# Chapter 392-160 WAC
# SPECIAL SERVICE PROGRAM—TRANSITIONAL BILINGUAL

WAC


| | |
|---|---|
| 392-160-003 | Authority. |
| 392-160-004 | Purpose. |
| 392-160-005 | Definitions. |
| 392-160-010 | School district board of directors duties. |
| 392-160-015 | Identification of eligible students. |
| 392-160-020 | Approved test for determining initial eligibility—English proficiency scores. |
| 392-160-026 | District application. |
| 392-160-027 | Board approval. |
| 392-160-028 | Content of district application. |
| 392-160-029 | Program approval. |
| 392-160-035 | Program exit requirements—Testing. |
| 392-160-040 | Alternative instructional program. |
| 392-160-045 | Students with disabilities—Conditions for transitional bilingual entitlement. |


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

| | |
|---|---|
| 392-160-001 | Purpose—Supplemental federal requirements. [Statutory Authority: RCW 28A.58.804. WSR 81-15-089 (Order 81-4), § 392-160-001, filed 7/22/81. Statutory Authority: RCW 28A.58.808. WSR 80-07-039 (Order 80-21), § 392-160-001, filed 6/17/80.] Repealed by WSR 84-13-027 (Order 84-17), filed 6/13/84. Statutory Authority: RCW 28A.58.800 through 28A.58.810. |
| 392-160-025 | Program application and approval procedure. [Statutory Authority: RCW 28A.58.808. WSR 80-07-039 (Order 80-21), § 392-160-025, filed 6/17/80.] Repealed by WSR 81-15-089 (Order 81-4), filed 7/22/81. Statutory Authority: RCW 28A.58.804. |
| 392-160-030 | Funding procedure—Monthly reports. [Statutory Authority: RCW 28A.58.808. WSR 80-07-039 (Order 80-21), § 392-160-030, filed 6/17/80.] Repealed by WSR 81-15-089 (Order 81-4), filed 7/22/81. Statutory Authority: RCW 28A.58.804. |

**WAC 392-160-003 Authority.** The authority for this chapter is RCW 28A.180.060 which authorizes the superintendent of public instruction to promulgate rules for the implementation of a transitional bilingual instructional program.

[Statutory Authority: 1990 c 33. WSR 90-16-002 (Order 18), § 392-160-003, filed 7/19/90, effective 8/19/90. Statutory Authority: RCW 28A.58.800 through 28A.58.810. WSR 84-13-027 (Order 84-17), § 392-160-003, filed 6/13/84.]

**WAC 392-160-004 Purpose.** The purpose of this chapter is to set forth policies and procedures for the implementation of a transitional bilingual instructional program.

[Statutory Authority: RCW 28A.58.800 through 28A.58.810. WSR 84-13-027 (Order 84-17), § 392-160-004, filed 6/13/84.]

**WAC 392-160-005 Definitions.** As used in this chapter:

(1) "Transitional bilingual instruction" means a system of instruction which:

(a) Uses two languages, one of which is English, as a means of instruction to build upon and expand language skills to enable a student to achieve competency in English;

(b) Introduces concepts and information in the primary language of a student and reinforces them in the English language; and

(c) Tests students in the subject matter in English.

(2) "Primary language" means the language most often used by a student (not necessarily by parents, guardians, or others) for communication in the student's place of residence.

(3) "Eligible student" means any student who meets the following two conditions:

(a) The primary language of the student must be other than English; and

(b) The student's English skills must be sufficiently deficient or absent to impair learning.

(4) "Alternative instructional program" means a program of instruction which may include English as a second language and is designed to enable the student to achieve competency in English.

[Statutory Authority: RCW 28A.58.808. WSR 84-20-083 (Order 84-41), § 392-160-005, filed 10/2/84. Statutory Authority: RCW 28A.58.800 through 28A.58.810. WSR 84-13-027 (Order 84-17), § 392-160-005, filed 6/13/84. Statutory Authority: RCW 28A.58.808. WSR 80-07-039 (Order 80-21), § 392-160-005, filed 6/17/80.]

**WAC 392-160-010 School district board of directors duties.** Consistent with the provisions of this chapter, every school district board of directors:

(1) Shall make available to each eligible student a transitional bilingual instructional program or, if the use of two languages is not practicable as provided in WAC 392-160-040, an alternative instructional program;

(2) Shall communicate, whenever feasible, with parents of students in the bilingual program, or alternative instruction program in a language they can understand; and

(3) Shall provide professional development training for administrators, teachers, counselors, and other staff on bilingual program models, and/or district's alternative instructional program, appropriate use of instructional strategies and assessment results, and curriculum and instructional materials for use with culturally and linguistically diverse students.

[Statutory Authority: RCW 28A.180.010. WSR 08-19-039, § 392-160-010, filed 9/10/08, effective 10/11/08; WSR 08-09-071, § 392-160-010, filed 4/16/08, effective 5/17/08. Statutory Authority: RCW 28A.58.808. WSR 84-20-083 (Order 84-41), § 392-160-010, filed 10/2/84. Statutory Authority: RCW 28A.58.800 through 28A.58.810. WSR 84-13-027 (Order 84-17), § 392-160-010, filed 6/13/84. Statutory Authority: RCW 28A.58.804. WSR 81-15-089 (Order 81-4), § 392-160-010, filed 7/22/81. Statutory Authority: RCW 28A.58.808. WSR 80-07-039 (Order 80-21), § 392-160-010, filed 6/17/80.]

**WAC 392-160-015 Identification of eligible students.** (1) District procedures—Identification of primary language required: Every school district board of directors shall adopt written procedures governing the identification of each stu-

dent's primary language and the determination of which students with a primary language other than English are eligible students. Such procedures shall include:

(a) A home language survey, completed by the student and the student's parent(s) or guardian(s), which identifies the student's primary language as other than English; and

(b) Provisions for testing students on the state-approved Washington language proficiency placement test.

(2) Deadline for determining eligibility of newly enrolled students: The primary language and eligibility of each newly enrolled student shall be established no later than the tenth school day after the date upon which the student registers and commences attendance at a particular school district. Provided that no eligible student shall be required to participate in a transitional bilingual instructional program or an alternative instructional program, if the parent/guardian chooses to opt the student out of program services.

(3) Annual reassessment of all (eligible) students is required: Each school year each school in which an eligible student is enrolled shall conduct an evaluation of the overall academic progress and English language development of the student. This evaluation must include but not be limited to the administration of a standardized test in reading, writing, listening and speaking in English as set forth in WAC 392-160-035.

[Statutory Authority: RCW 28A.180.010. WSR 08-19-039, § 392-160-015, filed 9/10/08, effective 10/11/08; WSR 08-09-071, § 392-160-015, filed 4/16/08, effective 5/17/08. Statutory Authority: Chapter 28A.180 RCW. WSR 91-17-008 (Order 12), § 392-160-015, filed 8/12/91, effective 9/12/91. Statutory Authority: RCW 28A.58.808. WSR 84-20-083 (Order 84-41), § 392-160-015, filed 10/2/84. Statutory Authority: RCW 28A.58.800 through 28A.58.810. WSR 84-13-027 (Order 84-17), § 392-160-015, filed 6/13/84. Statutory Authority: RCW 28A.58.804. WSR 81-15-089 (Order 81-4), § 392-160-015, filed 7/22/81. Statutory Authority: RCW 28A.58.808. WSR 80-07-039 (Order 80-21), § 392-160-015, filed 6/17/80.]

**WAC 392-160-020 Approved test for determining initial eligibility—English proficiency scores.** Approved English proficiency test: Washington language proficiency placement test (WLPT).

[Statutory Authority: RCW 28A.180.010. WSR 09-04-014, § 392-160-020, filed 1/23/09, effective 2/23/09. Statutory Authority: Chapter 28A.180 RCW. WSR 91-17-008 (Order 12), § 392-160-020, filed 8/12/91, effective 9/12/91. Statutory Authority: RCW 28A.58.808. WSR 84-20-083 (Order 84-41), § 392-160-020, filed 10/2/84. Statutory Authority: RCW 28A.58.800 through 28A.58.810. WSR 84-13-027 (Order 84-17), § 392-160-020, filed 6/13/84. Statutory Authority: RCW 28A.58.808. WSR 80-07-039 (Order 80-21), § 392-160-020, filed 6/17/80.]

**WAC 392-160-026 District application.** Each school district that seeks an allocation of state funds for a transitional bilingual instruction program or alternative instructional program shall submit a program approval application to the superintendent of public instruction no later than August 1 of each year: Provided, That in the case of extenuating circumstances or in the case of a change in circumstances such as the unexpected enrollment of eligible students the superintendent of public instruction may allow the belated submission of an application or the submission of a modification to a previously approved application. The application shall apply to programs to be conducted during the ensuing school year and shall provide data and information in accordance with instructions and forms now or hereafter established and published by the superintendent of public instruction in bulletins distributed to school districts.

[Statutory Authority: RCW 28A.180.010. WSR 08-09-071, § 392-160-026, filed 4/16/08, effective 5/17/08. Statutory Authority: RCW 28A.58.808. WSR 84-20-083 (Order 84-41), § 392-160-026, filed 10/2/84. Statutory Authority: RCW 28A.58.800 through 28A.58.810. WSR 84-13-027 (Order 84-17), § 392-160-026, filed 6/13/84.]

**WAC 392-160-027 Board approval.** The district's transitional bilingual instructional program or alternative instructional program shall be approved by formal action of the district's board of directors.

[Statutory Authority: RCW 28A.180.010. WSR 08-09-071, § 392-160-027, filed 4/16/08, effective 5/17/08. Statutory Authority: RCW 28A.58.800 through 28A.58.810. WSR 84-13-027 (Order 84-17), § 392-160-027, filed 6/13/84.]

**WAC 392-160-028 Content of district application.** The district's annual application shall contain the following:

(1) The estimated number of eligible students to be served in the next school year;

(2) A description of the bilingual instructional program and/or alternative instructional program to be implemented the next school year;

(3) A description of the research-based professional development activities plan targeted toward second language acquisition for the next school year as provided for in this section and WAC 392-160-010; and

(4) A description of the district's plan for continuous improvement and evaluation of its program to serve English language learners.

[Statutory Authority: RCW 28A.180.010. WSR 08-09-071, § 392-160-028, filed 4/16/08, effective 5/17/08. Statutory Authority: RCW 28A.58.808. WSR 84-20-083 (Order 84-41), § 392-160-028, filed 10/2/84. Statutory Authority: RCW 28A.58.800 through 28A.58.810. WSR 84-13-027 (Order 84-17), § 392-160-028, filed 6/13/84.]

**WAC 392-160-029 Program approval.** Program approval by the superintendent of public instruction shall be as follows:

(1) Each application that is submitted as required by and pursuant to this chapter shall be approved: Provided, that approval of an application may be withheld in whole or part in the event the superintendent of public instruction deems it necessary to ascertain the completeness and accuracy of the application;

(2) Each school district shall be notified of program approval status, within thirty days after the date of receipt of the application by the superintendent of public instruction; and

(3) Each application that is returned to a school district with approval withheld in whole or part shall be accompanied by an explanation of the reasons therefore and a statement of the corrective action necessary for approval.

[Statutory Authority: RCW 28A.180.010. WSR 08-09-071, § 392-160-029, filed 4/16/08, effective 5/17/08. Statutory Authority: RCW 28A.58.800 through 28A.58.810. WSR 84-13-027 (Order 84-17), § 392-160-029, filed 6/13/84.]

**WAC 392-160-035 Program exit requirements—Testing.** (1) No student shall continue to be entitled to a transitional bilingual instructional program or alternative instruc-

tional program after the student has received instruction in a transitional bilingual instructional program or alternative instructional program conducted pursuant to this chapter within any one or more school districts for a period of three consecutive school years (i.e., 540 school days or portions thereof): Unless the student has not yet met exit criteria on Washington language proficiency test as established by the office of superintendent of public instruction.

(2) The approved test for measurement of improvement in English language skills for purposes of exit from the transitional bilingual instructional program or alternative instructional programs shall be the Washington language proficiency test.

(3) No student shall be eligible for continued funding in the transitional bilingual instructional program or alternative program upon meeting or exceeding the state standards as measured by the WLPT. As provided for in this section and WAC 392-160-015, the parent/guardian retains the option to refuse program services for the eligible student.

[Statutory Authority: RCW 28A.180.010. WSR 08-09-071, § 392-160-035, filed 4/16/08, effective 5/17/08. Statutory Authority: RCW 28A.58.808. WSR 84-20-083 (Order 84-41), § 392-160-035, filed 10/2/84. Statutory Authority: RCW 28A.58.800 through 28A.58.810. WSR 84-13-027 (Order 84-17), § 392-160-035, filed 6/13/84. Statutory Authority: RCW 28A.58.804. WSR 81-15-089 (Order 81-4), § 392-160-035, filed 7/22/81. Statutory Authority: RCW 28A.58.808. WSR 80-07-039 (Order 80-21), § 392-160-035, filed 6/17/80.]

**WAC 392-160-040 Alternative instructional program.** School districts under one or more of the following conditions may elect to provide an alternative instructional program:

(1) Necessary instructional materials in the student's primary language are unavailable and the district has made reasonable efforts to obtain necessary materials without success;

(2) The capacity of the district's bilingual instructional program is temporarily exceeded by an unexpected increase in the enrollment of eligible students;

(3) Bilingual instruction cannot be provided to students without substantially impairing their basic education because of their distribution throughout many grade levels or schools, or both; or

(4) Teachers who are trained in bilingual education methods and sufficiently skilled in the non-English primary language(s) are unavailable, and the district has made reasonable attempts to obtain the services of such teachers.

[Statutory Authority: RCW 28A.180.010. WSR 08-09-071, § 392-160-040, filed 4/16/08, effective 5/17/08. Statutory Authority: Chapter 28A.180 RCW. WSR 91-17-008 (Order 12), § 392-160-040, filed 8/12/91, effective 9/12/91. Statutory Authority: RCW 28A.58.808. WSR 84-20-083 (Order 84-41), § 392-160-040, filed 10/2/84. Statutory Authority: RCW 28A.58.800 through 28A.58.810. WSR 84-13-027 (Order 84-17), § 392-160-040, filed 6/13/84. Statutory Authority: RCW 28A.58.804. WSR 81-15-089 (Order 81-4), § 392-160-040, filed 7/22/81. Statutory Authority: RCW 28A.58.808. WSR 80-07-039 (Order 80-21), § 392-160-040, filed 6/17/80.]

**WAC 392-160-045 Students with disabilities—Conditions for transitional bilingual entitlement.** (1) Students identified as being eligible for both the state transitional bilingual instructional program (TBIP) and special education program will participate in the TBIP to the same degree and consideration given to every other child in the TBIP.

(2) The district, in consultation with the student's IEP team shall determine whether the child's disability is the determinant factor for the child's English language skill deficiency.

(3) If it is determined that the child's disability is the determinant factor for the English language skill deficiency, the child shall not be eligible for the TBIP.

(4) If it is determined that the child's disability is not the determinant factor for the English language skill deficiency, the child shall be eligible for the TBIP.

(5) If it cannot be determined whether or not the child's disability is the determinant factor for the child's English language skill deficiency, the child shall be eligible for TBIP and the special education program. The child's district, in consultation with the student's IEP team shall assess annually whether or not the child's disability is the determinant factor for the child's English language skill deficiency. If the district and IEP team determine that the child's disability is the determinant factor for the child's English language skill deficiency then the child shall not be eligible for the TBIP.

(6) A child who is participating in both the TBIP and the special education program under this chapter shall be subject to all conditions of participation provided in this chapter.

[Statutory Authority: RCW 28A.180.010. WSR 08-09-071, § 392-160-045, filed 4/16/08, effective 5/17/08. Statutory Authority: RCW 28A.58.808. WSR 84-20-083 (Order 84-41), § 392-160-045, filed 10/2/84. Statutory Authority: RCW 28A.58.804. WSR 81-15-089 (Order 81-4), § 392-160-045, filed 7/22/81. Statutory Authority: RCW 28A.58.808. WSR 80-07-039 (Order 80-21), § 392-160-045, filed 6/17/80.]