



RULE-MAKING ORDER
(RCW 34.05.360)

CR-103 (7/1/89)

Agency: Washington State School for the Blind

- Permanent Rule
 Emergency Rule

(1) Date of adoption: June 14, 1990

(2) Purpose: To implement chapter 72.40 RCW in a manner that is compatible with chapter 28A.13 RCW and is in compliance with the Education for All Handicapped Children Act, Public Law 94-142, 20 U.S.C. §§ 1401,1412-1417.

(3) Citation of existing rules affected by this order: none
 Repealed:
 Amended:
 Suspended:

(4) Authority for adoption:
 Statute: RCW 72.40.022
 Other Authority: 20 U.S.C. §§ 1401,1412-1417

(5.1) **PERMANENT RULE ONLY**
 Pursuant to notice filed as WSR 90-10-106 on May 2, 1990 (date).
 Describe any changes other than editing from proposed to adopted version:
 The school will not be adopting WAC 72-171-650 at this time and will be publishing supplemental notice for comment. See also the sheet attached.*

(5.2) **EMERGENCY RULE ONLY**
 Pursuant to RCW 34.05.350 the agency for good cause finds:
 (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
 (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?
 Yes No If yes, explain:

(6) Effective date of rule:
Permanent Rules **Emergency Rules**
 30 days after filing Immediately
 Other (specify) _____ * Later (specify) _____
 *(If less than 30 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

JUL 19 1990

TIME 4:11

FILE NO 90-16-008

NAME (TYPE OR PRINT)
 Dr. Roy J. Brothers

SIGNATURE

TITLE
 Superintendent

DATE
 6/19/90

WAC 72-171-410(2) - Changes provide the standard to be applied in reassessment determinations, consistent with the practice of the Superintendent of Public Instruction.

WAC 72-171-430(1)(b) - Changes clarify when the reassessment notice must include additional information.

WAC 72-171-600(1) - Changes delete reference to Superintendent of Public Instruction WAC provision. Washington State School for the Blind will contract directly with the Office of Administrative Hearings.

ATTACHMENT

Chapter 72-171 WAC
SPECIAL EDUCATION PROGRAMS

NEW SECTION

WAC 72-171-001 PURPOSES. The purposes of this chapter are:

- (1) To implement chapter 72.40 RCW in a manner that is compatible with chapter 28A.13 RCW and in compliance with the Education for All Handicapped Children Act, 20 U.S.C. Sec. 1401 et seq.;
- (2) To assure that all handicapped children have an opportunity for a free appropriate public education which emphasizes special education and related services designed to meet their unique needs;
- (3) To assure that the rights of handicapped children and their parents are protected; and
- (4) To assess and assure the effectiveness of efforts to educate the handicapped students.

DEFINITIONS OF GENERAL APPLICATION

NEW SECTION

WAC 72-171-010 DEFINITIONS. As used in this chapter:

- (1) "Eligible student" means a student or handicapped student not otherwise incompetent, who has reached eighteen years of age.
 - (2) "Handicapped student" and "student" (depending upon the context in which the term is used) means:
 - (a) A person under the age of twenty-one, who has been determined pursuant to this chapter to have one or more of the disabilities set forth in WAC 72-171-015 or 72-171-016 and to be in need of special education and related services: PROVIDED, That a student enrolled at the Washington state school for the blind may continue past the age of twenty-one at the superintendent's discretion; or
 - (b) A person under the age of twenty-one who has become a focus of concern and who may have one or more of the disabilities set forth in WAC 72-171-015 or 72-171-016 in the judgment of the school superintendent or his or her designee, or the parent(s), or the eligible student; or
 - (c) The foregoing categories of persons--notwithstanding the fact the person(s) may not be enrolled in or attending school in the normal sense of the term "student."
 - (3) "Parent" means a natural parent, a legal guardian, an adult person acting as a parent, or a surrogate parent who has been appointed in accordance with WAC 72-171-650, who represents a nonadult student. The term does not include the state if the child is a dependent of the state.
 - (4) "School" means Washington state school for the blind.
 - (5) "Assessment" means procedures used in accordance with WAC 72-171-110 through 72-171-130 to determine whether a student is visually handicapped or deaf-blind and/or the nature and extent of the special education and related services that the student needs. The term means procedures used selectively with an individual student and does not include basic tests administered to or procedures used with all students in a school, grade, or class.
- The purposes of assessment are to:

(a) Measure the student's present level of educational performance to identify the student's unique needs, abilities, and limitations;

(b) Draw conclusions regarding the significance of the findings as related to the student's instructional program;

(c) Provide appropriate personnel with information for determining appropriate placement and developing the individualized education program in accordance with WAC 72-171-240; and

(d) Assure appropriate identification of the handicapping condition.

(6) "Current assessment" means:

(a) Intellectual assessment data shall be considered current if obtained during a one calendar year period prior to the formal assessment or if obtained during the formal assessment period.

(b) Academic assessment data, including perceptual assessment data, shall be considered "current" if obtained during a ninety calendar day period prior to formal assessment or if obtained during the formal assessment period.

(c) Psychological and social assessment data shall be considered "current" if obtained during a thirty calendar day period prior to formal assessment or if obtained during the formal assessment period.

(d) Adaptive behavior assessment data, including vocational and career assessment data, shall be considered "current" if obtained during a ninety calendar day period prior to formal assessment or if obtained during the formal assessment period.

(e) Speech/language (communication skills) assessment data shall be considered "current" if obtained during a ninety calendar day period prior to formal assessment or if obtained during the formal assessment period.

(f) Vision screening and audiological assessment data shall be considered "current" if obtained during a one calendar year period prior to formal assessment or if obtained during the formal assessment period.

(g) Medical assessment data shall be considered "current" if obtained during a one hundred eighty calendar day period prior to formal assessment or if obtained during the formal assessment period.

(7) "Reassessment" means procedures used in accordance with WAC 72-171-110 through 72-171-130 to determine the student's eligibility for and need for continuing special education and related services pursuant to WAC 72-171-430(2).

(8) "Consent" means that:

(a) The parent (or eligible student) has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language or other mode of communication, including being informed of existing assessment data to be used within the definitions of current assessment;

(b) The parent (or eligible student) understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) which will be released and to whom; and

(c) The parent (or eligible student) understands that the granting of consent is voluntary on the part of the parent (or eligible student) and may be revoked at any time.

(9) "Special education" has the meaning given that term by WAC 392-171-315.

(10) "Related services" has the meaning given that term by WAC 392-171-320.

(11) "Superintendent" means the superintendent of the Washington state school for the blind.

NEW SECTION

WAC 72-171-015 DEFINITION AND ELIGIBILITY CRITERIA FOR VISUALLY HANDICAPPED. WAC 392-171-446 shall be applicable to all students provided for by this chapter.

NEW SECTION

WAC 72-171-016 DEFINITION AND ELIGIBILITY CRITERIA FOR DEAF-BLIND. WAC 392-171-451 shall be applicable to all students provided for by this chapter.

ASSESSMENT AND PLACEMENT

NEW SECTION

WAC 72-171-100 INITIAL ASSESSMENT. (1) Prior to any action taken with respect to the initial placement of a student at the Washington state school for the blind, a full and individual assessment of the student's educational needs shall be conducted.

(2) A student may be admitted for the purpose of assessment.

(3) The school shall fully assess the student and arrive at a decision pursuant to WAC 72-171-130 within (a) thirty school days after written consent for assessment has been provided by the parent(s) or eligible student, or (b) such other time period as may be agreed to by the parent(s), eligible student, and school.

(4) If temporary (not to exceed thirty school days) special education programming is necessary for diagnostic reasons during the assessment period, the school shall obtain written permission for such diagnostic placement from the parent(s).

(5) The school shall request that the parent(s) sign consent form(s) for the mutual exchange of pertinent information where such information is available between the school, other agencies, and/or professionals.

NEW SECTION

WAC 72-171-110 GENERAL AREAS OF ASSESSMENT. The assessment of a student shall be in all areas related to the suspected disability. The assessment procedures outlined in this chapter are to be considered minimal, required procedures. Where concerns are indicated as judged by the multidisciplinary team, additional or more in-depth assessment in each of the following areas shall be conducted.

(1) Scholastic assessment. This area may include assessment of the intellectual, language and communication, academic and cognitive development of the student, and any other scholastic area as deemed appropriate by the multidisciplinary team.

(2) Physical assessment. This area may include a review of the general health status of the student, vision screening and complete audiological examination, oral-peripheral examination, evaluation of

musculo-skeletal, neurological, and developmental modalities, and any other physical area as deemed necessary by the multidisciplinary team.

(3) Adjustment assessment. This area may include assessment of the social skills and emotional status of the student, career and vocational assessment, and assessment of adaptive behaviors (e.g., self-help, interpersonal communication, survival skills, and practical application of academic skills).

NEW SECTION

WAC 72-171-120 GENERAL ASSESSMENT SAFEGUARDS--PERSONNEL, MATERIALS, AND PROCEDURES. Every student who is assessed or reassessed shall be assessed according to the procedures established in this chapter.

(1) The initial assessment of a student shall be made by a multidisciplinary team (i.e., a group of professionals) including at least one special education teacher and at least one person qualified to conduct individual diagnostic assessment in the area of suspected disability. In a reassessment of a student, the multidisciplinary team also shall include a representative from each service area involved in the student's individualized education program and such other professional service providers as recommended by any professional involved in the reassessment. Each member of the team shall be licensed, registered, credentialed, or certificated according to his or her professional standards in accordance with state statutes and rules.

(2) No single test instrument or single procedure shall be the sole criterion for determining a student's eligibility and/or for determining the appropriate educational program for a student.

(3) Assessment materials, procedures, and instruments used for the purpose of assessment and placement shall be selected and administered so as not to be racially or culturally or educationally discriminatory.

(4) All tests and other evaluation materials shall have been validated for the specific purpose for which they are used and shall accurately reflect whatever factors the tests purport to measure. If properly validated tests are unavailable, the professional judgment of each member of the multidisciplinary team may determine eligibility for special education based on other evidence of the existence of a specific handicap and need. This professional judgment shall be documented in a written narrative.

(5) All tests and other evaluation materials shall be administered by qualified personnel in conformance with the instructions of their producer. Tests designed to measure intellectual functioning shall be administered and interpreted by a qualified psychologist: PROVIDED, That cognitive tests for developmentally delayed students other than an intelligence quotient test shall be administered by a qualified psychologist or by professionals with other titles who have considerable training and experience in individual psychological or psychoeducational assessment.

(6) Assessment materials, procedures, or instruments shall be provided and administered in a student's native language or mode of communication, unless it is clearly not feasible to do so. Tests shall be selected and administered so as to ensure that the test results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors the test purports to measure).

(7) In interpreting assessment data and in making placement recommendations, the assessment team shall:

(a) Collect and review information from a variety of sources, including but not limited to all available existing academic, medical, and other records pertinent to the suspected handicapping condition(s)

of the student, aptitude and achievement tests, teacher recommendations or recommendations of related service providers, physical condition, social or cultural background, and adaptive behavior;

(b) Ensure that information obtained from all of these sources is documented and carefully considered.

(8) Assessment data shall be summarized in writing, dated, and signed by each person conducting an assessment. Information used to support the assessment, but which is not incorporated into the file, (e.g., review of health record), shall be referenced as to date of record, location, and source person. The summaries shall specify the procedures and instruments used, the results obtained, and the apparent significance of findings as related to the student's instructional program, including a description of the specific factors which are interfering with the student's educational performance and the special education and related services needed to assist the student in benefiting from his or her educational placement.

NEW SECTION

WAC 72-171-130 SUMMARY ANALYSIS OF ASSESSMENT DATA. (1) The leader of the student's assessment team shall review and analyze the summaries of assessment data provided for in WAC 72-171-120(8) and any other available data in each of the areas assessed. The conclusions, recommendations, and the facts and/or reasons resulting in the placement decision pursuant to WAC 72-171-150 shall:

(a) Describe the discrepancy which exists between the student's actual performance and his or her expected performance;

(b) Identify the disability, if any, that qualifies the student as a handicapped student;

(c) Set forth the nature and extent of the special education and related services that the student needs, if any;

(d) Reconcile any inconsistent or contradictory information and/or opinions evidenced in the assessment data, if any, supporting conclusion(s) with appropriate data;

(e) Relate the apparent significance, as appropriate, of such factors as test measurement error or cultural, environmental, economic, and behavioral factors to the assessment results.

Where specific test results obtained in any assessment do not appear to the multidisciplinary team to accurately reflect a student's expected performance the multidisciplinary team shall apply professional judgment to determine eligibility for special education and related services. In such event, the multidisciplinary team shall document in a written narrative the basis for such determination, the instruments used, and the data used for a determination of eligibility;

(f) Make recommendations to the individualized education program committee regarding placement, special education and related services needed, needs for specialized materials or equipment, learning modalities, and student management strategies (e.g., reinforcement schedules, etc.), as determined by the multidisciplinary team to be significant to the student's program;

(g) Provide any necessary professional judgment(s) and the facts or reasons in support of the judgment(s).

(2) The summary analysis shall be signed and dated by the multidisciplinary team.

(3) Each multidisciplinary team member shall certify in writing whether the summary analysis reflects his or her conclusion. If it does not reflect his or her conclusion, the team member must submit a separate statement presenting his or her conclusion(s) and the reasons therefor.

NEW SECTION

WAC 72-171-140 INDEPENDENT EDUCATIONAL ASSESSMENT. (1) (a) The parent(s) of a student (or an eligible student) assessed or any student reassessed has the right to obtain an independent educational assessment, subject to subsections (3) and (4) of this section.

(b) The school shall provide to parent(s) (or eligible student), on request, information about where an independent educational assessment may be obtained.

(c) For the purposes of this section:

(i) "Independent educational assessment" means an assessment conducted by a qualified examiner who is not employed by the school responsible for the education of the student in question; and

(ii) "Public expense" means that the school either pays for the full cost of the assessment or assures that the assessment is otherwise provided at no cost to the parent (or eligible student).

(2) A parent (or eligible student) has the right to an independent educational assessment at public expense if the parent (or eligible student) disagrees with the assessment results obtained by the school, as follows:

(a) The parent(s) (or eligible student) shall provide a written notice to the superintendent which:

(i) Specifies the portion(s) of the assessment results with which the parent(s) (or eligible student) disagrees; and

(ii) Requests an independent educational assessment at public expense;

(b) The school shall have the prior opportunity to initiate mediation or an adjudicative proceeding pursuant to WAC 72-171-600 et seq., to show that its assessment is appropriate: PROVIDED, That the school shall provide the parent(s) (or eligible student) written notice of the election to initiate mediation or an adjudicative proceeding no later than the tenth day after the date of receipt of the parent's (or eligible student's) written notice of disagreement;

(c) If the final decision is that the school assessment is appropriate, the parent (or eligible student) still has the right to an independent educational assessment, but not at public expense; and

(d) If the school elects not to initiate an adjudicative proceeding or is not upheld by the final decision, the independent assessment requested by the parent (or eligible student) shall be provided at public expense in accordance with the same criteria which the school uses when it initiates an assessment including, but not limited to, the location of the assessment and the qualifications of the examiner.

(3) If the parent (or eligible student) obtains an independent educational assessment at private expense, the results of the assessment:

(a) Shall be considered by the school in any decision made with respect to the provision of special education and related services to the student; and

(b) May be presented as evidence at the adjudicative proceeding regarding that student.

(4) If the administrative law judge requests an independent educational assessment as part of the adjudicative proceeding, such assessment shall be at public expense.

NEW SECTION

WAC 72-171-150 ADMISSION AND PLACEMENT. In accordance with the least restrictive environment mandate of Public Law 94-142: A student may be admitted and enrolled at the Washington state school for the blind when:

(1) The school district of that student's residence refers the student or agrees that the student can be served at the Washington state school for the blind;

(2) The student's parents request that their child be served through the educational program available at the Washington state school for the blind;

(3) Assessment pursuant to the procedures in this chapter has been completed and vision loss or impairment is documented;

(4) Upon completion of assessment pursuant to this chapter, the multidisciplinary team described in WAC 72-171-120(1), the parents and a representative of the school district of the student's residence shall meet and consider the following to determine the most appropriate placement for the student:

(a) The summaries of assessment data pursuant to WAC 72-171-130;

(b) The nature and extent of the specific special education and related services needed by the student, if any;

(c) Any inconsistent or contradictory information and/or opinions evidenced in the assessment data, if any;

(d) The availability and identity of current educational programs appropriate to the student's needs; and

(e) The parent(s) and school district's commitment to work in cooperation to meet the student's needs; and

(5) The multidisciplinary team described in WAC 72-171-120(1) recommends placement at the Washington state school for the blind.

INDIVIDUALIZED EDUCATION PROGRAMS

NEW SECTION

WAC 72-171-200 DEFINITION. As used in this chapter, the term "individualized education program" (IEP) means a written statement for a handicapped student that is developed and implemented in accordance with 20 U.S.C. Sec. 1401(19).

NEW SECTION

WAC 72-171-210 MEETINGS. (1) The school shall hold a meeting for the purpose of developing a student's individualized education program within thirty calendar days of the determination that the student is in need of special education and related services currently available at the school.

(2) Meetings consistent with this section shall be held by the school at least once a year for the purpose of reviewing and revising as necessary each student's IEP.

NEW SECTION

WAC 72-171-220 PARTICIPANTS IN IEP MEETINGS. (1) Each IEP meeting shall include the following participants:

(a) A representative of the school other than the student's teacher who is qualified to provide or supervise the provision of special education and related services;

(b) The student's teacher;

(c) One or both parents, subject to WAC 72-171-230;

(d) The student, if appropriate or the eligible student; and

(e) Other individuals at the discretion of the school, parent(s), or eligible student. Either the teacher or school representative should be qualified in the area of the student's disability.

(2) IEP meetings involving a student who has been assessed for the first time shall include the following participant in addition to those enumerated as follows: A member of the student's assessment team who is knowledgeable about the assessment procedures used and is familiar with the results of the evaluation.

NEW SECTION

WAC 72-171-230 PARENT PARTICIPATION. (1) The school shall take steps to ensure (in the case of nonadult students) that one or both parents of the handicapped student are present at each meeting or are afforded the opportunity to participate, including:

(a) Notifying the parent(s) of the meeting early enough to ensure his or her participation; and

(b) Scheduling the meeting at a mutually agreed upon place and time.

(2) The notice to the parent(s) shall include the purpose, time, and location of the meeting and who will be in attendance.

(3) If a parent cannot attend, the school shall use other methods to ensure participation, including individual or conference telephone calls.

(4) A meeting may be conducted (in the case of a nonadult student) without a parent in attendance if the school is unable to convince the parents they should attend. In such a case the school shall make a record of its attempts to arrange a mutually agreed upon time and place. The record shall contain such information as:

(a) Detailed records of telephone calls made or attempted and the results of those calls;

(b) Copies of correspondence sent to the parent(s) and any responses received; and

(c) Detailed records of visits made to the parent's home or place of employment and the results of those visits.

(5) The school shall take whatever action is necessary to ensure that the parent (or eligible student) understands the proceedings at a meeting, including arranging for an interpreter for parents (or eligible students) who are deaf or whose native language is other than English.

(6) The school shall document the parent(s') and other IEP participants' presence at the IEP meeting.

(7) The school shall provide the parent a copy of the IEP upon request.

NEW SECTION

WAC 72-171-240 CONTENT OF THE IEP. The individualized education program shall be developed on the basis of assessment analysis and parent input, where it is provided, and shall include:

(1) A statement of the student's present levels of educational performance;

(2) A statement of specific annual goals including short-term instructional objectives which are stated in terms that provide for measurement of progress, expected levels of performance, and the schedules for their accomplishments;

(3) A statement of the specific special education and related services needed by the student, and the extent to which the student

will be able to participate in the regular educational program, including physical education;

(4) The IEP developed for a handicapped student whose chronological age is fourteen or above shall also include career development and/or vocational education goals and short-term instructional objectives, where appropriate: PROVIDED, That if the career development and/or vocational education is specially designed instruction, goals and short-term instructional objectives shall be included;

(5) The projected dates for the initiation of services and the anticipated duration of the services, including the number of school days, and the number of hours per day; and

(6) Appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the short-term instructional objectives are being met.

Nothing in this chapter may be construed as promising or guaranteeing that a handicapped student will in fact achieve the growth projected in his or her annual goals and short-term objectives.

ANNUAL REVIEW OR PLACEMENT AND STUDENT PROGRESS-REASSESSMENT

NEW SECTION

WAC 72-171-400 ANNUAL REVIEW OF PLACEMENT AND STUDENT PROGRESS--PROGRAM EVALUATION. (1) The placement of each student shall be evaluated and redetermined annually at a meeting conducted pursuant to WAC 72-171-210.

(2) Evaluation of the program for each student shall be based upon his or her progress toward the accomplishment of the goals and objectives set forth in the student's IEP. Specific methods of evaluating and demonstrating program results shall be determined in accordance with the school's policies and procedures and the student's IEP.

(3) The program's performance measurement shall be recorded and reported at all stages of implementation, and the results of the evaluation shall be reported to parent(s) (or the eligible student).

(4) Program evaluations shall serve two purposes:

(a) To compare a student's measured performance with established goals and objectives; and

(b) To attempt to identify causal factors that account for significant differences between actual and anticipated achievement.

(5) The school shall continually develop alternatives to improve methods and results that are based upon the evaluation of a student's achievement.

NEW SECTION

WAC 72-171-410 REASSESSMENT. (1) Each student shall be reassessed in accordance with the procedures specified in WAC 72-171-110 through 72-171-130:

(a) At a minimum, once every three years unless conditions warrant earlier reassessment; or

(b) Upon the request of the parents, an eligible student, teacher, or IEP team.

(2) If reassessment is the result of the three-year reassessment requirement, the multidisciplinary team, based on the professional

judgment of the members, to a reasonable degree of professional certainty, shall determine and document the following:

- (a) Whether the student is appropriately classified;
- (b) Whether the student meets the continuing eligibility criteria of WAC 392-171-325(3) or 392-171-331. The basis for this determination shall be documented in a written narrative including any relevant data or assessment process used;
- (c) Whether the current program is appropriate to the student's unique needs, abilities, and limitations;
- (d) Whether assessment procedures should be replicated or conducted by members of the multidisciplinary team or other professionals not represented on the multidisciplinary team to provide reasonable professional certainty that the reassessment results are accurate. In making such determination, members of the multidisciplinary team shall be governed by the generally recognized professional practice standards of their respective disciplines. Members of the multidisciplinary team shall defer to the professional judgment of a team member who requests the replication or conduction of a particular assessment procedure.

NEW SECTION

WAC 72-171-420 REASSESSMENT PURPOSES. The purposes of reassessment are to determine:

- (1) Whether the student is appropriately classified as visually handicapped or deaf-blind;
- (2) Whether the program designed for the student is appropriate to meet his or her unique needs, abilities, and limitations; and
- (3) Whether the student meets the continuing eligibility requirement of WAC 392-171-325(3) or 392-171-331.

NEW SECTION

WAC 72-171-430 REASSESSMENT NOTICE. (1) The school shall provide written notice to parent(s) (or an eligible student) ten calendar days prior to conducting reassessment. Such notice shall include:

- (a) Procedural safeguard requirements provided in WAC 72-171-510;
- (b) The reasons for reassessment i.e., required three-year reassessment or reassessment upon request. If the reassessment is upon request, the notice shall include the source of and reasons for such request;
- (c) A statement that the student's records will be reviewed as a part of the reassessment and that the parent(s) (or eligible student) have the right to submit to the multidisciplinary team any information they deem important to the reassessment;
- (d) A statement that the multidisciplinary team will determine the need, if any, for replication of previous assessment procedures and the need, if any, for additional assessment procedures; and
- (e) A list of the disciplines to be represented on the multidisciplinary team as required by WAC 72-171-120.

(2) Following completion of the reassessment, the superintendent or his or her designee shall record the determinations set forth in WAC 72-171-420. In accordance with WAC 72-171-500, the parent(s) (or the eligible student) shall be notified of the school's decision within ten calendar days following completion of reassessment. If the program is found to be inappropriate, an individualized education program meeting shall be convened in accordance with WAC 72-171-200 through 72-171-240 and the multidisciplinary team shall document in a

written narrative the basis for such determination, including any relevant data or assessment procedures utilized.

NOTICE REQUIREMENTS

NEW SECTION

WAC 72-171-500 WHEN NOTICE MUST BE GIVEN. Written notice in accordance with WAC 72-171-510 shall be given to the parent(s) (or the eligible student) a reasonable time before the school:

(1) Proposes to initiate or change the identification, evaluation, or educational placement of the student or the provision of special education and related services to the student pursuant to this chapter; or

(2) Refuses to initiate or change the identification, evaluation, or educational placement of the student or the provision of special education and related services to the student pursuant to this chapter.

NEW SECTION

WAC 72-171-510 CONTENTS OF THE NOTICE. (1) The notice required by WAC 72-171-500 shall include:

(a) A full explanation of all of the procedural safeguards available to the parent(s) (or eligible student) under this chapter;

(b) A description of the action proposed or refused by the school, and explanation of why the school proposes or refuses to take the action, and a description of any options the school considered and the reasons why those options were rejected;

(c) A description of each evaluation procedure, test, record, or report used as a basis for the proposal or refusal; and

(d) A description of any other factors which are relevant to the school's proposal or refusal.

(2) The notice shall be:

(a) Written in language understandable to the general public; and

(b) Provided in the native language of the parent (or eligible student) or other mode of communication used by the parent (or eligible student), unless it is clearly not feasible to do so.

(3) If the native language or other mode of communication of the parent (or eligible student) is not a written language, the school shall take steps to ensure that:

(a) The notice is translated orally or by other means to the parent (or eligible student) in his or her native language or other mode of communication;

(b) The parent (or eligible student) understands the content of the notice; and

(c) There is written evidence that the requirements in (a) and (b) of this subsection have been met.

HEARINGS

NEW SECTION

WAC 72-171-600 RIGHT TO INITIATE. (1) A parent, eligible student, or the superintendent (or his or her designee) may initiate a hearing on any of the matters described in WAC 72-171-500 (1) and (2). The hearing is an adjudicative proceeding governed by Public Law 94-142 and the Administrative Procedure Act, chapter 34.05 RCW. The hearing shall be conducted by an administrative law judge with the office of administrative hearings.

(2) A request by parents or an eligible student for a hearing pursuant to this section shall:

(a) Be in writing;

(b) Be mailed or provided directly to the superintendent of the Washington state school for the blind with copies of the request mailed or provided directly to the following, at the time the request is made:

(i) Office of Superintendent of Public Instruction, Office of Legal Services, Old Capitol Building, Olympia, Washington 98504;

(ii) Office of Administrative Hearings, Room 606, Securities Building, 1904 Third Avenue, Seattle, Washington 98101; and

(iii) Superintendent of the school district of the student's residence;

(c) Explain the complaint of the parent(s) or eligible student in specific terms.

(3) A request by the school for a hearing pursuant to this section shall:

(a) Be in writing;

(b) Be mailed or provided directly to the Office of Administrative Hearings, Room 606, Securities Building, 1904 Third Avenue, Seattle, Washington 98101, with copies of the request and attachments mailed or provided directly to the following, at the time the request is made:

(i) The student's parent(s) or the eligible student;

(ii) Office of Superintendent of Public Instruction, Office of Legal Services, Old Capitol Building, Olympia, Washington 98504; and

(iii) The superintendent of the school district of the student's resident;

(c) Have attached to such request (and all copies) a copy of the notice to parent(s) or eligible student required by WAC 72-171-500. If the hearing request is in response to a request for an independent educational assessment pursuant to WAC 72-171-140, the school's request for hearing shall also have attached a copy of the written notice to the superintendent required by WAC 72-171-140(2).

(4) A notice of hearing requested by a student's parent(s) (or eligible student) or by the school pursuant to this section shall be served by the office of administrative hearings as set forth in WAC 10-08-040. In addition to the information specified in RCW 34.05.434 the notice shall include:

(a) The issue(s) to be addressed at the hearing to the extent the issue(s) has/have been identified at the time of the notice;

(b) The rights, procedures, and other matters set forth in WAC 72-171-610 through 72-171-640; and

(c) The right of the parent(s) or eligible student to seek an independent assessment at public expense pursuant to WAC 72-171-140.

(5) The hearing shall be conducted in accordance with the provisions of chapter 10-08 WAC unless modified by this chapter.

NEW SECTION

WAC 72-171-610 HEARING RIGHTS. (1) Any party to a hearing initiated pursuant to WAC 72-171-600 has the right to:

(a) Be accompanied and advised by persons with special knowledge or training with respect to the problems of handicapped students;

(b) Be advised and/or represented by an attorney;

(c) Present evidence, including the opinion(s) of qualified experts, confront, cross-examine, and compel the attendance of witnesses;

(d) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five days before the hearing;

(e) Obtain a written or electronic verbatim record of the hearing at a cost no greater than actual fees for recording and transcription; and

(f) Obtain written findings of fact, conclusions of law, and decisions (which shall be transmitted, after deleting any personally identifiable information, to the state advisory council on the education of handicapped children as set forth in WAC 392-171-305).

(2) Parents who are a party to a hearing have the right to have the child who is the subject of the hearing present.

(3) Parents (or eligible students) who are a party to a hearing have the right to open the hearing to the public.

NEW SECTION

WAC 72-171-620 TIMELINE FOR DECISION. (1) A final decision in the hearing will be made not later than forty-five days after the date of receipt of a request for hearing: PROVIDED, That the presiding officer may grant specific extensions of time beyond the period set forth in this section at the request of either party.

(2) A copy of the decision consisting of the findings of fact, conclusions of law, and decisions shall be mailed or provided directly to each of the parties and to the superintendent of public instruction by the presiding officer together with a certification of the date of mailing and the parties to whom it was mailed.

(3) In addition to the requirements set forth in RCW 34.05.461 and WAC 10-08-210, the decision of the presiding officer shall be drafted in a manner which avoids the revelation of personally identifiable information that is unnecessary to reaching and understanding the decision reached. The surnames of students and their parents shall be indicated by use of their last initial and shall not be spelled out.

(4) Each hearing involving oral arguments shall be conducted at a time and place which is reasonably convenient to the parent(s) and student involved.

(5) A decision made in a hearing conducted under this chapter is final unless a petition for review is filed under WAC 72-171-630.

NEW SECTION

WAC 72-171-630 PETITION FOR REVIEW. (1) Any party aggrieved by the decision in the hearing may petition for review.

(2) The petition for review shall be filed with the office of administrative hearings within twenty days of the date of service of the decision. Copies of the petition shall be served upon all other parties or their representatives at the time the petition is filed.

(3) The petition for review shall specify the portions of the decision in the hearing to which exception is taken and shall refer to the evidence of the record which is relied upon to support the petition.

(4) Any party may file a reply to a petition for review. The reply shall be filed within ten days of the date of service of the petition and copies of the reply shall be served upon all other parties or representatives at the time the reply is filed.

(5) In addition to the requirements set forth in RCW 34.05.464, the reviewing officer shall:

(a) Ensure that the procedures at the hearing were consistent with the requirements of due process;

(b) Seek additional evidence if necessary. If a hearing is held to receive additional evidence, the rights in WAC 72-171-610 apply; and

(c) Make an independent decision within thirty days after the receipt of the petition for review, including all matters set forth in WAC 72-171-620 (2) and (3).

(6) The decision made by the reviewing officer is final unless modified or overturned by a court of law.

NEW SECTION

WAC 72-171-640 STUDENT'S STATUS DURING PROCEEDINGS. (1) During the pendency of any administrative or judicial proceeding regarding a complaint initiated pursuant to WAC 72-171-600, unless the school and the parent(s) of the student (or the eligible student) agree otherwise, the student involved in the complaint shall remain in the educational placement he or she was in at the time the complaint was made.

(2) The student, with the consent of the parent(s) or the eligible student, shall be placed in the regular school program until the completion of all such proceedings if the complaint involves an application for initial admission to the school.