

**Chapter 391-95 WAC**  
**UNION SECURITY DISPUTE RULES**

**WAC**

391-95-001 Scope—Contents—Other rules.

**WAC 391-95-001 Scope—Contents—Other rules.**

This chapter governs proceedings before the public employment relations commission on disputes concerning the right of nonassociation under the union security provisions of certain statutes. The provisions of this chapter should be read in conjunction with:

(1) Chapter 10-08 WAC, which contains the model rules of procedure promulgated by the chief administrative law judge to regulate adjudicative proceedings under chapter 34.05 RCW, except:

(a) WAC 10-08-035, which is replaced by detailed requirements in WAC 391-95-110;

(b) WAC 10-08-050, which relates to office of administrative hearings procedures inapplicable to proceedings before the public employment relations commission;

(c) WAC 10-08-211, which is replaced by detailed requirements in WAC 391-95-270 and 391-95-290; and

(d) WAC 10-08-230, which is replaced by detailed requirements in WAC 391-95-170.

(2) Chapter 391-08 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the public employment relations commission, and which also replaces some provisions of chapter 10-08 WAC.

(3) Chapter 391-25 WAC, which regulates representation proceedings.

(4) Chapter 391-35 WAC, which regulates unit clarification proceedings and contains some well-established unit determination standards in a subchapter of rules beginning at WAC 391-35-300.

(5) Chapter 391-45 WAC, which regulates unfair labor practice proceedings.

(6) Chapter 391-55 WAC, which regulates the resolution of impasses in collective bargaining.

(7) Chapter 391-65 WAC, which regulates grievance arbitration and grievance mediation proceedings.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050, 01-14-009, § 391-95-001, filed 6/22/01, effective 8/1/01; 00-14-048, § 391-95-001, filed 6/30/00, effective 8/1/00; 96-07-105, § 391-95-001, filed 3/20/96, effective 4/20/96. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59 and 53.18 RCW. 90-06-075, § 391-95-001, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-051 (Order 80-10), § 391-95-001, filed 9/30/80, effective 11/1/80.]

## Title 392 WAC

# PUBLIC INSTRUCTION, SUPERINTENDENT OF

**Chapters****392-121****Finance—General apportionment.****392-122****Finance—Categorical apportionment.****392-125****Finance—Educational service district budgeting.****392-136****Finance—Conversion of accumulated sick leave.****392-138****Finance—Associated student body monies.****392-139****Finance—Maintenance and operation levies.****392-140****Finance—Special allocations, instructions, and requirements.****392-142****Transportation—Replacement and depreciation allocation.****392-143****Transportation—Specifications for school buses.****392-153****Traffic safety—Driver education.****392-172****Rules for the provision of special education to special education students.****Chapter 392-121 WAC****FINANCE—GENERAL APPORTIONMENT****WAC**

392-121-210

Definition—Basic education certificated instructional employee.

392-121-550

Repealed.

392-121-552

Repealed.

392-121-554

Repealed.

392-121-556

Repealed.

392-121-558

Repealed.

392-121-560

Repealed.

392-121-562

Repealed.

392-121-564

Repealed.

392-121-566

Repealed.

392-121-568

Repealed.

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

392-121-550

Vocational-secondary indirect cost limit—Applicable code provisions—Purpose—Effective date. [Statutory Authority: RCW 28A.150.290(2) and 1998 c 346 § 502 (2)(c)(iii). 98-21-066 (Order 98-10), § 392-121-550, filed 10/20/98, effective 11/20/98.] Repealed by 01-22-031, filed 10/30/01, effective 2/1/02. Statutory Authority: RCW 28A.150.290(1).

392-121-552

Vocational-secondary indirect cost limit—Definitions. [Statutory Authority: RCW 28A.150.290(2) and 1998 c 346 § 502 (2)(c)(iii). 98-21-066 (Order 98-10), § 392-121-552, filed 10/20/98, effective 11/20/98.] Repealed by 01-22-031, filed 10/30/01, effective 2/1/02. Statutory Authority: RCW 28A.150.290(1).

392-121-554

Vocational-secondary indirect cost limit—Calculation of minimum direct expenditures. [Statutory Authority: RCW 28A.150.290(2) and 1998 c 346 § 502 (2)(c)(iii). 98-21-066 (Order 98-10), § 392-121-554, filed 10/20/98, effective 11/20/98.] Repealed by 01-22-031, filed 10/30/01, effective 2/1/02. Statutory Authority: RCW 28A.150.290(1).

392-121-556

Vocational-secondary indirect cost limit—School district requests for adjustment. [Statutory Authority: RCW 28A.150.290(2) and 1998 c 346 § 502 (2)(c)(iii). 98-21-066 (Order 98-10), § 392-121-556, filed 10/20/98, effective 11/20/98.] Repealed by 01-22-031, filed 10/30/01, effective 2/1/02. Statutory Authority: RCW 28A.150.290(1).

392-121-558

Vocational-secondary indirect cost limit—Recovery of state allocations. [Statutory Authority: RCW 28A.150.290(2) and 1998 c 346 § 502 (2)(c)(iii). 98-21-066 (Order 98-10), § 392-121-558, filed 10/20/98, effective 11/20/98.] Repealed by 01-22-031, filed 10/30/01, effective 2/1/02. Statutory Authority: RCW 28A.150.290(1).

392-121-560

Vocational-secondary staffing formula—Applicable code provisions—Effective date. [Statutory Authority: RCW 28A.150.290(2) and 1998 c 346 § 502 (2)(c)(iii). 98-21-066 (Order 98-10), § 392-121-560, filed 10/20/98, effective 11/20/98.] Repealed by 01-22-031,

- 392-121-562 filed 10/30/01, effective 2/1/02. Statutory Authority: RCW 28A.150.290(1). Vocational-secondary staffing formula—Definitions. [Statutory Authority: RCW 28A.150.290(2) and 1998 c 346 § 502 (2)(c)(iii). 98-21-066 (Order 98-10), § 392-121-562, filed 10/20/98, effective 11/20/98.] Repealed by 01-22-031, filed 10/30/01, effective 2/1/02. Statutory Authority: RCW 28A.150.290(1).
- 392-121-564 Vocational-secondary staffing formula—Reporting of supplemental staff. [Statutory Authority: RCW 28A.150.290(2) and 1998 c 346 § 502 (2)(c)(iii). 98-21-066 (Order 98-10), § 392-121-564, filed 10/20/98, effective 11/20/98.] Repealed by 01-22-031, filed 10/30/01, effective 2/1/02. Statutory Authority: RCW 28A.150.290(1).
- 392-121-566 Vocational-secondary staffing formula—Calculation of school district vocational-secondary certificated staff ratios. [Statutory Authority: RCW 28A.150.290(2) and 1998 c 346 § 502 (2)(c)(iii). 98-21-066 (Order 98-10), § 392-121-566, filed 10/20/98, effective 11/20/98.] Repealed by 01-22-031, filed 10/30/01, effective 2/1/02. Statutory Authority: RCW 28A.150.290(1).
- 392-121-568 Vocational-secondary staffing formula—Determination of state-funded vocational-secondary certificated staff ratio. [Statutory Authority: RCW 28A.150.290(2) and 1998 c 346 § 502 (2)(c)(iii). 98-21-066 (Order 98-10), § 392-121-568, filed 10/20/98, effective 11/20/98.] Repealed by 01-22-031, filed 10/30/01, effective 2/1/02. Statutory Authority: RCW 28A.150.290(1).

**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 a contractor 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; and
- (4) District-wide support, program 97.

[Statutory Authority: RCW 28A.150.290 [28A.150.290], 28A.505.140. 01-08-048, § 392-121-210, filed 3/30/01, effective 4/30/01. Statutory Authority: 1997 c 265 § 6 and RCW 28A.150.290. 99-08-008 (Order 99-01), § 392-121-210, filed 3/25/99, effective 4/25/99. 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 392-121-550 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-121-552 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-121-554 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-121-556 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-121-558 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-121-560 Repealed.** See Disposition Table at beginning of this chapter.

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**WAC 392-121-562 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-121-564 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-121-566 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-121-568 Repealed.** See Disposition Table at beginning of this chapter.

## Chapter 392-122 WAC

### FINANCE—CATEGORICAL APPORTIONMENT

#### WAC

- 392-122-205 State institutional education program—Eligible programs.
- 392-122-207 Repealed.
- 392-122-220 Definition—State institutional education program—Enrolled institutional education program student.
- 392-122-221 Definition—State institutional education program—Enrollment exclusions.

### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 392-122-207 Definition—State institutional education program—Residential institution. [Statutory Authority: 1998 c 244 § 9(2) and RCW 28A.150.290. 98-21-065 (Order 98-09), § 392-122-207, filed 10/20/98, effective 11/20/98. Statutory Authority: RCW 28A.150.290. 92-03-045 (Order 92-03), § 392-122-207, filed 1/10/92, effective 2/10/92.] Repealed by 01-24-002, filed 11/21/01, effective 12/22/01. Statutory Authority: RCW 28A.150.290.

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

(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 meeting the definition of a "detention facility" in RCW 13.40.030.

(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.

(5) Adult correctional facilities housing juveniles—i.e., facilities maintained by the state department of corrections for juvenile inmates under eighteen years of age.

[Statutory Authority: RCW 28A.150.290. 01-24-002, § 392-122-205, filed 11/21/01, effective 12/22/01. Statutory Authority: 1998 c 244 § 9(2) and RCW 28A.150.290. 98-21-065 (Order 98-09), § 392-122-205, filed 10/20/98, effective 11/20/98. 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 392-122-207 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-122-220 Definition—State institutional education program—Enrolled institutional education program student.** "Enrolled institutional education program student" means a person who:

(1)(a) Is in a program in a department of corrections facility and is under eighteen years of age or is eighteen years of age and is continuing in the institutional education program with the permission of the department of corrections and the education provider; or

(b) Is under twenty-one years of age at the beginning of the school year and is either:

(i) In a residential school as defined in RCW 28A.190.020; or

(ii) Confined in a county detention center within the meaning of confinement provided in RCW 13.40.020;

(2) Is scheduled to engage in educational activity in the institutional education program during the current week;

(3) During the current school year, has engaged in educational activity in the institutional education program provided or supervised by educational certificated staff; and

(4) Does not qualify for any of the enrollment exclusions in WAC 392-122-221.

[Statutory Authority: RCW 28A.150.290. 01-24-002, § 392-122-220, filed 11/21/01, effective 12/22/01. Statutory Authority: 1998 c 244 § 9(2) and RCW 28A.150.290. 98-21-065 (Order 98-09), § 392-122-220, filed 10/20/98, effective 11/20/98. Statutory Authority: RCW 28A.150.290. 92-03-045 (Order 92-03), § 392-122-220, filed 1/10/92, effective 2/10/92.]

**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) An institution student who:

(a) Has not engaged in educational activity in the past five school 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. 01-24-002, § 392-122-221, filed 11/21/01, effective 12/22/01. Statutory Authority: 1998 c 244 § 9(2) and RCW 28A.150.290. 98-21-065 (Order 98-09), § 392-122-221, filed 10/20/98, effective 11/20/98. 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.]

## Chapter 392-125 WAC

### FINANCE—EDUCATIONAL SERVICE DISTRICT BUDGETING

#### WAC

392-125-080

Contractual liability extending beyond end of fiscal period.

**WAC 392-125-080 Contractual liability extending beyond end of fiscal period.** The board of any educational district may enter into contracts for their respective districts for periods not exceeding twenty years in duration with public and private persons, organizations, and entities for the following purposes:

(1) To rent or lease building space, portable buildings, security systems, computers, and other equipment; and

(2) To have maintained and repaired security systems, computers and other equipment.

The budget of each educational service district shall contain a schedule which identifies that portion of each contractual liability incurred pursuant to RCW 28A.310.460 which extends beyond the fiscal period. Said schedule shall list for each such contractual liability a brief description, the accounting code, the beginning and ending dates, the total dollar amount, and the estimated amount extending beyond the end of the fiscal period being budgeted.

[Statutory Authority: RCW 28A.310.330. 01-11-099, § 392-125-080, filed 5/18/01, effective 6/18/01. Statutory Authority: 1990 c 33. 90-16-002 (Order 18), § 392-125-080, filed 7/19/90, effective 8/19/90. Statutory Authority: RCW 28A.21.135, 28A.21.310 and 28A.65.465. 78-08-036 (Order 5-78), § 392-125-080, filed 7/18/78.]

## Chapter 392-136 WAC

### FINANCE—CONVERSION OF ACCUMULATED SICK LEAVE

#### WAC

392-136-020

Conversion of sick leave upon retirement or death.

**WAC 392-136-020 Conversion of sick leave upon retirement or death.** (1) Eligible employees: Upon separation from employment the following employees may personally, or through their estate in the event of death, elect to convert all eligible, accumulated, unused sick leave to monetary compensation as provided in this section:

(a) Eligible educational service district employees are those who terminate employment with the educational service district due to either retirement or death.

(b) Eligible school district employees are those who qualify under an attendance incentive program established by the school district board of directors pursuant to WAC 391-136-065 and who:

(i) Separate from employment with the school district due to death or retirement; or

(ii) After June 7, 2000, separate from employment with the school district and are at least age fifty-five and:

(A) Have at least ten years of service under teachers' retirement plan 3 as defined in RCW 41.32.010(40), or under the Washington school employees' retirement system plan 3 as defined in RCW 41.35.010(31); or

(B) Have at least fifteen years of service under teachers' retirement system plan 2 as defined in RCW 41.32.010(39), under Washington school employees' retirement system plan 2 as defined in RCW 41.35.010(30), or under public employees' retirement system plan 2 as defined in RCW 41.40.010(34).

(c) In order to receive reimbursement for unused sick leave, by virtue of retirement pursuant to subsection (1)(a) or (1)(b)(i) of this section the employee must have separated

from such employment and have been granted a retirement allowance under the laws governing the teachers' retirement system, the public employees' retirement system, or the school employees' retirement system whichever applies; however, it is not necessary that the employee actually file for retirement prior to the date of his or her separation so long as the application is thereafter filed within a reasonable period of time and without the occurrence of any intervening covered employment.

(2) Eligible sick leave days: A maximum of one hundred eighty days may be converted to monetary compensation pursuant to this section. Eligible days include all unused sick leave days that have been accumulated by an eligible employee at a rate of accumulation no greater than one full day per month of employment as provided by the leave policies of the district(s) of employment (a maximum of twelve days per year), less sick leave days previously converted pursuant to WAC 392-136-015 and those credited as service rendered for retirement purposes.

(3) Rate of conversion: Sick leave days that are eligible for conversion shall be converted to monetary compensation at the rate of twenty-five percent of an employee's full-time daily rate of compensation at the time of termination of employment for each full day of eligible sick leave. Partial days of eligible sick leave shall be converted on a pro rata basis.

(4) Deduction of converted days: All sick leave days converted pursuant to this section shall be deducted from an employee's accumulated sick leave balance.

(5) Exclusion from retirement allowance: Compensation received pursuant to this section shall not be included for the purpose of computing a retirement allowance under any public retirement system in this state.

[Statutory Authority: RCW 28A.400.210, 01-11-098, § 392-136-020, filed 5/18/01, effective 6/18/01. Statutory Authority: RCW 28A.21.360 and 28A.58.096, 84-04-034 (Order 84-2), § 392-136-020, filed 1/26/84. Statutory Authority: RCW 28A.58.100(2), 82-16-038 (Order 82-8), § 392-136-020, filed 7/28/82. Statutory Authority: 1980 c 182 §§ 5 and 6, 80-12-029 (Order 80-23), § 392-136-020, filed 8/28/80.]

### Chapter 392-138 WAC

#### FINANCE—ASSOCIATED STUDENT BODY MONEYS

##### WAC

392-138-003	Authority.
392-138-005	Purposes.
392-138-010	Definitions.
392-138-011	Formation of associated student bodies required.
392-138-012	Repealed.
392-138-013	Powers—Authority and policy of board of directors.
392-138-014	Accounting procedures and records.
392-138-016	Repealed.
392-138-017	Segregation of public and private moneys.
392-138-018	Petty cash funds.
392-138-019	Compliance with bid law required.
392-138-021	Title to property—Dissolution of associated student body or affiliated group.
392-138-025	Repealed.
392-138-030	Repealed.
392-138-035	Repealed.
392-138-040	Repealed.
392-138-045	Repealed.
392-138-047	Repealed.
392-138-050	Repealed.
392-138-055	Repealed.
392-138-060	Repealed.

392-138-065	Repealed.
392-138-070	Repealed.
392-138-071	Repealed.
392-138-075	Repealed.
392-138-080	Repealed.
392-138-085	Repealed.
392-138-100	Repealed.
392-138-105	Fees optional noncredit extracurricular events.
392-138-110	Associated student body public moneys—Associated student body program budget.
392-138-115	Associated student body public moneys—Deposit and investment.
392-138-120	Associated student body public moneys—Imprest bank checking account.
392-138-125	Associated student body public moneys—Disbursement approval—Total disbursements.
392-138-130	Associated student body public moneys—League and other joint activities.
392-138-200	Nonassociated student body private moneys.
392-138-205	Nonassociated student body private moneys—Deposit and investment.
392-138-210	Nonassociated student body private moneys—Disbursement approval—Total disbursements.

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

392-138-012	Fees optional noncredit extracurricular events. [Statutory Authority: RCW 28A.58.115, 84-13-025 (Order 84-15), § 392-138-012, filed 6/13/84.] Repealed by 01-16-078, filed 7/25/01, effective 8/25/01. Statutory Authority: RCW 28A.325.020.
392-138-016	Scholarships, student exchange and charitable purposes—ASB private moneys. [Statutory Authority: RCW 28A.58.115, 84-13-025 (Order 84-15), § 392-138-016, filed 6/13/84.] Repealed by 01-16-078, filed 7/25/01, effective 8/25/01. Statutory Authority: RCW 28A.325.020.
392-138-025	Formation of associated student bodies required. [Statutory Authority: RCW 28A.58.115, 84-13-025 (Order 84-15), § 392-138-025, filed 6/13/84; Order 4-76, § 392-138-025, filed 3/4/76, effective 7/1/76.] Repealed by 01-16-078, filed 7/25/01, effective 8/25/01. Statutory Authority: RCW 28A.325.020.
392-138-030	Powers—Authority and policy of board of directors. [Statutory Authority: 1990 c 33, 90-16-002 (Order 18), § 392-138-030, filed 7/19/90, effective 8/19/90. Statutory Authority: RCW 28A.58.115, 84-13-025 (Order 84-15), § 392-138-030, filed 6/13/84; Order 4-76, § 392-138-030, filed 3/4/76, effective 7/1/76.] Repealed by 01-16-078, filed 7/25/01, effective 8/25/01. Statutory Authority: RCW 28A.325.020.
392-138-035	Deposit and investment of associated student body moneys. [Statutory Authority: RCW 28A.58.115, 84-13-025 (Order 84-15), § 392-138-035, filed 6/13/84; Order 4-76, § 392-138-035, filed 3/4/76, effective 7/1/76.] Repealed by 01-16-078, filed 7/25/01, effective 8/25/01. Statutory Authority: RCW 28A.325.020.
392-138-040	Associated student body program budget. [Statutory Authority: 1990 c 33, 90-16-002 (Order 18), § 392-138-040, filed 7/19/90, effective 8/19/90; Order 4-76, § 392-138-040, filed 3/4/76, effective 7/1/76.] Repealed by 01-16-078, filed 7/25/01, effective 8/25/01. Statutory Authority: RCW 28A.325.020.
392-138-045	Accounting procedures and records. [Order 4-76, § 392-138-045, filed 3/4/76, effective 7/1/76.] Repealed by 01-16-078, filed 7/25/01, effective 8/25/01. Statutory Authority: RCW 28A.325.020.
392-138-047	Segregation of accounts—Public and private moneys. [Statutory Authority: RCW 28A.58.115, 84-13-025 (Order 84-15), § 392-138-047, filed 6/13/84.] Repealed by 01-16-078, filed 7/25/01, effective 8/25/01. Statutory Authority: RCW 28A.325.020.
392-138-050	Disbursement approval—Total disbursements. [Statutory Authority: RCW 28A.58.115, 84-13-025 (Order 84-15), § 392-138-050, filed 6/13/84; Order 4-76, § 392-138-050, filed 3/4/76, effective 7/1/76.] Repealed by 01-16-078, filed 7/25/01, effective 8/25/01. Statutory Authority: RCW 28A.325.020.
392-138-055	Imprest bank checking account. [Order 4-76, § 392-138-055, filed 3/4/76, effective 7/1/76.] Repealed by 01-16-078, filed 7/25/01, effective 8/25/01. Statutory Authority: RCW 28A.325.020.

- 392-138-060 Petty cash funds. [Order 4-76, § 392-138-060, filed 3/4/76, effective 7/1/76.] Repealed by 01-16-078, filed 7/25/01, effective 8/25/01. Statutory Authority: RCW 28A.325.020.
- 392-138-065 Compliance with bid law required. [Statutory Authority: 1990 c 33, 90-16-002 (Order 18), § 392-138-065, filed 7/19/90, effective 8/19/90; Order 4-76, § 392-138-065, filed 3/4/76, effective 7/1/76.] Repealed by 01-16-078, filed 7/25/01, effective 8/25/01. Statutory Authority: RCW 28A.325.020.
- 392-138-070 District assumption of existing indebtedness permitted. [Order 4-76, § 392-138-070, filed 3/4/76, effective 7/1/76.] Repealed by 01-16-078, filed 7/25/01, effective 8/25/01. Statutory Authority: RCW 28A.325.020.
- 392-138-071 Public moneys—Previous law. [Statutory Authority: RCW 28A.58.115, 84-13-025 (Order 84-15), § 392-138-071, filed 6/13/84.] Repealed by 01-16-078, filed 7/25/01, effective 8/25/01. Statutory Authority: RCW 28A.325.020.
- 392-138-075 Title to property—Dissolution of associated student body or affiliated group. [Statutory Authority: RCW 28A.58.115, 84-13-025 (Order 84-15), § 392-138-075, filed 6/13/84; Order 4-76, § 392-138-075, filed 3/4/76, effective 7/1/76.] Repealed by 01-16-078, filed 7/25/01, effective 8/25/01. Statutory Authority: RCW 28A.325.020.
- 392-138-080 Disposition of preexisting associated student body cash and investment. [Order 4-76, § 392-138-080, filed 3/4/76, effective 7/1/76.] Repealed by 01-16-078, filed 7/25/01, effective 8/25/01. Statutory Authority: RCW 28A.325.020.
- 392-138-085 League and other joint activities. [Order 4-76, § 392-138-085, filed 3/4/76, effective 7/1/76.] Repealed by 01-16-078, filed 7/25/01, effective 8/25/01. Statutory Authority: RCW 28A.325.020.
- 392-138-100 Student aid donations and other nonassociated student body moneys. [Statutory Authority: 1990 c 33, 90-16-002 (Order 18), § 392-138-100, filed 7/19/90, effective 8/19/90. Statutory Authority: RCW 28A.58.115, 89-17-066 (Order 89-06), § 392-138-100, filed 8/16/89, effective 9/16/89; 84-13-025 (Order 84-15), § 392-138-100, filed 6/13/84.] Repealed by 01-16-078, filed 7/25/01, effective 8/25/01. Statutory Authority: RCW 28A.325.020.

**WAC 392-138-003 Authority.** The authority for this chapter is RCW 28A.325.020 which authorizes the superintendent of public instruction to adopt rules and regulations regarding the administration and control of associated student body moneys.

[Statutory Authority: RCW 28A.325.020, 01-16-078, § 392-138-003, filed 7/25/01, effective 8/25/01. Statutory Authority: 1990 c 33, 90-16-002 (Order 18), § 392-138-003, filed 7/19/90, effective 8/19/90. Statutory Authority: RCW 28A.58.115, 84-13-025 (Order 84-15), § 392-138-003, filed 6/13/84.]

**WAC 392-138-005 Purposes.** The purposes of this chapter are to:

- (1) Implement RCW 28A.325.020;
- (2) Designate the powers and responsibilities of the board of directors of each school district regarding the efficient administration, management, and control of moneys, records, and reports of associated student body funds;
- (3) Encourage the supervised self-government of associated student bodies; and
- (4) Permit fund-raising activities by students in their private capacities for the purpose of generating nonassociated student body private moneys.

[Statutory Authority: RCW 28A.325.020, 01-16-078, § 392-138-005, filed 7/25/01, effective 8/25/01. Statutory Authority: 1990 c 33, 90-16-002 (Order 18), § 392-138-005, filed 7/19/90, effective 8/19/90; Order 4-76, § 392-138-005, filed 3/4/76, effective 7/1/76.]

**WAC 392-138-010 Definitions.** (1) "Associated student body organization" means a formal organization of students, including subcomponents or affiliated student groups such as student clubs, which is formed with the approval, and operated subject to the control, of the board of directors of a school district in compliance with this chapter.

(2) "Associated student body program" means any activity which (a) is conducted in whole or part by or in behalf of an associated student body during or outside regular school hours and within or outside school grounds and facilities, and (b) is conducted with the approval, and at the direction or under the supervision, of the school district.

(3) "Central district office" means the board of directors and/or their official designee to whom authority has been delegated to act in their behalf.

(4) "Associated student body public moneys" means fees collected from students and nonstudents as a condition to their attendance at any optional noncredit extracurricular event of the school district which is of a cultural, social, recreational or athletic nature, revenues derived from "associated student body programs" as defined in subsection (2) of this section, and any other moneys received by an associated student body, not specified in subsection (5) of this section and WAC 392-138-100, for the support of an associated student body program.

(5) "Nonassociated student body private moneys" means moneys generated by fund-raising activities or solicitation of donations by student groups in their private capacities for private purposes and/or private gifts and contributions.

(6) "Associated student body governing body" means the student council, student activities board, or other officially recognized group of students appointed or elected to represent the entire associated student body within a school in accordance with procedures established by the board of directors of the school district.

(7) "Trust fund" means a fund used to account for assets held by the district in a trustee capacity for the specific purpose designated by the fund-raising group and described in the notice provided to donors prior to the fund-raising event. Such moneys must be accounted for separately from associated student body public moneys.

(8) "Held in trust" means held as private moneys either within a separate account within the associated student body fund or in a trust fund to be disbursed exclusively for an intended purpose.

[Statutory Authority: RCW 28A.325.020, 01-16-078, § 392-138-010, filed 7/25/01, effective 8/25/01. Statutory Authority: RCW 28A.58.115, 84-13-025 (Order 84-15), § 392-138-010, filed 6/13/84; Order 4-76, § 392-138-010, filed 3/4/76, effective 7/1/76.]

**WAC 392-138-011 Formation of associated student bodies required.** The formation of an associated student body shall be mandatory and a prerequisite whenever one or more students of a school district engage in money-raising activities with the approval and at the direction or under the supervision of the district: Provided, That the board of directors of a school district may act, or delegate the authority to an employee(s) of the district to act, as the associated student body governing body for any school facility within the district containing no grade higher than the sixth grade.

[Statutory Authority: RCW 28A.325.020. 01-16-078, § 392-138-011, filed 7/25/01, effective 8/25/01.]

**WAC 392-138-012 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-138-013 Powers—Authority and policy of board of directors.** (1) The board of directors of each school district shall:

(a) Retain and exercise the general powers, authority, and duties expressed and implied in law with respect to the administration of a school district and regulation of actions and activities of the associated student bodies of the district including, but not limited to RCW 28A.320.010 (Corporate powers), RCW 28A.150.070 (General public school system administration), RCW 28A.320.030 (Gifts, conveyances, etc., for scholarship and student aid purposes, receipts and administration), RCW 28A.600.010 (Government of schools, pupils, and employees), RCW 28A.320.040 (Bylaws of board and school government), RCW 28A.400.030 (2) and (3) (Superintendent's duties), RCW 28A.600.040 (Pupils to comply with rules and regulations), RCW 43.09.200 (Local government accounting—Uniform system of accounting), RCW 36.22.090 (Warrants of political subdivisions), and chapter 28A.505 RCW (School district budgets);

(b) Approve the constitution and bylaws of each district associated student body and establish policies and guidelines relative to:

(i) The identification of those activities which shall constitute the associated student body program;

(ii) The establishment of an official governing body representing the associated student body;

(iii) The methods and means by which students shall be permitted to raise and otherwise acquire associated student body moneys; and

(iv) The designation of the primary advisor to each associated student body and the authority of the primary advisor to designate advisors to the various student subgroup organizations affiliated with an associated student body;

(c) Assign accounting functions, or portions thereof, to the school building level to be performed by a designated representative of an associated student body or centralize the accounting functions at the district central administrative office level;

(d) Provide for the participation of the associated student body or bodies of the school district in the determination of the purposes for which associated student body public moneys and nonassociated student body private moneys if held as private moneys within the associated student body fund shall be budgeted and disbursed; and

(2) If the district permits students to conduct fund-raising activities and solicitation of donations in their private capacities, they shall establish policies to permit such activities and the allowable uses of such moneys. The board policy and/or procedures must include the approval process for such activities as well as provisions to ensure appropriate accountability for these funds, which are required to be held in trust.

[Statutory Authority: RCW 28A.325.020. 01-16-078, § 392-138-013, filed 7/25/01, effective 8/25/01.]

**WAC 392-138-014 Accounting procedures and records.** Associated student body public and nonassociated student body private moneys shall be accounted for as follows:

(1) Accounting methods and procedures shall comply with such rules and regulations and/or guidelines as are developed by the state auditor and the superintendent of public instruction and published in the *Accounting Manual for Public Schools in the State of Washington* and/or other publications;

(2) Whenever two or more associated student bodies exist within a school district, the accounting records shall be maintained in such a manner as to provide a separate accounting for the transactions of each associated student body in the associated student body program fund;

(3) The fiscal and accounting records of associated student body program moneys shall constitute public records of the school district, shall be available for examination by the state auditor, and shall be preserved in accordance with statutory provisions governing the retention of public records; and

(4) Nonassociated student body private moneys shall be held in trust by the school within the associated student body fund or within a trust fund and be disbursed exclusively for such purposes as the student group conducting the fund-raising activity shall determine, subject to applicable school board policies. The district shall either withhold or otherwise be compensated an amount from such moneys to pay its direct costs in providing the service. Such funds are private moneys, not public moneys under section 7, Article VIII of the state Constitution.

[Statutory Authority: RCW 28A.325.020. 01-16-078, § 392-138-014, filed 7/25/01, effective 8/25/01.]

**WAC 392-138-016 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-138-017 Segregation of public and private moneys.** When a school district has associated student body organizations that receive both public and private moneys as defined in WAC 392-138-010 (4) and (5), two separate sets of accounts shall be maintained. In addition, separate accounting records should be maintained by organization or purpose including clubs, classes, athletic activities, private purpose fund-raising events and general associated student body.

[Statutory Authority: RCW 28A.325.020. 01-16-078, § 392-138-017, filed 7/25/01, effective 8/25/01.]

**WAC 392-138-018 Petty cash funds.** The board of directors of a school district may authorize the establishment and maintenance of associated student body petty cash funds for use in instances when it is impractical to make disbursement by warrant or check, subject to the following conditions:

(1) A petty cash fund shall be initiated by warrant or check;

(2) Paid-out receipts shall constitute invoices for the purpose of vouchering; and



(3) An upper limit of the amount of the petty cash fund shall be established by the board of directors.

[Statutory Authority: RCW 28A.325.020. 01-16-078, § 392-138-018, filed 7/25/01, effective 8/25/01.]

**WAC 392-138-019 Compliance with bid law required.** The statutory provisions of RCW 28A.335.190, the so-called "bid law" governing school district purchasing procedures, shall govern purchases payable from the associated student body funds.

[Statutory Authority: RCW 28A.325.020. 01-16-078, § 392-138-019, filed 7/25/01, effective 8/25/01.]

**WAC 392-138-021 Title to property—Dissolution of associated student body or affiliated group.** Title to all such property acquired through the expenditure of associated student body public moneys shall be vested in the school district.

In the event a member organization affiliated with an associated student body elects to disband or ceases to exist for any reason, then:

(1) The school district and parent associated student body shall cease carrying any money or account on behalf of or to the credit of the organization; and

(2) The records of the organization shall be retained and disposed of in accordance with applicable state law regarding the retention and destruction of public records.

[Statutory Authority: RCW 28A.325.020. 01-16-078, § 392-138-021, filed 7/25/01, effective 8/25/01.]

**WAC 392-138-025 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-138-030 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-138-035 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-138-040 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-138-045 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-138-047 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-138-050 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-138-055 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-138-060 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-138-065 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-138-070 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-138-071 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-138-075 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-138-080 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-138-085 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-138-100 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-138-105 Fees optional noncredit extracurricular events.** The board of directors of any common school district may establish and collect a fee from students and non-students as a condition to their attendance at any optional noncredit extracurricular event of the district which is of a cultural, social, recreational, or athletic nature: Provided, That in so establishing such fee or fees, the district shall adopt policies for waiving and reducing such fees in the cases of those students whose families, by reason of their low income, would have difficulty in paying the entire amount of such fees and may likewise waive or reduce such fees for nonstudents of the age of sixty-five or over who, by reason of their low income, would have difficulty in paying the entire amount of such fees. An optional comprehensive fee may be established and collected for any combination or all of such events or, in the alternative, a fee may be established and collected as a condition to attendance at any single event. The board of directors shall adopt policies which state that:

(1) Attendance and the fee are optional; and

(2) The district will waive and reduce fees for students whose families, by reason of their low income, would have difficulty in paying the entire amount of such fees.

Fees collected pursuant to this section shall be designated as associated student body public moneys and shall be deposited in the associated student body program fund of the school district. Such funds may be expended to defray the costs of optional noncredit extracurricular events of such a cultural, social, recreational, or athletic nature, or to otherwise support the public activities and programs of associated student bodies.

[Statutory Authority: RCW 28A.325.020. 01-16-078, § 392-138-105, filed 7/25/01, effective 8/25/01.]

**WAC 392-138-110 Associated student body public moneys—Associated student body program budget.** Each associated student body of a school district, with the guidance of the primary advisor, and at such time as is designated by

the central district office, annually shall prepare and submit a financial plan (budget) for support of the associated student body program to the district superintendent or his/her designee for consolidation into a district associated student body program fund budget and then present such budget to the board of directors of the district for its review, revision, and approval: Provided, That revisions of the budget submitted by an associated student body and revisions of the budget approved by the board of directors shall first be reviewed by the associated student body and, in the case of an approved budget, shall be subject to the requirements of chapter 28A.505 RCW regarding emergency expenditures or budget extensions. The budget as approved shall constitute an appropriation and authorization for the disbursement of funds for the purposes established in the budget.

[Statutory Authority: RCW 28A.325.020. 01-16-078, § 392-138-110, filed 7/25/01, effective 8/25/01.]

**WAC 392-138-115 Associated student body public moneys—Deposit and investment.** All associated student body public moneys, upon receipt, shall be transmitted intact to the district depository bank and then to the county treasurer or directly to the county treasurer for deposit to the credit of the "associated student body program fund" of the school district and shall be accounted for, expended, and invested subject to the practices and procedures governing other moneys of the district except as such practices and procedures are modified by or pursuant to this chapter.

[Statutory Authority: RCW 28A.325.020. 01-16-078, § 392-138-115, filed 7/25/01, effective 8/25/01.]

**WAC 392-138-120 Associated student body public moneys—Imprest bank checking account.** The board of directors of a school district may authorize the establishment and maintenance of an associated student body imprest bank checking account for convenience and efficiency in expediting disbursements, subject to the following conditions:

(1) The maximum amount of such an account shall be no more than is necessary to provide for disbursements at the level of the month of highest estimated demand for disbursements;

(2) An imprest bank checking account shall be initiated by deposit of, and replenished by, a warrant drawn on the associated student body program fund;

(3) Disbursements from an imprest bank checking account shall be by check and shall be restricted to payments of invoices bearing evidence of student approval in accordance with associated student body bylaws;

(4) An imprest bank checking account shall be replenished at least once each month by a warrant drawn on the associated student body program fund in payment of an approved voucher in an amount equal to the sum total of the disbursements made by check from the imprest bank checking account during the preceding interval; and

(5) The replenishment voucher shall reflect such information as the central district office shall prescribe relative to identification of invoices, invoice approvals, codification of expenditures, cancelled checks, and other information deemed pertinent.

[Statutory Authority: RCW 28A.325.020. 01-16-078, § 392-138-120, filed 7/25/01, effective 8/25/01.]

**WAC 392-138-125 Associated student body public moneys—Disbursement approval—Total disbursements.** Associated student body public moneys shall be disbursed subject to the following conditions:

(1) No disbursements shall be made except as provided for in the budget approved pursuant to WAC 392-138-040;

(2) Disbursements shall occur only upon presentation of properly prepared vouchers in such format and design as the central district office shall prescribe;

(3) All disbursements from the associated student body program fund or any imprest bank account established thereunder shall have the prior approval of the appropriate governing body representing the associated student body. Supporting documentation of the vouchers shall bear evidence of approval by the associated student body governing body in accordance with associated student body bylaws;

(4) When an account within the fund balance of an associated student body organization does not contain a sufficient balance to meet a proposed disbursement, such disbursement shall be limited to the fund balance: Provided, That a transfer of fund balance between associated student body organizations may be made pursuant to the associated student body bylaws and as approved by the associated student body governing body;

(5) Warrants shall not be issued in excess of the moneys on deposit with the county treasurer in the associated student body program fund; and

(6) All disbursements shall be made by warrant except for disbursements from imprest bank accounts and petty cash funds provided for in this chapter.

[Statutory Authority: RCW 28A.325.020. 01-16-078, § 392-138-125, filed 7/25/01, effective 8/25/01.]

**WAC 392-138-130 Associated student body public moneys—League and other joint activities.** Athletic league and other forms of joint inter and intra school district associated student body programs are not precluded by this chapter. In the case of such joint programs, a single school district or associated student body or a board representing the participating associated student bodies shall manage associated student body moneys made available to it for the support of the joint program and received as a result of the conduct of such program, in compliance with this chapter and a written cooperative agreement authorized by the board(s) of directors of the district(s).

[Statutory Authority: RCW 28A.325.020. 01-16-078, § 392-138-130, filed 7/25/01, effective 8/25/01.]

**WAC 392-138-200 Nonassociated student body private moneys.** The board of directors of a school district may permit student groups to raise moneys through fund-raising or solicitation in their private capacities when the following conditions are met:

(1) Prior to solicitation of such funds, the school board approves policies defining the scope and nature of fund-raising permitted. School board policy includes provisions to ensure appropriate accountability, including prompt deposit,



holding the moneys in trust, and disbursement only for the intended purpose of the fund-raiser;

(2) Such funds are used for scholarship, student exchange, and/or charitable purposes. Charitable purposes do not include any activity related to assisting a campaign for election of a person to an office or promotion or opposition to a ballot proposition;

(3) Prior to solicitation of such funds notice is given. Such notice identifies the intended purpose of the fund-raiser, further it states the proceeds are nonassociated student body funds to be held in trust by the school district exclusively for the intended purposes;

(4) The school district withholds or otherwise is compensated an amount adequate to reimburse the district for its direct costs in handling these private moneys; and

(5) WAC 392-138-205 applies to moneys received, deposited, invested, and accounted for under this section.

Nonassociated student body private moneys shall not be deemed public moneys under section 7, Article VIII of the state Constitution.

WAC 392-138-035 shall apply to moneys received, deposited, invested, expended, and accounted for under this section.

[Statutory Authority: RCW 28A.325.020. 01-16-078, § 392-138-200, filed 7/25/01, effective 8/25/01.]

**WAC 392-138-205 Nonassociated student body private moneys—Deposit and investment.** All nonassociated student body private moneys, upon receipt, shall be transmitted intact to the district depository bank and then to the county treasurer or directly to the county treasurer for deposit to the credit of the school district's trust fund or the associated student body fund, if held in trust within that fund within accounts as defined in WAC 392-138-010 and shall be accounted for, expended, and invested subject to applicable school board policy and/or procedures pursuant to WAC 392-138-200.

[Statutory Authority: RCW 28A.325.020. 01-16-078, § 392-138-205, filed 7/25/01, effective 8/25/01.]

**WAC 392-138-210 Nonassociated student body private moneys—Disbursement approval—Total disbursements.** Nonassociated student body private moneys shall be disbursed subject to the following conditions:

(1) If such funds are held in trust within the associated student body fund, they shall be budgeted pursuant to WAC 392-138-013 (1)(d). No disbursements shall be made except as provided for in the budget approved pursuant to WAC 392-138-110. All disbursements shall have the prior written approval of the associated student body or such other authority designated in school district policy or procedures;

(2) If such funds are held in a trust fund, they are not budgeted. Disbursements shall occur only upon presentation of properly prepared vouchers in such format and design as the central district office shall prescribe, and as provided for in subsection (3) of this section;

(3) Vouchers authorizing disbursements shall be accompanied by written evidence of approval of disbursement by

the associated student body or other authority designated in the school district's policies and procedures;

(4) Disbursements shall be made only for the intended purposes pursuant to WAC 392-138-200.

[Statutory Authority: RCW 28A.325.020. 01-16-078, § 392-138-210, filed 7/25/01, effective 8/25/01.]

## Chapter 392-139 WAC

### FINANCE—MAINTENANCE AND OPERATION LEVIES

#### WAC

392-139-008	Effective date.
392-139-110	Definition—Report 1191.
392-139-300	Establishment of excess levy authority for school districts—General.
392-139-310	Determination of excess levy base.

**WAC 392-139-008 Effective date.** This chapter applies to levy authority and local effort assistance calculations for the 2002 calendar year and thereafter. Levy authority and local effort assistance calculations for 2000 and 2001 calendar years are governed by rules in effect at the time of the calculations.

[Statutory Authority: RCW 28A.150.290(1) and 84.52.0531(9). 01-22-098, § 392-139-008, filed 11/6/01, effective 12/7/01. Statutory Authority: RCW 84.52.0531(9) and 28A.150.290. 00-09-017, § 392-139-008, filed 4/11/00, effective 5/12/00.]

**WAC 392-139-110 Definition—Report 1191.** As used in this chapter, "Report 1191" means the monthly report prepared and distributed by the superintendent of public instruction which includes the number of basic education allocation formula derived certificated and classified staff units, the compensation entitlement amounts for such staff, the basic education allocation provided for each average annual full-time equivalent student, the basic education allocation, and the amount of state-funded support for the school year for each school district. The amount of a school district's basic education allocation included in the excess levy base pursuant to WAC 392-139-310 (1)(a) is taken from this report.

[Statutory Authority: RCW 28A.150.290(1) and 84.52.0531(9). 01-22-098, § 392-139-110, filed 11/6/01, effective 12/7/01. Statutory Authority: RCW 28A.41.170 and 84.52.0531(10). 89-23-121 (Order 18), § 392-139-110, filed 11/22/89, effective 12/23/89; 88-03-007 (Order 88-6), § 392-139-110, filed 1/8/88.]

**WAC 392-139-300 Establishment of excess levy authority for school districts—General.** The maximum dollar amount of any school district's certified excess levy for any given calendar year shall equal the excess levy authority established by the superintendent of public instruction as follows:

(1) Multiply the school district's excess levy base determined pursuant to WAC 392-139-310 by the school district's maximum excess levy percentage determined pursuant to WAC 392-139-320;

(2) Adjust the result obtained in subsection (1) of this section by the amount of the school district's excess levy authority transfers determined pursuant to WAC 392-139-330, 392-139-340, and 392-139-901; and

(3) Subtract the school district's maximum local effort assistance determined pursuant to WAC 392-139-660.

[Statutory Authority: RCW 28A.150.290(1) and 84.52.0531(9). 01-22-098, § 392-139-300, filed 11/6/01, effective 12/7/01. Statutory Authority: RCW 28A.41.170 and 84.52.0531(10). 89-23-121 (Order 18), § 392-139-300, filed 11/22/89, effective 12/23/89; 88-03-007 (Order 88-6), § 392-139-300, filed 1/8/88.]

#### **WAC 392-139-310 Determination of excess levy base.**

The superintendent of public instruction shall calculate each school district's excess levy base as provided in this section.

(1) Sum the following state and federal allocations for the prior school year:

(a) The basic education allocation as defined in WAC 392-139-115 and as reported on the August Report 1191;

(b) The state and federal categorical allocations for the following:

(i) Pupil transportation. Allocations for pupil transportation include allocations for the following accounts:

4199 Transportation - operations; and

4499 Transportation - depreciation.

(ii) Special education. Allocations for special education include allocations for the following accounts:

4121 Special education; and

6124 Special education supplemental.

(iii) Education of highly capable students. Allocations for education of highly capable students include allocations identified by account 4174 Highly capable.

(iv) Compensatory education. Allocations for compensatory education include allocations identified by the following accounts:

4155 Learning assistance;

4162 Better schools - staff;

4165 Transitional bilingual;

4166 Student achievement (2001-02 school year and thereafter);

6151 Remediation;

6153 Migrant;

6264 Bilingual (direct);

6267 Indian education - JOM;

6268 Indian education - ED; and

6367 Indian education - JOM.

(v) Food services. Allocations for food services include allocations identified by the following accounts:

4198 School food services (state);

6198 School food services (federal); and

6998 USDA commodities.

(vi) Statewide block grant programs. Allocations for statewide block grant programs include allocations identified by the following accounts:

4163 Better schools - professional development;

4175 Local education program enhancement (including student learning improvement allocations); and

6176 Targeted assistance.

(c) General federal programs. Allocations for general federal programs identified by the following accounts:

5200 General purpose direct federal grants - unassigned;

6100 Special purpose - OSPI - unassigned;

6121 Special education - Medicaid reimbursement;

6138 Secondary vocational education;

6146 Skills center;

6177 Eisenhower professional development;

6200 Direct special purpose grants; and

6300 Federal grants through other agencies - unassigned.

(2) Increase the result obtained in subsection (1) of this section by the percentage increase per full-time equivalent student in the state basic education appropriation between the prior school year and the current school year as stated in the state Operating Appropriations Act divided by 0.55.

(3) Revenue accounts referenced in this section are defined in the accounting manual for public school districts in the state of Washington, revised 2001.

(4) The dollar amount of revenues for state and federal categorical allocations identified in this section shall come from the following sources:

(a) The following state and federal categorical allocations are taken from the Report 1197 Column A (Annual Allotment Due):

4121 Special education;

4155 Learning assistance;

4162 Better schools - staff;

4163 Better schools - professional development;

4165 Transitional bilingual;

4166 Student achievement (2001-02 school year and thereafter);

4174 Highly capable;

4175 Local education program enhancement;

4198 School food services (state);

4199 Transportation - operations;

4499 Transportation - depreciation;

6121 Special education - Medicaid reimbursements;

6124 Special education - supplemental;

6138 Secondary vocational education;

6146 Skills center;

6151 Remediation;

6153 Migrant;

6176 Targeted assistance;

6177 Eisenhower professional development; and

6198 School food services (federal).

(b) The following state and federal allocations are taken from the F-195:

5200 General purpose direct federal grants - unassigned;

6100 Special purpose - OSPI - unassigned;

6200 Direct special purpose grants;

6264 Bilingual (direct);

6267 Indian education - JOM;

6268 Indian education - ED;

6300 Federal grants through other agencies - unassigned;

6367 Indian education - JOM; and

6998 USDA commodities.

(5) Effective for levy authority and local effort assistance calculations for 2003 and thereafter, allocations in subsections (4)(b) of this section shall be adjusted by the difference between actual and budgeted allocations for the school year before the prior school year calculated as follows:

(a) Sum actual revenues for these accounts from Report F-196; and

(b) Subtract final budgeted revenues for these accounts from Report F-195.

(6) State moneys generated by a school district's students and redirected by the superintendent of public instruction to an educational service district at the request of the school district shall be included in the district's levy base.

(7) State basic education moneys generated by a school district's students and allocated directly to a technical college shall be included in the district's levy base.

[Statutory Authority: RCW 28A.150.290(1) and 84.52.0531(9), 01-22-098, § 392-139-310, filed 11/6/01, effective 12/7/01. Statutory Authority: RCW 84.52.0531(9) and 28A.150.290. 00-09-017, § 392-139-310, filed 4/11/00, effective 5/12/00. Statutory Authority: RCW 84.52.0531(a) and 28A.150.290(2). 98-08-096 (Order 98-06), § 392-139-310, filed 4/1/98, effective 5/2/98. Statutory Authority: RCW 84.52.0531(10) and 28A.150.290. 96-19-037 (Order 96-13), § 392-139-310, filed 9/11/96, effective 10/12/96. Statutory Authority: RCW 28A.150.290(2) and 84.52.0531(10). 93-21-092 (Order 93-20), § 392-139-310, filed 10/20/93, effective 11/20/93; 92-19-124 (Order 92-07), § 392-139-310, filed 9/21/92, effective 10/22/92. Statutory Authority: RCW 28A.41.170 and 84.52.0531(10). 89-23-121 (Order 18), § 392-139-310, filed 11/22/89, effective 12/23/89; 88-03-007 (Order 88-6), § 392-139-310, filed 1/8/88.]

## Chapter 392-140 WAC

### FINANCE—SPECIAL ALLOCATIONS, INSTRUCTIONS, AND REQUIREMENTS

#### WAC

392-140-570	Repealed.
392-140-571	Repealed.
392-140-572	Repealed.
392-140-573	Repealed.
392-140-574	Repealed.
392-140-575	Repealed.
392-140-576	Repealed.
392-140-577	Repealed.
392-140-578	Repealed.
392-140-580	Repealed.
392-140-581	Repealed.
392-140-582	Repealed.
392-140-583	Repealed.
392-140-584	Repealed.
392-140-585	Repealed.
392-140-586	Repealed.
392-140-588	Repealed.
392-140-590	Repealed.
392-140-592	Repealed.
392-140-594	Repealed.
392-140-600	Special education safety net—Applicable provisions.
392-140-605	Special education safety net—Application types, certification, worksheets.
392-140-609	Special education safety net—Standards and criteria—Appropriate and properly and efficiently prepared and formulated IEPs.
392-140-613	Special education safety net—Standards and criteria—Percentage and other factors applications.
392-140-616	Special education safety net—Standards—High-cost individual student applications.
392-140-625	Special education safety net—Demonstration of percentage and other factors.
392-140-626	Special education safety net—Worksheet A—Demonstration of need.
392-140-660	Special education safety net—Approved application—Special education safety net allocations.
392-140-675	Special education safety net—Adjustments to special education safety net allocations.
392-140-800	Repealed.
392-140-802	Repealed.
392-140-804	Repealed.
392-140-806	Repealed.
392-140-808	Repealed.
392-140-810	Repealed.
392-140-812	Repealed.
392-140-814	Repealed.
392-140-816	Repealed.
392-140-818	Repealed.
392-140-820	Repealed.
392-140-822	Repealed.
392-140-824	Repealed.

392-140-826	Repealed.
392-140-828	Repealed.
392-140-830	Repealed.
392-140-832	Repealed.
392-140-834	Repealed.
392-140-836	Repealed.
392-140-903	K-4 Staff enhancement—Definitions.
392-140-920	Repealed.
392-140-922	Repealed.
392-140-924	Repealed.
392-140-925	Repealed.
392-140-926	Repealed.
392-140-927	Repealed.
392-140-928	Repealed.
392-140-929	Repealed.
392-140-930	Repealed.
392-140-935	Repealed.
392-140-937	Repealed.
392-140-938	Repealed.
392-140-956	Learning improvement days—Other definitions.

### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

392-140-570	1995-97 Local enhancement funding—Applicable provisions. [Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-570, filed 8/30/95, effective 9/30/95.] Repealed by 01-22-032, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
392-140-571	1995-97 Local enhancement funding—Definition—Student learning improvement block grants. [Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-571, filed 8/30/95, effective 9/30/95.] Repealed by 01-22-032, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
392-140-572	1995-97 Local enhancement funding—Definition—Other activities to improve student learning. [Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-572, filed 8/30/95, effective 9/30/95.] Repealed by 01-22-032, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
392-140-573	1995-97 Local enhancement funding—Definition—Local program enhancement block grants. [Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-573, filed 8/30/95, effective 9/30/95.] Repealed by 01-22-032, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
392-140-574	1995-97 Local enhancement funding—Definition—Essential academic learning requirements. [Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-574, filed 8/30/95, effective 9/30/95.] Repealed by 01-22-032, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
392-140-575	1995-97 Local enhancement funding—Definition—Assessment system. [Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-575, filed 8/30/95, effective 9/30/95.] Repealed by 01-22-032, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
392-140-576	1995-97 Local enhancement funding—Definition—Fiscal year. [Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-576, filed 8/30/95, effective 9/30/95.] Repealed by 01-22-032, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
392-140-577	1995-97 Local enhancement funding—Definition—School year. [Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-577, filed 8/30/95, effective 9/30/95.] Repealed by 01-22-032, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
392-140-578	1995-97 Local enhancement funding—Definition—School district. [Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-578, filed 8/30/95, effective 9/30/95.] Repealed by 01-22-032, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
392-140-580	1995-97 Local enhancement funding—Definition—Building plan. [Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-580, filed 8/30/95, effective 9/30/95.] Repealed by 01-22-032, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).

- 392-140-581 1995-97 Local enhancement funding—Definition—Annual performance report. [Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-581, filed 8/30/95, effective 9/30/95.] Repealed by 01-22-032, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
- 392-140-582 1995-97 Local enhancement funding—Definition—Allocation enrollment. [Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-582, filed 8/30/95, effective 9/30/95.] Repealed by 01-22-032, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
- 392-140-583 1995-97 Local enhancement funding—Definition—Form SPI 1129. [Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-583, filed 8/30/95, effective 9/30/95.] Repealed by 01-22-032, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
- 392-140-584 1995-97 Local enhancement funding—Definition—Enrolled as a Medicaid service provider. [Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-584, filed 8/30/95, effective 9/30/95.] Repealed by 01-22-032, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
- 392-140-585 1995-97 Local enhancement funding—Definition—Actively pursuing federal matching funds for medical services provided through special education programs. [Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-585, filed 8/30/95, effective 9/30/95.] Repealed by 01-22-032, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
- 392-140-586 1995-97 Local enhancement funding—Conditions of receipt of moneys. [Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-586, filed 8/30/95, effective 9/30/95.] Repealed by 01-22-032, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
- 392-140-588 1995-97 Local enhancement funding—Allocation of moneys. [Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-588, filed 8/30/95, effective 9/30/95.] Repealed by 01-22-032, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
- 392-140-590 1995-97 Local enhancement funding—Conditions and limitations on expenditures. [Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-590, filed 8/30/95, effective 9/30/95.] Repealed by 01-22-032, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
- 392-140-592 1995-97 Local enhancement funding—School district reporting. [Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-592, filed 8/30/95, effective 9/30/95.] Repealed by 01-22-032, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
- 392-140-594 1995-97 Local enhancement funding—Recovery of moneys. [Statutory Authority: RCW 28A.150.400. 95-18-051 (Order 95-05), § 392-140-594, filed 8/30/95, effective 9/30/95.] Repealed by 01-22-032, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
- 392-140-800 1997-99 Local enhancement funds—Applicable provisions. [Statutory Authority: 1997-1999 State Operating Appropriation Act. 98-04-080 (Order 98-01), § 392-140-800, filed 2/4/98, effective 3/7/98.] Repealed by 01-22-033, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
- 392-140-802 1997-99 Local enhancement funds—Definition—Learning improvement allocations. [Statutory Authority: 1997-1999 State Operating Appropriation Act. 98-04-080 (Order 98-01), § 392-140-802, filed 2/4/98, effective 3/7/98.] Repealed by 01-22-033, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
- 392-140-804 1997-99 Local enhancement funds—Definition—Local education program enhancement. [Statutory Authority: 1997-1999 State Operating Appropriation Act. 98-04-080 (Order 98-01), § 392-140-804, filed 2/4/98, effective 3/7/98.] Repealed by 01-22-033, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
- 392-140-806 1997-99 Local enhancement funds—Definition—Essential academic learning requirements. [Statutory Authority: 1997-1999 State Operating Appropriation Act. 98-04-080 (Order 98-01), § 392-140-806, filed 2/4/98, effective 3/7/98.] Repealed by 01-22-033, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
- 392-140-808 1997-99 Local enhancement funds—Definition—Assessment system. [Statutory Authority: 1997-1999 State Operating Appropriation Act. 98-04-080 (Order 98-01), § 392-140-808, filed 2/4/98, effective 3/7/98.] Repealed by 01-22-033, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
- 392-140-810 1997-99 Local enhancement funds—Definition—School year. [Statutory Authority: 1997-1999 State Operating Appropriation Act. 98-04-080 (Order 98-01), § 392-140-810, filed 2/4/98, effective 3/7/98.] Repealed by 01-22-033, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
- 392-140-812 1997-99 Local enhancement funds—Definition—School district. [Statutory Authority: 1997-1999 State Operating Appropriation Act. 98-04-080 (Order 98-01), § 392-140-812, filed 2/4/98, effective 3/7/98.] Repealed by 01-22-033, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
- 392-140-814 1997-99 Local enhancement funds—Definition—Student learning improvement plan. [Statutory Authority: 1997-1999 State Operating Appropriation Act. 98-04-080 (Order 98-01), § 392-140-814, filed 2/4/98, effective 3/7/98.] Repealed by 01-22-033, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
- 392-140-816 1997-99 Local enhancement funds—Definition—Annual performance report. [Statutory Authority: 1997-1999 State Operating Appropriation Act. 98-04-080 (Order 98-01), § 392-140-816, filed 2/4/98, effective 3/7/98.] Repealed by 01-22-033, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
- 392-140-818 1997-99 Local enhancement funds—Definition—Enrolled as a Medicaid service provider. [Statutory Authority: 1997-1999 State Operating Appropriation Act. 98-04-080 (Order 98-01), § 392-140-818, filed 2/4/98, effective 3/7/98.] Repealed by 01-22-033, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
- 392-140-820 1997-99 Local enhancement funds—Actively pursuing federal matching funds for medical services provided through special education programs. [Statutory Authority: 1997-1999 State Operating Appropriation Act. 98-04-080 (Order 98-01), § 392-140-820, filed 2/4/98, effective 3/7/98.] Repealed by 01-22-033, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
- 392-140-822 1997-99 Local enhancement funds—Filing truancy petitions as required under RCW 28A.225.030. [Statutory Authority: 1997-1999 State Operating Appropriation Act. 98-04-080 (Order 98-01), § 392-140-822, filed 2/4/98, effective 3/7/98.] Repealed by 01-22-033, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
- 392-140-824 1997-99 Local enhancement funds—Conditions on receipt of moneys. [Statutory Authority: 1997-1999 State Operating Appropriation Act. 98-04-080 (Order 98-01), § 392-140-824, filed 2/4/98, effective 3/7/98.] Repealed by 01-22-033, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
- 392-140-826 1997-99 Local enhancement funds—Definition—Allocation enrollment. [Statutory Authority: 1997-1999 State Operating Appropriation Act. 98-04-080 (Order 98-01), § 392-140-826, filed 2/4/98, effective 3/7/98.] Repealed by 01-22-033, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
- 392-140-828 1997-99 Local enhancement funds—Allocation of moneys. [Statutory Authority: 1997-1999 State Operating Appropriation Act. 98-04-080 (Order 98-01), § 392-140-828, filed 2/4/98, effective 3/7/98.] Repealed by 01-22-033, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
- 392-140-830 1997-99 Local enhancement funds—Allocations of moneys for remote and necessary schools and school districts enrolling fewer than one-hundred annual average full-time equivalent students. [Statutory Authority: 1997-1999 State Operating Appropriation Act. 98-04-080 (Order 98-01), § 392-140-830, filed 2/4/98, effective 3/7/98.] Repealed by 01-22-033, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).

- effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
- 392-140-832 1997-99 Local enhancement funds—Allocation of monies—A distribution formula to districts. [Statutory Authority: 1997-1999 State Operating Appropriation Act. 98-04-080 (Order 98-01), § 392-140-832, filed 2/4/98, effective 3/7/98.] Repealed by 01-22-033, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
- 392-140-834 1997-99 Local enhancement funds—Conditions and limitations on expenditures. [Statutory Authority: 1997-1999 State Operating Appropriation Act. 98-04-080 (Order 98-01), § 392-140-834, filed 2/4/98, effective 3/7/98.] Repealed by 01-22-033, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
- 392-140-836 1997-99 Local enhancement funds—School district reporting. [Statutory Authority: 1997-1999 State Operating Appropriation Act. 98-04-080 (Order 98-01), § 392-140-836, filed 2/4/98, effective 3/7/98.] Repealed by 01-22-033, filed 10/30/01, effective 11/30/01. Statutory Authority: RCW 28A.150.290(1).
- 392-140-920 Better schools—Staff—Applicable provisions—Authority—Purpose. [Statutory Authority: RCW 28A.150.290. 00-22-009, § 392-140-920, filed 10/20/00, effective 10/20/00.] Repealed by 01-22-030, filed 10/30/01, effective 2/1/02. Statutory Authority: RCW 28A.150.290(1).
- 392-140-922 Better schools—Staff—Definitions. [Statutory Authority: RCW 28A.150.290. 00-22-009, § 392-140-922, filed 10/20/00, effective 10/20/00.] Repealed by 01-22-030, filed 10/30/01, effective 2/1/02. Statutory Authority: RCW 28A.150.290(1).
- 392-140-924 Better schools—Staff—School district reporting. [Statutory Authority: RCW 28A.150.290. 00-22-009, § 392-140-924, filed 10/20/00, effective 10/20/00.] Repealed by 01-22-030, filed 10/30/01, effective 2/1/02. Statutory Authority: RCW 28A.150.290(1).
- 392-140-925 Better schools—Staff—Calculation of district K-4 better schools staff ratio. [Statutory Authority: RCW 28A.150.290. 00-22-009, § 392-140-925, filed 10/20/00, effective 10/20/00.] Repealed by 01-22-030, filed 10/30/01, effective 2/1/02. Statutory Authority: RCW 28A.150.290(1).
- 392-140-926 Better schools—Staff—Calculation of district combined K-4 staff ratio. [Statutory Authority: RCW 28A.150.290. 00-22-009, § 392-140-926, filed 10/20/00, effective 10/20/00.] Repealed by 01-22-030, filed 10/30/01, effective 2/1/02. Statutory Authority: RCW 28A.150.290(1).
- 392-140-927 Better schools—Staff—Calculation of district state-funded better schools staff ratio. [Statutory Authority: RCW 28A.150.290. 00-22-009, § 392-140-927, filed 10/20/00, effective 10/20/00.] Repealed by 01-22-030, filed 10/30/01, effective 2/1/02. Statutory Authority: RCW 28A.150.290(1).
- 392-140-928 Better schools—Staff—Request for adjustment of the district state-funded better schools staff ratio. [Statutory Authority: RCW 28A.150.290. 00-22-009, § 392-140-928, filed 10/20/00, effective 10/20/00.] Repealed by 01-22-030, filed 10/30/01, effective 2/1/02. Statutory Authority: RCW 28A.150.290(1).
- 392-140-929 Better schools—Staff—Calculation of the better schools staff allocation. [Statutory Authority: RCW 28A.150.290. 00-22-009, § 392-140-929, filed 10/20/00, effective 10/20/00.] Repealed by 01-22-030, filed 10/30/01, effective 2/1/02. Statutory Authority: RCW 28A.150.290(1).
- 392-140-930 Better schools—Staff—Reporting by the superintendent of public instruction. [Statutory Authority: RCW 28A.150.290. 00-22-009, § 392-140-930, filed 10/20/00, effective 10/20/00.] Repealed by 01-22-030, filed 10/30/01, effective 2/1/02. Statutory Authority: RCW 28A.150.290(1).
- 392-140-935 Better schools—Professional development—Applicable provisions—Authority—Purpose. [Statutory Authority: RCW 28A.150.290. 00-22-009, § 392-140-935, filed 10/20/00, effective 10/20/00.] Repealed by 01-22-030, filed 10/30/01, effective 2/1/02. Statutory Authority: RCW 28A.150.290(1).
- 392-140-937 Better schools—Professional development—Better schools professional development allocations. [Statutory Authority: RCW 28A.150.290. 00-22-009, § 392-140-937, filed 10/20/00, effective 10/20/00.] Repealed by 01-22-030, filed 10/30/01, effective 2/1/02. Statutory Authority: RCW 28A.150.290(1).
- 392-140-938 Better schools—Professional development—School district certification. [Statutory Authority: RCW 28A.150.290. 00-22-009, § 392-140-938, filed 10/20/00, effective 10/20/00.] Repealed by 01-22-030, filed 10/30/01, effective 2/1/02. Statutory Authority: RCW 28A.150.290(1).
- WAC 392-140-570 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 392-140-571 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 392-140-572 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 392-140-573 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 392-140-574 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 392-140-575 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 392-140-576 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 392-140-577 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 392-140-578 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 392-140-580 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 392-140-581 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 392-140-582 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 392-140-583 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 392-140-584 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 392-140-585 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 392-140-586 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 392-140-588 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-140-590 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-140-592 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-140-594 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-140-600 Special education safety net—Applicable provisions.** The provisions of WAC 392-140-600 through 392-140-685 apply to the determination of safety net allocations of state special education moneys and Individuals with Disabilities Education Act (IDEA) federal discretionary moneys for the 2000-01 school year and thereafter.

[Statutory Authority: RCW 28A.150.290. 01-04-023, § 392-140-600, filed 1/30/01, effective 1/30/01. Statutory Authority: RCW 28A.150.290(2) and 1999 c 309 § 507(7). 00-03-015, § 392-140-600, filed 1/7/00, effective 2/7/00. Statutory Authority: RCW 28A.150.290 and 1995 2nd sp.s. c 18 as modified by 1996 c 283. 96-19-095 (Order 96-15), § 392-140-600, filed 9/18/96, effective 10/19/96.]

**WAC 392-140-605 Special education safety net—Application types, certification, worksheets.** Application for safety net funding shall be made on Form SPI 1381 - Maintenance or Form SPI 1381 - Certification published by the superintendent of public instruction as follows:

(1) School districts may make application for safety net funding on one or more of the four application types described below. Applications will be considered and awards made in the order shown until the district's eligibility is exhausted.

(a) Maintenance of effort (state revenue only) hereafter referred to as MOESR. State safety net funding may be requested when a district shows a MOESR loss calculated by the superintendent of public instruction pursuant to WAC 392-140-620.

(b) Students above the funded percentage hereafter referred to as percentage. State safety net funding may be requested if district's actual resident special education enrollment exceeds the district's funded resident special education enrollment, the district is implementing a plan of action to contain or eliminate any unnecessary, duplicative, or ineffective enrollment practices, and all available funding, including state, federal, and local if provided in the past, is insufficient to meet the expenditure level necessary for special education.

(c) High-cost individual student. A school district may submit applications for federal safety net funding for high-cost individual students meeting the standards in WAC 392-140-616.

(d) Factors other than students above the funded level or high-cost individual students hereafter referred to as other factors. State safety net funding may be requested by a school district with unfunded special education costs due to factors beyond the district's control and not attributable to district philosophy or service delivery style. The applicant district must meet standards of WAC 392-140-613 and 392-140-625.

(2) The school district making application for safety net funding shall certify that:

(a) The application complies with the respective safety net application standards of WAC 392-140-610, 392-140-613, or 392-140-616;

(b) The application provides true and complete information to the best of the school district's knowledge; and

(c) The district understands that safety net funding is not an entitlement, is subject to adjustment and recovery, may not be available in future years, state safety net funding must be expended in program 21 which impacts the amount that must be maintained for the federal maintenance of effort test, and federal safety net funding must be expended in program 24, and federal Medicaid has been billed for all services to eligible students.

(3) Worksheets included with the application shall demonstrate the need for safety net funding. School districts are encouraged and may be required to submit additional information designed to assist the state oversight committee in analyzing the application.

(a) MOESR applications pursuant to subsection (1)(a) of this section do not require any worksheets. Applications for MOESR shall include certification of standards and criteria described in WAC 392-140-610.

(b) Percentage applications pursuant to subsection (1)(b) of this section require completion of worksheet "A" described in WAC 392-140-625, certification of standards and criteria pursuant to WAC 392-140-613 and percentage application narrative.

(c) High-cost individual student applications shall include worksheets "A" and "C" and summary published in the safety net application, and certification of standards and criteria pursuant to WAC 392-140-616.

(d) Other factors applications pursuant to subsection (1)(d) of this section require completion of application narrative, worksheet "A" described in WAC 392-140-625, and certification of standards and criteria described in WAC 392-140-613.

[Statutory Authority: RCW 28A.150.290. 01-04-023, § 392-140-605, filed 1/30/01, effective 1/30/01. Statutory Authority: RCW 28A.150.290(2) and 1999 c 309 § 507(7). 00-03-015, § 392-140-605, filed 1/7/00, effective 2/7/00. Statutory Authority: RCW 28A.150.290 and 1997 c 149 § 507(8). 98-08-013 (Order 98-05), § 392-140-605, filed 3/18/98, effective 4/18/98. Statutory Authority: RCW 28A.150.290 and 1995 2nd sp.s. c 18 as modified by 1996 c 283. 96-19-095 (Order 96-15), § 392-140-605, filed 9/18/96, effective 10/19/96.]

**WAC 392-140-609 Special education safety net—Standards and criteria—Appropriate and properly and efficiently prepared and formulated IEPs.** Individualized education programs (IEPs) which are appropriate, properly and efficiently prepared and formulated are those IEPs that meet all of the following criteria:

(1) The IEPs comply with federal and state procedural requirements.

(2) The delivery of specially designed instruction complies with state standards (regularly scheduled teaching or training activities provided or designed by special education qualified staff).

(3) Areas for the provision of special education services conform with areas of need identified in the students evaluation made pursuant to WAC 392-172-111.

(4) The state oversight committee determines:



(a) There are no unresolved state audit examination findings related to special education which are material in nature;

(b) There are no unresolved state child count verification findings which are material in nature; and

(c) All corrections to state enrollment reporting, required for resolution of (a) and (b) of this subsection, are completed.

[Statutory Authority: RCW 28A.150.290. 01-04-023, § 392-140-609, filed 1/30/01, effective 1/30/01. Statutory Authority: RCW 28A.150.290 and 1995 2nd sp.s. c 18 as modified by 1996 c 283. 96-19-095 (Order 96-15), § 392-140-609, filed 9/18/96, effective 10/19/96.]

**WAC 392-140-613 Special education safety net—Standards and criteria—Percentage and other factors applications.** For a school district requesting state safety net funding due to students above the funded percentage or other factors, the district shall demonstrate at a minimum that:

(1) IEPs are appropriate and are properly and efficiently prepared and formulated.

(2) The district is making reasonable effort to provide appropriate services for students in need of special education utilizing state funding generated by the basic education apportionment and special education funding formulas.

(3) The district's special education services are operated in a reasonably efficient manner and the district has adopted a plan of action to contain or eliminate any unnecessary, duplicative, or inefficient practices.

(4) Indirect costs included for purposes of determining safety net allocations do not exceed the allowable percent for the federal special education program plus one percent.

(5) Any available federal funding is insufficient to address the additional needs.

(6) The costs of any supplemental contracts are not included for purposes of determining safety net allocations. Supplemental contracts are those contracts made pursuant to RCW 28A.400.200(4) excluding extended school year contracts (ESY) required by an IEP.

(7) The costs of any summer school instruction are not included for purposes of making safety net determinations excluding extended school year contracts (ESY) required by an IEP.

[Statutory Authority: RCW 28A.150.290. 01-04-023, § 392-140-613, filed 1/30/01, effective 1/30/01. Statutory Authority: RCW 28A.150.290(2) and 1999 c 309 § 507(7). 00-03-015, § 392-140-613, filed 1/7/00, effective 2/7/00. Statutory Authority: RCW 28A.150.290 and 1995 2nd sp.s. c 18 as modified by 1996 c 283. 96-19-095 (Order 96-15), § 392-140-613, filed 9/18/96, effective 10/19/96.]

**WAC 392-140-616 Special education safety net—Standards—High-cost individual student applications.** For districts requesting safety net funding to meet the extraordinary needs of an eligible high-cost individual special education student, the district shall demonstrate at a minimum that:

(1) The IEP for the eligible special education student is appropriate, and properly and efficiently prepared and formulated.

(2) All of the following criteria apply to the high-cost individual student:

(a) Costs eligible for safety net consideration must be direct expenditures for services required in the IEP.

(b) In order to deliver appropriate special education to the student, the district must be providing services which incur additional costs which exceed available district annual average per-pupil revenues, including state, federal and local revenues, by seven thousand dollars. This threshold amount shall be adjusted pro rata for students not counted or expected to be counted for special education services on all eight enrollment count dates (October through May). For example, for a student served and reported for only six of the eight count dates, the threshold amount shall be reduced to three-quarters of the full amount. The state safety net oversight committee may set a lower threshold for small school districts.

(c) The total cost of educational services must exceed any carryover of federal flow-through special education funding as of August 31 of the prior school year.

(d) The cost of providing special education services, as directed in the IEP, for this student would be detrimental to the school district's ability to provide necessary services to the other students being provided special education in the district.

(3) The state safety net oversight committee shall adapt the high cost individual student application as appropriate for applications prepared by the Washington state school for the blind and the Washington state school for the deaf.

[Statutory Authority: RCW 28A.150.290. 01-04-023, § 392-140-616, filed 1/30/01, effective 1/30/01. Statutory Authority: RCW 28A.150.290 and 1997 c 149 § 507(8). 98-08-013 (Order 98-05), § 392-140-616, filed 3/18/98, effective 4/18/98. Statutory Authority: RCW 28A.150.290 and 1995 2nd sp.s. c 18 as modified by 1996 c 283. 96-19-095 (Order 96-15), § 392-140-616, filed 9/18/96, effective 10/19/96.]

**WAC 392-140-625 Special education safety net—Demonstration of percentage and other factors.** Applications for percentage or other factors shall demonstrate need for safety net funding as follows:

(1) Applications from districts with actual enrollment greater than funded enrollment pursuant to WAC 392-140-605 (1)(b) must demonstrate, through the application narrative, that the district is implementing a plan of action to contain or eliminate any unnecessary, duplicative, or ineffective enrollment practices. The district shall demonstrate a financial need on worksheet "A" of the application. Applicants shall cooperate with the special education program audit team and shall provide the team with any information required by the team to review and verify certifications made on the safety net application.

(a) The application narrative completed by the school district shall provide any information and explanations related to students above the funded percentage as required in the published instructions.

(b) Application worksheet "A" shall demonstrate a financial need by displaying the school district's special education expenditures, revenues, and special education enrollments for the prior and current school years.

(c) Cost differences between the current and prior school years shall be explained in the application narrative. The application narrative shall detail cost differences in services to students which occurred between the current school year and the prior school year. Such details shall include costs and savings associated with each change in services.

(d) A fiscal need shall be demonstrated through the application narrative, on application worksheet "A" and other information available to the state oversight committee.

(2) Applications for other factors pursuant to WAC 392-140-605 (1)(d) must demonstrate, through application narrative and on application worksheet "A," financial need caused by factors other than the presence of students above the funded percentage or high-cost individual student(s).

(a) The narrative shall identify causal factors beyond the district's control and not attributable to the district philosophy or service delivery style, and:

- (i) Outline each causal factor asserted in the application;
- (ii) Provide a clear explanation of the impact of each factor to the district in terms of number and/or severity of students;
- (iii) Quantify the safety net funding need due to the factor. Show the assumptions and calculations used to arrive at the dollar amount of unfunded costs attributable to each factor.

(b) Provide a copy or explanation of any action plan the district has adopted to contain or eliminate any unnecessary, duplicative, or inefficient practices pursuant to WAC 392-140-613.

(c) If the district received an award in a prior year, describe the program, prior year costs, and compare and contrast to the current year program and costs.

[Statutory Authority: RCW 28A.150.290. 01-04-023, § 392-140-625, filed 1/30/01, effective 1/30/01. Statutory Authority: RCW 28A.150.290(2) and 1999 c 309 § 507(7). 00-03-015, § 392-140-625, filed 1/7/00, effective 2/7/00. Statutory Authority: RCW 28A.150.290 and 1997 c 149 § 507(8). 98-08-013 (Order 98-05), § 392-140-625, filed 3/18/98, effective 4/18/98. Statutory Authority: RCW 28A.150.290 and 1995 2nd sp.s. c 18 as modified by 1996 c 283. 96-19-095 (Order 96-15), § 392-140-625, filed 9/18/96, effective 10/19/96.]

**WAC 392-140-626 Special education safety net—Worksheet A—Demonstration of need.** Applications for percentage, high cost individual students, and other factors shall demonstrate financial need as follows:

(1) Application worksheet "A" shall demonstrate a fiscal need in excess of:

- (a) The district's maximum eligibility for MOESR;
- (b) Any previous safety net awards for the current school year; and
- (c) All other available revenue for special education, including all carryover of federal special education revenue.

(2) Awards shall not exceed the amount of need demonstrated on the worksheet "A."

(3) Worksheets submitted with safety net applications are to reflect the state adopted excess cost method of accounting, consistently applied for both years presented.

(4) The safety net oversight committee may revise the district's worksheet "A" submitted for errors or omissions.

(5) The school district shall provide additional information as requested by the state oversight committee.

(6) After the close of the school year, the safety net oversight committee may review the worksheet "A" used to determine need for a district's award against the actual final school year enrollments, revenues, and expenditures reported by the district. Based upon the results of this review:

(a) The safety net allocation for the school year may be adjusted or recovered; or

(b) If the committee finds that a portion of the safety net allocation was not needed to balance revenues and expenditures, the committee may consider that portion of the allocation available to meet the needs of the ensuing school year.

[Statutory Authority: RCW 28A.150.290. 01-04-023, § 392-140-626, filed 1/30/01, effective 1/30/01. Statutory Authority: RCW 28A.150.290(2) and 1999 c 309 § 507(7). 00-03-015, § 392-140-626, filed 1/7/00, effective 2/7/00.]

**WAC 392-140-660 Special education safety net—Approved application—Special education safety net allocations.** The total amount allocated to school districts may not exceed the authorized appropriation.

(1) The special education safety net allocation shall be the smaller of:

- (a) The amount requested by the school district; or
- (b) The amount authorized by the state oversight committee.

(2) If the district requests and the oversight committee approves the "full" allocation permitted by a state formula, then the allocation shall be adjusted periodically during the year and again in January after the close of the school year to reflect the amount determined under the formula.

(3) Special education safety net allocations of state moneys for percentage and other factors applicants under WAC 392-140-605 (1)(b) and (d) shall be prorated if total year-to-date state allocations for all safety net applications under WAC 392-140-605 (1)(a), (b), and (d) exceed the authorized appropriation for that school year.

(4) Special education safety net allocations for high-cost individual students under WAC 392-140-605 (1)(c) shall use appropriated federal moneys. If safety net awards to meet the extraordinary needs of one or more individual special education students exceed the general fund—federal appropriation, the superintendent shall expend all available federal discretionary funds necessary to meet this need. General fund—state funds shall not be expended for this purpose.

[Statutory Authority: RCW 28A.150.290. 01-04-023, § 392-140-660, filed 1/30/01, effective 1/30/01. Statutory Authority: RCW 28A.150.290(2) and 1999 c 309 § 507(7). 00-03-015, § 392-140-660, filed 1/7/00, effective 2/7/00. Statutory Authority: RCW 28A.150.290 and 1997 c 149 § 507(8). 98-08-013 (Order 98-05), § 392-140-660, filed 3/18/98, effective 4/18/98. Statutory Authority: RCW 28A.150.290 and 1995 2nd sp.s. c 18 as modified by 1996 c 283. 96-19-095 (Order 96-15), § 392-140-660, filed 9/18/96, effective 10/19/96.]

**WAC 392-140-675 Special education safety net—Adjustments to special education safety net allocations.** Safety net allocations may be adjusted as follows:

(1) For those districts not maximizing Medicaid billing for special education students under RCW 74.09.5255, special education safety net allocations shall be reduced by the estimated potential additional incentive payments for the school year if the district maximized Medicaid incentive payments. Potential additional incentive payments shall be estimated by the superintendent of public instruction based on the district's percent of Medicaid eligible students billed and a statewide average incentive payment per student determined by the superintendent in October of the school year.

The average incentive payment per student shall be determined using the prior school year's statewide Medicaid billing data assuming fifty percent incentive payments for all school districts. The superintendent of public instruction shall update Medicaid billing adjustments to safety net allocations periodically during the school year and again in January following the close of the school year.

(2) Special education safety net allocations for a school district may be adjusted to reflect changes in factors for which additional or revised information becomes available after the awarding of the initial safety net allocation. This means:

(a) MOESR awards for the "full" amount shall be increased, reduced, or nullified when a recalculation pursuant to WAC 392-140-620 results in a change in the amount previously calculated pursuant to WAC 392-140-620.

(b) Percentage awards for the full amount under WAC 392-140-605 (1)(b) shall be increased, reduced, or nullified when the district's enrollment or state funding factors change.

(c) Percentage and other factors awards may be reduced or nullified when the school district's actual revenues and expenditures for the school year differ significantly from the estimates on which the initial safety net award was based.

(d) A school district's safety net award may be adjusted by the safety net oversight committee based on the results of the review conducted by the special education program audit team pursuant to WAC 392-140-630.

(3) Allocations of state moneys under WAC 392-140-605 (1)(b) and (d) shall be prorated if total state allocations for all safety net applications under WAC 392-140-605 (1)(a), (b), and (d) exceed the authorized appropriation for that school year. Allocations shall be restored to full funding if additional appropriation authority becomes available.

[Statutory Authority: RCW 28A.150.290, 01-04-023, § 392-140-675, filed 1/30/01, effective 1/30/01. Statutory Authority: RCW 28A.150.290(2) and 1999 c 309 § 507(7), 00-03-015, § 392-140-675, filed 1/7/00, effective 2/7/00. Statutory Authority: RCW 28A.150.290 and 1997 c 149 § 507(8), 98-08-013 (Order 98-05), § 392-140-675, filed 3/18/98, effective 4/18/98. Statutory Authority: RCW 28A.150.290 and 1995 2nd sp.s. c 18 as modified by 1996 c 283, 96-19-095 (Order 96-15), § 392-140-675, filed 9/18/96, effective 10/19/96.]

**WAC 392-140-800 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-140-802 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-140-804 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-140-806 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-140-808 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-140-810 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-140-812 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-140-814 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-140-816 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-140-818 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-140-820 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-140-822 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-140-824 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-140-826 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-140-828 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-140-830 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-140-832 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-140-834 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-140-836 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-140-903 K-4 Staff enhancement—Definitions.** As used in WAC 392-140-900 through 392-140-913:

(1) "Report S-275" means the school district personnel report as defined in WAC 392-121-225.

(2) "Form SPI 1158" means the form provided by the superintendent of public instruction on which school districts report supplemental K-12 full-time equivalent (FTE) staff and/or supplemental K-4 FTE staff for the school year.

(3) "Report 1159" means the report produced by the superintendent of public instruction displaying the calculations of K-4 certificated instructional staffing and K-4 apportionment ratios and other information as necessary.

(4) "Form SPI 1160" means the form provided by the superintendent of public instruction on which school districts may select the period of enrollment the superintendent of public instruction shall use to calculate staffing ratios.

(5) "Form SPI 1230" means the form provided by the superintendent of public instruction on which school districts have the option of reporting 1989-90 FTE K-3 basic educa-

tion classified instructional assistants pursuant to WAC 392-140-716 and 392-140-745.

(6) "Form SPI 1230K-4" means the form provided by the superintendent of public instruction on which school districts have the option of reporting 1989-90 FTE K-4 basic education classified instructional assistants after September 1, 1999.

(7) "FTE K-4 basic education enrollment" means the school district's K-4 full-time equivalent enrollment reported for basic education funding pursuant to WAC 392-121-122 for the month of October or such other period selected by the district on optional Form SPI 1160.

(8) "FTE basic education certificated instructional employee" means the FTE calculated pursuant to WAC 392-121-215 for a basic education 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*:

- (a) Basic education, program 01;
- (b) Vocational, basic, state, program 31;
- (c) Skills center, basic, state, program 45; and
- (d) District-wide support, program 97.

(9) "FTE K-4 basic education certificated instructional employee" means for a FTE basic education certificated instructional employee the following:

(a) If the basic education certificated instructional employee serves only K-4 students, one hundred percent of the FTE assigned to basic education; or

(b) If the basic education certificated instructional employee serves K-4 students and students of one or more other grades, multiply the FTE assigned to basic education by:

- (i) The proportion of time spent serving K-4 students to all time serving students;
- (ii) The proportion of K-4 students served to all students served; or
- (iii) Any combination of (i) or (ii) of this subsection as appropriate.

(10) "FTE K-4 basic education certificated instructional staff" means the sum of FTE K-4 basic education certificated instructional employees for a school district.

(11) "Basic education classified instructional assistant" means a person who is assigned in whole or in part to:

- (a) Program 01 - basic education; 31 - vocational, basic, state; or 45 - skills center, basic, state; and
- (b) Activity 27 - teaching; and
- (c) Duty 910 - aide.

(12) "Basic education classified instructional assistant FTE" means the number determined for a basic education classified instructional assistant as follows:

(a) Determine the hours per year that the employee is assigned as a basic education classified instructional assistant; and

(b) Divide by 2080.

(13) "District FTE K-4 basic education classified instructional assistants" means the sum of a school district's FTE K-4 basic education classified instructional assistants.

(a) If the basic education classified instructional assistant serves only K-4 students, one hundred percent of the FTE determined pursuant to WAC 392-140-903(12).

(b) If the basic education classified instructional assistant serves K-4 students and students of one or more other grades, multiply the FTE determined pursuant to WAC 392-140-903(12) by:

(i) The proportion of time spent serving K-4 students to all time serving students;

(ii) The proportion of K-4 students served to all students served; or

(iii) Any combination of (b)(i) or (ii) of this subsection as appropriate.

(14) "Actual average salary for basic education classified instructional assistants" means the dollar amount determined for a school district for a school year as follows:

(a) For each basic education certificated instructional assistant reported on Report S-275 determine the assignment salary reported;

(b) Sum the dollar amounts determined pursuant to (a) of this subsection; and

(c) Divide the result of (b) of this subsection by the sum of the school district's FTE basic education classified instructional assistants as reported on Report S-275.

[Statutory Authority: RCW 28A.150.290 [28A.150.290], 28A.505.140. 01-08-048, § 392-140-903, filed 3/30/01, effective 4/30/01. Statutory Authority: RCW 28A.150.290(2) and 1999 c 309 § 502 (2)(a)(iii). 00-02-063, § 392-140-903, filed 1/3/00, effective 2/3/00.]

**WAC 392-140-920 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-140-922 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-140-924 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-140-925 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-140-926 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-140-927 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-140-928 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-140-929 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-140-930 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-140-935 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-140-937 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-140-938 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-140-956 Learning improvement days—Other definitions.** As used in WAC 392-140-950 through 392-140-967:

(1) "Certificated instructional staff" means district certificated instructional employees and contractor certificated instructional employees as defined in WAC 392-121-205 and 392-121-206.

(2) "Base contract" means a contract protected by the continuing contract law, RCW 28A.405.300. The base contract does not include hours or compensation provided under a supplemental contract as defined in RCW 28A.400.200.

(3) "Number of days in the base contract" means the number of full work days in the school year for a full-time certificated instructional employee holding the position for the full school year. Days include paid leave. The number of hours in a full work day is determined by each school district. Days scheduled before September 1 can be counted in the school year if included and compensated in the base contract for the school year beginning September 1.

(4) "Selected state-funded programs" means the following programs as defined in the *Accounting Manual for Public School Districts in the State of Washington*:

- 01 Basic Education
  - 21 Special Education-Supplemental-State
  - 31 Vocational-Basic-State
  - 45 Skills Center-Basic-State
  - 55 Learning Assistance Program-State
  - 65 Transitional Bilingual-State
  - 74 Highly Capable
  - 97 District-wide Support
- (5) "State institutional education programs" means the following programs:
- 26 Special Education-Institutions-State
  - 56 State Institutions, Centers, and Homes-Delinquent

[Statutory Authority: RCW 28A.150.290 [28A.150.290], 28A.505.140. 01-08-048, § 392-140-956, filed 3/30/01, effective 4/30/01. Statutory Authority: RCW 28A.150.290(2) and 1999 c 309 § 503(7). 99-20-021 (Order 98-07), § 392-140-956, filed 9/28/99, effective 9/29/99.]

### Chapter 392-142 WAC

#### TRANSPORTATION—REPLACEMENT AND DEPRECIATION ALLOCATION

##### WAC

392-142-155

Definition—School bus categories for those buses purchased after September 1, 1982.

**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 24	Gas		8	A-1
(2)	10 to 24	Diesel	Automatic	8	A-1
(3)	10 to 34	Gas	Automatic	8	A-2
(4)	10 to 34	Diesel	Automatic	8	A-2

	Student Capacity	Fuel Type	Transmission Type	Useful Life	Bus Type
(5)	10 to 34	Gas	Automatic	8	B
(6)	10 to 34	Diesel	Automatic	8	B
(7)	35 to 48	Diesel	Automatic	13	C
(8)	35 to 48	Diesel	Automatic	13	D
(9)	49 to 60	Diesel	Automatic	13	C
(10)	49 to 60	Diesel	Automatic	13	D
(11)	61 to 77	Diesel	Automatic	13	C
(12)	61 to 84	Diesel	Automatic	13	D
(13)	Heavy 78 to 84	Diesel	Automatic	18	D
(14)	Heavy 85 to 90	Diesel	Automatic	18	D

[Statutory Authority: RCW 28A.150.290. 01-17-005, § 392-142-155, filed 8/1/01, effective 9/1/01; 97-17-042 (Order 97-02), § 392-142-155, filed 8/14/97, effective 9/15/97. Statutory Authority: 1996 c 283. 96-16-011 (Order 96-10), § 392-142-155, filed 7/25/96, effective 8/25/96. 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.]

### Chapter 392-143 WAC

#### TRANSPORTATION—SPECIFICATIONS FOR SCHOOL BUSES

##### WAC

392-143-010

Definitions.

**WAC 392-143-010 Definitions.** As used in this chapter and subject to the "school bus specifications," as now or hereafter established by the superintendent of public instruction, the term:

(1) "School bus" shall mean every vehicle with a seating capacity of more than ten persons including the driver regularly used to transport students to and from school or in connection with school activities.

(2) A Type "A" school bus shall mean a conversion or body constructed upon a van-type or cutaway front-section vehicle with a left side driver's door designed for carrying more than ten persons. This definition shall include: Type A-1, with a gross vehicle weight rating of 10,000 pounds and under; and Type A-2 with a gross vehicle weight rating over 10,000 pounds.

(3) A Type "B" school bus shall mean a conversion or body constructed and installed upon a van or front-section vehicle chassis, or stripped chassis, with a gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than ten persons. Part of the engine is beneath and/or behind the windshield and beside the driver's seat, and the entrance door is behind the front wheels.

(4) A Type "C" school bus shall mean a body installed upon a flat back cowl chassis with a gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than ten persons. All of the engine is in front of the windshield and the entrance door is behind the front wheels. A Type "C" school bus shall also mean a body installed on a stripped chassis with a vehicle weight rating of more than 10,000 pounds, designed for carrying 35/36 passengers or

more, and where part of the engine is beneath and/or behind the windshield and beside the driver's seat and the entrance door is behind the front wheels.

(5) A Type "D" school bus shall mean a body installed upon a chassis, with the engine mounted in the front, midship, or rear, with a gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than ten persons. The engine may be behind the windshield and beside the driver's seat, at the rear of the bus behind the rear wheels, or midship between the front and rear axles. The entrance door is ahead of the front wheels.

(6) A school bus designed to transport students with special needs shall mean any Type A, B, C, or D school bus as defined in this section which has been modified to transport students with special needs.

[Statutory Authority: RCW 46.61.380, 01-17-006, § 392-143-010, filed 8/1/01, effective 9/1/01; 96-16-012 (Order 96-11), § 392-143-010, filed 7/25/96, effective 8/25/96; 84-20-081 (Order 84-39), § 392-143-010, filed 10/2/84; 83-21-025 (Order 83-13), § 392-143-010, filed 10/10/83; 79-12-005 (Order 9-79), § 392-143-010, filed 11/9/79; Order 8-77, § 392-143-010, filed 10/11/77, effective 11/11/77; Order 19-76, § 392-143-010, filed 12/31/76; Order 7-75, § 392-143-010, filed 12/22/75. Formerly WAC 392-21-110.]

## Chapter 392-153 WAC

### TRAFFIC SAFETY—DRIVER EDUCATION

#### WAC

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**WAC 392-153-001 Authority.** RCW 28A.220.030 and 46.20.100 authorize the superintendent of public instruction to adopt rules and regulations governing the operation and scope of the traffic safety program and to monitor the quality of the program and carry out the purpose of this chapter regarding all public, commercial, and private traffic safety programs.

[Statutory Authority: Chapters 28A.220 and 46.82 RCW, 01-16-003, § 392-153-001, filed 7/18/01, effective 8/18/01.]

**WAC 392-153-005 Purposes.** The purposes of this chapter are to implement chapter 28A.220 RCW and establish the basic requirements governing the operations and scope of traffic safety education programs which may be conducted by a Washington approved commercial or private driving school or any school district maintaining a secondary school which includes any of the grades 10 through 12 or a commercial driving school under the requirements of RCW 46.20.100.

[Statutory Authority: Chapters 28A.220 and 46.82 RCW, 01-16-003, § 392-153-005, filed 7/18/01, effective 8/18/01. Statutory Authority: RCW 28A.220.030, 92-03-138 (Order 92-04), § 392-153-005, filed 1/22/92, effective 2/22/92; Order 6-77, § 392-153-005, filed 7/27/77, effective 9/11/77; Order 13-76, § 392-153-005, filed 12/21/76; Order 7-75, § 392-153-005, filed 12/22/75.]

**WAC 392-153-010 Definitions.** (1) A "traffic safety education course" means a course of instruction in traffic safety education approved by the superintendent of public instruction, and for commercial driving schools teaching students between fifteen and eighteen years of age, licensed and approved by the department of licensing, which shall consist of two phases: Classroom instruction and laboratory experience which shall be concurrent and integrated.

(2) "Classroom instruction" means that portion of a traffic safety education course, based in a classroom environment, which is characterized by student learning under the management of a qualified teacher or teachers. Such classroom instruction shall consist of not less than thirty hours of teacher contact time in a classroom setting and where direct instruction, or teacher-led activities, does not constitute less than fifty percent of the classroom instruction.

(3) "Laboratory experience" shall mean that portion of a traffic safety education course, covering motor vehicle operation under real or simulated conditions, characterized by student learning experiences arising from use of simulation equipment, an off-street multiple car driving range, and/or on-street driving experience in a dual controlled car under the direction of a teacher.

(4) A "qualified teacher of traffic safety education" shall mean an instructor certificated under the provisions of chapter 28A.410 RCW and certificated by the superintendent of public instruction to teach either the classroom phase or the laboratory phase of the traffic safety education course, or both, under regulations promulgated by the superintendent. Provided, That the laboratory phase of the traffic safety education course may be taught by instructors certificated under rules promulgated by the superintendent of public instruction, exclusive of any requirement that the instructor be certificated under the provisions of chapter 28A.410 RCW. Commercial instructors certificated under the provisions of chapter 46.82 RCW, and participating in this program, shall be subject to qualification requirements jointly adopted by the superintendent of public instruction and the director of the department of licensing.

(5) "Course work" means credits (normally 100 level or above) awarded by a regionally accredited institution as defined in WAC 180-78A-010(6) or continuing education credit pursuant to chapter 180-85 WAC and approved by the superintendent of public instruction as traffic safety professional growth for the betterment of the teacher's instructional ability. Definition of "course work" shall apply when applying for conditional renewals and continuing education.

(6) "Certification of parent involvement" means where a parent, guardian, or employer has verified in writing to the department of licensing that the driver license applicant, under eighteen years of age (as of 7/1/2001) has had at least fifty hours of guided practice driving experience, ten of which were at night, during which the driver was supervised



by a person at least twenty-one years of age who has had a valid driver's license for at least five years.

(7) "Implementation of guided practice" means the process which traffic safety personnel provides information on models for adult guided practice. This may include school policy on the requirement and delivery of guided practice.

(8) "Clock hour" of course work or instruction is defined as not less than sixty minutes of student instruction time.

(9) "Teacher trainer" is a person who has completed course work approved by the office of the superintendent of public instruction in teacher preparation for traffic safety education.

[Statutory Authority: Chapters 28A.220 and 46.82 RCW. 01-16-003, § 392-153-010, filed 7/18/01, effective 8/18/01. Statutory Authority: 1990 c 33. 90-16-002 (Order 18), § 392-153-010, filed 7/19/90, effective 8/19/90. Statutory Authority: RCW 46.81.020. 80-09-027 (Order 80-24), § 392-153-010, filed 7/9/80; Order 6-77, § 392-153-010, filed 7/27/77, effective 9/11/77; Order 13-76, § 392-153-010, filed 12/21/76; Order 7-75, § 392-153-010, filed 12/22/75. Formerly WAC 392-50-010.]

**WAC 392-153-014 State certificate of program approval of traffic safety education programs.** (1) The superintendent of public instruction shall approve traffic safety education programs on an annual basis. Only programs meeting the requirements of this chapter shall be approved. Only approved programs shall be entitled to completion certificates for issuance to students under eighteen years of age for completing an approved traffic safety program.

(2) Upon an annual review for program approval, current traffic safety education programs and program applicants will receive notification of program approval status.

[Statutory Authority: Chapters 28A.220 and 46.82 RCW. 01-16-003, § 392-153-014, filed 7/18/01, effective 8/18/01. Statutory Authority: RCW 28A.220.030. 92-03-138 (Order 92-04), § 392-153-014, filed 1/22/92, effective 2/22/92.]

**WAC 392-153-015 State reimbursement to school districts.** State reimbursement to school districts operating approved traffic safety education programs shall be provided pursuant to WAC 392-122-300 through 392-122-322 and WAC 392-122-905 through 392-122-910. The superintendent of public instruction may provide per-pupil reimbursements to school districts only where all the traffic educators have satisfied the continuing education requirements of RCW 28A.220.030(4).

[Statutory Authority: Chapters 28A.220 and 46.82 RCW. 01-16-003, § 392-153-015, filed 7/18/01, effective 8/18/01. Statutory Authority: RCW 28A.220.030. 92-03-138 (Order 92-04), § 392-153-015, filed 1/22/92, effective 2/22/92. Statutory Authority: RCW 46.81.020. 80-09-027 (Order 80-24), § 392-153-015, filed 7/9/80; Order 6-77, § 392-153-015, filed 7/27/77, effective 9/11/77; Order 13-76, § 392-153-015, filed 12/21/76; Order 7-75, § 392-153-015, filed 12/22/75. Formerly WAC 392-50-020.]

**WAC 392-153-017 Reporting.** (1) All school districts, private and commercial schools shall report to the superintendent of public instruction any traffic related infractions, deferred prosecution, and/or convictions concerning certificated employees or its traffic safety education programs. Any approved traffic safety education program that does not comply with requirements of reporting may have its program approval denied, reprimanded, suspended, or revoked pursuant to WAC 392-153-022.

(2) In all proceedings, where public schools contract the behind the wheel portion to a commercial school, any and all portions of contracted activity shall be considered to be under the jurisdiction of the public school program.

[Statutory Authority: Chapters 28A.220 and 46.82 RCW. 01-16-003, § 392-153-017, filed 7/18/01, effective 8/18/01.]

**WAC 392-153-020 Teacher qualifications.** (1) A teacher certificated under provisions of chapter 28A.410 RCW shall be eligible to be endorsed or receive a letter of authorization issued by the superintendent of public instruction to teach the classroom or laboratory phases of the traffic safety education program if he/she possesses the following qualifications in addition to those required under chapter 28A.410 RCW:

(a) Possesses a valid Washington state driver's license or a valid license issued by an adjacent state provided the person is a legal resident of the adjacent state and is employed by a Washington school district, commercial or private school.

(b) Provides a complete record(s) or complete abstract, to the employing school district or commercial or private school, on an annual basis from the Washington state department of licensing and/or other driver licensing jurisdiction for a five-year period showing:

(i) Not more than one moving traffic violation within the preceding 12 months or more than two moving traffic violations in the preceding 24 months;

(ii) No alcohol related traffic violation, conviction or infraction within the preceding five years;

(iii) No driver's license suspension, cancellation, revocation or denial within the preceding three years.

(c) Verification by the employing school district, private or commercial driving school that the applicant complies with all of the requirements for teaching traffic safety education as set forth in this chapter.

(d) Has completed 12 quarter hours (8 semester hours) of course work from a regionally accredited institution as defined in WAC 180-78A-010(6) and as approved by the office of the superintendent of public instruction.

(e) Possesses a valid traffic safety education endorsement issued by the superintendent of public instruction.

(2) Any person endorsed by the superintendent of public instruction to teach traffic safety education in the state of Washington prior to May 27, 1969, and who possesses a conditional certificate but does not hold a valid teaching certificate required by WAC 392-153-010(4), shall continue to be qualified to teach both classroom and laboratory phase of traffic safety education in this state on the condition that he or she renew such conditional certificate on a two-year basis and maintain a satisfactory driving record as set forth above in WAC 392-153-020 (1)(a) and (1)(b). Such endorsed person must fulfill all requirements relating to continuing education.

(3) The course work requirement for certificated teachers endorsed in traffic safety education shall be forty clock hours every five years or equivalent college credit in traffic safety education.

[Statutory Authority: Chapters 28A.220 and 46.82 RCW. 01-16-003, § 392-153-020, filed 7/18/01, effective 8/18/01. Statutory Authority: RCW 46.20.100(2), 28A.220.020 (2), (3), (4), and 28A.220.030(1). 96-24-044 (Order 96-18), § 392-153-020, filed 11/27/96, effective 12/28/96. Statutory Authority: 1990 c 33. 90-16-002 (Order 18), § 392-153-020, filed 7/19/90,

effective 8/19/90. Statutory Authority: RCW 46.81.020, 80-09-027 (Order 80-24), § 392-153-020, filed 7/9/80; Order 5-77, § 392-153-020, filed 7/27/77, effective 9/11/77; Order 13-76, § 392-153-020, filed 12/21/76; Order 7-75, § 392-153-020, filed 12/22/75. Formerly WAC 392-50-030.]

**WAC 392-153-021 Conditional instructor qualifications.** (1) The behind-the-wheel conditional course is to be taught by a regionally accredited college as defined in WAC 180-78A-010(6), state approved teacher training program, or teacher trainer approved by the superintendent of public instruction.

(2) The laboratory phase of the traffic safety education course may be taught by a commercial instructor licensed by the department of licensing pursuant to chapter 46.82 RCW or an instructor who, although not certificated pursuant to chapter 28A.410 or 46.82 RCW, serves under the supervision of the Washington state school district traffic safety education program coordinator or his/her designee and who meets the following qualifications:

- (a) Possesses a valid Washington state driver's license.
- (b) Is at least twenty-one years of age.
- (c) Has at least five years of driving experience.
- (d) Holds a high school diploma or its equivalent.
- (e) Provides a complete record(s) or complete abstract, to the employing school district, commercial, or private school, on an annual basis from the Washington state department of licensing and/or other driver licensing jurisdiction for a five-year period as set forth in WAC 392-153-020.
- (f) Provides evidence of the following:
  - (i) Completion of at least sixty hours of course work as defined in WAC 392-153-010(5) in the field of driving instruction taught by a teacher-trainer as approved by the office of the superintendent of public instruction and the department of licensing;
  - (ii) Completion of behind-the-wheel supervised practice in instructing;
  - (iii) A request for a certificate from a school district or private school superintendent or designee, or from a commercial school owner approved by the office of the superintendent of public instruction that wishes to employ the instructor.
- (g) Passes practical and knowledge examinations developed and administered by the department of licensing and required under provisions of chapter 46.82 RCW for commercial instructors.
- (h) Provides evidence to an agent approved by the office of the superintendent of public instruction of the following instructional competencies:
  - (i) Uses teaching methods which allow for individual student driving abilities, reduces student anxieties, and involves backseat observers;
  - (ii) Communicates clearly, using appropriate technical vocabulary;
  - (iii) Establishes, utilizes and/or follows teaching lesson plans, selects routes for behind the wheel lessons and conducts student learning activities from simple to complex which correspond with the learner's mental, physical and emotional performance capabilities in coordination with classroom activities;
  - (iv) Maintains a position within the vehicle for awareness of the traffic environment and utilizes visual skills and

physical control instruments to maintain safety and facilitate instruction;

(v) Applies uniform evaluation criteria in assessing needs and progress of students during and after each lesson and gives appropriate prescription for additional driving experience and/or parent guided practice.

(i) Persons desiring to teach in the simulator or on the multiple car driving range shall provide evidence of having completed an additional thirty hours of course work as defined by WAC 392-153-010(5) which includes supervised practice in instructing in each area as approved by the office of the superintendent of public instruction and the department of licensing: Provided, That a person who holds a valid certificate under the provisions of chapter 28A.410 RCW and meets the requirements for traffic safety certification set forth under WAC 392-153-020(1) who is employed as a conditionally certificated person shall not be required to meet any of the requirements set forth in WAC 392-153-020(3).

(3) The superintendent of public instruction may issue the conditional certificate to any person who completes all course work, and complies with chapter 180-79A WAC. An applicant must meet all the requirements set forth in WAC 392-153-020 (2) or (3) for certification as an instructor of the laboratory phase of traffic safety education and provide evidence to an agent approved by the office of the superintendent of public instruction of the following instructional competencies listed in WAC 392-153-020.

(4) The classroom conditional teacher-training course is to be taught by a regionally accredited college as defined in WAC 180-78A-010(6), state approved teacher training program, or teacher trainer approved by the superintendent of public instruction.

(5) Conditional certificates issued to teach the laboratory phase of traffic safety education under provisions of chapter 392-153 WAC shall be valid for two years or less and only for the activity specified. Reissuance of such certificates shall be subject to the following requirements:

- (a) Verification of employment or intent to employ;
- (b) Verification of a satisfactory driving record as outlined in WAC 392-153-020;
- (c) Verification of having completed sixty clock hours of course work since the issuance of the most recent certificate as approved by the employing school district or employing driving school in accordance with WAC 392-153-010(5).
- (6) The conditional certificate fee and requirements shall be in accordance with chapter 180-79A WAC.
- (7) When no person with regular certification endorsed in traffic safety education is available as verified by the school district or education service district or commercial school, the classroom phase may be taught by an instructor licensed by the department of licensing and who holds or has held a conditional certificate from the superintendent of public instruction and meets the following qualifications:
  - (a) Possesses a valid Washington state driver's license.
  - (b) Is at least twenty-one years of age.
  - (c) Has at least five years of driving experience.
  - (d) Holds a high school diploma or its equivalent.
  - (e) Provides a complete record or records from the Washington state department of licensing and/or other driver licensing jurisdiction for a five-year period showing a satis-

factory driving record as set forth in subsection (2)(e) of this section.

(f) Provides evidence of the following: Provides evidence to an agent approved by the office of the superintendent of public instruction of the following instructional competencies:

(i) Completion of at least 1,000 hours of behind-the-wheel teaching experience over a two-year period.

(ii) Completion of an eighty clock hours instructor training course is to be taught by a regionally accredited college as defined in WAC 180-78A-010(6), state approved teacher training program, or teacher trainer approved by the superintendent of public instruction.

(iii) The 80-hour instructor training course shall consist of not less than the following content areas: Teaching techniques, classroom management, use of technology and media, course content covering WAC 392-153-032, student evaluation, classroom teaching experience and writing lesson plans.

(iv) A recommendation for a classroom conditional certificate from the school district superintendent or designee, private school administrator or designee, or the commercial school owner.

(8) Certificates issued to teach the classroom phase of traffic safety education under provisions of chapter 392-153 WAC shall be valid for two years or less and only for the activity specified. Reissuing of such certificates shall be subject to the following requirements:

(a) Verification of employment or intent to employ.

(b) Verification of a satisfactory driving record.

(c) Verification of having completed 60 hours of course work since the issuance of the most recent certificate as approved by the employing school district or employing commercial driving school in accordance with WAC 392-153-010(5).

[Statutory Authority: Chapters 28A.220 and 46.82 RCW. 01-16-003, § 392-153-021, filed 7/18/01, effective 8/18/01.]

**WAC 392-153-022 Discipline—Grounds for denial, reprimand, suspension, or revocation of certification endorsement or program approval.** (1) A request for program approval may be denied or a program approval issued under this chapter may be suspended, reprimanded, or revoked for failure to meet any of the minimum requirements set forth in this chapter.

(2) Conduct by an owner or instructor which does not meet a realistic level of effort as described in WAC 392-153-032 or that amounts to a behavior problem which endangers the educational welfare or personal safety of students, teachers, or other colleagues, is grounds for denial, reprimand, suspension, or revocation of program approval whether or not the conduct constitutes a crime. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to denial, reprimand, suspension, or revocation action.

(3)(a) Any instructor in traffic safety education for public, private, or commercial driving school in voluntary treatment for alcohol or other drug misuse shall have his or her certification endorsement suspended until successful treatment is satisfactorily completed and the completion is confirmed by a state-approved alcohol or other drug treatment

program at which time the certification endorsement will be reinstated.

(b) In all cases of alcohol related infractions, deferred prosecution and/or convictions under chapter 10.05 RCW, the certification endorsement shall be suspended until the court confirms successful completion of the court approved treatment program at which time the certification endorsement will be reinstated.

[Statutory Authority: Chapters 28A.220 and 46.82 RCW. 01-16-003, § 392-153-022, filed 7/18/01, effective 8/18/01.]

**WAC 392-153-023 Discipline—Emergency suspension.** If the superintendent of public instruction finds that public health, safety, or welfare of students, instructors, teachers, or general public is threatened or compromised and requires an emergency action, and incorporates a finding to that effect in its order, emergency suspension of the program approval for public, private, or commercial driving schools may be ordered pending proceedings for revocation or other action. In all cases in this section, the superintendent of public instruction shall expedite all due process actions as quickly as possible.

[Statutory Authority: Chapters 28A.220 and 46.82 RCW. 01-16-003, § 392-153-023, filed 7/18/01, effective 8/18/01.]

**WAC 392-153-024 Discipline—Appeals—Adjudicative proceedings.** (1) Any person desiring to appeal a decision of a traffic safety education program denial, reprimand, suspension, or revocation of approval, may do so to the superintendent of public instruction or designee in accordance with the adjudicative proceedings in RCW 34.05.413 through 34.05.494 and the administrative practices and procedures of the superintendent of public instruction in chapter 392-101 WAC.

(2) The superintendent of public instruction may assign the adjudicative proceeding to the office of administrative hearings and may delegate final decision-making authority to the administrative law judge conducting the hearing.

(3) The superintendent of public instruction may appoint a person to review initial orders and to prepare and enter final agency orders in accordance with RCW 34.05.464.

(4) Any person who disagrees with the superintendent of public instruction or its designee's determination of failure to meet any traffic safety education program approval qualifications, may request that the school district or driving school forward the pertinent records to the superintendent of public instruction. After review or investigation, the superintendent of public instruction will grant, deny, reprimand, suspend, or revoke the program approval.

[Statutory Authority: Chapters 28A.220 and 46.82 RCW. 01-16-003, § 392-153-024, filed 7/18/01, effective 8/18/01.]

**WAC 392-153-025 Traffic safety education vehicles.** All vehicles loaned by an automobile dealer shall comply with subsections (1), (2), (3) and (4) of this section. District-owned vehicles shall comply with subsections (1), (2) and (4) of this section only.

(1) Equipment. Every vehicle used in on-street instruction shall be equipped with a dual control brake, rear view mirror for the instructor, and seat belts for each occupant.

(2) Signing. Every vehicle used in on-street instruction shall have a sign where the lettering and background colors shall be of contrasting shades so as to be clearly readable at one hundred feet in clear daylight. The sign shall be readable from the rear with normal vision from a safe following distance. The sign shall designate the vehicle as a traffic safety education vehicle or a vehicle driven by a student driver. The sign shall have letter size not less than two inches high.

(3) Use. A traffic safety education vehicle shall be used exclusively for traffic safety education purposes while the course is in session.

(4) Inspection. Every vehicle used in the public, commercial and private traffic safety education program shall pass a safety inspection requirement pursuant to WAC 392-143-070 and 392-153-025. Commercial and private programs, in lieu of chapter 46.32 RCW, shall use the superintendent of public instruction approved self-inspection form unless providing a contracted service for the laboratory phase to a public school. The approved self-inspection form shall be submitted annually to the superintendent of public instruction for each vehicle used for behind-the-wheel instruction and shall be on file at the commercial or private driving school.

[Statutory Authority: Chapters 28A.220 and 46.82 RCW. 01-16-003, § 392-153-025, filed 7/18/01, effective 8/18/01. Statutory Authority: RCW 46.20.100(2), 28A.220.020 (2), (3), (4), and 28A.220.030(1). 96-24-044 (Order 96-18), § 392-153-025, filed 11/27/96, effective 12/28/96; Order 13-76, § 392-153-025, filed 12/21/76; Order 7-75, § 392-153-025, filed 12/22/75. Formerly WAC 392-50-040.]

**WAC 392-153-032 Realistic level of effort.** (1) Each school district, private school, and commercial driving school shall have a locally written curriculum guide available to each teacher and such guide shall be used by each teacher in the traffic safety education program. A student shall not enroll in a traffic safety education class after classroom instruction has started. The exception is public school transferring students where there is a sufficient amount of time to complete traffic safety education instruction.

The student shall be taught at least the following program concepts: Introduction to highway transportation system; preparing and controlling the vehicle; maneuvering in limited space; signs, signals, and pavement markings; vehicle characteristics; human functions used in driving; roadway variations; intersections; management of time and space; lane changes; passing; nonmotorized traffic; internal factors affecting driving performance; physical factors affecting driving performance; alcohol and drugs; vehicle maintenance; planning for travel; limited visibility; reduced traction; special driving conditions; vehicle malfunctioning; avoiding and minimizing impact; post-crash responsibilities; legal responsibilities; highway transportation system improvement; fuel conservation; and motorcycle awareness. The guide shall also include:

(a) The performance objectives appropriate for the area of instruction.

(b) The methods of instruction used by the teacher in presenting the material where direct instruction does not con-

stitute less than fifty percent of the classroom instruction as approved by the superintendent of public instruction.

(c) The student activities that will enable a student to accomplish the objectives and to the extent possible allow for individual differences.

(d) The level of competency each student is to successfully complete for each objective.

(e) The evaluation criteria for the classroom and laboratory phase.

(f) A flow chart that indicates how the classroom and laboratory lessons are sequenced and integrated.

(2) A student enrolled in a traffic safety education program must have a valid driver's permit issued before or within seven days after the start date of the traffic safety education classroom instruction. A student shall meet the objectives and competencies listed in the district, private and commercial driving school curriculum guide, as approved by the office of the superintendent of public instruction, as a condition of successful completion of the traffic safety education program. Effective January 31, 2003, all completing students must pass a comprehensive written and driving test as verified by providing results of achieving a criteria of not less than eighty percent accuracy rate. Comprehensive written exams must be approved or provided by the superintendent of public instruction.

For the purposes of school district reporting and state reimbursement a completing student means a person under twenty-one years of age at the time of enrollment who has enrolled in an approved course and has met one of the following criteria:

(a) Has completed all the program objectives as required by the school district and approved by the state superintendent of public instruction and has received a passing grade; or

(b) Has received a failing grade after attending more than fifty percent of the program's scheduled classes but achieved less than ninety percent of the program objectives; or

(c) Has officially withdrawn, dropped, or transferred after attending more than fifty percent of the program's scheduled classes.

(3) A student taking the course more than once because of a failing grade on the first and subsequent attempts may be counted as a completing student for each attempt.

The traffic safety education course including the classroom and the laboratory phase shall be provided for students in a time period not to exceed eighteen school weeks nor be less than eight school weeks in length equaling not less than fifty-six days during the school year: Provided, That public, private, and commercial driving schools offering a summer school course must deliver an approved program that shall not be less than five weeks in length and equaling not less than thirty-five days in length. A minimum course of instruction is defined as not less than thirty hours of contact time in a classroom setting with a certified teacher and not less than four hours of actual driving behind the wheel. Where simulation and/or off-street multiple car driving ranges are utilized, not less than three hours of actual driving behind the wheel per student shall occur. When simulation instruction is used, four hours of instruction equates to one hour of actual driving. When multiple car off-street driving ranges are used for instruction, two hours of instruction equates to one hour of

actual driving. In addition, the traffic safety education course shall:

(a) Provide students with no more than two hours of classroom instruction and one hour of on-street instruction during any twenty-four hour period. Where simulation and/or off-street multiple car driving ranges are utilized, not more than one additional hour per student per day shall be allowed.

(b) Provide laboratory instruction only to students who are currently participating in classroom instruction.

(c) Provide a course where any break time given shall not be counted as classroom sessions or instruction.

(d) Provide a course where any missed classroom sessions shall be made up with assignments and instruction which pertain to the missed lesson(s) according to WAC 392-153-035(2) and does not exceed maximum duration of program.

(e) Provide a course where a student shall not enroll in a traffic safety education class after classroom instruction has started. The exception is public school transferring students where there is a sufficient amount of time for completion of traffic safety education instruction.

(f) Provide a program where driving time is verified by the school's driving routes, lesson plans and student record cards.

(g) Provide not less than four hours of behind-the-wheel observation time to all students enrolled in a traffic safety education class.

[Statutory Authority: Chapters 28A.220 and 46.82 RCW. 01-16-003, § 392-153-032, filed 7/18/01, effective 8/18/01. Statutory Authority: RCW 46.20.100(2), 28A.220.020 (2), (3), (4), and 28A.220.030(1). 96-24-044 (Order 96-18), § 392-153-032, filed 11/27/96, effective 12/28/96. Statutory Authority: RCW 28A.220.030. 92-20-061 (Order 92-10), § 392-153-032, filed 10/2/92, effective 11/2/92; 92-03-138 (Order 92-04), § 392-153-032, filed 1/22/92, effective 2/22/92. Statutory Authority: RCW 46.81.020. 80-09-027 (Order 80-24), § 392-153-032, filed 7/9/80; Order 6-77, § 392-153-032, filed 7/27/77, effective 9/11/77.]

**WAC 392-153-035 Scheduling.** (1) Any portions of a traffic safety education course may be taught after regular school hours or on Saturdays, as well as on regular school days or as a summer school course, at the option of the school district.

(2) Classroom and laboratory instruction shall be offered concurrently. Classroom treatment of concepts, where applicable, shall be followed by laboratory treatment of those concepts before other concepts are introduced in the classroom portion of instruction in the traffic safety education course.

(3) Classroom and laboratory instruction shall be conducted during daylight hours: Provided, That such instruction may be extended to the hours of 8:00 p.m. during winter months even though darkness may occur prior to 8:00 p.m.: Provided further, That classroom instruction may be conducted at night for those students who are currently not enrolled in a high school but are otherwise eligible to attend or where the school district conducts one or more educational offerings at night for high school students.

(4) Night driving experiences may be offered as a part of the traffic safety education course: Provided, That (a) a student has previously completed sufficient daytime driving experience, and (b) such night driving experience shall in no

case exceed fifty percent of the student's total driving experience.

On-street instruction shall be included in all programs.

(5) The traffic safety education course including the classroom and the laboratory phase shall be provided for students in a time period not to exceed eighteen school weeks nor be less than eight school weeks in length equaling not less than fifty-six days during the school year: Provided, That public school summer school course offerings, private and commercial driving schools offering an approved program shall not be less than five weeks in length and equaling not less than thirty-five days in length. A minimum course of instruction is defined as not less than thirty hours of contact time in a classroom setting with a certified teacher and not less than four hours of actual driving behind the wheel. Where simulation and/or off-street multiple car driving ranges are utilized, not less than three hours of actual driving behind the wheel per student shall occur. When simulation instruction is used, four hours of instruction equates to one hour of actual driving. When multiple car off-street driving ranges are used for instruction, two hours of instruction equates to one hour of actual driving. In addition, the traffic safety education course shall:

(a) Provide students with no more than two hours of classroom instruction and one hour of on-street instruction during any twenty-four hour period. Where simulation and/or off-street multiple car driving ranges are utilized, not more than one additional hour per student per day shall be allowed.

(b) Provide laboratory instruction only to students who are currently participating in classroom instruction.

(c) Provide a course where any break time given shall not be counted as classroom sessions or instruction during a thirty-hour minimum classroom course offering.

(d) Provide a course where any missed classroom sessions shall be made up with assignments and instruction which pertain to the missed lesson(s) according to WAC 392-153-035(2) and does not exceed maximum duration of program.

(e) Provide a course where a student shall not enroll in a traffic safety education class after classroom instruction has started. The exception is public school transferring students where there is a sufficient amount of time for completion of traffic safety education instruction.

(f) Provide a program where driving time is verified by the school's driving routes and lesson plans.

(g) Provide not less than four hours of behind-the-wheel observation time to all students enrolled in a traffic safety education class.

[Statutory Authority: Chapters 28A.220 and 46.82 RCW. 01-16-003, § 392-153-035, filed 7/18/01, effective 8/18/01. Statutory Authority: RCW 46.81.020. 80-09-027 (Order 80-24), § 392-153-035, filed 7/9/80; Order 13-76, § 392-153-035, filed 12/21/76; Order 7-75, § 392-153-035, filed 12/22/75. Formerly WAC 392-50-060.]

**WAC 392-153-040 Administration.** (1) Each school district, private, or commercial driving school shall appoint a supervisor, coordinator, master teacher or other person to be in charge of the district's, private, or commercial driving school's traffic safety education program. The person appointed pursuant to this section shall be responsible for

ensuring that the requirements of this chapter governing the operation of an approved traffic safety education course are adequately maintained on a continuing basis.

(2) Each school district, private, or commercial driving school shall adopt a written policy including, but not limited to, enrollment criteria, student fees, student fee refunds, failures, repeats, and for public schools written policies of access for part-time and home-based students.

(3) Each school district, private, or commercial driving school shall maintain individual student records on forms provided by the superintendent of public instruction or an equivalent form approved by the superintendent of public instruction which includes the student's progress, time involvement and evaluation results.

Records shall include information pertaining to attendance, classroom and behind-the-wheel, starting and ending dates. Time of instruction shall be included on student records. Records shall also include, for commercial and private traffic safety education programs, the office of the superintendent of public instruction teacher and instructor certificates which shall be posted in a conspicuous place at the location where instruction takes place. Registration of public school traffic safety education teacher and instructor certificates shall be referred to chapter 28A.410 RCW.

(4) Each school district shall maintain accurate cost records as required by F-196, Part II, as now or hereafter amended and such further information and records as may be required by *The Accounting Manual for Public School Districts of the State of Washington*.

(5) Every school district, private, or commercial driving school is to submit in writing all reportable traffic safety education motor vehicle collisions and injury and fatality collisions to the superintendent of public instruction within forty-eight hours of occurrence.

[Statutory Authority: Chapters 28A.220 and 46.82 RCW. 01-16-003, § 392-153-040, filed 7/18/01, effective 8/18/01. Statutory Authority: RCW 46.81.020. 80-09-027 (Order 80-24), § 392-153-040, filed 7/9/80; Order 6-77, § 392-153-040, filed 7/27/77, effective 9/10/77; Order 13-76, § 392-153-040, filed 12/21/76; Order 7-75, § 392-153-040, filed 12/22/75. Formerly WAC 392-50-070.]

#### **WAC 392-153-045 Burden and standard of proof. (1)**

If an application for a new program approval or a program under new ownership has been denied for lack of compliance with this chapter, the evidence submitted by the applicant must prove by a preponderance of the evidence that the program meets approval standards.

(2) In all other program approvals and proceedings, including denials, reprimands, suspensions, and revocations, the superintendent of public instruction must prove by a preponderance of the evidence that the program in question fails to meet approval standards.

[Statutory Authority: Chapters 28A.220 and 46.82 RCW. 01-16-003, § 392-153-045, filed 7/18/01, effective 8/18/01.]

[2002 WAC Supp.—page 2112]

### **Chapter 392-172 WAC**

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

### **WAC**

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

392-172-188	Reevaluation—Purposes. [Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-188, filed 12/1/99, effective 1/1/00. Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-188, filed 10/11/95, effective 11/11/95.] Repealed by 01-24-049, filed 11/29/01, effective 12/30/01. Statutory Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070.
392-172-238	Service arrangements. [Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-238, filed 10/11/95, effective 11/11/95.] Repealed by 01-24-049, filed 11/29/01, effective 12/30/01. Statutory



Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070.

**WAC 392-172-020 Purposes.** (1) The purposes of this chapter are to:

(a) Implement chapter 28A.155 RCW consistent with the Individuals with Disabilities Education Act, 20 United States Code section 1400 et seq.;

(b) Ensure that all special education students as defined in this chapter have available a free appropriate public education (FAPE) that emphasizes special education and related services designed to meet their unique needs and prepare them for employment and independent living;

(c) Ensure that the rights of special education students and their parents are protected;

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

(e) Assess and ensure effectiveness of the public agencies responsible for providing special education pursuant to chapter 28A.155 RCW, including state residential education programs established and operated pursuant to chapter 28A.190 RCW, state schools for the deaf and blind established and operated pursuant to chapter 72.40 RCW, and education programs for juvenile inmates established and operated pursuant to chapter 28A.193 RCW.

(2) School districts and other public agencies must be aware 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 appropriate public education to a student who qualifies for special education and any necessary related services under these regulations.

[Statutory Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-020, filed 11/29/01, effective 12/30/01. Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-020, filed 12/1/99, effective 1/1/00. 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, other public agency, and residential schools operated pursuant to chapters 28A.190 and 72.40 RCW shall provide every eligible special education student between the age of three and twenty-one years, a free appropriate public education program, including special education for students who have been suspended or expelled from school. A free appropriate public education is also available to any eligible student even though the student is advancing from grade to grade. The right to special education for eligible students commences on their third birthday

with an individualized education program (IEP) in effect by that date. If an eligible student's third birthday occurs during the summer, the student's individualized education program team shall determine the date when services under the individualized education program will begin.

(2) Every eligible special education student residing in a state education correctional facility is eligible for special education and related services pursuant to chapter 28A.193 RCW. The department of corrections is the agency assigned supervisory responsibility by the governor's office for any student not served pursuant to chapter 28A.193 RCW.

(3) School districts or other public agencies may provide early intervention services to eligible children with a disability. If school districts opt to serve eligible children in this age group, they must do so in the birth through two years age group under regulations implementing Part C of the IDEA. The department of social and health services is the lead state agency responsible for early intervention services to children with a disability in the birth through two years age group. Eligibility criteria for early intervention services is contained in Part C of the IDEA and WAC 392-172-114(1).

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

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

(a) A group of qualified professionals and the parent of the student, based on a reevaluation determines the student is no longer in need of special education; or

(b) The special education 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, and the student has graduated from high school with a regular high school diploma. Graduation from high school with a regular diploma constitutes a change in placement, requiring written prior notice in accordance with WAC 392-172-302; or

(c) The special education student enrolled in the common school system or receiving services pursuant to chapter 28A.190 or 72.40 RCW 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 any necessary related services for the remainder of the school year.

[Statutory Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-030, filed 11/29/01, effective 12/30/01. Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-030, filed 12/1/99, effective 1/1/00. 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" or FAPE 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 (IEP) requirements of this chapter.

(2) "Special education student" means:

(a) Any student, enrolled in school or not, (i) who has been identified as having a disability, (ii) whose disability adversely affects the student's educational performance, (iii) and whose unique needs cannot be addressed exclusively through education in general education classes with or without individual accommodations and is determined to be eligible for special education services; including

(b) A student who qualifies under (a) of this subsection who is served in a residential school because of adjudication or medical necessity, in accordance with chapter 28A.190 RCW; residential and day students receiving education services at the state schools for the deaf and blind in accordance with chapter 72.40 RCW; and students who are juvenile inmates, receiving education services in accordance with chapter 28A.193 RCW.

(3) If it is determined through an appropriate evaluation that a student has one of the disabilities identified in WAC 392-172-114 through 392-172-148, but only needs a related service and not specially designed instruction, the student is not a special education student under this chapter.

(4) "Adult student" means a special education student eligible under this chapter, who is eighteen years of age or older 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 parents by this chapter upon attaining the age of eighteen consistent with WAC 392-172-309. 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.

(5) "Parent" means a natural or adoptive parent, a guardian, an adult person acting as a parent, or a surrogate parent who has been appointed in accordance with WAC 392-172-308. The term includes a person acting in the place of a parent, such as a grandparent or stepparent with whom a special education student lives, as well as persons who are legally responsible for the student's welfare. The term does not include the state if the special education student is a ward of the state. It does include a foster parent if appointed as a surrogate parent.

(6) 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 identified in WAC 392-172-020 (1)(e); and

(d) Each public organization or entity, including other political subdivisions of the state providing special education and/or related services to one or more special education stu-

dents regardless of whether the organization or entity receives funds under the Individuals with Disabilities Education Act.

[Statutory Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-035, filed 11/29/01, effective 12/30/01. Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-035, filed 12/1/99, effective 1/1/00. Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-035, filed 10/11/95, effective 11/11/95.]

#### **WAC 392-172-045 Definition of "special education" and other terms.**

(1) As used in this chapter "special education" means specially designed instruction provided to an eligible student as defined in WAC 392-172-035(2). Specially designed instruction as defined in subsection (4)(a) of this section shall be provided at no cost to the parents, in conformance with the student's IEP, and designed to meet the unique needs of the student. Specially designed instruction includes instruction conducted in the classrooms, in the home, in hospitals and institutions, and in other settings; and instruction in physical education.

(2) The term does not include individual accommodations within general education that alone would be sufficient and effective to meet the learning needs of the student; nor does it include the educational services necessary to meet the needs of those students identified under WAC 392-172-020(2).

(3) Travel training, vocational training, speech and language services, physical and occupational therapy, orientation and mobility instruction, behavioral intervention instruction, transition services, and audiological services are considered special education under this chapter if they are provided as specially designed instruction as defined in subsection (4) of this section. They are considered related services under WAC 392-172-055 if they are required to assist a special education student to benefit from special education, and not provided as specially designed instruction.

(4) The terms used in this section are defined as follows:

(a) "Specially designed instruction" means organized and planned instructional activities which adapt, as appropriate, to the needs of eligible students under this chapter, the content, methodology or delivery of instruction:

(i) To address the unique needs that result from the student's disability;

(ii) To ensure access of the student to the general curriculum so that the student can meet the educational standards of the school district or other public agency that apply to all students; and

(iii) That is provided by appropriately qualified special education certificated staff, or designed and supervised by this staff and carried out by general education certificated personnel or trained classified staff pursuant to a properly formulated IEP consistent with WAC 392-172-160 (1)(c), so that the needs of the student and services provided to the student will be clear to the parents and other IEP service providers. Student progress must be monitored and evaluated by special education certificated staff.

(b) "At no cost" means that all specially designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled stu-

dents or their parents as part of the general education program.

(c) "Audiology" means the provision of habilitative instruction related to a hearing impairment.

(d) "Behavioral intervention instruction" means providing instruction which addresses student behavior that impedes involvement and/or progress in the general curriculum.

(e) "Occupational therapy" is instruction designed to improve, develop or restore functions impaired or lost through illness, injury, or deprivation, or improve ability to perform tasks for independent function if functions are impaired or lost.

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

(g) "Physical education" means:

(i) The development of physical and motor fitness; fundamental motor skills and patterns; and skills in aquatics, dance, and individual and group games and sport (including intramural and lifetime sports); and

(ii) Special physical education, adapted physical education, movement education, and motor development.

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

(i) "Speech and language services" means the provision of instruction for the habilitation of communication disorders.

(j) "Transition services" means a coordinated set of activities for a special education student that:

(i) Is designed within an outcome-oriented process that promotes movement from school to post-school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

(ii) Is based on the individual student's needs, taking into account the student's preferences and interests; and

(iii) Includes:

(A) Specially designed instruction;

(B) Related services;

(C) Community experiences;

(D) The development of employment and other post-school adult living objectives; and

(E) If appropriate, acquisition of daily living skills and functional vocational evaluation.

(k) "Travel training" means providing instruction, as appropriate, to students with significant cognitive disabilities, and other eligible students with disabilities who require this instruction, to enable them to:

(i) Develop an awareness of the environment in which they live; and

(ii) Learn the skills necessary to move effectively and safely from place to place within that environment (e.g., in the school, in the home, at work, and in the community).

(l) "Vocational education" means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional

preparation for a career requiring other than a baccalaureate or advanced degree.

[Statutory Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-045, filed 11/29/01, effective 12/30/01. Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-045, filed 12/1/99, effective 1/1/00. Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-045, filed 10/11/95, effective 11/11/95.]

**WAC 392-172-080 Proper functioning of hearing aids.** Each school district or other public agency shall ensure that the hearing aids worn in school by special education students with hearing impairments, including deafness, are functioning properly.

[Statutory Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-080, filed 11/29/01, effective 12/30/01.]

**WAC 392-172-105 Parent participation in meetings and notice.** (1) Parents shall be afforded an opportunity to participate in meetings with respect to the identification, evaluation, educational placement and provision of a free appropriate public education to the student.

(2) For meetings other than IEP or educational placement meetings each public agency shall notify parents consistent with WAC 392-172-15700 (1)(a) and (2) to ensure that parents have the opportunity to participate in the meetings. The school district or public agency will notify parents consistent with WAC 392-172-15700 for IEP meetings and WAC 392-172-15705 for placement meetings.

(3) A meeting does not include informal or unscheduled conversations involving public agency personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision if those issues are not addressed in the student's IEP. A meeting also does not include preparatory activities that public agency personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

[Statutory Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-105, filed 11/29/01, effective 12/30/01. Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-105, filed 12/1/99, effective 1/1/00.]

**WAC 392-172-10900 Determination of needed evaluation data for an initial evaluation.** (1) As part of an initial evaluation, if appropriate, a group that includes the individuals described in WAC 392-172-153, and other qualified professionals, as appropriate, shall:

Review existing evaluation data on the student, including:

(a) Evaluations and information provided by the parents of the student;

(b) Current classroom-based assessment and observations; and

(c) Observations by teachers and related services providers.

(2) Based on the above review and input from the student's parents, identify what additional data, if any, are needed to determine:

(a) Whether the student has a particular category of disability as described in this chapter;

(b) The present levels of performance and educational needs of the student; and

(c) Whether the student needs special education and related services.

(3) The public agency shall administer tests and any other evaluation materials, pursuant to WAC 392-172-108 as may be needed to produce the data required to make the determinations listed in subsection (2) of this section.

(4) The group described in subsection (1) of this section may conduct its review without a meeting. If the school district or other public agency conducts a meeting for the purposes under this section, parents must have an opportunity to participate in the meeting consistent with WAC 392-172-105.

[Statutory Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-10900, filed 11/29/01, effective 12/30/01. Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-10900, filed 12/1/99, effective 1/1/00.]

**WAC 392-172-111 Determination of eligibility and parental notification.** (1) Upon completing the administration of tests and other evaluation materials:

(a) Consistent with WAC 392-172-105, a group of qualified professionals and the parent of the student shall determine whether the student is a special education student in need of special education and any necessary related services, as defined in this chapter; and

(b) The public agency must provide a copy of the evaluation report and the documentation of determination of eligibility to the parent.

(2) If a determination is made that a student has a disability and needs special education and related services, an IEP must be developed for the student in accordance with this chapter.

(3) If the decision is that the student is not eligible for special education, the parent(s) of the student shall be informed in writing of the evaluation findings in compliance with the notice requirements of WAC 392-172-302, within ten school days following the completion of the evaluation.

[Statutory Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-111, filed 11/29/01, effective 12/30/01. Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-111, filed 12/1/99, effective 1/1/00.]

**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 three years" shall mean those children under three years of age who:

(a) Meet the eligibility criteria established in Part C of IDEA; or

(b) Qualify for one of the other eligibility categories specified in this chapter; and

(c) Are in need of early intervention services under Part C of IDEA. Children who qualify for early intervention ser-

vices must be evaluated prior to age three in order to determine eligibility for special education and related services.

(2) As used in this chapter, the term "developmentally delayed, three to six years" shall mean those children between three and six years of age 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 five 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 five developmental areas defined in WAC 392-172-116; or

(c) Qualify for one of the other eligibility categories specified in this chapter; and

(d) Are in need of special education and any necessary related services.

(e) Children aged six to nine years who previously qualified as "developmentally delayed, three to six years," may at the option of the school district or other public agency, continue to be eligible under the criteria for "developmentally delayed, three to six years" until they are reevaluated, but not later than three years after the eligibility decision for "developmentally delayed, three to six years" was initially made.

(3) As used in this chapter, the term "developmentally delayed, six to nine years" shall mean those children between six and nine years of age who either continue to qualify under subsection (2)(e) of this section, or 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 five developmental areas defined in WAC 392-172-116; or

(b) Qualify for one of the other eligibility categories specified in this chapter; and

(c) Are in need of special education and any necessary related services.

(4) Children who qualify for special education as "developmentally delayed, six to nine years" must be reevaluated prior to the age of nine consistent with WAC 392-172-182 et seq. and a determination made that the child either:

(a) Qualifies under the provisions of one of the other disabling conditions in this chapter; or

(b) Is no longer in need of special education and related services.

(5) A school district or other public agency is not required to adopt and use the category "developmentally delayed" for children, three to nine, within its jurisdiction.

(6) If a school district or other public agency uses the category "developmentally delayed," the district or public agency must conform to both the definition and age range of three to nine, established under this section.

(7) School districts or other public agencies who use the category "developmentally delayed," may also use any other eligibility category at any time.

[Statutory Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-114, filed 11/29/01, effective 12/30/01. Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-114, filed 12/1/99, effective 1/1/00. Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-114, filed 10/11/95, effective 11/11/95.]

**WAC 392-172-15700 Parent and general education teacher participation in IEP meetings.** (1) Each school district or other public agency shall take steps to ensure (in the case of nonadult students) that one or both parents of the special education student are present at each IEP meeting or are afforded the opportunity to participate, by:

(a) Notifying the parent(s) of the meeting early enough to ensure that they will have an opportunity to attend; and

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

(2) The notice to the parent(s) shall include the purpose, time, location of the meeting and who will be in attendance. If the purpose of the meeting is to develop, review or revise an IEP, the notice shall also inform the parents of the provisions relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the student. If the purpose of the meeting is the consideration of transition needs or services, the provisions in WAC 392-172-164 and 392-172-166 apply.

(3) If neither parent can attend the IEP meeting, the district or other public agency shall use other methods to ensure participation, including individual or conference telephone calls, or video conferencing.

(4) If neither parent can attend (in the case of a nonadult student), an IEP meeting may be conducted without a parent if the district or other public agency is unable to convince the parents that they should attend. In such a case the school district or other public agency must have 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.

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

(6) The general education teacher of a special education student (or preschool education provider), as a member of the individualized education program team, must, to the extent appropriate, participate in the development, review, and revision of the student's individualized education program, including assisting in:

(a) The determination of appropriate positive behavioral interventions and strategies for the student; and

(b) The determination of supplementary aids and services, program modifications, and supports for school personnel that will be provided for the student consistent with WAC 392-172-160 (1)(c).

[Statutory Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-15700, filed 11/29/01, effective 12/30/01. Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-15700, filed 12/1/99, effective 1/1/00.]

**WAC 392-172-159 Development, review, and revision of individualized education program-consideration of special factors.** (1) In developing, reviewing and revising each student's individualized education program, the team shall consider:

(a) The strengths of the student and the concerns of the parents for enhancing the education of their student; and

(b) The results of the initial or most recent evaluation of the student; and

(c) As appropriate, the results of the student's performance on any general state or district-wide assessment programs.

(2) The individualized education program team also shall:

(a) In the case of a student whose behavior impedes his or her learning or that of others, consider, if appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior;

(b) In the case of a student with limited English proficiency, consider the language needs of the student as these needs relate to the student's individualized education program;

(c) In the case of a student who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the student's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the student's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the student;

(d) Consider the communication needs of the student, and in the case of a student who is deaf or hard of hearing, consider the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode; and

(e) Consider whether the student requires assistive technology devices and services.

(3) If, in considering the special factors described above, the IEP team determines that a student needs a particular device or service (including an intervention, accommodation, or other program modification) in order for the student to receive a free appropriate public education, the IEP team must include a statement to that effect in the student's individualized education program.

(4) Nothing in this section requires the team to include information under one component of a student's individualized education program that is already contained under another component of the student's individualized education program.

(5) Notwithstanding subsections (1) through (3) of this section, an IEP team of a special education student convicted as an adult and receiving services under chapter 28A.193 RCW, may modify the student's IEP if there is a demonstrated bona fide security or compelling penological interest that cannot otherwise be accommodated.

[Statutory Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-159, filed 11/29/01, effective

12/30/01. Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-159, filed 12/1/99, effective 1/1/00.]

**WAC 392-172-160 Individualized education program.** (1) Each student's individualized education program shall include:

(a) A statement of the student's present levels of educational performance, including:

(i) How the student's disability affects the student's involvement and progress in the general curriculum (i.e., the same curriculum as for nondisabled students); or

(ii) For preschool students, as appropriate, how the disability affects the student's participation in appropriate activities.

(b) A statement of measurable annual goals, including benchmarks or short-term objectives, related to:

(i) Meeting the student's needs that result from the student's disability to enable the student to be involved in and progress in the general curriculum (i.e., the same curriculum as for nondisabled students), or for preschool students, as appropriate, to participate in appropriate activities; and

(ii) Meeting each of the student's other educational needs that result from the student's disability.

(c) A statement of the special education and any necessary related services and supplementary aids and services to be provided to the student, or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided for the student consistent with WAC 392-172-045 (4)(a):

(i) To advance appropriately toward attaining the annual goals;

(ii) To be involved and progress in the general curriculum in accordance with this section and to participate in extracurricular and other nonacademic activities; and

(iii) To be educated and participate with other special education students and nondisabled students in the activities described in this section.

(d) An explanation of the extent, if any, to which the student will not participate with nondisabled students in the general class and in activities described in this section.

(e) A statement of any individual modifications in the administration of state or district-wide assessments of student achievement that are needed in order for the student to participate in the assessment. If the individualized education program team determines that the student will not participate in a particular state or district-wide assessment of student achievement (or part of an assessment), a statement of:

(i) Why that assessment is not appropriate for the student; and

(ii) How the student will be assessed.

Provided, students incarcerated in adult correctional facilities and served pursuant to chapter 28A.193 RCW are not required to participate in assessments described in this subsection.

(f) The projected date for the beginning of the services and modification described in this section and the anticipated frequency, location, and duration of those services and modifications.

(g) A statement of:

(i) How the student's progress toward the annual goals described in this section will be measured; and

(ii) How the student's parents will be regularly informed (through such means as periodic report cards), at least as often as parents are informed of their nondisabled student's progress of:

(A) The annual goals; and

(B) The extent to which that progress is sufficient to enable the student to achieve the goals by the end of the year.

(h) For each special education student beginning at age fourteen (or younger, if determined appropriate by the IEP team), and updated annually, a statement of the transition service needs of the student under the applicable components of the student's IEP that focuses on the student's courses of study (such as participation in advanced placement courses or a vocational education program).

(i) For each student beginning at age sixteen (or younger, if determined appropriate by the IEP team), a statement of needed transition services for the student, including, if appropriate, a statement of the interagency responsibilities or any needed linkages. Consistent with chapter 28A.193 RCW, transition needs and services do not need to be considered or provided under (h) and (i) of this subsection, if a student's eligibility for special education services will end because of age before he/she will be eligible to be released from the adult correctional facility based on consideration of his/her sentence and eligibility for early release.

(j) If a participating agency, other than the public agency, fails to provide the transition services described in the IEP, the public agency shall reconvene the IEP team to identify alternative strategies to meet the transition objectives for the student set out in the IEP.

(k) Beginning at least one year before a student reaches age eighteen, consistent with WAC 392-172-309, the student's individualized education program must include a statement that the student has been informed of his or her rights under Part B of the Individuals with Disabilities Education Act, if any, that will transfer to the student on reaching the age of majority.

(l) Aversive interventions, 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 interventions.

(m) Extended school year services, pursuant to WAC 392-172-163.

(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 at no cost.

(4) Each public agency must:

(a) Provide special education and related services to a special education student in accordance with an individualized education program; and



(b) Make a good faith effort to assist the student to achieve the goals and objectives or benchmarks listed in the IEP.

(i) 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 benchmarks or objectives.

(ii) Nothing in this section limits a parent's right to ask for revisions of the student's IEP or to invoke due process procedures if the parent feels that the efforts required in this subsection are not being made.

[Statutory Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-160, filed 11/29/01, effective 12/30/01. Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-160, filed 12/1/99, effective 1/1/00. Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-160, filed 10/11/95, effective 11/11/95.]

**WAC 392-172-170 Initial service delivery—Parental consent for initial placement—Notice required.** (1) Written consent of the parent(s) or adult student shall be requested and obtained, consistent with WAC 392-172-304 before initial special education and related services are provided.

(2) Each school district or other public agency shall provide prior written notice of the proposal for initial provision of special education services to the student, consistent with WAC 392-172-302.

(3) The student's proposed special education and related services shall begin when written consent has been given by the parent(s) or the adult student (using mediation if appropriate).

(4) The school district may not override a parent's or adult student's refusal to grant consent for initial special education services.

[Statutory Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-170, filed 11/29/01, effective 12/30/01. Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-170, filed 12/1/99, effective 1/1/00. Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-170, filed 10/11/95, effective 11/11/95.]

**WAC 392-172-180 Procedures for establishing educational placement.** (1) The educational placement of each special education student, including a preschool student, shall be determined at least annually at a meeting conducted pursuant to WAC 392-172-15700 and 392-172-15705.

(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) Unless the IEP of a special education student requires some other arrangement, the student shall be educated in the school that he or she would attend if nondisabled. The placement shall be as close as possible to the student's home, unless the parents otherwise agree.

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

(5) A special education student is not removed from education in age-appropriate general classrooms solely because of needed modifications in the general curriculum.

(6) Notwithstanding subsections (1) through (5) of this section, an IEP team, or other team making placement decisions for a student convicted as an adult and receiving educational services under chapter 28A.193 RCW, may modify the student's placement if there is a demonstrated bona fide security or compelling penological interest that cannot otherwise be accommodated.

[Statutory Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-180, filed 11/29/01, effective 12/30/01. Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-180, filed 12/1/99, effective 1/1/00. 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 school district or other public agency shall ensure:

(1) That the IEP of each special education student is reviewed in accordance with this chapter;

(2) That a reevaluation of each student is conducted in accordance with the evaluation and reevaluation procedures contained in this chapter if conditions warrant a reevaluation, or if the student's parent or teacher requests a reevaluation, but at least once every three years; and

(3) That the results of any reevaluations are addressed by the IEP team when reviewing and as appropriate revising the IEP.

[Statutory Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-182, filed 11/29/01, effective 12/30/01. Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-182, filed 12/1/99, effective 1/1/00. Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-182, filed 10/11/95, effective 11/11/95.]

**WAC 392-172-186 Reevaluation—Review of existing data and need for additional data.** (1) As part of any reevaluation, a group that includes the individuals described in WAC 392-172-153, and other qualified professionals, as appropriate, shall review existing evaluation data on the student, including:

(a) Evaluations and information provided by the parents of the student;

(b) Current classroom-based assessment and observations; and

(c) Observations by teachers and related services providers.

(2) Based on the above review and input from the student's parents, identify what additional data, if any, are needed to determine:

(a) Whether the student continues to be a special education student and continues to need special education and any necessary related services;

(b) The present levels of performance and educational needs of the student; and

(c) If any additions or modifications to the special education and any necessary related services are needed to enable the student to meet the measurable annual goals set out in the student's individualized education program and to participate, as appropriate, in the general curriculum.

(3) If no additional data are needed to determine whether the student continues to be a special education student, the school district or other public agency shall notify the student's parents, consistent with WAC 392-172-302, (a) of that determination and the reasons for it; and (b) of the right of the parents to request an assessment to determine, for purposes of services under this chapter, the continuing eligibility of the student.

The school district or other public agency is not required to conduct the assessment unless requested to do so by the parents.

(4) The group described in subsection (1) of this section may conduct its review without a meeting. If the school district or other public agency conducts a meeting for the purposes under this section, parents must have an opportunity to participate in the meeting consistent with WAC 392-172-105.

(5) A public agency must evaluate a special education student in accordance with this chapter before determining that the student is no longer a special education student.

(6) The evaluation described in subsection (5) of this section is not required before the termination of a student's eligibility under this chapter due to graduation with a regular high school diploma, or exceeding the age eligibility for FAPE under state law. Prior written notice is required, consistent with WAC 392-172-302.

[Statutory Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-186, filed 11/29/01, effective 12/30/01. Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-186, filed 12/1/99, effective 1/1/00. 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 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-172-190 Reevaluation—Notice of results.** Within ten school days of the completion of the reevaluation, and determination of continuing eligibility the district or other public agency superintendent or designee shall notify the parent or adult student, pursuant to WAC 392-172-302, whether or not the student continues to be eligible and in need of special education.

If the student continues to be eligible and in need of special education, the district or other public agency will address:

(1) The present levels of performance and educational needs of the student; and

(2) Whether any additions or modifications to the special education and any necessary related services are needed to enable the student to meet the measurable annual goals set out in the IEP of the student and to participate, as appropriate, in the general curriculum.

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If the evaluation report recommends changes, an individualized education program team meeting shall be convened in accordance with WAC 392-172-153 through 392-172-166.

[Statutory Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-190, filed 11/29/01, effective 12/30/01. Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-190, filed 12/1/99, effective 1/1/00. 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 for special education funding.** 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:

(1) All employees shall hold such credentials, certificates, endorsements 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 the state board of education in accordance with chapter 180-82 WAC and this section.

Teachers who meet state board criteria pursuant to WAC 180-82-110(3) as now or hereafter amended, are eligible for a preendorsement waiver. Application for the special education preendorsement waiver shall be made to the special education section at the office of superintendent of public instruction.

(2) In addition to the requirement of subsection (1) of this section, all special education teachers providing, designing, supervising, monitoring or evaluating the provision of special education shall possess "substantial professional training." "Substantial professional training" as used in this section shall be evidenced by issuance of an appropriate special education endorsement on an individual teaching certificate issued by the superintendent of public instruction, professional education and certification section.

(3) Other certificated instructional personnel providing specially designed instruction or related services as defined in this chapter, shall meet standards established under the educational staff associate rules of the state board of education, as now or hereafter amended.

(4) Employees with only an early childhood special education endorsement may be assigned to programs that serve students birth through age eight. Preference for an early childhood special education assignment must be given first to employees having early childhood special education endorsement.

(5) Certified and/or classified staff assigned to provide instruction in Braille, the use of Braille, or the production of Braille must demonstrate competency with grade two standard literary Braille code by successful completion of a test approved by the state board of education pursuant to WAC 180-82-130.

(6) Classified staff shall present evidence of skills and knowledge necessary to meet the needs of students with disabilities, and shall be supervised consistent with WAC 392-172-045 (4)(a)(iii). Districts shall have procedures that ensure that classified staff receive training to meet state rec-

ommended core competencies pursuant to RCW 28A.415.310.

(7) General education classroom personnel providing specially designed instruction defined in WAC 392-172-045 (4)(a)(iii) pursuant to a properly formulated individual education program may be paid from state or federal 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: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-200, filed 11/29/01, effective 12/30/01. Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-200, filed 12/1/99, effective 1/1/00. 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 classroom teacher without a special education endorsement to a special education position, the district or other public agency must keep written documentation on 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; and/or

(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) Upon determination by a school district that one or more of these criteria can be documented, and the district determines that a teacher has the competencies to be an effective special education teacher but does not have endorsement in special education, the district can so assign the teacher to special education. The teacher so assigned must have completed six semester hours or nine quarter hours of course work which are applicable to an endorsement in special education. The following requirements apply:

(a) A designated representative of the district and any such teacher shall mutually develop a written plan which provides for necessary assistance to the teacher, and which provides for a reasonable amount of planning and study time associated specifically with the out-of-endorsement assignment;

(b) Such teachers shall not be subject to nonrenewal or probation based on evaluations of their teaching effectiveness in the out-of-endorsement assignments;

(c) Such teaching assignments shall be approved by a formal vote of the local school board for each teacher so assigned; and

(d) The assignment of such teachers for the previous school year shall be reported annually to the state board of education by the employing school district as required by WAC 180-16-195. Included in the report shall be the number

of teachers in out-of-endorsement assignments and the specific assistance being given to the teacher.

[Statutory Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-202, filed 11/29/01, effective 12/30/01. Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-202, filed 12/1/99, effective 1/1/00. Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-202, filed 10/11/95, effective 11/11/95.]

**WAC 392-172-220 Contractual services.** School districts are authorized to:

(1) Enter into interdistrict agreements with other school districts pursuant to chapter 392-135 WAC; or

(2) Contract with nonpublic agencies pursuant to this chapter and WAC 392-121-188 and public 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.

[Statutory Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-220, filed 11/29/01, effective 12/30/01. Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-220, filed 12/1/99, effective 1/1/00. 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 agencies.**

(1) A school district shall not award a contract to a nonpublic agency to provide special education to a special education student until the state board of education approves the nonpublic agency.

(2) The school district shall notify the special education section of the office of superintendent of public instruction, in writing, of their intent to serve a student through contract with a nonpublic agency.

(3) The office of superintendent of public instruction shall provide the school district and the nonpublic agency with the procedures/application for nonpublic agency approval, which includes a description of the agency and services provided, assurances, personnel records, and fire and health inspection forms. The school district proposing the nonpublic agency for approval will conduct an on-site visit of the nonpublic agency as part of the application process.

(4) Upon review of the completed application which includes the results of the on-site visit, the superintendent of public instruction or designee may conduct an independent on-site visit, if appropriate, and shall recommend approval or disapproval of the agency to the state board of education.

(5) The superintendent of public instruction or designee shall make information regarding currently approved nonpublic agencies available to all school districts.

(6) School districts shall ensure that an approved nonpublic agency is able to provide the services required to meet the unique needs of any special education student placed under this section.

[Statutory Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-222, filed 11/29/01, effective 12/30/01. Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-222, filed 12/1/99, effective 1/1/00. 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 responsibility when contracting for the delivery of services in a public agency or approved nonpublic agency.** Any school district contracting with a public or approved nonpublic agency for special education and related services 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 shall ensure that a representative of the approved nonpublic or public agency either attends the meeting or participates through other means. Meetings to review or revise the student's individualized education program after the student has been placed shall be initiated and conducted by either the approved nonpublic agency or public agency at the discretion of the school district. The district shall assure that both the parent(s) or the adult student and the public agency or approved nonpublic agency are represented in any decision concerning the student's individualized education program. The responsibility for compliance with this section lies with the school district.

(2) Develop a written contract which shall include, but not be limited to, the following elements:

- (a) Names of the parties involved;
- (b) The name(s) of the special education student(s) for whom the contract is drawn;
- (c) Location and setting of the services to be provided;
- (d) Description of services provided, program administration and supervision;
- (e) Designation of responsible parties;
- (f) Charges and reimbursement—Billing and payment procedures;
- (g) Total contract cost;
- (h) School district responsibility for compliance with due process, individualized education program, yearly review and determination of placement requirements; and
- (i) Other contractual elements including those identified in WAC 392-121-188 that may be necessary to assure compliance with state and federal rules.

[Statutory Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-224, filed 11/29/01, effective 12/30/01. Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-224, filed 12/1/99, effective 1/1/00. Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-224, filed 10/11/95, effective 11/11/95.]

**WAC 392-172-232 Definition—"Private school special education student(s)."** For the purpose of WAC 392-172-23300 through 392-172-248 "private school special education student(s)" means special education students who are not full or part time enrolled in the public school or other public agency for the purpose of receiving special education and related services, who are enrolled in private schools or agencies, and whose private school enrollment is not the result of a contractual arrangement between a public school district or other public agency and the private school or agency. Consistent with this section, "resident special education students" means those students who reside within school district or other public agency boundaries, consistent with chapter 28A.225 RCW, WAC 392-121-111, and 392-137-115.

[Statutory Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-232, filed 11/29/01, effective

12/30/01. Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-232, filed 12/1/99, effective 1/1/00. Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-232, filed 10/11/95, effective 11/11/95.]

**WAC 392-172-23600 Determination (of needs, numbers of students and types) of services.** (1) No private school special education student, as defined in WAC 392-172-232, has an individual right to receive some or all of the special education and related services that the student would receive if enrolled in a public school. Decisions about the services that will be provided to private school special education students under WAC 392-172-232 through 392-172-248 must be made in accordance with this section.

(2) Each school district or other public agency shall consult, in a timely and meaningful way, with appropriate representatives of private school special education students in light of the funding under WAC 392-172-23305, the number of private school special education students, the needs of private school special education students, and their location to decide:

- (a) Which students will receive services;
- (b) What services will be provided;
- (c) How and where the services will be provided; and
- (d) How the services provided will be evaluated.

(3) Each school district or other public agency shall give appropriate representatives of private school special education students a genuine opportunity to express their views regarding each matter that is subject to the consultation requirements in this section.

(4) The consultation required by this section shall occur before the school district or other public agency makes any decision that affects the opportunities of private school special education students to participate in services under WAC 392-172-232 through 392-172-23610.

(5) The school district or other public agency shall make the final decision with respect to the services to be provided to eligible private school students.

(6) If a special education student is enrolled in a religious or other private school and will receive special education or related services from a school district or other public agency, the district or agency shall:

(a) Initiate and conduct meetings to develop, review, and revise a services plan for the student, in accordance with WAC 392-172-23605; and

(b) Ensure that a representative of the religious or other private school attends each meeting. If the representative cannot attend, the school district or other public agency shall use other methods to ensure participation by the private school, including individual or conference telephone calls.

[Statutory Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-23600, filed 11/29/01, effective 12/30/01. Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-23600, filed 12/1/99, effective 1/1/00.]

**WAC 392-172-23605 Services provided.** (1) The services provided to private school special education students, as defined in WAC 392-172-232, must be provided by personnel meeting the same standards as personnel providing services in the public schools.

(2) Private school special education students may receive a different amount of services than special education students in public schools.

(3) No private school special education student is entitled to any service or to any amount of a service the student would receive if enrolled in a public school.

(4) Each private school special education student who has been designated to receive services under WAC 392-172-23600 must have a services plan that describes the specific special education and related services that the school district or other public agency will provide to the student in light of the services that the district or agency has determined, through the process described in WAC 392-172-23300 and 392-172-23600, it will make available to private school special education students.

(5) The services plan must, to the extent appropriate:

(a) Meet the requirements of WAC 392-172-160 with respect to the services provided;

(b) Be developed and implemented consistent with WAC 392-172-156, 392-172-158, and 392-172-161.

[Statutory Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-23605, filed 11/29/01, effective 12/30/01. Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-23605, filed 12/1/99, effective 1/1/00.]

**WAC 392-172-23610 Location of services and transportation.** (1) Services provided to private school special education students, as defined in WAC 392-172-232, may be provided on-site at a student's private school, consistent with WAC 392-172-240 through 392-172-248.

(2) If necessary for the student to benefit from or participate in the services provided under this section, a unilaterally placed private school special education student must be provided transportation:

(a) From the student's school or the student's home to a site other than the private school; and

(b) From the service site to the private school, or to the student's home.

(3) School districts or other public agencies are not required to provide transportation from the student's home to the private school.

(4) The cost of the transportation described in subsection (2) of this section may be included in calculating whether the school district or other public agency has met the requirement of WAC 392-172-23305.

[Statutory Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-23610, filed 11/29/01, effective 12/30/01. Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-23610, filed 12/1/99, effective 1/1/00.]

**WAC 392-172-238 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 392-172-239 Complaints.** (1) The procedures under WAC 392-172-350 et seq., do not apply to complaints that a school district or other public agency has failed to meet the requirements of WAC 392-172-232 through 392-172-23610, including the provision of services indicated on the student's services plan.

(2) The procedures under WAC 392-172-350 et seq. do apply to complaints that a school district or other public agency has failed to meet the requirements under child find, including evaluation and reevaluation procedures under this chapter.

(3) Complaints that the state, or a school district or other public agency, has failed to meet the requirements of WAC 392-172-232 through 392-172-248 may be filed under the procedures in WAC 392-172-324 et seq.

[Statutory Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-239, filed 11/29/01, effective 12/30/01. Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-239, filed 12/1/99, effective 1/1/00.]

**WAC 392-172-241 Service arrangements.** (1) In addition to services to private school students who are unilaterally enrolled by their parents, special education services may be provided to private school students and home schooled students who are enrolled in public schools on a part-time basis pursuant to chapter 392-134 WAC.

(2) No services, material, or equipment of any nature shall be provided to any private school or agency subject to sectarian (i.e., religious) control or influence.

(3) No services, material, or equipment of any nature shall be provided to students on the site of any private school or agency subject to sectarian control or influence.

[Statutory Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-241, filed 11/29/01, effective 12/30/01.]

**WAC 392-172-242 Equipment, property and supplies—Construction.** (1) Equipment and supplies 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 property and supplies must be retained and exercised by the school district or other public agency. Equipment and supplies placed on private school premises will be used only for Part B purposes.

(2) Records shall be kept of equipment and supplies and an accounting made of the equipment and supplies which shall assure that the equipment is used solely for the purposes of the program. Equipment and supplies placed in private schools must be able to be removed from the private school without remodeling the private school facility.

(3) The equipment and supplies 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 for repairs, minor remodeling, or to construct facilities for private schools or agencies.

[Statutory Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-242, filed 11/29/01, effective 12/30/01. Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-242, filed 12/1/99, effective 1/1/00. Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-242, filed 10/11/95, effective 11/11/95.]

**WAC 392-172-338 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, the superintendent of public instruction shall send a copy of the complaint to the educational entity, for their investigation of the alleged violations.

(2) The educational entity shall investigate the complaint. The responsible official of the educational entity shall respond in writing to the superintendent of public instruction, and include documentation of the investigation, 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 educational 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 shall provide the complainant a copy of the entity's response to the complaint.

(5) 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.

(6) Upon review of all relevant information including, if necessary, 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.

(7) The superintendent of public instruction shall issue a written decision to the complainant that addresses each allegation in the complaint including findings of fact, conclusions and the reasonable corrective measures deemed necessary to correct any violation. Corrective measures necessary to resolve a complaint shall be instituted as soon as possible but in no event later than thirty calendar days following the date of the decision, unless otherwise agreed to, or for good cause.

(8) If compliance by a local school district or other public agency, educational service district, or other subgrantee is not achieved pursuant to subsection (7) of this section, the superintendent of public instruction shall initiate fund withholding, fund recovery, or any other sanction deemed appropriate.

[Statutory Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-338, filed 11/29/01, effective 12/30/01. Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-338, filed 12/1/99, effective 1/1/00. Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-338, filed 10/11/95, effective 11/11/95.]

**WAC 392-172-344 Complaints against the superintendent of public instruction—Investigation of and response to complaints.** (1) Upon receipt of a complaint

against the superintendent of public instruction, the superintendent will designate an investigator within ten days. The investigator shall commence investigation of the complaint.

(2) Investigation by the superintendent of public instruction may include on-site investigations as appropriate.

(3) Upon completion of the investigation, the investigator shall provide the superintendent of public instruction with a written report on the results of the investigation and 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.

(4) 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: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-344, filed 11/29/01, effective 12/30/01. Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-344, filed 10/11/95, effective 11/11/95.]

**WAC 392-172-377 Functional behavioral assessment and intervention plan.** Within ten business days after first removing a student for more than ten school days in a school year, including weapons violations, drugs violations, or behavior that is substantially likely to result in injury to the student or to others, or commencing any removal that constitutes a change of placement under WAC 392-172-373 the following actions shall be taken by the school district or other public agency:

(1) If the district or other public agency did not conduct a functional behavioral assessment and implement a behavioral intervention plan for the student before the behavior that resulted in the removal occurred, the district or other public agency shall convene an individualized education program meeting to develop an assessment plan.

(2) If the student already has a behavioral intervention plan, the individualized education program team shall meet to review the plan and its implementation and modify it, as necessary, to address the behavior.

(3) As soon as practicable after developing the plan described in subsection (1) of this section, and completing the assessments required by the plan, the district or other public agency shall convene an IEP meeting to develop appropriate behavioral interventions to address that behavior and shall implement those interventions.

(4) If subsequently, a special education student who has a behavioral intervention plan and who has been removed from the student's current educational placement for more than ten school days in a school year is subjected to a removal that does not constitute a change of placement under WAC 392-172-373, the IEP team members shall review the behavioral intervention plan and its implementation to determine if modifications are necessary.

If one or more of the team members believe that modifications are needed, the team shall meet to modify the plan



and its implementation, to the extent the team determines necessary.

[Statutory Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-377, filed 11/29/01, effective 12/30/01. Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-377, filed 12/1/99, effective 1/1/00.]

**WAC 392-172-38410 Protections for students not yet eligible for special education and related services.** (1) A student who has not been determined to be eligible for special education and any necessary related services under this chapter and who has engaged in behavior that violated any rule or code of conduct of the school district or other public agency, including any behavior described in this section, may assert any of the protections provided for in this section if the school district or other public agency had knowledge that the student was a special education student before the behavior that precipitated the disciplinary action occurred. A school district or other public agency must be deemed to have knowledge that a student is a special education student if:

(a) The parent of the student has expressed concern in writing (or orally if the parent does not know how to write or has a disability that prevents a written statement) to personnel of the appropriate educational or other public agency that the student is in need of special education and related services;

(b) The behavior or performance of the student demonstrates the need for these services in accordance with this chapter;

(c) The parent of the student has requested an evaluation of the student pursuant to this chapter; or

(d) The teacher of the student, or other personnel of the district or other public agency, has expressed concern about the behavior or performance of the student to the director of special education of the district or other public agency or to other personnel of the district or other public agency in accordance with their established child find or special education referral system.

(2) A district or other public agency would not be deemed to have knowledge under subsection (1) of this section, if as a result of receiving the information, the district or other public agency:

(a) Either:

(i) Conducted an evaluation consistent with this chapter and determined that the student was not a special education student; or

(ii) Determined that an evaluation was not necessary; and

(b) Provided notice to the student's parents of its determination consistent with this chapter.

(3) If the district or other public agency does not have knowledge that a student is a special education student prior to taking disciplinary measures against the student (in accordance with subsections (1) and (2) of this section), the student may be subjected to the same disciplinary measures as measures applied to students without disabilities who engaged in comparable behaviors consistent with this section:

(a) If a request is made for an evaluation of a student during the time period in which the student is subjected to disci-

plinary measures under this section, the evaluation must be conducted in an expedited manner.

(b) Until the evaluation is completed, the student remains in the educational placement determined by school or other public agency which can include suspension or expulsion without educational services.

(c) If the student is determined to be a special education student taking into consideration information from the evaluation conducted by the district or other public agency and information provided by the parents, the district or other public agency shall provide special education and any necessary related services in accordance with the provisions of this chapter, including the discipline procedures and free appropriate public education requirements.

[Statutory Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-38410, filed 11/29/01, effective 12/30/01. Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-38410, filed 12/1/99, effective 1/1/00.]

**WAC 392-172-404 Notice to parents.** (1) Parents of special education students and adult students have rights regarding the protection of the confidentiality of any personally identifiable information collected, used, or maintained under WAC 392-172-400 through 392-172-426, the Family Educational Rights and Privacy Act of 1974, as amended, chapter 28A.155 RCW, and other Washington state law.

(2) State forms, procedural safeguards and parent handbooks regarding special education are available in Spanish, Vietnamese, Russian, Cambodian, and Korean, and alternate formats (braille and tape) on request.

(3) Personally identifiable information about students for use by the state may be contained in citizen's complaints, safety net applications, due process hearings and mediation agreements. The state may also receive personally identifiable information as a result of grant evaluation performance. This information is removed before forwarding information to other agencies or individuals requesting the information, unless the parent or adult student consents to release the information or the information is allowed to be released without parent consent under the regulations implementing the Family Educational Rights and Privacy Act, 34 CFR Part 99.

(4) Before undertaking any major identification, location, or evaluation activity, the state, at a minimum, publishes notice in newspapers with circulation adequate to notify parents throughout the state of the activity and posts information on its web site.

[Statutory Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-404, filed 11/29/01, effective 12/30/01. Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-404, filed 12/1/99, effective 1/1/00. Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-404, filed 10/11/95, effective 11/11/95.]

**WAC 392-172-424 Safeguards.** (1) Each participating 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 age of the student and the type and severity of the student's disability.

(2) One official at each participating 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 procedures on protection of the confidentiality of personally identifiable information, contained in this chapter, state law, the regulations implementing the Family Educational Rights and Privacy Act (34 CFR Part 99), and the school district's or other public agency's procedures.

(4) Each participating 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: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-424, filed 11/29/01, effective 12/30/01. Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-424, filed 12/1/99, effective 1/1/00. 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.** (1) 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. State law regarding records retention is contained in chapter 40.12 RCW. State procedures for school district records retention is published by the secretary of state, division of archives and records management.

(2) 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: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-426, filed 11/29/01, effective 12/30/01. Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-426, filed 12/1/99, effective 1/1/00. Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-426, filed 10/11/95, effective 11/11/95.]

**WAC 392-172-504 Monitoring.** (1) The superintendent of public instruction or designee shall annually monitor selected local school districts or other public agency special education programs, so that all districts or other public agencies are monitored at least once every four years. The purpose of monitoring is to determine the school district's and other public agency's compliance with this chapter, chapter 28A.155 RCW, federal regulations implementing 20 USC Section 1400, et seq. (Part B of the Individuals with Disabilities Education Act) and other federal and state education laws necessary to validate compliance with this chapter, including validation of information included in school district or other public agency requests for federal funds.

(2) Procedures for monitoring school districts and other public agencies include:

- (a) Collection of previsit data;
- (b) Conduct of on-site visits; and

(c) Comparison of a sampling of evaluation reports and individualized education programs with the services provided.

(3) Following a monitoring visit, a 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;
- (b) Required student specific corrective actions; and
- (c) Areas that will require a corrective action plan to address any systemic issues determined through the monitoring.

(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 (if any); and

(b) Submission of a proposed corrective 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.

(5) 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, or submits a corrective action plan that is not approved, the office of superintendent of public instruction shall determine whether or not any revisions are necessary, and the extent to which the proposed action is acceptable and issue final monitoring report within thirty calendar days after receipt of the response.

(6) If the school district or other public agency does not comply with a corrective action plan approved pursuant to subsections (4)(b) and (5) of this section, the superintendent of public instruction or designee shall institute procedures to ensure compliance with applicable state and federal rules. Such procedures may include one or more of the following:

(a) Verification visits by office of superintendent of public instruction staff, or its designee, 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 the final monitoring report; and

(iii) Provide any necessary technical assistance to the school district or other public agency in its efforts to comply.

(b) Withholding, 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) Initiating an audit of the school district or other public agency consistent with WAC 392-172-512.

[Statutory Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-504, filed 11/29/01, effective 12/30/01. Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-504, filed 12/1/99, effective 1/1/00. Statutory Authority: Chapter 28A.155 RCW. 95-21-055 (Order 95-11), § 392-172-504, filed 10/11/95, effective 11/11/95.]

**WAC 392-172-507 State level nonsupplanting and maintenance of effort.** (1) Except as provided under WAC 392-172-506, federal funds available for special education students under Part B of the Individuals with Disabilities Education Act, shall be used to supplement, and in no case supplant, federal, state and local funds (including funds that are not under the direct control of the state or local education agencies) expended for special education and related services provided to special education students.

(2) On either a total or per-capita basis, the state will not reduce the amount of state financial support for special education and related services for special education students, or otherwise made available because of the excess costs of educating those students, below the amount of that support for the preceding fiscal year.

[Statutory Authority: 20 U.S.C. 1400 et seq., chapter 28A.155 RCW and RCW 28A.300.070. 01-24-049, § 392-172-507, filed 11/29/01, effective 12/30/01. Statutory Authority: RCW 28A.155.090(7), 28A.300.070 and 20 U.S.C. 1400 et seq. 99-24-137, § 392-172-507, filed 12/1/99, effective 1/1/00.]

## Title 399 WAC

# COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT, DEPARTMENT OF (PUBLIC WORKS BOARD)

### Chapters

<b>399-10</b>	<b>General provisions.</b>
<b>399-30</b>	<b>Public works loans and pledges.</b>
<b>399-50</b>	<b>Ethics in public service.</b>

### Chapter 399-10 WAC GENERAL PROVISIONS

#### WAC

399-10-010	Organization and operation of the public works board.
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**WAC 399-10-010 Organization and operation of the public works board.** (1) The public works board is a thirteen-member board appointed by the governor under RCW 43.155.030.

(2) The governor appoints one of the general public members as chair. The board may elect other officers for terms deemed necessary.

(3) The department of community, trade, and economic development provides staff support and office space to the board at P.O. Box 48319, Olympia, Washington 98504-8319; phone (360) 725-5000.

[Statutory Authority: RCW 43.155.040(5). 01-09-014, § 399-10-010, filed 4/6/01, effective 5/7/01. Statutory Authority: RCW 43.155.040 (4) and (5). 98-24-010, § 399-10-010, filed 11/19/98, effective 12/20/98. 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 399-30 WAC

## PUBLIC WORKS LOANS AND PLEDGES

#### WAC

399-30-030	Loan and financing guarantee applications.
399-30-040	Application evaluation procedure and board deliberations.
399-30-042	Application evaluation procedure and board deliberations—Capital planning support.

**WAC 399-30-030 Loan and financing guarantee applications.** (1) Any local government in the state of Washington may apply for a loan or financing guarantee to assist in financing critical public works projects.

(2) All applicants must meet the following conditions:

(a) Applicant cities and counties must be imposing a real estate excise tax under RCW 82.46.010(2) at a rate of at least one-quarter of one percent;

(b) Applicant local governments must have developed a long-term plan for financing public works needs as further described in the loan application package under "capital facilities planning."

(3) Direct costs eligible for public works loans are those costs directly attributable to a specific project and include:

(a) Work done by employees of the applicant, or by other government employees under an inter-local agreement or contract limited to: Engineering, environmental review, design activities, acquisition of rights of way or property, construction inspection activities, roadway seal coating (if bids from private sector contractors have been solicited and compared with the inter-local agreement proposal), and the cleaning, sterilization, or bacteriological testing of water system components prior to public use.

(i) Salaries and wages (at actual or average rates) covering productive labor hours of the local government employees (excluding the administrative organization of the operating unit involved). The cost of services rendered by employees generally classified as administrative are considered a direct cost only when such employees are assigned for short periods of time to perform on a full-time basis the types of services described above and when similar procedures are followed;

(ii) Employee benefits relating to direct labor are considered a direct cost of construction projects. The following items may be included as employee benefits:

- (A) F.I.C.A. (Social Security) - employer's share;
- (B) Retirement benefits;
- (C) Hospital, health, dental, and other welfare insurance;
- (D) Life insurance;
- (E) Industrial and medical insurance;
- (F) Vacation;
- (G) Holiday;
- (H) Sick leave; and
- (I) Military leave and jury duty.

Employee benefits must be calculated as a percentage of direct labor dollars. The computation of predetermined percentage rates to be applied to current labor costs must be based on the average of total employee benefits and total labor costs for the prior fiscal year and adjusted by known current year variations.

(b) Contract engineering, planning, legal, and financial planning services. The board reserves the right to declare