

Chapter 392-800 WAC
STATE-TRIBAL EDUCATION COMPACT SCHOOLS

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WAC

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WAC 392-800-805 Authority. The authority for this chapter is RCW 28A.715.010, which authorizes the superintendent of public instruction to adopt such rules as are necessary to implement chapter 28A.715 RCW, chapter 242, Laws of 2013.

[Statutory Authority: RCW 28A.655.061 and 655.065 [28A.655.065]. WSR 14-04-001, § 392-800-805, filed 1/22/14, effective 2/22/14.]

WAC 392-800-810 Purpose. The purposes of this chapter are to:

- (1) Implement chapter 28A.715 RCW;
- (2) Set forth policies and procedures for initiating the process of establishing state-tribal education compacts in the state of Washington;
- (3) Define the roles and responsibilities of the superintendent of public instruction and eligible federally recognized tribes and Bureau of Indian Affairs (BIE) schools in establishing state-tribal education compacts; and
- (4) Establish accountability standards that are applicable to all schools that are the subject of state-tribal education compacts.

[Statutory Authority: RCW 28A.655.061 and 655.065 [28A.655.065]. WSR 14-04-001, § 392-800-810, filed 1/22/14, effective 2/22/14.]

WAC 392-800-815 Definitions. As used in this chapter:

- (1) The term "eligible Indian tribe" means any American Indian tribe in the state of Washington that is federally recognized and included as such on the official publications of the Washington state governor's office of Indian affairs;
- (2) The term "BIE school" means a school in Washington state that was funded by the BIE in 2013, whether directly or through a contract with an Indian tribe or tribal consortium;
- (3) The term "compact school" means a school that is:
 - (a) The subject of a state-tribal education compact that is approved and executed in accordance with this chapter; and
 - (b) Operated according to the terms of a state-tribal education compact.

[Statutory Authority: RCW 28A.655.061 and 655.065 [28A.655.065]. WSR 14-04-001, § 392-800-815, filed 1/22/14, effective 2/22/14.]

WAC 392-800-820 Policy. (1) The state-tribal compacts affirm the state's commitment to honor the government-to-government relationship between the state and tribes by empowering tribes to take greater responsibility for improving the educational achievement outcomes for tribal students.

(2) Compact schools are exempt from all state statutes and rules applicable to school districts and school district boards of directors, except these statutes and rules made applicable under chapter 28A.715 RCW and the state-tribal compacts executed in accordance with this chapter.

[Statutory Authority: RCW 28A.655.061 and 655.065 [28A.655.065]. WSR 14-04-001, § 392-800-820, filed 1/22/14, effective 2/22/14.]

WAC 392-800-825 Application—Approval process—Timeline. (1) Beginning in February 2014, eligible federally recognized tribes or BIE schools may apply to the superintendent of public instruction to initiate negotiations to enact a state-tribal education compact.

(2) Federally recognized tribes or BIE schools seeking approval of a state-tribal education compact must submit the application to the superintendent of public instruction by February 1st of the school year preceding the year in which the federally recognized tribes or BIE school seeks to commence operation of a compact school.

(3) The application must be hand delivered or mailed to the superintendent of public instruction at the following address:

Superintendent of Public Instruction
600 Washington Street S.E.
P.O. Box 47200
Olympia, WA 98504

(4) Within ninety days of his or her receipt of the application, the superintendent of public instruction will convene a government-to-government meeting for the purpose of considering the application and initiating negotiations.

(5) The superintendent of public instruction will approve or disapprove state-tribal education compact applications no later than April 15th of the school year, as defined by WAC 392-121-031, in which the federally recognized tribe or BIE school intends to commence operation of a compact school. The superintendent of public instruction's approval or disapproval of the application shall constitute final agency action.

(6) State-tribal education compacts must be executed by the superintendent of public instruction and the federally recognized tribe or BIE school governing body on or before June 30th prior to the operation of a compact school commences.

[Statutory Authority: RCW 28A.715.010. WSR 15-11-079, § 392-800-825, filed 5/19/15, effective 6/19/15. Statutory Authority: RCW 28A.655.061 and 655.065 [28A.655.065]. WSR 14-04-001, § 392-800-825, filed 1/22/14, effective 2/22/14.]

WAC 392-800-830 Application—Content. (1) A state-tribal education compact application must include the following:

(a) A resolution by the federally recognized tribe or BIE school's governing body authorizing the federally recognized tribe or BIE school to submit an application pursuant to this chapter;

(b) The grade or grades from kindergarten through twelve that will be offered;

(c) The school year in which the federally recognized tribe or BIE school intends to commence operation of a compact school; and

(d) A description of the educational program that will be offered at the compact school, which must include:

(i) The school's vision and mission;

(ii) The school's program design, including a description of how the school will improve culturally responsive and academic needs of students;

(iii) The school's curriculum and instruction framework;

(iv) Student performance standards/targets;

(v) The school's assessment plan, including a design of evaluation of the proposed program that will produce quantifiable results which will be used to determine the success of the program in meeting intended outcomes including, but not limited to, increased student achievement;

(vi) For high schools, the school's graduation requirements;

(vii) The school calendar;

(viii) An overview of supplemental programs offered at the school;

(ix) An overview of the programs offered for special populations, including students eligible for special education and English language learners;

(x) The school's discipline plan;

(xi) The school's community engagement plan;

(xii) The school's operations plan and governance structure;

(xiii) The school's personnel plan, including how identified personnel will be utilized to complete the tasks and achieve the program's objectives;

(xiv) The school's facilities plan;

(xv) The school's transportation plan;

(xvi) The school's financial plan and fiscal structure;

(xvii) The school's plan to conduct background checks for school personnel; and

(xviii) The school's safety plan.

(2) The application must demonstrate that the compact school will be operated in compliance with all applicable laws.

[Statutory Authority: RCW 28A.655.061 and 655.065 [28A.655.065]. WSR 14-04-001, § 392-800-830, filed 1/22/14, effective 2/22/14.]

WAC 392-800-835 Application—Assurances. State-tribal compact applications must include the following assurances:

(1) The compact school will provide a curriculum and conduct an educational program that satisfies the requirements of RCW 28A.150.200 through 28A.150.240 and 28A.230.010 through 28A.230.195;

(2) The compact school will employ certified instructional staff as required in RCW 28A.410.010; however, such schools may hire noncertificated instructional staff of unusual competence and in exceptional cases as specific in RCW 28A.150.230;

(3) The compact school will comply with employee record checks requirements in RCW 28A.400.320, and mandatory termination and notification provisions of RCW 28A.400.320, 28A.400.330, 28A.405.470, and 28A.405.475;

(4) The compact school will comply with nondiscrimination laws;

(5) The compact school will adhere to generally accepted accounting principles and be subject to financial examinations and audits as determined by the state auditor, including annual audits for legal and fiscal compliance;

(6) The compact school will be subject to and comply with legislation enacted after the effective date of the sections governing the operation and management of schools that are the subject of a state-tribal education compact;

(7) The compact school will comply with all applicable federal laws such as the Family Educational Rights and Privacy Act (FERPA), the Individuals with Disabilities Educational Act (IDEA), and the Elementary and Secondary Education Act (ESEA) programs, as applicable;

(8) The compact school will not engage in any sectarian practices in its educational program, admission or employment policies, or operations;

(9) The compact school will not charge tuition, except to the same extent school districts may be permitted to do so with respect to out-of-state and adult students pursuant to chapter 28A.225 RCW, but may charge fees for participation in optional extracurricular events and activities;

(10) The compact school will not limit admission on any basis other than age group, grade level, or capacity and must otherwise enroll all students who apply, provided that the compact school may prioritize the enrollment of tribal members and siblings of already enrolled students;

(11) The compact school will report student enrollment data in the same manner and use the same definitions of enrolled students and average full-time equivalent enrollment as required of a school district;

(12) The compact school will adhere to the statewide assessment process;

(13) The compact school will adhere to the student data reporting requirements provided in WAC 392-117-020 and 392-117-038.

[Statutory Authority: RCW 28A.655.061 and 655.065 [28A.655.065]. WSR 14-04-001, § 392-800-835, filed 1/22/14, effective 2/22/14.]

WAC 392-800-840 Funding. (1) Funding for a school that is the subject of a state-tribal education compact shall be apportioned by the superintendent of public instruction according to the schedule established under RCW 28A.510.250, including general apportionment; special education, categorical, and other nonbasic education moneys.

(2) Allocations for certificated instructional staff must be based on the average staff mix ratio of the school, as calculated by the superintendent of public instruction, using the statewide salary allocation schedule and related documents, conditions, and limitations established by the Omnibus Appropriations Act.

(3) Allocations for classified staff and certificated administrative staff must be based on the salary allocations of the school district in which the school is located, subject to conditions and limitations established by the Omnibus Appropriations Act.

(4) Nothing in this section requires a school that is subject to a state-tribal education compact to use the statewide salary allocation schedule.

(5) Any moneys received by a school that is subject to a state-tribal education compact from any source that remain in the school's accounts at the end of any budget year, must remain in the school's accounts for use by the school during subsequent years.

[Statutory Authority: RCW 28A.655.061 and 655.065 [28A.655.065]. WSR 14-04-001, § 392-800-840, filed 1/22/14, effective 2/22/14.]

WAC 392-800-845 Timeline for start-up and renewal. Once a compact has been approved and executed it will remain in effect for at least three years, provided all terms and conditions of the state-tribal education compact have been met. The compact may be renewed for at least another three years or a time agreed to in the negotiated compact, after a review and approval process, at which time the existing compact will be continued, or a newly negotiated compact will be established. The renewed or revised compact will continue as agreed upon and will subsequently be reviewed in five-year increments.

[Statutory Authority: RCW 28A.655.061 and 655.065 [28A.655.065]. WSR 14-04-001, § 392-800-845, filed 1/22/14, effective 2/22/14.]

WAC 392-800-850 Technical assistance and support. The state superintendent of public instruction welcomes requests for technical assistance to entities requesting a state-tribal education compact.

[Statutory Authority: RCW 28A.655.061 and 655.065 [28A.655.065]. WSR 14-04-001, § 392-800-850, filed 1/22/14, effective 2/22/14.]

WAC 392-800-855 Evaluation and effectiveness review. An annual evaluation of the impact of state-tribal compact on the academic success of native K-12 students is required. Student academic growth data and high school graduation data must be collected and reported to the superintendent of public instruction by August 1st annually.

[Statutory Authority: RCW 28A.655.061 and 655.065 [28A.655.065]. WSR 14-04-001, § 392-800-855, filed 1/22/14, effective 2/22/14.]

WAC 392-800-860 Accountability. Compact schools must calculate and report federal and state school district accountability in a manner consistent with all other public schools in the state. Accountability for compact schools that are also Bureau of Indian Education (BIE) schools will be determined by the BIE.

[Statutory Authority: RCW 28A.655.061 and 655.065 [28A.655.065]. WSR 14-04-001, § 392-800-860, filed 1/22/14, effective 2/22/14.]

WAC 392-800-865 Compact termination. (1) Eligible federally recognized tribes, BIE schools, and the superintendent of public in-

struction may terminate state-tribal compacts in accordance with the provisions for compact termination provided for in the compact.

(2) The following process shall govern the superintendent of public instruction's termination of a state-tribal education compact:

(a) The superintendent of public instruction or his or her designee will notify the governing body of the federally recognized tribe or BIE school of the superintendent of public instruction's intent to terminate the compact. The notification will be in writing and will state with specific reasons the superintendent of public instruction believes the compact should be terminated. In the event the superintendent of public instruction believes the compact should be terminated for cause, the notification will identify:

(i) The compact term, condition, or assurance that the superintendent of public instruction believes the compact school has violated; and

(ii) The evidence indicating that the compact term, condition, or assurance has been violated.

(b) The notification will invite the federally recognized tribe or BIE school to participate in a government-to-government meeting for the purpose of discussing the alleged violation and, if appropriate, engage in dispute resolution in accordance with the terms of the compact.

[Statutory Authority: RCW 28A.655.061 and 655.065 [28A.655.065]. WSR 14-04-001, § 392-800-865, filed 1/22/14, effective 2/22/14.]