

Chapter 392-109 WAC

STATE BOARD OF EDUCATION—ELECTION OF MEMBERS

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

392-109-005	Purpose. [Order 7-75, § 392-109-005, filed 12/22/75. Formerly WAC 392-99-010.] Repealed by WSR 80-07-038 (Order 80-20), filed 6/17/80. Statutory Authority: RCW 28A.04.020.
392-109-006	Eligibility—Declaration of candidacy. [Statutory Authority: RCW 28A.04.020. WSR 78-08-033 (Order 2-78), § 392-109-006, filed 7/18/78.] Repealed by WSR 80-07-038 (Order 80-20), filed 6/17/80. Statutory Authority: RCW 28A.04.020.
392-109-010	Biographical data—Limitation. [Statutory Authority: RCW 28A.04.020. WSR 78-08-033 (Order 2-78), § 392-109-010, filed 7/18/78; Order 7-75, § 392-109-010, filed 12/22/75. Formerly WAC 392-99-020.] Repealed by WSR 80-07-038 (Order 80-20), filed 6/17/80. Statutory Authority: RCW 28A.04.020.
392-109-015	Composition of election board. [Order 7-75, § 392-109-015, filed 12/22/75. Formerly WAC 392-99-030.] Repealed by WSR 80-07-038 (Order 80-20), filed 6/17/80. Statutory Authority: RCW 28A.04.020.
392-109-020	Postage. [Order 7-75, § 392-109-020, filed 12/22/75. Formerly WAC 392-99-040.] Repealed by WSR 80-07-038 (Order 80-20), filed 6/17/80. Statutory Authority: RCW 28A.04.020.
392-109-025	Publicity. [Order 7-75, § 392-109-025, filed 12/22/75. Formerly WAC 392-99-050.] Repealed by WSR 80-07-038 (Order 80-20), filed 6/17/80. Statutory Authority: RCW 28A.04.020.
392-109-026	Voting. [Statutory Authority: RCW 28A.04.020. WSR 78-08-033 (Order 2-78), § 392-109-026, filed 7/18/78, 7/21/78.] Repealed by WSR 80-07-038 (Order 80-20), filed 6/17/80. Statutory Authority: RCW 28A.04.020.
392-109-030	Recount of votes cast—Automatic—By request—Certification. [Order 7-75, § 392-109-030, filed 12/22/75. Formerly WAC 392-99-060.] Repealed by WSR 80-07-038 (Order 80-20), filed 6/17/80. Statutory Authority: RCW 28A.04.020.
392-109-035	Rotation of names on ballot. [Order 7-75, § 392-109-035, filed 12/22/75. Formerly WAC 392-99-070.] Repealed by WSR 80-07-038 (Order 80-20), filed 6/17/80. Statutory Authority: RCW 28A.04.020.
392-109-055	Publicity. [Statutory Authority: RCW 28A.04.020. WSR 81-17-005 (Order 81-10), § 392-109-055, filed 8/7/81; WSR 80-07-038 (Order 80-20), § 392-109-055,

WAC 392-109-037 Purpose and authority. (1) The purpose of this chapter is to provide for the annual election of members to the state board of education by establishing policies and procedures which implement the statutory election process for such positions.

(2) Authority for this chapter is RCW 28A.305.102 which authorizes the superintendent of public instruction to adopt rules and procedures for the conduct of election of members to the state board of education.

[Statutory Authority: Chapter 28A.305 RCW and 2005 c 497. WSR 05-22-007, § 392-109-037, filed 10/20/05, effective 11/20/05. Statutory Authority: 1990 c 33. WSR 90-16-002 (Order 18), § 392-109-037, filed 7/19/90, effective 8/19/90. Statutory Authority: RCW 28A.04.020. WSR 84-11-038 (Order 84-8), § 392-109-037, filed 5/15/84.]

WAC 392-109-040 Composition. The state board of education consists of sixteen members: Seven members appointed by the governor; five members, including two from eastern Washington and three from western Washington, elected by the members of public school boards of directors; one member elected by approved private school boards of directors; the superintendent of public instruction; and two student representatives selected by the state board of education.

[Statutory Authority: Chapter 28A.305 RCW and 2005 c 497. WSR 05-22-007, § 392-109-040, filed 10/20/05, effective 11/20/05. Statutory Authority: RCW 28A.305.020. WSR 96-08-001 (Order 96-05), § 392-109-040, filed 3/21/96, effective 4/21/96. Statutory Authority: RCW 28A.04.020. WSR 84-11-038 (Order 84-8), § 392-109-040, filed 5/15/84; WSR 82-16-037 (Order 82-7), § 392-109-040, filed 7/28/82; WSR 80-07-038 (Order 80-20), § 392-109-040, filed 6/17/80.]

WAC 392-109-043 Election officer. In accordance with RCW 28A.305.102 the superintendent of public instruction or his or her designee shall serve as the election officer for the coordination and conduct of the election of members to the state board of education.

[Statutory Authority: Chapter 28A.305 RCW and 2005 c 497. WSR 05-22-007, § 392-109-043, filed 10/20/05, effective 11/20/05. Statutory Authority: 1990 c 33. WSR 90-16-002 (Order 18), § 392-109-043, filed 7/19/90, effective 8/19/90. Statutory Authority: RCW 28A.04.020. WSR 84-11-038 (Order 84-8), § 392-109-043, filed 5/15/84.]

WAC 392-109-045 Definitions. As used in this chapter the term:

(1) "Board of directors" shall mean:

(a) The statutory, multimember board of directors of a public school district; or

(b) The person or multimember body recognized by an approved private school as having the final authority for policy decisions which govern the operation of the private school.

(2) "Elector" shall mean:

(a) Each individual member of a public school board of directors; or

(b) An approved private school board of directors as a whole.

(3) "Approved private school" shall mean a school which is approved by the state board of education pursuant to chapter 180-90 WAC, as now or hereafter amended, as being in compliance with statutory standards.

(4) "Eastern Washington region" shall mean the region comprised of Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman, and Yakima counties.

(5) "Western Washington region" shall mean the region comprised of Clallam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pacific, Pierce, San Juan, Skagit, Skamania, Snohomish, Thurston, Wahkiakum, and Whatcom counties.

(6) "Weighted vote" shall mean the total number of electoral votes assigned to an elector for:

(a) Public schools: Each elector shall be entitled to a number of electoral votes equal to:

School District Student Enrollment	Each Elector Receives
1 - 1,000	1 vote
1,001 - 2,000	2 votes
2,001 - 3,000	3 votes
3,001 - 4,000	4 votes
4,001 - 5,000	5 votes
5,001 - 6,000	6 votes
6,001 - 7,000	7 votes
7,001 - 8,000	8 votes
8,001 - 9,000	9 votes
9,001 - 10,000	10 votes
10,001 - 15,000	11 votes

School District Student Enrollment	Each Elector Receives
15,001 - 20,000	12 votes
20,001 - 25,000	13 votes
25,001 - 30,000	14 votes
30,001 - 35,000	15 votes
35,001 - 40,000	16 votes
40,001 - or greater	17 votes

(b) Approved private schools: Each approved private school shall be entitled to a number of electoral votes equal to the actual number of students enrolled.

(7) "Student enrollment" shall mean the number of students enrolled during October of the preceding school year as reported to the superintendent of public instruction.

[Statutory Authority: Chapter 28A.305 RCW and 2005 c 497. WSR 05-22-007, § 392-109-045, filed 10/20/05, effective 11/20/05. Statutory Authority: RCW 28A.04.020. WSR 80-07-038 (Order 80-20), § 392-109-045, filed 6/17/80.]

WAC 392-109-047 Annual elections. Election of members to the state board of education shall be conducted each year preceding a year in which the term of one or more members expires, and as required by RCW 28A.305.102 following a vacancy on the board.

[Statutory Authority: Chapter 28A.305 RCW and 2005 c 497. WSR 05-22-007, § 392-109-047, filed 10/20/05, effective 11/20/05. Statutory Authority: RCW 28A.305.020. WSR 96-08-001 (Order 96-05), § 392-109-047, filed 3/21/96, effective 4/21/96. Statutory Authority: RCW 28A.04.020. WSR 84-11-038 (Order 84-8), § 392-109-047, filed 5/15/84.]

WAC 392-109-048 Election timeline. An official election timeline shall be published by the superintendent of public instruction at the call of each yearly election that shall include all necessary dates for the conduct of election.

[Statutory Authority: Chapter 28A.305 RCW and 2005 c 497. WSR 05-22-007, § 392-109-048, filed 10/20/05, effective 11/20/05.]

WAC 392-109-050 Information necessary for the conduct of elections—Responsibility of school officials. It shall be the responsibility of each member of a board of directors to assure that the superintendent of public instruction is provided current and correct information necessary for the conduct of the elections provided for in this chapter. Forms published by the superintendent of public instruction for the purpose of providing the following essential information shall be obtained, completed and submitted on a current basis:

(1) Approved private schools: The mailing address and previous October student enrollment; and

(2) Public school districts: The name, legal residence, mailing address and region, as defined in WAC 392-109-034, of residence for each member of a board of directors.

[Statutory Authority: Chapter 28A.305 RCW and 2005 c 497. WSR 05-22-007, § 392-109-050, filed 10/20/05, effective 11/20/05. Statutory Authority: RCW 28A.04.020. WSR 84-11-038 (Order 84-8), § 392-109-050, filed 5/15/84; WSR 80-07-038 (Order 80-20), § 392-109-050, filed 6/17/80.]

[Statutory Authority: Chapter 28A.305 RCW and 2005 c 497. WSR 05-22-007, § 392-109-075, filed 10/20/05, effective 11/20/05. Statutory Authority: RCW 28A.04.020. WSR 84-11-038 (Order 84-8), § 392-109-075, filed 5/15/84; WSR 80-07-038 (Order 80-20), § 392-109-075, filed 6/17/80.]

WAC 392-109-077 Withdrawal of candidacy. Any candidate may withdraw his or her declaration of candidacy by delivering a written, signed and notarized statement of withdrawal to the superintendent of public instruction on or before 5:00 p.m. on the date included on the election timeline. A candidate's failure to withdraw as prescribed above shall result in the inclusion of the candidate's name on the appropriate election ballot.

[Statutory Authority: Chapter 28A.305 RCW and 2005 c 497. WSR 05-22-007, § 392-109-077, filed 10/20/05, effective 11/20/05. Statutory Authority: RCW 28A.04.020. WSR 81-17-005 (Order 81-10), § 392-109-077, filed 8/7/81.]

WAC 392-109-078 Certificate of electors. (1) The list of eligible electors shall remain open for changes and deletions until 5:00 p.m. on the date included on the election timeline.

(2) The superintendent of public instruction as soon thereafter as is practical shall certify the list of electors and the weighted vote for each elector to be used for election purposes.

[Statutory Authority: Chapter 28A.305 RCW and 2005 c 497. WSR 05-22-007, § 392-109-078, filed 10/20/05, effective 11/20/05. Statutory Authority: RCW 28A.04.020. WSR 84-11-038 (Order 84-8), § 392-109-078, filed 5/15/84.]

WAC 392-109-080 Ballots—Contents. The ballot for each position subject to election pursuant to this chapter shall:

- (1) Contain the names of each candidate eligible for the particular position.
- (2) Be prepared for each region.
- (3) Set forth the number of electoral votes to which each elector is entitled.

[Statutory Authority: Chapter 28A.305 RCW and 2005 c 497. WSR 05-22-007, § 392-109-080, filed 10/20/05, effective 11/20/05. Statutory Authority: RCW 28A.04.020. WSR 84-11-038 (Order 84-8), § 392-109-080, filed 5/15/84; WSR 80-07-038 (Order 80-20), § 392-109-080, filed 6/17/80.]

WAC 392-109-085 Ballots and envelopes—Mailing to electors. (1) Ballots shall be mailed to electors on the date included on the election timeline, together with two envelopes to be used for voting.

(a) The outer and larger envelope (i.e., official ballot return envelope) shall:

- (i) Be labeled "official ballot return envelope";
- (ii) Be preaddressed with the "superintendent of public instruction" as addressee; and
- (iii) Have provision for the identification of the elector, his or her school district or school and his or her home address.

(b) The inner and smaller envelope shall be unlabeled and unmarked.

(2) One official ballot and the two envelopes to be used for voting purposes, any candidates' biographical data and pertinent instructions for voting purposes shall be mailed to each member of a public school district board of directors.

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(3) One official ballot, two envelopes to be used for voting purposes, any candidates' biographical data and pertinent instructions for voting purposes shall be mailed to each approved private school addressed to the chief administrator of each approved private school.

[Statutory Authority: Chapter 28A.305 RCW and 2005 c 497. WSR 05-22-007, § 392-109-085, filed 10/20/05, effective 11/20/05. Statutory Authority: RCW 28A.305.020. WSR 96-08-001 (Order 96-05), § 392-109-085, filed 3/21/96, effective 4/21/96. Statutory Authority: RCW 28A.04.020. WSR 84-11-038 (Order 84-8), § 392-109-085, filed 5/15/84; WSR 81-17-005 (Order 81-10), § 392-109-085, filed 8/7/81; WSR 80-07-038 (Order 80-20), § 392-109-085, filed 6/17/80.]

WAC 392-109-090 Voting—Marking and return of ballots. (1) Each member of a public school district board of directors may vote for one of the candidates for each position named on his or her official ballot by placing an "x" or other mark in the space provided next to the name of a candidate.

(2) Each approved private school may vote for one candidate on the official ballot by placing an "x" or other mark in the space provided next to the name of a candidate.

(3) Each member of a public school district board of directors and each approved private school shall complete voting by:

(a) Placing the marked official ballot in the smaller, unmarked envelope and sealing the same;

(b) Placing the smaller unmarked envelope containing the official ballot in the larger preaddressed envelope marked "official ballot return envelope" and sealing the same; and

(c) Affixing proper postage and placing the official ballot return envelope in the United States mail or otherwise delivering the envelope to the superintendent of public instruction.

[Statutory Authority: Chapter 28A.305 RCW and 2005 c 497. WSR 05-22-007, § 392-109-090, filed 10/20/05, effective 11/20/05. Statutory Authority: RCW 28A.305.020. WSR 96-08-001 (Order 96-05), § 392-109-090, filed 3/21/96, effective 4/21/96. Statutory Authority: RCW 28A.04.020. WSR 84-11-038 (Order 84-8), § 392-109-090, filed 5/15/84; WSR 80-07-038 (Order 80-20), § 392-109-090, filed 6/17/80.]

WAC 392-109-095 Election committee—Appointment and composition. The superintendent of public instruction shall annually appoint a three member election committee and at least one alternate who shall serve thereon in the absence of a regular member of the election committee. Counting of votes cast at elections conducted pursuant to this chapter shall be supervised by the superintendent of public instruction or his or her designee and the election committee.

[Statutory Authority: Chapter 28A.305 RCW and 2005 c 497. WSR 05-22-007, § 392-109-095, filed 10/20/05, effective 11/20/05. Statutory Authority: RCW 28A.04.020. WSR 84-11-038 (Order 84-8), § 392-109-095, filed 5/15/84; WSR 80-07-038 (Order 80-20), § 392-109-095, filed 6/17/80.]

WAC 392-109-100 Receipt of ballots and count of votes. (1) As official ballot return envelopes are received by the superintendent of public instruction, a preliminary determination shall be made as to the eligibility of the elector, and a record shall be made on a list of eligible electors and approved private schools that the elector has voted.

(2) Official ballot return envelopes not submitted in compliance with this chapter and other envelopes containing ballots shall be set aside for a final review and acceptance or rejection by the election committee.

(3) The election committee shall convene for the purpose of counting votes on the date included on the election timeline.

(a) Official ballot return envelopes accepted by the election committee shall be opened and the inner unmarked envelopes containing the official ballots shall be removed and placed aside still sealed.

(b) The inner unmarked envelopes shall then be opened and the votes counted by the election committee.

(4) No record shall be made or maintained of the candidate for whom any elector cast his or her vote.

[Statutory Authority: Chapter 28A.305 RCW and 2005 c 497. WSR 05-22-007, § 392-109-100, filed 10/20/05, effective 11/20/05. Statutory Authority: RCW 28A.305.020. WSR 96-08-001 (Order 96-05), § 392-109-100, filed 3/21/96, effective 4/21/96. Statutory Authority: RCW 28A.04.020. WSR 84-11-038 (Order 84-8), § 392-109-100, filed 5/15/84; WSR 80-07-038 (Order 80-20), § 392-109-100, filed 6/17/80.]

WAC 392-109-105 Ineligible votes. The following ballots and votes shall be declared void and shall not be accepted:

(1) Votes for write-in candidates;

(2) Votes cast on other than an official ballot provided pursuant to this chapter;

(3) Ballots which contain a vote for two or more of the named candidates;

(4) Ballots contained in other than an official ballot return envelope provided pursuant to this chapter;

(5) Ballots contained in an official ballot return envelope upon which the elector is not designated by name;

(6) Ballots received after 5:00 p.m. on the date included on the election timeline. Provided, that any official ballot return envelope that is postmarked on or before midnight of the above date and received pursuant to the United States mail prior to the initial counting of votes by the election committee shall be accepted; and

(7) Such other ballots or votes as the election committee shall determine to be unidentifiable or unlawful.

[Statutory Authority: Chapter 28A.305 RCW and 2005 c 497. WSR 05-22-007, § 392-109-105, filed 10/20/05, effective 11/20/05. Statutory Authority: RCW 28A.305.020. WSR 96-08-001 (Order 96-05), § 392-109-105, filed 3/21/96, effective 4/21/96. Statutory Authority: RCW 28A.04.020. WSR 84-11-038 (Order 84-8), § 392-109-105, filed 5/15/84; WSR 80-07-038 (Order 80-20), § 392-109-105, filed 6/17/80.]

WAC 392-109-111 Run-off election. If no candidate for any one position receives a minimum of fifty percent plus one of the total votes for such position, the superintendent of public instruction shall call a run-off election between the two candidates receiving the two highest vote totals for such position.

[Statutory Authority: Chapter 28A.305 RCW and 2005 c 497. WSR 05-22-007, § 392-109-111, filed 10/20/05, effective 11/20/05.]

WAC 392-109-112 Dispute resolution. (1) Any public school district board member or any approved private school eligible to vote for a candidate for membership on the state board of education or any candidate for the position, within ten days after the superintendent of public instruction's reporting of election, may contest the election of a candidate for any of the following causes:

(12/7/10)

(a) Because the person whose right is being contested gave a bribe or reward to an elector for the purpose of procuring the candidate's election, or offered to do so; or

(b) On account of illegal votes.

(2) An action contesting an election pursuant to this chapter shall be conducted in compliance with chapter 29A.68 RCW, as now or hereafter amended.

[Statutory Authority: Chapter 28A.305 RCW and 2005 c 497. WSR 05-22-007, § 392-109-112, filed 10/20/05, effective 11/20/05.]

WAC 392-109-115 Report and certification of election. (1) On the date included on the election timeline, but no later than December 15, if a candidate receives a minimum of fifty percent plus one of the total votes for a position, the superintendent shall publicly announce and certify the election results; or

(2) If a candidate does not receive a minimum of fifty percent plus one of the total votes for a position, the superintendent shall publicly announce the need for a run-off election; the results of which shall be announced and certified no more than ten days after election.

[Statutory Authority: Chapter 28A.305 RCW and 2005 c 497. WSR 05-22-007, § 392-109-115, filed 10/20/05, effective 11/20/05. Statutory Authority: RCW 28A.04.020. WSR 84-11-038 (Order 84-8), § 392-109-115, filed 5/15/84; WSR 81-17-005 (Order 81-10), § 392-109-115, filed 8/7/81; WSR 80-07-038 (Order 80-20), § 392-109-115, filed 6/17/80.]

WAC 392-109-117 Publishing of names. As soon as reasonably possible after each annual election the superintendent of public instruction shall publish the names of the electors and approved private schools who voted in the election.

[Statutory Authority: Chapter 28A.305 RCW and 2005 c 497. WSR 05-22-007, § 392-109-117, filed 10/20/05, effective 11/20/05. Statutory Authority: RCW 28A.04.020. WSR 90-04-043 (Order 90-01), § 392-109-117, filed 1/31/90, effective 3/3/90; WSR 81-17-005 (Order 81-10), § 392-109-117, filed 8/7/81.]

WAC 392-109-120 Vacancies and appointments. (1) Whenever a vacancy among members elected by public school boards of directors occurs on the state board of education, from any cause whatsoever, it shall be the duty of the remaining members representing public school boards of directors to fill such vacancy by appointment, subject to full board approval. The appointment shall be consistent with the appropriate regional position being vacated. The person so appointed shall continue in office until the term expires. The appointed person has the option to step down or run for reelection consistent with RCW 28A.305.021 at the time the term expires.

(2) Whenever a vacancy of the approved private school elected member occurs on the state board of education, from any cause whatsoever, it shall be the duty of the private school advisory committee to fill such vacancy by appointment consistent with RCW 28A.305.011. The person so appointed shall continue in office until the term expires. The appointed person has the option to step down or run for election consistent with RCW 28A.305.021 at the time the term expires.

[Statutory Authority: Chapter 28A.305 RCW. WSR 11-01-057, § 392-109-120, filed 12/7/10, effective 1/7/11. Statutory Authority: Chapter 28A.305 RCW and 2005 c 497. WSR 05-22-007, § 392-109-120, filed 10/20/05, effective 11/20/05. Statutory Authority: RCW 28A.305.020. WSR 96-08-

001 (Order 96-05), § 392-109-120, filed 3/21/96, effective 4/21/96. Statutory Authority: 1990 c 33. WSR 90-16-002 (Order 18), § 392-109-120, filed 7/19/90, effective 8/19/90. Statutory Authority: RCW 28A.04.020. WSR 80-07-038 (Order 80-20), § 392-109-120, filed 6/17/80.]