action authorized by this Chapter, which are consistent with the Wyoming Administrative Procedures Act.~~

~~(d) — The presiding officer may, at any time while a contested case is pending, recuse himself / herself from presiding over the contested case by filing written notice of recusal with the State Superintendent and serving an all parties. From and after the date the written notice of recusal is entered, that presiding officer shall not participate in resolution of the contested case.~~

~~(e) — If a presiding officer is appointed, he/she shall submit a written recommended decision and order containing proposed findings of fact and conclusions of law.~~

~~(f) — The recommended decision and proposed order shall be submitted to the State Superintendent no later than thirty (30) days after the end of the contested case hearing.~~

Section 4. Informal Review of School Performance Ratings.

(a) Wyoming Department of Education shall provide preliminary annual performance ratings to districts for schools within those districts. Before the ratings are final, the schools shall review the ratings and the underlying calculations. Districts may suggest corrections to the Department within fourteen (14) days. Ratings become final on the fifteenth

(15) day.

(b) Districts may file a request for informal review in a form and manner prescribed by the Department. The request shall include all relevant documents. The request shall state the basis for changing a school's performance rating.

(c) When it receives the complete Informal Review Request form from a district, the Department shall review the documentation. If the request is complete, the Department shall notify the district to that effect. If initial documents submitted do not constitute a complete request, the Department shall notify the district of the reason for the deficiencies. No request or related documentation may be submitted after the later of notification from the Department that the request is complete or fifteen (15) days after the ratings are final.

(d) The Department shall submit a recommendation of either maintaining or amending a school's performance rating and the reasons for the recommendation to the State Board of Education not later than fourteen (14) days after the request for informal review is complete. The Department shall serve the recommendation on the district at the same time that it is submitted to the State Board.

(e) The State Board of Education shall hear the district's request for informal review no later than thirty (30) days after the request is complete. The Board shall notify the Department and the district of the date, time, and location of the meeting in which the Board will consider the request for review.

(i) The district shall be allotted 10 minutes to address the Board. The district may reserve a portion of its time for rebuttal.

(ii) The Department shall be allotted 10 minutes to address the Board.

(iii) No additional documentation may be submitted at the meeting.

(iv) Presentations shall be limited to the basis raised by the district in its request for informal review.

(v) Districts may waive appearance before the Board and rely on the written documents already submitted. If a district waives appearance, it shall notify the Department no later than seven (7) days before the meeting. If a district waives appearance, the Department shall not be permitted to address the Board on the subject of that school's performance rating.

(f) The Board may deliberate and render a decision at the meeting in which it heard presentations by the district and the Department.

(g) The Board decision is final agency action subject to judicial review under W.S. 16-3-114.

(h) Data maintained by the Department used to calculate performance level ratings shall not be subject to review under these rules.

~~Section 11. Appeal of Audit Findings.~~

~~(a) A district aggrieved by the Department of Education's implementation or enforcement of findings made by the Department of Audit in accordance with Wyo. Stat. § 9-1-513 may request a hearing in accordance with this Chapter.~~

~~(b) The following provisions shall apply to such proceedings:~~

~~(i) In accordance with Section 5(e) of this Chapter, petitioner shall request a hearing no later than forty-five (45) days after receipt of notification by the Department of Education of audit findings. Upon good cause being shown, the State Superintendent may extend this period or grant an exception to this limitation.~~

~~(ii) All petitions, pleading and motions shall be served upon the Department of Audit in addition to all other necessary parties.~~

~~(ii) Within thirty (30) days after a petition is filed with the State Superintendent and served upon the Department of Audit, the Department of Audit shall transmit a certified copy of the complete record, including but not limited to, the report which contains the findings and any proposed solutions in relation to the aggrieved district, any and all correspondence between the Department of Audit and the district which relates to the findings at issue, documentation of all efforts taken by the Department of Audit to ensure the Department of Education and the district resolve any problems identified within the audit and documentation which establishes the determination of the materiality levels for findings as required by Wyo. Stat. § 9-1-513(b)(vii).~~

~~(iii) The Department of Audit shall include a general index of the record, which identifies the documents and instruments in the record with reasonable certainty. The index shall be served upon all parties.~~

~~(iv) No adjustment or remittance of funds shall take place until a final decision is rendered by the State Superintendent in accordance with the provisions of this Chapter.~~

~~(iv) The decision rendered by the State Superintendent in accordance with Section 9 of this Chapter, and the adjustment of future entitlements or remittance by the district of funds in accordance with this decision, shall be a final agency action and subject to judicial review in accordance with the provisions of Wyo. Stat. § 16-3-114.~~