

# Chapter 392-164 WAC

## SPECIAL SERVICES PROGRAM—CHAPTER 1 MIGRANT OF THE EDUCATION CONSOLIDATION AND IMPROVEMENT ACT OF 1981, FINANCIAL ASSISTANCE TO STATE EDUCATIONAL AGENCIES

WAC			
392-164-100	Authority.	392-164-410	Withholding of Chapter 1 Migrant payments.
392-164-105	Purpose.	392-164-415	Compliance agreement.
392-164-115	Accountability.	392-164-420	General requirements for new program.
392-164-120	Chapter 1 Migrant—Definition.	392-164-425	Subgrant allocation formula.
392-164-125	Agricultural activity—Definition.	392-164-430	Supply purchase.
392-164-130	Fishing activity—Definition.		
392-164-135	Migratory agricultural worker—Definition.		
392-164-140	Migratory fisher—Definition.		
392-164-145	Currently migratory child—Definition.		
392-164-150	Formerly migratory child—Definition.		
392-164-155	Migratory children—Definition.		
392-164-160	Children—Definition.		
392-164-165	Preschool children—Definition.		
392-164-170	Eligible migratory children—Definition.		
392-164-175	Guardian—Definition.		
392-164-180	Other subgrantee—Definition.		
392-164-185	Object of expenditure—Definition.		
392-164-190	Activity—Definition.		
392-164-195	Indirect expenditure—Definition.		
392-164-200	Direct expenditure—Definition.		
392-164-205	Service model—Definition.		
392-164-210	Supplement—Definition.		
392-164-215	Operating agency—Definition.		
392-164-220	Project—Definition.		
392-164-225	Academic instruction—Definition.		
392-164-230	Greatest need of special assistance—Definition.		
392-164-235	Consultation with parents and teachers of participating children—Definition.		
392-164-240	Definition—Participating children.		
392-164-245	Annual needs assessment.		
392-164-250	Service priorities.		
392-164-255	Application required.		
392-164-260	Substance of annual application.		
392-164-265	Basis of project planning and funding.		
392-164-270	Board approval.		
392-164-275	Board certification.		
392-164-280	Supervisory costs.		
392-164-285	Approval of Chapter 1 Migrant project applications for a subgrant by the superintendent of public instruction.		
392-164-290	Amount of subgrant.		
392-164-295	Effect of approval.		
392-164-300	Budget revision—Ten percent allowed.		
392-164-305	Budget revisions—Updating planned expenditures.		
392-164-310	Budget revision—Approval.		
392-164-315	Program update.		
392-164-320	Identification of migratory children.		
392-164-325	Student accident insurance.		
392-164-330	Construction and portable lease/purchase.		
392-164-335	Property, facilities, and equipment.		
392-164-340	Day care.		
392-164-345	Preschool services.		
392-164-350	Fiscal requirements.		
392-164-355	Chapter 1 Migrant audit.		
392-164-360	Notification of parents.		
392-164-365	Local parent advisory councils—Composition and procedures.		
392-164-368	Consultation with parents.		
392-164-370	Annual meeting of parents.		
392-164-375	State advisory committee.		
392-164-380	Report of services—Annual requirement.		
392-164-385	Report of services—Summer school addendum.		
392-164-390	Program evaluation.		
392-164-395	Project program and budget revisions.		
392-164-400	Program compliance review.		
392-164-405	Subgrantee accountability.		
			<b>DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER</b>
		392-164-005	Introduction. [Order 7-75, § 392-164-005, filed 12/22/75. Formerly WAC 392-96-005.] Repealed by WSR 88-13-002 (Order 88-15), filed 6/3/88. Statutory Authority: RCW 28A.02.100.
		392-164-010	Purposes. [Order 7-75, § 392-164-010, filed 12/22/75. Formerly WAC 392-96-010.] Repealed by WSR 88-13-002 (Order 88-15), filed 6/3/88. Statutory Authority: RCW 28A.02.100.
		392-164-015	Definitions. [Statutory Authority: RCW 28A.03.030(1) and (3), 28A.02.100 and PL 89-750. WSR 78-08-037 (Order 6-78), § 392-164-015, filed 7/18/78; Order 7-75, § 392-164-015, filed 12/22/75. Formerly WAC 392-96-015.] Repealed by WSR 88-13-002 (Order 88-15), filed 6/3/88. Statutory Authority: RCW 28A.02.100.
		392-164-020	Eligibility requirements. [Order 7-75, § 392-164-020, filed 12/22/75. Formerly WAC 392-96-020.] Repealed by WSR 88-13-002 (Order 88-15), filed 6/3/88. Statutory Authority: RCW 28A.02.100.
		392-164-025	Formerly migratory children. [Order 7-75, § 392-164-025, filed 12/22/75. Formerly WAC 392-96-025.] Repealed by WSR 88-13-002 (Order 88-15), filed 6/3/88. Statutory Authority: RCW 28A.02.100.
		392-164-030	Bilingual education. [Order 7-75, § 392-164-030, filed 12/22/75. Formerly WAC 392-96-030.] Repealed by WSR 88-13-002 (Order 88-15), filed 6/3/88. Statutory Authority: RCW 28A.02.100.
		392-164-035	Student identification. [Order 7-75, § 392-164-035, filed 12/22/75. Formerly WAC 392-96-035.] Repealed by WSR 88-13-002 (Order 88-15), filed 6/3/88. Statutory Authority: RCW 28A.02.100.
		392-164-040	Student insurance. [Order 7-75, § 392-164-040, filed 12/22/75. Formerly WAC 392-96-040.] Repealed by WSR 88-13-002 (Order 88-15), filed 6/3/88. Statutory Authority: RCW 28A.02.100.
		392-164-045	Property, facilities, and equipment. [Order 7-75, § 392-164-045, filed 12/22/75. Formerly WAC 392-96-045.] Repealed by WSR 88-13-002 (Order 88-15), filed 6/3/88. Statutory Authority: RCW 28A.02.100.
		392-164-050	Project descriptions. [Order 7-75, § 392-164-050, filed 12/22/75. Formerly WAC 392-96-050.] Repealed by WSR 88-13-002 (Order 88-15), filed 6/3/88. Statutory Authority: RCW 28A.02.100.
		392-164-055	Day care. [Order 7-75, § 392-164-055, filed 12/22/75. Formerly WAC 392-96-055.] Repealed by WSR 88-13-002 (Order 88-15), filed 6/3/88. Statutory Authority: RCW 28A.02.100.
		392-164-060	Local parent advisory councils. [Order 7-75, § 392-164-060, filed 12/22/75. Formerly WAC 392-96-060.] Repealed by WSR 88-13-002 (Order 88-15), filed 6/3/88. Statutory Authority: RCW 28A.02.100.
		392-164-065	Local parent advisory council appeal process for projects. [Order 7-75, § 392-164-065, filed 12/22/75. Formerly WAC 392-96-065.] Repealed by WSR 88-13-002 (Order 88-15), filed 6/3/88. Statutory Authority: RCW 28A.02.100.
		392-164-070	Local parent advisory council appeal process for PAC. [Order 7-75, § 392-164-070, filed 12/22/75. Formerly WAC 392-96-070.] Repealed by WSR 88-13-002

	(Order 88-15), filed 6/3/88. Statutory Authority: RCW 28A.02.100.
392-164-075	Grievance procedure. [Order 7-75, § 392-164-075, filed 12/22/75. Formerly WAC 392-96-075.] Repealed by WSR 88-13-002 (Order 88-15), filed 6/3/88. Statutory Authority: RCW 28A.02.100.
392-164-080	State advisory committee. [Order 7-75, § 392-164-080, filed 12/22/75. Formerly WAC 392-96-080.] Repealed by WSR 88-13-002 (Order 88-15), filed 6/3/88. Statutory Authority: RCW 28A.02.100.
392-164-085	Accountability. [Order 7-75, § 392-164-085, filed 12/22/75. Formerly WAC 392-96-085.] Repealed by WSR 88-13-002 (Order 88-15), filed 6/3/88. Statutory Authority: RCW 28A.02.100.
392-164-090	Administrative costs. [Order 7-75, § 392-164-090, filed 12/22/75. Formerly WAC 392-96-090.] Repealed by WSR 88-13-002 (Order 88-15), filed 6/3/88. Statutory Authority: RCW 28A.02.100.
392-164-095	Fiscal constraints. [Order 7-75, § 392-164-095, filed 12/22/75. Formerly WAC 392-96-095.] Repealed by WSR 88-13-002 (Order 88-15), filed 6/3/88. Statutory Authority: RCW 28A.02.100.

**WAC 392-164-100 Authority.** The authority for this chapter is RCW 28A.300.070 which authorizes the superintendent of public instruction to receive federal funds on behalf of school districts of the state of Washington and to disburse such funds in accordance with federal law and accompanying federal rules and regulations.

[Statutory Authority: 1990 c 33. WSR 90-16-002 (Order 18), § 392-164-100, filed 7/19/90, effective 8/19/90. Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-100, filed 6/20/88.]

**WAC 392-164-105 Purpose.** The purpose of this chapter is to ensure compliance by the state of Washington with provisions governing financial assistance to local school districts and other subgrantee's of Chapter 1 Migrant of the Elementary and Secondary School Improvement amendments of 1988 and accompanying federal rules and regulations, particularly 34 C.F.R. Parts 200, 201, and 203 and 74.60-61 and Appendix 76.

[Statutory Authority: RCW 28A.300.070. WSR 93-21-088 (Order 93-17), § 392-164-105, filed 10/20/93, effective 11/20/93. Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-105, filed 6/20/88.]

**WAC 392-164-115 Accountability.** Nothing in this chapter shall be construed to relieve a local school district or other subgrantee of its responsibility to comply also with all applicable federal statutes, rules, and regulations including but not limited to provisions of time and effort found in OMB Circular A-87, attachment B, paragraph (B)(10).

[Statutory Authority: RCW 28A.300.070. WSR 93-21-088 (Order 93-17), § 392-164-115, filed 10/20/93, effective 11/20/93. Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-115, filed 6/20/88.]

**WAC 392-164-120 Chapter 1 Migrant—Definition.** As used in this chapter, the term "Chapter 1 Migrant" means that part of Public Law 100-97 and subsequent amendments, commonly referred to as Chapter 1 of the Elementary and Secondary School Improvement amendments of 1988, which provide financial assistance to state educational agencies to meet special educational needs of migratory children.

[Statutory Authority: RCW 28A.300.070. WSR 93-21-088 (Order 93-17), § 392-164-120, filed 10/20/93, effective 11/20/93. Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-120, filed 6/20/88.]

[Ch. 392-164 WAC p. 2]

**WAC 392-164-125 Agricultural activity—Definition.**

As used in this chapter, the term "agricultural activity" means any of the following:

(1) Any activity directly related to the production or processing of crops, dairy products, poultry, or livestock for initial commercial sale or as a principal means of personal subsistence.

(2) Any activity directly related to the cultivation or harvesting of trees.

(3) Any activity directly related to fish farms.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-125, filed 6/20/88.]

**WAC 392-164-130 Fishing activity—Definition.**

As used in this chapter, the term "fishing activity," means any activity directly related to the catching or processing of fish or shellfish for initial commercial sale or as a principal means of personal subsistence.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-130, filed 6/20/88.]

**WAC 392-164-135 Migratory agricultural worker—**

**Definition.** As used in this chapter, the term "migratory agricultural worker" means a person who has moved within the past twelve months from one school district to another to enable him or her to obtain temporary or seasonal employment in an agricultural activity.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-135, filed 6/20/88.]

**WAC 392-164-140 Migratory fisher—Definition.**

As used in this chapter, the term "migratory fisher" means a person who has moved within the past twelve months from one school district to another to enable him or her to obtain temporary or seasonal employment in a fishing activity.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-140, filed 6/20/88.]

**WAC 392-164-145 Currently migratory child—**

**Definition.** As used in this chapter, the term "currently migratory child" means a child:

(1) Whose parent or guardian is a migratory agricultural worker or a migratory fisher; and

(2) Who has moved within the past twelve months from one school district to another to enable the child, the child's guardian, or a member of the child's immediate family to obtain temporary or seasonal employment in an agricultural or fishing activity. This definition includes a child who has been eligible to be served under the requirements in the preceding sentence, and who, without the parent or guardian, has continued to migrate annually to enable him or her to secure temporary or seasonal employment in an agricultural or fishing activity.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-145, filed 6/20/88.]

**WAC 392-164-150 Formerly migratory child—**

**Definition.** As used in this chapter, the term "formerly migratory child" means a child who:

(1) Was eligible to be counted and served as a currently migratory child within the past five years regardless of

whether or not such child actually received service as a migratory child, but is not now a currently migratory child;

(2) Resides in the area served by the agency carrying out a Chapter 1 Migrant education program or project; and

(3) Has on file a certificate of eligibility revalidated yearly by the signature of his or her parent or guardian certifying such child as a formerly migratory child.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-150, filed 6/20/88.]

**WAC 392-164-155 Migratory children—Definition.**

As used in this chapter, the term "migratory children" means children who qualify under either the definition of "currently migratory child" or "formerly migratory child" defined in this chapter.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-155, filed 6/20/88.]

**WAC 392-164-160 Children—Definition.**

As used in this chapter, the term "children" means persons up to age twenty-one who are entitled to a free public education not above grade twelve and preschool children: Provided, That a child who reaches the age of twenty-one during a school year in which such child is receiving migrant services shall be considered eligible for services until the end of the school year.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-160, filed 6/20/88.]

**WAC 392-164-165 Preschool children—Definition.**

As used in this chapter, "preschool children" means children who are:

(1) Below the age and grade level at which the state provides free public education; and

(2) Of the age or grade level at which they can benefit from an organized educational program provided in a school or instructional setting: Provided, That such children shall not be younger than three years of age.

[Statutory Authority: RCW 28A.300.070. WSR 93-21-088 (Order 93-17), § 392-164-165, filed 10/20/93, effective 11/20/93. Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-165, filed 6/20/88.]

**WAC 392-164-170 Eligible migratory children—**

**Definition.** As used in this chapter, the term "eligible migratory children" means migratory children determined to be eligible by a local school district or other subgrantee on the basis of credible information from any source, including that provided by the child or his or her parent or guardian: Provided, That only those migratory children with a signed, validated certificate of eligibility on file with the school district shall be served in the migrant program.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-170, filed 6/20/88.]

**WAC 392-164-175 Guardian—Definition.**

As used in this chapter, the term "guardian" means a person who:

(1) Has been appointed to be the legal guardian of a child through formal proceedings in accordance with state law;

(2) Would qualify as a legal guardian of a particular child under Washington state law if formal guardianship proceedings were undertaken; or

(10/20/93)

(3) Is standing in the place of a parent to a child by virtue of the fact that, with apparent parental consent, the child resides with such person: Provided, That if no objection has been filed to such residency, parental consent may be presumed.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-175, filed 6/20/88.]

**WAC 392-164-180 Other subgrantee—Definition.**

As used in this chapter, the term "other subgrantee" means the government, nonprofit, or other legal entity to which the state as grantee awards a subgrant, and which is accountable to the state for the use of the funds provided. The subgrantee is the entire legal entity even if only a particular component of the entity is designated in the subgrant award document.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-180, filed 6/20/88.]

**WAC 392-164-185 Object of expenditure—Definition.**

As used in this chapter, the term "object of expenditure" means an article purchased or a service obtained, coded appropriately on the program budget matrix (FORM SPI F-1000B) and referred to for accounting purposes as the third field of uniform expenditure classification.

[Statutory Authority: RCW 28A.300.070. WSR 93-21-088 (Order 93-17), § 392-164-185, filed 10/20/93, effective 11/20/93. Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-185, filed 6/20/88.]

**WAC 392-164-190 Activity—Definition.**

As used in this chapter, the term "activity(ies)," when used in the context of budgeting provisions, means a specific line of work carried on by the school district or other subgrantee coded appropriately on the program budget matrix (FORM SPI F-1000B) and referred to for accounting purposes as the second field of uniform expenditure classification.

[Statutory Authority: RCW 28A.300.070. WSR 93-21-088 (Order 93-17), § 392-164-190, filed 10/20/93, effective 11/20/93. Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-190, filed 6/20/88.]

**WAC 392-164-195 Indirect expenditure—Definition.**

As used in this chapter, the term "indirect expenditure" means those expenditure elements that cannot be easily, obviously, and conveniently identified with specific programs and are allowable costs pursuant to 34 C.F.R. 204.22 "Allowable costs," i.e., "project activities that:

(1) Are designed to meet the special educational needs of the children eligible to be served . . . ;

(2) Are included in an approved application; and

(3) Comply with all requirements applicable to Chapter 1 programs.

(b) The project activities may include applicable activities in section 555(c) of Chapter 1."

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-195, filed 6/20/88.]

**WAC 392-164-200 Direct expenditure—Definition.**

As used in this chapter, the term "direct expenditure" means that part of program-allowed total expenditures that appear on the budget matrix under allowed combinations of activities and objects of expenditures.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-200, filed 6/20/88.]

**WAC 392-164-205 Service model—Definition.** As used in this chapter, the term "service model" means the location, time and conditions characteristic of the method(s) chosen by a school district for delivery of Chapter 1 Migrant instructional and/or support services. Permissible models are those described in the annual application instructions.

[Statutory Authority: RCW 28A.300.070. WSR 93-21-088 (Order 93-17), § 392-164-205, filed 10/20/93, effective 11/20/93. Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-205, filed 6/20/88.]

**WAC 392-164-210 Supplement—Definition.** As used in this chapter, the term "supplement" shall be defined as instructional or support services for migratory children funded with Chapter 1 Migrant moneys, and offered by a school district in addition to required basic educational services funded with nonfederal moneys and services required by law funded with other federal or nonfederal funds. Such supplemental services shall be designed and implemented in accordance with service models described in Chapter 1 Migrant annual application instructions and shall meet the supplement/supplant tests appropriate to each model.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-210, filed 6/20/88.]

**WAC 392-164-215 Operating agency—Definition.** As used in this chapter, the term "operating agency" means:

- (1) A local school district to which the superintendent of public instruction makes a subgrant of migrant education program funds;
- (2) A public or nonprofit private agency with which the superintendent of public instruction makes an arrangement to carry out a migrant education project; or
- (3) The superintendent of public instruction, if the superintendent of public instruction operates the state's migrant education program or projects directly.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-215, filed 6/20/88.]

**WAC 392-164-220 Project—Definition.** As used in this chapter, the term "project" means those services, activities, personnel, and materials provided to migratory children by the superintendent of public instruction either directly or indirectly through a local school district or by some other subgrantee as a legally approved contract.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-220, filed 6/20/88.]

**WAC 392-164-225 Academic instruction—Definition.** As used in this chapter, the term "academic instruction" means reading, oral language development, language arts, mathematics, basic and advanced skills: Provided, That other areas of basic education instruction identified in RCW 28A.150.220, Basic Education Act, may be included if appropriate to the state and local plans approved pursuant to WAC 392-164-285.

[Statutory Authority: RCW 28A.300.070. WSR 93-21-088 (Order 93-17), § 392-164-225, filed 10/20/93, effective 11/20/93. Statutory Authority: 1990 c 33. WSR 90-16-002 (Order 18), § 392-164-225, filed 7/19/90, effective

[Ch. 392-164 WAC p. 4]

8/19/90. Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-225, filed 6/20/88.]

**WAC 392-164-230 Greatest need of special assistance—Definition.** As used in this chapter, the term "greatest need of special assistance" means those eligible migratory children, as defined in WAC 392-164-170, who have been identified on the basis of established selection criteria, including objective measurement of educational achievement, as demonstrated by written and oral tests if reasonable, as in the greatest need of special assistance.

[Statutory Authority: RCW 28A.300.070. WSR 93-21-088 (Order 93-17), § 392-164-230, filed 10/20/93, effective 11/20/93. Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-230, filed 6/20/88.]

**WAC 392-164-235 Consultation with parents and teachers of participating children—Definition.** As used in this chapter, the term "consultation with parents and teachers of participating children" means:

- (1) Establishment by the local school district of a parent advisory council;
- (2) Active solicitation of parent involvement in the planning, design, and evaluation of the migrant education program, including discussion of program revenues and expenditures; and
- (3) Similar involvement of teachers of children being served.

[Statutory Authority: RCW 28A.300.070. WSR 93-21-088 (Order 93-17), § 392-164-235, filed 10/20/93, effective 11/20/93. Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-235, filed 6/20/88.]

**WAC 392-164-240 Definition—Participating children.** As used in this chapter, the term "participating children" means those eligible migratory children in greatest need of special assistance, as determined on the basis of established selection criteria, who are selected to receive services in the Chapter 1 Migrant program.

[Statutory Authority: RCW 28A.300.070. WSR 93-21-088 (Order 93-17), § 392-164-240, filed 10/20/93, effective 11/20/93. Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-240, filed 6/20/88.]

**WAC 392-164-245 Annual needs assessment.** Operating agencies that receive Chapter 1 Migrant education program funds shall base their Chapter 1 Migrant education program and projects on an annual assessment of educational needs which meets the following criteria:

- (1) Identifies migratory children who are eligible to be served under WAC 392-164-170;
- (2) Requires, consistent with the service priorities in WAC 392-164-250, the selection of those migratory children in the greatest need of special assistance; and
- (3) Determines the educational needs of the children selected to participate with sufficient specificity to ensure concentration on those needs.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-245, filed 6/20/88.]

**WAC 392-164-250 Service priorities.** Operating agencies shall serve eligible migratory children—according to their needs—in the following order:

- (1) School-aged currently migratory children.

(10/20/93)

- (2) School-aged formerly migratory children.
- (3) Preschool currently migratory children.
- (4) Preschool formerly migratory children.

(5) Provided, That if in order to provide Chapter 1 Migrant instructional services to school-aged currently migratory children, it would be necessary to provide day care or similar services to preschool-aged currently migratory children, and no other funds—other than Chapter 1 Migrant funds—are available for that purpose, or an operating agency may provide Chapter 1 Migrant instructional services instead of day care services to those preschool children as if those children had a priority higher than school-age formerly migratory children.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-250, filed 6/20/88.]

**WAC 392-164-255 Application required.** Each local school district or other subgrantee that seeks an allocation of federal funds under Chapter 1 Migrant shall submit an annual application by November 30 on forms provided by the superintendent of public instruction. No application submitted after November 30 will be considered for the current school year.

[Statutory Authority: RCW 28A.300.070. WSR 93-21-088 (Order 93-17), § 392-164-255, filed 10/20/93, effective 11/20/93. Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-255, filed 6/20/88.]

**WAC 392-164-260 Substance of annual application.** The local school district's or other subgrantee's annual application shall include:

- (1) A description of the Chapter 1 Migrant education project to be conducted, based on local needs assessment will include the following:
  - (a) The services and types of programs to be provided.
  - (b) The number of children to be served in total and for each service.
  - (c) The types and number of staff to be employed.
  - (d) Advanced skills which include reasoning, analysis, interpretation, problem-solving, and decision making as they relate to particular subjects.
  - (e) Desired outcomes expressed in measurable terms for all aspects of the migrant program including support services and early childhood.
  - (f) A separate summary of the project components designed to meet unmet needs of currently migratory children expected to be served.
- (2) An appropriate budget displayed on FORM SPI F-1000B.
- (3) The assurances in section 556 (b)(2) through (b)(5) of Chapter 1 of the Elementary and Secondary School Improvement amendments of 1988.
- (4) The assurances in section 436 (b)(2) and (b)(3) of the General Education Provisions Act.
- (5) The state-developed assurances included in the application.
- (6) Services, site, and use of facilities and equipment to be purchased.
- (7) A description of the local school district's or other subgrantee's plan for involving parents of migratory children in the planning, implementation, and evaluation of the project.

(10/20/93)

(8) Descriptive outcomes for all migrant children in terms of advanced skills.

(9) A description of how the district will remediate the unmet needs of currently migratory children.

[Statutory Authority: RCW 28A.300.070. WSR 93-21-088 (Order 93-17), § 392-164-260, filed 10/20/93, effective 11/20/93. Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-260, filed 6/20/88.]

**WAC 392-164-265 Basis of project planning and funding.** The local school district or other subgrantee and the superintendent of public instruction shall consider the following factors in project planning and approval for funding.

(1) An operating agency's project shall:

(a) Satisfy the provisions of the approved state plan submitted by the superintendent of public instruction to the secretary of education;

(b) Be planned and implemented based on the number and specific needs of participating, eligible migratory students;

(c) Be of sufficient size and scope as determined pursuant to WAC 392-164-275 to meet the needs of the eligible migratory students to be served;

(d) Be funded in relationship to:

(i) The migrant student records and transfer system (MSRTS) reports on full-time equivalent migratory students to determine the number and status of migratory students enrolled on the MSRTS as compared to previous years' enrollment and with other local school districts and operating agencies within Washington state;

(ii) Data contained in the report of services filed with the superintendent of public instruction to determine continuity of services and projected number of participants versus the number of migratory students actually served over time;

(iii) The number of students served in supplemental programs by the operating agency to determine whether planning information and proposed services are consistent with one another and if funds requested are intended to support a new project;

(iv) Monitoring reports to determine if the local school district or subgrantee has incorporated recommendations to remedy weaknesses in previous projects into their current proposal;

(v) Expenditure claims for the immediately preceding and current year to determine if the amount requested is realistic in light of the rate of expenditure in the current year;

(vi) State plan to determine whether the scope of services planned at the local school district or subgrantee level is within approved state priorities; and

(vii) Migrant student records transfer system and migrant education regional office reports to determine the needs, strengths and weaknesses of the proposal based on information gathered in visits for reports, training, and district profiles.

(2) No project shall be established solely for formerly migratory children.

[Statutory Authority: RCW 28A.300.070. WSR 93-21-088 (Order 93-17), § 392-164-265, filed 10/20/93, effective 11/20/93. Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-265, filed 6/20/88.]

[Ch. 392-164 WAC p. 5]

**WAC 392-164-270 Board approval.** Each annual application submitted by a local school district or other subgrantee to the superintendent of public instruction shall be approved by the board of directors only after the board has reviewed the program design and expenditures and considered each of the following:

- (1) Previous year's planned expenditures and total Chapter 1 Migrant moneys requested for the ensuing year (July 1 through June 30);
- (2) Evaluation results in terms of student achievement data from the previous year's program, and, when available, whether gains have been sustained over a period of one year;
- (3) Results of the annual needs assessment; and
- (4) The adequacy of parent/teacher consultation in the planning and implementation of the program.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-270, filed 6/20/88.]

**WAC 392-164-275 Board certification.** The board of directors shall, as a part of application approval, certify to the superintendent of public instruction that in their opinion:

- (1) The local school district or other subgrantee has included among the migratory children to be served, those children in greatest need of special assistance;
- (2) The approved program is of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting the special educational needs of children being served; and
- (3) The school district or other subgrantee has complied with the provisions of this chapter.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-275, filed 6/20/88.]

**WAC 392-164-280 Supervisory costs.** Support for supervisory costs related to educational services provided under this chapter shall be clearly supplemental to costs of regular supervisory activities and responsibilities of the operating agency.

- (1) All direct supervisory support requested shall be documented and submitted along with the project application.
- (2) A local school district or other subgrantee may claim the indirect expenditure rate defined in WAC 392-164-195 in addition to budgeting for direct supervisory expenditures subject to the approval of the superintendent of public instruction.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-280, filed 6/20/88.]

**WAC 392-164-285 Approval of Chapter 1 Migrant project applications for a subgrant by the superintendent of public instruction.** (1) Final approval of a Chapter 1 Migrant project shall be given to a local school district or other subgrantee when the superintendent of public instruction has received a completed application in accordance with WAC 392-164-260 and 392-164-265 and is assured that the local school district or other subgrantee has satisfied all yearly reporting requirements and compliance agreements from the previous year, unless the agreement extends into the current year.

- (2) Programs shall not be implemented without prior approval from the superintendent of public instruction. The

[Ch. 392-164 WAC p. 6]

effective approval date shall be July 1 of each year for complete applications received prior to July 1, or the subsequent date on which the complete application is received by the superintendent of public instruction provided it is before November 30 of the current year.

- (3) Fiscal expenditures made prior to the effective approval date indicated on an application or a request for budget revision shall not be allowed.

[Statutory Authority: RCW 28A.300.070. WSR 93-21-088 (Order 93-17), § 392-164-285, filed 10/20/93, effective 11/20/93. Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-285, filed 6/20/88.]

**WAC 392-164-290 Amount of subgrant.** The superintendent of public instruction shall determine the amount of a subgrant to a local school district or other subgrantee based on the following factors:

- (1) The number of children to be served;
- (2) The nature, scope, and cost of the proposed project; and
- (3) Any other relevant criteria developed by the superintendent consistent with the provisions of WAC 392-164-250, including the priorities in the approved state plan concerning ages and grade levels of children to be served, areas of the state to be served, and types of services to be provided.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-290, filed 6/20/88.]

**WAC 392-164-295 Effect of approval.** Approval by the superintendent of public instruction of a project application under this chapter requires the local school district or other subgrantee to administer and operate its project in accordance with its application, any amendments, and project requirements of this chapter. That approval, however, does not create for the local school district or other subgrantee an entitlement to receive a subgrant for a period other than the fiscal year for which approval is given.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-295, filed 6/20/88.]

**WAC 392-164-300 Budget revision—Ten percent allowed.** Using either an object or activity subtotal from FORM SPI F-1000B. School districts or other subgrantees may make annual expenditure adjustments of up to ten percent per activity line or object column in any of the previously budgeted activity lines or object column totals within the approved annual application without filing a request for a budget revision with the superintendent of public instruction. Any object or activity revisions in excess of ten percent require previous approval from the superintendent of public instruction.

[Statutory Authority: RCW 28A.300.070. WSR 93-21-088 (Order 93-17), § 392-164-300, filed 10/20/93, effective 11/20/93. Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-300, filed 6/20/88.]

**WAC 392-164-305 Budget revisions—Updating planned expenditures.** Except as provided in WAC 392-164-300 each local school district or other subgrantee shall expend Chapter 1 Migrant moneys in accordance with planned expenditures and the program description included in the application submitted to and approved by the superintendent of public instruction. A local school district or other

subgrantee shall be required to file a request for a budget revision whenever necessary or no later than August 31 of the current year with the superintendent of public instruction in order to accomplish any of the following:

- (1) Increase the total expenditure of Chapter 1 Migrant moneys;
- (2) Change by more than ten percent of the expenditures among activities or objects totals; or
- (3) Expend money in any object or activity where no moneys were budgeted in the approved application.

[Statutory Authority: RCW 28A.300.070. WSR 93-21-088 (Order 93-17), § 392-164-305, filed 10/20/93, effective 11/20/93. Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-305, filed 6/20/88.]

#### **WAC 392-164-310 Budget revision—Approval.**

Approval of budget revisions by the superintendent of public instruction shall be in accordance with the provisions of WAC 392-164-285 for approval by the superintendent of public instruction of the annual application.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-310, filed 6/20/88.]

**WAC 392-164-315 Program update.** No later than thirty calendar days following a substantial program change, a local school district or other subgrantee shall submit to the superintendent of public instruction a description of such changes. "Substantial changes" shall mean one or more of the following:

- (1) Removal of Chapter 1 Migrant services from an area listed as "served" on the application.
- (2) Addition of Chapter 1 Migrant services to an area not listed as "served" in the application.
- (3) Modification of the Chapter 1 Migrant program in any served area by adding a new program focus, by changing grade levels, or by changing program service delivery models or staff F.T.E.s.
- (4) Increasing the number of students served in the Chapter 1 Migrant program to such an extent that the district must exceed the ten percent budget variance to accommodate serving the additional eligible students.
- (5) Provided, That notwithstanding the thirty-day provision for notification to the superintendent of public instruction of substantial program changes, if such changes necessitate a budget revision or are based on a needs assessment revision, said revision shall be submitted to the superintendent of public instruction for approval prior to implementation of proposed changes.

[Statutory Authority: RCW 28A.300.070. WSR 93-21-088 (Order 93-17), § 392-164-315, filed 10/20/93, effective 11/20/93. Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-315, filed 6/20/88.]

**WAC 392-164-320 Identification of migratory children.** The uniform migrant student certificate of eligibility shall be used for the purpose of identifying and recording migratory children.

- (1) All migratory children shall be identified, recruited, and enrolled on the migrant student records transfer system regardless of whether or not the child resides within a school district offering a migratory program.
- (2) All operating agencies with identified migratory children shall participate in the migrant students records transfer

(10/20/93)

system with updating of academic, health, and other pertinent data.

(3) The projected number of migratory students to be served by any subgrantee shall be based on actual statistical information recorded on the migrant student records transfer system and other pertinent information available to the subgrantee.

(4) Each student enrolled in a migrant education program shall have on file a currently valid certificate of eligibility according to the requirements of the state of Washington migrant education program.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-320, filed 6/20/88.]

**WAC 392-164-325 Student accident insurance.** All migratory children enrolled on the migrant student records transfer system and enrolled in a bona fide educational program recognized by the superintendent of public instruction shall be provided with participatory accident insurance coverage paid from migrant program funds. It is the responsibility of the local school district or other subgrantee to:

- (1) Inform migratory parents of the accident insurance coverage provided for their children.
- (2) Facilitate claims procedures when necessary.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-325, filed 6/20/88.]

**WAC 392-164-330 Construction and portable lease/purchase.** Chapter 1 Migrant moneys may be used for the modification of existing facilities and/or for lease/purchase of portable facilities for the purpose of serving Chapter 1 Migrant eligible children if each of the following conditions are met:

- (1) The district has exhausted other available options for providing space in which to serve eligible children including the utilization of all available permanent classroom space within the district.
- (2) Modification of facilities or lease/purchase of portable facilities will provide essential improvement in the delivery of Chapter 1 Migrant services to eligible children.
- (3) The purchase of portable classrooms proves to be less expensive than cost of constructing more permanent structures or remodeling existing structures.

(4) Provided, That such use of moneys shall have prior approval from the superintendent of public instruction which shall be granted only after an on-site visit to the school district to examine existing facilities in order to determine that the above conditions do exist. The superintendent of public instruction is the record owner of all portable classrooms purchased under this chapter.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-330, filed 6/20/88.]

**WAC 392-164-335 Property, facilities, and equipment.** The superintendent of public instruction administers directly the construction of facilities and the acquisition of property and equipment needed to implement programs for migratory children; and retains title to such facilities, property, and equipment and possesses the right to move or transfer them according to need. Such procedures shall be consis-

tent with 34 C.F.R. 74.130-145, Subpart 0—Property, which governs the acquisition, inventory, and disposition of property purchased with federal funds.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-335, filed 6/20/88.]

**WAC 392-164-340 Day care.** Day care of infants and very young children may be provided under this part as a service to such children upon specific application to the superintendent of public instruction with sufficient information to enable the superintendent of public instruction to determine that such care as described in the application is:

(1) Not available from other public or private agencies which provide day care services in the geographical area to be served;

(2) Essential to enable eligible currently migratory children to participate in instructional services by relieving them of the responsibility of caring for younger children; and

(3) Cost effective in view of the number of children who would receive day care, the number of currently migratory children involved, and the effect the availability of such services would have on the attendance and participation of such migratory children in instructional services.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-340, filed 6/20/88.]

**WAC 392-164-345 Preschool services.** Preschool services for eligible migratory children may be provided under this part as a service to preschool children upon specific application to the superintendent of public instruction with sufficient information to enable him to determine that such care as described in the application:

(1) Serves eligible students who are currently migratory children ages three to school age;

(2) Supplements services available from other public or private agencies;

(3) Is not extravagant in view of the cost and the number of children involved;

(4) Does not prevent participation of school age migratory children or detract from the operation of projects for school age children;

(5) Is developed based on educational and support services needs assessment; and

(6) Is designed to provide for the special educational, cultural, and linguistic needs of the children.

[Statutory Authority: RCW 28A.300.070. WSR 93-21-088 (Order 93-17), § 392-164-345, filed 10/20/93, effective 11/20/93. Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-345, filed 6/20/88.]

**WAC 392-164-350 Fiscal requirements.** Fiscal requirements for operating agencies receiving funds under this chapter shall be understood and applied as described in WAC 392-163-245, 392-163-405, 392-163-410, and 392-163-415 which apply to Chapter 1 Regular of the Elementary and Secondary School Improvement amendments of 1988.

[Statutory Authority: RCW 28A.300.070. WSR 93-21-088 (Order 93-17), § 392-164-350, filed 10/20/93, effective 11/20/93. Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-350, filed 6/20/88.]

[Ch. 392-164 WAC p. 8]

**WAC 392-164-355 Chapter 1 Migrant audit.** Audit of local school district Chapter 1 Migrant programs shall be conducted in compliance with the Single Audit Act of 1984 and related regulations including but not limited to chapter 392-115 WAC.

[Statutory Authority: RCW 28A.300.070. WSR 93-21-088 (Order 93-17), § 392-164-355, filed 10/20/93, effective 11/20/93. Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-355, filed 6/20/88.]

**WAC 392-164-360 Notification of parents.** Each school district shall notify parents of participating children of their child's involvement in the Chapter 1 Migrant program and shall issue periodic reports of the child's progress in the program. Such notification and reports shall be provided in the primary language of the parent if necessary for communication unless it is clearly not feasible to do so.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-360, filed 6/20/88.]

**WAC 392-164-365 Local parent advisory councils—Composition and procedures.** A parent advisory council shall be established in each local school district or subgrantee which receives a subgrant under this chapter. Such parent advisory council shall:

(1) Be composed of parents of children eligible to be served, who shall constitute at least a simple majority of said council, and other persons knowledgeable in the needs of migratory children.

(2) Assist the district in the planning, implementation, operation, and evaluation of the present local project and in the planning of future projects.

(3) Have parent members selected from among the parent group by the parents themselves. The balance of the parent advisory council membership may be appointed by the district and shall consist of representatives of social, health service, local business and industry, and other such community agencies.

(4) Elect its own chair and such other officers as the membership deems appropriate.

(5) Formulate bylaws and a procedure by which parents may present grievances to the local school district or other subgrantee.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-365, filed 6/20/88.]

**WAC 392-164-368 Consultation with parents.** To meet the expanded parental involvement required in Section 1016, ESSIA 1988 each agency receiving Chapter 1 Migrant funds must develop procedures for organized, ongoing, systematic informed, and timely consultations with parents of participating children.

These written procedures must be made available to parents and guardians of participating children.

Parent involvement must be developed with, and based on proposed and final applications, needs assessment documentation, budgetary information, evaluation data, local, state, and federal laws, regulations, policies, and directives, and other information deemed necessary for effective involvement.

Methods for obtaining full participation of parents must be of sufficient size, scope, and quality to give reasonable

promise of substantial progress toward achieving the parental involvement goals in Section 299.34 (a)(3) and (b) and Section 201.35 (c).

[Statutory Authority: RCW 28A.300.070. WSR 93-21-088 (Order 93-17), § 392-164-368, filed 10/20/93, effective 11/20/93.]

**WAC 392-164-370 Annual meeting of parents.** An operating agency that receives Chapter 1 Migrant funds shall convene annually a public meeting, to which all parents of eligible children must be invited, to discuss with those parents the programs and activities provided with Chapter 1 Migrant funds.

(1) The meeting agenda shall include:

(a) Informing parents of their right to consult in the design and implementation of the agency's Chapter 1 Migrant project;

(b) Soliciting parents' input; and

(c) Providing parents an opportunity to establish mechanisms for maintaining ongoing communication among parents, teachers, and agency officials.

(2) An operating agency may hold one or more meetings at sites convenient to such agency to meet the requirement in subsection (1) of this section.

(3) If parents of eligible children desire further activities, the operating agency may, upon request, provide reasonable support for these activities. This support may include, but is not limited to:

(a) Reasonable access to meeting space and materials;

(b) Provision of information concerning the Chapter 1 Migrant law, regulations, and instructional programs;

(c) Training programs for parents; and

(d) Other resources, as appropriate.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-370, filed 6/20/88.]

**WAC 392-164-375 State advisory committee.** The purpose of the state advisory committee shall be to advise the superintendent of public instruction in planning, developing, operating, and evaluating the state Chapter 1 Migrant program; and to facilitate communication among local parent advisory councils and between the state advisory committee and local councils.

(1) Membership of the state advisory committee shall be as follows:

(a) The superintendent of public instruction shall select parent members from nominations submitted by local parent advisory committees, current state advisory committee members, or migrant education staff;

(b) The majority of the state advisory committee shall consist of such parents, selected from nominees; and

(c) The balance of the state advisory committee shall be selected by the superintendent of public instruction and shall consist of representatives of local districts and educational service districts, the Washington Hispanic commission, a high school migratory student, and such other agencies and committees as are deemed appropriate.

(2) Bylaws shall be developed jointly by the state advisory committee and the superintendent of public instruction with final approval given by the superintendent of public instruction.

(10/20/93)

(3) Election of officers shall be conducted by the membership.

(4) The superintendent of public instruction shall call all meetings.

(5) Members shall be reimbursed for travel and expenses consistent with state law.

(6) The executive secretary of the state advisory committee shall be an employee of the superintendent of public instruction who shall be assisted by the executive committee of the state advisory committee in finalizing and facilitating state advisory committee meeting agendas.

[Statutory Authority: RCW 28A.300.070. WSR 93-21-088 (Order 93-17), § 392-164-375, filed 10/20/93, effective 11/20/93. Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-375, filed 6/20/88.]

**WAC 392-164-380 Report of services—Annual requirement.** Each local school district or other subgrantee that receives a subgrant under Chapter 1 Migrant shall submit to the superintendent of public instruction each year a report of services compiled and verified by such entity or compiled by the migrant student records transfer system and verified by the local school district or other subgrantee. Such verified report shall be received by the superintendent of public instruction no later than the second Friday in July and shall contain all information requested, including data on the race, age, and gender of children served by the Chapter 1 Migrant program and on the number of children served by grade level.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-380, filed 6/20/88.]

**WAC 392-164-385 Report of services—Summer school addendum.** Any local school district or other subgrantee which conducts a summer school supported with Chapter 1 Migrant moneys, in addition to the annual report of services, shall submit a separate report of summer school services by the second Friday in September in the form required by the superintendent of public instruction.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-385, filed 6/20/88.]

**WAC 392-164-390 Program evaluation.** Each local school district or other subgrantee that receives a subgrant under Chapter 1 Migrant shall conduct evaluations that assess the overall progress of participating migrant children in grade two through twelve, including education progress, in terms of instructional services and support services.

The evaluation design for the regular school year instructional program must include:

(1) Objective measures of educational progress of project participants (including achievement in basic skills) as measured, if possible, over a twelve-month testing interval through the use of forms of state or national normal achievement tests. If this is not possible the LEA or operating agency may use other acceptable measures of educational progress of migrant children, such as changes in attendance patterns, drop-out rates, and objectively applied indicators of student achievement;

(2) Migrant summer schools, to the extent possible, must follow the same guidelines; and

(3) During either regular or summer terms, the evaluation design for support service components must include

[Ch. 392-164 WAC p. 9]

measures of the effects on project participants that are consistent with the defined support objectives. In addition, each local school district or other subgrantee, when appropriate, shall determine whether improved student achievement is sustained over a period of more than one program year, and shall consider that data in the improvement of programs and projects assisted with Chapter 1 Migrant moneys.

[Statutory Authority: RCW 28A.300.070. WSR 93-21-088 (Order 93-17), § 392-164-390, filed 10/20/93, effective 11/20/93. Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-390, filed 6/20/88.]

**WAC 392-164-395 Project program and budget revisions.** Program and budget revisions to a migrant project may be initiated by either the local school district or other subgrantee or the superintendent of public instruction.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-395, filed 6/20/88.]

**WAC 392-164-400 Program compliance review.** The superintendent of public instruction shall conduct program compliance reviews of all operating agencies receiving Chapter 1 Migrant moneys. Review of each operating agency shall occur at least once every three years. Upon receipt of the compliance review report from the superintendent of public instruction the operating agencies shall have one month to respond to the superintendent of public instruction if there are exceptions noted in the report. Substantial noncompliance or failure by the operating agencies to respond and/or initiate corrective action in a timely manner shall be subject to actions prescribed in WAC 392-164-410 or 392-164-415.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-400, filed 6/20/88.]

**WAC 392-164-405 Subgrantee accountability.** Chapter 1 Migrant program accountability and compliance procedures under this chapter shall apply to all operating agencies receiving migrant funds under this chapter.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-405, filed 6/20/88.]

**WAC 392-164-410 Withholding of Chapter 1 Migrant payments.** Withholding by the superintendent of public instruction of Chapter 1 Migrant payments shall occur only under the following conditions.

(1) If the superintendent of public instruction determines that an operating agency is not in substantial compliance with federal statute and regulation or with this chapter, the superintendent of public instruction shall have the authority to withhold payment in whole or in part of Chapter 1 Migrant moneys to the offending operating agency. In deciding whether to withhold payments, the superintendent of public instruction shall provide:

(a) Reasonable notice to the operating agency of the reasons for the proposed withholding; and

(b) An opportunity for the operating agency within thirty calendar days of such notice to give reason why the withholding should not be instituted.

(2) Pursuant to the operating agency response, the superintendent of public instruction shall consider the following factors:

(a) The seriousness of the noncompliance;

(b) The amount of Chapter 1 Migrant moneys involved;

(c) The effect of withholding on participating children;

and

(d) The need to withhold payments to prevent further misuse of Chapter 1 Migrant moneys.

(3) If, after consideration of these factors and within thirty calendar days, the superintendent of public instruction decides to initiate a withholding procedure, a date shall be specified by which the operating agency shall have achieved compliance, or the moneys withheld shall become subject to repayment procedures specified in 34 C.F.R. 204.11(b), "Access to records and audits, state and local responsibilities."

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-410, filed 6/20/88.]

**WAC 392-164-415 Compliance agreement.** Notwithstanding any of the actions prescribed by WAC 392-164-410, any operating agency found out of compliance with this chapter may as a substitute for, or in conjunction with, withholding or repayment actions referenced in WAC 392-164-410 be required to enter into a compliance agreement with the superintendent of public instruction to ensure that noncompliant Chapter 1 Migrant program practices are corrected within a period of time specified in that agreement, as a condition to continuous receipt of Chapter 1 Migrant moneys. If an operating agency fails to achieve compliance within the specified period of time, the withholding and/or repayment procedures prescribed by WAC 392-164-410 shall be instituted by the superintendent of public instruction.

[Statutory Authority: RCW 28A.02.100. WSR 88-13-089 (Order 88-16), § 392-164-415, filed 6/20/88.]

**WAC 392-164-420 General requirements for new program.** To develop and implement a new migrant program, a local school district or operating agency must do the following:

(1) Identify ten or more currently migrant students;

(2) Do a needs assessment which will show what needs can be met in basic education, other specially funded programs, and determine if special unmet needs unique to the migrant life still exist.

If so, the LEA may design a migrant education program based on this needs assessment that will be of a size, scope, and quality to give reasonable promise of substantial progress toward meeting the special needs of the identified migrant pupils.

[Statutory Authority: RCW 28A.300.070. WSR 93-21-088 (Order 93-17), § 392-164-420, filed 10/20/93, effective 11/20/93.]

**WAC 392-164-425 Subgrant allocation formula.** Each year an allocation formula based on pupils served, types of migrant pupils, current district enrollments for January will be used to determine the maximum subgrant funds available to LEAs. The actual amount granted to each subgrant will be determined by the needs assessment in each LEA.

[Statutory Authority: RCW 28A.300.070. WSR 93-21-088 (Order 93-17), § 392-164-425, filed 10/20/93, effective 11/20/93.]

**WAC 392-164-430 Supply purchase.** All supplies, materials, and equipment for current year program must be purchased before March 1. An unexpected spring influx or a summer school are the only exceptions under which approval will be granted and will require SPI's prior approval.

[Statutory Authority: RCW 28A.300.070. WSR 93-21-088 (Order 93-17), § 392-164-430, filed 10/20/93, effective 11/20/93.]