

[Statutory Authority: RCW 42.17.370(1). 96-01-103, § 390-20-110, filed 12/19/95, effective 1/19/96. Statutory Authority: RCW 42.17.390. 95-01-074A, § 390-20-110, filed 12/16/94, effective 1/16/95. Statutory Authority: RCW 42.17.370. 93-04-072, § 390-20-110, filed 1/29/93, effective 3/1/93; 90-22-018, § 390-20-110, filed 10/29/90, effective 11/29/90. Statutory Authority: RCW 42.17.370(1). 87-05-001 (Order 87-01), § 390-20-110, filed 2/5/87; 85-24-020 (Order 85-05), § 390-20-110, filed 11/26/85; 84-05-018 (Order 84-01), § 390-20-110, filed 2/10/84; Order 62, § 390-20-110, filed 8/26/75.]

Reviser's note: Notice of Objection: The Joint Administrative Rules Review Committee finds that WAC 390-20-110 has not been modified, amended, withdrawn, or repealed by the Public Disclosure Commission so as to conform with the intent of the Legislature as expressed in RCW 42.17.170 and 42.17.180. Therefore, pursuant to its authority under RCW 34.04.240, this notice of objection is filed.

The Joint Committee finds that WAC 390-20-110 requires the disclosure of information from lobbyists' employers which RCW 42.17.170 specifically excludes from reporting by lobbyists. It is the opinion of the Joint Committee that the Commission is attempting to obtain information from lobbyists' employers which the Commission would not otherwise be able to obtain from lobbyists themselves. This would thwart the express intent of the Legislature that such information is inappropriate for reporting. WAC 390-20-110 would effectively neuter the reporting exemptions in RCW 42.17.170--the Commission would have the information. This is not what the Legislature intended. [Joint Administrative Rules Review Committee, Memorandum, August 16, 1984--Filed August 28, 1984, WSR 84-18-014.]

Title 392 WAC

PUBLIC INSTRUCTION, SUPERINTENDENT OF

Chapters

- 392-121 Finance—General apportionment.
- 392-122 Finance—Categorical apportionment.
- 392-140 Finance—Special allocations, instructions, and requirements.
- 392-141 Transportation—State allocation for operations.
- 392-142 Transportation—Replacement and depreciation allocation.
- 392-162 Special service program—Learning assistance.
- 392-169 Special service programs running start program.
- 392-171 Special education programs—Education for all handicapped children.
- 392-172 Rules for the provision of special education to special education students.

Chapter 392-121 WAC

FINANCE—GENERAL APPORTIONMENT

WAC

- 392-121-106 Definition—Enrolled student.
- 392-121-107 Definition—Course of study.
- 392-121-182 Alternative learning experience requirements.
- 392-121-188 Contracting with an agency.
- 392-121-201 Definition—Agency certificated employee.
- 392-121-205 Definition—District certificated instructional employee.

- 392-121-206 Definition—Agency certificated instructional employee.
- 392-121-210 Definition—Basic education certificated instructional employee.
- 392-121-215 Definition—Full-time equivalent (FTE) basic education certificated instructional staff.
- 392-121-220 Definition—S-275 reporting process.
- 392-121-225 Definition—Report S-275.
- 392-121-245 Definition—Certificated years of experience.
- 392-121-255 Definition—Academic credits.
- 392-121-257 Definition—In-service credits.
- 392-121-259 Definition—Nondegree credits.
- 392-121-261 Definition—Total eligible credits.
- 392-121-262 Definition—Additional criteria for all credits.
- 392-121-270 Placement of basic education certificated instructional employees on LEAP salary allocation documents.
- 392-121-280 Placement on LEAP salary allocation documents—Documentation required.
- 392-121-295 Definition—District average staff mix factor for basic education certificated instructional staff.

WAC 392-121-106 Definition—Enrolled student.

As used in this chapter, "enrolled student" means a person residing in Washington state who:

(1) Is eligible to enroll in the school district's education programs because he or she:

(a) Resides in the school district with or without an address (RCW 28A.225.010, 28A.225.160 and 28A.225.215);

(b) Resides on a United States reservation, national park, national forest, or Indian reservation contiguous to the school district (RCW 28A.225.170);

(c) Resides in a school district not offering the grade for which they are eligible to enroll such as a nonhigh district (RCW 28A.225.210);

(d) Has been released from the school district he or she resides in and has been accepted by the school district claiming enrollment (RCW 28A.225.225 and 28A.225.230);

(e) Will be attending the school district as part of an interdistrict cooperative program (RCW 28A.225.250); or

(f) Will be attending school in a school district in another state per a reciprocity agreement pursuant to RCW 28A.225.260.

(2) After the close of the prior school year has presented himself or herself, or has been presented, to the school district's appropriate official to be entered on the school district's rolls for the purpose of attending school in grades kindergarten through twelve;

(3) Is under twenty-one years of age at the beginning of the school year;

(4) Actually participated on a school day during the first four school days of the current school term (semester or quarter), or on a school day during the current school term on or prior to the date being counted, in a course of study offered by the school district as defined in WAC 392-121-107; and

(5) Does not qualify for any of the enrollment exclusions set forth in WAC 392-121-108.

[Statutory Authority: RCW 28A.150.290. 95-10-011 (Order 95-03), § 392-121-106, filed 4/25/95, effective 5/26/95; 95-01-013, § 392-121-106, filed 12/8/94, effective 1/8/95. Statutory Authority: RCW 28A.41.055 and 28A.41.170. 88-03-013 (Order 88-8), § 392-121-106, filed 1/11/88.]

WAC 392-121-107 Definition—Course of study. As used in this chapter, "course of study" means those activities for which students enrolled pursuant to chapters 180-16, 180-

50, 180-51, 392-169 and 392-134 WAC may be counted as enrolled students for the purpose of full-time equivalent student enrollment counts.

(1) Course of study includes:

(a) Instruction - teaching/learning experiences conducted by the school district staff as directed by the administration and the board of directors of the school district, inclusive of intermissions for class changes, recess and teacher/parent-guardian conferences that are planned and scheduled by the district for the purpose of discussing students' educational needs or progress, and exclusive of time for meals.

(b) Alternative learning experience - alternative learning experience conducted by the school district in conformance with WAC 392-121-182.

(c) Contracting - with a higher education institution in conformance with WAC 392-121-183.

(d) National guard - participation in a national guard high school career training program for which credit is being given toward either required or elective high school credits pursuant to RCW 28A.305.170 and WAC 180-50-320. Such participation may be counted as a course of study only by the school district which the individual last attended.

(e) Ancillary service - service provided to part-time students, private school students and home-based students by the school district in conformance with chapter 392-134 WAC. Except for services to students with a disability and home/hospital students, only those services provided by school district staff on school grounds or facilities controlled by the school district can be counted as a course of study. School districts report the number of hours of ancillary service annually to the superintendent of public instruction.

(f) Work based learning - training provided pursuant to WAC 180-50-315. One hour per scheduled school day may be counted for not less than four hundred five hours of scheduled work experience.

(g) Running start - attendance at an institution of higher education pursuant to RCW 28A.600.300 through 28A.600.400, chapter 392-169 WAC.

(h) Transition school - participation in the University of Washington's transition school and early entrance program pursuant to RCW 28A.185.040, and chapter 392-120 WAC. Such participation shall be reported by the University of Washington and shall not be reported by a school district.

(i) Technical college direct funding - enrollment at a technical college pursuant to RCW 28A.150.275 and WAC 392-121-187. Such participation shall be reported by the technical college and shall not be reported by a school district unless the technical college and the school district agree to have the school district report such enrollment.

(j) Contracting - with an agency pursuant to WAC 392-121-188.

(k) Contracting - with a public or nonpublic school agency for students with a disability in accordance with WAC 392-171-496.

(2) Course of study does not include:

(a) Home-based instruction pursuant to RCW 28A.225.010(4);

(b) Private school instruction pursuant to chapter 28A.195 RCW;

(c) Adult education as defined in RCW 28B.50.030(12);

(d) Instruction provided to students who do not reside in Washington state (RCW 28A.225.260);

(e) Enrollment in state institutions, i.e., state operated group homes, county juvenile detention centers, state institutions for juvenile delinquents, and state residential habilitation centers;

(f) Instruction preparing a student for the general education development (GED) test if such instruction generates state or federal moneys for adult education;

(g) Enrollment in education centers;

(h) Enrollment in the Washington state school for the deaf and the Washington state school for the blind; or

(i) Extracurricular and before and after school activities offered outside the regular curriculum.

[Statutory Authority: RCW 28A.150.290. 95-18-097, § 392-121-107, filed 9/6/95, effective 10/7/95; 95-01-013, § 392-121-107, filed 12/8/94, effective 1/8/95. Statutory Authority: 1990 c 33, 90-16-002 (Order 18), § 392-121-107, filed 7/19/90, effective 8/19/90. Statutory Authority: RCW 28A.41.055 and 28A.41.170. 88-03-013 (Order 88-8), § 392-121-107, filed 1/11/88.]

WAC 392-121-182 Alternative learning experience requirements. An alternative learning experience may be counted as a course of study. An alternative learning experience is an individualized course of study for a student who is not home-based pursuant to RCW 28A.225.010(4), a private school student pursuant to RCW 28A.225.010 (1)(a), or an adult education student. The alternative learning experience is provided in accordance with a written alternative learning experience plan that is implemented pursuant to the school district board's policy for alternative learning experiences. The school district board policy must have been adopted in a public meeting. The alternative learning experience is provided by the school district and may be conducted in part outside of the regular classroom. A portion of the alternative learning experience may be provided by the student's parent(s) or guardian under supervision by the school district. Such alternative learning experience may be counted as a course of study pursuant to WAC 392-121-107 if the following requirements are met:

(1) School district board policies for alternative learning experiences — Effective January 1, 1996, each school district claiming basic education funding for alternative learning experiences shall have written policies on file that:

(a) Require a written plan for each student participating in an alternative learning experience that meets the minimum criteria pursuant to subsection (2) of this section;

(b) Require that all alternative learning experience curriculum and course requirements be approved by the school district;

(c) Describe how student performance will be supervised, evaluated, and recorded by school district staff;

(d) Require that each student's educational progress will be reviewed at least once during the first twenty school days and afterwards at least once every forty-five school days and that the results of each evaluation shall be communicated to the student and if the student is in grades K-8, the student's parent or guardian. If the school district determines that a student is not substantially successful in completing the learning activities described in the written alternative learning experience plan, a revised written plan may be implemented. Any revised written plan shall be designed to enable the student to be substantially successful in completing the learning activities described in the revised written

plan within ninety school days from the date that the district first determines that the student is not substantially successful in completing the assigned learning activities included in the original written plan. If the school district determines that the student is still not substantially successful in completing their assigned learning activities after ninety school days from the date that the district first determines that the student is not substantially successful in completing the learning activities included in the original written plan, or sooner at the discretion of the school district, a plan to remove the student from the alternative program shall be devised. Such plan shall specify that the student shall be removed from the alternative program no later than the end of the current school year for a period of at least one school term. Students removed from the alternative program shall be offered the opportunity to enroll in another course of study as defined in WAC 392-121-107;

(e) A requirement that the alternative learning experience plan for each student and all records of enrollment, attendance, and total hours of participation in educational activities for the student are maintained and available for audit in the appropriate school building; and

(f) At the discretion of the school district board, the policy may describe responsibilities of the student's parent(s) or guardian including, but not limited to:

(i) Approval of the written alternative learning experience plan;

(ii) Responsibility for the parent(s) or guardian to provide or supervise a portion of the student's alternative learning experience if the parent(s) or guardian agrees; and

(iii) Requirements to meet with district staff for purposes of evaluating the student's performance and/or receiving instructions on assisting with the student's alternative learning experience. The school district board may also prescribe requirements for appointing a person to provide or supervise a portion of the student's alternative learning experience in the event the student's parent(s) or guardian will not or can not be a participant in the student's alternative learning experience;

(2) A written alternative learning experience plan is developed — Effective January 1, 1996, the alternative learning experience plan for a student shall be a written plan of instruction designed to meet the individual needs of the student, and shall be approved by a school district official and any other person(s) as required or allowed by school district policy. The written plan shall include, but not be limited to, the following elements:

(a) A schedule of the duration of the program, including beginning and ending dates;

(b) A description of the learning activities the student is expected to successfully complete. Such description shall be sufficient in detail to guide and advise the student of the expectations;

(c) A description of the teaching component(s) of the program, including where and when teaching activities will be conducted by school district staff;

(d) A description of the responsibilities of the student including a requirement that if, on average, the student attends school less than five hours a week, the student shall meet one-on-one with qualified district staff for an average minimum of sixty minutes every five school days for

instruction, review of the student's assignments, testing, and/or other learning activities. If more than one student meets with a qualified district staff member at one time, the required time is increased proportionately, for example, the requirement becomes one hundred twenty minutes if two 1.0 full-time equivalent students meet with the staff member at one time; and

(e) A reasonably accurate estimate of the average number of hours per month that the student will be engaged in learning activities to meet the requirements of the alternative learning experience plan. This estimate may be used in reporting enrollment in compliance with subsection (3) of this section and must be based upon the criteria in subsection (3)(a)(i) of this section;

(3) Reporting enrollment — Effective beginning with the 1995-96 school year the full-time equivalency of students enrolled in alternative learning experiences shall be determined based upon both (a) and (b) of this subsection as follows:

(a) Using the definition of a full-time equivalent student in WAC 392-121-122 and the number of hours that each student engages in learning activities as determined by either (a)(i) or (ii) of this subsection as follows:

(i) The total number of hours that the student engages in learning activities pursuant to the written alternative learning experience plan including:

(A) Those hours that meet the criteria in WAC 392-121-107 (1)(a);

(B) Those hours of work based learning calculated in accordance with WAC 392-121-107 (1)(f);

(C) Those hours of learning activity other than those specified in (a)(i)(A), (B) and (D) of this subsection that are provided by the student's parent(s) or guardian, or other person as designated by the written plan, under the direct supervision of the district's qualified instructional staff; and

(D) Those hours that the student participates in learning activities other than those specified in (a)(i)(A), (B) and (C) of this subsection. Such learning activity shall be pursuant to the student's alternative learning experience plan and if the student is in grades K-8, only includes those hours the student is supervised by the student's parent(s) or guardian or other person designated by the written alternative learning experience plan;

(ii) The district may use the estimated average hours per month the student is engaged in learning activities as stated in the alternative learning experience plan which meet the requirements of (a)(i) of this subsection: *Provided*, That for any count date on which the student has averaged, for the immediate two prior months during the current school year, a number of hours engaged in learning activities that differ by more than five hours a week from the alternative learning experience plan estimate pursuant to subsection (2)(e) of this section, the district shall adjust the full-time equivalency of the student for such count date to the lesser of 1.0 or the full-time equivalency calculated using the two-month average;

(b) The district shall exclude students meeting the definition of enrollment exclusions in WAC 392-121-108 or students who have not met with appropriate district staff for twenty consecutive school days. Any such student shall not be counted as an enrolled student until the student has met

with appropriate district staff and resumed participation in their alternative learning experience or participated in another course of study as defined in WAC 392-121-107;

(4) Documentation required — Effective with the 1995-96 school year the district shall keep on file in the appropriate school building and have available for audit, documentation of all hours of learning activities used to determine the student's full-time equivalency including documentation of the following:

(a) For students in grades K-8, written statements from the student's parent(s) or guardian or other person as designated by the written alternative learning experience plan. Such statements shall be submitted to the district on a monthly basis or more often at the discretion of the district and shall list those hours that the student has engaged in planned learning activities while not in the presence of district staff. Reported hours shall be used to determine the full-time equivalency of the student pursuant to subsection (3) of this section; and

(b) For students in grades 9-12, the student shall submit to the district written statements on a monthly basis or more often at the discretion of the district. Such statements shall list those hours that the student has engaged in planned learning activities while not in the presence of district staff. Reported hours shall be used to determine the full-time equivalency of the student pursuant to subsection (3) of this section;

(5) Effective with the 1995-96 school year the school district shall either:

(a) Maintain a ratio of full-time equivalent certificated instructional staff serving the annual average full-time equivalent students reported for basic education funding pursuant to this section which is at least equal to the district's basic education funding ratio for the grade band of the students being reported for basic education funding pursuant to this section; or

(b) Separately account for, document, and have available for audit, evidence that the district expends during the school year at least seventy percent of the basic education entitlement claimed for students enrolled in alternative learning experiences during the school year. Such expenditures shall be direct expenditures in the following programs as defined in the *Accounting Manual for Public School Districts in Washington State* for the school year:

- (i) Program 01, Basic Education; and/or
- (ii) Program 31, Vocational, Basic, State; and/or
- (iii) Program 45, Skills Center, Basic, State.

[Statutory Authority: RCW 28A.150.290. 95-18-097, § 392-121-182, filed 9/6/95, effective 10/7/95; 95-01-013, § 392-121-182, filed 12/8/94, effective 1/8/95. Statutory Authority: RCW 28A.150.290, 28A.150.250 and 28A.150.260. 91-02-096 (Order 50), § 392-121-182, filed 1/2/91, effective 2/2/91. Statutory Authority: RCW 28A.41.055 and 28A.41.170. 88-03-013 (Order 88-8), § 392-121-182, filed 1/11/88.]

WAC 392-121-188 Contracting with an agency.

Contracting with an agency may be counted as a course of study pursuant to WAC 392-121-107 if:

(1) Effective with the 1995-96 school year the school district board of directors in accordance with RCW 28A.320.015 adopts a resolution that concludes it is in the best interest of the students to expand the options available to providing an appropriate basic education program for

those students that are to be educated pursuant to the contract and sets forth the rationale in support of the conclusion;

(2) The school district retains full responsibility for compliance with all state and federal laws;

(3) The agency complies with all state and federal laws that are applicable to the school district;

(4) The agency serves the students at no cost to the student for tuition and fees and enrollment is voluntary and no student or person is unlawfully excluded from participation on the grounds of race, creed, color, national origin, sex, marital status, or presence of any sensory, mental, or physical handicap;

(5) Each student is enrolled in the school district reporting the enrollment and each high school student is working toward course credits which satisfy high school graduation requirements;

(6) There is a requirement that the curriculum for the student shall be approved by the district;

(7) The agency provides enrollment reports to the school district that comply with the definition of a full-time equivalent student in WAC 392-121-122, work based learning in WAC 392-121-107 (1)(f), limitations on enrollment counts in WAC 392-121-136, and enrollment exclusions in WAC 392-121-108;

(8) The agency maintains and has available for audit or review by the school district, state, or federal authorities documentation of enrollment, hours of instructional activity participated in by the students, personnel data, and financial data including all revenues and expenditures pertaining to the contract with the school district;

(9) If an agency at any time during the school year serves more than twenty-five students which equals more than one quarter of one percent (.0025) of the district's annual average full-time equivalent enrollment claimed for basic education funding the school district reports the certificated instructional employees of the agency funded with any state moneys or federal moneys that flow through the school district as required by the SPI annual personnel reporting system for calculation of state funding, staff ratios and statistics;

(10) Effective with the 1995-96 school year for the students served pursuant to the contract, the agency maintains a ratio of full-time equivalent certificated instructional staff serving the annual average full-time equivalent students reported for basic education funding pursuant to this section which is at least equal to the district's basic education funding ratio for the grade level of the students being reported for basic education funding pursuant to this section;

(11) The school district and agency execute a written contract which is consistent with this section, and which sets forth the duties of the agency in detail sufficient to hold the agency accountable to the school district; and

(12) The school district and agency establish a process for periodic on-site monitoring by the school district for compliance with this section and other terms of the contract between the school district and agency.

[Statutory Authority: RCW 28A.150.290. 95-18-097, § 392-121-188, filed 9/6/95, effective 10/7/95; 95-01-013, § 392-121-188, filed 12/8/94, effective 1/8/95.]

WAC 392-121-201 Definition—Agency certificated employee. As used in this chapter, "agency certificated employee" means a person who holds a professional education certificate issued by the superintendent of public instruction and who is employed by an agency in a position for which such certificate is required.

[Statutory Authority: RCW 28A.150.290. 95-21-096 (Order 95-09), § 392-121-201, filed 10/18/95, effective 11/18/95.]

WAC 392-121-205 Definition—District certificated instructional employee. As used in this chapter, "district certificated instructional employee" means any certificated employee except one who is employed solely as one or more of the following:

(1) Chief executive officer, chief administrative officer, or confidential employee within the meaning of RCW 41.59.020(4);

(2) Principal, assistant principal, and any person hired in any manner to fill a position designated as, or which is in fact, that of principal or assistant principal;

(3) Other district administrator, which means an employee, including an administrative assistant, director, or coordinator of a district-wide program, who directs staff members and/or manages a function, a program, or a supporting service in a school district; and

(4) Other school administrator, which means an employee including an administrative assistant, administrative intern, or supervisor of a school program, who directs staff members or manages a function, a program, or a support service in a school.

[Statutory Authority: RCW 28A.150.290. 95-21-096 (Order 95-09), § 392-121-205, filed 10/18/95, effective 11/18/95. Statutory Authority: RCW 28A.41.055 and 28A.41.170. 88-03-013 (Order 88-8), § 392-121-205, filed 1/11/88.]

WAC 392-121-206 Definition—Agency certificated instructional employee. As used in this chapter, "agency certificated instructional employee" means any agency certificated employee where:

(1) The agency, pursuant to WAC 392-121-288, serves more than twenty-five students which equals more than one-quarter of one percent (.0025) of the district's annual average full-time equivalent enrollment claimed for basic education funding; and

(2) The employee provides services to such students solely as one or both of the following:

(a) An elementary, secondary or other teacher who instructs pupils in classes or courses; or

(b) An educational staff associate who assists, evaluates, counsels, or instructs students in a manner consistent with the employee's educational staff associate certificate.

[Statutory Authority: RCW 28A.150.290. 95-21-096 (Order 95-09), § 392-121-206, filed 10/18/95, effective 11/18/95.]

WAC 392-121-210 Definition—Basic education certificated instructional employee. As used in this chapter, "basic education certificated instructional employee" means a district certificated instructional employee or an agency certificated instructional employee assigned in whole or in part to the following programs as defined in the accounting manual for public school districts in the state of Washington:

- (1) Basic education, program 01;
- (2) Vocational, basic, state, program 31;
- (3) Skills center, basic, state, program 45;
- (4) Instruction support, program 94; and
- (5) District-wide support, program 97.

[Statutory Authority: RCW 28A.150.290. 95-21-096 (Order 95-09), § 392-121-210, filed 10/18/95, effective 11/18/95; 92-23-044 (Order 92-15), § 392-121-210, filed 11/16/92, effective 12/17/92. Statutory Authority: RCW 28A.41.055 and 28A.41.170. 88-03-013 (Order 88-8), § 392-121-210, filed 1/11/88.]

WAC 392-121-215 Definition—Full-time equivalent (FTE) basic education certificated instructional staff. As used in this chapter, "full-time equivalent (FTE) basic education certificated instructional staff" means the number of staff units determined as follows:

(1) Each employee of the school district who, as of October 1 of the school year, is contracted to provide services as a basic education certificated instructional employee for not less than 180 full work days shall be counted as one FTE.

(2) Each employee of the school district who, as of October 1 of the school year, is contracted to provide services for 180 partial days as a basic education certificated instructional employee shall be counted as a partial FTE, such part to be the quotient to the nearest thousandth obtained by dividing that part of the day worked by the full day as determined by the district.

(3) Each employee of the school district who, as of October 1 of the school year, is contracted to provide services for less than 180 full work days as a basic education certificated instructional employee shall be counted as a partial FTE, such part to be the quotient rounded to the nearest thousandth obtained by dividing the number of work days contracted for by 180: *Provided*, That if the normal annual full-time contract for the position exceeds 180 work days, the greater number of work days normally contracted shall be used as the divisor.

(4) Each employee of the school district who, as of October 1 of the school year, is contracted to provide services for less than 180 partial days as a basic education certificated instructional employee shall be counted as a partial FTE, such part to be the quotient to the nearest thousandth obtained by dividing the part of the day worked by the full day as determined by the district and then multiplying the result by the ratio of work days contracted for to 180: *Provided*, That if the normal annual full-time contract for the position exceeds 180 work days, the greater number of work days normally contracted shall be used in place of 180 in the ratio.

(5) No employee shall be counted as more than one full-time equivalent basic education certificated staff unit.

(6) The length of a full work day as used in this section shall be determined by the district.

(7) As used in this section, contracts to provide services as a basic education certificated instructional employee shall exclude supplemental contract services as defined under RCW 28A.400.200(4).

[Statutory Authority: RCW 28A.150.290. 95-21-096 (Order 95-09), § 392-121-215, filed 10/18/95, effective 11/18/95. Statutory Authority: RCW 28A.41.055 and 28A.41.170. 88-03-013 (Order 88-8), § 392-121-215, filed 1/11/88.]

WAC 392-121-220 Definition—S-275 reporting process. As used in this chapter, "S-275 reporting process" means the electronic personnel reporting process which is defined annually by the superintendent of public instruction.

(1) For the 1994-95 school year, this reporting process shall include only certificated individuals employed by the district as of October 1 of the school year.

(2) For the 1995-96 school year and thereafter this reporting process shall include individuals who are known as of October 1 to be:

(a) District employees with a contract for certificated employment to provide services during the period September 1 through August 31;

(b) Classified employees, employed by the district to provide services during the period September 1 through August 31; and

(c) Agency certificated instructional employees, contracted to provide services during the period September 1 through August 31.

[Statutory Authority: RCW 28A.150.290, 95-21-096 (Order 95-09), § 392-121-220, filed 10/18/95, effective 11/18/95. Statutory Authority: RCW 28A.41.055 and 28A.41.170, 88-03-013 (Order 88-8), § 392-121-220, filed 1/11/88.]

WAC 392-121-225 Definition—Report S-275. As used in this chapter, "Report S-275" means the alphabetic listing of certificated personnel employed by a school district on October 1 as prepared by the superintendent of public instruction from data submitted by the district through the S-275 reporting process for the school year.

[Statutory Authority: RCW 28A.150.290, 95-21-096 (Order 95-09), § 392-121-225, filed 10/18/95, effective 11/18/95. Statutory Authority: RCW 28A.41.055 and 28A.41.170, 88-03-013 (Order 88-8), § 392-121-225, filed 1/11/88.]

WAC 392-121-245 Definition—Certificated years of experience. Regardless of the experience factors used by a school district for the purposes of its salary schedule(s), as used in this chapter, the term "certificated years of experience" means the number of years of accumulated full-time and part-time professional education employment prior to the current reporting school year in the state of Washington, out-of-state, and a foreign country. School districts shall report all certificated years of experience including those beyond the experience limit of the school district's salary schedule.

(1) Professional education employment shall be limited to the following:

(a) Employment in public or private preschools or elementary and secondary schools in positions which require certification where:

(i) Schools include the Centrum education program, the Pacific Science Center education program, and educational centers authorized under chapter 28A.205 RCW;

(ii) Certification means the concurrent public professional education licensing requirements established in the state, province, country, or other governmental unit in which employment occurred;

(b) Employment in public or private vocational-technical schools, technical colleges, community/junior colleges, colleges, and universities in positions comparable to those which require certification in Washington school districts;

(c) Employment in a governmental educational agency with regional administrative responsibilities for preschool, elementary, and/or secondary education including but not limited to an educational service district, office of the superintendent of public instruction, or United States department of education in any professional position including but not limited to C.P.A., architect, business manager, or physician;

(d) Experience in the following areas:

(i) Military, Peace Corps, or Vista service which interrupted professional employment included in (a), (b), or (c) of this subsection; and

(ii) Sabbatical leave.

(e) For nondegreed vocational instructors, up to a maximum of six years of management experience as defined in WAC 180-77-003 acquired after the instructor meets the minimum vocational certification requirements established in WAC 180-77-040. If a degree is obtained while employed in the state of Washington as a nondegreed vocational instructor, the eligible years of management experience pursuant to this subsection reported on Report S-275 prior to the awarding of the degree shall continue to be reported but shall not increase.

(2) Years of full-time and part-time professional education employment prior to the current reporting school year are accumulated as follows:

(a) For each professional education employment which is not employment as a casual substitute pursuant to subsection (1)(a) of this section;

(i) Determine the total number of hours per year for an employee working full-time with each employer;

(ii) Determine the number of hours per year with each employer excluding unpaid leave;

(iii) Calculate the quotient of the hours determined in (b)(i) of this subsection divided by the hours in (b)(ii) of this subsection to two decimals for each year.

(b) For professional education employment as a casual substitute pursuant to subsection (1)(a) of this section:

(i) Determine the total number of full-time equivalent substitute days per year;

(ii) Calculate the quotient of full-time equivalent days determined in (b)(i) of this subsection divided by 180 to two decimals for each year.

(c) No more than 1.0 year may be accumulated in any traditional nine-month academic year or any twelve-month period.

(i) Accumulate, for each year, professional education employment calculated in (a)(iii) and (b)(ii) of this subsection.

(ii) Determine the smaller of the result in (c)(i) of this subsection or 1.00 for each year.

(d) Determine certificated years of experience as the accumulation of all years of professional education employment calculated in (c)(ii) of this subsection and report such years to the nearest tenth.

[Statutory Authority: RCW 28A.150.290, 95-21-096 (Order 95-09), § 392-121-245, filed 10/18/95, effective 11/18/95. Statutory Authority: RCW 28A.150.290, 28A.150.400 and the Biennial Operating Appropriations Act. 94-01-190, § 392-121-245, filed 12/22/93, effective 1/22/94. Statutory Authority: RCW 28A.41.055 and 28A.41.170, 88-03-013 (Order 88-8), § 392-121-245, filed 1/11/88.]

WAC 392-121-255 Definition—Academic credits.

As used in this chapter, "academic credits" means credits determined as follows:

(1) Credits are earned after the awarding or conferring of the employee's first bachelor's degree;

(2) Credits are earned on or before October 1 of the year for which allocations are being calculated pursuant to this chapter;

(3) Credits are earned from a regionally accredited institution of higher education: *Provided*, That credits, determined eligible pursuant to subsections (1), (2), (4) and (6) of this section, earned from any other accredited community college, college, or university and reported on Form S-275 on or before December 31, 1992, shall continue to be reported;

(4) Credits are transferrable or applicable to a bachelor's or more advanced degree program: *Provided*, That for educational courses which are the same or identical no more credits for that educational course than are transferrable or applicable to a bachelor's or more advanced degree program at that institution shall be counted;

(5) Credits earned after September 1, 1995, must satisfy the additional requirements of WAC 392-121-262;

(6) Credits are not counted as in-service credits pursuant to WAC 392-121-257 or nondegree credits pursuant to WAC 392-121-259;

(7) The number of credits equals the number of quarter hours, units or semester hours each converted to quarter hours earned pursuant to this section; and

(8) Accumulate credits to the nearest tenth.

[Statutory Authority: RCW 28A.150.290, 95-21-096 (Order 95-09), § 392-121-255, filed 10/18/95, effective 11/18/95. Statutory Authority: RCW 28A.150.290, 28A.150.400 and the Biennial Operating Appropriations Act. 94-01-190, § 392-121-255, filed 12/22/93, effective 1/22/94. Statutory Authority: RCW 28A.41.055 and 28A.41.170. 88-03-013 (Order 88-8), § 392-121-255, filed 1/11/88.]

WAC 392-121-257 Definition—In-service credits.

As used in this chapter, "in-service credits" means credits determined as follows:

(1) Credits are earned:

(a) After August 31, 1987; and

(b) After the awarding or conferring of the employee's first bachelor's degree.

(2) Credits are earned on or before October 1 of the year for which allocations are being calculated pursuant to this chapter.

(3) Credits are earned in either:

(a) A locally approved in-service training program which means a program approved by a school district board of directors, and meeting standards adopted by the state board of education pursuant to the standards in WAC 180-85-200 and the development of which has been participated in by an in-service training task force whose membership is the same as provided under RCW 28A.415.040; or

(b) A state approved continuing education program offered by an education agency approved to provide in-service for the purposes of continuing education as provided for under rules adopted by the state board of education pursuant to chapter 180-85 WAC.

(4) Credits are not earned for the purpose of satisfying the requirements of the employee's next highest degree.

(5) Credits earned after September 1, 1995, must satisfy the additional requirements of WAC 392-121-262.

(6) Credits are not counted as academic credits pursuant to WAC 392-121-255 or nondegree credits pursuant to WAC 392-121-259.

(7) Ten locally approved in-service or state approved continuing education credit hours defined in WAC 180-85-030 equal one in-service credit.

(8) Accumulate credits to the nearest tenth.

[Statutory Authority: RCW 28A.150.290, 95-21-096 (Order 95-09), § 392-121-257, filed 10/18/95, effective 11/18/95. Statutory Authority: RCW 28A.150.290, 28A.150.400 and the Biennial Operating Appropriations Act. 94-01-190, § 392-121-257, filed 12/22/93, effective 1/22/94. Statutory Authority: 1990 c 33, 90-16-002 (Order 18), § 392-121-257, filed 7/19/90, effective 8/19/90. Statutory Authority: RCW 28A.41.055 and 28A.41.170. 88-03-013 (Order 88-8), § 392-121-257, filed 1/11/88.]

WAC 392-121-259 Definition—Nondegree credits.

As used in this chapter, "nondegree credits" means credits recognized for nondegree basic education certificated instructional employees as follows:

(1) Zero credits shall be recognized for persons holding a valid certificate other than a certificate included in subsection (2) or (3) of this section.

(2) Thirty credits shall be recognized for persons holding a valid continuing or standard school nurse certificate.

(3) Persons holding valid vocational certificates as provided for in chapter 180-77 WAC shall accumulate recognized credits as follows:

(a) One credit for each ten clock hours of vocational educator training meeting the requirements of WAC 180-77-003 (2), (9), or (11).

(b) One credit for each one hundred clock hours of occupational experience as defined in WAC 180-77-003(7) such that each calendar year is limited to a maximum of twenty credits.

(c) Clock hours used in determining credits in (a) and (b) of this subsection must be earned after meeting the minimum vocational certification requirements as established in WAC 180-77-041(1).

(4) Credits earned after September 1, 1995, must satisfy the additional requirements of WAC 392-121-262.

(5) Accumulate credits to the nearest tenth.

[Statutory Authority: RCW 28A.150.290, 95-21-096 (Order 95-09), § 392-121-259, filed 10/18/95, effective 11/18/95. Statutory Authority: RCW 28A.150.290, 28A.150.400 and the Biennial Operating Appropriations Act. 94-01-190, § 392-121-259, filed 12/22/93, effective 1/22/94.]

WAC 392-121-261 Definition—Total eligible credits.

As used in this chapter, "total eligible credits" means the total number of credits determined as follows:

(1) For an employee whose highest degree is a bachelor's degree, sum:

(a) Academic and in-service credits; and

(b) Nondegree credits, determined pursuant to WAC 392-121-259 and reported on Report S-275 prior to the awarding of the bachelor's degree for vocational instructors who obtain a bachelor's degree while employed in the state of Washington as a nondegree vocational instructor.

(2) For an employee whose highest degree is a master's degree, sum:

(a) Academic and in-service credits in excess of forty-five earned after the awarding or conferring of the bachelor's degree and prior to the awarding or conferring of the master's degree; and

(b) Academic and in-service credits earned after the awarding or conferring of the master's degree.

(3) For a nondegreed employee sum only nondegree credits.

[Statutory Authority: RCW 28A.150.290, 95-21-096 (Order 95-09), § 392-121-261, filed 10/18/95, effective 11/18/95. Statutory Authority: RCW 28A.150.290, 28A.150.400 and the Biennial Operating Appropriations Act. 94-01-190, § 392-121-261, filed 12/22/93, effective 1/22/94. Statutory Authority: RCW 28A.41.055 and 28A.41.170, 90-13-088 (Order 15), § 392-121-261, filed 6/20/90, effective 7/21/90.]

WAC 392-121-262 Definition—Additional criteria for all credits. Credits earned after September 1, 1995, must satisfy the following criteria in addition to those found in WAC 392-121-255, 392-121-257, and 392-121-259:

(1) At the time credits are recognized by the school district the content of the course must meet at least one of the following:

(a) It is consistent with the school district's strategic plan for improving student learning;

(b) It is consistent with a school-based plan for improving student learning developed under student learning improvement block grants for the school in which the individual is assigned;

(c) It pertains to the individual's current assignment or expected assignment for the following school year;

(d) It is necessary for obtaining endorsement as prescribed by the state board of education;

(e) It is specifically required for obtaining advanced levels of certification; or

(f) It is included in a college or university degree program that pertains to the individual's current assignment or potential future assignment as a certificated instructional staff of the school district, where the potential of the future assignment is agreed upon by the school district and the individual;

(2) Credits which have been determined to meet one or more of the criteria in subsection (1) of this section shall continue to be recognized in subsequent school years and by subsequent school district employers; and

(3) Credits not recognized in a school year may be recognized in a subsequent school year if there is a change in the qualifying criteria such as a change in state board of education rules, a change in the district's strategic plan, a change in the school-based plan for the school in which the individual is assigned, a change in the individual's assignment, or a change in the individual's employer.

[Statutory Authority: RCW 28A.150.290, 95-21-096 (Order 95-09), § 392-121-262, filed 10/18/95, effective 11/18/95.]

WAC 392-121-270 Placement of basic education certificated instructional employees on LEAP salary allocation documents. Each basic education certificated instructional employee shall be placed on LEAP salary allocation documents based on the employee's certificated years of experience, highest degree level, and total eligible credits each defined in this chapter provided that:

(1) If an employee holds more than one degree of the same level, additional credits shall be counted after the first degree.

(2) An employee whose highest degree is a bachelor's degree, whose total eligible credits are ninety or greater, and whose total eligible credits earned prior to January 1, 1992, were less than one hundred thirty-five shall be placed on the BA + 90 column.

(3) An employee whose highest degree level is nondegreed shall be placed on the BA columns except that such persons holding valid vocational certificates with one hundred thirty-five or more eligible credits shall be placed on the MA + 0 column.

(4) A vocational instructor who obtains a bachelor's degree while employed in the state of Washington as a nondegreed vocational instructor and for whom one hundred thirty-five or more eligible credits determined pursuant to WAC 392-121-259 were reported on Report S-275 prior to the awarding of that bachelor's degree shall continue to be placed on the MA + 0 column and shall not advance to any other column unless a master's degree is obtained.

(5) For placement on LEAP salary allocation documents, certificated years of experience and total eligible credits shall be rounded to the nearest whole number. One-half year or credit shall be rounded to the next highest year or credit.

[Statutory Authority: RCW 28A.150.290, 95-21-096 (Order 95-09), § 392-121-270, filed 10/18/95, effective 11/18/95. Statutory Authority: RCW 28A.150.290, 28A.150.400 and the Biennial Operating Appropriations Act. 94-01-190, § 392-121-270, filed 12/22/93, effective 1/22/94. Statutory Authority: RCW 28A.150.290, 92-23-044 (Order 92-15), § 392-121-270, filed 11/16/92, effective 12/17/92. Statutory Authority: RCW 28A.150.290 and 1990 1st ex.s. c 16 § 502, 91-02-097 (Order 51), § 392-121-270, filed 1/2/91, effective 2/2/91. Statutory Authority: RCW 28A.41.055 and 28A.41.170, 90-13-088 (Order 15), § 392-121-270, filed 6/20/90, effective 7/21/90; 88-03-013 (Order 88-8), § 392-121-270, filed 1/11/88.]

WAC 392-121-280 Placement on LEAP salary allocation documents—Documentation required. School districts shall have documentation on file and available for review which substantiates each basic education certificated instructional employee's placement on LEAP salary allocation documents. The minimum requirements are as follows:

(1) Districts shall document the date of awarding or conferring of the highest degree including the date upon which the degree was awarded or conferred as recorded on the diploma or transcript from the registrar of the regionally accredited institution of higher education.

(a) If the highest degree is a master's degree, the district shall also document the date of awarding or conferring of the first bachelor's degree.

(b) If the degree was awarded by an institution which does not confer degrees after each term, and all degree requirements were completed at a time other than the date recorded on the diploma or transcript, a written statement from the registrar of the institution verifying a prior completion date shall be adequate documentation.

(2) Districts shall document academic credits by having on file a transcript from the registrar of the regionally accredited institution of higher education granting the credits. For purposes of this subsection:

(a) An academic credit is deemed "earned" at the end of the term for which it appears on the transcript: *Provided*, That a written statement from the registrar of the institution

verifying a prior earned date may establish the date a credit was earned;

(b) Washington state community college credits numbered one hundred and above are deemed transferable for purposes of WAC 392-121-255(4) subject to the limitations of that same subsection;

(c) Credits are not deemed "earned" at an institution of higher education which transfers-in credits. Such credits must be documented using a transcript from the initial granting institution and are subject to all the limitations of WAC 392-121-255; and

(d) For credits earned after September 1, 1995, districts shall document that the course content meets one or more of the criteria of WAC 392-121-262(1). At a minimum, such documentation must include a dated signature of the immediate principal, supervisor, or other authorized school district representative and must be available to the employee's future employers.

(3) Districts shall document in-service credits;

(a) By having on file a document meeting standards established in WAC 180-85-107; and

(b) For credits earned after September 1, 1995, districts shall document that the course content meets one or more of the criteria of WAC 392-121-262(1). At a minimum, such documentation must include a dated signature of the immediate principal, supervisor, or other authorized school district representative and must be available to the employee's future employers.

(4) Districts shall document nondegree credits.

(a) For vocational educator training credits pursuant to WAC 392-121-259(3) districts shall have on file a document meeting standards established in WAC 180-85-107 and evidence that the training was authorized pursuant to WAC 180-77-003 (2), (9), or (11).

(b) For credits calculated from converted occupational experience pursuant to WAC 392-121-259(3) districts shall have on file documents which provide:

(i) Evidence that the occupational experience meets the requirements of WAC 180-77-003(7);

(ii) Evidence of the individual's actual number of hours of employment for each year including dates of employment; and

(iii) The district calculation of converted credits pursuant to WAC 392-121-259(3).

(c) For credits earned after September 1, 1995, districts shall document that the course content meets one or more of the criteria of WAC 392-121-262(1). At a minimum, such documentation must include a dated signature of the immediate principal, supervisor, or other authorized school district representative and must be available to the employee's future employers.

(5) Districts shall document certificated years of experience as follows:

(a) For certificated years of experience obtained and reported on Report S-275 prior to the 1994-95 school year districts shall have on file documents that provide evidence of employment including dates of employment.

(b) For certificated years of experience reported on Report S-275 for the first time after the 1993-94 school year districts shall have on file:

(i) The total number of hours per year for an employee working full-time with each employer;

(ii) The number of hours per year and dates of employment with each employer excluding unpaid leave: *Provided*, That documentation of hours in excess of one full-time certificated year of experience in any twelve-month period is not required;

(iii) The quotient of the hours determined in (b)(i) of this subsection divided by the hours in (b)(ii) of this subsection to two decimals for each year;

(iv) The name and address of the employer;

(v) For those counting out-of-district experience pursuant to WAC 392-121-245(1), evidence whether or not the position required professional education certification pursuant to WAC 392-121-245 (1)(b);

(vi) For those counting experience pursuant to WAC 392-121-245(2), a brief description of the previous employment which documents the school district's decision that the position was comparable to one requiring certification in the Washington school districts;

(vii) For those counting management experience pursuant to WAC 392-121-245(5), evidence that the experience meets the requirements of WAC 180-77-003(6).

(6) Any documentation required by this section may be original or copies of the original: *Provided*, That each copy is subject to school district acceptance or rejection.

(7) The falsification or deliberate misrepresentation, including omission of a material fact concerning degrees, credits, or experience by an education practitioner as defined in WAC 180-87-035 shall be deemed an act of unprofessional conduct pursuant to WAC 180-87-050. In such an event the provisions of chapters 180-86 and 180-87 WAC shall apply.

[Statutory Authority: RCW 28A.150.290. 95-21-096 (Order 95-09), § 392-121-280, filed 10/18/95, effective 11/18/95. Statutory Authority: RCW 28A.150.290, 28A.150.400 and the Biennial Operating Appropriations Act. 94-01-190, § 392-121-280, filed 12/22/93, effective 1/22/94. Statutory Authority: RCW 28A.150.290. 92-23-044 (Order 92-15), § 392-121-280, filed 11/16/92, effective 12/17/92. Statutory Authority: RCW 28A.150.290 and 1990 1st ex.s. c 16 § 502. 91-02-097 (Order 51), § 392-121-280, filed 1/2/91, effective 2/2/91. Statutory Authority: RCW 28A.41.055 and 28A.41.170. 88-03-013 (Order 88-8), § 392-121-280, filed 1/11/88.]

WAC 392-121-295 Definition—District average staff mix factor for basic education certificated instructional staff. As used in this chapter, "district average staff mix factor for basic education certificated instructional staff" means the number rounded to five decimal places determined as follows:

(1) Assign a staff mix factor to each basic education certificated instructional employee by placing the employee on the appropriate LEAP salary allocation document pursuant to WAC 392-121-270;

(2) Multiply the result by the full-time equivalency for the time each employee meets the definition of full-time equivalent basic education certificated instructional employee pursuant to WAC 392-121-215;

(3) Sum the results obtained in subsection (2) of this section for all basic education certificated instructional employees of the school district; and

(4) Divide the result by the district's total full-time equivalent basic education certificated instructional staff.

(5) For the purpose of this section basic education certificated instructional staff are those employed by the school district as of October 1 of the school year as reported to the superintendent of public instruction on Report S-275.

[Statutory Authority: RCW 28A.150.290. 95-21-096 (Order 95-09), § 392-121-295, filed 10/18/95, effective 11/18/95. Statutory Authority: RCW 28A.150.290, 28A.150.400 and the Biennial Operating Appropriations Act. 94-01-190, § 392-121-295, filed 12/22/93, effective 1/22/94. Statutory Authority: RCW 28A.150.290. 92-23-044 (Order 92-15), § 392-121-295, filed 11/16/92, effective 12/17/92. Statutory Authority: RCW 28A.150.290 and 1990 1st ex.s. c 16 § 502. 91-02-097 (Order 51), § 392-121-295, filed 1/2/91, effective 2/2/91. Statutory Authority: RCW 28A.41.055 and 28A.41.170. 88-03-013 (Order 88-8), § 392-121-295, filed 1/11/88.]

Chapter 392-122 WAC

FINANCE—CATEGORICAL APPORTIONMENT

WAC

392-122-205	State institutional education program—Eligible programs.
392-122-214	Repealed.
392-122-221	Definition—State institutional education program—Enrollment exclusions.
392-122-230	Definition—State institutional education program—Annual average full-time equivalent (AAFTE) institutional education students.
392-122-260	Repealed.
392-122-275	State institutional education program—School district reporting.
392-122-900	General provision—Carryover prohibition.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

392-122-214	Definition—State institutional education program—Court-involved. [Statutory Authority: RCW 28A.150.290. 92-03-045 (Order 92-03), § 392-122-214, filed 1/10/92, effective 2/10/92.] Repealed by 95-08-025, filed 3/29/95, effective 4/29/95. Statutory Authority: RCW 28A.150.290.
392-122-260	State institutional education program—Basic education funding for state learning centers. [Statutory Authority: RCW 28A.150.290. 92-03-045 (Order 92-03), § 392-122-260, filed 1/10/92, effective 2/10/92. Statutory Authority: RCW 28A.41.170. 84-20-078 (Order 84-36), § 392-122-260, filed 10/2/84.] Repealed by 95-08-025, filed 3/29/95, effective 4/29/95. Statutory Authority: RCW 28A.150.290.

WAC 392-122-205 State institutional education program—Eligible programs. Programs supported as state institutional education programs include:

(1) State operated group homes—i.e., facilities maintained by the division of juvenile rehabilitation of the department of social and health services to house adjudicated youth twenty-four hours a day;

(2) Juvenile detention centers—i.e., facilities maintained by counties for treatment and education of juveniles who have been placed under protective custody or have committed a criminal offense.

(3) Institutions for juvenile delinquents—i.e., facilities maintained by the division of juvenile rehabilitation of the department of social and health services for the diagnosis, confinement and rehabilitation of juveniles committed by the courts.

(4) Residential habilitation centers—i.e., facilities maintained by the division of developmental disabilities of

the department of social and health services for care and treatment of persons with exceptional needs by reason of mental and/or physical deficiency.

[Statutory Authority: RCW 28A.150.290. 95-08-025, § 392-122-205, filed 3/29/95, effective 4/29/95; 92-03-045 (Order 92-03), § 392-122-205, filed 1/10/92, effective 2/10/92. Statutory Authority: RCW 28A.41.170. 84-20-078 (Order 84-36), § 392-122-205, filed 10/2/84.]

WAC 392-122-214 Repealed. See Disposition Table at beginning of this chapter.

WAC 392-122-221 Definition—State institutional education program—Enrollment exclusions. The following may not be counted as an enrolled institutional education program student:

(1) A person whose educational activity has terminated.
(2) A person who has transferred to another institution or school district.

(3) A residential institution student who:

(a) Has not engaged in educational activity in the past five school days including days, excluding days of excused absence;

(b) Has not engaged in educational activity in the past ten school days including days of excused absence; or

(c) Is claimed by any school district as an enrolled student eligible for state basic education support pursuant to chapter 392-121 WAC.

[Statutory Authority: RCW 28A.150.290. 95-08-025, § 392-122-221, filed 3/29/95, effective 4/29/95; 92-03-045 (Order 92-03), § 392-122-221, filed 1/10/92, effective 2/10/92.]

WAC 392-122-230 Definition—State institutional education program—Annual average full-time equivalent (AAFTE) institutional education students. "Annual average full-time equivalent (AAFTE) institutional education students" means the average institutional education FTE students on the eleven institution enrollment count dates of the school year.

[Statutory Authority: RCW 28A.150.290. 95-08-025, § 392-122-230, filed 3/29/95, effective 4/29/95; 92-03-045 (Order 92-03), § 392-122-230, filed 1/10/92, effective 2/10/92. Statutory Authority: RCW 28A.150.290, 1989 1st ex.s. c 19 and 1990 1st ex.s. c 16. 91-03-118 (Order 2), § 392-122-230, filed 1/23/91, effective 2/23/91. Statutory Authority: RCW 28A.41.170. 84-20-078 (Order 84-36), § 392-122-230, filed 10/2/84.]

WAC 392-122-260 Repealed. See Disposition Table at beginning of this chapter.

WAC 392-122-275 State institutional education program—School district reporting. Each school district operating an institutional education program shall report to the superintendent of public instruction as follows:

(1) The district shall report on Form E-672 the number of individual enrolled institutional education program students and the number of institutional education full-time equivalent students on each institution enrollment count date.

(2) Report forms shall be signed by the school district superintendent or a designated official of the school district.

(3) Each school district operating an institutional education program shall provide, upon request, such additional data as are necessary to enable the superintendent of

public instruction to allocate and substantiate the district's allocation of state institutional education program moneys.

(4) School district reporting shall be subject to chapter 392-117 WAC, Timely reporting.

[Statutory Authority: RCW 28A.150.290. 95-08-025, § 392-122-275, filed 3/29/95, effective 4/29/95; 92-03-045 (Order 92-03), § 392-122-275, filed 1/10/92, effective 2/10/92. Statutory Authority: RCW 28A.41.170. 84-20-078 (Order 84-36), § 392-122-275, filed 10/2/84.]

WAC 392-122-900 General provision—Carryover prohibition. Categorical apportionment moneys shall not be carried over by a school district from one school district fiscal year to another, except for learning assistance program moneys as provided in subsection (4) of this section.

(1) The superintendent of public instruction shall recover categorical program allocations made pursuant to this chapter which are not expended by the school district during the school year for allowable program costs:

(a) Moneys recovered at the end of the school year beginning during the first year of each biennium shall be available for reallocation by the superintendent of public instruction.

(b) Moneys recovered at the end of the school year beginning during the second year of each biennium shall revert to the state treasurer: *Provided*, That if prior to recovery, insufficient moneys are available to fully fund those programs operating in the second year of the biennium, any moneys recovered shall first be allocated to fully fund these programs.

(2) Except as provided in subsection (3) of this section, the amount recovered pursuant to subsection (1) of this section shall be determined as follows:

(a) Determine the state allocation for the categorical program;

(b) Determine the district's expenditures for the program including indirect expenditures and abatements deemed allowable by the superintendent of public instruction as reported on Year-End Financial Statement F-196, Part III or such other document filed by the district pursuant to instructions provided by the superintendent of public instruction;

(c) If the amount of (a) of this subsection exceeds the amount of (b) of this subsection, the difference shall be recovered.

(3) The amount recovered pursuant to subsection (1) of this section for the institutional education program for the 1992-93 school year and thereafter shall be determined as follows:

(a) Determine the state allocation for the institutional education program excluding any amount provided for indirect costs;

(b) Determine the district's direct expenditures for the institutional education program as reported on Year-End Financial Statement F-196 or such other document filed by the district pursuant to instructions provided by the superintendent of public instruction;

(c) If the amount of (a) of this subsection exceeds the amount of (b) of this subsection, the difference shall be recovered.

(4) Notwithstanding other provisions of this section to the contrary, a school district may carry over from one school district fiscal year to the next up to ten percent of the

preceding fiscal year's learning assistance program state allocation commencing with the carryover of a district's 1994-95 allocation. Carryover moneys shall be expended solely for learning assistance program purposes.

[Statutory Authority: 1995 2nd sp.s. c 18 § 519. 95-18-074, § 392-122-900, filed 9/1/95, effective 10/2/95. Statutory Authority: RCW 28A.150.290. 92-19-125 (Order 92-08), § 392-122-900, filed 9/21/92, effective 10/22/92. Statutory Authority: RCW 28A.41.170. 86-01-021 (Order 85-16), § 392-122-900, filed 12/9/85; 84-20-078 (Order 84-36), § 392-122-900, filed 10/2/84; 84-13-020 (Order 84-10), § 392-122-900, filed 6/13/84.]

Chapter 392-140 WAC

FINANCE—SPECIAL ALLOCATIONS, INSTRUCTIONS, AND REQUIREMENTS

WAC

392-140-570	1995-97 Local enhancement funding—Applicable provisions.
392-140-571	1995-97 Local enhancement funding—Definition—Student learning improvement block grants.
392-140-572	1995-97 Local enhancement funding—Definition—Other activities to improve student learning.
392-140-573	1995-97 Local enhancement funding—Definition—Local program enhancement block grants.
392-140-574	1995-97 Local enhancement funding—Definition—Essential academic learning requirements.
392-140-575	1995-97 Local enhancement funding—Definition—Assessment system.
392-140-576	1995-97 Local enhancement funding—Definition—Fiscal year.
392-140-577	1995-97 Local enhancement funding—Definition—School year.
392-140-578	1995-97 Local enhancement funding—Definition—School district.
392-140-580	1995-97 Local enhancement funding—Definition—Building plan.
392-140-581	1995-97 Local enhancement funding—Definition—Annual performance report.
392-140-582	1995-97 Local enhancement funding—Definition—Allocation enrollment.
392-140-583	1995-97 Local enhancement funding—Definition—Form SPI 1129.
392-140-584	1995-97 Local enhancement funding—Definition—Enrolled as a Medicaid service provider.
392-140-585	1995-97 Local enhancement funding—Actively pursuing federal matching funds for medical services provided through special education programs.
392-140-586	1995-97 Local enhancement funding—Conditions of receipt of moneys.
392-140-588	1995-97 Local enhancement funding—Allocation of moneys.
392-140-590	1995-97 Local enhancement funding—Conditions and limitations on expenditures.
392-140-592	1995-97 Local enhancement funding—School district reporting.
392-140-594	1995-97 Local enhancement funding—Recovery of moneys.

WAC 392-140-570 1995-97 Local enhancement funding—Applicable provisions. WAC 392-140-570 through 392-140-594 apply to the distribution of moneys to school districts for student learning improvement block grants and local program enhancement block grants pursuant to the 1995-97 State Operating Appropriations Act.

[Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-570, filed 8/30/95, effective 9/30/95.]

WAC 392-140-571 1995-97 Local enhancement funding—Definition—Student learning improvement block grants. As used in WAC 392-140-570 through 392-140-594 student learning improvement block grants means that portion of total local enhancement funding which is allocated to school districts for distribution to school buildings for building based planning, staff development, and other activities to improve student learning, consistent with the student learning goals in RCW 28A.150.210 and 28A.630.885.

[Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-571, filed 8/30/95, effective 9/30/95.]

WAC 392-140-572 1995-97 Local enhancement funding—Definition—Other activities to improve student learning. As used in WAC 392-140-570 through 392-140-594, "other activities to improve student learning" means those activities such as program design and curriculum alignment which directly relate to the building plan to attain the student learning goals as set forth in RCW 28A.150.210, the essential academic learning requirements and the state assessment system as set forth in RCW 28A.630.885.

[Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-572, filed 8/30/95, effective 9/30/95.]

WAC 392-140-573 1995-97 Local enhancement funding—Definition—Local program enhancement block grants. As used in WAC 392-140-570 through 392-140-594 local program enhancement block grants means that portion of total local enhancement funding which is allocated to school districts for meeting other educational needs as identified by the school district.

[Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-573, filed 8/30/95, effective 9/30/95.]

WAC 392-140-574 1995-97 Local enhancement funding—Definition—Essential academic learning requirements. As used in WAC 392-140-570 through 392-140-594, the essential academic learning requirements means those specific academic and technical skills and knowledge based on the student learning goals set forth in RCW 28A.630.885 (3)(a) and adopted by the commission on student learning. Such requirements shall not limit the instructional strategies used by schools or school districts or require the use of specific curricula.

[Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-574, filed 8/30/95, effective 9/30/95.]

WAC 392-140-575 1995-97 Local enhancement funding—Definition—Assessment system. As used in WAC 392-140-570 through 392-140-594, assessment system means a series of assessments pursuant to RCW 28A.630.885 used to determine if students have successfully learned the essential academic learning requirements as developed by the commission on student learning.

[Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-575, filed 8/30/95, effective 9/30/95.]

WAC 392-140-576 1995-97 Local enhancement funding—Definition—Fiscal year. As used in WAC 392-

140-570 through 392-140-594 "fiscal year" means the period beginning July 1 and ending the following June 30.

[Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-576, filed 8/30/95, effective 9/30/95.]

WAC 392-140-577 1995-97 Local enhancement funding—Definition—School year. As used in WAC 392-140-570 through 392-140-594 "school year" means the period beginning September 1 and ending the following August 31.

[Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-577, filed 8/30/95, effective 9/30/95.]

WAC 392-140-578 1995-97 Local enhancement funding—Definition—School district. As used in WAC 392-140-570 through 392-140-594 "school district" means the following:

(1) For purposes of student learning improvement block grants, "school district" means the same as defined in WAC 392-140-069 and the Washington state school for the deaf and the Washington state school for the blind; and

(2) For purposes of local program enhancement block grants "school district" means the same as defined in WAC 392-140-069.

[Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-578, filed 8/30/95, effective 9/30/95.]

WAC 392-140-580 1995-97 Local enhancement funding—Definition—Building plan. As used in WAC 392-140-570 through 392-140-594, building plan means a written document developed by the school building for a multiyear period which sets forth the goals, objectives, procedures, tasks, and timelines for attaining the student learning goals, as set forth in RCW 28A.150.210, the essential academic learning requirements, and the state assessment system as it is developed pursuant to RCW 28A.630.885. Such building plan shall be developed and kept on file by the end of the 1995-96 school year.

[Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-580, filed 8/30/95, effective 9/30/95.]

WAC 392-140-581 1995-97 Local enhancement funding—Definition—Annual performance report. As used in WAC 392-140-570 through 392-140-594, the annual performance report means that report referenced in RCW 28A.320.205 which requires each school to annually publish and deliver such report to each parent with children enrolled in the school and to make the report available to the community served by the school.

[Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-581, filed 8/30/95, effective 9/30/95.]

WAC 392-140-582 1995-97 Local enhancement funding—Definition—Allocation enrollment. As used in WAC 392-140-570 through 392-140-588, "allocation enrollment" means the school district's annual average full-time equivalent students as defined in WAC 392-121-133 plus running start enrollment except in the following cases:

(1) For a school district enrolling less than one hundred annual average full-time equivalent students, allocation enrollment means the sum of the following:

(a) The greater of sixty or the annual average full-time equivalent students enrolled in kindergarten through sixth grade;

(b) The greater of twenty or the annual average full-time equivalent students enrolled in seventh through eighth grade; and

(c) The greater of sixty or the annual average full-time equivalent students enrolled in ninth through twelfth grade.

(2) For a school district operating small school plants designated remote and necessary, allocation enrollment means the sum of the following:

(a) The school district's annual average full-time equivalent enrollment as defined in WAC 392-121-133 plus running start enrollment minus the annual average full-time equivalent enrollment in the small school plants designated remote and necessary; plus

(b) For the small school plant designated remote and necessary:

(i) The greater of sixty or the annual average full-time equivalent students enrolled in kindergarten through sixth grade;

(ii) The greater of twenty or the annual average full-time equivalent students enrolled in seventh through eighth grade; and

(iii) The greater of sixty or the annual average full-time equivalent students enrolled in ninth through twelfth grade.

(3) For student learning improvement block grants only, the allocation enrollment for the Washington state school for the deaf and the Washington state school for the blind shall be the annual average September through May full-time equivalent enrollment reported by those schools to the superintendent of public instruction.

[Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-582, filed 8/30/95, effective 9/30/95.]

WAC 392-140-583 1995-97 Local enhancement funding—Definition—Form SPI 1129. "Form SPI 1129" means the various forms provided by the superintendent of public instruction on which school districts report expenditures of local education enhancement funding and provide a narrative of results and benefits for the school year.

[Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-583, filed 8/30/95, effective 9/30/95.]

WAC 392-140-584 1995-97 Local enhancement funding—Definition—Enrolled as a Medicaid service provider. Enrolled as a Medicaid service provider means having applied for and received a core provider agreement number pursuant to WAC 388-78-007 from the department of social and health services medical assistance administration office of provider services.

[Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-584, filed 8/30/95, effective 9/30/95.]

WAC 392-140-585 1995-97 Local enhancement funding—Actively pursuing federal matching funds for medical services provided through special education programs. The superintendent of public instruction shall

find that a district is actively pursuing federal matching funds if the district is enrolled as a Medicaid service provider, and:

(1) That the district is billing for Medicaid eligible services provided to Medicaid eligible students in its special education program conducted pursuant to chapter 392-171 WAC; or

(2) That the district participates in a special education cooperative and the serving district(s) is billing for all Medicaid eligible services provided to all Medicaid eligible students in the cooperative; or

(3) That the Medicaid eligibility of the students enrolled in special education programs has been verified and none of the district's students enrolled in the district's special education program are eligible for Medicaid; or

(4) That the school district does not have any students needing special education.

[Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-585, filed 8/30/95, effective 9/30/95.]

WAC 392-140-586 1995-97 Local enhancement funding—Conditions of receipt of moneys. School districts shall comply with the following conditions in order to receive local enhancement funding:

(1) Receipt by a school district of one-fourth of the district's local enhancement funding allocation shall be conditioned on a finding by the superintendent of public instruction that:

(a) The school district is enrolled as a Medicaid service provider;

(b) The school district is actively pursuing federal matching funds for medical services provided through special education programs, pursuant to chapter 149, Laws of 1993, during the school year in which local enhancement funding is received.

(2) Receipt by a school district of student learning improvement block grant funding shall be conditioned on the school district having adopted a policy regarding the involvement of school staff, parents and community members in instructional decisions.

[Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-586, filed 8/30/95, effective 9/30/95.]

WAC 392-140-588 1995-97 Local enhancement funding—Allocation of moneys. From moneys appropriated by the legislature for local enhancement funding, the superintendent of public instruction shall apportion money to each eligible school district as follows:

(1) The school district's student learning improvement block grant allocation for a fiscal year shall equal the school district's allocation enrollment times a uniform state-wide rate of up to either \$36.69 for school districts meeting the conditions of receipt of moneys in WAC 392-140-586(1) or \$27.52 for districts not meeting the conditions of receipt of moneys in WAC 392-140-586(1); and

(2) The school district's local program enhancement block grant allocation for a school year shall equal the school district's allocation enrollment times a uniform state-wide rate of up to either \$26.30 for school districts meeting the conditions of receipt of moneys in WAC 392-140-586(1)

or \$19.73 for districts not meeting the conditions of receipt of moneys in WAC 392-140-586(1).

(3) The school district's student learning improvement block grant allocation shall be paid to the school district in the same manner as provided in WAC 392-121-400 except that payments shall be made according to the following schedule:

September	24%
October through May	8% each month
June	12%

(4) The school district's local program enhancement block grant allocation shall be paid to the school district in the same manner as provided in WAC 392-121-400.

(5) In January of the following year or thereafter, the school district's student learning improvement block grant allocation and the school district's local program enhancement block grant allocation shall be adjusted to reflect any recovery made pursuant to WAC 392-140-594.

[Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-588, filed 8/30/95, effective 9/30/95.]

WAC 392-140-590 1995-97 Local enhancement funding—Conditions and limitations on expenditures. Expenditure of moneys allocated pursuant to WAC 392-140-570 through 392-140-594 is subject to the following conditions and limitations:

(1) The student learning improvement block grant allocation pursuant to WAC 392-140-588(1) shall be expended in school buildings for building based planning, staff development and other activities to improve student learning consistent with the student learning goals in RCW 28A.150.210 and 28A.630.885; further, schools shall, by the end of the 1995-96 school year, develop and keep on file a building plan to attain the learning goals and essential academic learning requirements and to implement the assessment system as it is developed.

(2) The local education program enhancement block grant allocation pursuant to WAC 392-140-588(2) may be expended to meet other education needs identified by the district.

(3) The school district shall account for expenditure of the student learning improvement block grant allocation and for expenditure of the local education program enhancement block grant allocation separately in expenditure Program 75, local educational program enhancement.

(4) The student learning improvement block grant allocation shall be expended during the period beginning July 1 of the fiscal year and ending on or before June 30 of the fiscal year.

(5) The local education program enhancement block grant allocation shall be expended during the period beginning September 1 and ending on or before August 31 of the school year.

(6) The school district shall report to the superintendent of public instruction as provided in WAC 392-140-592.

[Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-590, filed 8/30/95, effective 9/30/95.]

WAC 392-140-592 1995-97 Local enhancement funding—School district reporting. School districts

receiving local enhancement funding shall report to the superintendent of public instruction as follows:

(1) Beginning with the 1995-96 school year each school receiving a student learning improvement block grant shall include information in the annual performance report required in RCW 28A.320.205 on how the grant moneys were spent and what results were achieved. Prior to November 2 of the following school year, each school district shall file the annual performance reports for all such schools with the superintendent of public instruction.

(2) Prior to November 2 of the following school year school districts shall report in the format prescribed by the superintendent of public instruction, the student learning improvement block grant allocation direct expenditures and other necessary information for the fiscal year to the superintendent of public instruction.

(3) Prior to November 2 of the following school year, the school district shall report in the format prescribed by the superintendent of public instruction, the local program enhancement block grant allocation direct expenditures and other necessary information for the school year to the superintendent of public instruction.

[Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-592, filed 8/30/95, effective 9/30/95.]

WAC 392-140-594 1995-97 Local enhancement funding—Recovery of moneys. In January of the following school year or thereafter, the superintendent of public instruction shall compare:

(1) The school district's student learning improvement block grant allocation enhancement funding allocation made pursuant to WAC 392-140-588(1) and the school district's direct expenditures reported pursuant to WAC 392-140-592(2). If the allocation exceeds expenditures, the difference shall be recovered; and

(2) The school district's local program enhancement block grant allocation made pursuant to WAC 392-140-588(2) and the school district's direct expenditures reported pursuant to WAC 392-140-592(3). If the allocation exceeds expenditures, the difference shall be recovered.

[Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-594, filed 8/30/95, effective 9/30/95.]

Chapter 392-141 WAC

TRANSPORTATION—STATE ALLOCATION FOR OPERATIONS

WAC

392-141-115	Definition—Eligible student.
392-141-135	Definition—Prorated bus.
392-141-145	Repealed.
392-141-151	Definition—Good faith efforts.
392-141-170	Factors used to determine allocation.
392-141-176	Alleviating hazardous walking conditions.
392-141-185	Operation allocation computation.

**DISPOSITION OF SECTIONS FORMERLY
CODIFIED IN THIS CHAPTER**

392-141-145 Definition--Small fleet maintenance allocation rate. [Statutory Authority: RCW 28A.150.290. 92-08-024 (Order 92-03), § 392-141-145, filed 3/23/92, effective 4/23/92. Statutory Authority: RCW 28A.41.170. 84-15-025 (Order 84-26), § 392-141-145, filed 7/11/84.] Repealed by 95-18-050 (Order 95-04), filed 8/30/95, effective 9/30/95. Statutory Authority: 1995 2nd sp.s. c 18 and RCW 28A.150.290.

WAC 392-141-115 Definition—Eligible student. As used in this chapter, "eligible student" means any student served by a school district transportation program either by bus, district car, or individual arrangements meeting one or more of the following criteria:

(1) Students whose route stop is more than one radius mile from the student's destination school site or learning center;

(2) Students whose route stop is established because of hazardous walking conditions in accordance with WAC 392-141-175 and whose route stop is less than one radius mile from the student's destination school site or learning center and for which the school district is making a good faith effort to alleviate the hazard; or

(3) Students whose handicap is defined by RCW 28A.155.020 and who is either not ambulatory or capable of protecting his or her own welfare while traveling to or from schools or agencies where special education services are provided and whose route stop is one radius mile or less from the destination school site or learning center.

[Statutory Authority: 1995 2nd sp.s. c 18 and RCW 28A.150.290. 95-18-050 (Order 95-04), § 392-141-115, filed 8/30/95, effective 9/30/95. Statutory Authority: RCW 28A.150.290. 92-08-024 (Order 92-03), § 392-141-115, filed 3/23/92, effective 4/23/92. Statutory Authority: 1990 c 33. 90-16-002 (Order 18), § 392-141-115, filed 7/19/90, effective 8/19/90. Statutory Authority: RCW 28A.41.170. 84-15-025 (Order 84-26), § 392-141-115, filed 7/11/84.]

WAC 392-141-135 Definition—Prorated bus. As used in this chapter, "prorated bus" means a whole or fractional bus calculated by dividing the total number of each type of route by the total of all routes run by each individual bus.

[Statutory Authority: 1995 2nd sp.s. c 18 and RCW 28A.150.290. 95-18-050 (Order 95-04), § 392-141-135, filed 8/30/95, effective 9/30/95. Statutory Authority: RCW 28A.150.290. 92-08-024 (Order 92-03), § 392-141-135, filed 3/23/92, effective 4/23/92.]

WAC 392-141-145 Repealed. See Disposition Table at beginning of this chapter.

WAC 392-141-151 Definition—Good faith efforts. As used in this chapter, "good faith efforts" mean documented evidence that school districts are making an effort to communicate and work with local, state or federal agencies to alleviate hazardous walking conditions.

[Statutory Authority: 1995 2nd sp.s. c 18 and RCW 28A.150.290. 95-18-050 (Order 95-04), § 392-141-151, filed 8/30/95, effective 9/30/95.]

WAC 392-141-170 Factors used to determine allocation. The method of determining the transportation

operation allocation for each district shall be based on the following factors:

(1) The number of eligible students transported as defined in WAC 392-141-115;

(2) The radius mile distances from route stops to the destination schools, transfer route stops, learning centers, or agencies;

(3) A basic or special transportation distance weighting factor per radius mile interval as listed below:

Distance Weighting Factors Per Radius Miles

Miles	Basic	Special
1	2.85	4.75
2	3.20	4.89
3	3.55	5.05
4	3.90	5.19
5	4.25	5.34
6	4.60	5.49
7	4.97	5.64
8	5.30	5.78
9	5.65	5.94
10	6.00	6.08
11	6.36	6.23
12	6.71	6.38
13	7.07	6.53
14	7.43	6.67
15	7.79	6.83
16	8.13	6.97
17 and over	8.50	7.13

(4) The basic average load which is calculated by dividing the total number of basic and transit tripper students by the total number of prorated basic buses;

(5) A minimum load factor for districts with a basic average load of less than seventy-four students transported per bus for all home to school routes, except routes designed exclusively for handicapped or kindergarten students. This factor is calculated by dividing the whole number seventy-four by the basic average load and subtracting the whole number one;

(6) The special education average load is derived by dividing the total number of home to school special education students by the total number of special education prorated buses; and

(7) A special education load factor is based on the special education average load. To determine the special education load factor, use the following chart:

Special Average Load

From	To	Factor
0.01	1.24	24.42
1.25	1.49	22.94
1.50	1.74	21.46
1.75	1.99	19.98
2.00	2.24	18.50
2.25	2.49	17.89
2.50	2.74	17.27
2.75	2.99	16.67
3.00	3.24	16.04
3.25	3.49	15.73
3.50	3.74	15.42
3.75	3.99	15.11

4.00	4.24	14.80	42.55	43.54	1.89
4.25	4.49	14.43	43.55	44.54	1.84
4.50	4.74	14.06	44.55	45.54	1.80
4.75	4.99	13.69	45.55	46.54	1.76
5.00	5.24	13.32	46.55	47.54	1.72
5.25	5.49	12.92	47.55	48.54	1.69
5.50	5.74	12.52	48.55	49.54	1.66
5.75	5.99	12.11	49.55	50.54	1.62
6.00	6.24	11.71	50.55	51.54	1.59
6.25	6.49	11.32	51.55	52.54	1.56
6.50	6.74	10.93	52.55	53.54	1.52
6.75	6.99	10.55	53.55	54.54	1.50
7.00	7.24	10.14	54.55	55.54	1.47
7.25	7.49	9.85	55.55	56.54	1.45
7.50	7.74	9.56	56.55	57.54	1.41
7.75	7.99	9.26	57.55	58.54	1.39
8.00	8.24	8.97	58.55	59.54	1.37
8.25	8.49	8.74	59.55	60.54	1.35
8.50	8.74	8.51	60.55	61.54	1.33
8.75	8.99	8.28	61.55	62.54	1.30
9.00	9.24	8.05	62.55	63.54	1.28
9.25	9.49	7.87	63.55	64.54	1.26
9.50	9.74	7.69	64.55	65.54	1.24
9.75	9.99	7.50	65.55	66.54	1.23
10.00	10.49	7.32	66.55	67.54	1.21
10.50	10.99	7.02	67.55	68.54	1.18
11.00	11.49	6.72	68.55	69.54	1.17
11.50	11.99	6.47	69.55	70.54	1.15
12.00	12.49	6.22	70.55	71.54	1.14
12.50	12.99	6.01	71.55	72.54	1.12
13.00	13.49	5.80	72.55	73.54	1.11
13.50	13.99	5.62	73.55	74.00	1.10
14.00	14.49	5.43	74.01+		1.00
14.50	14.99	5.28			
15.00	15.54	5.12			
15.55	16.54	4.85			
16.55	17.54	4.61			
17.55	18.54	4.39			
18.55	19.54	4.20			
19.55	20.54	4.03			
20.55	21.54	3.87			
21.55	22.54	3.69			
22.55	23.54	3.53			
23.55	24.54	3.38			
24.55	25.54	3.25			
25.55	26.54	3.12			
26.55	27.54	3.01			
27.55	28.54	2.90			
28.55	29.54	2.80			
29.55	30.54	2.70			
30.55	31.54	2.61			
31.55	32.54	2.54			
32.55	33.54	2.46			
33.55	34.54	2.38			
34.55	35.54	2.32			
35.55	36.54	2.25			
36.55	37.54	2.20			
37.55	38.54	2.13			
38.55	39.54	2.07			
39.55	40.54	2.03			
40.55	41.54	1.98			
41.55	42.54	1.93			

[Statutory Authority: 1995 2nd sp.s. c 18 and RCW 28A.150.290. 95-18-050 (Order 95-04), § 392-141-170, filed 8/30/95, effective 9/30/95. Statutory Authority: RCW 28A.150.290. 92-08-024 (Order 92-03), § 392-141-170, filed 3/23/92, effective 4/23/92. Statutory Authority: RCW 28A.41.170. 84-15-025 (Order 84-26), § 392-141-170, filed 7/11/84.]

WAC 392-141-176 Alleviating hazardous walking conditions. As a condition of funding for school bus stops located within one radius mile, school districts shall make a good faith effort to alleviate hazardous walking conditions. Good faith efforts shall include but are not limited to:

- (1) A written letter at least annually to appropriate agencies responsible for alleviating the hazard;
- (2) A second follow up letter if there is no response or communication from the first letter;
- (3) Meetings at which minutes are taken that document the efforts being made between the school district and appropriate agencies; or
- (4) Completed studies.

[Statutory Authority: 1995 2nd sp.s. c 18 and RCW 28A.150.290. 95-18-050 (Order 95-04), § 392-141-176, filed 8/30/95, effective 9/30/95.]

WAC 392-141-185 Operation allocation computation. The computation of the transportation operation allocation shall be as follows:

- (1) All basic and transit tripper students defined in WAC 392-141-115 who are transported to school shall be measured by radius mile intervals between the bus route stop and the destination sites in accordance with WAC 392-141-

170(3) and multiplied by two to yield the round trip totals in each distance interval;

(2) All midday and basic shuttle students transported shall be measured by radius mile intervals between the bus route stop and the destination school in accordance with WAC 392-141-170(3);

(3) The total students in subsections (1) and (2) of this section in each distance interval, multiplied by the applicable distance weighting factor contained in WAC 392-141-170(3) shall equal the weighted student units in each distance interval. Midday transportation students whose schedule is one day per week shall have the weighted student units multiplied by twenty percent;

(4) The district's minimum load factor, if applicable, is calculated pursuant to WAC 392-141-170(5). This factor is multiplied by the total weighted student units generated by basic and tripper students. This total is the additional weighted units attributable to the district's small average bus load;

(5) The sum of the cumulative weighted student units calculated in subsections (3) and (4) of this section, if applicable, less the weighted units for students who do not qualify under WAC 392-141-175 equals the total basic transportation weighted units;

(6) The basic allocation is the total basic transportation weighted units calculated in subsection (5) of this section multiplied by the standard student mile allocation rate;

(7) All special students defined in RCW 28A.155.020 transported on special transportation bus routes to school or agencies for related services shall be measured by radius mile intervals between their bus route stops and destinations sites in accordance with WAC 392-141-170(3) and multiplied by two to yield the round trip total in each distance interval;

(8) All special shuttle students transported between schools or agencies less frequently than five days a week shall be measured by radius mile intervals between the bus route stop and destination sites in accordance with WAC 392-141-170(3);

(9) The total students in subsections (7) and (8) of this section in each distance interval multiplied by the applicable distance weighting factor contained in WAC 392-141-170(3) shall equal the weighted student units in each distance interval. Special shuttle transportation whose schedule is less than five days a week shall have the weighted units multiplied by the appropriate percent shown in the table below:

No. of days per week	Percent factor
1	20%
2	40%
3	60%
4	100%

(10) The district's special transportation load factor, if applicable, is calculated pursuant to WAC 392-141-170. The factor is multiplied by the total weighted student units generated by special students (not special shuttle students);

(11) The weighted student units calculated in subsections (9) and (10) of this section, if applicable, equals the total special transportation weighted units;

(12) The special allocation is the total special transportation weighted units calculated in subsection (11) of this section, multiplied by the standard student mile allocation rate;

(13) The district car allocation is computed for each vehicle and then totaled to equal the district car allocation. The computation is based on one hundred eighty days and fifty mile increments multiplied by the appropriate district car operation and depreciation rates published by the superintendent of public instruction. All vehicles traveling over two hundred fifty miles receive only the depreciation rate for miles in excess of two hundred fifty for the one hundred eighty day period;

(14) The district's annual allocation for transportation operation is the total of the calculations made in subsections (6), (12), and (13) of this section;

(15) When a district submits a revised report pursuant to WAC 392-141-165, to the extent funds are available, the district's operation allocation shall be recalculated. Any increase in operations allocations shall be prorated for the remainder of the annual school term or until termination of activities before the end of the scheduled school term. The date that the district documents first meeting the ten percent increase in eligible students transported shall be used to prorate any increase in annual transportation operation allocations.

[Statutory Authority: 1995 2nd sp.s. c 18 and RCW 28A.150.290. 95-18-050 (Order 95-04), § 392-141-185, filed 8/30/95, effective 9/30/95. Statutory Authority: RCW 28A.150.290. 92-08-024 (Order 92-03), § 392-141-185, filed 3/23/92, effective 4/23/92. Statutory Authority: 1990 c 33. 90-16-002 (Order 18), § 392-141-185, filed 7/19/90, effective 8/19/90. Statutory Authority: RCW 28A.41.170. 84-15-025 (Order 84-26), § 392-141-185, filed 7/11/84.]

Chapter 392-142 WAC

TRANSPORTATION—REPLACEMENT AND DEPRECIATION ALLOCATION

WAC

392-142-005	Authority.
392-142-010	Purpose.
392-142-095	Definition—State supported competitive specifications.
392-142-115	Definition—Specialized equipment.
392-142-125	Definition—Student capacity.
392-142-130	Definition—Gasoline engine.
392-142-135	Definition—Diesel engine.
392-142-155	Definition—School bus categories for those buses purchased after September 1, 1982.
392-142-162	Definition—Competitive price quote.
392-142-163	Definition—School bus dealer.
392-142-165	Definition—State-determined purchase price.
392-142-170	Definition—State-determined specialized equipment price.
392-142-175	Repealed.
392-142-205	Determination of school bus categories by the superintendent of public instruction.
392-142-210	State-determined purchase prices by the superintendent of public instruction.
392-142-212	Obtaining competitive price quotes.
392-142-213	Purchase of school buses by school districts.
392-142-240	Calculation of annual state depreciation payment for district-owned school buses purchased after September 1, 1982.
392-142-265	Maintenance and operation.

**DISPOSITION OF SECTIONS FORMERLY
CODIFIED IN THIS CHAPTER**

392-142-175 Definition—Inflation rate. [Statutory Authority: RCW 28A.41.170 and 28A.41.540. 90-02-077 (Order 21), § 392-142-175, filed 1/2/90, effective 2/2/90.] Repealed by 95-17-011, filed 8/4/95, effective 9/4/95. Statutory Authority: 1995 1st sp.s. c 10, RCW 28A.150.290 and chapter 28A.160 RCW as amended in ESSB 5408, section 1(6).

WAC 392-142-005 Authority. The authority for this chapter is RCW 28A.150.290 which authorizes the superintendent of public instruction to adopt rules and regulations for the proper administration of chapter 28A.160 RCW, which includes state depreciation and replacement payments for school buses as specified in RCW 28A.160.200.

[Statutory Authority: 1995 1st sp.s. c 10, RCW 28A.150.290 and chapter 28A.160 RCW as amended in ESSB 5408, section 1(6). 95-17-011, § 392-142-005, filed 8/4/95, effective 9/4/95. Statutory Authority: 1990 c 33. 91-16-011 (Order 91-12), § 392-142-005, filed 7/26/91, effective 8/26/91. Statutory Authority: RCW 28A.41.170 and 28A.41.540. 90-02-077 (Order 21), § 392-142-005, filed 1/2/90, effective 2/2/90. Statutory Authority: RCW 28A.41.170. 83-22-031 (Order 83-16), § 392-142-005, filed 10/26/83.]

WAC 392-142-010 Purpose. The purpose of this chapter is to implement RCW 28A.160.200 by developing:

- (1) Student transportation vehicle categories;
- (2) State-determined purchase prices for student transportation vehicle categories;
- (3) Standards for operation and maintenance of school buses;
- (4) A replacement schedule (referred to in the statute as reimbursement schedule) and allocation process for district-owned school buses;
- (5) A depreciation schedule and allocation process for school buses contracted from private carriers;
- (6) Provisions for the continuation of depreciation allocations to school districts for school buses purchased prior to September 1, 1982; and
- (7) Competitive specifications for each category of school bus.

[Statutory Authority: 1995 1st sp.s. c 10, RCW 28A.150.290 and chapter 28A.160 RCW as amended in ESSB 5408, section 1(6). 95-17-011, § 392-142-010, filed 8/4/95, effective 9/4/95. Statutory Authority: RCW 28A.41.170 and 28A.41.540. 90-02-077 (Order 21), § 392-142-010, filed 1/2/90, effective 2/2/90. Statutory Authority: RCW 28A.41.170. 83-22-031 (Order 83-16), § 392-142-010, filed 10/26/83.]

WAC 392-142-095 Definition—State supported competitive specifications. As used in this chapter, "state supported competitive specifications," means the specifications developed pursuant to chapter 392-143 WAC (Transportation—Specifications for school buses) plus added equipment, components, or requirements including supported options determined by the superintendent of public instruction, in consultation with the regional transportation coordinators of the educational service districts, to produce minimum long-range operating costs and to accommodate transportation of students with disabling conditions.

[Statutory Authority: 1995 1st sp.s. c 10, RCW 28A.150.290 and chapter 28A.160 RCW as amended in ESSB 5408, section 1(6). 95-17-011, § 392-142-095, filed 8/4/95, effective 9/4/95. Statutory Authority: 1990 c 33. 91-16-011 (Order 91-12), § 392-142-095, filed 7/26/91, effective 8/26/91.]

Statutory Authority: RCW 28A.41.170 and 28A.41.540. 90-02-077 (Order 21), § 392-142-095, filed 1/2/90, effective 2/2/90.]

WAC 392-142-115 Definition—Specialized equipment. As used in this chapter, "specialized equipment" means at least wheelchair lifts and may include mobile seating device tiedowns, or occupant restraints designed for the purpose of transporting students with disabling conditions.

[Statutory Authority: 1995 1st sp.s. c 10, RCW 28A.150.290 and chapter 28A.160 RCW as amended in ESSB 5408, section 1(6). 95-17-011, § 392-142-115, filed 8/4/95, effective 9/4/95. Statutory Authority: RCW 28A.41.170 and 28A.41.540. 90-02-077 (Order 21), § 392-142-115, filed 1/2/90, effective 2/2/90.]

WAC 392-142-125 Definition—Student capacity. As used in this chapter, "student capacity" means the number of students designated by the school bus manufacturer that can be seated on a school bus. For school buses equipped with a wheelchair lift, student capacity means the number of students that could be seated in a school bus if the vehicle was not lift equipped and had a maximum complement of seats.

[Statutory Authority: 1995 1st sp.s. c 10, RCW 28A.150.290 and chapter 28A.160 RCW as amended in ESSB 5408, section 1(6). 95-17-011, § 392-142-125, filed 8/4/95, effective 9/4/95. Statutory Authority: RCW 28A.41.170 and 28A.41.540. 90-02-077 (Order 21), § 392-142-125, filed 1/2/90, effective 2/2/90.]

WAC 392-142-130 Definition—Gasoline engine. As used in this chapter, "gasoline engine" means a spark-ignited engine using gasoline, propane, compressed natural gas, methanol, gasahol, alcohol, or a combination thereof, originally designed as a gasoline engine.

[Statutory Authority: 1995 1st sp.s. c 10, RCW 28A.150.290 and chapter 28A.160 RCW as amended in ESSB 5408, section 1(6). 95-17-011, § 392-142-130, filed 8/4/95, effective 9/4/95. Statutory Authority: RCW 28A.41.170 and 28A.41.540. 90-02-077 (Order 21), § 392-142-130, filed 1/2/90, effective 2/2/90.]

WAC 392-142-135 Definition—Diesel engine. As used in this chapter, "diesel engine" means a compression ignited engine using diesel fuel, or a spark ignited natural gas, or methanol fueled engine, originally designed as a diesel engine.

[Statutory Authority: 1995 1st sp.s. c 10, RCW 28A.150.290 and chapter 28A.160 RCW as amended in ESSB 5408, section 1(6). 95-17-011, § 392-142-135, filed 8/4/95, effective 9/4/95. Statutory Authority: RCW 28A.41.170 and 28A.41.540. 90-02-077 (Order 21), § 392-142-135, filed 1/2/90, effective 2/2/90.]

WAC 392-142-155 Definition—School bus categories for those buses purchased after September 1, 1982. As used in this chapter, "school bus categories for those buses purchased after September 1, 1982," means the following:

	Student Capacity	Fuel Type	Transmission Type	Useful Life	Bus Type
(1)	10 to 22	Gas	Automatic	8	A
(2)	10 to 22	Diesel	Automatic	8	A
(3)	10 to 22	Gas	Automatic	8	B
(4)	10 to 22	Diesel	Automatic	8	B
(5)	23 to 34	Gas	Automatic	8	B

(6)	23 to 34	Diesel	Automatic	8	B
(7)	35 to 48	Diesel	Automatic	15	C
(8)	35 to 48	Diesel	Automatic	15	D
(9)	49 to 60	Diesel	Automatic	15	C
(10)	49 to 60	Diesel	Automatic	15	D
(11)	61 to 77	Diesel	Automatic	15	C
(12)	61 to 84	Diesel	Automatic	15	D
(13)	Heavy 78 to 84	Diesel	Automatic	20	D
(14)	85 to 90	Diesel	Automatic	20	D

[Statutory Authority: 1995 1st sp.s. c 10, RCW 28A.150.290 and chapter 28A.160 RCW as amended in ESSB 5408, section 1(6). 95-17-011, § 392-142-155, filed 8/4/95, effective 9/4/95. Statutory Authority: RCW 28A.41.170 and 28A.41.540. 91-23-071 (Order 25), § 392-142-155, filed 11/19/91, effective 12/20/91; 90-02-077 (Order 21), § 392-142-155, filed 1/2/90, effective 2/2/90.]

WAC 392-142-162 Definition—Competitive price quote. As used in this chapter, "competitive price quote" means a sealed price quotation for school buses obtained from school bus dealers by using a modified "vendor bid proposal" form supplied by the superintendent of public instruction.

[Statutory Authority: 1995 1st sp.s. c 10, RCW 28A.150.290 and chapter 28A.160 RCW as amended in ESSB 5408, section 1(6). 95-17-011, § 392-142-162, filed 8/4/95, effective 9/4/95.]

WAC 392-142-163 Definition—School bus dealer. As used in this chapter, "school bus dealer" means any firm or person that meets all necessary requirements to sell motor vehicles (school buses) in Washington state and are properly licensed as prescribed by all applicable agencies to sell school buses to school districts in the state of Washington.

[Statutory Authority: 1995 1st sp.s. c 10, RCW 28A.150.290 and chapter 28A.160 RCW as amended in ESSB 5408, section 1(6). 95-17-011, § 392-142-163, filed 8/4/95, effective 9/4/95.]

WAC 392-142-165 Definition—State-determined purchase price. As used in this chapter, "state-determined purchase price" means the state reimbursement rate for school bus replacement which shall be based upon the lowest competitive price quote received from school bus dealers for each category of school buses, documented in modified vendor bid proposals associated with meeting state-supported competitive specifications.

Included in the lowest competitive price quote are:

- (1) Freight to the school district; and
- (2) Cost associated with full payment within thirty days of delivery.

Sales tax is not included as a part of establishing the lowest price quote. Sales tax shall be included in the state-determined purchase price at the highest rate in the state as provided annually by the department of revenue.

[Statutory Authority: 1995 1st sp.s. c 10, RCW 28A.150.290 and chapter 28A.160 RCW as amended in ESSB 5408, section 1(6). 95-17-011, § 392-142-165, filed 8/4/95, effective 9/4/95. Statutory Authority: RCW 28A.41.170 and 28A.41.540. 91-23-071 (Order 25), § 392-142-165, filed 11/19/91, effective 12/20/91; 90-02-077 (Order 21), § 392-142-165, filed 1/2/90, effective 2/2/90.]

WAC 392-142-170 Definition—State-determined specialized equipment price. As used in this chapter, the term "state-determined specialized equipment price" is that amount determined annually by the superintendent of public

instruction representing the cost of specialized equipment permanently affixed to a school bus for the purpose of transporting students with disabilities.

Sales tax will be added to the specialized equipment price using the same process described in WAC 392-142-165.

[Statutory Authority: 1995 1st sp.s. c 10, RCW 28A.150.290 and chapter 28A.160 RCW as amended in ESSB 5408, section 1(6). 95-17-011, § 392-142-170, filed 8/4/95, effective 9/4/95. Statutory Authority: RCW 28A.41.170 and 28A.41.540. 90-02-077 (Order 21), § 392-142-170, filed 1/2/90, effective 2/2/90.]

WAC 392-142-175 Repealed. See Disposition Table at beginning of this chapter.

WAC 392-142-205 Determination of school bus categories by the superintendent of public instruction. The superintendent of public instruction, in consultation with the regional transportation coordinators of the educational service districts, shall annually establish a minimum number of school bus categories considering student capacity and type.

[Statutory Authority: 1995 1st sp.s. c 10, RCW 28A.150.290 and chapter 28A.160 RCW as amended in ESSB 5408, section 1(6). 95-17-011, § 392-142-205, filed 8/4/95, effective 9/4/95. Statutory Authority: RCW 28A.41.170 and 28A.41.540. 90-02-077 (Order 21), § 392-142-205, filed 1/2/90, effective 2/2/90.]

WAC 392-142-210 State-determined purchase prices by the superintendent of public instruction. The superintendent of public instruction shall annually develop state-determined purchase prices for each school bus category applicable to the current school year. The state-determined purchase price shall be derived from competitive price quotes obtained annually by September 1 and a sales tax calculation as described in WAC 392-142-165. The state-determined purchase price shall be determined from the lowest price quote obtained in a sealed bid from school bus dealers for each category. The lowest price quote in each category shall be valid for one school year.

[Statutory Authority: 1995 1st sp.s. c 10, RCW 28A.150.290 and chapter 28A.160 RCW as amended in ESSB 5408, section 1(6). 95-17-011, § 392-142-210, filed 8/4/95, effective 9/4/95. Statutory Authority: RCW 28A.41.170 and 28A.41.540. 90-02-077 (Order 21), § 392-142-210, filed 1/2/90, effective 2/2/90.]

WAC 392-142-212 Obtaining competitive price quotes. The superintendent of public instruction shall annually request competitive price quotations from school bus dealers for state-supported specifications for all school bus categories. The lowest price quote will be determined using only the base quote price as stated for the state-supported base bus without options. The request for price quotes will at least include:

(1) A modified vendor bid proposal for one representative state-supported school bus in each category as defined in WAC 392-142-155.

(a) A list of selected state-supported options; and

(b) A list of school district options which may be purchased at the school district's discretion and expense.

(2) A requirement that each school bus dealer submit a statement of assurance that school districts may purchase school buses at the quoted price for a period of one year.

[Statutory Authority: 1995 1st sp.s. c 10, RCW 28A.150.290 and chapter 28A.160 RCW as amended in ESSB 5408, section 1(6). 95-17-011, § 392-142-212, filed 8/4/95, effective 9/4/95.]

WAC 392-142-213 Purchase of school buses by school districts. (1) School districts may purchase school buses directly from the school bus dealer who has provided the lowest competitive price quote in each school bus category without regard to RCW 28A.335.190 (competitive bid law).

(2) School districts that do not purchase school buses in accordance with subsection (1) of this section may conduct their own competitive bid process in accordance with RCW 28A.335.190. School districts that choose to conduct their own bid shall:

(a) Use vendor bid proposal forms provided by the superintendent of public instruction.

(b) Prepare a summary of all bids received for retention in school district files and submission to the superintendent of public instruction.

(3) School buses which have been acquired by school districts or educational service districts, in accordance with subsection (1) or (2) of this section, are entitled to reimbursement payments for school bus replacement in accordance with this chapter.

[Statutory Authority: 1995 1st sp.s. c 10, RCW 28A.150.290 and chapter 28A.160 RCW as amended in ESSB 5408, section 1(6). 95-17-011, § 392-142-213, filed 8/4/95, effective 9/4/95.]

WAC 392-142-240 Calculation of annual state depreciation payment for district-owned school buses purchased after September 1, 1982. The superintendent of public instruction shall calculate each school district's annual state depreciation payment for district-owned school buses purchased after September 1, 1982, as follows:

(1)(a) For district-owned school buses issued a school bus operation permit prior to the fifteenth of the month of the current school year place each school bus in the appropriate school bus category set forth in WAC 392-142-155:

(b) Add the state-determined purchase price for the appropriate school bus category determined in (a) of this subsection to the state-determined specialized equipment price if any;

(c) Divide the result obtained in (b) of this subsection by the useful lifetime in months determined in (a) of this subsection; and

(d) Multiply the result obtained in (c) of this subsection by the number of months remaining in the school year.

(2)(a) For school buses issued a school bus operation permit prior to the current school year place each school bus in the appropriate school bus category set forth in WAC 392-142-155:

(b) Add the state-determined purchase price for the appropriate school bus category determined in (a) of this subsection to the state-determined specialized equipment price if any;

(c) Divide the result obtained in (b) of this subsection by the useful lifetime in months determined in (a) of this subsection;

(d) Multiply the result obtained in (c) of this subsection by the total number of months the school bus has been on the depreciation schedule including the months for the current school year;

(e) Subtract from the result obtained in (d) of this subsection the total school bus depreciation payments made in prior school years;

(f) Subtract from the result obtained in (d) of this subsection the imputed interest earnings; and

(g) Subtract from the result obtained in (f) of this subsection the salvage value of the school bus if the current school year is the final year of the vehicle's useful life.

[Statutory Authority: 1995 1st sp.s. c 10, RCW 28A.150.290 and chapter 28A.160 RCW as amended in ESSB 5408, section 1(6). 95-17-011, § 392-142-240, filed 8/4/95, effective 9/4/95. Statutory Authority: RCW 28A.150.290 and 28A.160-130-200. 93-13-083 (Order 93-10), § 392-142-240, filed 6/18/93, effective 7/19/93. Statutory Authority: RCW 28A.41.170 and 28A.41.540. 90-02-077 (Order 21), § 392-142-240, filed 1/2/90, effective 2/2/90.]

WAC 392-142-265 Maintenance and operation. (1) To the extent possible, school districts shall operate vehicles not less than the number of years of useful lifetime now, or hereafter, assigned to the category of vehicles by the superintendent of public instruction.

(2) A school bus that continues to possess a valid operation permit and operates its useful vehicle life shall be considered to be properly maintained in accordance with general accepted maintenance and operation standards. A school bus which does not operate its useful vehicle life shall be considered as not being properly maintained in accordance with generally accepted maintenance and operation standards unless proven otherwise by the school district prima facie evidence of such proof shall include required changes in the category of bus, or unforeseen natural events which shorten the useful vehicle life, including but not limited to, fire, flood, explosion, storm, earthquake, or volcanic eruption. Generally accepted maintenance and operation standards are outlined in the School Bus Maintenance Guide published by the superintendent of public instruction.

(3) If a district fails to follow generally accepted standards of maintenance and operation or disposes of a bus prior to the end of its useful life time as set forth in WAC 392-142-155, the superintendent of public instruction shall penalize the school district by deducting from any future allocations or state payments authorized under this chapter an amount equal to the original cost of the vehicle multiplied by the fraction of the useful lifetime the vehicle failed to operate.

[Statutory Authority: 1995 1st sp.s. c 10, RCW 28A.150.290 and chapter 28A.160 RCW as amended in ESSB 5408, section 1(6). 95-17-011, § 392-142-265, filed 8/4/95, effective 9/4/95. Statutory Authority: RCW 28A.41.170 and 28A.41.540. 90-02-077 (Order 21), § 392-142-265, filed 1/2/90, effective 2/2/90.]

Chapter 392-162 WAC
SPECIAL SERVICE PROGRAM—LEARNING
ASSISTANCE

WAC

392-162-042	Repealed.
392-162-043	Definition—School-wide project.
392-162-044	Repealed.
392-162-049	Definition—Needs assessment.
392-162-052	Definition—Indirect expenditures.
392-162-055	Repealed.
392-162-057	Definition—Advisory committee.
392-162-062	Program plan revision.
392-162-067	Program requirement—Needs assessment.
392-162-070	Repealed.
392-162-075	Program approval.
392-162-080	Program requirement—Selection of students.
392-162-085	Program requirement—Consultation with the "advisory committee."
392-162-095	Program requirement—Allowable expenditures.
392-162-105	Program requirement—Program evaluation.
392-162-110	Program requirement—End of year report.

DISPOSITION OF SECTIONS FORMERLY
CODIFIED IN THIS CHAPTER

392-162-042	Definition—Program options. [Statutory Authority: 1987 c 478. 87-22-001 (Order 87-14), § 392-162-042, filed 10/22/87.] Repealed by 95-19-031 (Order 95-08), filed 9/12/95, effective 10/13/95. Statutory Authority: 1987 c 478.
392-162-044	Definition—Program plan. [Statutory Authority: 1987 c 478. 87-22-001 (Order 87-14), § 392-162-044, filed 10/22/87.] Repealed by 95-19-031 (Order 95-08), filed 9/12/95, effective 10/13/95. Statutory Authority: 1987 c 478.
392-162-055	Definition—Direct expenditure. [Statutory Authority: RCW 28A.41.408. 84-14-038 (Order 84-21), § 392-162-055, filed 6/28/84.] Repealed by 95-19-031 (Order 95-08), filed 9/12/95, effective 10/13/95. Statutory Authority: 1987 c 478.
392-162-070	Program requirement—District program plan. [Statutory Authority: 1987 c 478. 87-22-001 (Order 87-14), § 392-162-070, filed 10/22/87. Statutory Authority: RCW 28A.41.408. 84-14-038 (Order 84-21), § 392-162-070, filed 6/28/84.] Repealed by 95-19-031 (Order 95-08), filed 9/12/95, effective 10/13/95. Statutory Authority: 1987 c 478.

WAC 392-162-042 Repealed. See Disposition Table at beginning of this chapter.

WAC 392-162-043 Definition—School-wide project. As used in this chapter, the term "school-wide project" means a school where all children are eligible to receive services depending on their needs.

[Statutory Authority: 1987 c 478. 95-19-031 (Order 95-08), § 392-162-043, filed 9/12/95, effective 10/13/95.]

WAC 392-162-044 Repealed. See Disposition Table at beginning of this chapter.

WAC 392-162-049 Definition—Needs assessment. As used in this chapter, the term, "needs assessment" means an analysis of the educational needs of an entire school that is based on the performance of children in relation to the state's challenging content standards and challenging student performance standards.

[Statutory Authority: 1987 c 478. 95-19-031 (Order 95-08), § 392-162-049, filed 9/12/95, effective 10/13/95; 87-22-001 (Order 87-14), § 392-162-049, filed 10/22/87.]

WAC 392-162-052 Definition—Indirect expenditures. As used in this chapter, the term "indirect expenditures" is as defined in the accounting manual glossary of terms.

[Statutory Authority: 1987 c 478. 95-19-031 (Order 95-08), § 392-162-052, filed 9/12/95, effective 10/13/95; 87-22-001 (Order 87-14), § 392-162-052, filed 10/22/87.]

WAC 392-162-055 Repealed. See Disposition Table at beginning of this chapter.

WAC 392-162-057 Definition—Advisory committee. As used in this chapter, the term "advisory committee" means a consultant group with membership including, but not limited to, representatives of the following groups: Parents—including parents of students served by program—teachers, principals, administrators, and school directors. This group can also be defined as the site-based planning team: *Provided*, That an existing advisory committee that meets the requirements of this section may serve as the learning assistance program advisory committee.

[Statutory Authority: 1987 c 478. 95-19-031 (Order 95-08), § 392-162-057, filed 9/12/95, effective 10/13/95; 87-22-001 (Order 87-14), § 392-162-057, filed 10/22/87.]

WAC 392-162-062 Program plan revision. A district may make periodic change(s) to the planning document during the school year if such change(s) are made with the "advisory committee" and are submitted to the superintendent of public instruction on forms provided for that purpose.

[Statutory Authority: 1987 c 478. 95-19-031 (Order 95-08), § 392-162-062, filed 9/12/95, effective 10/13/95; 87-22-001 (Order 87-14), § 392-162-062, filed 10/22/87.]

WAC 392-162-067 Program requirement—Needs assessment. Any school district with a school-wide project must ensure that the school-wide project school conducts a needs assessment of the entire school that is based on the performance of children in relation to the state's challenging content standards and challenging student performance standards.

[Statutory Authority: 1987 c 478. 95-19-031 (Order 95-08), § 392-162-067, filed 9/12/95, effective 10/13/95; 87-22-001 (Order 87-14), § 392-162-067, filed 10/22/87.]

WAC 392-162-070 Repealed. See Disposition Table at beginning of this chapter.

WAC 392-162-075 Program approval. The superintendent of public instruction shall review and approve each district's planning document. A district's learning assistance program shall not be implemented prior to planning document approval.

[Statutory Authority: 1987 c 478. 95-19-031 (Order 95-08), § 392-162-075, filed 9/12/95, effective 10/13/95; 87-22-001 (Order 87-14), § 392-162-

075, filed 10/22/87. Statutory Authority: RCW 28A.41.408. 84-14-038 (Order 84-21), § 392-162-075, filed 6/28/84.]

WAC 392-162-080 Program requirement—Selection of students. Students selected to participate in the learning assistance program shall be limited to those who:

- (1) Are enrolled in grades kindergarten through nine;
- (2) Are performing below grade level; provided, that all students in school-wide, project schools will be eligible for services based on academic need;
- (3) Have been selected using multiple measures; and
- (4) Have been determined to have the greatest risk of not meeting the state's challenging content and performance standards.

[Statutory Authority: 1987 c 478. 95-19-031 (Order 95-08), § 392-162-080, filed 9/12/95, effective 10/13/95; 87-22-001 (Order 87-14), § 392-162-080, filed 10/22/87. Statutory Authority: RCW 28A.41.408. 84-14-038 (Order 84-21), § 392-162-080, filed 6/28/84.]

WAC 392-162-085 Program requirement—Consultation with the "advisory committee." The school district staff responsible for the administration of the learning assistance program shall consult with the learning assistance program "advisory committee" in the planning, implementation and evaluation of the learning assistance program.

[Statutory Authority: 1987 c 478. 95-19-031 (Order 95-08), § 392-162-085, filed 9/12/95, effective 10/13/95; 87-22-001 (Order 87-14), § 392-162-085, filed 10/22/87. Statutory Authority: RCW 28A.41.408. 84-14-038 (Order 84-21), § 392-162-085, filed 6/28/84.]

WAC 392-162-095 Program requirement—Allowable expenditures. Only allowed expenditures shall be reimbursed by the superintendent of public instruction. Allowed expenditures shall include direct and indirect expenditures as specified on the approved program budget.

[Statutory Authority: 1987 c 478. 95-19-031 (Order 95-08), § 392-162-095, filed 9/12/95, effective 10/13/95; 91-18-005 (Order 91-15), § 392-162-095, filed 8/23/91, effective 8/23/91; 87-22-001 (Order 87-14), § 392-162-095, filed 10/22/87. Statutory Authority: RCW 28A.41.408. 84-14-038 (Order 84-21), § 392-162-095, filed 6/28/84.]

WAC 392-162-105 Program requirement—Program evaluation. The Title I evaluation requirements shall be used annually by districts to evaluate the educational achievement of students receiving recommended services in the learning assistance program. Evaluation results shall be collected annually by the superintendent of public instruction.

[Statutory Authority: 1987 c 478. 95-19-032 (Order 95-09), § 392-162-105, filed 9/12/95, effective 10/13/95; 87-22-001 (Order 87-14), § 392-162-105, filed 10/22/87. Statutory Authority: RCW 28A.41.408. 84-14-038 (Order 84-21), § 392-162-105, filed 6/28/84.]

WAC 392-162-110 Program requirement—End of year report. Districts shall submit to the superintendent of public instruction at the close of the fiscal year an end of the year report on forms provided by the superintendent of public instruction.

[Statutory Authority: 1987 c 478. 95-19-031 (Order 95-08), § 392-162-110, filed 9/12/95, effective 10/13/95; 87-22-001 (Order 87-14), § 392-162-110, filed 10/22/87. Statutory Authority: RCW 28A.41.408. 84-14-038 (Order 84-21), § 392-162-110, filed 6/28/84.]

Chapter 392-169 WAC

SPECIAL SERVICE PROGRAMS RUNNING START PROGRAM

WAC

392-169-005	Authority.
392-169-015	Running start program—Definition.
392-169-020	Eligible student—Definition.
392-169-022	Running start student—Definition.
392-169-023	College or university day—Definition.
392-169-025	Full-time equivalent (FTE) running start enrollment—Definition.
392-169-033	Institution of higher education—Definition.
392-169-035	Repealed.
392-169-045	Enrollment—General requirements and conditions.
392-169-050	Enrollment—High school credit—Prior confirmation.
392-169-055	Enrollment—Extent and duration of running start enrollment.
392-169-057	Enrollment—Extent of combined high school and running start enrollment.
392-169-060	Enrollment—Exception from tuition and fees.
392-169-065	Enrollment—Continuing eligibility.
392-169-075	Academic standards and discipline—Jurisdiction of educational agencies.
392-169-080	Compliance with federal and state requirements of law—Special education program requirements—Necessary cooperative agreements.
392-169-085	High school credit—Award by school districts.
392-169-090	Finance—Generation and apportionment of state basic education moneys.
392-169-100	Running start enrollment count dates.
392-169-105	Finance—Institution of higher education reporting requirements.
392-169-110	Finance—School district reporting requirements.
392-169-115	Finance—Limitations on enrollment counts.
392-169-120	Finance—Documentation requirements.
392-169-125	Current and future institution of higher education enrollment alternatives not affected.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

392-169-035	Community and technical colleges—Definition. [Statutory Authority: RCW 28A.600.390, 28A.150.260 and [28A.150.]290. 94-04-095 (Order 94-01), § 392-169-035, filed 2/1/94, effective 3/4/94.] Repealed by 95-09-042 (Order 95-02), filed 4/14/95, effective 5/15/95. Statutory Authority: RCW 28A.300.390, 28A.150.260 and 28A.150.290.
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WAC 392-169-005 Authority. The authority for this chapter is RCW 28A.600.390, which authorizes the superintendent of public instruction, the state board for community and technical colleges, and the higher education coordinating board to jointly develop and adopt rules governing RCW 28A.600.300 through 28A.600.380, and 28A.150.260 and 28A.150.290 which authorize the superintendent of public instruction to adopt rules governing basic education allocation moneys. The rules set forth in this chapter have been jointly developed and agreed upon by the three agencies, and adopted and codified in separate chapters of the Washington Administrative Code by each of the three agencies. The rules may be modified only by agreement of all three agencies.

[Statutory Authority: RCW 28A.300.390, 28A.150.260 and 28A.150.290. 95-09-042 (Order 95-02), § 392-169-005, filed 4/14/95, effective 5/15/95. Statutory Authority: RCW 28A.600.390, 28A.150.260 and [28A.150.]290. 94-04-095 (Order 94-01), § 392-169-005, filed 2/1/94, effective 3/4/94.]

WAC 392-169-015 Running start program—

Definition. As used in this chapter, the terms "running start" and "running start program" mean the part-time to full-time equivalent enrollment under this chapter of eligible eleventh and twelfth grade high school students in an institution of higher education for the purpose of earning at least high school credit to be awarded by a school district, and such additional college level or university level credit as may be awarded by the institution of higher education.

[Statutory Authority: RCW 28A.300.390, 28A.150.260 and 28A.150.290. 95-09-042 (Order 95-02), § 392-169-015, filed 4/14/95, effective 5/15/95. Statutory Authority: RCW 28A.600.390, 28A.150.260 and [28A.150.]290. 94-04-095 (Order 94-01), § 392-169-015, filed 2/1/94, effective 3/4/94.]

WAC 392-169-020 Eligible student—Definition.

As used in this chapter, the term "eligible student" means any person, including a person who is otherwise attending a private school or receiving home-based instruction, who meets each of the following conditions:

(1) The person is under the age of twenty-one years of age as of September 1 of the school year.

(2) The person is eligible by reason of his or her residence or other criterion established by law to enroll in the school district through which the person seeks to obtain the award of running start program high school credit. See RCW 28A.225.160 (residents of a school district), RCW 28A.225.170 (residents of the United States and Indian Reservations), RCW 28A.225.210 (residents of "nonhigh" school districts), and RCW 28A.225.220 ("choice" students). Note: A running start student who changes his or her school district of residence, following enrollment in running start, solely for the purpose of attending an institution of higher education under this chapter shall be deemed to have retained his or her residence in the school district of initial running start enrollment for high school graduation, funding and other purposes under this chapter.

(3) The person is eligible under the grade placement policies of the school district through which the person seeks to obtain running start program high school credit to be in the eleventh or the twelfth grade.

(4) The person has not as of the beginning of the school year earned the credits required for the award of a high school diploma by the school district through which the person seeks to obtain the award of running start program high school credit.

(5) The person has not as of the beginning of the school year received a high school diploma or its equivalent. Note: A general education development certificate is not considered to be the equivalent of a high school diploma for purposes of this subsection.

(6) The person's running start program enrollment to date is below the applicable eleventh or twelfth grade running start enrollment limitations established under WAC 392-169-055.

[Statutory Authority: RCW 28A.300.390, 28A.150.260 and 28A.150.290. 95-09-042 (Order 95-02), § 392-169-020, filed 4/14/95, effective 5/15/95. Statutory Authority: RCW 28A.600.390, 28A.150.260 and [28A.150.]290. 94-04-095 (Order 94-01), § 392-169-020, filed 2/1/94, effective 3/4/94.]

WAC 392-169-022 Running start student—

Definition. For the purposes of this chapter and chapter

392-121 WAC, the term "running start student" means an eligible student:

(1) Who is enrolled in the running start program in accordance with this chapter;

(2) Whose enrollment has not been suspended or terminated by withdrawal, transfer, suspension or expulsion; and

(3) Who has participated in one or more instructional activities conducted by college or university staff (e.g., classroom or laboratory instruction, course work testing, post enrollment/registration academic counseling, and similar other instructional activities) on at least one college or university day during the current quarter or semester since the last enrollment count date.

[Statutory Authority: RCW 28A.300.390, 28A.150.260 and 28A.150.290. 95-09-042 (Order 95-02), § 392-169-022, filed 4/14/95, effective 5/15/95. Statutory Authority: RCW 28A.600.390, 28A.150.260 and [28A.150.]290. 94-04-095 (Order 94-01), § 392-169-022, filed 2/1/94, effective 3/4/94.]

WAC 392-169-023 College or university day—

Definition. For the purposes of this chapter, the term "college or university day" means a day on which running start students are afforded the opportunity to be engaged in instructional activity which is planned and conducted by or under the supervision of college or university instructional staff, and on which day all or any portion of the enrolled running start students actually participate in such instructional activity.

[Statutory Authority: RCW 28A.300.390, 28A.150.260 and 28A.150.290. 95-09-042 (Order 95-02), § 392-169-023, filed 4/14/95, effective 5/15/95. Statutory Authority: RCW 28A.600.390, 28A.150.260 and [28A.150.]290. 94-04-095 (Order 94-01), § 392-169-023, filed 2/1/94, effective 3/4/94.]

WAC 392-169-025 Full-time equivalent (FTE)

running start enrollment—Definition. For the purposes of this chapter and chapter 392-121 WAC, "full-time equivalent (FTE) running start enrollment" (i.e., college or university enrollment) means the FTE of running start students on an enrollment count date when each student's FTE is determined subject to the limitations of WAC 392-169-022, 392-169-055 and 392-169-115 as follows:

(1) For college or university courses denominated in quarter credits, the quotient of an eligible student's quarter credits of running start enrollment divided by fifteen.

(2) For college or university courses denominated in semester credits, the quotient of an eligible student's semester credits of running start enrollment divided by fifteen.

(3) For college or university courses not denominated in quarter or semester credits, the quotient of an eligible student's average hours of running start enrollment per week divided by twenty-five. Hours of enrollment shall be determined pursuant to WAC 392-121-106 through 392-121-183.

(4) The sum of the results of running start enrollment under subsections (1), (2) and (3) of this section shall not exceed 1.00 FTE per student on any count day or in any school year.

[Statutory Authority: RCW 28A.300.390, 28A.150.260 and 28A.150.290. 95-09-042 (Order 95-02), § 392-169-025, filed 4/14/95, effective 5/15/95. Statutory Authority: RCW 28A.600.390, 28A.150.260 and [28A.150.]290. 94-04-095 (Order 94-01), § 392-169-025, filed 2/1/94, effective 3/4/94.]

WAC 392-169-033 Institution of higher education—Definition. As used in this chapter, the term "institution of higher education" means:

- (1) A Washington community college established under chapter 28B.50 RCW;
- (2) A Washington technical college established under chapter 28B.50 RCW;
- (3) Central Washington University, Eastern Washington University and Washington State University if:
 - (a) The university has decided to participate in the running start program; and
 - (b) The board of directors of the school district through which an eligible student seeks to obtain running start program high school credit has decided to participate in the universities' running start program.

[Statutory Authority: RCW 28A.300.390, 28A.150.260 and 28A.150.290. 95-09-042 (Order 95-02), § 392-169-033, filed 4/14/95, effective 5/15/95.]

WAC 392-169-035 Repealed. See Disposition Table at beginning of this chapter.

WAC 392-169-045 Enrollment—General requirements and conditions. The enrollment of an eligible student in the running start program shall be governed as follows:

- (1) An eligible student is responsible for applying for and pursuing admission to an institution of higher education on or before the deadline for enrollment established by the college or university.
- (2) It shall not be necessary for an eligible student to obtain a release of attendance from his or her resident school district in order for the student to enroll in an institution of higher education.
- (3) An eligible student is entitled to enroll in an institution of higher education for running start program purposes subject to each of the following conditions and limitations:
 - (a) Enrollment is limited to college and university level courses.
 - (b) Prior confirmation pursuant to WAC 392-169-050 by the school district through which the student seeks to obtain the award of running start program high school credit of the amount of high school credit to be awarded on or before the deadline for enrollment established by the institution of higher education.
 - (c) Acceptance of the student by the institution of higher education subject to generally applicable admission and enrollment requirements and limitations established by the institution, including a determination that the student is competent to profit from the college or university level course(s) the student seeks to enroll in: *Provided*, That a technical college shall not deny admission or continued attendance to a person under twenty-two years of age with a disability based upon impaired competency or the creation of a disruptive atmosphere associated with the person's disability.
 - (d) The limitations upon the duration and extent of institution of higher education course enrollment set forth in WAC 392-169-055 and 392-169-057.

[Statutory Authority: RCW 28A.300.390, 28A.150.260 and 28A.150.290. 95-09-042 (Order 95-02), § 392-169-045, filed 4/14/95, effective 5/15/95.]

Statutory Authority: RCW 28A.600.390, 28A.150.260 and [28A.150.]290. 94-04-095 (Order 94-01), § 392-169-045, filed 2/1/94, effective 3/4/94.]

WAC 392-169-050 Enrollment—High school credit—Prior confirmation. As a condition to an eligible student's enrollment in college or university courses under this chapter, the eligibility of the courses which the student intends to take for the award of high school credit and the amount of such credit shall first be established, as follows:

- (1) The student shall notify the school district through which the student seeks to obtain the award of running start program high school credit of the specific college or university courses he or she intends to take and shall request confirmation of the amount of high school credit that will be awarded upon successful completion of the courses.
- (2) The school district shall establish on a course by course basis the amount of high school required or elective credit, or combination thereof, that shall be awarded for each college or university course successfully completed by the student based upon the conversion rate set forth in WAC 180-51-050.

(3) If a college or university course is not comparable to a school district course required for high school graduation, the school district superintendent shall determine the amount of required high school credit which shall be awarded following consultation with a representative of the institution of higher education designated for that purpose. The difference between the amount of required credit and the amount of credit earned at the conversion rate set forth in WAC 180-51-050 shall be awarded as elective credit.

(4) Within twenty school district business days of a student's request for confirmation of credit the school district superintendent or other designated school district representative shall confirm in writing the amount of high school required or elective credit, or combination thereof, which shall be awarded upon successful completion of the courses.

[Statutory Authority: RCW 28A.300.390, 28A.150.260 and 28A.150.290. 95-09-042 (Order 95-02), § 392-169-050, filed 4/14/95, effective 5/15/95. Statutory Authority: RCW 28A.600.390, 28A.150.260 and [28A.150.]290. 94-04-095 (Order 94-01), § 392-169-050, filed 2/1/94, effective 3/4/94.]

WAC 392-169-055 Enrollment—Extent and duration of running start enrollment. Running start program enrollment under this chapter is limited as follows (and as may be further limited for academic reasons under WAC 392-169-057):

- (1) An eligible student who enrolls in grade eleven may enroll in an institution of higher education while in the eleventh grade for no more than the course work equivalent to one academic year of enrollment as an annual average full-time equivalent running start student (i.e., three college or university quarters as a full-time equivalent college or university student, or two semesters as a full-time equivalent college or university student or nine months as a full-time equivalent technical college student).
- (2) An eligible student who enrolls in grade twelve may enroll in an institution of higher education while in the twelfth grade for no more than the course work equivalent to one academic year of enrollment as an annual average full-time equivalent running start student (i.e., three college or university quarters as a full-time equivalent community college or university student, or two semesters as a full-time

equivalent college or university student and nine months as a full-time technical college student).

(3) Enrollment in an institution of higher education is limited to the fall, winter and spring quarters, and the fall and spring semesters.

(4) As a general rule a student's eligibility for running start program enrollment terminates at the end of the student's twelfth grade regular academic year, notwithstanding the student's failure to have enrolled in an institution of higher education to the full extent permitted by subsections (1) and (2) of this section: *Provided*, That a student who has failed to meet high school graduation requirements as of the end of the student's twelfth grade regular academic year (September-June) due to the student's absence, the student's failure of one or more courses, or another similar reason may continue running start program enrollment for the sole and exclusive purpose of completing the particular course or courses required to meet high school graduation requirements, subject to the enrollment limitation established by subsection (2) of this section.

[Statutory Authority: RCW 28A.300.390, 28A.150.260 and 28A.150.290. 95-09-042 (Order 95-02), § 392-169-055, filed 4/14/95, effective 5/15/95. Statutory Authority: RCW 28A.600.390, 28A.150.260 and [28A.150.]290. 94-04-095 (Order 94-01), § 392-169-055, filed 2/1/94, effective 3/4/94.]

WAC 392-169-057 Enrollment—Extent of combined high school and running start enrollment. Concurrent or combined regular high school program and running start program enrollment by a student may exceed the equivalent of full-time enrollment as follows:

(1) An eligible student's concurrent enrollment in both the regular high school program, and in running start or an institution of higher education under this chapter, may exceed the equivalent of full-time enrollment: *Provided*, That a designated school district representative and a designated college or university representative may jointly limit a student's concurrent high school and institution of higher education enrollment, but not to less than the equivalent of full-time enrollment, for bona fide academic reasons based upon a joint evaluation of the student's capabilities and the total course work the student seeks to enroll in.

(2) For purposes of limiting a student's combined regular high school and running start program enrollment for bona fide academic reasons under subsection (1) of this section thirty hours per week shall constitute full-time high school or technical college enrollment, and fifteen quarter credit hours or fifteen semester hours shall constitute full-time college or university enrollment. Thus, for example, a student enrolled in the regular high school program for ten hours per week (one-third FTE) and in a college for ten quarter credit hours (two-thirds FTE) is enrolled the equivalent of full-time.

[Statutory Authority: RCW 28A.300.390, 28A.150.260 and 28A.150.290. 95-09-042 (Order 95-02), § 392-169-057, filed 4/14/95, effective 5/15/95. Statutory Authority: RCW 28A.600.390, 28A.150.260 and [28A.150.]290. 94-04-095 (Order 94-01), § 392-169-057, filed 2/1/94, effective 3/4/94.]

WAC 392-169-060 Enrollment—Exception from tuition and fees. A running start student shall not be required by an institution of higher education to pay any tuition or other fee as a condition to the student's full participation in running start college or university course

work and related activities, or as a condition to the award of credit therefor: *Provided*, That requiring a running start student to provide and pay for consumable supplies, textbooks, and other materials to be retained by the student does not constitute the assessment of tuition or a fee for purposes of this section: *Provided further*, That this limitation on the assessment of tuition and fees does not apply to a student's enrollment above and beyond running start program enrollment limitations under this chapter (i.e., college and university enrollment in excess of one FTE and college and university summer enrollment may be conditioned upon the payment of regular tuition and fees).

[Statutory Authority: RCW 28A.300.390, 28A.150.260 and 28A.150.290. 95-09-042 (Order 95-02), § 392-169-060, filed 4/14/95, effective 5/15/95. Statutory Authority: RCW 28A.600.390, 28A.150.260 and [28A.150.]290. 94-04-095 (Order 94-01), § 392-169-060, filed 2/1/94, effective 3/4/94.]

WAC 392-169-065 Enrollment—Continuing eligibility. Once an eligible student has been enrolled in one or more running start or institution of higher education courses under this chapter, the student shall not be displaced by another student: *Provided*, That a student's continued enrollment in a course or program and enrollment in other courses or programs shall be subject to generally applicable enrollment requirements and limitations established by the institution of higher education: *Provided further*, That a technical college shall not deny continued attendance to a person under twenty-two years of age with a disability based upon impaired competency or the creation of a disruptive atmosphere associated with the person's disability.

[Statutory Authority: RCW 28A.300.390, 28A.150.260 and 28A.150.290. 95-09-042 (Order 95-02), § 392-169-065, filed 4/14/95, effective 5/15/95. Statutory Authority: RCW 28A.600.390, 28A.150.260 and [28A.150.]290. 94-04-095 (Order 94-01), § 392-169-065, filed 2/1/94, effective 3/4/94.]

WAC 392-169-075 Academic standards and discipline—Jurisdiction of educational agencies. Each school district and institution of higher education shall independently have and exercise exclusive jurisdiction over academic and discipline matters involving a student's enrollment and participation in courses of, and the receipt of services and benefits from, the school district or the institution of higher education.

[Statutory Authority: RCW 28A.300.390, 28A.150.260 and 28A.150.290. 95-09-042 (Order 95-02), § 392-169-075, filed 4/14/95, effective 5/15/95. Statutory Authority: RCW 28A.600.390, 28A.150.260 and [28A.150.]290. 94-04-095 (Order 94-01), § 392-169-075, filed 2/1/94, effective 3/4/94.]

WAC 392-169-080 Compliance with federal and state requirements of law—Special education program requirements—Necessary cooperative agreements. As a general rule, a school district and an institution of higher education are independently responsible for assuring compliance with federal and state requirements of law which are applicable to the provision of services and benefits by the school district or the institution of higher education under this chapter. If, however, the individualized education program of a special education student established under chapter 392-171 WAC provides for running start enrollment in an institution of higher education, the school district which established the individualized education program shall also be responsible for assuring compliance with chapter

392-171 WAC in connection with the student's running start enrollment in the institution of higher education. School districts and institutions of higher education shall enter into cooperative agreements as necessary to assure compliance with their respective duties under federal and state law, including agreements which substantiate a school district's claim to necessary federal and state funding.

[Statutory Authority: RCW 28A.300.390, 28A.150.260 and 28A.150.290. 95-09-042 (Order 95-02), § 392-169-080, filed 4/14/95, effective 5/15/95. Statutory Authority: RCW 28A.600.390, 28A.150.260 and [28A.150.]290. 94-04-095 (Order 94-01), § 392-169-080, filed 2/1/94, effective 3/4/94.]

WAC 392-169-085 High school credit—Award by school districts. Upon confirmation by an institution of higher education of a student's successful completion of running start program courses under this chapter, the school district shall record on the student's secondary school records and transcript the high school credit previously confirmed under WAC 392-169-050 together with a notation that the courses were taken at an institution of higher education.

[Statutory Authority: RCW 28A.300.390, 28A.150.260 and 28A.150.290. 95-09-042 (Order 95-02), § 392-169-085, filed 4/14/95, effective 5/15/95. Statutory Authority: RCW 28A.600.390, 28A.150.260 and [28A.150.]290. 94-04-095 (Order 94-01), § 392-169-085, filed 2/1/94, effective 3/4/94.]

WAC 392-169-090 Finance—Generation and apportionment of state basic education moneys. (1) Each running start student shall generate state running start basic education moneys based upon the student's enrollment under this chapter in institution of higher education courses or programs in accordance with the definitions of FTE and AAFTE students set forth in WAC 392-169-025 and 392-169-030, the enrollment and enrollment count limitations set forth in WAC 392-169-055 and 392-169-115, rules of the superintendent of public instruction set forth in Title 392 WAC which supplement and do not conflict with this chapter, and the Biennial Operating Appropriations Act.

(2) The superintendent of public instruction shall apportion running start basic education moneys to school districts reporting running start enrollments based upon AAFTE nonvocational and vocational running start enrollments and uniform state-wide rates for nonvocational and vocational students as determined pursuant to WAC 392-169-095.

(3) School districts may retain and expend for running start program counseling or other school district purposes up to seven percent of the running start basic education moneys apportioned by the superintendent of public instruction.

(4) School districts shall apportion each institution of higher education's share of running start basic education moneys received under this chapter to each institution on at least a modified quarterly basis on or before December 31, March 31, June 30, and August 31 each school year.

[Statutory Authority: RCW 28A.300.390, 28A.150.260 and 28A.150.290. 95-09-042 (Order 95-02), § 392-169-090, filed 4/14/95, effective 5/15/95. Statutory Authority: RCW 28A.600.390, 28A.150.260 and [28A.150.]290. 94-04-095 (Order 94-01), § 392-169-090, filed 2/1/94, effective 3/4/94.]

WAC 392-169-100 Running start enrollment count dates. Enrollment count dates for the running start program shall be as follows:

(1) For community and technical colleges and for Central Washington University and Eastern Washington University, the first college or university day of each of the months of October through June; and

(2) For Washington State University the first university day of each of the months of September through May.

[Statutory Authority: RCW 28A.300.390, 28A.150.260 and 28A.150.290. 95-09-042 (Order 95-02), § 392-169-100, filed 4/14/95, effective 5/15/95. Statutory Authority: RCW 28A.600.390, 28A.150.260 and [28A.150.]290. 94-04-095 (Order 94-01), § 392-169-100, filed 2/1/94, effective 3/4/94.]

WAC 392-169-105 Finance—Institution of higher education reporting requirements. Each institution of higher education that enrolls an eligible student under this chapter shall periodically report enrollment information as follows:

(1) Within ten calendar days of enrollment of the student, provide written notice to the student, and the school district through which the student seeks to obtain running start program high school credit of the courses and the credit hours or instructional/clock hours of enrollment.

(2) After each monthly count date the institution of higher education shall report running start student enrollments by the eighth day of the month to the school district through which the student seeks to obtain the award of running start program high school credit as is necessary for the school district to claim state running start basic education program moneys under this chapter and chapter 392-121 WAC.

(3) The monthly report shall be prepared in accordance with instructions provided by the superintendent of public instruction, and shall include, but not necessarily be limited to, the following:

(a) The total number of enrolled running start students on the count date (see the definition of a "running start student" in WAC 392-169-022);

(b) Total nonvocational running start FTE enrollment;

(c) Total vocational running start FTE enrollment; and

(d) The name of each running start student and the nonvocational and vocational running start FTE reported for the student.

[Statutory Authority: RCW 28A.300.390, 28A.150.260 and 28A.150.290. 95-09-042 (Order 95-02), § 392-169-105, filed 4/14/95, effective 5/15/95. Statutory Authority: RCW 28A.600.390, 28A.150.260 and [28A.150.]290. 94-04-095 (Order 94-01), § 392-169-105, filed 2/1/94, effective 3/4/94.]

WAC 392-169-110 Finance—School district reporting requirements. Each school district through which a running start student seeks to obtain running start program high school credit shall make all reports to the superintendent of public instruction in accordance with this chapter and chapter 392-121 WAC as are necessary to substantiate the district's entitlement to the receipt of moneys based upon the student's institution of higher education enrollment under this chapter. Running start students shall be so reported as full-time equivalent vocational and nonvocational students, or fractions thereof, in accordance with the definition of full-time equivalent students set forth in WAC 392-169-025.

[Statutory Authority: RCW 28A.300.390, 28A.150.260 and 28A.150.290. 95-09-042 (Order 95-02), § 392-169-110, filed 4/14/95, effective 5/15/95. Statutory Authority: RCW 28A.600.390, 28A.150.260 and [28A.150.]290. 94-04-095 (Order 94-01), § 392-169-110, filed 2/1/94, effective 3/4/94.]

WAC 392-169-115 Finance—Limitations on enrollment counts. No running start student enrolled in one or more institutions of higher education reported under WAC 392-169-105 and 392-169-110 shall exceed one full-time equivalent running start student on any enrollment count date or more than one annual average full-time equivalent student in any school year.

[Statutory Authority: RCW 28A.300.390, 28A.150.260 and 28A.150.290. 95-09-042 (Order 95-02), § 392-169-115, filed 4/14/95, effective 5/15/95. Statutory Authority: RCW 28A.600.390, 28A.150.260 and [28A.150.]290. 94-04-095 (Order 94-01), § 392-169-115, filed 2/1/94, effective 3/4/94.]

WAC 392-169-120 Finance—Documentation requirements. School districts and institutions of higher education shall maintain documentation supporting running start student enrollment and state funding claims, including the following:

(1) Institution of higher education documentation shall show each student's college or university enrollment status on each enrollment count date and evidence of the student's participation in college or university instructional activities conducted by college or university staff on at least one college or university day since the last enrollment count date. See WAC 392-169-022(3) for a description of required "instructional activities."

(2) School district documentation shall show each student's school district enrollment status on each enrollment count date and evidence that the student is earning high school graduation credit for running start enrollment reported for state funding.

[Statutory Authority: RCW 28A.300.390, 28A.150.260 and 28A.150.290. 95-09-042 (Order 95-02), § 392-169-120, filed 4/14/95, effective 5/15/95. Statutory Authority: RCW 28A.600.390, 28A.150.260 and [28A.150.]290. 94-04-095 (Order 94-01), § 392-169-120, filed 2/1/94, effective 3/4/94.]

WAC 392-169-125 Current and future institution of higher education enrollment alternatives not affected. This chapter shall not affect the alternative enrollment, and arrangements, therefor, of a secondary student in an institution of higher education pursuant to a contractual agreement entered into pursuant to RCW 28B.50.530 (interschool district/college district cooperative programs) or chapter 39.34 RCW (the Interlocal Cooperation Act). See WAC 392-121-183 (Contracting with a higher education institution).

[Statutory Authority: RCW 28A.300.390, 28A.150.260 and 28A.150.290. 95-09-042 (Order 95-02), § 392-169-125, filed 4/14/95, effective 5/15/95. Statutory Authority: RCW 28A.600.390, 28A.150.260 and [28A.150.]290. 94-04-095 (Order 94-01), § 392-169-125, filed 2/1/94, effective 3/4/94.]

Chapter 392-171 WAC

SPECIAL EDUCATION PROGRAMS—EDUCATION FOR ALL HANDICAPPED CHILDREN

WAC

392-171-295 through 392-171-960 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 392-171-295 Authority. [Statutory Authority: 1990 c 33. 90-16-002 (Order 18), § 392-171-295, filed 7/19/90, effective 8/19/90. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-295, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 84-14-036 (Order 84-19), § 392-171-295, filed 6/28/84.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-300 Purposes. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-300, filed 9/13/93, effective 10/14/93. Statutory Authority: 1990 c 33. 90-16-002 (Order 18), § 392-171-300, filed 7/19/90, effective 8/19/90. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-300, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-300, filed 8/19/80. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-300, filed 10/31/78.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-305 Advisory council. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-305, filed 9/13/93, effective 10/14/93. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-305, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-305, filed 10/31/78.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-310 Definitions of "free appropriate, public education," "adult student," "student with disabilities," "parent," and "school district." [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-310, filed 9/13/93, effective 10/14/93. Statutory Authority: RCW 28A.13.070(7) and chapter 28A.13 RCW. 90-16-045 (Order 17), § 392-171-310, filed 7/25/90, effective 7/25/90. Statutory Authority: 1990 c 33. 90-16-002 (Order 18), § 392-171-310, filed 7/19/90, effective 8/19/90. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-310, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-310, filed 8/19/80. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-310, filed 10/31/78.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-311 Definitions of "assessment," "current assessment," "reassessment," and "consent." [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-311, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-311, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-315 Definition of "special education." [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-315, filed 9/13/93, effective 10/14/93. Statutory Authority: RCW 28A.13.070(7) and chapter 28A.13 RCW. 90-16-045 (Order 17), § 392-171-315, filed 7/25/90, effective 7/25/90. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-315, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 86-06-007 (Order 86-1), § 392-171-315, filed 2/21/86; 80-11-054 (Order 80-31), § 392-171-315, filed 8/19/80. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-315, filed 10/31/78.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.

- 392-171-320 Definition of "related services." [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-320, filed 9/13/93, effective 10/14/93. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-320, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-320, filed 8/19/80. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-320, filed 10/31/78.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-321 Definition—Transition services. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-321, filed 9/13/93, effective 10/14/93. Statutory Authority: RCW 28A.155.090. 91-18-004 (Order 91-18), § 392-171-321, filed 8/23/91, effective 9/23/91.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-322 Definition—Supplementary services. [Statutory Authority: RCW 28A.13.070(7) and chapter 28A.13 RCW. 90-16-045 (Order 17), § 392-171-322, filed 7/25/90, effective 7/25/90.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-323 Definition—Assistive technology device and service. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-323, filed 9/13/93, effective 10/14/93.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-324 Definition—Availability of assistive technology. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-324, filed 9/13/93, effective 10/14/93.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-325 Students' rights to special education programs. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-325, filed 9/13/93, effective 10/14/93. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-325, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 84-14-036 (Order 84-19), § 392-171-325, filed 6/28/84; 80-11-054 (Order 80-31), § 392-171-325, filed 8/19/80. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-325, filed 10/31/78.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-331 Continuing eligibility. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-331, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 84-14-036 (Order 84-19), § 392-171-331, filed 6/28/84; 80-11-054 (Order 80-31), § 392-171-331, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-336 Childfind. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-336, filed 9/13/93, effective 10/14/93. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-336, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-336, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-341 Student as focus of concern—Preassessment procedures—Timeline. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-341, filed 9/13/93, effective 10/14/93. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-341, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-341, filed 8/19/80. Formerly WAC 392-171-395.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-346 General areas of assessment. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-346, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-346, filed 8/19/80. Formerly WAC 392-171-400.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-351 General assessment safeguards—Personnel, materials and procedures. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-351, filed 9/13/93, effective 10/14/93. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-351, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 86-06-007 (Order 86-1), § 392-171-351, filed 2/21/86; 84-14-036 (Order 84-19), § 392-171-351, filed 6/28/84; 80-11-054 (Order 80-31), § 392-171-351, filed 8/19/80. Formerly WAC 392-171-405.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-358 Communication disordered students—Assessment. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-358, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 86-06-007 (Order 86-1), § 392-171-358, filed 2/21/86; 80-11-054 (Order 80-31), § 392-171-358, filed 8/19/80. Formerly WAC 392-171-420.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-361 Medical evaluation. [Statutory Authority: 1990 c 33. 90-16-002 (Order 18), § 392-171-361, filed 7/19/90, effective 8/19/90. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-361, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-361, filed 8/19/80. Formerly WAC 392-171-425.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-366 Summary analysis of assessment data. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-366, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 86-06-007 (Order 86-1), § 392-171-366, filed 2/21/86; 84-14-036 (Order 84-19), § 392-171-366, filed 6/28/84; 80-11-054 (Order 80-31), § 392-171-366, filed 8/19/80. Formerly WAC 392-171-430.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-371 Independent educational assessment. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-371, filed 9/13/93, effective 10/14/93. Statutory Authority: RCW 28A.13.070(7) and chapter 28A.13 RCW. 90-16-045 (Order 17), § 392-171-371, filed 7/25/90, effective 7/25/90. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-371, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 86-06-007 (Order 86-1), § 392-171-371, filed 2/21/86; 80-11-054 (Order 80-31), § 392-171-371, filed 8/19/80. Formerly WAC 392-171-435.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-376 School district decision. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-376, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-376, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-381 Definition and eligibility criteria for developmentally disabled. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-381, filed 9/13/93, effective 10/14/93. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-381, filed

- 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 84-14-036 (Order 84-19), § 392-171-381, filed 6/28/84; 80-11-054 (Order 80-31), § 392-171-381, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-382 Definition and eligibility criteria for developmentally delayed. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-382, filed 9/13/93, effective 10/14/93. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-382, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 84-14-036 (Order 84-19), § 392-171-382, filed 6/28/84.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-383 Areas of developmental delay—Definitions. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-383, filed 9/13/93, effective 10/14/93. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-383, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 84-14-036 (Order 84-19), § 392-171-383, filed 6/28/84.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-386 Definition and eligibility criteria for seriously behaviorally disabled. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-386, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 84-14-036 (Order 84-19), § 392-171-386, filed 6/28/84; 83-08-029 (Order 83-1), § 392-171-386, filed 3/30/83; 80-11-054 (Order 80-31), § 392-171-386, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-391 Definition and eligibility criteria for communication disordered. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-391, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 84-14-036 (Order 84-19), § 392-171-391, filed 6/28/84; 80-11-054 (Order 80-31), § 392-171-391, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-396 Definition and eligibility criteria for orthopedically impaired. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-396, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-396, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-401 Definition and eligibility criteria for health impaired. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-401, filed 9/13/93, effective 10/14/93. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-401, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 84-14-036 (Order 84-19), § 392-171-401, filed 6/28/84; 83-08-029 (Order 83-1), § 392-171-401, filed 3/30/83; 80-11-054 (Order 80-31), § 392-171-401, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-406 Specific learning disability—Definition. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-406, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 84-14-036 (Order 84-19), § 392-171-406, filed 6/28/84; 80-11-054 (Order 80-31), § 392-171-406, filed 8/19/80. Formerly WAC 392-171-350.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-411 Specific learning disability—Assessment procedures and eligibility criteria. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-411, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 84-14-036 (Order 84-19), § 392-171-411, filed 6/28/84; 80-11-054 (Order 80-31), § 392-171-411, filed 8/19/80. Formerly WAC 392-171-355.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-412 Discrepancy tables for determining severe discrepancy under WAC 392-171-413. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-412, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 84-14-036 (Order 84-19), § 392-171-412, filed 6/28/84.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-413 Method for documenting severe discrepancy—Grades one and above. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-413, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 84-14-036 (Order 84-19), § 392-171-413, filed 6/28/84.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-418 Additional method for documenting severe discrepancy—Grades seven and above. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-418, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 84-14-036 (Order 84-19), § 392-171-418, filed 6/28/84.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-421 Definition and eligibility criteria for mental retardation. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-421, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-421, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-431 Definition and eligibility criteria for multihandicapped. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-431, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 84-14-036 (Order 84-19), § 392-171-431, filed 6/28/84; 80-11-054 (Order 80-31), § 392-171-431, filed 8/19/80. Formerly WAC 392-171-380.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-436 Definition and eligibility criteria for deaf. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-436, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-436, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-441 Definition and eligibility criteria for hard of hearing. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-441, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-441, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-446 Definition and eligibility criteria for visually handicapped. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-446, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-446, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-451 Definition and eligibility criteria for deaf-blind. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-451, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-451, filed 8/19/80.] Repealed

- by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-452 Definition and eligibility criteria for autism. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-452, filed 9/13/93, effective 10/14/93.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-454 Definition and eligibility criteria for traumatic brain injury. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-454, filed 9/13/93, effective 10/14/93.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-456 Meetings. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-456, filed 9/13/93, effective 10/14/93. Statutory Authority: RCW 28A.155.090 and 28A.300.070. 91-01-033, § 392-171-456, filed 12/11/90, effective 1/11/91. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-456, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-456, filed 8/19/80. Formerly WAC 392-171-440.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-457 Individual education plan to be in effect. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-457, filed 9/13/93, effective 10/14/93.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-461 Individualized education program. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-461, filed 9/13/93, effective 10/14/93. Statutory Authority: RCW 28A.155.090. 91-18-004 (Order 91-18), § 392-171-461, filed 8/23/91, effective 9/23/91. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-461, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 84-14-036 (Order 84-19), § 392-171-461, filed 6/28/84; 80-11-054 (Order 80-31), § 392-171-461, filed 8/19/80. Formerly WAC 392-171-445.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-462 Parent notice—Transition services. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-462, filed 9/13/93, effective 10/14/93.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-463 Transition services participants. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-463, filed 9/13/93, effective 10/14/93.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-464 Required student participation—Transition. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-464, filed 9/13/93, effective 10/14/93.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-466 Initial educational placement—Notice—Consent. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-466, filed 9/13/93, effective 10/14/93. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-466, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-466, filed 8/19/80. Formerly WAC 392-171-450.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-471 Least restrictive environment. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-471, filed 9/13/93, effective 10/14/93. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-471, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-471, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-476 Continuum of alternative placements. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-476, filed 9/13/93, effective 10/14/93. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-476, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-476, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-481 Placement options—Selection—Required considerations. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-481, filed 9/13/93, effective 10/14/93. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-481, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-481, filed 8/19/80. Formerly WAC 392-171-460.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-486 Home/hospital instruction. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-486, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-486, filed 8/19/80. Formerly WAC 392-171-480.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-491 Contractual services. [Statutory Authority: 1990 c 33. 90-16-002 (Order 18), § 392-171-491, filed 7/19/90, effective 8/19/90. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-491, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-491, filed 8/19/80. Formerly WAC 392-171-605.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-496 Approval of nonpublic and public school agencies. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-496, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-496, filed 8/19/80. Formerly WAC 392-171-610.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-501 School district responsibility when contracting for placement in a nonpublic or public school agency. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-501, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-501, filed 8/19/80. Formerly WAC 392-171-615.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-504 Implementation by state. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-504, filed 9/13/93, effective 10/14/93.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-506 Out-of-state agencies. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-506, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-506, filed 8/19/80. Formerly WAC 392-171-620.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-507 Placement of students by parents. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-507, filed 9/13/93, effective 10/14/93.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.

- 392-171-508 Students in public or private institutions. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-508, filed 9/13/93, effective 10/14/93.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-509 Technical assistance training and monitoring activities. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-509, filed 9/13/93, effective 10/14/93.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-511 Annual review of placement and student progress—Program improvement. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-511, filed 9/13/93, effective 10/14/93. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-511, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-511, filed 8/19/80. Formerly WAC 392-171-485.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-512 Reassessment—Requirement. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-512, filed 9/13/93, effective 10/14/93. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-512, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 86-06-007 (Order 86-1), § 392-171-512, filed 2/21/86.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-513 Reassessment—Notice requirement. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-513, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 86-06-007 (Order 86-1), § 392-171-513, filed 2/21/86.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-514 Reassessment—Purposes. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-514, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 86-06-007 (Order 86-1), § 392-171-514, filed 2/21/86.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-516 Reassessment—Notice of results. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-516, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 86-06-007 (Order 86-1), § 392-171-516, filed 2/21/86; 84-14-036 (Order 84-19), § 392-171-516, filed 6/28/84; 80-11-054 (Order 80-31), § 392-171-516, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-517 Reassessment—Three-year requirement. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-517, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 86-06-007 (Order 86-1), § 392-171-517, filed 2/21/86.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-518 Reassessment—Appropriate identification or classification. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-518, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 86-06-007 (Order 86-1), § 392-171-518, filed 2/21/86.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-519 Reassessment—Appropriateness of program. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-519, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 86-06-007 (Order 86-1), § 392-171-519, filed 2/21/86.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-521 When notice must be given. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-521, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-521, filed 8/19/80. Formerly WAC 392-171-490.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-522 General responsibility of public agencies. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-522, filed 9/13/93, effective 10/14/93.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-524 Parent consent. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-524, filed 9/13/93, effective 10/14/93.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-526 Contents of notice. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-526, filed 9/13/93, effective 10/14/93. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-526, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-526, filed 8/19/80. Formerly WAC 392-171-495.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-531 Right to initiate—Purposes. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-531, filed 9/13/93, effective 10/14/93. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-531, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 86-06-007 (Order 86-1), § 392-171-531, filed 2/21/86; 80-11-054 (Order 80-31), § 392-171-531, filed 8/19/80. Formerly WAC 392-171-500.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-533 Transmittal of complaint by school district to superintendent of public instruction. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-533, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 84-19-001 (Order 84-33), § 392-171-533, filed 9/6/84.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-536 Hearing officers—Selection and expenses of—Parent assistance. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-536, filed 9/13/93, effective 10/14/93. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-536, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 84-19-001 (Order 84-33), § 392-171-536, filed 9/6/84; 80-11-054 (Order 80-31), § 392-171-536, filed 8/19/80. Formerly WAC 392-171-505.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-551 Hearing rights. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-551, filed 9/13/93, effective 10/14/93. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-551, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 84-19-001 (Order 84-33), § 392-171-551, filed 9/6/84; 80-11-054 (Order 80-31), § 392-171-551, filed 8/19/80. Formerly WAC 392-171-510.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-556 Timeline for hearing officer's decision—Time and place of hearing. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-556, filed 9/13/93, effective 10/14/93. Statutory Authority: RCW 34.05.220

- [(1)](a). 89-23-001 (Order 15), § 392-171-556, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-556, filed 8/19/80. Formerly WAC 392-171-515.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-559 Prospective application to amendments in Washington Administrative Code affecting hearings. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-559, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 84-19-001 (Order 84-33), § 392-171-559, filed 9/6/84.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-561 Final decision—Appeal to court of law. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-561, filed 9/13/93, effective 10/14/93. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-561, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 84-19-001 (Order 84-33), § 392-171-561, filed 9/6/84; 80-11-054 (Order 80-31), § 392-171-561, filed 8/19/80. Formerly WAC 392-171-520.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-564 Attorneys' fees. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-564, filed 9/13/93, effective 10/14/93.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-576 Student's status during hearing and judicial review processes. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-576, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 84-19-001 (Order 84-33), § 392-171-576, filed 9/6/84; 80-11-054 (Order 80-31), § 392-171-576, filed 8/19/80. Formerly WAC 392-171-535.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-581 Surrogate parents. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-581, filed 9/13/93, effective 10/14/93. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-581, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 81-19-012 (Order 81-25), § 392-171-581, filed 9/4/81; 80-11-054 (Order 80-31), § 392-171-581, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-586 Definition of "education records" as used in records rules. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-586, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-586, filed 8/19/80. Formerly WAC 392-171-545.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-591 Definitions used in records rules—"Destruction"—"Native language"—And "Participating agency." [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-591, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-591, filed 8/19/80. Formerly WAC 392-171-550.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-593 Notice to parents. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-593, filed 9/13/93, effective 10/14/93.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-596 Access rights. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-596, filed 9/13/93, effective 10/14/93. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-596, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7) and 28A.02.100. 84-20-093 (Order 84-48), § 392-171-596, filed 10/2/84. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-596, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-601 Record of access. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-601, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7) and 28A.02.100. 84-20-093 (Order 84-48), § 392-171-601, filed 10/2/84. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-601, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-606 Records on more than one student. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-606, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-606, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-611 List of types and locations of information. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-611, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-611, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-616 Fees. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-616, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-616, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-621 Amendment of records at the request of a parent or adult student. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-621, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-621, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-626 Hearing procedures regarding records. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-626, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-626, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-631 Consent. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-631, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 83-08-029 (Order 83-1), § 392-171-631, filed 3/30/83; 80-11-054 (Order 80-31), § 392-171-631, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-636 Safeguards. [Statutory Authority: RCW 28A.155.090 and 28A.155.030. 90-19-054 (Order 31), § 392-171-636, filed 9/14/90, effective 10/15/90. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-636, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-636, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-641 Destruction of information. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-641, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-641, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.

- 392-171-646 Definition—"Private school student(s) with disabilities." [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-646, filed 9/13/93, effective 10/14/93. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-646, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-646, filed 8/19/80. Formerly WAC 392-171-625.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-651 School district responsibility for private school students with disabilities. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-651, filed 9/13/93, effective 10/14/93. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-651, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-651, filed 8/19/80. Formerly WAC 392-171-630.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-656 Determination of needs, numbers of students and types of services. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-656, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-656, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-661 Service arrangements. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-661, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 83-08-029 (Order 83-1), § 392-171-661, filed 3/30/83; 80-11-054 (Order 80-31), § 392-171-661, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-666 Personnel in private schools and agencies. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-666, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-666, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-671 Equipment—Construction. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-671, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-671, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-676 Prohibition of segregation. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-676, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-676, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-681 Funds and property not to benefit private schools. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-681, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-681, filed 8/19/80. Formerly WAC 392-171-660.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-686 Existing level of instruction. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-686, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-686, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-688 State responsibility. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-688, filed 9/13/93, effective 10/14/93.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-691 Annual applications—Contents. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-691, filed 9/13/93, effective 10/14/93. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-691, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 83-08-029 (Order 83-1), § 392-171-691, filed 3/30/83; 80-11-054 (Order 80-31), § 392-171-691, filed 8/19/80. Formerly WAC 392-171-670.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-696 Denial of applications—Opportunity for hearing. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-696, filed 9/13/93, effective 10/14/93. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-696, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-696, filed 8/19/80. Formerly WAC 392-171-675.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-701 Staff qualifications. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-701, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-701, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-706 Transportation. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-706, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 86-06-007 (Order 86-1), § 392-171-706, filed 2/21/86; 80-11-054 (Order 80-31), § 392-171-706, filed 8/19/80. Formerly WAC 392-171-690.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-711 Facilities. [Statutory Authority: 1990 c 33. 90-16-002 (Order 18), § 392-171-711, filed 7/19/90, effective 8/19/90. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-711, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-711, filed 8/19/80. Formerly WAC 392-171-695.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-716 Comparable facilities. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-716, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-716, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-721 Program length. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-721, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-721, filed 8/19/80. Formerly WAC 392-171-705.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-726 Administration of medication. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-726, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-726, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-728 Interagency agreements. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-728, filed 9/13/93, effective 10/14/93.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-731 Monitoring. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-731, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW

- 28A.13.070(7). 84-14-036 (Order 84-19), § 392-171-731, filed 6/28/84; 80-11-054 (Order 80-31), § 392-171-731, filed 8/19/80.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-736 Definition of "unlawfully received or expended funds." [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-736, filed 9/13/93, effective 10/14/93. Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-736, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-736, filed 8/19/80. Formerly WAC 392-171-715.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-741 Audits. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-741, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-741, filed 8/19/80. Formerly WAC 392-171-720.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-746 Fund withholding. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-746, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-746, filed 8/19/80. Formerly WAC 392-171-725.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-751 Recovery of funds. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-751, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-751, filed 8/19/80. Formerly WAC 392-171-730.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-756 Fund withholdings to enforce parent appeal decisions. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-756, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 80-11-054 (Order 80-31), § 392-171-756, filed 8/19/80. Formerly WAC 392-171-735.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-761 Right to register and process complaints. [Statutory Authority: RCW 34.05.220 [(1)](a). 89-23-001 (Order 15), § 392-171-761, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.13.070(7). 88-15-020 (Order 88-18), § 392-171-761, filed 7/11/88; 83-08-029 (Order 83-1), § 392-171-761, filed 3/30/83; 80-11-054 (Order 80-31), § 392-171-761, filed 8/19/80. Formerly WAC 392-171-740.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-800 Aversive therapy—Purpose. [Statutory Authority: RCW 28A.03.030, 28A.13.010 and 28A.13.070(7). 90-10-096 (Order 90-04), § 392-171-800, filed 5/2/90, effective 6/2/90.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-805 Aversive therapy—Definition. [Statutory Authority: RCW 28A.03.030, 28A.13.010 and 28A.13.070(7). 90-10-096 (Order 90-04), § 392-171-805, filed 5/2/90, effective 6/2/90.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-810 Aversive therapy—Definition of student with a handicapping condition. [Statutory Authority: RCW 28A.03.030, 28A.13.010 and 28A.13.070(7). 90-10-096 (Order 90-04), § 392-171-810, filed 5/2/90, effective 6/2/90.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-815 Aversive therapy—Prohibited forms. [Statutory Authority: RCW 28A.03.030, 28A.13.010 and 28A.13.070(7). 90-10-096 (Order 90-04), § 392-171-815, filed 5/2/90, effective 6/2/90.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-820 Aversive therapy—Other forms—Conditions. [Statutory Authority: RCW 28A.03.030, 28A.13.010 and 28A.13.070(7). 90-10-096 (Order 90-04), § 392-171-820, filed 5/2/90, effective 6/2/90.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-825 Aversive therapy—Individualized education program requirements. [Statutory Authority: RCW 28A.03.030, 28A.13.010 and 28A.13.070(7). 90-10-096 (Order 90-04), § 392-171-825, filed 5/2/90, effective 6/2/90.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-830 Aversive therapy—Parent complaint process. [Statutory Authority: RCW 28A.03.030, 28A.13.010 and 28A.13.070(7). 90-10-096 (Order 90-04), § 392-171-830, filed 5/2/90, effective 6/2/90.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-835 Transition to preschool program. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-835, filed 9/13/93, effective 10/14/93.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-900 Comprehensive system of personnel development. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-900, filed 9/13/93, effective 10/14/93.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-901 Definitions. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-901, filed 9/13/93, effective 10/14/93.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-905 Scope of system. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-905, filed 9/13/93, effective 10/14/93.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-910 Establishment of a comprehensive system of personnel development advisory subcommittee. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-910, filed 9/13/93, effective 10/14/93.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-915 Annual needs assessment. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-915, filed 9/13/93, effective 10/14/93.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-925 Data system on personnel and personnel development. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-925, filed 9/13/93, effective 10/14/93.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-930 Other sources of annual needs assessment data. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-930, filed 9/13/93, effective 10/14/93.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-935 Report of current and projected personnel needs. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-935, filed 9/13/93, effective 10/14/93.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-940 Administration of continuing education. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-940, filed 9/13/93, effective 10/14/93.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.

- 392-171-945 Personnel development plan. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-945, filed 9/13/93, effective 10/14/93.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-950 Provision of technical assistance. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-950, filed 9/13/93, effective 10/14/93.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-955 Personnel standards. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-955, filed 9/13/93, effective 10/14/93.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.
- 392-171-960 Professional standards review. [Statutory Authority: Chapter 28A.155 RCW. 93-19-063 (Order 93-13), § 392-171-960, filed 9/13/93, effective 10/14/93.] Repealed by 95-21-055 (Order 95-11), filed 10/11/95, effective 11/11/95. Statutory Authority: Chapter 28A.155 RCW.

WAC 392-171-295 through 392-171-960 Repealed.

See Disposition Table at beginning of this chapter.

Chapter 392-172 WAC

RULES FOR THE PROVISION OF SPECIAL EDUCATION TO SPECIAL EDUCATION STUDENTS (Formerly Chapter 392-171 WAC)

WAC

- 392-172-010 Authority.
- 392-172-020 Purposes.
- 392-172-030 Students' rights to special education programs.
- 392-172-035 Definitions of "free appropriate, public education," "adult student," "special education student," "parent," and "public agency."
- 392-172-040 Definitions of "evaluation," "current evaluation," "reevaluation," and "consent."
- 392-172-045 Definition of "special education."
- 392-172-055 Definition of "related services."
- 392-172-060 Definition—Transition services.
- 392-172-062 Definition of terms related to transition services.
- 392-172-065 Definition—Supplementary aids and services.
- 392-172-070 Definition—Assistive technology device and service.
- 392-172-075 Availability of assistive technology.
- 392-172-100 Childfind.
- 392-172-102 Preevaluation procedures—Referrals.
- 392-172-104 Evaluation procedures—Time line.
- 392-172-106 General areas of evaluation.
- 392-172-108 General evaluation safeguards—Personnel, materials and procedures.
- 392-172-110 Communication disordered students—Evaluation.
- 392-172-112 Medical evaluation.
- 392-172-114 Definition and eligibility criteria for developmentally delayed.
- 392-172-116 Areas of developmental delay—Definitions.
- 392-172-118 Definition and eligibility criteria for seriously behaviorally disabled.
- 392-172-120 Definition and eligibility criteria for communication disordered.
- 392-172-122 Definition and eligibility criteria for orthopedically impaired.
- 392-172-124 Definition and eligibility criteria for health impaired.
- 392-172-126 Specific learning disability—Definition.
- 392-172-128 Specific learning disability—Evaluation procedures.
- 392-172-130 Discrepancy tables for determining severe discrepancy under WAC 392-172-132.
- 392-172-132 Method for documenting severe discrepancy.
- 392-172-134 Definition and eligibility criteria for mental retardation.
- 392-172-136 Definition and eligibility criteria for multiple disabilities.
- 392-172-138 Definition and eligibility criteria for deafness.
- 392-172-140 Definition and eligibility criteria for hearing impairment.
- 392-172-142 Definition and eligibility criteria for visually impaired/blindness.
- 392-172-144 Definition and eligibility criteria for deaf/blindness.
- 392-172-146 Definition and eligibility criteria for autism.
- 392-172-148 Definition and eligibility criteria for traumatic brain injury.
- 392-172-150 Independent educational evaluation.
- 392-172-152 Summary analysis of evaluation data.
- 392-172-154 School district or other public agency decision on eligibility.
- 392-172-156 Meetings.
- 392-172-158 Individualized education program—Implementation.
- 392-172-160 Individualized education program.
- 392-172-162 Physical education required.
- 392-172-164 Parent notice of individualized education program meeting—Transition services.
- 392-172-166 Transition services participants.
- 392-172-168 Required student participation—Transition.
- 392-172-170 Initial service delivery—Parental consent for initial placement—Notice required.
- 392-172-172 Least restrictive environment.
- 392-172-174 Continuum of alternative service delivery options.
- 392-172-176 Transition to preschool program.
- 392-172-178 Preschool services.
- 392-172-180 Procedures for establishing educational settings.
- 392-172-182 Reevaluation—Requirement.
- 392-172-184 Reevaluation—Notice requirement.
- 392-172-186 Reevaluation—Purposes.
- 392-172-188 Reevaluation general procedures.
- 392-172-190 Reevaluation—Notice of results.
- 392-172-200 Staff qualifications.
- 392-172-202 Emergency—Temporary out-of-endorsement assignment.
- 392-172-204 Transportation.
- 392-172-206 Facilities.
- 392-172-208 Comparable facilities.
- 392-172-210 Program length.
- 392-172-212 Health or safety standards.
- 392-172-214 Administration of medication.
- 392-172-216 Choice and running start programs.
- 392-172-218 Home/hospital instruction.
- 392-172-220 Contractual services.
- 392-172-222 Approval of nonpublic and public school agencies.
- 392-172-224 School district or other public agency responsibility when contracting for the delivery of services in a nonpublic or public school agency.
- 392-172-226 Residential educational services.
- 392-172-228 Out-of-state agencies.
- 392-172-230 Placement of students by parents.
- 392-172-232 Definition—"Private school student(s) with disabilities."
- 392-172-234 School district or other public agency responsibility for private school special education students.
- 392-172-236 Determination of needs, numbers of students and types of services.
- 392-172-238 Service arrangements.
- 392-172-240 Personnel in private schools and agencies.
- 392-172-242 Equipment—Construction.
- 392-172-244 Prohibition of segregation.
- 392-172-246 Funds and property not to benefit private schools.
- 392-172-248 Existing level of instruction.
- 392-172-300 General responsibility of public agencies.
- 392-172-302 When notice must be given.
- 392-172-304 Parent consent.
- 392-172-306 Contents of notice.
- 392-172-308 Surrogate parents.
- 392-172-310 Mediation—Purpose.
- 392-172-312 Mediation—Definition.
- 392-172-314 Request for mediation services.
- 392-172-316 Written mediation agreement.
- 392-172-320 Authority.
- 392-172-322 Purpose.
- 392-172-324 Definition—Complaint.

392-172-326	Definition—Other subgrantee.	392-172-524	Technical assistance training and monitoring activities.
392-172-328	Informing citizens about complaint procedures.	392-172-526	State responsibility.
392-172-330	Right to register a complaint.	392-172-550	Comprehensive system of personnel development.
392-172-332	Contents of complaint.	392-172-552	Definitions.
392-172-334	Procedure for filing a complaint.	392-172-554	Scope of system.
392-172-336	Designation of responsible employee.	392-172-556	Establishment of a comprehensive system of personnel development advisory committee.
392-172-338	Investigation of and response to complaints against a school district or other public agency, educational service district, or other subgrantee.	392-172-558	Annual needs assessment.
392-172-340	Complainant right to appeal.	392-172-560	Data system on personnel and personnel development.
392-172-342	Complaints against the superintendent of public instruction—Designation of responsible employee(s).	392-172-562	Other sources of annual needs assessment data.
392-172-344	Complaints against the superintendent of public instruction—Investigation of and response to complaints.	392-172-564	Report of current and projected personnel needs.
392-172-346	Appeal to the secretary of education in complaints against the superintendent of public instruction.	392-172-566	Administration of continuing education.
392-172-350	Right to initiate—Purposes.	392-172-568	Personnel development plan.
392-172-352	Hearing officers—Selection and expenses of—Parent assistance.	392-172-570	Provision of technical assistance.
392-172-354	Hearing rights.	392-172-572	Personnel standards.
392-172-356	Time line for hearing officer's decision—Time and place of hearing.	392-172-574	Professional standards review.
392-172-358	Prospective application to amendments in <i>Washington Administrative Code</i> affecting hearings.	392-172-580	Annual applications—Contents.
392-172-360	Final decision—Appeal to court of law.	392-172-582	Collaborative applications.
392-172-362	Attorneys' fees.	392-172-584	Review and amendment process.
392-172-364	Student's status during hearing and judicial review processes.	392-172-586	Notification of grant award.
392-172-370	Disciplinary exclusion—Purpose.	392-172-588	Availability of application and public participation.
392-172-372	Disciplinary exclusion—Procedures, continuing district or other public agency responsibility.	392-172-590	Denial of applications—Opportunity for hearing.
392-172-374	Disciplinary exclusion—Determination of disability relatedness and/or appropriateness of program.	392-172-592	Records related to grant funds.
392-172-376	Disciplinary exclusion—Definition significant change of placement.	392-172-594	Program coordination.
392-172-378	Disciplinary exclusion—Determination of what constitutes a pattern of exclusion.		
392-172-380	Emergency exclusion—Dangerous students.		
392-172-382	Disciplinary exclusion—Bringing a firearm to school.		
392-172-388	Aversive therapy.		
392-172-390	Aversive therapy—Definition.		
392-172-392	Aversive therapy—Prohibited forms.		
392-172-394	Aversive therapy—Other forms—Conditions.		
392-172-396	Aversive therapy—Individualized education program requirements.		
392-172-398	Aversive therapy—Parent complaint process.		
392-172-400	Definition of "educational records" as used in records rules.		
392-172-402	Definitions used in records rules—"Destruction"—"Native language"—And "educational agency."		
392-172-404	Notice to parents.		
392-172-406	Opportunity to examine records.		
392-172-408	Access rights.		
392-172-410	Record of access.		
392-172-412	Records on more than one student.		
392-172-414	List of types and locations of information.		
392-172-416	Fees.		
392-172-418	Amendment of records at the request of a parent or adult student.		
392-172-420	Hearing procedures regarding records.		
392-172-422	Consent.		
392-172-424	Safeguards.		
392-172-426	Destruction of information.		
392-172-500	Advisory council.		
392-172-502	Interagency agreements.		
392-172-504	Monitoring.		
392-172-506	Use and allocation of Part B Funds.		
392-172-508	Definition of "unlawfully received or expended funds."		
392-172-510	Child count procedures.		
392-172-512	Audits.		
392-172-514	Fund withholding.		
392-172-516	Recovery of funds.		
392-172-518	Fund withholdings to enforce parent appeal decisions.		
392-172-520	Implementation by state.		
392-172-522	Students in public or private institutions.		

WAC 392-172-010 Authority. The authority for this chapter is RCW 28A.155.090(7) which enables the superintendent of public instruction to promulgate rules and regulations to implement chapter 28A.155 RCW. Such authority is supplemented by RCW 28A.300.070 which authorizes the superintendent of public instruction to receive federal funds in accordance with the provisions of federal law.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-010, filed 10/11/95, effective 11/11/95.]

WAC 392-172-020 Purposes. The purposes of this chapter are to:

(1) Implement chapter 28A.155 RCW consistent with the Individuals with Disabilities Education Act, 20 United States Code section 1401 et seq.;

(2) Assure that all special education students as defined in this chapter have available a free and appropriate public education to meet their unique needs;

(3) Assure that the rights of special education students and their parents are protected;

(4) Assist school districts and other public agencies to provide for special education and related services; and

(5) Establish compliance standards for public agencies responsible for providing special education pursuant to chapter 28A.155 RCW. State residential school programs are established and operated pursuant to RCW 28A.190.020 et seq.

Special education regulations must be implemented by school districts and other public agencies with an awareness that there are additional federal and state civil rights regulations (29 US Code 764, RCW 49.60.030, 43 USC 12101 et seq.) that apply to students who have a disability regardless of the student's eligibility for special education and related services. If a student has a physical, sensory, or mental impairment which substantially limits one or more major life activities, the district or other public agency has an obligation to provide that student appropriate educational services. Such services must be designed to meet the needs of the student with a disability to the same extent the needs of students without disabilities are met. A school district and other public agency's obligation to provide appropriate

educational services to meet the needs of a student who has a disability exists separate and apart from the obligation to provide a free and appropriate public education to a student who qualifies for special education and related services under these regulations.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-020, filed 10/11/95, effective 11/11/95.]

WAC 392-172-030 Students' rights to special education programs. (1) Each school district or other public agency shall provide every special education student between the age of three and twenty-one years, a free and appropriate educational program. The right to special education for eligible students commences on their third birthday.

(2) School districts or other public agencies may provide special education and related services to students with a disability in the birth through two years age group. If a school district or other public agency provides an education to any student who is not disabled in the birth through two years age group, the district or other public agency shall make special education and related services available pursuant to this chapter to all its special education students of the same age.

(3) Any student referred for special education and related services shall qualify pursuant to eligibility criteria set forth in this chapter.

(4) A special education student shall remain eligible for special education and related services until one of the following occurs:

(a) The multidisciplinary team, based on a reevaluation determines the student is no longer in need of special education; (In this case, while a disability may continue, and individual accommodations in the general education classroom may be necessary for educational benefit, such services would not represent special education services as defined in this chapter.) or

(b) The student has met high school graduation requirements established by the school district or other public agency pursuant to rules of the state board of education; or

(c) The student has reached age twenty-one. The student whose twenty-first birthday occurs on or before August 31 would no longer be eligible for special education. The student whose twenty-first birthday occurs after August 31, shall continue to be eligible for special education and related services for the remainder of the school year.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-030, filed 10/11/95, effective 11/11/95.]

WAC 392-172-035 Definitions of "free appropriate, public education," "adult student," "special education student," "parent," and "public agency." As used in this chapter:

(1) "Free appropriate, public education" means special education and related services which:

(a) Are provided at public expense, under local school district or other public agency supervision and direction, and without charge to parents;

(b) Meet the standards of the state educational agency and the state board of education, including the requirements of this chapter;

(c) Include preschool, elementary school, or secondary school education in the state; and

(d) Are provided in conformance with individualized education program requirements of this chapter.

(2) "Special education student" and "student" (depending upon the context in which the terms are used) mean:

(a) Any student, enrolled in school or not, whose unique needs cannot be addressed exclusively through education in general education classes with or without individual accommodations and is therefore determined to be in need of special education services; or

(b) For the purpose of due process protections, a person under the age of twenty-one enrolled in school or not, who has been referred and for whom the school district or other public agency has made a decision to evaluate; or

(c) A person under the age of twenty-one who resides in a residential school serving students with a disability in accordance with RCW 28A.190.020 et seq.; who also qualifies pursuant to (a) of this subsection.

(3) "Adult student" means a special education student who is over the age of eighteen and who has not been judged incapacitated by a court of law. A student shall assume and be entitled to exercise all rights, duties and responsibilities otherwise granted to or imposed upon parents by this chapter upon attaining the age of eighteen. The adult student shall retain and be entitled to exercise the same until he or she has been judged incapable of exercising these rights by a court of law.

(4) "Parent" means a parent, a guardian, an adult person acting as a parent, or a surrogate parent who has been appointed in accordance with this chapter. The term includes a person acting in the place of a parent, such as a grandparent or stepparent with whom a student lives, as well as persons who are legally responsible for a student's welfare. The term does not include the state if the student is a ward of the state.

(5) As used in this chapter, "public agency" means:

(a) Each public school district in the state;

(b) Each educational service district that provides special education or related services to one or more students with a disability;

(c) Each state operated program; and

(d) Each public or private organization or entity or person which provides special education and/or related services to one or more students with a disability on behalf of a public school district or other public agency whether or not the entity receives federal funds made available for purposes of the Individuals with Disabilities Education Act.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-035, filed 10/11/95, effective 11/11/95.]

WAC 392-172-040 Definitions of "evaluation," "current evaluation," "reevaluation," and "consent." As used in this chapter:

(1) "Evaluation" means procedures used to determine:

(a) Whether a student is disabled; and

(b) The nature and extent of the special education and related services that the student requires, if any. The term includes 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.

(2) "Current evaluation data" for determination of eligibility means:

(a) Evaluation data obtained during a period of ninety calendar days prior to determining eligibility for students ages birth to six; or

(b) Evaluation data obtained during a period of one hundred eighty calendar days prior to determining eligibility for students ages six through twenty-one.

(3) "Reevaluation" means procedures used to determine the student's continuing need for special education and related services. Reevaluation may also be used to determine the appropriateness of the services being provided to the student.

(4) "Consent" means that the parent or adult student:

(a) 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 evaluation data to be used;

(b) Understands and agrees in writing to the activity for which consent is sought, and the consent describes the activity and lists any records which will be released and to whom; and

(c) Understands that the granting of consent is voluntary and may be revoked at any time.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-040, filed 10/11/95, effective 11/11/95.]

WAC 392-172-045 Definition of "special education." As used in this chapter "special education" means instruction that is specially designed to meet the unique needs of a special education student and provided at no cost to the parent or student. Specially designed instruction includes instruction conducted in the classroom, in the home, in hospitals, institutions, and in other settings as well as physical education, and vocational education. Special education also includes specially designed instruction when it is carried out as part of speech and language services, physical and occupational therapy, orientation and mobility instruction, behavioral intervention, and audiological services.

The following terms are incorporated within the definition of special education:

(1) "Specially designed instruction" means organized and planned instructional activities which are designed by certificated special education and related services personnel. However, specially designed instruction may also be implemented by other than special education and related services personnel pursuant to an individualized education program.

The term does not include individual accommodations in the general education classroom which alone would be sufficient and effective to meet the individual needs of the student.

(2) "At no cost" means that all specially designed instruction is provided without charge. However, the term does not preclude incidental fees which are normally charged to nonspecial education students or their parents as a part of the general education program.

(3) "Physical education" means the development of:

(a) Physical and motor fitness;

(b) Fundamental motor skills and patterns; and

(c) Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports).

The term includes special physical education, adapted physical education, movement education, and motor development.

(4) "Vocational education" means organized educational programs offering a sequence of courses that are directly related to the preparation of individuals in paid or unpaid employment in current or emerging occupations requiring other than a baccalaureate or advanced degree. Such programs shall include competency-based applied learning that contributes to an individual's academic knowledge, higher-order reasoning, and problem-solving skills, work attitudes, general employability skills, and the occupation-specific skills necessary for economic independence as a productive and contributing member of society. The term also includes applied technology education.

(5) "Audiology" means the provision of habilitative activities related to a hearing impairment.

(6) "Occupational therapy" is instruction designed to improve, develop or restore functions impaired or lost through illness, injury, or deprivation or to prevent further loss.

(7) "Orientation and mobility instruction" means the provision of training/instruction in orientation and mobility for students who are visually impaired.

(8) "Physical therapy" means developing or restoring motor function and maintaining appropriate performance commensurate with the student's unique needs.

(9) "Speech and language services" mean the provision of instruction for the habilitation or prevention of communication disorders.

(10) "General education classroom" means instruction provided in a classroom that is generally designed to meet the needs of typically developing students who do not need special education.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-045, filed 10/11/95, effective 11/11/95.]

WAC 392-172-055 Definition of "related services."

As used in this chapter "related services" means transportation and such developmental, corrective, and other supportive services as are required to assist a special education student to benefit from special education. These services include communication disorders services and audiology, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and evaluation of disabilities in students, counseling services, including rehabilitation counseling, medical services for diagnostic or evaluation purposes, and orientation and mobility services. The term also includes school health services, social work services in schools, parent counseling and training, and classified staff services.

The terms used in the definition of "related services" are defined as follows:

(1) "Audiology" includes:

(a) Identification of students with hearing loss;

(b) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;

(c) Creation and administration of programs for the prevention of hearing loss;

(d) Counseling and guidance of students, parents, and teachers regarding hearing loss; and

(e) Determination of the student's need for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.

(2) "Classified staff services" includes:

(a) Services provided by classified staff which provide for the student's safety, personal care, and instructional assistance; and

(b) Services provided to certificated staff by classified staff which provide assistance for special education students to achieve placement in the least restrictive environment.

(3) "Counseling services" means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.

(4) "Early identification and evaluation of disabilities in students" means the implementation of a formal plan for identifying a disability as early as possible in a student's life.

(5) "Medical services" means services provided by a licensed physician to determine a student's medically related disabling condition which may result in the student's need for special education and related services.

(6) "Occupational therapy" includes:

(a) The identification and evaluation of the student's physical and self-care status;

(b) Determination of the student's need for occupational therapy; and

(c) Related counseling and guidance of parents, students, and staff regarding the provision of occupational therapy.

(7) "Orientation and mobility services" includes:

(a) Identification and evaluation of the student's mobility status;

(b) Determination of the student's need for orientation and mobility services; and

(c) Related counseling and guidance of parents, students and staff regarding orientation and mobility services.

(8) "Parent counseling and training" means assisting parents in understanding the special needs of their child and providing parents with information about child development.

(9) "Physical therapy" includes:

(a) Identification and evaluation of the student's physical status;

(b) Determination of the student's need for physical therapy; and

(c) Related counseling and guidance of parents, students and staff regarding physical therapy services.

(10) "Psychological services" includes:

(a) Administering psychological and educational tests, and other evaluation procedures;

(b) Interpreting evaluation results;

(c) Obtaining, integrating, and interpreting information about the student's behavior and conditions relating to learning;

(d) Consulting with other staff members in planning school programs to meet the special needs of students as indicated by psychological tests, interviews, and behavioral evaluations; and

(e) Planning and managing a program of psychological services, including psychological counseling for students and parents.

(11) "Recreation" includes:

(a) Assessment of leisure function;

(b) Therapeutic recreation services;

(c) Recreation programs in school and community agencies; and

(d) Leisure education.

(12) "Rehabilitation counseling services" means services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a special education student. The term also includes vocational rehabilitation services provided to special education students by vocational rehabilitation programs funded under the Rehabilitation Act of 1973, as amended.

(13) "School health services" means services provided by a qualified school nurse or other qualified person.

(14) "Social work services in schools" include:

(a) Preparing a social or developmental history on a special education student;

(b) Group and individual counseling with the student and family;

(c) Working with those problems in a student's living situation (home, school, and/or community) that affect the student's adjustment in school; and

(d) Mobilizing school and community resources to enable the student to benefit from his or her educational program.

(15) "Speech and language services" include:

(a) Identification of students with specific speech and language disorders;

(b) Diagnosis and appraisal of speech and language disorders;

(c) Referral for medical or other professional attention necessary for the habilitation of speech and language disorders; and

(d) Counseling and guidance of parents, students, and staff regarding speech and language disorders.

(16) "Transportation" includes:

(a) Travel to and from school and between schools;

(b) Travel in and around school buildings; and

(c) Specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a special education student. The list of related services is not exhaustive and may include other developmental, corrective, or supportive services, if they are required to assist a special education student to benefit from special education.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-055, filed 10/11/95, effective 11/11/95.]

WAC 392-172-060 Definition—Transition services.

(1) As used in this chapter, the term "transition services" means a coordinated set of activities for a student, designed within an outcome-oriented process, which promotes movement from school to post-school activities. Some examples of appropriate post-school outcomes include:

(a) Postsecondary education;

- (b) Integrated employment;
- (c) Supported employment;
- (d) Continuing and adult education;
- (e) Adult services; and
- (f) Independent living and/or community participation.

(2) The coordinated set of activities shall be based upon the individual student needs, taking into account the student's preferences and interests, and shall include:

- (a) Functional vocational evaluation;
- (b) Instruction;
- (c) Vocational education/training;
- (d) Community experiences;
- (e) The development of employment and other post-school adult living objectives; and
- (f) Where appropriate, acquisition of daily living skills.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-060, filed 10/11/95, effective 11/11/95.]

WAC 392-172-062 Definition of terms related to transition services. The following terms used in the definition of "transition services" are defined as follows:

(1) "Coordinated set of activities" means a planned and organized sequence of activities which promotes the movement of a student from school to post-school adult living.

(2) "Outcome-oriented process" means a series of activities unique to an individual student's needs which are intended to lead directly to such outcomes as: Integrated employment, supported employment, postsecondary education, continuing and adult education, adult services, independent living, and/or community participation.

(3) "Postsecondary education" means organized educational programs provided by qualified personnel which are available beyond grades 9-12. The term includes:

- (a) Community colleges;
- (b) Vocational-technical colleges;
- (c) Four-year colleges and universities.

(4) "Vocational education" means a planned series of learning experiences as defined in this chapter (WAC 392-172-045).

(5) "Vocational training" means the acquisition of specific skills through specialized instruction and practice, and provided by qualified personnel.

(6) "Integrated employment" means paid work in sites and settings that are not unique to individuals with disabilities.

(7) "Supported employment" means paid work that requires the use of designated personnel to assist special education students in acquiring and maintaining site specific skills.

(8) "Continuing and adult education" means organized educational programs conducted by qualified personnel for individuals who have graduated or otherwise exited high school.

(9) "Adult services" means health, social, housing, transportation, and/or employment opportunities normally provided for persons beyond age eighteen through public agencies.

(10) "Independent living" means initiating, maintaining, and/or actively participating in a household, using self-generated resources.

(11) "Community participation" means integrated and active involvement in the local community.

(12) "Functional vocational evaluation" means the evaluation of occupational interests, aptitudes, and preparation opportunities.

(13) "Participating agency" means any state or local agency, other than the school district or other public agency responsible for a student's education, that is or will be, financially and legally responsible for providing supplemental transition services to the special education student.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-062, filed 10/11/95, effective 11/11/95.]

WAC 392-172-065 Definition—Supplementary aids and services. As used in this chapter, the term "supplementary aids and services" means any of the following:

(1) Specially designed instruction provided in conjunction with the general education classroom by personnel qualified pursuant to WAC 392-172-200.

(2) Any other service, including assistive technology or other assistive device, provided in conjunction with the general education classroom which permits the delivery of specially designed instruction. Such instructional services must be designed, monitored, supervised and evaluated by special education personnel certificated pursuant to WAC 392-172-200 in cooperation with the general education classroom teacher.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-065, filed 10/11/95, effective 11/11/95.]

WAC 392-172-070 Definition—Assistive technology device and service. The term "assistive technology device" means any item, piece of equipment, or product system—whether acquired commercially off the shelf, modified, or customized—that is used to increase, maintain, or improve functional capabilities of special education students.

The term "assistive technology service" means any service that directly assists a special education student in the selection, acquisition, or use of an assistive technology device. The term includes:

(1) The evaluation of the needs of a special education student, including a functional evaluation of the student in the student's customary environment;

(2) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by special education students;

(3) Selecting, designing, fitting, customizing, adapting, applying, retaining, repairing, or replacing of assistive technology devices;

(4) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(5) Training or technical assistance for a special education student, or if appropriate, the student's family; and

(6) Training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ or are otherwise substantially involved in the major life functions of students with disabilities.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-070, filed 10/11/95, effective 11/11/95.]

WAC 392-172-075 Availability of assistive technology. Each public agency shall ensure that assistive technology devices or assistive technology services, or both, are made available to a special education student if required as a part of the student's individualized education program.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-075, filed 10/11/95, effective 11/11/95.]

WAC 392-172-100 Childfind. The local district or other public agency shall conduct childfind activities for the purpose of locating, evaluating and identifying students with a suspected disability, regardless of the severity of their disability, who are residing within the boundaries of the district or other public agency and who are not currently receiving special education and related services.

Childfind activities shall include written notification to all parents of children in the district or other public agency regarding access to and the use of the school district and other public agency's childfind system. Written notification and posting will be consistent with WAC 392-172-306 (2)(b).

Childfind activities shall apply to students ages birth through twenty-one and may include, but are not limited to: Posting notice in school buildings of the availability of special education programs, preschool developmental screening, local media informational campaigns, liaison with public health and other medical and social agencies, public or private, a questionnaire for first-time enrolling students, screening of district-wide group standardized test results, in-service education to teaching staff, and cooperation as requested with state childfind programs.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-100, filed 10/11/95, effective 11/11/95.]

WAC 392-172-102 Preevaluation procedures—Referrals. A referral of a student suspected of having a disability may be originated or transmitted through any source, either in writing or verbally.

A referral may be initiated by any source, including but not limited to parents, medical personnel, school district or other public agency personnel, community agencies, civil authorities, district screening procedures, and other identified, interested persons.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-102, filed 10/11/95, effective 11/11/95.]

WAC 392-172-104 Evaluation procedures—Time line. A school district or other public agency must complete a written referral when a student suspected of having a disabling condition is brought to the attention of any certificated staff member or administrator.

(1) If the referral under WAC 392-172-102 is made to a school district or other public agency certified staff or administrator (other than the special education designee) such staff must notify the school district and other public agency's special education designee at the time of the referral. Within twenty-five school days, the district or other public agency superintendent or designee shall:

(a) Record the circumstance by date, origin, and reason(s) for the referral;

(b) Provide the student's parent(s) or the adult student written notice that the student has been referred because of a suspected disabling condition and that the district or other public agency will determine whether or not there is good reason to believe that the student is a candidate for evaluation;

(c) Review the referral;

(d) Collect and examine existing school, medical and other records in the possession of the school district or other public agency; and

(e) Based on the existing record, make a determination whether or not the student is a candidate for evaluation. This decision shall be recorded in writing and shall set forth the date and the name of the person making the decision. The superintendent or designee shall direct a notice to the student's parent(s) or the adult student that complies with the requirements of WAC 392-172-306.

(2) When the student is a candidate for evaluation, the school district or other public agency shall fully evaluate the student and arrive at a decision pursuant to WAC 392-172-154 within:

(a) Thirty-five school days after the date written consent for an evaluation has been provided by the parent(s) or the adult student; or

(b) Thirty-five school days after the date the refusal of the parent(s) or the adult student to grant consent has been overridden pursuant to a hearing (or appeal) in accordance with WAC 392-172-350 et seq.; or

(c) Such other time period as may be agreed to by the parent(s) or the adult student and documented by school authorities, including specifying the reasons for extending the time line.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-104, filed 10/11/95, effective 11/11/95.]

WAC 392-172-106 General areas of evaluation. The evaluation of a student shall be in all areas related to the suspected disability, including, but not limited to health, vision, hearing, social skills, emotional status, general intelligence, academic performance, communication skills, motor abilities, career, vocational, and the need for transition services.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-106, filed 10/11/95, effective 11/11/95.]

WAC 392-172-108 General evaluation safeguards—Personnel, materials and procedures. (1) Every student who is evaluated or reevaluated shall be evaluated according to the procedures established in this chapter. The superintendent of public instruction shall ensure that each public agency establishes and implements protection in evaluation procedures which meet the requirements of this chapter. Before the initial provision of special education and related services to a special education student, a full and individual evaluation of the student's educational needs must be conducted in accordance with this chapter.

(2) The evaluation of a student (except one completed for a communication disordered student) shall be made by a multidisciplinary team. The multidisciplinary team is a

group of professionals selected by the district or other public agency and knowledgeable about the student and the area(s) of suspected disability(ies).

(3) If the referral is generated by a general education classroom teacher, the district or other public agency shall invite the referring teacher to serve on the multidisciplinary team.

(4) For a student suspected of having a learning disability, the multidisciplinary team must include:

(a) The student's general education classroom teacher; or

(b) If the child does not have a general education classroom teacher, a general education classroom teacher qualified to teach a child of his or her age; or

(c) For a child of less than school age, an individual qualified by the state to teach a child of his or her age; and

(d) At least one individual qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech language pathologist, or remedial reading teacher.

(5) 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. If parents request the opportunity to attend a multidisciplinary team meeting, they shall be granted this opportunity. Scheduling of the multidisciplinary team meeting shall be at the discretion of the school district or other public agency. Upon request, the district or other public agency shall notify the parent(s) of the time and place of multidisciplinary team meetings. These provisions apply to all multidisciplinary team meetings conducted by the district or other public agency, including those resulting from initial evaluations and reevaluations.

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

(7) Evaluation materials, procedures, and instruments used for the purpose of identification and programming shall be selected and administered so as not to be racially or culturally discriminatory.

(8) 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 shall determine eligibility for special education based on other evidence of the existence of a disability and need for special education. This professional judgment shall be documented in a written narrative.

(9) All tests and other evaluation materials shall be administered by qualified personnel in conformance with the instructions of the test producer.

(10) Evaluation materials, procedures or instruments shall be provided and administered in a student's primary 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, when a test is administered to a student with impaired and/or unique sensory, manual, or speaking skills, 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 and/or unique sensory, manual, communication or speaking skills (except where those skills are the factors the test purports to measure). Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

(11) In conducting evaluation activities, appropriate evaluation team members shall:

(a) Collect and review all available existing school, medical, and other records pertinent to the suspected disabling condition(s) of the student, including previous screening and evaluation results, health reports, relevant cumulative records and recommendations of related service providers; and

(b) Conduct evaluation activities required by this chapter; and

(c) Collect such other data as needed to verify the results of standardized testing, including but not limited to parent and/or teacher interviews and current classroom performance data.

(12) Each person actually performing an evaluation shall complete and sign an evaluation report. Information used to support the evaluation, 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. Each report shall specify:

(a) The procedures and instruments used;

(b) The results obtained;

(c) 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; and

(d) The need to schedule services over a period of time that exceeds the regular one hundred eighty-day school calendar.

(13) A written summary analysis of the reports shall be developed consistent with the requirements of WAC 392-172-152.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-108, filed 10/11/95, effective 11/11/95.]

WAC 392-172-110 Communication disordered students—Evaluation. Students who are suspected of having a communication disorder shall be evaluated by a qualified speech language pathologist who shall use procedures appropriate to the evaluation of communication disorders. If, during this evaluation, additional areas of disability are suspected, the student shall be referred for additional evaluation. The evaluation results required in this section shall be summarized as provided in WAC 392-172-108.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-110, filed 10/11/95, effective 11/11/95.]

WAC 392-172-112 Medical evaluation. (1) Medical evaluations at the expense of a school district or other public agency shall be obtained subject to the following conditions:

(a) During the evaluation process the multidisciplinary team suspects a student of having a health problem which

may affect his or her eligibility and need for special education.

(b) In accordance with criteria established by the school district or other public agency (except in the case of an independent evaluation pursuant to WAC 392-172-150).

(2) Medical evaluation services necessary to make a determination of the educational needs of residential school students, shall be the responsibility of the department of social and health services pursuant to RCW 28A.190.040.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-112, filed 10/11/95, effective 11/11/95.]

WAC 392-172-114 Definition and eligibility criteria for developmentally delayed. Definition and eligibility criteria for developmentally delayed are as follows:

(1) As used in this chapter, the term "developmentally delayed, birth to thirty-six months" shall mean those children under thirty-six months of age who:

(a) Demonstrate a 1.5 standard deviation or twenty-five percent delay in the developmental area of cognition (WAC 392-172-116(1)), communication (WAC 392-172-116(2)), fine motor (WAC 392-172-116(3)), gross motor (WAC 392-172-116(4)), or motor which for the purpose of this section shall be a combined delay of fine motor (WAC 392-172-116(3)) and gross motor (WAC 392-172-116(4)); or

(b) Qualify for one of the other eligibility categories specified in this chapter unless otherwise excluded; and

(c) Need special education and related services. Such children in order to continue to be eligible for special education and related services must be reevaluated prior to age three.

(2) As used in this chapter, the term "developmentally delayed, three to six years" shall mean those children between thirty-six months and the age of eligibility for entry to the first grade who demonstrate a delay on a standardized norm referenced test, with a test-retest or split-half reliability of .80 that is at least:

(a) Two standard deviations below the mean in one or more of the six developmental areas defined in WAC 392-172-116; or

(b) One and one-half standard deviations below the mean in two or more of the six developmental areas defined in WAC 392-172-116; or

(c) Qualify for one of the other eligibility categories specified in this chapter unless otherwise excluded; and

(d) Need special education and related services. Children who qualify for special education as developmentally delayed must be reevaluated prior to the age of eligibility for entry to first grade and a determination made that the student either:

(i) Qualifies under the provisions of one of the other disabling conditions in this chapter; or

(ii) Is no longer in need of special education and related services. The procedural safeguard requirements in this chapter are also applicable to this provision.

(3) The term "developmentally delayed" does not include children under the age of eligibility for entry to the first grade who qualify solely for speech and language services under WAC 392-172-120.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-114, filed 10/11/95, effective 11/11/95.]

WAC 392-172-116 Areas of developmental delay—Definitions. The six developmental areas for the purpose of applying eligibility criteria to developmentally delayed children are:

(1) Cognitive: Comprehending, remembering, and making sense out of one's experience. Cognitive ability is the ability to think and is often thought of in terms of intelligence;

(2) Communication: The ability to effectively use or understand age-appropriate language, including vocabulary, grammar, and speech sounds;

(3) Fine motor: Motor skills requiring precise, coordinated use of the small muscles;

(4) Gross motor: Motor skills used for body control such as standing, walking, balance and climbing;

(5) Social/emotional: The ability to develop and maintain functional interpersonal relationships and to exhibit age appropriate social and emotional behaviors; and

(6) Adaptive skills: The ability to develop and exhibit age appropriate self-help skills, including independent feeding, toileting, personal hygiene and dressing skills.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-116, filed 10/11/95, effective 11/11/95.]

WAC 392-172-118 Definition and eligibility criteria for seriously behaviorally disabled. (1) Students who are seriously behaviorally disabled are those who exhibit over a long period of time and to a marked degree, one or more of the following characteristics, which adversely affects their educational performance:

(a) An inability to learn which cannot be explained by intellectual, sensory, or health factors;

(b) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;

(c) Inappropriate types of behavior or feelings under normal circumstances;

(d) A general pervasive mood of unhappiness or depression; or

(e) A tendency to develop physical symptoms or fears associated with personal or school problems.

(2) The term includes students who are schizophrenic.

(3) The term does not include students who are socially maladjusted, unless it is determined that they are also seriously behaviorally disabled.

(4) All students considered for special education and related services as seriously behaviorally disabled shall be evaluated according to the following:

(a) A current evaluation which concludes that the student has a serious behavioral disability and which considers and describes the student's social and emotional behaviors and provides implications for educational planning, if any.

(b) An evaluation which describes behaviors which distinguish between common disciplinary problem behaviors and serious behavioral disabilities. Common disciplinary problem behaviors (e.g., truancy, smoking, breaking school conduct rules) may exist in conjunction with serious behavioral disabilities, but cannot be used as the sole criteria for recommending special education and related services. The evaluation shall also include:

(i) A social or developmental history compiled directly from the parent(s) and/or records, when parents are not available.

(ii) Current academic achievement evaluation as measured by standardized tests appropriate to age level and administered individually.

(c) If the academic evaluation is completed and there is documentation showing that the student's disability is evident in the school environment, the following evaluation reports may be substituted for the school district and other public agency's evaluation.

(d) A current evaluation by a psychiatrist or a nonpublic school mental health professional who holds a graduate degree in a recognized mental health specialty that considers and describes the student's social and emotional behaviors, which concludes that the student has a serious behavioral disability, and provides implications for educational planning, if any. The multidisciplinary team shall consider these implications in planning and implementing the student's educational program.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-118, filed 10/11/95, effective 11/11/95.]

WAC 392-172-120 Definition and eligibility criteria for communication disorder. A student shall be considered to have a communication disorder if there is present a documented communication disorder such as stuttering, voice disorder, language impairment, and/or impaired articulation which adversely affects a student's educational performance. The evaluation procedures and eligibility standards outlined in this section apply to those students whose only disabling condition is a communication disorder.

All students being considered for special education and related services as communication disorder shall be evaluated and determined eligible for special education and related services according to the following:

(1) A current hearing screening report;

(2) A current description of the level of educational development as provided by the classroom teacher, or where available, by standardized tests in those areas affected by the speech and/or communication problem(s) including discussion of the existing or potential impact of the problem(s) on educational performance; and

(3) A current evaluation of the level of speech and/or language development, as measured by standardized tests or professionally recognized procedures, scales, or checklists appropriate to the student's age level and mode of communication, individually administered, and which considers the student's sex, dialect norms, social-cultural environment, and behaviors. For children under the age of eligibility for entry to the first grade, the evaluation shall include developmental acquisition of speech and language. Such measures shall result in one or more of the following findings that the student:

(a) Achieves a rating of moderate or severe on a standardized articulation test that yields a severity rating and/or misarticulates in comparison to developmental norms five or more unrelated phonemes each in two or more positions (initial, medial, or final) for children under the age of eligibility for entry to the first grade, three or more unrelated phonemes for students age six through age seven,

or one or more for students over age seven, with consideration given to the student's speech intelligibility, physical ability, and/or therapy history.

(b) Has a delay in receptive and/or expressive language such that functioning is one year or more below chronological age for students up through age eight or functioning is two-thirds of chronological age or below for students over age eight.

(c) Has interruptions or dysfluencies in more than one speaking situation such as repetitions, prolongations, blockage in flow of speech, struggle, or avoidance behaviors which interfere with communication or are inconsistent with age or development.

(d) Has a deviation in voice quality, pitch, or loudness characterized by abusive vocal habits, or interference with communication, or is inconsistent with age or development, or demonstrates chronic hoarseness of duration of three weeks or more.

Whenever appropriate, referral for medical and/or psychological and/or other evaluations shall be made and the results considered in the evaluation of the student's suspected disabling condition.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-120, filed 10/11/95, effective 11/11/95.]

WAC 392-172-122 Definition and eligibility criteria for orthopedically impaired. Students who are orthopedically impaired are those who lack normal function of muscles, joints or bones due to congenital anomaly, disease or permanent injury, and such condition adversely affects their educational performance.

All students being considered for special education and related services as orthopedically impaired shall be evaluated and determined eligible for special education and related services according to the following:

(1) A current medical evaluation by a qualified medical practitioner which describes and confirms the student's health circumstances and which provides any medical implications for educational planning;

(2) Current academic achievement evaluation as measured by standardized tests appropriate to age level and administered individually; and

(3) A current physical therapy and/or occupational therapy evaluation which considers and describes implications for therapy as a part of educational planning.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-122, filed 10/11/95, effective 11/11/95.]

WAC 392-172-124 Definition and eligibility criteria for health impaired. Students with health impairments are those who have limited strength, vitality or alertness, due to chronic or acute health problems—such as students with serious congenital heart defect, other congenital syndrome(s), other disorders of the cardiorespiratory systems, disorders of the central nervous system including epilepsy or neurological impairment, or other profound health circumstances or degenerative condition(s)—which adversely affects or with a high degree of professional certainty will affect their educational performance.

All students being considered for special education and related services as health impaired shall be evaluated and

determined eligible for special education and related services according to the following:

(1) A current evaluation by a qualified practitioner which describes and confirms the student's health circumstances and which provides any implications for educational planning; and

(2) Current academic achievement evaluation as measured by standardized tests appropriate to age level and administered individually.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-124, filed 10/11/95, effective 11/11/95.]

WAC 392-172-126 Specific learning disability—

Definition. Specific learning disability is a disorder in one or more of the basic psychological processes involved in understanding or using spoken or written language which prevents the student from achieving commensurate with his or her age and ability levels in one or more of the areas listed in this subsection, when provided with learning experiences appropriate to the student's age and ability levels. Such disorder may include problems in visual and auditory perception and integration and may manifest itself in an impaired ability to listen, think, speak or communicate clearly, read with comprehension, write legibly and with meaning, spell, and to accurately perform mathematical calculations, including those involving reading. The presence of a specific learning disability is indicated by intellectual functioning above that specified in this chapter for eligibility as mentally retarded and by a severe discrepancy between the student's intellectual ability and academic achievement in one or more of the following areas:

- (1) Oral expression;
- (2) Listening comprehension;
- (3) Written expression;
- (4) Basic reading skill;
- (5) Reading comprehension;
- (6) Mathematics calculations; and
- (7) Mathematics reasoning.

Such a performance deficit cannot be explained by visual, or hearing, or motor disabilities, mental retardation, behavioral disability, or environmental, cultural, or economic disadvantage.

A specific learning disability includes conditions described as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia, when the student meets the eligibility criteria set forth in WAC 392-172-128, including documentation of severe discrepancy as required by WAC 392-172-132.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-126, filed 10/11/95, effective 11/11/95.]

WAC 392-172-128 Specific learning disability—

Evaluation procedures. Evaluation procedures and eligibility standards: All students (except those under the age of entry for first grade) considered for initial placement in special education as specific learning disabled shall be evaluated and determined eligible for special education and related services according to the following:

(1) A current evaluation of sufficient scope to rule out eligibility for any other disabling condition and to rule out

environmental, cultural, or economic factors as an explanation for the specific academic problem;

(2) A current vision and hearing screening report shall be obtained and shall be of sufficient scope to rule out vision or hearing acuity as an explanation for the specific academic problem;

(3) A written record of observation of the student's learning behaviors in the general education program and the relationships of these behaviors to the specific academic problem shall be completed by a member of the evaluation team other than the student's general education teacher. In the case of a student of less than school age or out of school, a team member shall observe the student in an environment appropriate for a student of that age;

(4) Written documentation that the student has an academic achievement problem in the general education program shall be available. Examples of data used for documentation may include:

(a) Student performance on daily classroom work and/or criterion-referenced tests;

(b) Summary of past student performance;

(c) Group test results;

(d) Teacher observation and judgments; and

(e) Performance on student learning objectives;

(5) Documentation of the existence of a severe discrepancy between the student's intellectual ability and academic achievement in one or more of the seven areas specified in WAC 392-172-126 shall be recorded. Such documentation shall conform to the requirements of WAC 392-172-132; and

(6) Tests used to assess the student's intellectual ability and academic achievement shall be:

(a) Current;

(b) Reliable as demonstrated by a reliability coefficient of .85 or above;

(c) Normed on representative national samples;

(d) Selected and administered in accordance with the general requirements of WAC 392-172-108; and

(e) Individually administered and interpreted by a qualified person (defined in WAC 392-172-108) in accordance with the standardized procedures described in the test manuals.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-128, filed 10/11/95, effective 11/11/95.]

WAC 392-172-130 Discrepancy tables for determining severe discrepancy under WAC 392-172-132. The superintendent of public instruction shall develop and publish discrepancy tables for the purpose of determining a severe discrepancy between intellectual ability and academic achievement pursuant to WAC 392-172-132. Such tables shall be developed on the basis of a regressed standard score discrepancy method which shall consider the following variables:

(1) The reliability coefficient of the intellectual ability test;

(2) The reliability coefficient of the academic achievement test; and

(3) An appropriate correlation between the intellectual ability and the academic achievement tests.

The regressed standard score discrepancy method shall be applied at a criterion level of 1.55.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-130, filed 10/11/95, effective 11/11/95.]

WAC 392-172-132 Method for documenting severe discrepancy. (1) For students in grades one and above, a severe discrepancy shall be determined and documented from tables developed pursuant to WAC 392-172-130.

(2) For the purposes of applying the severe discrepancy tables, the following scores shall be used:

(a) A total or full scale intellectual ability score;

(b) An academic achievement test score which can be converted into a standard score with a mean of one hundred and a standard deviation of fifteen; and

(c) A severe discrepancy between the student's intellectual ability and academic achievement in one or more of the seven areas provided for in WAC 392-172-126 shall be determined by applying the regressed standard score discrepancy method to the obtained intellectual ability and achievement test scores using the tables referenced above. Where the evaluation results do not appear to accurately represent the student's intellectual ability and where the discrepancy between the student's intellectual ability and academic achievement does not initially appear to be severe upon application of the discrepancy tables, WAC 392-172-130, the multidisciplinary team shall apply professional judgment in order to determine the presence of a severe discrepancy. In this event, the multidisciplinary team shall document in a written narrative an explanation as to why the student has a severe discrepancy. The multidisciplinary team must provide supportive evidence, including the procedures used to determine that a severe discrepancy exists between the student's intellectual ability and academic achievement. If the prohibition against the use of specific tests or test results as provided in WAC 392-172-108(8) shall preclude the use of any of the tests referenced above, the multidisciplinary team shall document in a written narrative the basis upon which the members decided that there exists a severe discrepancy between intellectual ability and achievement.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-132, filed 10/11/95, effective 11/11/95.]

WAC 392-172-134 Definition and eligibility criteria for mental retardation. Students with mental retardation are those who demonstrate significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, which adversely affects their educational performance.

(1) All students being considered for special education and related services as mentally retarded shall be evaluated and determined eligible for special education and related services according to the following:

(a) A current evaluation of intellectual functioning obtained from a standardized individual test designed to measure intellectual functioning, individually administered by a qualified psychologist and interpreted and attested to as to validity by a qualified psychologist; and

(b) A current evaluation which considers and describes adaptive behavior as measured by standardized instrument(s), or professionally recognized scales where there are no

known standardized measures, which discusses any implications for educational planning; and

(c) Current academic achievement evaluation as measured by standardized tests appropriate to age level and administered individually; and

(d) A developmental history compiled directly from the parent(s), or records, when parents are not available.

(2) Eligibility standards:

(a) Significantly subaverage general intellectual functioning, defined as a full scale intelligence quotient two or more standard deviations below the mean on the respective measure; and

(b) Concurrent deficits in adaptive behavior.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-134, filed 10/11/95, effective 11/11/95.]

WAC 392-172-136 Definition and eligibility criteria for multiple disabilities. A student with multiple disabilities shall be considered eligible for special education services when there are present and documented two or more disabling conditions, each of which is so severe as to warrant a special program were that disabling condition to appear in isolation, and the combination of which causes such severe educational problems that the student requires intensive programming and cannot be accommodated in special education programs solely for one of the impairments. Students who are deaf/blind are not included in this disability category.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-136, filed 10/11/95, effective 11/11/95.]

WAC 392-172-138 Definition and eligibility criteria for deafness. Students who are deaf are those students who have a documented hearing impairment which is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification, which adversely affects educational performance.

All students being considered for special education and related services as deaf shall be evaluated and determined eligible for special education and related services according to the following:

(1) A current evaluation by a qualified audiologist which describes and confirms that the hearing impairment is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification and which prevents the auditory channel from being the primary mode of learning speech and language and adversely affects educational performance;

(2) Current academic achievement evaluation as measured by standardized tests appropriate to age level and administered individually; and

(3) A current evaluation of language development as measured by standardized tests or professionally recognized scales appropriate to age level and administered individually. Each school district or other public agency shall ensure that the hearing aids worn by students who are deaf are functioning properly.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-138, filed 10/11/95, effective 11/11/95.]

WAC 392-172-140 Definition and eligibility criteria for hearing impairment. Students with hearing impairment are those students who have a hearing impairment, whether permanent or fluctuating, which adversely affects the student's educational performance but is not included under the definition of deafness. All students being considered for special education and related services as students with hearing impairment shall be evaluated and determined eligible for special education and related services according to the following:

(1) A current evaluation by a qualified audiologist which describes and confirms that the student:

(a) Has an organic hearing loss in excess of 20 dB better ear average in the speech range (500, 1,000, 2,000 Hz), unaided; or

(b) Has a history of fluctuating hearing loss which has interrupted the normal acquisition of speech and language and continues to be a part of educational planning.

(2) A current academic achievement evaluation as measured by standardized tests appropriate to age level and administered individually.

(3) A current evaluation of language development as measured by standardized tests or professionally recognized scales appropriate to age level and administered individually.

Each school district or other public agency shall ensure that the hearing aids worn by students with hearing impairment are functioning properly.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-140, filed 10/11/95, effective 11/11/95.]

WAC 392-172-142 Definition and eligibility criteria for visually impaired/blindness. Students with visual impairment/blindness are those students who have a visual impairment which, even with correction, adversely affects the student's educational performance.

All students being considered for special education and related services with visual impairment/blindness shall be evaluated and determined eligible for special education and related services according to the following:

(1) A current evaluation by a qualified vision specialist or physician which describes and confirms that the student:

(a) Has visual acuity of 20/70 or less in the better eye with correction; or

(b) Has a field of vision which at its widest diameter subtends an angle of no greater than twenty degrees in the better eye with correction.

(2) Current academic achievement evaluation as measured by standardized tests appropriate to age level and administered individually.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-142, filed 10/11/95, effective 11/11/95.]

WAC 392-172-144 Definition and eligibility criteria for deaf/blindness. Students who are deaf/blind are those whose hearing and vision impairments, in combination, cause such severe communication and other developmental and educational problems that they cannot be accommodated in special education programs solely for students who are deaf or blind.

All students being considered for special education and related services as deaf/blind shall be evaluated and deter-

mined eligible for special education and related services according to the following:

(1) A current evaluation by a qualified audiologist and vision specialist or physician which describes and confirms that the vision and hearing impairments, in combination, cause such severe communication and other developmental and educational problems that the students cannot be accommodated in special education programs solely for students who are deaf or blind;

(2) Current academic achievement evaluation as measured by standardized tests appropriate to age level and administered individually; and

(3) A current evaluation of language development as measured by standardized tests or professionally recognized scales appropriate to age level and administered individually.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-144, filed 10/11/95, effective 11/11/95.]

WAC 392-172-146 Definition and eligibility criteria for autism. "Autism" means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, that adversely affects a student's educational performance. If a student manifests characteristics of autism after age three, that student still could be diagnosed as having autism if the criteria in this section are satisfied.

Students in this category have a range of intellectual abilities.

Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines and unusual responses to sensory experiences.

The term does not apply if a student's educational performance is adversely affected primarily because the student has a serious behavioral disability, as defined in this chapter. The category of autism includes students with pervasive developmental disorders if they meet eligibility criteria.

All students being considered for special education and related services under the category of autism shall be evaluated and determined eligible for special education and related services according to the following:

(1) A developmental history which includes verbal and nonverbal communication, social interaction, play, motor and sensory development;

(2) An adaptive behavior evaluation which includes:

(a) A standardized measure of adaptive behavior;

(b) An evaluation of the student's social skills, including interactions with peers, based on a classroom observation; and

(c) An evaluation of the student's self-help and community skills based on classroom and/or home observations and/or standardized evaluation methods;

(3) A communication evaluation which includes evaluations of:

(a) Receptive, expressive, and social communication skills;

(b) The possible contributions of the student's communication impairment to challenging behavior, and their implications for educational planning; and

(c) The potential need for augmentative communication methods;

(4) An evaluation of preacademic or academic strengths and weaknesses, preferred learning modalities, and present levels of functioning;

(5) A hearing and vision screening; and

(6) An evaluation of fine and gross motor skills.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-146, filed 10/11/95, effective 11/11/95.]

WAC 392-172-148 Definition and eligibility criteria for traumatic brain injury. "Traumatic brain injury" means an acquired injury to the brain caused by an external physical force resulting in total or partial functional disability and/or psychosocial impairment that:

(1) Adversely affects educational performance which results in the need for special education and related services. The term applies to open or closed head injuries resulting in impairments in one or more of the following areas such as: Cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory perceptual and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not apply to brain injuries that are congenital or degenerative or brain injuries induced by birth trauma.

(2) All students being considered for special education and related services under the category of traumatic brain injury shall be evaluated and determined eligible for special education and related services according to the following:

(a) A current medical evaluation by a qualified medical practitioner, which describes an acquired injury to the brain or a history of significant head trauma and which provides any medical implications for educational planning;

(b) Current academic achievement evaluation as measured by standardized tests appropriate to age level and administered individually;

(c) Current evaluation of cognitive functioning, which may include intelligence, memory, attention, reasoning, abstract thought, judgment, problem-solving, and/or information-processing;

(d) Current evaluation of language and communication skills;

(e) Current evaluation of fine and gross motor skills.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-148, filed 10/11/95, effective 11/11/95.]

WAC 392-172-150 Independent educational evaluation. (1) The parent(s) of a student or the adult student referred for special education and related services or any special education student who is to be evaluated or reevaluated has the right to obtain an independent educational evaluation, subject to subsections (2), (3) and (4) of this section.

(2) When requested by the parent, each school district or other public agency shall provide information about where an independent educational evaluation may be obtained.

(3) For the purposes of this section:

(a) "Independent educational evaluation" means an evaluation conducted by a qualified examiner who is not employed by the school district or other public agency responsible for the education of the student in question; and

(b) "Public expense" means that the school district or other public agency either pays for the full cost of the evaluation or assures that the evaluation is otherwise provided at no cost to the parent (or to the adult student).

(4) A parent or the adult student has the right to an independent educational evaluation at public expense when the parent or the adult student disagrees with the evaluation results obtained by the school district or other public agency, as follows:

(a) The parent(s) or the adult student should provide a written or verbal notice to the school district or other public agency superintendent or special education director which:

(i) Indicates that the parent or the adult student disagrees with the school district and other public agency's evaluation; and

(ii) Requests an independent educational evaluation at public expense;

(b) The school district or other public agency shall have the opportunity to initiate and conduct a hearing pursuant to WAC 392-172-350 et seq. to show that its evaluation is appropriate. If the school district or other public agency elects to initiate a hearing the school district or other public agency shall provide the parent(s) or the adult student written notice of the decision to initiate a hearing no later than the fifteenth calendar day after the date of receipt of the parent's (or adult student's) notice of disagreement;

(c) If the final decision pursuant to WAC 392-172-350 et seq. is that the school district and other public agency's evaluation is appropriate, the parent or adult student still has the right to an independent educational evaluation, but not at public expense;

(d) If the district or other public agency elects not to hold a hearing or does not receive a favorable decision in the due process hearing, the independent evaluation shall be provided at public expense in accordance with the same criteria which the district or other public agency uses when it initiates an evaluation including, but not limited to, the location of the evaluation and the qualifications of the examiner; and

(e) The school district or other public agency will not deny payment for an independent educational evaluation solely because the parent did not provide prior notification of his or her intent to seek an independent educational evaluation at public expense.

(5) If the parent or adult student obtains an independent educational evaluation at private expense, the results of the evaluation:

(a) Shall be considered by the school district or other public agency and documented 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 such hearings regarding that student as may be conducted pursuant to WAC 392-172-350 et seq.

(6) If a hearing officer requests an independent educational evaluation as part of a hearing, the cost of the evaluation shall be at public expense.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-150, filed 10/11/95, effective 11/11/95.]

WAC 392-172-152 Summary analysis of evaluation data. (1) The student's multidisciplinary team shall analyze the reports of evaluation data provided for in WAC 392-172-108 and any other available data in each of the areas evaluated. From these reports a written summary analysis shall be prepared. The conclusions and recommendations resulting in the eligibility decision pursuant to WAC 392-172-154 and contained in the summary analysis shall:

(a) Identify the existence of a disability which requires the provision of special education and related services.

(b) Reconcile any inconsistent or contradictory information that appears in the evaluation data.

(c) Relate the apparent significance, as appropriate, of such factors as test measurement error or cultural, environmental, economic, and behavioral factors to the evaluation results.

Where specific test results obtained in any evaluation do not appear to the multidisciplinary team to accurately reflect a student's performance the multidisciplinary team shall apply professional judgment to determine eligibility for special education and related services. In such event, the multidisciplinary team shall document in a written narrative the basis for such determination, the instruments used, and the data used for a determination of eligibility.

(d) Make recommendations to the individualized education program team regarding:

(i) Special education and related services needed;

(ii) The need, if appropriate, of providing such services over a period of time that exceeds the school district and other public agency's regular school program;

(iii) Service options, as well as, needs for specialized materials or equipment;

(iv) Instructional and curricular practices and materials, and student management strategies (e.g., reinforcement schedules, etc.), as determined by the multidisciplinary team to be significant to the student's program;

(v) Location of services.

(f) Document any necessary professional judgment(s) and the facts or reasons in support of the judgment(s).

(2) Each multidisciplinary team member shall certify in writing whether the summary analysis reflects his or her conclusion. If it does not reflect his or her conclusion, the team member must submit a separate statement presenting his or her conclusion(s) and the reasons therefor.

(3) Upon the documented request of the parent or the adult student the school district or other public agency shall provide the parent or the adult student a copy of the summary analysis and/or reports prior to the individualized education program meeting. If the parent or the adult student makes a written request of the district or other public agency to explain the summary analysis, the district or other public agency shall schedule such a meeting prior to the individualized education program meeting.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-152, filed 10/11/95, effective 11/11/95.]

WAC 392-172-154 School district or other public agency decision on eligibility. The school district or other public agency superintendent or designee shall record in writing the decision as to the eligibility for special education of a student who has been evaluated. The information used

to make the determination shall be filed in school district or other public agency records. If the decision is that the student is not eligible for special education, the parents or legal guardian of the student shall be informed in writing of the evaluation findings in compliance with notice requirements of WAC 392-172-302, within ten school days following the completion of the evaluation. If the decision is that the student is eligible for special education, the school district or other public agency shall initiate and schedule a meeting and request that the parent(s) participate in the individualized education program conference pursuant to WAC 392-172-156.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-154, filed 10/11/95, effective 11/11/95.]

WAC 392-172-156 Meetings. (1) A meeting shall be held within thirty calendar days after the date upon which a student's evaluation is completed (and the student determined to be eligible) for the purpose of developing the student's individualized education program. Meetings consistent with this section shall be conducted by the school district or other public agency at least once a year for the purpose of reviewing and revising as necessary each student's individualized education program. Meetings may be held more frequently. The school district or other public agency shall initiate and conduct the meeting and shall include the following participants:

(a) A representative of the school district or other public agency other than the student's teacher who is qualified to provide or supervise the provision of special education services, and authorized to commit district or other public agency resources;

(b) The student's general classroom teacher or special education teacher or therapist. Either the representative of the school district or other public agency or the teacher or therapist must be knowledgeable in the area of the student's disability;

(c) One or both of the parents (in the case of a nonadult student), subject to subsections (2) through (5) of this section;

(d) The student if he or she is an adult student, (and in the case of nonadult students, the student, if appropriate);

(e) The student, if transition services are being considered;

(f) A member of the student's multidisciplinary team or a person who is knowledgeable about the evaluation procedures used with the student and is familiar with the results of the evaluation;

(g) A person knowledgeable about the service options; and

(h) Other individuals at the discretion of the district or other public agency or the parent or the adult student, including representatives from the general education program in which the multidisciplinary team has recommended the delivery of services.

(2) Each school district or other public agency shall take steps to assure (in the case of nonadult students) that one or both parents of the special education 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 assure his or her participation; and

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

(3) The notice to the parent(s) shall include the purpose, time, location of the meeting and who will be in attendance. If the purpose of the meeting is the consideration of transition services, the parent(s) will be notified that the student is invited.

(4) If a parent cannot attend, the district or other public agency shall use other methods to assure participation, including individual or conference telephone calls.

(5) If a parent does not attend (in the case of a nonadult student), a meeting may be conducted. In such a case the school district or other public agency 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 parents 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.

(6) The school district or other public agency shall take whatever action is necessary to assure that the parent or adult student understands the proceedings at a meeting, including arranging for an interpreter for parents (or adult students) who are deaf or whose native language is other than English.

(7) The district or other public agency shall document the parent(s) and other individualized education program participants' presence at the individualized education program meeting.

(8) General education teachers, in whose classes the student is enrolled, shall be invited to, and given the opportunity to participate in, the individualized education program meeting.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-156, filed 10/11/95, effective 11/11/95.]

WAC 392-172-158 Individualized education program—Implementation. At the beginning of each school year, each public agency shall have in effect an individualized education program for every special education student who is receiving special education from that agency. An individualized education program must:

(1) Be in effect before special education and related services are provided to a student; and

(2) Be implemented as soon as possible following the meetings under this chapter.

It is expected that the individualized education program of a special education student will be implemented immediately following the meetings under this chapter. An exception to this would be when the meetings occur during the summer or a vacation period, or where there are circumstances that require a short delay (e.g., working out transportation arrangements). However, there can be no undue delay in providing special education and related services to the student.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-158, filed 10/11/95, effective 11/11/95.]

WAC 392-172-160 Individualized education program. (1) Each student's individualized education program shall be developed on the basis of the evaluation and parent input, where it is provided, and shall include:

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

(b) 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;

(c) A statement of the specific special education and related services to be provided to the student based upon the individual needs of the student, as determined through the evaluation process, and the extent to which the student will be able to participate in the general educational program, including physical education. If modifications to the general education program are necessary to ensure the child's participation in that program those modifications must be described. If the student is unable to participate in the general physical education program, a description of the specially designed physical education to be provided to the student shall be included;

(d) The individualized education program developed for a special education student shall also include a statement of the needed transition services as defined in WAC 392-172-060 including goals and objectives, based on a functional vocational evaluation and anticipated post-school outcome(s) beginning no later than age sixteen and annually thereafter (and when determined appropriate for an individual student, beginning in elementary school or sooner). The program should include, when appropriate, a statement of the inter-agency responsibilities or linkages (or both) before the student leaves the school setting. In the case where a participating agency fails to provide agreed upon services, the educational agency shall reconvene the individualized education program team, as soon as possible, to identify alternative strategies to meet transition objectives, and, if necessary, to revise the individualized education program, as long as the student is eligible for services;

(e) If the individualized education program team determines that services are not needed in one or more of the areas specified in WAC 392-172-060 (2)(a) through (f), the individualized education program must include a statement to that effect and the basis upon which the determination was made;

(f) The projected dates for the initiation of all special education and related services and the anticipated duration of each service including the number of school days, the number of hours per day, and the length of the school year over which such services shall be provided. In the event the individualized educational program is the first in the district or other public agency for such student and the multidisciplinary team has not made a determination as to the need for an extended school year for such student, the individualized educational program team shall make its recommendation on the length of the school year over which such services shall be provided prior to the conclusion of the regular school year;

(g) 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; and

(h) Aversive therapy, if applicable, consistent with WAC 392-172-388 through 392-172-398. The individualized education program shall describe the positive interventions attempted by the district or other public agency prior to the use of aversive therapy.

(2) Nothing in this chapter relieves any participating agency, including a state vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to special education students who meet the eligibility criteria of that agency.

(3) The school district or other public agency shall provide the parent or the adult student a copy of the individualized education program.

(4) Each public agency must provide special education and related services to a special education student in accordance with an individualized education program. However, Part B of the Individuals with Disabilities Education Act does not require that any agency, teacher, or other person be held accountable if a student does not achieve the growth projected in the annual goals and objectives.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-160, filed 10/11/95, effective 11/11/95.]

WAC 392-172-162 Physical education required. (1) Each special education student is afforded the opportunity to participate in the general physical education program available to students who are not disabled unless:

(a) The student is enrolled full time in a separate facility; or

(b) The student needs specially designed physical education, as prescribed in the student's individualized education program.

(2) If specially designed physical education is prescribed in a student's individualized education program, the school district or other public agency shall ensure that the public agency responsible for the education of that student provides the service directly, or makes arrangements for it to be provided through other public or private programs.

(3) The school district or other public agency shall ensure that any special education student who is enrolled in a separate facility will be provided with appropriate physical education services.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-162, filed 10/11/95, effective 11/11/95.]

WAC 392-172-164 Parent notice of individualized education program meeting—Transition services. If a purpose of the individualized education program meeting is the consideration of transition services for a student, the notice required under WAC 392-172-156 of the individualized education program meeting must also:

(1) Indicate this purpose;

(2) Indicate that the district or other public agency will invite the student; and

(3) Identify any other agency that will be invited to send a representative.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-164, filed 10/11/95, effective 11/11/95.]

WAC 392-172-166 Transition services participants. If a purpose of the individualized education program meeting

is the consideration of transition services for a student, the district or other public agency shall also invite:

The student; and

A representative of any other agency that is likely to be responsible for providing or paying for transition services.

If the student does not attend, the district or other public agency shall take other steps to ensure that the student's preferences, and aptitudes and interests are considered; and

If an agency invited to send a representative to an individualized education program meeting does not do so, the district or other public agency shall take other steps to obtain the participation of the other agency in the planning of any transition services.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-166, filed 10/11/95, effective 11/11/95.]

WAC 392-172-168 Required student participation—Transition. The district or other public agency is required to invite each student to participate in his or her individualized education program meeting if a purpose of the meeting is the consideration of transition services for the student. For all students who are sixteen years of age or older, one of the purposes of the annual meeting will always be the planning of transition services, since transition services are a required component of the individualized education program for these students.

For a student younger than age sixteen, if transition services are initially discussed at a meeting that does not include the student, the district or other public agency is responsible for ensuring that, before a decision about transition services for the student is made, a subsequent individualized education program meeting is conducted for that purpose, and the student is invited to the meeting.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-168, filed 10/11/95, effective 11/11/95.]

WAC 392-172-170 Initial service delivery—Parental consent for initial placement—Notice required. (1) The written consent of the parent(s) or adult student shall be requested and obtained before initial special education and related services are provided.

(2) Each school district or other public agency shall provide written notice of initial special education services to be provided to the student, or of the school district or other public agency and other public agency's inability or refusal to make special education and related services available, at the initial meeting or within ten calendar days after the initial meeting provided for in WAC 392-172-156. The notice shall comply with the notice requirements of WAC 392-172-306. Students admitted to state residential schools shall be enrolled in an educational program within ten school days of admission.

(3) The student's proposed special education and related services shall commence when either:

(a) Written consent has been given by the parent(s) or the adult student; or

(b) The refusal of a student's parent(s) or adult student to grant consent has been overridden by the school district or other public agency pursuant to a hearing (or appeal) conducted in accordance with WAC 392-172-350 et seq.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-170, filed 10/11/95, effective 11/11/95.]

WAC 392-172-172 Least restrictive environment.

The state shall ensure that each public agency establishes and implements procedures which meet the least restrictive environment requirements of this chapter, and that the various alternative service delivery options included under this chapter are available to the extent necessary to implement the individualized education program for each student eligible for and in need of special education. The provision of services to each special education student, including students in public or private institutions or other care facilities, shall be in his or her least restrictive environment as follows:

(1) Educational setting—Each special education student shall be provided services:

(a) In the general educational environment with students who are not disabled to the maximum extent appropriate to his or her needs. Special classes, separate schooling or other removal from the general education environment cannot occur unless it is demonstrated by the school district or other public agency that the nature or severity of the student's disability is such that his or her education in general classes with the use of supplementary aids and services cannot be achieved satisfactorily; and

(b) In the school which he or she would attend if not receiving special education and related services, unless his or her individualized education program requires some other arrangement. If some other arrangement is required, the student shall be provided services in the appropriate educational program that is as close to the student's home as possible.

(2) Nonacademic settings—Each special education student shall be provided nonacademic and extracurricular services and activities conducted by the school district or other public agency with students who are not disabled to the maximum extent appropriate to the needs of the student. Nonacademic and extracurricular services and activities may also include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the district or other public agency, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the district or other public agency and assistance in making outside employment available. Each school district or public agency shall take steps to ensure that its special education students have available to them the variety of educational programs and services available to nonspecial education students in the area served by the school district or public agency, including art, music, industrial arts, consumer and homemaking education, and vocational education.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-172, filed 10/11/95, effective 11/11/95.]

WAC 392-172-174 Continuum of alternative service delivery options. A continuum of alternative service delivery options shall be made available as necessary to meet the needs of special education students including special education and related services in: General classes, special

classes, special schools, home, hospitals, institutions, and instruction in other settings, and shall provide for supplementary services in conjunction with the general education classroom.

Specially designed instruction shall be provided as follows:

(1) Provided directly by certificated special education personnel or by general certificated teachers and/or classified instructional staff who are under the direct supervision of the general certificated teacher. For the purposes of this section, direct supervision includes observation of classified instructional staff at least weekly, during the time they are providing direct services to the student. Direct supervision of classified instructional staff providing related services, including services at off-site locations, shall occur at least monthly.

(2) Provided directly by certificated special education personnel or by classified instructional staff who are under the direct supervision of the certificated special education personnel including classified instructional staff who are performing individual or small group (six students or less) instructional and/or training activities pursuant to specific directives provided by the certificated special education personnel.

If the specially designed instruction is not delivered directly by certified special education personnel, it must be designed, monitored, and evaluated by certificated special education personnel pursuant to a written plan which shall include at least a monthly evaluation of student progress toward specific written individualized education program objectives.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-174, filed 10/11/95, effective 11/11/95.]

WAC 392-172-176 Transition to preschool program. Each local school district or other public agency shall develop policies and procedures for the transition of children participating in the early intervention program under Part H of the Individuals with Disabilities Education Act who are eligible for participation in preschool programs under Part B of the Individuals with Disabilities Education Act.

If the child will participate in the school district and other public agency's preschool program under Part B of Individuals with Disabilities Education Act at age three, an individual education program consistent with this chapter must be developed and implemented by the child's third birthday. The district or other public agency must provide the family with information on the eligibility and evaluation requirements under Part B of the Individuals with Disabilities Education Act, including the parent's and school district and other public agency's rights regarding procedural safeguards.

Each school district and other public agency's policies and procedures must include procedures for:

(1) Notifying the agency in which the child is being served, and the family of the need for transitional planning;

(2) Describing how the families will be included in the transitional plans;

(3) Convening, with the approval of the family, a transition conference with the agency, family, and district or other public agency, at least ninety days before the child is

eligible for the preschool program under Part B of Individuals with Disabilities Education Act for the purpose of reviewing a child's program options for the remainder of the school year, and establishing a transition plan.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-176, filed 10/11/95, effective 11/11/95.]

WAC 392-172-178 Preschool services. The requirements of this chapter apply to all preschool children with disabilities who are entitled to receive free, appropriate public education. Districts that provide preschool programs for nondisabled preschool children must ensure that the requirements of this chapter are met. Districts that do not operate programs for nondisabled preschool children are not required to initiate such programs solely to satisfy the requirements regarding the provision of services in the least restrictive environment. For these districts some alternative methods for meeting the requirement include:

(1) Providing opportunities for the participation (even part-time) of preschool children with disabilities in other preschool programs operated by public agencies (such as Head Start);

(2) Providing services to children with disabilities in private school programs for nondisabled preschool children or private school preschool programs that integrate children with disabilities and nondisabled children; and

(3) Locating classes for preschool children with disabilities in general elementary schools. In each case the district or other public agency must ensure that the provision of services for each child is in the least restrictive environment in which the unique needs of that child can be met, based upon the child's individualized education program, and meets all of the other requirements of this chapter.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-178, filed 10/11/95, effective 11/11/95.]

WAC 392-172-180 Procedures for establishing educational settings. (1) The educational setting (placement) for each special education student shall be determined at least annually at a meeting conducted pursuant to WAC 392-172-156.

(2) The selection of the appropriate placement for each special education student shall be based upon:

(a) The student's individualized education program;

(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; and

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

(3) In interpreting data gathered through the evaluation process in this chapter and in making placement decisions, each public agency shall:

(a) Draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, parental input, physical condition, social and cultural background, and adaptive behavior;

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

(c) Ensure that the placement decision is made in conformity with the least restrictive environment rules in this chapter.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-180, filed 10/11/95, effective 11/11/95.]

WAC 392-172-182 Reevaluation—Requirement. Each special education student shall be reevaluated by the multidisciplinary team in accordance with the evaluation procedures specified in WAC 392-172-100 through 392-172-152, as follows:

(1) At a minimum, once every three years or more frequently if conditions warrant.

(2) Upon request of the student's parent or adult student, teacher, or individualized education program team.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-182, filed 10/11/95, effective 11/11/95.]

WAC 392-172-184 Reevaluation—Notice requirement. A reasonable time prior to conducting the reevaluation, the district or other public agency shall provide written notice to parents or adult student. The notice shall include the procedural safeguard requirements provided in WAC 392-172-306. The parents or adult student have the right to submit to the multidisciplinary team any information they deem important to the reevaluation.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-184, filed 10/11/95, effective 11/11/95.]

WAC 392-172-186 Reevaluation—Purposes. The purposes of reevaluation are to determine the following:

(1) If the student is appropriately identified as disabled and in need of special education and related services; and

(2) If the program designed for the student is appropriate to meet the student's unique needs.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-186, filed 10/11/95, effective 11/11/95.]

WAC 392-172-188 Reevaluation general procedures. The multidisciplinary team shall determine if additional evaluation procedures are necessary to confirm the decisions to be made in WAC 392-172-186.

In making the determination, members of the multidisciplinary team shall be governed by the generally recognized professional practice standards of their respective disciplines. The multidisciplinary team shall document in a written narrative the basis for the determination including any relevant data or evaluation procedures utilized.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-188, filed 10/11/95, effective 11/11/95.]

WAC 392-172-190 Reevaluation—Notice of results. Within ten calendar days of the completion of the reevaluation, the district or other public agency superintendent or designee shall notify the parent or adult student, pursuant to WAC 392-172-306, of one or more of the following decisions:

(1) That the student is eligible and in need of special education;

(2) That the individualized education program designed for the student is appropriate to the student's unique needs.

When a determination is made that the individualized education program is inappropriate, an individualized education program team meeting shall be convened in accordance with WAC 392-172-156 through 392-172-168. When special education and related services are to be discontinued, notice shall be given the parent(s) pursuant to WAC 392-172-302.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-190, filed 10/11/95, effective 11/11/95.]

WAC 392-172-200 Staff qualifications. All employees of a school district or other public agency funded in whole or part with state or federal special education excess cost funds shall be qualified as follows (except as provided for in subsection (4) of this section):

(1) All employees shall hold such credentials, certificates or permits as are now or hereafter required by the state board of education for the particular position of employment and shall meet such supplemental standards as may be established by the school district or other public agency of employment. Supplemental standards established by a district or other public agency may exceed, but not be less than, those established by this section.

(2) In addition to the requirement of subsection (1) of this section, all teachers shall possess "substantial professional training" and support personnel shall meet standards established under the educational staff associate rules of the state board of education, as now or hereafter amended. A teacher of special education must hold a valid general teaching certificate for the appropriate level(s). The school district or other public agency is responsible for determining whether or not the teacher has adequate preparation to provide special education services. "Substantial professional training" as used in this section shall mean and be evidenced by either an appropriate special education endorsement or recommended placement upon the teaching certificate of an employee issued by the superintendent of public instruction. If the teacher does not have a certificate endorsed in special education, the teacher of special education must hold a valid general teaching certificate for the appropriate level(s), and the school district or other public agency is responsible for determining whether or not the teacher has adequate preparation in special education to teach such classes. Course work focused on the essential areas of study and credits required for endorsement by the state board of education in the area of special education are required.

(3) Classified staff shall present evidence of either formal and/or adequate in-service training or successful experience in working with special education students. The office of superintendent of public instruction, through the special education comprehensive system of personnel development, shall identify the minimum competencies classified staff must possess and develop in-service training strategies to meet staff needs.

(4) General education classroom personnel providing specially designed instruction pursuant to a properly formulated individual education program may be paid from state special education excess cost funds if the district has in place

a cost allocation plan which meets the requirements established by the superintendent of public instruction.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-200, filed 10/11/95, effective 11/11/95.]

WAC 392-172-202 Emergency—Temporary out-of-endorsement assignment. In order to temporarily assign a nonspecial education endorsed classroom teacher to a special education position, the district or other public agency must comply with the following:

(1) The district or other public agency must make one or more of the following factual determinations:

(a) The district or other public agency was unable to recruit a teacher with the proper endorsement who was qualified for the position.

(b) The need for a teacher with such an endorsement could not have been reasonably anticipated and the recruitment of such a classroom teacher at the time of assignment was not reasonably practicable.

(c) The reassignment of another teacher within the district or other public agency with the appropriate endorsement to such assignment would be unreasonably disruptive to the current assignments of other classroom teachers or would have an adverse effect on the educational program of the students assigned such other classroom teachers.

(2) The teacher assigned to the special education position must meet the following requirements:

(a) The teacher so assigned must have at least two full school years of classroom teaching experience and must not have been placed on probation pursuant to RCW 28A.405.100 during the last two school years.

(b) The teacher so assigned must have completed six semester hours or nine quarter hours of course work which are applicable to an endorsement in the out-of-endorsement grade level or subject area.

(3) The district or other public agency shall comply with the following condition:

Prior to the assignment, or as soon as reasonably practicable thereafter, but in no event beyond twenty school days after the commencement of the assignment, a designated representative of the district or other public agency and the classroom teacher so assigned shall mutually develop a written plan which provides necessary assistance to the teacher so assigned and which provides for a reasonable amount of planning and study time associated specifically with the assignment.

(4) The district or other public agency shall submit to the office of superintendent of public instruction as part of its annual report required by WAC 180-16-195, a list which indicates all such assignments. Such list shall include:

(a) The name and certification number of each teacher so assigned, the grade levels or subject areas and the number of such periods taught by such teacher, and the dates upon which such assignment(s) commenced and concluded.

(b) The reason for each such assignment.

(c) The reason why the particular teacher was selected for the out-of-endorsement grade level or subject area.

(d) A dated copy of each plan of assistance required pursuant to subsection (3) of this section. Such copy shall not contain any personal information the disclosure of which

would violate the named teacher's right to privacy pursuant to RCW 42.17.310 (1)(b).

(5) The district or other public agency adopts a resolution for each proposed out-of-endorsement assignment which states that the district or other public agency has made good faith efforts to comply with the provision(s) for which it is requesting a waiver. Such resolution must recite the actions that the school district or other public agency has taken to comply. Upon adoption and transmission of such resolution to the superintendent of public instruction, the district or other public agency shall be authorized to assign each such classroom teacher affected to the proposed out-of-endorsement assignment.

(6) An emergency out-of-endorsement assignment by the district or other public agency is only valid for one school year.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-202, filed 10/11/95, effective 11/11/95.]

WAC 392-172-204 Transportation. (1) Methods. Transportation options for special education students shall include the following categories and shall be exercised in the following sequence:

(a) A scheduled school bus;
(b) Contracted transportation, including public transportation; and

(c) Other transportation arrangements, including that provided by parents. Board and room cost in lieu of transportation may be provided whenever the above stated transportation options are not feasible because of the need(s) of a special education student or because of the unavailability of adequate means of transportation, in accordance with rules of the superintendent of public instruction.

(2) Welfare of the student. The transportation of a special education student shall be in accordance with rules of the superintendent of public instruction governing transportation by public school districts and other public agencies.

(3) Bus aides and drivers. Training and supervision of bus aides and drivers shall be the responsibility of the school district or other public agency superintendent or designee.

(4) Special equipment. Special equipment may include lifts, wheelchair holders, restraints, and two-way radios. All such special equipment shall comply with specifications contained in the specifications for school buses as now or hereafter established by the superintendent of public instruction.

(5) Transportation time on bus. Wherever reasonably possible, no student should be required to ride more than sixty minutes one way.

(6) Transportation for state residential school students to and from the residential school and the sites of the educational program shall be the responsibility of the department of social and health services and each state residential school pursuant to law.

(7) Transportation for a state residential school student, including students attending the state school for the deaf and the state school for the blind, to and from such school and the residency of such student shall be the responsibility of the district of residency only if the student's placement was made by such district or other public agency pursuant to an

interagency agreement—i.e., an appropriate placement in the least restrictive environment.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-204, filed 10/11/95, effective 11/11/95.]

WAC 392-172-206 Facilities. Construction of special facilities or the remodeling of present facilities in order to meet the special education and related services needs of any special education student shall be provided in accordance with rules of the superintendent of public instruction and the state board of education. All educational facilities required for special education students in residential school programs shall be the responsibility of the department of social and health services as provided by RCW 28A.190.040.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-206, filed 10/11/95, effective 11/11/95.]

WAC 392-172-208 Comparable facilities. If a school district or other public agency, in compliance with this chapter, operates a facility that is identifiable as being for special education students, the district or other public agency shall assure that the facility and the services and activities provided in the facility are comparable in quality to the school district and other public agency's facilities, services, and activities for students who are not disabled.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-208, filed 10/11/95, effective 11/11/95.]

WAC 392-172-210 Program length. The length of the education program for special education students shall be at least as long as the education program for students who are not disabled in terms of both the number of school days in the general school year and the average number of hours per school day. If a special education student cannot attend school a full school day, the reason shall be documented in his or her records and addressed in the individualized education program. The program length for a student during an extended school year shall be determined by the student's individualized education program.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-210, filed 10/11/95, effective 11/11/95.]

WAC 392-172-212 Health or safety standards. The superintendent of public instruction and districts shall comply with any federal health or safety requirements that apply to facilities used under Part B of Individuals with Disabilities Education Act.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-212, filed 10/11/95, effective 11/11/95.]

WAC 392-172-214 Administration of medication. (1) Medication may be administered to a special education student by school district personnel subject to the state professional licensing laws and the following conditions:

(a) The medication shall be administered pursuant to a written order and written instruction from the student's physician; and

(b) The medication shall be supplied by the student's parent(s) or the adult student.

(2) The orders and instructions shall be current, obtained at least yearly, and reviewed and updated whenever there is a significant change in the student's school activity program, in accordance with policies adopted by the school district or other public agency.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-214, filed 10/11/95, effective 11/11/95.]

WAC 392-172-216 Choice and running start programs. The requirements governing intradistrict and interdistrict choice and the running start program are contained in chapters 28A.225 and 28A.600 RCW, and chapter 392-137 WAC.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-216, filed 10/11/95, effective 11/11/95.]

WAC 392-172-218 Home/hospital instruction. Home or hospital instruction shall be provided to both special education students and other students who are unable to attend school for an estimated period of four weeks or more because of physical disability or illness. As conditions to such services, the parent(s) of a student or the adult student shall request the services and provide a written statement to the school district or other public agency from a qualified medical practitioner that states the student will not be able to attend school for an estimated period of at least four weeks. A student who is not otherwise disabled pursuant to WAC 392-172-035 who qualifies pursuant to this subsection shall be deemed "disabled" only for the purpose of home/hospital instructional services and funding and may not otherwise qualify as a special education student for the purposes of generating state or federal special education funds. A school district or other public agency shall not pay the cost of the statement from a qualified medical practitioner for the purposes of qualifying a student for home/hospital instructional services pursuant to this section.

Home/hospital instructional services funded in accordance with the provisions of this section shall not be used for the initial or ongoing delivery of services to special education students. It shall be limited to placement as is deemed necessary to provide temporary intervention as a result of a physical disability or illness.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-218, filed 10/11/95, effective 11/11/95.]

WAC 392-172-220 Contractual services. (1) School districts, severally or jointly, shall be authorized to:

(a) Enter into interdistrict agreements with another school district(s) pursuant to RCW 28A.335.160, 28A.225.250, 28A.225.260, and chapter 392-135 WAC; and

(b) Contract with nonpublic and public school agencies for special education and related services for special education students if the school district establishes that it cannot provide an appropriate education for the special education student within the district or another school district.

(2) In the case of a cooperative delivery of services by a school district to a special education student at a center for the furtherance of research and training in disabling conditions as established pursuant to RCW 28B.20.410 through 28B.20.414, as now or hereafter amended, or other such centers as may be established at other public institutions of

higher education, as defined in RCW 28B.10.016, the school districts and other public agencies shall establish that the parent(s) or adult student has:

(a) Given written approval for delivery of services to the student at such center despite the existence of an appropriate education for the student within the district or another school district; and

(b) Has agreed that such delivery of services would equal or substantially equal the services available in the school district.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-220, filed 10/11/95, effective 11/11/95.]

WAC 392-172-222 Approval of nonpublic and public school agencies. A school district or other public agency shall neither provide a student with services in a nonpublic or public school agency nor award a contract to a nonpublic or public school agency until the nonpublic or public school agency has been approved by the state board of education. Approval of such agencies shall be made in accordance with the following procedures:

(1) The school district or other public agency shall establish that all requirements imposed by this chapter for contracting with a nonpublic or public school agency can be met and shall forward the nonpublic or public school agency's application to the superintendent of public instruction or designee;

(2) The superintendent of public instruction or designee shall recommend approval or disapproval of the agency to the state board of education; and

(3) The superintendent of public instruction or designee shall notify the requesting school district or other public agency and nonpublic or public school agency of approval or disapproval.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-222, filed 10/11/95, effective 11/11/95.]

WAC 392-172-224 School district or other public agency responsibility when contracting for the delivery of services in a nonpublic or public school agency. Any school district or other public agency contracting with an approved nonpublic or public school agency for special education and/or related services on behalf of a special education student shall:

(1) Initiate and conduct a meeting with appropriate personnel and the student's parent(s) to develop the student's individualized education program. The district or other public agency shall assure that a representative of the nonpublic or public school agency attends the meeting or in some other way assure participation by the nonpublic school agency. Meetings to review or revise the student's individualized education program after the student has been placed shall be initiated and conducted by the nonpublic or public school agency at the discretion of the school district or other public agency. The district or other public agency shall assure that both the parent(s) or the adult student and the nonpublic school agency are represented in any decision concerning the student's individualized education program and agree to proposed changes in the program before those changes are implemented. The responsibility for compliance

with this section lies with the school district or other public agency.

(2) Develop a written contract which shall include, but not necessarily be limited to, the following elements:

- (a) Names of the parties involved;
- (b) The name(s) of the student(s) with disabilities for whom the contract is drawn;
- (c) Location and setting;
- (d) Description of program administration and supervision;
- (e) Designation of coordinator of the services to be provided by the school district or other public agency and the contractor;
- (f) Assurance of compliance with staff certification requirements;
- (g) Periodic student report requirements;
- (h) Annual program monitoring procedures and requirements;
- (i) Starting date and duration of contract;
- (j) Program day and description of student's program;
- (k) Charges and reimbursement—Billing and payment procedures;
- (l) Total contract cost;
- (m) Contract review;
- (n) Disposition of materials and equipment upon termination;
- (o) School district and other public agency's responsibility for compliance with due process, individualized education program, and yearly review and determination of placement requirements;
- (p) Contractor's policies and procedures covering:
 - (i) Nondiscrimination;
 - (ii) Care of student(s) in emergencies;
 - (iii) Fire drills;
 - (iv) Personnel policies;
 - (v) Staff duties; and
 - (vi) Board of directors' duties and functions;
- (q) Other contractual elements that may be necessary to assure compliance with state and federal rules; and
- (r) Signatures of authorized school and contractor officials.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-224, filed 10/11/95, effective 11/11/95.]

WAC 392-172-226 Residential educational services.

If the delivery of services in a public or private residential educational program is necessary to provide special education and related services to a special education student, the program, including nonmedical care and room and board, must be at no cost to the parents of the student. Nothing in this chapter relieves an insurer or similar third party (public or private) from an otherwise valid obligation to provide or to pay for services provided to a special education student. Nothing in this chapter relieves any participating agency of the responsibility to provide or pay for any service that the agency would otherwise provide to any special education student who meets the eligibility criteria of that agency.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-226, filed 10/11/95, effective 11/11/95.]

WAC 392-172-228 Out-of-state agencies. In the event the resident school district or other public agency is unable to contract with another district or other public agency, or a nonpublic agency, or an appropriate state agency, the district or other public agency may contract with an out-of-state educational program.

Contractual arrangements for an out-of-state educational program must be approved by the superintendent of public instruction or designee prior to the placement of the students in that program. The school district or other public agency shall be responsible for:

- (1) Determining that no appropriate in-state service option is available and for making the decision that the student should be placed in an out-of-state program;
- (2) Determining that the out-of-state educational program is appropriately licensed or approved by that state's authorities and that the delivery of services will result in an appropriate education for the student; and

(3) Contracting with the out-of-state agency pursuant to the requirements of WAC 392-172-220 through 392-172-224.

The school district or other public agency may petition the superintendent of public instruction or designee for state and/or federal special education funds to provide an educational program with an out-of-state agency.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-228, filed 10/11/95, effective 11/11/95.]

WAC 392-172-230 Placement of students by parents. If a special education student has a free appropriate public education available and the parents choose to place the student in a private school or facility, the public agency is not required by this chapter to pay for the student's education at the private school or facility. However, the public agency shall make services available to the student as provided in WAC 392-172-232 through 392-172-248.

Disagreements between a parent and a public agency regarding the availability of a program appropriate for the student, and the question of financial responsibility, are subject to the due process procedures of this chapter. Disagreements may also be resolved through the mediation process described in this chapter.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-230, filed 10/11/95, effective 11/11/95.]

WAC 392-172-232 Definition—"Private school student(s) with disabilities." For the purpose of WAC 392-172-234 through 392-172-248 "private school student(s) with disabilities" means special education students enrolled in private schools or agencies and whose enrollment is not the result of a contractual arrangement between a public school district or other public agency and the private school or agency.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-232, filed 10/11/95, effective 11/11/95.]

WAC 392-172-234 School district or other public agency responsibility for private school special education students. Subject to the provisions of WAC 392-172-236 through 392-172-248:

(1) Each school district or other public agency shall provide special education and related services designed to meet the needs of private school special education students who attend a private school located within the school district and other public agency's boundaries.

(2) Each school district or other public agency shall provide private school special education students with genuine opportunities to participate in special education and related services consistent with the number of those students and their needs.

(3) If a special education student is enrolled in a parochial or other private school and receives special education or related services from the school district or other public agency, the school district or other public agency shall:

(a) Initiate and conduct meetings to develop, review and revise an individualized education program for the student, in accordance with this chapter; and

(b) Ensure that a representative of the parochial or other private school attends each meeting. If the representative cannot attend, the district or other public agency shall use other methods to ensure participation by the private school, including individual or conference telephone calls.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-234, filed 10/11/95, effective 11/11/95.]

WAC 392-172-236 Determination of needs, numbers of students and types of services. The school district or other public agency shall determine the needs of private school special education students, the number who will participate, and the types of special education and related services which the school district or other public agency will provide. Such determination shall be made after consultation with persons knowledgeable of the needs of these students on a basis comparable to that used in providing for the participation under this chapter of special education students enrolled in public schools.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-236, filed 10/11/95, effective 11/11/95.]

WAC 392-172-238 Service arrangements. (1) Special education services to private school students may be provided through such arrangements as dual enrollment pursuant to chapter 392-134 WAC.

(2) No services, material, or equipment of any nature shall be provided to or on the site of any private school or agency subject to sectarian (i.e., religious) control or influence.

(3) Special education students enrolled in any private school or agency subject to sectarian control or influence shall be provided services in a manner that:

(a) Maintains a physical and administrative separation between the private and the public school programs; and

(b) Does not benefit the private school at public expense, e.g., pursuant to dual enrollment or shared time arrangements in accordance with chapter 392-134 WAC.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-238, filed 10/11/95, effective 11/11/95.]

WAC 392-172-240 Personnel in private schools and agencies. (1) School district or other public agency person-

nel may be made available to nonsectarian private schools and agencies only to the extent necessary to provide services required by the special education student.

(2) Each school district or other public agency providing services to students enrolled in nonsectarian private schools or agencies shall maintain continuing administrative control and direction over those services.

(3) Services to private school special education students shall not include the payment of salaries of teachers or other employees of private schools or agencies, except for services performed outside regular hours of the school day and under public supervision and control.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-240, filed 10/11/95, effective 11/11/95.]

WAC 392-172-242 Equipment—Construction. (1) Equipment used with special education students in a private school or agency may be placed on nonsectarian private school or agency premises for the period of time necessary for the program, but title to and administrative control over all equipment must be retained and exercised by the school district or other public agency.

(2) Records shall be kept of equipment and an accounting made of the equipment which shall assure that the equipment is used solely for the purposes of the program.

(3) The equipment shall be removed from the private school or agency if necessary to avoid its being used for other purposes or if it is no longer needed for the purposes of the program or project.

(4) Funds shall not be used to construct facilities for private schools or agencies.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-242, filed 10/11/95, effective 11/11/95.]

WAC 392-172-244 Prohibition of segregation. Programs or projects carried out in public facilities, and involving joint participation by special education students otherwise enrolled in private schools or agencies and special education students enrolled in public schools, shall not include classes that are separated on the basis of school enrollment or the religious affiliations of the students.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-244, filed 10/11/95, effective 11/11/95.]

WAC 392-172-246 Funds and property not to benefit private schools. Public funds provided and property derived from those funds shall not benefit any private school or agency.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-246, filed 10/11/95, effective 11/11/95.]

WAC 392-172-248 Existing level of instruction. Provisions for serving private school special education students shall not include the financing of the existing level of instruction in a private school or agency.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-248, filed 10/11/95, effective 11/11/95.]

WAC 392-172-300 General responsibility of public agencies. The state shall ensure that each school district or

public agency establishes and implements procedural safeguards that meet the requirements of 34 CFR 300.500-300.515.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-300, filed 10/11/95, effective 11/11/95.]

WAC 392-172-302 When notice must be given.

Written notice in accordance with WAC 392-172-306 shall be given by a school district or other public agency to the parent(s) of a student (or to the adult student) a reasonable time before the school district or other public agency:

(1) Proposes to initiate or change:

(a) The identification, evaluation, or delivery of educational services to the student;

(b) The individualized education program, including annual goals and short term instructional objectives or the provision of special education and related services to the student pursuant to this chapter; or

(2) Refuses to initiate or change:

(a) The identification, evaluation, or delivery of special education and related services to the student; or

(b) The individualized education program or the provision of special education and related services to the student pursuant to this chapter.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-302, filed 10/11/95, effective 11/11/95.]

WAC 392-172-304 Parent consent. Parental consent must be obtained in writing (or denial of consent overridden by a due process hearing) before:

(1) Conducting an initial evaluation; and

(2) Providing initial special education and related services to a special education student.

A school district or other public agency shall not require written parental consent as a condition for receiving any other benefit, service, or activity to the parent or to the student.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-304, filed 10/11/95, effective 11/11/95.]

WAC 392-172-306 Contents of notice. (1) The notice required by WAC 392-172-302 shall include:

(a) A full explanation of all of the procedural safeguards available to the parent or the adult student that are set forth in 34 CFR 300.500, 300.502 through 300.515, and 300.562 through 300.569, including the availability of mediation as a dispute resolution process;

(b) A description of the action proposed or refused by the school district or other public agency, an explanation of why the district or other public agency proposes or refuses to take the action, and a description of any options the district or other public agency considered and the reasons why those options were rejected;

(c) A description of each evaluation procedure, test, record, or report the district or other public agency used as a basis for the proposal or refusal; and

(d) A description of any other factors which are relevant to the school district and other public agency'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 adult student or other mode of communication used by the parent or adult student, unless it is clearly not feasible to do so.

(3) If the native language or other mode of communication of the parent or adult student is not a written language, the district or other public agency shall take steps to assure that:

(a) The notice is translated orally or by other means to the parent or adult student in his or her native language or other mode of communication;

(b) The parent or adult 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.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-306, filed 10/11/95, effective 11/11/95.]

WAC 392-172-308 Surrogate parents. (1) Each school district or other public agency providing a special education program to a nonadult special education student shall assure that the rights of the nonadult student are protected when:

(a) No parent (as defined in WAC 392-172-035(5)) can be identified;

(b) The school district or other public agency, after reasonable efforts, cannot discover the whereabouts of a parent; or

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

(2) Duty of school district or other public agency. The duty of a school district or other public agency 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. Each school district or other public agency shall assure 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 parent may not be an employee of a school district 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 district and/or other agency solely because he or she is paid by the school district 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, evaluation, and the delivery of educational services to the student; and

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

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-308, filed 10/11/95, effective 11/11/95.]

WAC 392-172-310 Mediation—Purpose. The purpose of mediation is to offer both the parent and the school district or other public agency an optional alternative to a formal due process hearing. Mediation requires the consent and agreement of both parties. Mediation cannot be used to deny or delay access by a parent to a due process hearing under this chapter. Mediation is used to resolve disagreements concerning the identification, evaluation, delivery of educational services or provision of a free appropriate public education to a special education student. Mediation may be terminated by either party at any time during the process.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-310, filed 10/11/95, effective 11/11/95.]

WAC 392-172-312 Mediation—Definition. Mediation is a dispute resolution process in which an impartial mediator assists both parties in reaching a mutually acceptable agreement on the educational needs of a special education student. The primary participants in the mediation process are the parent(s), school district or other public agency representative(s), and mediator. The process is voluntary, confidential, and informal. It is a collaborative process, conducted in a nonadversarial manner. Mediation services may be provided by the office of superintendent of public instruction at no cost to either party. The office of superintendent of public instruction will attempt to provide mediation services for individuals whose primary language is not English.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-312, filed 10/11/95, effective 11/11/95.]

WAC 392-172-314 Request for mediation services. To access the system of mediation established by the office of superintendent of public instruction, a request for mediation services may be made in writing or verbally to administrative agents for the office of superintendent of public instruction located statewide. Written confirmation of the request shall be provided to both parties by an intake coordinator and a mediator shall be assigned to the case.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-314, filed 10/11/95, effective 11/11/95.]

WAC 392-172-316 Written mediation agreement. Agreements reached through the mediation process shall be documented in writing and signed by both parties. Solutions to the issue(s) raised through the mediation process shall not be in conflict with state and federal laws or regulations. Both parties shall be given a copy of the written mediation agreement. Negotiations, mediation positions, etc., disclosed in a mediation shall not be used as evidence in a due process hearing or other administrative review unless one party to the mediation violates the agreement. A copy shall also be filed by the mediator with the office of superintendent of public instruction in mediations provided by that agency.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-316, filed 10/11/95, effective 11/11/95.]

WAC 392-172-320 Authority. The authority for this chapter is RCW 28A.300.070 which authorizes the superintendent of public instruction to receive and administer federal funds on behalf of school districts and other public agencies in the state of Washington in compliance with applicable rules and regulations.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-320, filed 10/11/95, effective 11/11/95.]

WAC 392-172-322 Purpose. The purpose of this chapter is to ensure compliance by the state of Washington with 34 CFR 300.660 through 300.662, Individuals with Disabilities Education Act.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-322, filed 10/11/95, effective 11/11/95.]

WAC 392-172-324 Definition—Complaint. As used in this chapter, the term "complaint" means an allegation, by the complainant, that the state, a local school district or other public agency, an educational service district or other public agency, or other subgrantee receiving federal funds (or receiving state funds to carry out a federal requirement), including private schools and facilities where students are placed on a contractual basis, has violated a federal statute or regulation or a state regulation that applies to a federal program covered under this chapter.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-324, filed 10/11/95, effective 11/11/95.]

WAC 392-172-326 Definition—Other subgrantee. As used in this chapter, the term "other subgrantee" means the government, for profit or nonprofit, or other legal entity to which the state as grantee awards a subgrant or the district or public agency grants a contract, and which is accountable to the state for the use of the funds provided. The subgrantee is the entire legal entity even if only a particular component of the entity is designated in the subgrant award document.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-326, filed 10/11/95, effective 11/11/95.]

WAC 392-172-328 Informing citizens about complaint procedures. The superintendent of public instruction shall inform parents and other interested individuals about the citizen complaint procedures in this chapter. Specific actions to be taken by the superintendent of public instruction include:

- (1) Disseminating copies of the state's procedures to parent, advocacy, and professional organizations;
- (2) Conducting in-service training sessions on the complaint process through educational service districts; and
- (3) Including information about the system in state-wide conferences.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-328, filed 10/11/95, effective 11/11/95.]

WAC 392-172-330 Right to register a complaint. Any individual, entity, or organization may register a complaint. If a parent or adult student has also filed a request for a due process special education hearing pursuant

to WAC 392-172-350, regarding the same issues, a citizen complaint by such person regarding noncompliance shall be held in abeyance until the hearing has been concluded.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-330, filed 10/11/95, effective 11/11/95.]

WAC 392-172-332 Contents of complaint. A complaint filed under this chapter shall include:

(1) A statement that the state, a local school district or other public agency, an educational service district, or other subgrantee has violated one or more requirements of federal statutes or regulations or state regulations that apply to a federal program;

(2) The facts on which the statement is based;

(3) The name and address of the complainant; and

(4) In the case of a complaint alleging a violation by an entity other than the state and filed directly with the superintendent of public instruction, the name and address of the allegedly offending entity.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-332, filed 10/11/95, effective 11/11/95.]

WAC 392-172-334 Procedure for filing a complaint. The procedure for filing a complaint shall be as follows:

(1) A complaint alleging a violation by a local school district or other public agency, an educational service district, or other subgrantee shall be filed directly with the superintendent of public instruction.

(2) The superintendent of public instruction, upon receipt of a complaint against a local school district or other public agency, an educational service district, or other subgrantee, shall refer the complaint to the allegedly offending entity for action pursuant to this chapter.

(3) Receipt of a complaint by the superintendent of public instruction activates a time line not to exceed sixty calendar days unless an extension of the time limit is approved by the superintendent of public instruction on the basis of exceptional circumstances relative to a particular complaint.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-334, filed 10/11/95, effective 11/11/95.]

WAC 392-172-336 Designation of responsible employee. The chief officer of each local school district or other public agency, an educational service district, or other subgrantee shall designate at least one employee to monitor and coordinate the entity's compliance with this chapter. Such employee shall also be charged with the responsibility for investigating any complaint(s) communicated to the superintendent of public instruction pursuant to WAC 392-172-334.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-336, filed 10/11/95, effective 11/11/95.]

WAC 392-172-338 Investigation of and response to complaints against a school district or other public agency, educational service district, or other subgrantee. Investigation of and response to a complaint shall be as follows:

(1) Upon receipt of a properly filed complaint with the superintendent of public instruction and referred by the superintendent of public instruction to the allegedly offending entity, the employee(s) designated pursuant to WAC 392-172-336 shall investigate the alleged violations.

(2) Upon completion of the investigation by the allegedly offending entity, the designated employee(s) shall provide the responsible official of the entity with a written report, including applicable documentation, of the results of the investigation. Said officials shall respond in writing to the superintendent of public instruction no later than twenty calendar days after the date of receipt by the entity of such complaint.

(3) The response to the superintendent of public instruction shall clearly state either:

(a) That the entity denies the allegations contained in the complaint and the basis for such denial; or

(b) Proposes reasonable corrective action(s) deemed necessary to correct the violation.

(4) The superintendent of public instruction will provide the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint.

(5) Within thirty calendar days, and upon review of all relevant information including, dependent upon necessity, information obtained through an independent on-site investigation by the superintendent of public instruction, the superintendent of public instruction will make an independent determination as to whether the public agency is violating a requirement of Part B of the Individuals with Disabilities Education Act or of this chapter.

(6) Consistent with the provisions of WAC 392-172-320 through 392-172-346, issue a written decision to the complainant that addresses each allegation in the complaint including findings of fact and conclusions and the reasons for the state's final decision, and clearly states either:

(a) That the complaint is without merit, the allegations are denied, and the basis for such denial; or

(b) The reasonable corrective measures deemed necessary to correct any violation. Any such corrective measures deemed necessary shall be instituted as soon as possible but in no event later than thirty calendar days following the date of the response to the complainant.

(7) When appropriate, technical assistance, negotiations, and corrective action(s) are to be instituted no later than ten days following notice of written decision by the superintendent of public instruction.

(8) If compliance by a local school district or other public agency, educational service district, or other subgrantee is not achieved pursuant to subsection (6) of this section, the superintendent of public instruction shall initiate fund withholding, fund recovery, or any other sanction deemed appropriate.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-338, filed 10/11/95, effective 11/11/95.]

WAC 392-172-340 Complainant right to appeal. In the event a complainant, local school district or other public agency, educational service district, or other subgrantee remains aggrieved with the decision of the superintendent of

public instruction, either party may appeal the decision to the Secretary, Department of Education.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-340, filed 10/11/95, effective 11/11/95.]

WAC 392-172-342 Complaints against the superintendent of public instruction—Designation of responsible employee(s). A complaint alleging a violation by the superintendent of public instruction shall be filed directly with the superintendent of public instruction in the form specified in WAC 392-172-332.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-342, filed 10/11/95, effective 11/11/95.]

WAC 392-172-344 Complaints against the superintendent of public instruction—Investigation of and response to complaints. (1) The staff responsible for investigating the alleged violation shall commence investigation within ten days of receipt of the complaint by the superintendent of public instruction.

(2) Investigation by the superintendent of public instruction may include on-site investigations as appropriate.

(3) Upon completion of the investigation, investigating staff shall provide the superintendent of public instruction with a written report on the results of the investigation.

(4) The superintendent of public instruction shall respond in writing to the complainant as soon as possible but in no event later than sixty calendar days after the date of receipt of such complaint by the superintendent of public instruction.

(5) The response shall clearly state either:

(a) That the complaint is without merit, the allegations are denied, and the basis for such denial; or

(b) The reasonable corrective measures deemed necessary to correct any violation. Any such corrective measures deemed necessary shall be instituted as soon as possible but in no event later than thirty calendar days following the date of the response to the complainant.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-344, filed 10/11/95, effective 11/11/95.]

WAC 392-172-346 Appeal to the secretary of education in complaints against the superintendent of public instruction. In the event that a complainant remains aggrieved with the response of the superintendent of public instruction, the complainant may file an appeal directly with the Secretary, Department of Education.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-346, filed 10/11/95, effective 11/11/95.]

WAC 392-172-350 Right to initiate—Purposes. (1) Hearings conducted in accordance with WAC 392-172-350 through 392-172-360 may be initiated in the following cases for the purposes stated:

(a) The parent(s) of a student (or an adult student) or a school district or other public agency may initiate a hearing to challenge or to show (as the case may be) the appropriateness of a proposal by the school district or other public agency to initiate or change:

(i) The identification of the student;

(ii) The evaluation of the student;

(iii) The delivery of educational services to the student;

or

(iv) The provision of special education and related services to the student pursuant to this chapter;

(b) The parent(s) of a student (or an adult student) or a school district or other public agency may initiate a hearing to challenge or to show (as the case may be) the appropriateness of the school district and other public agency's refusal of the parent(s) (or adult student's) request to initiate or change:

(i) The identification of the student;

(ii) The evaluation of the student;

(iii) The delivery of educational services to the student;

or

(iv) The provision of special education and related services to the student pursuant to this chapter;

(c) A school district or other public agency may initiate a hearing to show that its evaluation of a student is appropriate if the student's parent(s) or adult student disagrees with the evaluation results.

(2) A request by a student's parent(s) or adult student for a hearing pursuant to this section shall:

(a) Be in writing and specify the district or other public agency;

(b) Be mailed or provided directly to the Office of Superintendent of Public Instruction, Office of Legal Services, Old Capitol Building, Olympia, Washington 98504; and

(c) Explain the concerns of the parent(s) or adult student in general or specific terms.

(3) A request by a school district or other public agency for a hearing pursuant to this section shall:

(a) Be in writing;

(b) Be mailed or provided directly to Office of Superintendent of Public Instruction, Office of Legal Services, Old Capitol Building, Olympia, Washington 98504. A copy of such request, including required attachments shall be transmitted to the student's parent(s) or adult student;

(c) Have attached to such request a copy of the notice to parent(s) or adult student as required by WAC 392-172-302. If the hearing request by the district or other public agency is in response to a request for an independent educational evaluation pursuant to WAC 392-172-150, the school district and other public agency's written request for a hearing also shall have attached a copy of the written notice to the district or other public agency required by WAC 392-172-150(2).

(4) A notice of a hearing requested by a student's parent(s) or adult student or initiated by a school district or other public agency pursuant to this section shall be provided by the hearing officer and shall include, but not necessarily be limited to:

(a) The date, time, and place of the hearing;

(b) The issues to be addressed at the hearing to the extent the issues have been identified at the time of the notice;

(c) The rights, procedures, and other matters set forth in WAC 392-172-352 through 392-172-364; and

(d) The right of the parent(s) or adult student to seek an independent evaluation at public expense pursuant to WAC 392-172-150.

(5) The forty-five day time line for completing the hearing process shall begin on the day the superintendent receives the written request for a due process hearing.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-350, filed 10/11/95, effective 11/11/95.]

WAC 392-172-352 Hearing officers—Selection and expenses of—Parent assistance. (1) If a hearing is initiated pursuant to WAC 392-172-350:

(a) The hearing shall be conducted by and at the expense of the superintendent of public instruction.

(b) The superintendent of public instruction shall provide for a court reporter's stenographic record of all testimony and other oral hearing proceedings at the expense of the superintendent of public instruction: A court reporter's stenographic record need not be transcribed for any purpose except as provided or required in WAC 392-172-354 (1)(e).

(c) The superintendent of public instruction shall inform the parent(s) or adult student of any free or low-cost legal and other relevant services available in the area if:

(i) The parent or adult student requests the information; or

(ii) The school district or other public agency or the parent or adult student initiates a hearing.

(d) The hearing shall be conducted by a qualified person selected and appointed by the chief administrative law judge in the office of administrative hearings pursuant to chapter 10-08 WAC and shall be a person who:

(i) Is not an employee of a public agency which is involved in the education or care of the student; and

(ii) Does not have a personal or professional interest which would conflict with his or her objectivity in the hearing.

(2) A person who otherwise qualifies to conduct a hearing under this section is not an employee of the public agency solely because he or she is paid by the agency to serve as a hearing officer.

(3) The hearing shall be conducted in accordance with the provisions of WAC 392-101-005 unless modified by this chapter.

(4) Each public agency shall keep a list of the persons who serve as hearing officers. The list must include a statement of the qualifications of each of those persons.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-352, filed 10/11/95, effective 11/11/95.]

WAC 392-172-354 Hearing rights. (1) Any party to a hearing initiated pursuant to WAC 392-172-350 has the right to:

(a) Be accompanied and advised by persons with special knowledge or training with respect to the problems of special education students;

(b) Be advised and/or represented by an attorney;

(c) Present evidence, including the opinion(s) of qualified experts, confront, cross-examine, and compel the attendance of witnesses;

(d) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five days before the hearing;

(e) Obtain a written or electronic verbatim record of the hearing at no cost to any party to a hearing. In the event of an appeal to a court of law by the school district or other public agency, the district or other public agency shall bear the cost of transcribing the record for appeal purposes and shall make a copy available to the other party at a cost, if any, which is no greater than the school district and other public agency's cost of copying the original; and

(f) Obtain written findings of fact, conclusions of law and judgments. The state, after deleting any personally identifiable information, shall:

(i) Transmit those findings and decisions to the state advisory panel established under this chapter; and

(ii) Make those findings and decisions available to the public.

(2) Parents who are a party to a hearing have the right to have the student who is the subject of the hearing present.

(3) Parents (or adult students) who are a party to a hearing have the right to open the hearing to the public.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-354, filed 10/11/95, effective 11/11/95.]

WAC 392-172-356 Time line for hearing officer's decision—Time and place of hearing. (1) Not later than forty-five days after the date of receipt of a request for a hearing pursuant to WAC 392-172-350:

(a) A final decision shall be reached based upon a preponderance of the evidence; and

(b) A copy of the decision consisting of the hearing officer's findings of fact, conclusions of law, and judgment shall be mailed or provided directly to each of the parties and to the superintendent of public instruction by the hearing officer, together with a certification of the date of mailing and the parties to whom it was mailed.

(2) The decision of the hearing officer shall be drafted in a manner which:

(a) Sets forth the findings of fact, conclusions of law and judgment separately, and numbers each finding of fact and conclusion; and

(b) Avoids the revelation of personally identifiable information that is unnecessary to reaching and understanding the decision reached.

(3) A hearing officer may grant specific extensions of time beyond the period set forth in this section at the written or otherwise documented request of the parent(s) or school district or other public agency, as follows:

(a) Continuances only by written order of the administrative law judge, which specifies the expiration date; and

(b) Continuances in instances of good cause and to periods of time that do not unjustifiably infringe on the right of either party to a timely decision.

(4) Each hearing shall be conducted at a time and place which is reasonably convenient to the parent(s) and student involved.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-356, filed 10/11/95, effective 11/11/95.]

WAC 392-172-358 Prospective application to amendments in Washington Administrative Code affecting hearings. Amendments to the *Washington Administrative Code* affecting special education hearings and appeals

pursuant to chapter 392-172 WAC shall apply prospectively. Hearing requests filed pursuant to WAC 392-172-350 shall be governed by the chapter 392-172 WAC regulations in effect at the time the request for a hearing is filed.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-358, filed 10/11/95, effective 11/11/95.]

WAC 392-172-360 Final decision—Appeal to court of law. A decision made in a hearing initiated pursuant to WAC 392-172-350 is final, unless modified or overturned by a court of law. Any party aggrieved by the findings and decision made in a hearing who does not have the right to appeal under this chapter has the right to bring a civil action under section 615 (e)(2) of the Individuals with Disabilities Education Act. A civil action may be filed in either state or federal court.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-360, filed 10/11/95, effective 11/11/95.]

WAC 392-172-362 Attorneys' fees. Each public agency shall inform parents that in any action or proceeding under section 615 of the Individuals with Disabilities Education Act, courts may award parents reasonable attorneys' fees under the circumstances described in section 615 (e)(4).

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-362, filed 10/11/95, effective 11/11/95.]

WAC 392-172-364 Student's status during hearing and judicial review processes. (1) During the pendency of any administrative or judicial proceeding regarding a hearing request initiated pursuant to WAC 392-172-350 or a written request for mediation, unless the school district or other public agency and the parent(s) of the student or the adult student agree otherwise, the student involved in the hearing or mediation request shall remain in the educational program he or she was in at the time the hearing or mediation request was made.

(2) The student, with the consent of the parent(s) or the adult student, shall be enrolled in the general school program until the completion of all such proceedings if the hearing or mediation request involves an application for initial admission to the school.

(3) During the pendency of a hearing regarding the disciplinary exclusion of a special education student who brings a firearm (as defined in Section 921 of Title 18 of the U.S.C.), to school, the student can receive services in an alternative educational program for up to forty-five calendar days. This alternative educational program must be developed in an individualized education program meeting conducted pursuant to WAC 392-172-156.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-364, filed 10/11/95, effective 11/11/95.]

WAC 392-172-370 Disciplinary exclusion—Purpose. The purpose of WAC 392-172-370 through 392-172-382 is to ensure that special education students are not being improperly excluded from school for disciplinary reasons. Each school district or other public agency, educational service district and public agency serving special education

students shall take steps to ensure that each employee, contractor, and other agent of the district or other public agency responsible for education or care of a special education student is knowledgeable of WAC 392-172-370 through 392-172-382. No school district or other public agency and no educational service district shall authorize, permit, or condone the use of disciplinary procedures which violate WAC 392-172-370 through 392-172-382 by any employee, contractor, or other agent of the district or other public agency responsible for the education or care of a special education student.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-370, filed 10/11/95, effective 11/11/95.]

WAC 392-172-372 Disciplinary exclusion—Procedures, continuing district or other public agency responsibility. A school district or other public agency cannot implement a disciplinary action which constitutes a change of placement, as defined by WAC 392-172-376 until a multidisciplinary team has determined whether the misconduct for which the student is being excluded from school is a manifestation of the disability and/or due to an inappropriate placement.

If the misconduct is a manifestation of the disability and/or due to an inappropriate placement, the proposed disciplinary action, resulting in a change of placement, may not be implemented. The district or other public agency must convene an individualized education program meeting conducted pursuant to WAC 392-172-156 for the purposes of developing an appropriate program. The school district or other public agency has a continuing obligation to provide special education and related services to the student.

If the misconduct is neither a manifestation of the disability nor due to an inappropriate placement of a special education student, the proposed disciplinary action may be implemented. The district or other public agency must convene an individualized education program meeting conducted pursuant to WAC 392-172-156 for the purposes of developing an alternative educational program for the student during the long-term suspension or expulsion.

The district or other public agency must provide the parents with written notice consistent with WAC 392-172-302 through 392-172-306 regarding the multidisciplinary team decision as to whether the misconduct for which the student is being excluded from school is a manifestation of the disability or due to an inappropriate placement.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-372, filed 10/11/95, effective 11/11/95.]

WAC 392-172-374 Disciplinary exclusion—Determination of disability relatedness and/or appropriateness of program. Prior to implementing a disciplinary action which constitutes a significant change of placement to a special education student as defined in WAC 392-172-376, a multidisciplinary team meeting must be held to determine:

(1) If the student's misconduct is a manifestation of the disability; the determination of whether the misconduct is a manifestation of the disability must be based on evaluation data related to behavior and must be recent enough to afford an understanding of the student's current behavior. A team may not make a determination that misconduct is or is not

a manifestation of the disability based on a student's special education eligibility category. In making such a determination the multidisciplinary team shall document in a written narrative the basis for such determination, including any relevant data or evaluation procedures utilized.

(2) If the student's misconduct is due to an inappropriate program; in determining whether the behavior is due to an inappropriate program, the multidisciplinary team shall follow the procedures specified in WAC 392-172-372.

The district or other public agency must provide the parents with written notice consistent with WAC 392-172-302 through 392-172-306 regarding the multidisciplinary team decision.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-374, filed 10/11/95, effective 11/11/95.]

WAC 392-172-376 Disciplinary exclusion—Definition significant change of placement. For the purposes of WAC 392-172-370 through 392-172-382, the term "significant change of placement of a special education student" means any suspension, in school or out-of-school, or expulsion for disciplinary reasons which excludes a special education student from school for more than ten consecutive school days in a given school year or any series of suspensions that are each of ten days or fewer in duration which create a pattern of exclusion.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-376, filed 10/11/95, effective 11/11/95.]

WAC 392-172-378 Disciplinary exclusion—Determination of what constitutes a pattern of exclusion. The determination of whether a series of suspensions that are each of ten days or fewer in duration creates a pattern of exclusion must be determined by a multidisciplinary team on an individual basis. Among the factors that the multidisciplinary team should consider in determining whether a series of suspensions constitutes a pattern of exclusion are the length of each suspension, the proximity in time of the suspensions to one another, and the total amount of time the student is excluded from the program. In making such a determination, the multidisciplinary team shall document in a written narrative the basis for such determination, including any relevant data or evaluation procedures utilized.

The district or other public agency must provide the parents with written notice consistent with WAC 392-172-302 through 392-172-306 regarding the multidisciplinary team decision as to whether the series of suspensions constitutes a pattern of exclusion.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-378, filed 10/11/95, effective 11/11/95.]

WAC 392-172-380 Emergency exclusion—Dangerous students. A special education student whose presence poses an immediate and continuing danger to the student, other students, or school personnel or an immediate and continuing threat of substantial disruption of the educational process, may be expelled pursuant to WAC 180-40-295. Prior to an exclusion exceeding ten school days, the school district or other public agency must complete the procedures defined in WAC 392-172-370 through 392-172-382.

A parent may request a hearing conducted in accordance with WAC 392-172-350 through 392-172-356. Pursuant to WAC 392-172-364, during the pendency of the hearing, unless the parent(s) of the student or the adult student agree to an alternative educational program, the student involved in the complaint shall return to the educational program he or she was in at the time of the expulsion.

A school district or other public agency may obtain a court order (a temporary restraining order or injunction) during pendency of a hearing to extend the exclusion from school for a dangerous student beyond ten school days or to place the student in an alternative setting.

An alternative educational program must be provided during any exclusion.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-380, filed 10/11/95, effective 11/11/95.]

WAC 392-172-382 Disciplinary exclusion—Bringing a firearm to school. A special education student who brings a firearm as defined in Section 921 of Title 18 of the U.S. Code to school, may be placed in an interim alternative educational placement for up to forty-five calendar days. This interim alternative educational placement must be developed in an individualized educational program meeting conducted pursuant to WAC 392-172-156. Prior to the expiration of the interim alternative educational placement, the school district or other public agency must complete the procedures defined in WAC 392-172-370 through 392-172-382.

If the student's parents initiate a due process hearing pursuant to WAC 392-172-350 through 392-172-364, and if the parties cannot agree on another placement, the student must remain in that interim alternative educational placement during the review proceedings.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-382, filed 10/11/95, effective 11/11/95.]

WAC 392-172-388 Aversive therapy. The purpose of WAC 392-172-388 through 392-172-398 is to assure that students with a disabling condition are safeguarded against the use and misuse of various forms of aversive therapy. Each school district or other public agency and educational service district shall take steps to assure that each employee, volunteer, contractor, and other agent of the district or other public agency responsible for the education, care, or custody of a student with a disabling condition is aware of WAC 392-172-388 through 392-172-398. No school district or other public agency and no educational service district shall authorize, permit, or condone the use of aversive therapy which violates WAC 392-172-390 through 392-172-396 by any employee, volunteer, contractor or other agent of the district or other public agency responsible for the education, care, or custody of a student with a disabling condition. Aversive therapy, to the extent permitted, shall only be used as a last resort. Positive interventions shall be attempted by the district or other public agency and educational service district and described in the individualized education program prior to the use of aversive therapy.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-388, filed 10/11/95, effective 11/11/95.]

WAC 392-172-390 Aversive therapy—Definition.

For the purpose of WAC 392-172-388 through 392-172-398, the term "aversive therapy" means the systematic use of stimuli or other treatment which a student is known to find painful or unpleasant for the purpose of discouraging undesirable behavior on the part of the student. The term does not include the use of reasonable force, restraint, or other treatment to control unpredicted spontaneous behavior which poses one of the following dangers:

- (1) A clear and present danger of serious harm to the student or another person.
- (2) A clear and present danger of serious harm to property.
- (3) A clear and present danger of seriously disrupting the educational process.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-390, filed 10/11/95, effective 11/11/95.]

WAC 392-172-392 Aversive therapy—Prohibited forms. There are certain forms of aversive therapy that are manifestly inappropriate by reason of their offensive nature or their potential negative physical consequences, or both. The purpose of this section is to uniformly prohibit their use respecting students with a disabling condition, as follows:

- (1) Electric current. No student may be stimulated by contact with electric current.
- (2) Food services. No student who is willing to consume subsistence food or liquid when the food or liquid is customarily served may be denied or subjected to an unreasonable delay in the provision of the food or liquid.
- (3) Force and restraint in general. No force or restraint which is either unreasonable under the circumstances or deemed to be an unreasonable form of corporal punishment as a matter of state law may be used. See RCW 9A.16.100 which cites the following uses of force or restraint as uses which are presumed to be unreasonable and therefore unlawful:
 - (a) Kicking, burning, or cutting a student.
 - (b) Striking a student with a closed fist.
 - (c) Shaking a student under age three.
 - (d) Interfering with a student's breathing.
 - (e) Threatening a student with a deadly weapon.
 - (f) Doing any other act that is likely to cause and which does cause bodily harm to a student greater than transient pain or minor temporary marks.

Note: This statutory listing of worst case uses of force or restraint may not be read as implying that all unlisted uses (e.g., shaking a four year old) are permissible. Whether or not an unlisted use of force or restraint is permissible depends upon such considerations as the balance of these rules, and whether the use is reasonable under the circumstances.

(4) Hygiene care. No student may be denied or subjected to an unreasonable delay in the provision of common hygiene care.

(5) Isolation. No student may be excluded from his or her general instructional or service area and isolated within a room or any other form of enclosure, except under the conditions set forth in WAC 392-172-394.

(6) Medication. No student may be denied or subjected to an unreasonable delay in the provision of oral medication.

(7) Noise. No student may be forced to listen to noise or sound which the student obviously finds painful.

(8) Noxious sprays. No student may be forced to smell or be sprayed in the face with a noxious or potentially harmful substance.

(9) Physical restraints. No student may be physically restrained or immobilized by binding or otherwise attaching the student's limbs together or by binding or otherwise attaching any part of the student's body to an object, except under the conditions set forth in WAC 392-172-394.

(10) Taste treatment. No student may be forced to taste or ingest a substance which is not commonly consumed or which is not commonly consumed in its existing form or concentration.

(11) Water treatment. No student's head may be partially or wholly submerged in water or any other liquid.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-392, filed 10/11/95, effective 11/11/95.]

WAC 392-172-394 Aversive therapy—Other forms—Conditions. Various forms of aversive therapy which are not prohibited by WAC 392-172-392 nevertheless warrant close scrutiny. Accordingly, the use of aversive therapy involving bodily contact, isolation, or physical restraint not prohibited by WAC 392-172-392 is conditioned upon compliance with certain procedural and substantive safeguards, as follows:

(1) Bodily contact. The use of any form of aversive therapy not prohibited by WAC 392-172-392 which involves contacting the body of a student with a disabling condition shall be provided for by the terms of the student's individualized education program established in accordance with the requirements of WAC 392-172-396.

(2) Isolation. The use of aversive therapy which involves excluding a student with a disabling condition from his or her general instructional area and isolation of the student within a room or any other form of enclosure is subject to each of the following conditions:

(a) The isolation, including the duration of its use, shall be provided for by the terms of the student's individualized education program established in accordance with the requirements of WAC 392-172-396.

(b) The enclosure shall be ventilated, lighted, and temperature controlled from inside or outside for purposes of human occupancy.

(c) The enclosure shall permit continuous visual monitoring of the student from outside the enclosure.

(d) An adult responsible for supervising the student shall remain in close proximity.

(e) Either the student shall be capable of releasing himself or herself from the enclosure or the student shall continuously remain within view of an adult responsible for supervising the student.

(3) Physical restraint. The use of aversive therapy which involves physically restraining or immobilizing a student with a disabling condition by binding or otherwise attaching the student's limbs together or by binding or otherwise attaching any part of the student's body to an object is subject to each of the following conditions:

(a) The restraint shall only be used when and to the extent it is reasonably necessary to protect the student, other persons, or property from serious harm.

(b) The restraint, including the duration of its use, shall be provided for by the terms of the student's individualized education program established in accordance with the requirements of WAC 392-172-396.

(c) The restraint shall not interfere with the student's breathing.

(d) An adult responsible for supervising the student shall remain in close proximity.

(e) Either the student shall be capable of releasing himself or herself from the restraint or the student shall continuously remain within view of an adult responsible for supervising the student.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-394, filed 10/11/95, effective 11/11/95.]

WAC 392-172-396 Aversive therapy—Individualized education program requirements. The terms of a student's individualized education program respecting the use of an aversive therapy involving bodily contact, isolation, or physical restraint shall meet each of the following requirements:

(1) The individualized education program be consistent with the recommendations of a multidisciplinary team which includes a school psychologist and/or other certificated employee who understands the appropriate use of the aversive therapy and who concurs with the recommended use of the aversive therapy, and a person who works directly with the student.

(2) The individualized education program shall specify the aversive therapy that may be used.

(3) The individualized education program shall state the reason the aversive therapy is judged to be appropriate and the behavioral objective sought to be achieved by its use, and shall describe the positive interventions attempted and the reasons they failed, if known.

(4) The individualized education program shall describe the circumstances under which the aversive therapy may be used.

(5) The individualized education program shall describe or specify the maximum duration of any isolation or restraint.

(6) The individualized education program shall specify any special precautions that must be taken in connection with the use of the aversive therapy technique.

(7) The individualized education program shall specify the person or persons permitted to use the aversive therapy and the qualifications and required training of the personnel permitted to use the aversive therapy.

(8) The individualized education program shall establish a means of evaluating the effects of the use of the aversive therapy and a schedule for periodically conducting the evaluation.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-396, filed 10/11/95, effective 11/11/95.]

WAC 392-172-398 Aversive therapy—Parent complaint process. A parent of a student with a disabling condition may file a complaint alleging a violation of WAC 392-172-392, 392-172-394, or 392-172-396 involving the student. Each such complaint shall be investigated and addressed by a school district or other public agency,

educational service district, and the superintendent of public instruction in accordance with the terms of this chapter.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-398, filed 10/11/95, effective 11/11/95.]

WAC 392-172-400 Definition of "educational records" as used in records rules. (1) For the purpose of WAC 392-172-400 through 392-172-426 and the Family Educational Rights and Privacy Act of 1974 governing student records, the term "educational records" shall mean those records that:

(a) Are directly related to a student; and

(b) Are maintained by a school district or other public agency or by a party acting for the school district or other public agency.

(2) The term "educational records" does not include:

(a) Records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which:

(i) Are in the sole possession of the maker thereof; and

(ii) Are not accessible or revealed to any other individual except a substitute. For the purpose of this definition, a "substitute" means an individual who performs on a temporary basis the duties of the individual who made the record and does not refer to an individual who permanently succeeds the maker of the record in his or her position;

(b) Records of a security unit of a school district or other public agency which are:

(i) Maintained apart from the records described in subsection (1) of this section;

(ii) Maintained solely for district or other public agency security purposes; and

(iii) Not disclosed to individuals other than security officials of the same district or other public agency. This exception from the definition of educational records does not apply if educational records are disclosed to personnel of the school district and other public agency's security unit;

(c) Records relating to an individual who is employed by a school district or other public agency which:

(i) Are made and maintained in the normal course of business;

(ii) Relate exclusively to the individual in that individual's capacity as an employee; and

(iii) Are not available for use for any other purpose: This exception from the definition of "educational records" does not apply to records relating to an individual in attendance at the school district or other public agency who is employed as a result of his or her status as a student;

(d) Records relating to an adult student which are:

(i) Created or maintained by a physician, psychiatrist, psychologist, or other recognized professional acting in their professional or paraprofessional capacity;

(ii) Created, maintained, or used only in connection with the provision of treatment to the student; and

(iii) Not disclosed to anyone other than individuals providing the treatment. However, the records can be personally reviewed by a physician or other appropriate professional of the student's choice. For the purpose of this definition, "treatment" does not include remedial educational activities or activities which are part of the program of instruction at the school district or other public agency;

(e) Records of a school district or other public agency which contain only information relating to a person after that person was no longer a student at the school district or other public agency. An example would be information collected by a school district or other public agency pertaining to the accomplishments of its alumni.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-400, filed 10/11/95, effective 11/11/95.]

WAC 392-172-402 Definitions used in records rules—"Destruction"—"Native language"—And "educational agency." For the purpose of WAC 392-172-400 through 392-172-426 governing records of special education students:

(1) "Destruction" shall mean physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

(2) "Native language," when used with reference to an individual of limited English proficiency, means the language normally used by that individual, or in the case of a student, the language normally used by the parents of a student or by the adult student.

(3) "Educational agency" means any agency or institution which collects, maintains, or uses personally identifiable information or from which information is obtained in implementing this chapter.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-402, filed 10/11/95, effective 11/11/95.]

WAC 392-172-404 Notice to parents. The state shall give notice that is adequate to fully inform parents about the requirements of this chapter regarding the identification, location, and evaluation of eligible special education students, including:

(1) A description of the extent to which notice is given in the native languages of the various population groups in the state;

(2) A description of the students on whom personally identifiable information is maintained, the types of information sought, the methods the state intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;

(3) A summary of the policies and procedures that educational agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and

(4) A description of all of the rights of parents and students regarding this information, including the rights under the Family Educational Rights and Privacy Act of 1974 and implementing regulations.

Before any major identification, location, or evaluation activity, the notice must be published or announced in newspapers or other media, or both with circulation adequate to notify parents throughout the state of the activity.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-404, filed 10/11/95, effective 11/11/95.]

WAC 392-172-406 Opportunity to examine records. The parents of a special education student, in accordance with the confidentiality procedures in this chapter, shall be

afforded an opportunity to inspect and review all educational records which shall include, but not be limited to:

(1) The identification, evaluation, and the delivery of educational services to the student; and

(2) The provision of free, appropriate public education to the student.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-406, filed 10/11/95, effective 11/11/95.]

WAC 392-172-408 Access rights. (1) Each school district or other public agency shall permit parents of special education students (or adult students) to inspect and review during school business hours any educational records relating to their student or the adult student which are collected, maintained, or used by the district or other public agency under this chapter. The district or other public agency shall comply with a request promptly and before any meeting regarding an individualized education program or hearing relating to the identification, evaluation, or delivery of services to the student and in no case more than forty-five calendar days after the request has been made.

(2) The right to inspect and review educational records under this section includes:

(a) The right to a response from the educational agency to reasonable requests for explanations and interpretations of the records;

(b) The right to request that the school district or other public agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and

(c) The right to have a representative of the parent or adult student inspect and review records.

(3) A school district or other public agency may presume that a parent has authority to inspect and review records relating to his or her student unless the district or other public agency has been advised that the parent does not have the authority under applicable state law governing such matters as guardianship, separation, and divorce.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-408, filed 10/11/95, effective 11/11/95.]

WAC 392-172-410 Record of access. Each educational agency shall keep a record of parties obtaining access to educational records collected, maintained, or used under this chapter (except access by parents, adult students, and authorized employees of the educational agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-410, filed 10/11/95, effective 11/11/95.]

WAC 392-172-412 Records on more than one student. If any educational record includes information on more than one student, the parent(s) of those students (and/or adult students) shall have the right to inspect and review only the information relating to their student (or themselves) or to be informed of that specific information.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-412, filed 10/11/95, effective 11/11/95.]

WAC 392-172-414 List of types and locations of information. Each educational agency shall provide parents (and adult students) on request a list of the types and locations of educational records collected, maintained, or used by the agency.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-414, filed 10/11/95, effective 11/11/95.]

WAC 392-172-416 Fees. (1) A participating educational agency may charge a fee for copies of records which are made for parents (or adult students) under this chapter if the fee does not effectively prevent the parents (or adult students) from exercising their right to inspect and review those records.

(2) An educational agency may not charge a fee to search for or to retrieve information under this chapter.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-416, filed 10/11/95, effective 11/11/95.]

WAC 392-172-418 Amendment of records at the request of a parent or adult student. (1) A parent of a special education student (or an adult student) who believes that information in educational records collected, maintained, or used under this chapter is inaccurate or misleading or violates the privacy or other rights of the student may request the educational agency which maintains the information to amend the information.

(2) The agency shall decide whether to amend the information in accordance with the request within a reasonable period of time after receipt of the request.

(3) If the agency refuses to amend the information in accordance with the request it shall inform the parent or adult student of the refusal and advise the parent or adult student of the right to a hearing provided for in WAC 392-172-420.

(4) The educational agency, on request, shall provide the parent or adult student an opportunity for a hearing to challenge information, in the educational records, to insure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student.

(5) If, as a result of the hearing, the educational agency decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall amend the information accordingly and so inform the parent or adult student in writing.

(6) If, as a result of the hearing, the educational agency decides that the information is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, it shall inform the parent(s) or adult student of the right to place in the records it maintains on the student a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.

(7) Any explanation placed in the records of the student in compliance with this section shall:

(a) Be maintained by the educational agency as part of the records of the student as long as the records or the contested portion is maintained by the educational agency; and

(b) Also be disclosed to any party to whom the records of the student (or the contested portion thereof) are disclosed.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-418, filed 10/11/95, effective 11/11/95.]

WAC 392-172-420 Hearing procedures regarding records. A hearing initiated pursuant to WAC 392-172-418 to challenge information in educational records shall be conducted according to procedures which include at least the following elements:

(1) The hearing shall be held within a reasonable period of time after the educational agency has received the request;

(2) The parent or adult student shall be given notice of the date, place, and time reasonably in advance of the hearing;

(3) The hearing may be conducted by any party, including an official of the educational agency, who does not have a direct interest in the outcome of the hearing;

(4) The parent or adult student shall be afforded a full and fair opportunity to present evidence relevant to the issues raised pursuant to WAC 392-172-418 and may be assisted or represented by individuals of his or her choice at his or her own expense, including an attorney;

(5) The educational agency shall provide a written decision to the parent or adult student within a reasonable period of time after the conclusion of the hearing; and

(6) The decision of the educational agency shall:

(a) Be based solely upon the evidence presented at the hearing; and

(b) Include a summary of the evidence and the reasons for the decision.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-420, filed 10/11/95, effective 11/11/95.]

WAC 392-172-422 Consent. (1) Consent of a parent or adult student shall be obtained before personally identifiable information is:

(a) Disclosed to anyone other than officials of educational agencies collecting or using the information obtained under this chapter subject to subsection (2) of this section; or

(b) Used for any purpose other than meeting a requirement imposed by this chapter.

(2) No school district or other public agency shall release information from educational records to educational agencies without the consent of a parent or adult student except in those cases in which a release of information without consent is permitted by the rules that implement the federal Privacy Rights of Parents and Students Part 99 of 34 Code of Federal Regulations (CFR) 34 sections 99.1 et seq. See 34 CFR 99.31 (when prior consent not required), 34 CFR 99.35 (disclosure to state and federal officials) and 34 CFR 99.37 (directory information).

(3) If a parent refuses to provide consent under this section, the school district or other public agency may use the due process hearing procedures in this chapter to override parental refusal.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-422, filed 10/11/95, effective 11/11/95.]

WAC 392-172-424 Safeguards. (1) Each educational agency shall protect the confidentiality of personally identifiable information at the collection, storage, disclosure, and

destruction stages. The same privacy provisions provided to parents are extended to special education students with consideration given to the type and severity of the student's disability.

(2) One official at each educational agency shall be designated as the individual responsible for assuring the confidentiality of any personally identifiable information.

(3) All persons collecting or using personally identifiable information shall receive training or instruction regarding:

(a) The policies and procedures on protection of the confidentiality of personally identifiable information set forth in the state's annual program plan; and

(b) 34 CFR 99.1 et seq. (the Family Educational Rights and Responsibilities Act rules).

(4) Each educational agency shall maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-424, filed 10/11/95, effective 11/11/95.]

WAC 392-172-426 Destruction of information.

Each school district or other public agency shall inform parent(s) (and adult students) when personally identifiable information collected, maintained, or used in compliance with this chapter is no longer needed to provide educational services to the student. The information shall thereafter be destroyed at the request of the parent(s) or adult student. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed and year completed may be maintained without time limitation.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-426, filed 10/11/95, effective 11/11/95.]

WAC 392-172-500 Advisory council.

(1) The special education state advisory council is hereby established in order to help facilitate the provision of special education and related services to meet the unique needs of special education students.

(2) The membership of the council shall include at least one representative of each of the following groups or entities:

- (a) Individuals with disabilities;
- (b) Teachers of special education students;
- (c) Parents of special education students;
- (d) Local administrators of special education programs;
- (e) Support services personnel;
- (f) Superintendents;
- (g) Principals;
- (h) Nonpublic schools serving special education students;

(i) School directors;

(j) Institutions of higher education;

(k) Department of social and health services;

(l) The medical profession; and

(m) Other individuals or groups as may hereafter be designated and approved by the superintendent of public instruction.

(3) The council's purposes are to:

(a) Advise the superintendent of public instruction and make recommendations on all matters related to special education and specifically advise the superintendent of unmet needs within the state in the education of special education students;

(b) Comment publicly on the state's annual program plan, state rules regarding the education of special education students, and the procedures for distribution of funds; and

(c) Assist the state in developing and reporting such information and evaluations as may assist the federal government.

(4) The council shall conduct its affairs in accordance with bylaws approved by the superintendent of public instruction. To assure that information and recommendations are provided to the superintendent of public instruction, the state advisory council shall have the authority to recommend the design of its organization and to appoint subcommittees from its membership for carrying out council responsibilities. Ad hoc subcommittees with membership other than council members may be appointed. The superintendent of public instruction or designee must give prior approval for such appointments.

(5) Procedures — The council shall follow the procedures noted in this section.

(a) The advisory council shall meet as often as necessary to conduct its business.

(b) By July 1 of each year, the advisory council shall submit an annual report of council activities and suggestions to the superintendent of public instruction. This report must be made available to the public in a manner consistent with other public reporting requirements of this chapter.

(c) Official minutes must be kept on all council meetings and shall be made available to the public on request to the office of superintendent of public instruction.

(d) All advisory council meetings and agenda items must be publicly announced prior to the meeting, and meetings must be open to the public.

(e) Interpreters and other necessary services must be provided at council meetings for council members or participants.

(f) The advisory council shall serve without compensation but the superintendent of public instruction must reimburse the council for reasonable and necessary expenses for attending meetings and performing duties.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-500, filed 10/11/95, effective 11/11/95.]

WAC 392-172-502 Interagency agreements. The superintendent of public instruction shall develop and implement interagency agreements with all other state and local agencies that provide or pay for services required under this chapter for special education students. Consideration shall be given to preserving existing arrangements between school districts and other public agencies and other agencies which are consistent with this chapter. These agreements shall:

(1) Describe the role that each agency plays in providing or paying for required services;

(2) Define the financial responsibility of each agency for providing special education students with a free appropriate public education;

(3) Establish procedures for resolving interagency disputes among agencies that are parties to the agreements; and

(4) Establish procedures under which school districts and other public agencies may initiate proceedings in order to secure reimbursement from agencies that are parties to the agreements or otherwise implement the provisions of the agreements.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-502, filed 10/11/95, effective 11/11/95.]

WAC 392-172-504 Monitoring. (1) The superintendent of public instruction or designee shall annually monitor selected local school district or other public agency special education programs. The purposes of monitoring shall be:

(a) To determine the school district and other public agency's compliance with this chapter and the federal regulations implementing 20 USC Section 1401, et seq. (Part B of the Individuals with Disabilities Education Act) and federal and state special education laws including validation of information included in school district or other public agency applications for federal funds; and

(b) To provide the school district or other public agency with technical assistance for improving the quality of its special education program.

(2) The superintendent of public instruction or designee shall develop procedures (including specific time lines) for monitoring school districts and other public agencies. These procedures shall include:

(a) Collection of data and reports;

(b) Conduct of on-site visits;

(c) A review of state and federal special education fund utilization; and

(d) Comparison of a sampling of individualized education programs with the programs actually provided.

(3) Following a monitoring visit, a written monitoring report shall be submitted to the school district or other public agency. The monitoring report shall include, but not be limited to:

(a) Findings of noncompliance, if any; and

(b) Required corrective actions for remediation of any such instance(s) of noncompliance.

(4) The school district or other public agency shall have thirty calendar days after the date of its receipt of the monitoring report to provide the office of superintendent of public instruction with:

(a) Supplemental arguments and/or facts which may serve as a basis for alteration of the monitoring report;

(b) A written action plan which sets forth the measures the district or other public agency shall take and time period(s) within which the district or other public agency shall act in order to remediate the instance(s) of noncompliance;

(c) In the event that the district or other public agency submits supplemental arguments and/or facts which may serve as a basis for alteration of the monitoring report, the office of superintendent of public instruction shall within thirty calendar days provide the district or other public agency with a determination as to the alteration of the monitoring report. The school district or other public agency shall, within thirty calendar days of receipt of the determina-

tion, provide the office of superintendent of public instruction a written action plan, if any, which results from that determination.

(5) The superintendent of public instruction or designee either shall approve the plan as submitted or shall request the school district or other public agency to make such modifications as are considered necessary. Once an approvable plan has been submitted, the district or other public agency shall be provided written notice of:

(a) Approval;

(b) The performance expected of the district or other public agency; and

(c) The schedule for periodic review or verification of the school district and other public agency's progress toward remediation of the instance(s) of noncompliance.

(6) If the school district or other public agency fails to submit an approvable corrective action plan required in WAC 392-172-504(4) or fails to comply with a corrective action plan approved pursuant to WAC 392-172-504(5), the superintendent of public instruction or designee shall institute procedures to insure corrective action or prompt response to a monitoring report. Such procedures may include one or more of the following:

(a) Verification visits by office of superintendent of public instruction staff to:

(i) Determine whether the school district or other public agency is taking the required corrective action;

(ii) Expedite the school district and other public agency's response to a monitoring report; and

(iii) Provide any necessary technical assistance to the school district or other public agency in its efforts to comply.

(b) Withhold, in whole or part, a specified amount of state and/or federal special education funds, in compliance with the provisions of WAC 392-172-590 and 392-172-514.

(c) Initiate request for office of superintendent of public instruction audit pursuant to WAC 392-172-508 through 392-172-518 which may result in the recovery of unlawfully received or expended state and/or federal special education funds.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-504, filed 10/11/95, effective 11/11/95.]

WAC 392-172-506 Use and allocation of Part B Funds. (1) The superintendent of public instruction may use five percent of the total state allotment in any fiscal year under Part B of the Individuals with Disabilities Education Act, or four hundred fifty thousand dollars, whichever is greater, for administrative costs related to carrying out sections 612 and 613 of the IDEA. However, this amount cannot be greater than twenty-five percent of the state's total allotment for the fiscal year under Part B of the Individuals with Disabilities Education Act.

(2) Allowable costs for use of the five percent include:

(a) Administration of the state plan and for planning at the state level, including planning, or assisting in the planning, of programs or projects for the education of special education students;

(b) Approval, supervision, monitoring, and evaluation of the effectiveness of local programs and projects for the education of special education students;

(c) Technical assistance to districts with respect to the requirements of this chapter;

(d) Leadership services for the program supervision and management of special education activities for special education students; and

(e) Other state leadership activities and consultative services.

(3) The office of the superintendent of public instruction may use the portion of its allocation it does not use for administration:

(a) For support services and direct services in accordance with the priority requirements of Part B; and

(b) For the administrative costs of the state's monitoring activities and complaint investigations, to the extent that these costs exceed the administrative costs for monitoring and complaint investigations incurred during fiscal year 1985.

(4) For the purposes of this section:

(a) "Direct services" means services provided to a special education student by the state directly, by contract, or through other arrangements; and

(b) "Support services" includes implementing the comprehensive system of personnel development, recruitment and training of hearing officers and surrogate parents, and public information and parent training activities relating to free, appropriate public education for special education students.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-506, filed 10/11/95, effective 11/11/95.]

WAC 392-172-508 Definition of "unlawfully received or expended funds." For the purpose of WAC 392-172-512 through 392-172-518, "unlawfully received or expended funds" shall mean any state or federal special education funds received and held or expended by a school district or other public agency in a manner or for a purpose that is in violation of any provision of:

(1) State statute or rule, including this chapter; or

(2) Any federal rule or condition to funding that may now or hereafter supplement this chapter including:

The recovery of funds based on inaccurate child count information under the Individuals with Disabilities Education Act.

(3) In addition to meeting the other requirements of this chapter, the superintendent of public instruction shall:

(a) Establish procedures to be used by school districts and other public agencies in counting the number of special education students receiving special education and related services;

(b) Set dates by which those agencies and institutions must report to the superintendent of public instruction to ensure that the state complies with federal requirements;

(c) Obtain certification from each agency and institution that an unduplicated and accurate count has been made;

(d) Aggregate the data from the count obtained from each agency and institution, and prepare the reports required by the United States Department of Education; and

(e) Ensure that documentation is maintained that enables the state and the United States Secretary of Education to audit the accuracy of the count.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-508, filed 10/11/95, effective 11/11/95.]

WAC 392-172-510 Child count procedures. The superintendent of public instruction shall report to the United States Secretary of Education no later than February 1 of each year the number of special education students aged three through twenty-one residing in the state who are receiving special education and related services. The superintendent shall submit the report on forms provided by the United States Secretary of Education.

(1) Information required in the report includes:

(a) The number of special education students receiving special education and related services on December 1 of that school year;

(b) The number of special education students aged three through five who are receiving free, appropriate public education;

(c) The number of those special education students aged six through twenty-one within each disability category, as defined in the definition of "special education students"; and

(d) The number of those special education students aged three through twenty-one for each year of age (three, four, five, etc.).

(2) For the purpose of this part, a student's age is the student's actual age on the date of the child count: December 1.

(3) The superintendent may not report a student aged six through twenty-one under more than one disability category.

(4) If a special education student aged six through twenty-one has more than one disability, the superintendent shall report that student in accordance with the following procedure:

(a) A student with deaf-blindness must be reported under the category "deaf-blindness."

(b) A student who has more than one disability (other than deaf-blindness) must be reported under the category "multiple disabilities."

(5) The office of the superintendent of public instruction shall include in its report a certification signed by an authorized official of the agency that the information provided is an accurate and unduplicated count of special education students receiving special education and related services on the dates in question.

(6) The office of the superintendent of public instruction may include in its report special education students who are enrolled in a school or program that is operated or supported by a public agency, and that either:

(a) Provides them with both special education and related services; or

(b) Provides them only with special education if they do not need related services to assist them in benefiting from that special education.

(7) The superintendent may not include special education students in its reports who:

(a) Are not enrolled in a school or program operated or supported by a public agency;

(b) Are not provided special education that meets state standards;

(c) Are not provided with a related service that they need to assist them in benefiting from special education;

- (d) Are counted by the state's lead agency for Part H services; or
- (e) Are receiving special education funded solely by the federal government.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-510, filed 10/11/95, effective 11/11/95.]

WAC 392-172-512 Audits. (1) The superintendent of public instruction or designee shall conduct fiscal/program audits of school district or other public agency special education programs. The purposes of such audits shall be:

- (a) To determine compliance or noncompliance with:
 - (i) A school district and other public agency's application(s) for state and federal excess cost funds;
 - (ii) The provisions of this chapter; and
 - (iii) Any supplemental federal conditions to funding as may now or hereafter exist.

(b) To establish a factual basis for:

- (i) The recovery of unlawfully received or expended state or federal special education funds; or
- (ii) The initiation of fund withholding proceedings.

(2) Preliminary audit report—Following an audit, a preliminary written audit report shall be submitted to the school district or other public agency for review and comment. The preliminary audit report shall include, but not be limited to:

(a) Findings of noncompliance which could include comparisons to findings of noncompliance as a result of monitoring, if any; and

(b) Recommendations for remediation of any such instance(s) of noncompliance.

(3) The school district or other public agency shall have fifteen days after the date of its receipt of the preliminary audit report to provide the superintendent of public instruction or designee a written reply setting forth any supplemental arguments and/or facts that may serve as a basis for alteration of the preliminary finding(s) of noncompliance.

(4) Final audit report—A final written audit report shall be provided to the school district or other public agency after review of the supplemental arguments and/or facts submitted by the district or other public agency. The final audit report shall include, but not necessarily be limited to:

(a) Findings of noncompliance, if any; and

(b) Recommendations for remediation of any such instance(s) of noncompliance.

(5) The school district or other public agency shall have fifteen days after the date of its receipt of the final audit report to provide the superintendent of public instruction or designee a written plan which sets forth the measures the district or other public agency shall take and time period(s) within which the district or other public agency shall act in order to remedy the instance(s) of noncompliance.

(6) The superintendent of public instruction or designee shall either approve the plan as submitted or request the school district or other public agency to make such modifications as are considered necessary. Once an approvable plan has been submitted the district or other public agency shall be provided written notice of:

(a) Approval;

(b) The performance expected of the district or other public agency; and

(c) The schedule for periodic review or audit of the school district and other public agency's progress toward remediation of the instance(s) of noncompliance.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-512, filed 10/11/95, effective 11/11/95.]

WAC 392-172-514 Fund withholding. (1) In the event a school district or other public agency fails to submit an approvable remediation plan required by WAC 392-172-512 or fails to submit an approvable corrective action plan pursuant to WAC 392-172-504 or fails to comply with a remediation plan approved pursuant to WAC 392-172-512 or fails to comply with a corrective action plan pursuant to WAC 392-172-504, the superintendent or designee shall provide the school district or other public agency notice which complies with RCW 34.05.434 of:

(a) Intent to withhold a specified amount of state and/or federal special education funds; and

(b) The school district and other public agency's opportunity for a hearing before the superintendent of public instruction or designee prior to commencement of the withholding.

(2) Funds may be withheld in whole or part in the event the district or other public agency fails to request a hearing or the hearing decision upholds the final audit or monitoring in whole or part. (RCW 28A.155.100.)

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-514, filed 10/11/95, effective 11/11/95.]

WAC 392-172-516 Recovery of funds. (1) If a preliminary audit conducted pursuant to WAC 392-172-512 indicates that a district or other public agency has unlawfully received and/or expended either state or federal special education funds, the superintendent of public instruction or designee shall provide the school district or other public agency with an opportunity for an informal conference prior to the final audit report.

(2) If the final audit report sets forth one or more instances of unlawful receipt or expenditure of either state or federal special education funds, the superintendent of public instruction or designee shall take such action as he or she deems necessary to recover the funds including, but not limited to, a reduction in future allocations of any amount of any state funds and/or any amount of federal special education funds to the district or other public agency.

(3) No right to a hearing in connection with the recovery of funds unlawfully received and/or expended is granted by this chapter.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-516, filed 10/11/95, effective 11/11/95.]

WAC 392-172-518 Fund withholdings to enforce parent appeal decisions. The superintendent of public instruction or designee may withhold any amount of state funds and/or any amount of federal special education funds as deemed necessary to enforce a decision made on appeal pursuant to WAC 392-172-360 without any necessity of a further hearing on the matter.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-518, filed 10/11/95, effective 11/11/95.]

WAC 392-172-520 Implementation by state. In implementing the private school provisions of this chapter, the state shall:

- (1) Monitor compliance through procedures such as written reports, on-site visits, and parent questionnaires;
- (2) Disseminate copies of applicable standards to each private school and facility to which a public agency has referred or placed a special education student; and
- (3) Provide an opportunity for those private schools and facilities to participate in the development and revision of state standards that apply to them.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-520, filed 10/11/95, effective 11/11/95.]

WAC 392-172-522 Students in public or private institutions. The state shall make arrangements with public and private institutions (such as a memorandum of agreement or special implementation procedures) as may be necessary to ensure that the least restrictive environment provisions in this chapter are effectively implemented.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-522, filed 10/11/95, effective 11/11/95.]

WAC 392-172-524 Technical assistance training and monitoring activities. (1) The state shall carry out activities to ensure that staff members and administrators in all public agencies:

- (a) Are fully informed about their responsibilities for implementing the least restrictive environment requirements; and
- (b) Are provided with technical assistance and training necessary to assist them in this effort.

(2) The state shall carry out activities to ensure that the least restrictive environment requirements are implemented by each public agency.

If there is evidence that a public agency delivers services in locations that are inconsistent with the least restrictive environment requirements, the state shall:

- (a) Review the public agency's justification for its actions; and
- (b) Assist in planning and implementing any necessary corrective action.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-524, filed 10/11/95, effective 11/11/95.]

WAC 392-172-526 State responsibility. The state shall ensure that to the extent consistent with their number and location in the state, provision is made for the participation of private school special education students in the program assisted or carried out under this chapter by providing them with special education and related services.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-526, filed 10/11/95, effective 11/11/95.]

WAC 392-172-550 Comprehensive system of personnel development. The superintendent of public instruction shall establish and implement procedures for developing and conducting a comprehensive system of personnel development which includes:

(1) The continuing education of general and special education instructional services personnel;

(2) Detailed procedures to assure that all personnel necessary to carry out the purposes of the Individuals with Disabilities Education Act, P.L. 102-119, 34 CFR 300.1, as of October 1, 1992, are appropriately and adequately prepared;

(3) Provisions consistent with 34 CFR 300.153, 300.380 through 300.383, and 303.360;

(4) Effective procedures for acquiring and disseminating significant information derived from educational research, demonstration and similar projects; and

(5) The adoption, where appropriate, of promising educational practices and material developed through research, demonstration, and similar initiatives.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-550, filed 10/11/95, effective 11/11/95.]

WAC 392-172-552 Definitions. The following definitions apply to this chapter:

(1) "Appropriate professional requirements," those entry level requirements that are based on the highest requirements in the state applicable to the profession or discipline in which a person is providing special education or related services and that establish the qualifications for personnel providing special education and related services under chapters 392-172 and 392-173 WAC to children and youth with disabilities who are served by state, local, and private agencies;

(2) "Highest requirements in the state applicable to a specific profession or discipline," the highest entry-level academic degree needed for any state-approved or recognized certification, licensing, or registration or other comparable requirements that apply to that profession or discipline;

(3) "Profession or discipline," a specific occupational category that provides special education and related services to children and youth with disabilities under chapters 392-172 and 392-173 WAC, has been established or designated by the state, and has a required scope of responsibility and degree of supervision; and

(4) "Qualified" means that a person, in accordance with the provisions contained in 34 CFR 300.153 of the Individuals with Disabilities Education Act, has met superintendent of public instruction approved or recognized certification, licensing, registration, or other comparable requirements for the profession or discipline in which the person is providing special education and related services.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-552, filed 10/11/95, effective 11/11/95.]

WAC 392-172-554 Scope of system. Through the superintendent of public instruction, the state of Washington shall develop and implement a comprehensive system of personnel development which:

(1) Meets all federal requirements contained in 34 CFR 300.153, 300.381 through 300.383 and 303.360 of the IDEA;

(2) Addresses current and projected special education and related services personnel needs, including the needs of leadership personnel; and

(3) Coordinates and facilitates efforts among state and local educational agencies, institutions of higher education,

professional and other associations to recruit, prepare and retain qualified personnel necessary to serve children and youth (birth through twenty-one), including leadership personnel, personnel from minority backgrounds, and personnel with disabilities.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-554, filed 10/11/95, effective 11/11/95.]

WAC 392-172-556 Establishment of a comprehensive system of personnel development advisory committee. Consistent with procedures established at the discretion of the superintendent of public instruction, the superintendent shall appoint members to serve on a comprehensive system of personnel development advisory committee. The comprehensive system personnel development advisory committee shall include at least one representative each from: An institution of higher education, the office of the superintendent of public instruction, an educational service district, a local educational agency, a special education-related professional organization, and a parent or other advocacy organization. It shall be the responsibility of the comprehensive system of personnel development advisory committee to:

(1) Advise the superintendent of public instruction, of unmet personnel needs with respect to the provision of special education and related services to children and youth (ages birth through twenty-one years);

(2) Comment publicly on the state plan and rules and other policy documents proposed for issuance by the state which have an impact on such personnel; and

(3) Assist the superintendent of public instruction in developing and reporting such information and evaluations as may be required to assist the Secretary of the Department of Education in the performance of his or her responsibilities under the Individuals with Disabilities Education Act and other activities as determined necessary by the superintendent.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-556, filed 10/11/95, effective 11/11/95.]

WAC 392-172-558 Annual needs assessment. Each year, the special education section of the office of the superintendent of public instruction, with the assistance of the state's educational services districts, shall administer a state-wide needs assessment to determine the current and projected special education and related services personnel needs, including the need for leadership personnel.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-558, filed 10/11/95, effective 11/11/95.]

WAC 392-172-560 Data system on personnel and personnel development. Annually, the superintendent of public instruction, with the assistance of the state's educational service districts, shall collect the following information:

(1) The number and type of personnel, including leadership personnel, employed in the provision of special education and related services, by profession or discipline;

(2) The number and type of personnel who are employed with emergency, provisional, or temporary certification in each profession or discipline who do not hold appropriate state certification, licensure, or other credentials

comparable to certification or licensure in that profession or discipline;

(3) The number and type of personnel, including leadership personnel, in each profession or discipline needed, and a projection of the number of those personnel that will be needed in five years, based on projections of individuals to be served, retirement, and other departures of personnel from the field and other relevant factors; and

(4) Content areas in which continuing education is needed, identified by profession or discipline, including leadership personnel. Information collected on personnel which meets the requirements of subsections (1) through (3) of this section must include: Audiologists, counselors, diagnostic and evaluation personnel, home-hospital teachers, interpreters for students with hearing impairments including deafness, occupational therapists, orientation and mobility specialists, parents, physical education teachers, physical therapists, psychologists, rehabilitation counselors, social workers, speech-language pathologists, teachers, teacher aides (i.e., instructional assistants), recreation and therapeutic recreation specialists, vocational education teachers, work study coordinators, and other instructional and noninstructional staff. Additionally, data on leadership personnel required under subsections (1) through (3) of this section must include administrators and supervisors of state and local agencies who are involved in the provision or supervision of services or activities necessary to carry out the purposes of the Individuals with Disabilities Education Act, Parts B and H.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-560, filed 10/11/95, effective 11/11/95.]

WAC 392-172-562 Other sources of annual needs assessment data. As required under 34 CFR 300.383, the superintendent of public instruction shall collect data from institutions of higher education to determine, on an annual basis:

(1) The numbers of students enrolled in programs for the preparation of special education and related services personnel administered by institutions in the state of Washington; and

(2) The numbers of students who graduated during the past year with certification or licensure, or with credentials to qualify for certification or licensure, from programs for the preparation of special education and related services personnel administered by Washington's institutions of higher education.

Prior to collecting data from institutions of higher education, the special education section of the office of the superintendent of public instruction shall determine annually the institutions of higher education within the state that are preparing special education and related services personnel, including leadership personnel, by area of specialization (consistent with the listing of personnel categories incorporated in WAC 392-172-560 (1) through (3)). This information, in written form, shall be made available annually to the comprehensive system of personnel development committee, to institutions of higher education in the state of Washington, and, upon request, to the public.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-562, filed 10/11/95, effective 11/11/95.]

WAC 392-172-564 Report of current and projected personnel needs. Annually, the special education section shall:

(1) Review and analyze the information submitted by public agencies, institutions of higher education, and other sources; and

(2) Prepare a summary report of projected state-wide preservice and continuing education needs for the state of Washington. This document shall be submitted to the members of the comprehensive system of personnel development committee for review, comment, and revision and shall be included in the annual report of the special education state advisory council. This information shall also be reported to the Department of Education as required under 34 CFR 300.383 of the IDEA.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-564, filed 10/11/95, effective 11/11/95.]

WAC 392-172-566 Administration of continuing education. The personnel development plan for the state of Washington shall provide for the continuing education needs of general and special education and related services personnel to enable these personnel to meet the needs of special education students under this chapter. Educational service districts shall assume a central role in the provision and coordination of continuing education programming state-wide.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-566, filed 10/11/95, effective 11/11/95.]

WAC 392-172-568 Personnel development plan. Each year, with the involvement of the state's educational service districts, the superintendent of public instruction will develop, update and implement a personnel development plan which addresses:

(1) The process used for determining the continuing education and preservice training needs;

(2) The need, by areas of specialization, for new personnel and the need for continuing education;

(3) The content areas in which continuing education and preservice training is needed;

(4) An assurance that ongoing continuing education (in-service training) programs are available to all personnel who are engaged in the provision of special education, including leadership personnel, and that these programs include the following:

(a) The use of incentives which ensure participation by personnel, such as release time, payment for participation, options for academic credit, certification renewal, or updating of professional skills; and

(b) The use of innovative training practices which have been found to be effective;

(5) The involvement of the state's educational service districts in the planning, administration, and evaluation of continuing education;

(6) The procedures for acquiring and disseminating to teachers, administrators, services personnel significant knowledge derived from education research and other sources;

(7) Procedures for adopting, if appropriate, promising practices, materials, and technology, proven effective through

research and demonstration; and where appropriate, of promising educational practices and material developed through research, demonstration, and similar initiatives.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-568, filed 10/11/95, effective 11/11/95.]

WAC 392-172-570 Provision of technical assistance. Consistent with the federal requirements contained in 34 CFR 300.380 through 300.383 and 34 CFR 300.555, the superintendent of public instruction shall provide, through superintendent of public instruction-initiatives and/or educational service district staff, technical assistance to local educational agencies and other agencies, institutions, organizations, or individuals responsible for implementing special education and related services. Technical assistance training shall be provided in response to:

(1) Requests from agencies, institutions, organizations, and individuals;

(2) The results of monitoring or application review; and/or

(3) The targeting of specific training issues or concerns through the personnel development plan or superintendent of public instruction staff evaluation.

Technical assistance may be administered through on-site visitation, teleconference, correspondence, or any other means considered appropriate and effective by the superintendent of public instruction, in consultation with the educational service district, if providing technical assistance, and the receiving agency, institution, organization, or individual.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-570, filed 10/11/95, effective 11/11/95.]

WAC 392-172-572 Personnel standards. In order to ensure that all personnel necessary to carry out the purposes of Part B the Individuals with Disabilities Education Act are appropriately and adequately prepared and trained, the superintendent of public instruction shall:

(1) Establish and maintain standards for personnel providing special education and related services; and

(2) Determine that all personnel providing special education and related services perform these functions under state-approved or state-recognized certification, licensure, or other comparable requirements that apply to the area in which the person is providing special education and related services.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-572, filed 10/11/95, effective 11/11/95.]

WAC 392-172-574 Professional standards review. Before October 1st of each year, the special education section, on behalf of the superintendent of public instruction, shall review the professional requirements in the statutes necessary for the provision of special education and related services. This professional standards review must include the requirements of all statutes and the rules of all state agencies applicable to serving special education students, and shall include the standards of the superintendent of public instruction, the department of licensing, the division of vocational rehabilitation, the department of social and health services, and any other public agency responsible for the

licensing or certification of personnel who provide special education or related services. In conducting this review, the superintendent of public instruction must:

(1) Determine the highest standards applicable to each profession or discipline based upon the most current information available to the superintendent of public instruction;

(2) Identify those professions or disciplines for which the highest requirements of the state apply;

(3) Identify those specific professions or disciplines for which the existing personnel standards for special education or related services, including standards for temporary or emergency certification are not based on the highest requirement in the state applicable to that specific profession or discipline; and

(4) For those professions or disciplines for which the highest requirements of the state do not apply, detail the steps the superintendent of public instruction is taking (and the procedures for notifying public agencies and personnel of those steps and the time lines it has established) for the retraining or hiring of personnel that meet the appropriate professional requirements in the state of Washington. In determining annually the status of personnel standards for each applicable profession or discipline in the state (as defined in WAC 392-172-572), the superintendent of public instruction's review and determination must be based on current information that accurately describes, for each profession or discipline in which personnel are providing special education or related services, whether the applicable standards are consistent with the highest requirements in the state for that profession or discipline.

The results of the review conducted in accordance with the provision of this section shall be described in a report prepared for and submitted to the comprehensive system of personnel development committee. Each annual report and necessary supporting documentation must be maintained in the files of the superintendent of public instruction's special education section and must be available to the public. Each report shall be incorporated in the appropriate state plan for Part B of the Individuals with Disabilities Education Act submitted to the Department of Education.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-574, filed 10/11/95, effective 11/11/95.]

WAC 392-172-580 Annual applications—Contents.

As a condition to the receipt and expenditure of federal special education funds, a school district or other public agency shall annually submit an application to the superintendent of public instruction or designee on or before an announced date and conduct its special education and related services program in compliance with the school district and other public agency's state approved plan. The applications shall be made on forms developed and distributed by the superintendent or designee. Application forms shall include, but not limited to, the following assurance(s) and types of information:

(1) Assurance that:

(a) The school district or other public agency is in compliance with the provisions of this chapter and the rules implementing Part B of Individuals with Disabilities Education Act (34 CFR 300.1 et seq.) that may supplement this chapter, including procedural safeguards;

(b) The district or other public agency shall remain in compliance with this chapter and any such supplemental rules for the entire school year; and

(c) The funds applied for shall be expended in compliance with the application, this chapter, and any such supplemental federal rules, including excess cost, nonsupplanting, and comparable services;

(2) The information and assurances required by 34 CFR 300.220 through 34 CFR 300.240 and any other pertinent federal rules including 34 CFR 76.650 through 76.662;

(3) Identification of the local district or other public agency designee responsible for child identification activities and confidentiality of information;

(4) A description of the policies, procedures and/or activities to be implemented or continued to provide for:

(a) Identification, location and evaluation (child find) of special education students not currently receiving special education and related services;

(b) Confidentiality of personally identifiable information;

(c) Implementation of a system for personnel development;

(d) Involvement of parents of special education students, including the participation of non-English speaking parents;

(e) Participation of special education students with students without disabilities;

(f) Delivery of services to special education students in the least restrictive environment;

(g) Development of individualized education programs for each eligible special education student;

(h) Availability of career development and vocational education programs for special education students;

(i) A description of the numbers and types of special education students receiving special education and related services by placement option within the school district and other public agency's continuum of alternative placements;

(j) A goal of providing full educational opportunity to all special education students, aged birth through twenty-one;

(k) A description of the kind of and number of facilities, personnel, and services necessary to meet the school district and other public agency's full educational opportunity goal, including a detailed timetable for reaching that goal;

(l) A description of the use of funds received under Part B of the Individuals with Disabilities Education Act (34 CFR 300.1 et seq.); and

(m) A description of procedures, with parent/family involvement, for annually evaluating program effectiveness, including individualized education programs.

(5) Any other pertinent information requested by the superintendent of public instruction which is necessary for the management of the special education program.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-580, filed 10/11/95, effective 11/11/95.]

WAC 392-172-582 Collaborative applications. The superintendent of public instruction may require districts to submit a collaborative application for payments under Part B of the Individuals with Disabilities Education Act if it is determined that a single district or other public agency application would be disapproved because:

(1) The school district and other public agency's entitlement is less than the seven thousand five hundred dollar minimum required; or

(2) The district or other public agency is unable to establish and maintain programs of sufficient size and scope to effectively meet the educational needs of special education students. Districts that apply for Part B funds in a collaborative application must meet the same minimum requirements as a single district or other public agency applicant. The application must be signed by the superintendent of each participating school district or other public agency. The districts are jointly responsible for implementing programs receiving payments under Part B of the Individuals with Disabilities Education Act.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-582, filed 10/11/95, effective 11/11/95.]

WAC 392-172-584 Review and amendment process.

(1) The steps in the review process include:

(a) Submission by the district or other public agency of the application to educational service district special education director;

(b) The educational service district director of special education will review the application using the state checklist; and

(c) The educational service district director of special education will forward the application to office of the superintendent of public instruction for review by program supervisors using state checklist and for final approval by the superintendent's designee.

(2) Prior to making a final decision on an application, office of superintendent of public instruction staff shall consider any decision resulting from a hearing under WAC 392-172-350 that is adverse to the district or other public agency involved in the decision.

(3) If a district or other public agency makes a significant amendment to its application, the district or other public agency must follow the same steps it took for submitting its original application. The review and approval process shall be the same as that used for an initial request for funds under Part B of the Individuals with Disabilities Education Act.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-584, filed 10/11/95, effective 11/11/95.]

WAC 392-172-586 Notification of grant award. The superintendent of public instruction shall notify a district or other public agency in writing of:

(1) The amount of the grant under Part B of the Individuals with Disabilities Education Act;

(2) The period during which the district or other public agency may obligate the Part B funds; and

(3) The federal requirements that apply to the grant.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-586, filed 10/11/95, effective 11/11/95.]

WAC 392-172-588 Availability of application and public participation. Each district or other public agency shall:

(1) Make the application, any evaluations, periodic program plans, and reports relating to the Part B program available for public inspection; and

(2) Provide reasonable opportunities for the participation by teachers, parents, families and other interested agencies, organizations, and individuals in the planning for and operation of the Individuals with Disabilities Education Act Part B program as an integral part of the overall school program; and

(3) At a minimum, a school district and other public agency's procedures must describe the steps taken to:

(a) Make the application and any required evaluations, plans, and reports available to the public; and

(b) Involve the required constituency groups, as noted above, in the planning and operation of the Part B program. Parental participation in the individualized education program process does not constitute involvement in the planning and operation of the program.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-588, filed 10/11/95, effective 11/11/95.]

WAC 392-172-590 Denial of applications—Opportunity for hearing.

(1) In the event the superintendent of public instruction or designee proposes to deny, in whole or part, the annual application of a district or other public agency for federal special education funds, the district or other public agency shall be provided notice pursuant to RCW 34.05.434 of:

(a) Intent to deny the application of the district or other public agency; and

(b) The school district and other public agency's opportunity for a hearing before the superintendent of public instruction or designee prior to a denial of the application.

(2) The superintendent of public instruction shall provide an opportunity for a hearing before the office of superintendent of public instruction disapproves the application in accordance with the following procedures:

(a) The applicant shall request the hearing within thirty days of the action of the superintendent of public instruction.

(b) Within thirty days after it receives a request, the superintendent of public instruction shall hold a hearing on the record and shall review its action.

(c) No later than ten days after the hearing the office of superintendent of public instruction shall issue its written ruling, including findings of fact and reasons for the ruling. If supported by substantial evidence, findings of fact by the superintendent of public instruction are final.

(3) If the office of superintendent of public instruction determines that its action was contrary to state or federal statutes or regulations that govern the applicable program, the action shall be rescinded.

(4) If the superintendent of public instruction does not rescind its final action after a review, the applicant may appeal to the United States Secretary of Education. The applicant shall file a notice of the appeal with the United States Secretary of Education within twenty days after the applicant has been notified by the superintendent of public instruction of the results of the agency's review.

(5) The superintendent of public instruction shall make available at reasonable times and places to each applicant all records pertaining to any review or appeal an applicant is

pursuing under this section, including records of other applicants.

(6) The school district and other public agency's application may be denied, in whole or part, if the district or other public agency fails to request a hearing or the hearing decision upholds the proposed basis for denial.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-590, filed 10/11/95, effective 11/11/95.]

WAC 392-172-592 Records related to grant funds.

(1) The superintendent of public instruction and districts shall keep records that show:

- (a) The amount of funds under the grant;
- (b) How the funds were used;
- (c) The total cost of the project;
- (d) The share of that cost provided from other sources; and
- (e) Other records to facilitate an effective audit.

(2) Records shall be maintained to show program compliance including, records related to the location, evaluation and placement of special education students and the development and implementation of individualized education programs. Program and fiscal information records shall be available to authorized representatives of the office of superintendent of public instruction for the purpose of compliance monitoring under WAC 392-172-504.

(3) Records shall be retained for seven years after completion of the activities for which grant funds were used.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-592, filed 10/11/95, effective 11/11/95.]

WAC 392-172-594 Program coordination. The superintendent of public instruction and districts shall, to the extent possible, coordinate each of its federal projects with other activities that are in the same geographic area served by the project and that serve similar purposes and target groups.

[Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-594, filed 10/11/95, effective 11/11/95.]

Title 399 WAC COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT (PUBLIC WORKS BOARD)

Chapters

- 399-10 General provisions.**
- 399-20 Public records.**
- 399-30 Public works loans and pledges.**

Chapter 399-10 WAC GENERAL PROVISIONS

WAC

399-10-010 Organization and operation of the public works board.

WAC 399-10-010 Organization and operation of the public works board. (1) The public works board, hereinafter referred to as the board, is a thirteen-member board appointed by the governor and created pursuant to RCW 43.155.030.

(2) The governor shall appoint one of the general public members of the board as chair. The board may elect such other officers for such terms as it may from time to time deem necessary in accordance with the board's bylaws.

(3) The board's staff support and office space is provided by the Department of Community, Trade, and Economic Development, P.O. Box 48319, Olympia, Washington 98504-8319; phone (360) 753-2200.

[Statutory Authority: RCW 43.155.040(4). 95-11-093, § 399-10-010, filed 5/19/95, effective 6/19/95; 93-22-014, § 399-10-010, filed 10/26/93, effective 11/26/93. Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-10-010, filed 12/4/85.]

Chapter 399-20 WAC PUBLIC RECORDS

WAC

399-20-020 Definitions.

WAC 399-20-020 Definitions. The following definitions shall apply to this chapter:

(1) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by the board regardless of physical form or characteristics.

(2) "Writing" means handwriting, typewriting, printing, photostating and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, symbols, or combinations thereof, and all paper, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

(3) "Board" means the public works board, created pursuant to chapter 446, Laws of 1985, and shall also refer to the board's officers and staff, where appropriate.

(4) "Department" means the department of community, trade, and economic development, and shall also refer to the department's staff, where appropriate.

[Statutory Authority: RCW 43.155.040(4). 95-11-093, § 399-20-020, filed 5/19/95, effective 6/19/95. Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-20-020, filed 12/4/85.]