



# RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (12/31/00)

Agency: Washington State School for the Blind

- Permanent Rule
- Emergency Rule
- Expedited Repeal

(1) Date of adoption: June 7, 2001

(2) Purpose: To implement federal regulatory changes enacted March 12, 1999, resulting from the 1997 amendments to the Individuals with Disabilities Education Act and conform procedures to state law.

(3) Citation of existing rules affected by this order: WAC 72-171-001; 72-171-010; 72-171-015; 72-171-016; 72-171-110; 72-171-120; 72-171-131; 72-171-140; 72-171-150; 72-171-210; 72-171-220; 72-171-230; 72-171-410; 72-171-500; 72-171-510; 72-171-650.

Repealed: WAC 72-171-100; 72-171-130; 72-171-200; 72-171-400; 72-171-420; 72-171-430; 72-171-600; 72-171-610; 72-171-620; 72-171-630; 72-171-640; 72-171-700

Amended:

Suspended:

(4) Statutory authority for adoption: RCW 72.40.022

Other Authority:

### PERMANENT RULE ONLY

Adopted under notice filed as WSR 01-09-019 on April 9, 2001 (date).

Describe any changes other than editing from proposed to adopted version: WAC 72-171-150, added "annual review" to title and corrected statutory references in subsection (8). Renamed heading formerly called "Hearings" which appears before WAC 72-171-601.

### EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

### EXPEDITED REPEAL ONLY

Under Preproposal Statement of Inquiry filed as WSR \_\_\_\_\_ on \_\_\_\_\_ (date)

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?:

- Yes
- No
- If Yes, explain:

(6) Effective date of rule:

Permanent Rules

Emergency Rules

31 days after filing

Immediately

Other (specify) \_\_\_\_\_\*

Later (specify) \_\_\_\_\_

\*If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required

Name (Type or Print)

Dr. Dean O. Stenehjem

Signature

Title

Superintendent

Date

7-17-01

### CODE REVISER USE ONLY

CODE REVISER'S OFFICE  
STATE OF WASHINGTON  
FILED

JUL 20 2001

TIME 9:14 AM

01-16-022

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	<u>9</u>	Amended	<u>14</u>	Repealed	-----
<b>Federal rules or standards:</b>	New	-----	Amended	-----	Repealed	-----
<b>Recently enacted state statutes:</b>	New	-----	Amended	<u>2</u>	Repealed	-----

**The number of sections adopted at the request of nongovernmental entity:**

	New	-----	Amended	-----	Repealed	-----
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**The number of sections adopted in the agency's own initiative:**

	New	<u>2</u>	Amended	<u>6</u>	Repealed	-----
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

	New	<u>10</u>	Amended	<u>13</u>	Repealed	-----
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	-----	Amended	-----	Repealed	-----
<b>Pilot rule making:</b>	New	-----	Amended	-----	Repealed	-----
<b>Other alternative rule making:</b>	New	-----	Amended	-----	Repealed	-----



Christine O. Gregoire  
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By Fax to 360-586-6480

July 20, 2001

Code Reviser's Office  
Legislative Bldg.  
P.O. Box 40551  
Olympia, WA 98504-0551

Re: Washington State School for the Blind

Dear Kerry:

One rule was inadvertently left out of section 3 of the Rule-Making Order recently filed by the Washington State School for the Blind for the rules adopted under notice filed as WSR 01-09-019. Please add WAC 72-171-240 to section (Citation of existing rules affected by this order).

If you have any questions, please feel free to call me at 360-759-2111.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bonnie Y. Terada".

Bonnie Y. Terada  
Assistant Attorney General  
360-759-2111

AMENDATORY SECTION (Amending WSR 90-16-008, filed 7/19/90, effective 8/19/90)

**WAC 72-171-001 Purposes.** The purposes of this chapter are:

(1) To implement chapter 72.40 RCW in a manner that is compatible with chapter ~~((28A.13))~~ 28A.155 RCW and in compliance with the Individuals with Disabilities Education ~~((for All Handicapped Children))~~ Act, 20 U.S.C. Sec. ~~((1401))~~ 1400 et seq.;

~~(2) ((To assure that all handicapped children have an opportunity for a free appropriate public education which emphasizes special education and related services designed to meet their unique needs;~~

~~(3) To assure that the rights of handicapped children and their parents are protected; and~~

~~(4) To assess and assure the effectiveness of efforts to educate the handicapped students.)~~ To meet the obligations of additional federal and state civil rights laws (e.g. 29 U.S.C. Sec. 794, 42 U.S.C. Sec. 12132, RCW 49.60.030) that apply to students who have a disability regardless of the student's eligibility for special education and related services.

AMENDATORY SECTION (Amending WSR 90-16-008, filed 7/19/90, effective 8/19/90)

**WAC 72-171-010 Definitions.** ~~((As used in this chapter:~~

~~(1) "Eligible student" means a student or handicapped student not otherwise incompetent, who has reached eighteen years of age.~~

~~(2) "Handicapped student" and "student" (depending upon the context in which the term is used) means:~~

~~(a) A person under the age of twenty-one, who has been determined pursuant to this chapter to have one or more of the disabilities set forth in WAC 72-171-015 or 72-171-016 and to be in need of special education and related services. Provided, That a student enrolled at the Washington state school for the blind may continue past the age of twenty-one at the superintendent's discretion; or~~

~~(b) A person under the age of twenty-one who has become a focus of concern and who may have one or more of the disabilities set forth in WAC 72-171-015 or 72-171-016 in the judgment of the school superintendent or his or her designee, or the parent(s), or the eligible student; or~~

~~(c) The foregoing categories of persons--notwithstanding the fact the person(s) may not be enrolled in or attending school in~~

~~the normal sense of the term "student."~~

~~(3) "Parent" means a natural parent, a legal guardian, an adult person acting as a parent, or a surrogate parent who has been appointed in accordance with WAC 72-171-650, who represents a nonadult student. The term does not include the state if the child is a dependent of the state.~~

~~(4) "School" means Washington state school for the blind.~~

~~(5) "Assessment" means procedures used in accordance with WAC 72-171-110 through 72-171-130 to determine whether a student is visually handicapped or deaf-blind and/or the nature and extent of the special education and related services that the student needs. The term means procedures used selectively with an individual student and does not include basic tests administered to or procedures used with all students in a school, grade, or class.~~

~~The purposes of assessment are to:~~

~~(a) Measure the student's present level of educational performance to identify the student's unique needs, abilities, and limitations;~~

~~(b) Draw conclusions regarding the significance of the findings as related to the student's instructional program;~~

~~(c) Provide appropriate personnel with information for determining appropriate placement and developing the individualized education program in accordance with WAC 72-171-240; and~~

~~(d) Assure appropriate identification of the handicapping condition.~~

~~(6) "Current assessment" means:~~

~~(a) Intellectual assessment data shall be considered current if obtained during a one calendar year period prior to the formal assessment or if obtained during the formal assessment period.~~

~~(b) Academic assessment data, including perceptual assessment data, shall be considered "current" if obtained during a ninety calendar day period prior to formal assessment or if obtained during the formal assessment period.~~

~~(c) Psychological and social assessment data shall be considered "current" if obtained during a thirty calendar day period prior to formal assessment or if obtained during the formal assessment period.~~

~~(d) Adaptive behavior assessment data, including vocational and career assessment data, shall be considered "current" if obtained during a ninety calendar day period prior to formal assessment or if obtained during the formal assessment period.~~

~~(e) Speech/language (communication skills) assessment data shall be considered "current" if obtained during a ninety calendar day period prior to formal assessment or if obtained during the formal assessment period.~~

~~(f) Vision screening and audiological assessment data shall be considered "current" if obtained during a one calendar year period prior to formal assessment or if obtained during the formal assessment period.~~

~~(g) Medical assessment data shall be considered "current" if obtained during a one hundred eighty calendar day period prior to formal assessment or if obtained during the formal assessment period.~~

~~(7) "Reassessment" means procedures used in accordance with WAC 72-171-110 through 72-171-130 to determine the student's eligibility for and need for continuing special education and related services pursuant to WAC 72-171-430(2).~~

~~(8) "Consent" means that:~~

~~(a) The parent (or eligible student) has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language or other mode of communication, including being informed of existing assessment data to be used within the definitions of current assessment;~~

~~(b) The parent (or eligible student) understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) which will be released and to whom; and~~

~~(c) The parent (or eligible student) understands that the granting of consent is voluntary on the part of the parent (or eligible student) and may be revoked at any time.~~

~~(9) "Special education" has the meaning given that term by WAC 392-171-315.~~

~~(10) "Related services" has the meaning given that term by WAC 392-171-320.~~

~~(11) "Superintendent" means the superintendent of the Washington state school for the blind.) The definitions set forth in WAC 392-172-035, 392-172-040, 392-172-045, 392-172-055, 392-172-065, 392-172-070, 392-172-073, and 392-172-075 are hereby incorporated by reference into this chapter and should be referred to if necessary. The Washington state school for the blind, a "public agency" as defined in WAC 392-172-035 (6) (c), is a "state-operated program."~~

AMENDATORY SECTION (Amending WSR 90-16-008, filed 7/19/90, effective 8/19/90)

**WAC 72-171-015 Definition and eligibility criteria for visually handicapped.** ((WAC 392-171-446 shall be applicable to all students provided for by this chapter.)) The definition and eligibility criteria in WAC 392-172-142 are adopted by reference.

AMENDATORY SECTION (Amending WSR 90-16-008, filed 7/19/90, effective 8/19/90)

**WAC 72-171-016 Definition and eligibility criteria for deaf-blind.** ((WAC 392-171-451 shall be applicable to all students provided for by this chapter.)) The definition and eligibility

criteria in WAC 392-172-144 are adopted by reference.

AMENDATORY SECTION (Amending WSR 90-16-008, filed 7/19/90, effective 8/19/90)

**WAC 72-171-110 General areas of ((assessment)) evaluation.**  
(~~The assessment of a student shall be in all areas related to the suspected disability. The assessment procedures outlined in this chapter are to be considered minimal, required procedures. Where concerns are indicated as judged by the multidisciplinary team, additional or more in-depth assessment in each of the following areas shall be conducted.~~

(1) ~~Scholastic assessment. This area may include assessment of the intellectual, language and communication, academic and cognitive development of the student, and any other scholastic area as deemed appropriate by the multidisciplinary team.~~

(2) ~~Physical assessment. This area may include a review of the general health status of the student, vision screening and complete audiological examination, oral-peripheral examination, evaluation of musculo-skeletal, neurological, and developmental modalities, and any other physical area as deemed necessary by the multidisciplinary team.~~

(3) ~~Adjustment assessment. This area may include assessment of the social skills and emotional status of the student, career and vocational assessment, and assessment of adaptive behaviors (e.g., self-help, interpersonal communication, survival skills, and practical application of academic skills).)~~ WAC 392-172-106 is adopted by reference.

AMENDATORY SECTION (Amending WSR 90-16-008, filed 7/19/90, effective 8/19/90)

**WAC 72-171-120 ((~~General assessment safeguards--Personnel, materials, and~~) Evaluation procedures.** (~~Every student who is assessed or reassessed shall be assessed according to the procedures established in this chapter.~~

(1) ~~The initial assessment of a student shall be made by a multidisciplinary team (i.e., a group of professionals) including at least one special education teacher and at least one person qualified to conduct individual diagnostic assessment in the area of suspected disability. In a reassessment of a student, the multidisciplinary team also shall include a representative from each service area involved in the student's individualized education program and such other professional service providers as~~

~~recommended by any professional involved in the reassessment. Each member of the team shall be licensed, registered, credentialed, or certificated according to his or her professional standards in accordance with state statutes and rules.~~

~~(2) No single test instrument or single procedure shall be the sole criterion for determining a student's eligibility and/or for determining the appropriate educational program for a student.~~

~~(3) Assessment materials, procedures, and instruments used for the purpose of assessment and placement shall be selected and administered so as not to be racially or culturally or educationally discriminatory.~~

~~(4) All tests and other evaluation materials shall have been validated for the specific purpose for which they are used and shall accurately reflect whatever factors the tests purport to measure. If properly validated tests are unavailable, the professional judgment of each member of the multidisciplinary team may determine eligibility for special education based on other evidence of the existence of a specific handicap and need. This professional judgment shall be documented in a written narrative.~~

~~(5) All tests and other evaluation materials shall be administered by qualified personnel in conformance with the instructions of their producer. Tests designed to measure intellectual functioning shall be administered and interpreted by a qualified psychologist. Provided, That cognitive tests for developmentally delayed students other than an intelligence quotient test shall be administered by a qualified psychologist or by professionals with other titles who have considerable training and experience in individual psychological or psychoeducational assessment.~~

~~(6) Assessment materials, procedures, or instruments shall be provided and administered in a student's native language or mode of communication, unless it is clearly not feasible to do so. Tests shall be selected and administered so as to ensure that the test results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors the test purports to measure).~~

~~(7) In interpreting assessment data and in making placement recommendations, the assessment team shall:~~

~~(a) Collect and review information from a variety of sources, including but not limited to all available existing academic, medical, and other records pertinent to the suspected handicapping condition(s) of the student, aptitude and achievement tests, teacher recommendations or recommendations of related service providers, physical condition, social or cultural background, and adaptive behavior;~~

~~(b) Ensure that information obtained from all of these sources is documented and carefully considered.~~

~~(8) Assessment data shall be summarized in writing, dated, and signed by each person conducting an assessment. Information used to support the assessment, but which is not incorporated into the file, (e.g., review of health record), shall be referenced as to~~



~~date of record, location, and source person. The summaries shall specify the procedures and instruments used, the results obtained, and the apparent significance of findings as related to the student's instructional program, including a description of the specific factors which are interfering with the student's educational performance and the special education and related services needed to assist the student in benefiting from his or her educational placement.)~~ The evaluation or reevaluation of any student shall be performed using the procedures established in chapter 392-172 WAC except as specifically provided otherwise in this chapter.

Evaluations may include assessments to identify students who present a moderate or high risk of sexually aggressive behavior or who may be vulnerable to victimization by such students, as required by RCW 72.40.270. Evaluations will be conducted by a group of qualified professionals selected by the Washington school for the blind who are knowledgeable about the student, the suspected area of disability, and in cases where assessment is required by RCW 72.40.270, sexual abuse and assault.

#### NEW SECTION

**WAC 72-171-131 Evaluation report and documentation of determination of eligibility.** WAC 392-172-10905 is adopted by reference.

AMENDATORY SECTION (Amending WSR 90-16-008, filed 7/19/90, effective 8/19/90)

**WAC 72-171-140 Independent educational ((assessment)) evaluation.** ~~((1)(a) The parent(s) of a student (or an eligible student) assessed or any student reassessed has the right to obtain an independent educational assessment, subject to subsections (3) and (4) of this section.~~

~~(b) The school shall provide to parent(s) (or eligible student), on request, information about where an independent educational assessment may be obtained.~~

~~(c) For the purposes of this section:~~

~~(i) "Independent educational assessment" means an assessment conducted by a qualified examiner who is not employed by the school responsible for the education of the student in question, and~~

~~(ii) "Public expense" means that the school either pays for the full cost of the assessment or assures that the assessment is otherwise provided at no cost to the parent (or eligible student).~~

~~(2) A parent (or eligible student) has the right to an independent educational assessment at public expense if the parent (or eligible student) disagrees with the assessment results obtained by the school, as follows:~~

~~(a) The parent(s) (or eligible student) shall provide a written notice to the superintendent which:~~

~~(i) Specifies the portion(s) of the assessment results with which the parent(s) (or eligible student) disagrees, and~~

~~(ii) Requests an independent educational assessment at public expense;~~

~~(b) The school shall have the prior opportunity to initiate mediation or an adjudicative proceeding pursuant to WAC 72-171-600 et seq., to show that its assessment is appropriate. Provided, That the school shall provide the parent(s) (or eligible student) written notice of the election to initiate mediation or an adjudicative proceeding no later than the tenth day after the date of receipt of the parent's (or eligible student's) written notice of disagreement;~~

~~(c) If the final decision is that the school assessment is appropriate, the parent (or eligible student) still has the right to an independent educational assessment, but not at public expense; and~~

~~(d) If the school elects not to initiate an adjudicative proceeding or is not upheld by the final decision, the independent assessment requested by the parent (or eligible student) shall be provided at public expense in accordance with the same criteria which the school uses when it initiates an assessment including, but not limited to, the location of the assessment and the qualifications of the examiner.~~

~~(3) If the parent (or eligible student) obtains an independent educational assessment at private expense, the results of the assessment:~~

~~(a) Shall be considered by the school in any decision made with respect to the provision of special education and related services to the student; and~~

~~(b) May be presented as evidence at the adjudicative proceeding regarding that student.~~

~~(4) If the administrative law judge requests an independent educational assessment as part of the adjudicative proceeding, such assessment shall be at public expense.) WAC 392-172-150 is adopted by reference.~~

AMENDATORY SECTION (Amending WSR 90-16-008, filed 7/19/90, effective 8/19/90)

**WAC 72-171-150 Admission and placement--Annual review.** ((In accordance with the least restrictive environment mandate of Public Law 94-142: A student may be admitted and enrolled at the

~~Washington state school for the blind when:~~

~~(1) The school district of that student's residence refers the student or agrees that the student can be served at the Washington state school for the blind;~~

~~(2) The student's parents request that their child be served through the educational program available at the Washington state school for the blind;~~

~~(3) Assessment pursuant to the procedures in this chapter has been completed and vision loss or impairment is documented;~~

~~(4) Upon completion of assessment pursuant to this chapter, the multidisciplinary team described in WAC 72-171-120(1), the parents and a representative of the school district of the student's residence shall meet and consider the following to determine the most appropriate placement for the student:~~

~~(a) The summaries of assessment data pursuant to WAC 72-171-130;~~

~~(b) The nature and extent of the specific special education and related services needed by the student, if any;~~

~~(c) Any inconsistent or contradictory information and/or opinions evidenced in the assessment data, if any;~~

~~(d) The availability and identity of current educational programs appropriate to the student's needs, and~~

~~(e) The parent(s') and school district's commitment to work in cooperation to meet the student's needs, and~~

~~(5) The multidisciplinary team described in WAC 72-171-120(1) recommends placement at the Washington state school for the blind.)~~ (1) Upon a referral for admission and placement from a parent, legal guardian, emancipated minor, adult student, or local educational agency (LEA), a Washington state school for the blind admissions team will assess the appropriateness of placement of a visually impaired student residing in the state of Washington as provided for under this chapter.

(2) Applications for placement shall be in writing and shall include the reason for referral. Reasons for referral to the state school for the blind may include, but are not limited to: Vision specific services not readily available in the local school district, need for more intensive vision specific services, adaptive aids and appliances, greater array of vision support services, social skill development, leisure time skill development, and organization skill development.

(3) The LEA will be notified if the referral is from a parent and the student's records will be requested. The following records must be received prior to review by the school's admissions team: Complete application materials, most recent IEP, most recent three-year summary assessment or evaluation, psychological records, transcripts (for high school students), all records subject to disclosure under RCW 28A.225.330, including, but not limited to: History of disciplinary actions, criminal or violent behavior, or other behavior that indicates the student could be a threat to the safety of educational staff or other students.

(4) The admissions team shall review the records and if the information is complete, determine whether to proceed with or terminate the application.

(5) Placement of a student at the state school for the blind shall be determined at a meeting conducted pursuant to WAC 72-171-210.

(6) The determination of the appropriate placement for a student shall be based upon:

(a) The student's individualized education program (IEP);

(b) The least restrictive environment requirements of WAC 392-172-172;

(c) The placement option(s) that provides a reasonably high probability of assisting the student to attain his or her annual goals;

(d) A consideration of any potential harmful effect on the student or on the quality of services which he or she needs; and

(e) The status of the student as an adjudicated sex offender classified as risk Level II or III in the state of Washington or the equivalent under the laws of the state in which the student resides.

(7) The decision on the educational placement shall be made by a group of persons, including the parents, the LEA, and other persons knowledgeable about the student, the evaluation data, and the placement options.

(8) Pursuant to RCW 72.40.040(4) and 72.40.050(2), admission and retention at the Washington state school for the blind may be denied for a student who is an adjudicated sex offender.

(9) The educational placement of each student shall be determined at least annually at a meeting conducted pursuant to WAC 72-171-210.

AMENDATORY SECTION (Amending WSR 90-16-008, filed 7/19/90, effective 8/19/90)

WAC 72-171-210 IEP meetings. (~~(1) The school shall hold a meeting for the purpose of developing a student's individualized education program within thirty calendar days of the determination that the student is in need of special education and related services currently available at the school.~~

~~(2) Meetings consistent with this section shall be held by the school at least once a year for the purpose of reviewing and revising as necessary each student's IEP.)~~ WAC 392-172-156 is adopted by reference.

AMENDATORY SECTION (Amending WSR 90-16-008, filed 7/19/90, effective 8/19/90)

~~WAC 72-171-220 Participants in IEP meetings. ((+1) Each IEP meeting shall include the following participants:~~

~~(a) A representative of the school other than the student's teacher who is qualified to provide or supervise the provision of special education and related services;~~

~~(b) The student's teacher;~~

~~(c) One or both parents, subject to WAC 72-171-230;~~

~~(d) The student, if appropriate or the eligible student, and~~

~~(e) Other individuals at the discretion of the school, parent(s), or eligible student. Either the teacher or school representative should be qualified in the area of the student's disability.~~

~~(2) IEP meetings involving a student who has been assessed for the first time shall include the following participant in addition to those enumerated as follows: A member of the student's assessment team who is knowledgeable about the assessment procedures used and is familiar with the results of the evaluation.) WAC 392-172-153 is adopted by reference.~~

Involvement and participation of the LEA at meetings in which a decision is to be made relating to the educational placement of the student is considered essential for meaningful discussion to occur. A representative of the student's LEA will be invited to meetings involving an IEP, transition services, or placement. The LEA representative should be an individual who is knowledgeable about the availability of resources of the LEA, authorized to allocate resources, or develop collaborative requests for funding to establish programs to meet the extraordinary program needs. If the LEA representative is unable to attend the meeting, Washington state school for the blind staff shall keep the representative informed of the meeting and obtain information that will assist in the provision of services.

AMENDATORY SECTION (Amending WSR 90-16-008, filed 7/19/90, effective 8/19/90)

WAC 72-171-230 Parent participation and involvement. ((+1) The school shall take steps to ensure (in the case of nonadult students) that one or both parents of the handicapped student are present at each meeting or are afforded the opportunity to participate, including:

(a) Notifying the parent(s) of the meeting early enough to ensure his or her participation, and

(b) Scheduling the meeting at a mutually agreed upon place and time.

(2) The notice to the parent(s) shall include the purpose,

time, and location of the meeting and who will be in attendance.

~~(3) If a parent cannot attend, the school shall use other methods to ensure participation, including individual or conference telephone calls.~~

~~(4) A meeting may be conducted (in the case of a nonadult student) without a parent in attendance if the school is unable to convince the parents they should attend. In such a case the school shall make a record of its attempts to arrange a mutually agreed upon time and place. The record shall contain such information as:~~

~~(a) Detailed records of telephone calls made or attempted and the results of those calls;~~

~~(b) Copies of correspondence sent to the parent(s) and any responses received; and~~

~~(c) Detailed records of visits made to the parent's home or place of employment and the results of those visits.~~

~~(5) The school shall take whatever action is necessary to ensure that the parent (or eligible student) understands the proceedings at a meeting, including arranging for an interpreter for parents (or eligible students) who are deaf or whose native language is other than English.~~

~~(6) The school shall document the parent(s') and other IEP participants' presence at the IEP meeting.~~

~~(7) The school shall provide the parent a copy of the IEP upon request.)~~ WAC 392-172-15700 and 392-172-15705 are adopted by reference.

Inclusion of an LEA representative in meetings with the parent(s) will be encouraged and appropriate notice to the parent(s) will be provided.

AMENDATORY SECTION (Amending WSR 90-16-008, filed 7/19/90, effective 8/19/90)

WAC 72-171-240 ((Content of the IEP.)) Individualized education program. ((The individualized education program shall be developed on the basis of assessment analysis and parent input, where it is provided, and shall include:

~~(1) A statement of the student's present levels of educational performance;~~

~~(2) A statement of specific annual goals including short-term instructional objectives which are stated in terms that provide for measurement of progress, expected levels of performance, and the schedules for their accomplishments;~~

~~(3) A statement of the specific special education and related services needed by the student, and the extent to which the student will be able to participate in the regular educational program, including physical education;~~

~~(4) The IEP developed for a handicapped student whose chronological age is fourteen or above shall also include career~~

~~development and/or vocational education goals and short-term instructional objectives, where appropriate. Provided, That if the career development and/or vocational education is specially designed instruction, goals and short-term instructional objectives shall be included;~~

~~(5) The projected dates for the initiation of services and the anticipated duration of the services, including the number of school days, and the number of hours per day, and~~

~~(6) Appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the short-term instructional objectives are being met.~~

~~Nothing in this chapter may be construed as promising or guaranteeing that a handicapped student will in fact achieve the growth projected in his or her annual goals and short-term objectives.)~~ WAC 392-172-160 is adopted by reference.

NEW SECTION

**WAC 72-171-242 Individualized education program--Implementation.** WAC 392-172-158 is adopted by reference.

NEW SECTION

**WAC 72-171-244 Individualized education program--Development, review, revision--Consideration of special factors.** WAC 392-172-159 is adopted by reference.

AMENDATORY SECTION (Amending WSR 90-16-008, filed 7/19/90, effective 8/19/90)

**WAC 72-171-410 ((Reassessment.)) Reevaluation.** ((1) Each student shall be reassessed in accordance with the procedures specified in WAC 72-171-110 through 72-171-130.

(a) At a minimum, once every three years unless conditions warrant earlier reassessment, or

(b) Upon the request of the parents, an eligible student, teacher, or IEP team.

(2) If reassessment is the result of the three-year reassessment requirement, the multidisciplinary team, based on the professional judgment of the members, to a reasonable degree of

professional certainty, shall determine and document the following:

- (a) Whether the student is appropriately classified;
  - (b) Whether the student meets the continuing eligibility criteria of WAC 392-171-325(3) or 392-171-331. The basis for this determination shall be documented in a written narrative including any relevant data or assessment process used;
  - (c) Whether the current program is appropriate to the student's unique needs, abilities, and limitations;
  - (d) Whether assessment procedures should be replicated or conducted by members of the multidisciplinary team or other professionals not represented on the multidisciplinary team to provide reasonable professional certainty that the reassessment results are accurate. In making such determination, members of the multidisciplinary team shall be governed by the generally recognized professional practice standards of their respective disciplines. Members of the multidisciplinary team shall defer to the professional judgment of a team member who requests the replication or conduction of a particular assessment procedure.)
- WAC 392-172-182 through 392-172-190 are adopted by reference.

The student's LEA should continue to be involved in the planning for any student who is enrolled at the Washington state school for the blind, therefore, the group of individuals referred to in the reevaluation procedures adopted by reference should include a representative of the LEA.

**((NOTICE REQUIREMENTS)) PROCEDURAL SAFEGUARDS**

AMENDATORY SECTION (Amending WSR 90-16-008, filed 7/19/90, effective 8/19/90)

**WAC 72-171-500** When prior notice must be given. ((Written notice in accordance with WAC 72-171-510 shall be given to the parent(s) (or the eligible student) a reasonable time before the school:

(1) Proposes to initiate or change the identification, evaluation, or educational placement of the student or the provision of special education and related services to the student pursuant to this chapter, or

(2) Refuses to initiate or change the identification, evaluation, or educational placement of the student or the provision of special education and related services to the student pursuant to this chapter.)) WAC 392-172-302 is adopted by reference. Where the adopted rule refers to WAC 392-172-306, refer to WAC 72-171-510.



AMENDATORY SECTION (Amending WSR 90-16-008, filed 7/19/90, effective 8/19/90)

**WAC 72-171-510 Contents of ((the)) prior written notice.**  
~~((1) The notice required by WAC 72-171-500 shall include:~~  
~~(a) A full explanation of all of the procedural safeguards available to the parent(s) (or eligible student) under this chapter;~~  
~~(b) A description of the action proposed or refused by the school, and explanation of why the school proposes or refuses to take the action, and a description of any options the school considered and the reasons why those options were rejected;~~  
~~(c) A description of each evaluation procedure, test, record, or report used as a basis for the proposal or refusal, and~~  
~~(d) A description of any other factors which are relevant to the school's proposal or refusal.~~  
~~(2) The notice shall be:~~  
~~(a) Written in language understandable to the general public;~~  
and  
~~(b) Provided in the native language of the parent (or eligible student) or other mode of communication used by the parent (or eligible student), unless it is clearly not feasible to do so.~~  
~~(3) If the native language or other mode of communication of the parent (or eligible student) is not a written language, the school shall take steps to ensure that:~~  
~~(a) The notice is translated orally or by other means to the parent (or eligible student) in his or her native language or other mode of communication;~~  
~~(b) The parent (or eligible student) understands the content of the notice, and~~  
~~(c) There is written evidence that the requirements in (a) and (b) of this subsection have been met.)~~ WAC 392-172-306 is adopted by reference. Where the adopted rule refers to WAC 392-172-302, refer to WAC 72-171-500.

NEW SECTION

**WAC 72-171-512 Parent consent.** WAC 392-172-304 is adopted by reference. Where the adopted rule refers to WAC 392-172-185 (reevaluation), refer to WAC 72-171-120.

NEW SECTION

**WAC 72-171-514 Transfer of parental rights at age of majority.** WAC 392-172-309 is adopted by reference.

NEW SECTION

**WAC 72-171-550 Mediation.** In order to ensure that mediation is available to resolve disagreements concerning the identification, evaluation, educational placement of the student or provision of FAPE to the student, and disputes involving any matter where a hearing is requested under this chapter, WAC 392-172-310 through 392-172-317 are adopted and incorporated by reference.

**((HEARINGS)) DUE PROCESS PROCEDURES**

NEW SECTION

**WAC 72-171-601 Due process rights and procedures.** (1) Hearing rights and procedures shall be consistent with the requirements applicable to public agencies in WAC 392-172-350 through 392-172-364, which are adopted by reference.

(2) A parent, adult student, or the superintendent (or designee) may initiate a hearing in any of the matters and for the purposes stated in WAC 392-172-350(1).

(3) Where the adopted rule refers to WAC 392-172-150 (independent educational evaluation), refer to WAC 72-171-140.

NEW SECTION

**WAC 72-171-605 Request for hearing, notice by parent.** In addition to the information required in WAC 392-172-350(2), the parent, adult student, or the attorney representing the student must provide notice (which must remain confidential) to the Washington state school for the blind in a request for a hearing to the office of the superintendent of public instruction. The notice

must include:

- (1) The name of the student;
- (2) The address of the residence of the student;
- (3) The name of the school the student is attending;
- (4) A description of the nature of the problem of the student relating to the proposed initiation or change, including facts relating to the problem; and
- (5) A proposed resolution of the problem to the extent known and available to the parents at the time.

AMENDATORY SECTION (Amending WSR 90-23-055, filed 11/19/90, effective 12/20/90)

**WAC 72-171-650 Surrogate parents.** (~~((1) The school shall ensure that the rights of the nonadult student are protected when:~~

~~(a) No parent (as defined in WAC 72-171-010(3)) can be identified;~~

~~(b) The school, after reasonable efforts, cannot discover the whereabouts of a parent; or~~

~~(c) The student is a ward of the state.~~

~~(2) Duty of school. The duty of the school under this section includes the assignment of a person to act as a surrogate for the parents. This duty includes the establishment of a method:~~

~~(a) For determining whether a nonadult student needs a surrogate parent, and~~

~~(b) For assigning a surrogate parent to the student.~~

~~(3) Criteria for selection of surrogates. The school shall ensure that a person selected as a surrogate:~~

~~(a) Has no interest that conflicts with the interests of the student he or she represents; and~~

~~(b) Has knowledge and skills that assure adequate representation of the student.~~

~~(4) Nonemployee requirement--Compensation:~~

~~(a) A person assigned as a surrogate may not be an employee of the school and/or other agency which is involved in the education or care of the student; and~~

~~(b) A person who otherwise qualifies as a surrogate parent pursuant to this section is not an "employee" of the school and/or other agency solely because he or she is paid by the school and/or agency to serve as a surrogate parent.~~

~~(5) Responsibilities. A surrogate parent may represent the student in all matters relating to:~~

~~(a) The identification, assessment, and educational placement of the student; and~~

~~(b) The provision of free special education and related services to the student.)~~

WAC 392-172-308 is adopted by reference. The definition of "parent" in WAC 392-172-035(5) is adopted by reference in WAC 72-171-010.

NEW SECTION

**WAC 72-171-710 Aversive interventions.** WAC 392-172-388 through 392-172-396 are adopted by reference.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 72-171-100	Initial assessment.
WAC 72-171-130	Summary analysis of assessment data.
WAC 72-171-200	Definition.
WAC 72-171-400	Annual review of placement and student progress--Program evaluation.
WAC 72-171-420	Reassessment purposes.
WAC 72-171-430	Reassessment notice.
WAC 72-171-600	Right to initiate.
WAC 72-171-610	Hearing rights.
WAC 72-171-620	Timeline for decision.
WAC 72-171-630	Petition for review.
WAC 72-171-640	Student's status during proceedings.
WAC 72-171-700	Administration of medication.