

# Chapter 392-347 WAC

## STATE FUNDING ASSISTANCE IN PROVIDING SCHOOL PLANT FACILITIES—MODERNIZATION

(Formerly chapter 180-33 WAC)

### WAC

392-347-005	Authority.
392-347-007	Purpose.
392-347-010	Definitions.
392-347-012	Waiver of rules to facilitate alternative public works contracting procedures.
392-347-013	Annually determined building replacement value.
392-347-015	Eligibility for state funding assistance.
392-347-020	Formula for determining the amount of state funding assistance.
392-347-023	State funding assistance in post 1993 facilities.
392-347-025	Space eligible for state funding assistance in modernization.
392-347-030	Certification of continued use.
392-347-035	Minimum project—Forty percent of replacement costs.
392-347-040	Maximum costs eligible for state funding assistance—One hundred percent of replacement cost.
392-347-042	Replacement option.
392-347-045	Architect and engineering services.
392-347-050	Study and survey of school district as prerequisite.
392-347-055	Regulations governing.
392-347-060	Procedural requirements.

**WAC 392-347-005 Authority.** This chapter is adopted pursuant to RCW 28A.525.020 which authorizes the superintendent of public instruction to prescribe rules and regulations governing the administration, control, terms, conditions, and disbursements of moneys to school districts to assist them in providing school facilities. In accordance with RCW 28A.525.200, the only provisions of chapter 28A.525 RCW currently applicable to state funding assistance for school facilities are RCW 28A.525.030, 28A.525.040, and 28A.525.162 through 28A.525.178.

[Statutory Authority: RCW 28A.525.020. WSR 10-09-008, § 392-347-005, filed 4/8/10, effective 5/9/10; WSR 06-16-031, amended and recodified as § 392-347-005, filed 7/25/06, effective 8/25/06; WSR 98-19-138, § 180-33-005, filed 9/23/98, effective 10/24/98. Statutory Authority: 1990 c 33. WSR 90-17-009, § 180-33-005, filed 8/6/90, effective 9/6/90. Statutory Authority: RCW 28A.47.830. WSR 83-21-071 (Order 16-83), § 180-33-005, filed 10/17/83. Statutory Authority: RCW 28A.47.073. WSR 81-24-049 (Order 13-81), § 180-33-005, filed 12/1/81.]

**WAC 392-347-007 Purpose.** The purpose of this chapter is to set forth provisions applicable to state funding assistance in the modernization of existing school facilities.

[Statutory Authority: RCW 28A.525.020. WSR 10-09-008, § 392-347-007, filed 4/8/10, effective 5/9/10; WSR 06-16-031, recodified as § 392-347-007, filed 7/25/06, effective 8/25/06. Statutory Authority: RCW 28A.47.830. WSR 83-21-071 (Order 16-83), § 180-33-007, filed 10/17/83.]

**WAC 392-347-010 Definitions.** As used in this chapter: "Modernization" shall mean the making of major structural changes in such facilities and may include as incidental thereto the replacement of fixtures, fittings, furnishings, and service systems of a school facility in order to bring it up to a contemporary state consistent with the needs of changing educational programs and applicable codes.

"Major structural change" shall mean major components of a school facility contributing to the basic structure and shall not include those components such as portable partitions, free-standing panels and screens, portable equipment, and furnishings that do not contribute to the basic structure.

[Statutory Authority: RCW 28A.525.020. WSR 06-16-031, recodified as § 392-347-010, filed 7/25/06, effective 8/25/06. Statutory Authority: RCW 28A.47.830. WSR 83-21-071 (Order 16-83), § 180-33-010, filed 10/17/83. Statutory Authority: RCW 28A.47.073. WSR 81-24-049 (Order 13-81), § 180-33-010, filed 12/1/81.]

**WAC 392-347-012 Waiver of rules to facilitate alternative public works contracting procedures.** The provisions of this chapter may be deemed waived in accordance with WAC 392-341-012.

[Statutory Authority: RCW 28A.525.020. WSR 06-16-031, amended and recodified as § 392-347-012, filed 7/25/06, effective 8/25/06; WSR 01-08-040, § 180-33-012, filed 3/30/01, effective 4/30/01.]

**WAC 392-347-013 Annually determined building replacement value.** The annually determined building replacement value for any building in any year is the state determined maximum construction cost allocation for July of that year times the gross square footage determined under WAC 392-343-040.

[Statutory Authority: RCW 28A.525.020. WSR 10-09-008, § 392-347-013, filed 4/8/10, effective 5/9/10; WSR 06-16-031, amended and recodified as § 392-347-013, filed 7/25/06, effective 8/25/06. Statutory Authority: [RCW 28A.525.020.] WSR 91-12-058, § 180-33-013, filed 6/5/91, effective 7/6/91.]

**WAC 392-347-015 Eligibility for state funding assistance.** (1) In order to be eligible for state funding assistance, a modernization project shall have as its principal purpose one or more of the following:

(a) Bringing a facility into compliance with current building and health codes when so required by state or local health or safety officials;

(b) Changing the grade span grouping by facility by the addition, deletion, or combination thereof of two or more grades within the affected facility;

(c) The reduction of the number of operating school facilities in a district by combining the remaining school facilities through modernization and new capital construction so as to achieve more cost effective and efficient operation in the combined school facility or facilities. In order to be eligible for state funding assistance, such a project shall result in additional space for at least 100 additional pupils and the following enrollment in any combined facility:

(i) Elementary school facility—500 pupils;

(ii) Middle or junior high school facility—700 pupils;

## (iii) Senior high school facility—850 pupils:

Provided, That modernization projects in school districts with a high school enrollment of less than 850 pupils need not comply with the enrollment figures set forth above: Provided further, That unless the district demonstrates the existence of unhoused students, state funding assistance for the new construction component of a combined modernization and new construction project shall be limited to the provision of WAC 392-347-040; or

## (d) Meeting the educational program of the facility.

(2) School districts shall certify that a proposed modernization project will extend the life of the modernized school facility by at least twenty years.

(3) School districts shall be ineligible for state funding assistance for modernization of any school facility accepted by the school district board of directors prior to January 1, 1993, where the principal purpose of that modernization project is to:

(a) Restore building systems and subsystems that have deteriorated due to deferred maintenance;

(b) Perform piecemeal work on one section or system of a school facility;

(c) Modernize a facility or any section thereof which has been constructed within the previous twenty years;

(d) Modernize a facility or any section thereof which has received state funding assistance under the authority of this chapter within the previous twenty years;

(e) To modernize a senior high school facility in a district with a senior high school where there is existing space available to serve the students involved or affected in a neighboring senior high school without, in the judgment of the superintendent of public instruction, an undue increase in the cost of transporting the students to and from school, decrease in educational opportunity, or proportional increase in the cost of instruction pursuant to chapter 392-341 WAC.

(4) School facilities accepted by the school district board of directors after January 1, 1993, shall be ineligible for state funding assistance for modernization of the facility or any section thereof where:

(a) The facility was constructed and occupied within the previous thirty years;

(b) The facility received state funding assistance under the authority of this chapter within the previous thirty years.

[Statutory Authority: RCW 28A.525.020. WSR 10-09-008, § 392-347-015, filed 4/8/10, effective 5/9/10; WSR 06-16-031, amended and recodified as § 392-347-015, filed 7/25/06, effective 8/25/06; WSR 05-23-046, § 180-33-015, filed 11/9/05, effective 12/10/05; WSR 91-12-058, § 180-33-015, filed 6/5/91, effective 7/6/91. Statutory Authority: RCW 28A.47.830. WSR 85-24-049 (Order 26-85), § 180-33-015, filed 11/27/85; WSR 85-09-060 (Order 8-85), § 180-33-015, filed 4/17/85; WSR 83-21-071 (Order 16-83), § 180-33-015, filed 10/17/83. Statutory Authority: RCW 28A.47.073. WSR 81-24-049 (Order 13-81), § 180-33-015, filed 12/1/81.]

**WAC 392-347-020 Formula for determining the amount of state funding assistance.** State funding assistance in an approved modernization project shall be derived by applying the state funding assistance percentage determined pursuant to provisions of RCW 28A.525.166 and WAC 392-343-025 to the eligible cost which shall be calculated by multiplying the approved square foot area of the modernization project by the construction cost allocation for the fiscal year funded, less any deductions as set forth in

WAC 392-347-023 if applicable, by the factor in WAC 392-347-040 set forth, any cost in excess thereof shall be financed entirely by the school district.

[Statutory Authority: RCW 28A.525.020. WSR 10-09-008, § 392-347-020, filed 4/8/10, effective 5/9/10; WSR 06-16-031, amended and recodified as § 392-347-020, filed 7/25/06, effective 8/25/06. Statutory Authority: RCW 28A.47.830 and 28A.525.020. WSR 01-19-042, § 180-33-020, filed 9/14/01, effective 10/15/01. Statutory Authority: [RCW 28A.525.020.] WSR 91-12-058, § 180-33-020, filed 6/5/91, effective 7/6/91. Statutory Authority: 1990 c 33. WSR 90-17-009, § 180-33-020, filed 8/6/90, effective 9/6/90. Statutory Authority: RCW 28A.47.830. WSR 83-21-071 (Order 16-83), § 180-33-020, filed 10/17/83. Statutory Authority: RCW 28A.47.073. WSR 81-24-049 (Order 13-81), § 180-33-020, filed 12/1/81.]

**WAC 392-347-023 State funding assistance in post 1993 facilities.** As a condition precedent to receiving state funding assistance for modernization under WAC 392-347-015 or new-in-lieu of modernization under WAC 392-347-042, school districts that received state funding assistance for new and new-in-lieu school buildings and whose buildings were accepted as complete by school board of directors as of January 1, 1994, and later, shall adopt by board resolution and implement an asset preservation program (APP).

(1) Definitions: For purposes of this chapter:

(a) An asset preservation program is a systematic approach to ensure performance accountability; promote student health and safety by maintaining and operating building systems to their design capacity; maintain an encouraging learning environment; and extend building life, thus minimizing future capital needs.

(b) An asset preservation system is a system of tasks or projects that are active, reactive, or proactive in maintaining the day to day health, safety, and instructional quality of the school facility and tasks or projects that are proactive, predictive or preventative in maintaining the school facility over its thirty-year expected life cycle.

(c) A building condition evaluation is an evaluation of the condition of building components and systems using a standardized scoring matrix.

(d) A building condition standard is a numeric scoring table with a scale identifying the expected condition score for each year of the building's expected life cycle.

(2) The office of the superintendent of public instruction shall establish and adopt a uniform program of specifications, standards, and requirements for implementing and maintaining the asset preservation program.

(3) School districts with affected buildings under this chapter are required to:

(a) Adopt or implement an asset preservation system;

(b) Annually perform a building condition evaluation and report the condition of such building to the school district's board of directors no later than April 1st of each year;

(c) Thereafter in six year intervals during the thirty-year expected life span of the building, have a certified evaluator, as approved by the office of the superintendent of public instruction, perform a building condition evaluation and report the condition to the school district's board of directors and to the office of the superintendent of public instruction no later than April 1st.

(4) A school district building affected under this chapter and that does not meet the minimum building condition stan-

dard score of forty points at the end of the thirty years from the accepted date shall:

(a) Have its allowable cost per square foot used to determine the amount of state funding assistance in any modernization project reduced at a rate of two percent for each point below forty points, not to exceed a total twenty percent reduction; or

(b) Be ineligible for state funding assistance when the building condition score is less than thirty points.

(5) The following schedule shall apply to school districts with buildings affected under this chapter, and the requirements set forth shall replace the former requirements of this section:

(a) Buildings accepted by the school board in 1994 must begin an asset preservation program in 2009, and shall fully implement the program within no more than one and one-half years;

(b) Buildings accepted by the school board in 1995 must begin an asset preservation program in 2010, and shall fully implement the program within no more than one year;

(c) Buildings accepted by the school board in 1996 through 2010 must begin an asset preservation program in 2011, and shall fully implement the program within no more than six months;

(d) Buildings accepted by the school board after December 31, 2010, must implement an asset preservation program within six months of facility acceptance.

[Statutory Authority: RCW 28A.525.020. WSR 10-09-008, § 392-347-023, filed 4/8/10, effective 5/9/10; WSR 09-10-023, § 392-347-023, filed 4/28/09, effective 5/29/09; WSR 08-09-024, § 392-347-023, filed 4/8/08, effective 5/9/08; WSR 06-16-031, amended and recodified as § 392-347-023, filed 7/25/06, effective 8/25/06; WSR 01-09-012, § 180-33-023, filed 4/6/01, effective 5/7/01; WSR 91-12-058, § 180-33-023, filed 6/5/91, effective 7/6/91.]

**WAC 392-347-025 Space eligible for state funding assistance in modernization.** Student space allocations and enrollment projection provisions for state funding assistance.

(1) In planning for modernization in any school facility, under the provisions of WAC 392-347-015 (1)(a) and (b), a school district shall estimate capacity needs on the basis of a cohort survival enrollment as per WAC 392-343-045. Any space above and beyond a school district's estimated capacity needs as calculated on the basis of a five-year cohort survival or adjusted cohort survival enrollment shall not be eligible for state funding assistance in modernization.

(2) The changes to this section shall take effect January 1, 2006: Provided, That those districts having authorized bond issues and/or excess tax levies for their building funds for specific school construction projects as identified in ballot propositions on or before July 1, 2006, may, when requesting the superintendent of public instruction consideration of state funding assistance for such projects, determine, in computing the amount of eligible space for modernization, state funding assistance will be provided on the entire facility of three quarters of the overall square footage of the school districts' facilities is eligible for state funding assistance: Provided further, That the provision shall not be applicable to new construction in lieu of modernization facility projects authorized by this chapter.

[Statutory Authority: RCW 28A.525.020. WSR 10-09-008, § 392-347-025, filed 4/8/10, effective 5/9/10; WSR 06-16-031, amended and recodified as §

(4/8/10)

392-347-025, filed 7/25/06, effective 8/25/06; WSR 05-19-109, § 180-33-025, filed 9/20/05, effective 10/21/05; WSR 98-09-052, § 180-33-025, filed 4/16/98, effective 5/17/98. Statutory Authority: RCW 28A.525.020 and 1992 c 233 § 28 (8)(e). WSR 94-13-020, § 180-33-025, filed 6/3/94, effective 7/4/94. Statutory Authority: RCW 28A.47.830. WSR 85-24-049 (Order 26-85), § 180-33-025, filed 11/27/85; WSR 83-21-071 (Order 16-83), § 180-33-025, filed 10/17/83. Statutory Authority: RCW 28A.47.073. WSR 81-24-049 (Order 13-81), § 180-33-025, filed 12/1/81.]

### **WAC 392-347-030 Certification of continued use.**

Any school facilities modernized under WAC 392-347-015 must be used for at least five years beyond the completion of modernization. School directors will pass a resolution and submit it to the superintendent of public instruction that the modernized facility will be used for instructional purposes for five years after the completion of the project. If the school facility is not used for instructional purposes during this five-year period, the amount of state funding assistance allocated and spent for the modernization project must be returned to the state school building construction fund. The five-year use requirement and the five year prohibition against additional modernization funding shall be waived in the event that a facility is rendered permanently unusable before the end of the five-year period by an unforeseen natural event. The definition of "unforeseen natural event" shall be as set forth in RCW 28A.150.290.

[Statutory Authority: RCW 28A.525.020. WSR 10-09-008, § 392-347-030, filed 4/8/10, effective 5/9/10; WSR 06-16-031, amended and recodified as § 392-347-030, filed 7/25/06, effective 8/25/06. Statutory Authority: 1990 c 33. WSR 90-17-009, § 180-33-030, filed 8/6/90, effective 9/6/90. Statutory Authority: RCW 28A.47.830. WSR 85-24-049 (Order 26-85), § 180-33-030, filed 11/27/85; WSR 83-21-071 (Order 16-83), § 180-33-030, filed 10/17/83. Statutory Authority: RCW 28A.47.073. WSR 81-24-049 (Order 13-81), § 180-33-030, filed 12/1/81.]

### **WAC 392-347-035 Minimum project—Forty percent of replacement costs.**

(1) State funding assistance in modernization of school facilities shall be limited to projects which may include an entire facility or one or more complete buildings within a facility for which the estimated cost of major structural change is not less than forty percent of the estimated cost of replacement. The estimated cost of major structural change shall not include the estimated capital costs associated with restoring building systems or subsystems due to deterioration as determined in the study and survey to be caused by deferred maintenance. The estimated cost of replacement shall be derived from multiplication of the total square foot area of the facility or facilities proposed for modernization by the construction cost allocation for the fiscal year funded as in WAC 392-343-045 set forth.

(2) The superintendent of public instruction may grant a waiver from subsection (1) of this section in the event of an unanticipated increase in the construction cost allocation that might cause prior approved projects expecting state funding assistance to become disqualified for such assistance.

[Statutory Authority: RCW 28A.525.020. WSR 10-09-008, § 392-347-035, filed 4/8/10, effective 5/9/10; WSR 06-16-031, amended and recodified as § 392-347-035, filed 7/25/06, effective 8/25/06; WSR 05-19-110, § 180-33-035, filed 9/20/05, effective 10/21/05. Statutory Authority: RCW 28A.47.830 and 28A.525.020. WSR 01-19-042, § 180-33-035, filed 9/14/01, effective 10/15/01. Statutory Authority: [RCW 28A.525.020.] WSR 91-12-058, § 180-33-035, filed 6/5/91, effective 7/6/91. Statutory Authority: RCW 28A.47.830. WSR 85-24-049 (Order 26-85), § 180-33-035, filed 11/27/85; WSR 83-21-071 (Order 16-83), § 180-33-035, filed 10/17/83. Statutory

Authority: RCW 28A.47.073. WSR 81-24-049 (Order 13-81), § 180-33-035, filed 12/1/81.]

**WAC 392-347-040 Maximum costs eligible for state funding assistance—One hundred percent of replacement cost.** State funding assistance for modernization projects shall not exceed one hundred percent of the cost of new construction of a comparable school facility based on the prevailing level of state support as defined in chapter 392-343 WAC. Costs exceeding one hundred percent shall be paid with local funds by the district.

[Statutory Authority: RCW 28A.525.020. WSR 10-09-008, § 392-347-040, filed 4/8/10, effective 5/9/10; WSR 06-16-031, amended and recodified as § 392-347-040, filed 7/25/06, effective 8/25/06; WSR 05-19-111, § 180-33-040, filed 9/20/05, effective 10/21/05; WSR 98-19-138, § 180-33-040, filed 9/23/98, effective 10/24/98. Statutory Authority: RCW 28A.47.830. WSR 83-21-071 (Order 16-83), § 180-33-040, filed 10/17/83. Statutory Authority: RCW 28A.47.073. WSR 81-24-049 (Order 13-81), § 180-33-040, filed 12/1/81.]

**WAC 392-347-042 Replacement option.** A district with space eligible for modernization pursuant to WAC 392-347-015 and 392-347-025 may elect to replace such space through new construction in lieu of modernization. In such case, the district shall apply for a new school facility in accordance with applicable rules and regulations pertaining to new school plant facilities and the local board shall certify that after the new construction is finally completed:

- (1) The existing building or space to be replaced will not be used for district instructional purposes; and
- (2) The existing building or space will be ineligible for any future state funding assistance.

Further, if the existing building or space is subsequently returned by the district to instructional purposes in whole or in part, the district shall become ineligible for any state funding assistance for a period of ten years from the date that the superintendent of public instruction sends written notice to members of the local board recognizing the return of the building in whole or in part to instructional purposes. Districts exercising this election shall be limited in state funding assistance to the provision of WAC 392-347-040. In the event the district elects to replace a facility and construct a new facility with more space than the facility being replaced, the additional space, in order to be eligible for state funding assistance shall meet the eligibility requirements for new construction or the new construction component requirement of WAC 392-347-015 (1)(c): Provided, That no new construction in lieu of modernization project may qualify for additional state funding assistance pursuant to WAC 392-343-115 unless the facility being replaced would have qualified pursuant to such section for additional state funding assistance as a modernization project.

(3) The superintendent of public instruction may waive the provisions of this section for a period it determines is appropriate to the particular situation. A waiver request must be submitted in writing to the superintendent of public instruction. The superintendent of public instruction shall review the waiver request and approve or deny the request. The waiver request shall include, but not be limited to, the following information:

- (a) Description of the district's planning process;

[Ch. 392-347 WAC p. 4]

- (b) Rationale why the need for the waiver request was not anticipated;
- (c) The requested length of time of the waiver;
- (d) The availability of funding for proposed projects;
- (e) List of specific projects and timelines;
- (f) List of the specific student groups that will use the facility;
- (g) Rationale why this is the best use of facilities and public funds;
- (h) Assurance that the facility meets health and safety standards for occupancy.

[Statutory Authority: RCW 28A.525.020. WSR 10-09-008, § 392-347-042, filed 4/8/10, effective 5/9/10; WSR 06-16-031, amended and recodified as § 392-347-042, filed 7/25/06, effective 8/25/06; WSR 01-14-019, § 180-33-042, filed 6/26/01, effective 7/27/01; WSR 98-19-138, § 180-33-042, filed 9/23/98, effective 10/24/98. Statutory Authority: RCW 28A.525.020 and 1993 sp.s. c 22 § 708(5). WSR 93-20-066, § 180-33-042, filed 10/1/93, effective 11/1/93. Statutory Authority: RCW 28A.47.830. WSR 85-09-060 (Order 8-85), § 180-33-042, filed 4/17/85.]

**WAC 392-347-045 Architect and engineering services.** In the allocation of state funding assistance for an approved modernization project, architectural and engineering services eligible for state funding assistance shall not exceed one and one-half times the architectural and engineering services as in chapter 392-343 WAC set forth.

[Statutory Authority: RCW 28A.525.020. WSR 10-09-008, § 392-347-045, filed 4/8/10, effective 5/9/10; WSR 06-16-031, amended and recodified as § 392-347-045, filed 7/25/06, effective 8/25/06. Statutory Authority: RCW 28A.47.830. WSR 83-21-071 (Order 16-83), § 180-33-045, filed 10/17/83. Statutory Authority: RCW 28A.47.073. WSR 81-24-049 (Order 13-81), § 180-33-045, filed 12/1/81.]

**WAC 392-347-050 Study and survey of school district as prerequisite.** A survey of facilities proposed for modernization conducted under the direction of the superintendent of public instruction as per chapter 392-341 WAC shall be a prerequisite for consideration of an application for state funding assistance of a modernization project.

[Statutory Authority: RCW 28A.525.020. WSR 10-09-008, § 392-347-050, filed 4/8/10, effective 5/9/10; WSR 06-16-031, amended and recodified as § 392-347-050, filed 7/25/06, effective 8/25/06. Statutory Authority: RCW 28A.47.830. WSR 83-21-071 (Order 16-83), § 180-33-050, filed 10/17/83. Statutory Authority: RCW 28A.47.073. WSR 81-24-049 (Order 13-81), § 180-33-050, filed 12/1/81.]

**WAC 392-347-055 Regulations governing.** In addition to the regulations hereinbefore in chapter 392-347 WAC prescribed; all regulations governing the basic assistance program prescribed in chapters 392-341, 392-342, 392-343, and 392-344 WAC shall govern administration of state funding assistance in financing modernization of school facilities: Provided, That compliance with those regulations not pertinent to modernization projects as determined by the superintendent of public instruction shall not be required.

[Statutory Authority: RCW 28A.525.020. WSR 10-09-008, § 392-347-055, filed 4/8/10, effective 5/9/10; WSR 06-16-031, amended and recodified as § 392-347-055, filed 7/25/06, effective 8/25/06. Statutory Authority: RCW 28A.47.830. WSR 83-21-071 (Order 16-83), § 180-33-055, filed 10/17/83. Statutory Authority: RCW 28A.47.073. WSR 81-24-049 (Order 13-81), § 180-33-055, filed 12/1/81.]

**WAC 392-347-060 Procedural requirements.** The superintendent of public instruction shall determine proce-

(4/8/10)

dures and forms for the administration of state participation in financing modernization of school facilities, such procedures and forms to be in addition to or in lieu of procedural requirements prescribed in chapter 392-344 WAC.

[Statutory Authority: RCW 28A.525.020. WSR 06-16-031, amended and recodified as § 392-347-060, filed 7/25/06, effective 8/25/06. Statutory Authority: RCW 28A.47.830. WSR 83-21-071 (Order 16-83), § 180-33-060, filed 10/17/83. Statutory Authority: RCW 28A.47.073. WSR 81-24-049 (Order 13-81), § 180-33-060, filed 12/1/81.]