

WSR 09-11-054
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Aging and Disability Services Administration)
 [Filed May 13, 2009, 1:19 p.m., effective June 13, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: These rules clarify existing language and remove certain limitations for the receipt of services under the individual and family services program.

Washington Administrative Code	Effect of Rule
388-832-0001 (amended)	Adds or amends definitions used in this chapter.
388-832-0005 (amended)	Reformats this section.
388-832-0007 (amended)	Removes unnecessary language.
388-832-0015 (amended)	Clarifies language.
388-832-0020 (amended)	Adds a cross-reference.
388-832-0022 (amended)	Clarifies the name of the assessment.
388-832-0023 (amended)	Adds a cross-reference.
388-832-0024 (amended)	Clarifies language.
388-832-0025 (amended)	Clarifies that a client cannot receive IFS and SSP for the same reason.
388-832-0060 (amended)	Clarifies language.
388-832-0065 (amended)	Removes the twelve-month limitation for out-of-home placement and clarifies language.
388-832-0067 (amended)	Limits the receipt of IFS program services to children under age eighteen if the parent is also a client of DDD.
388-832-0070 (amended)	Changes "wait" list to "request" list.
388-832-0072 (amended)	Changes "wait" list to "request" list and allows a client to remain on the request list if in a temporary placement with plans to return home.
388-832-0075 (amended)	Changes "wait" list to "request" list.
388-832-0080 (amended)	Changes "wait" list to "request" list and clarifies when a client must respond to a notification to schedule an assessment.
388-832-0082 (amended)	Changes "wait" list to "request" list and clarifies the request date.

Washington Administrative Code	Effect of Rule
388-832-0085 (amended)	Changes "wait" list to "request" list and changes "new" participants to "additional" participants.
388-832-0087 (amended)	Changes "wait" list to "request" list and clarifies language.
388-832-0090 (amended)	Clarifies language.
388-832-0091 (amended)	Clarifies language.
388-832-0113 (amended)	Clarifies language.
388-832-0120 (amended)	Corrects typographical errors.
388-832-0123 (amended)	Corrects the name of the "medically intensive children's program."
388-832-0125 (amended)	Spells out the acronym "COPEs."
388-832-0127 (amended)	Removes the requirement to request an ETR and obtain approval from the director of DDD.
388-832-0128 (amended)	Adds "review" as a time when the ISP plan may become effective.
388-832-0135 (amended)	Removes the limitation that the need must "result" from a developmental disability.
388-832-0136 (amended)	Clarifies language.
388-832-0137 (amended)	Clarifies language when the annual allocation may be used.
388-832-0160 (amended)	Removes "guardian" at work as a condition when respite care can be given.
388-832-0165 (amended)	Clarifies language and replaces "related to the person's disability" with "deemed necessary by their health care professional."
388-832-0166 (amended)	Adds that excess medical costs may be paid to a DDD contracted provider, changes "family support contract" to IFS contract and extends the length of time to remit receipts from thirty days to ninety days.

Washington Administrative Code	Effect of Rule
388-832-0168 (amended)	Replaces "related to the person's disability" with "deemed necessary by their health care professional," specifies that therapies included under WAC 388-332-0170 may not be paid as an excess medical cost and adds a cross-reference.
388-832-0170 (amended)	Clarifies language.
388-832-0175 (amended)	Specifies that DDD will pay the contracted therapist directly for therapy services.
388-832-0180 (amended)	Clarifies language, specifies that DDD will determine the need and amount of services based on the information from the treating professional and adds a cross-reference.
388-832-0185 (amended)	Adds repairs for damages to a client's residence resulting from the client's disability to allowable architectural modifications and adds repairs and maintenance to vehicular modifications to allowable vehicular modifications.
388-832-0195 (amended)	Clarifies language.
388-832-0200 (amended)	Removes the limitation that equipment and supplies must be "specialized medical" and clarifies language.
388-832-0205 (amended)	Clarifies who are qualified providers of equipment and supplies.
388-832-0210 (amended)	Removes the limitation that equipment and supplies must be "specialized medical" and excludes supplies for incontinence as requiring prior approval by the DDD regional administrator.
388-832-0215 (amended)	Specifies that specialized clothing must be "nonrestrictive."
388-832-0220 (amended)	Changes "family support" contract to "IFS" contract.
388-832-0225 (amended)	Clarifies language.
388-832-0235 (amended)	Clarifies the definition of copays.
388-832-0240 (amended)	Changes "family support" contract to "IFS" contract.

Washington Administrative Code	Effect of Rule
388-832-0245 (amended)	Clarifies language.
388-832-0255 (amended)	Changes "family support" contract to "IFS" contract.
388-832-0260 (amended)	Clarifies language, removes the prohibition against purchasing bus passes, removes the need for prior approval and clarifies what may be reimbursed as per diem costs.
388-832-0275 (amended)	Clarifies language and removes the need for prior approval.
388-832-0285 (amended)	Adds a cross reference to a DDD policy.
388-832-0290 (amended)	Specifies that DDD will determine the need and amount of behavior management based on the information from the treating professional.
388-832-0308 (amended)	Changes "family support" contract to "IFS" contract and clarifies language.
388-832-0310 (amended)	Removes the need for prior approval.
388-832-0315 (amended)	Clarifies language.
388-832-0320 (amended)	Changes "family support" contract to "IFS" contract and adds the recreational opportunity contract as an additional method for reimbursement.
388-832-0325 (amended)	Clarifies language and removes the requirement of prior approval.
388-832-0330 (amended)	Clarifies language.
388-832-0332 (amended)	Clarifies language.
388-832-0333 (amended)	Adds DVR as a source of funding that must be accessed and clarifies language.
388-832-0335 (amended)	Reformats the section for clarity.
388-832-0340 (amended)	Reformats the section for clarity.
388-832-0345 (amended)	Changes the requirement of prior approval from the DDD director to the DDD regional administrator.
388-832-0350 (amended)	Clarifies language.
388-832-0353 (amended)	Clarifies language.
388-832-0366 (amended)	Lengthens the period of time from sixty to ninety days.

Washington Administrative Code	Effect of Rule
388-832-0367 (amended)	Lengthens the period of time from sixty to ninety days and clarifies language.
388-832-0369 (amended)	Clarifies language.
388-832-0460 (amended)	Clarifies language.

Citation of Existing Rules Affected by this Order:
Amending WAC 388-832-0001, 388-832-0005, 388-832-0007, 388-832-0015, 388-832-0020, 388-832-0022, 388-832-0023, 388-832-0024, 388-832-0025, 388-832-0060, 388-832-0065, 388-832-0067, 388-832-0070, 388-832-0072, 388-832-0075, 388-832-0080, 388-832-0082, 388-832-0085, 388-832-0087, 388-832-0090, 388-832-0091, 388-832-0113, 388-832-0120, 388-832-0123, 388-832-0125, 388-832-0127, 388-832-0128, 388-832-0135, 388-832-0136, 388-832-0137, 388-832-0160, 388-832-0165, 388-832-0166, 388-832-0168, 388-832-0170, 388-832-0175, 388-832-0180, 388-832-0185, 388-832-0195, 388-832-0200, 388-832-0205, 388-832-0210, 388-832-0215, 388-832-0220, 388-832-0225, 388-832-0235, 388-832-0240, 388-832-0245, 388-832-0255, 388-832-0260, 388-832-0275, 388-832-0285, 388-832-0290, 388-832-0308, 388-832-0310, 388-832-0315, 388-832-0320, 388-832-0325, 388-832-0330, 388-832-0332, 388-832-0333, 388-832-0335, 388-832-0340, 388-832-0345, 388-832-0350, 388-832-0353, 388-832-0366, 388-832-0367, 388-832-0369, and 388-832-0460.

Statutory Authority for Adoption: RCW 71A.12.30 [71A.12.030], 71A.12.040.

Other Authority: Title 71A RCW.

Adopted under notice filed as WSR 09-07-094 on March 18, 2009.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 70, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 70, Repealed 0.

Date Adopted: May 8, 2009.

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0001 What definitions apply to this chapter? The following definitions apply to this chapter:

"**Agency provider**" means a licensed and/or ADSA certified business that is contracted with ADSA or a county to

provide DDD services (e.g., personal care, respite care, residential services, therapy, nursing, employment, etc.).

"**Allocation**" means an amount of funding available to the client and family for a maximum of twelve months, based upon assessed need.

"**Authorization**" means DDD approval of funding for a service as identified in the individual support plan or evidence of payment of a service.

"**Back-up caregiver**" is a person who has been identified as an informal caregiver and is available to provide assistance as an informal caregiver when other caregivers are unavailable.

"**Client**" means a person who has a developmental disability as defined in RCW 71A.10.020(3) who also has been determined eligible to receive services by the division under chapter 71A.16 RCW.

"**DDD**" means the division of developmental disabilities, a division within the aging and disability services administration (ADSA), department of social and health services (DSHS).

"**Department**" means the department of social and health services (DSHS).

"**Emergency**" means the client's health or safety is in jeopardy.

"**Family**" means ~~((individuals, of any age, living together in the same household and related by blood, marriage, adoption or as a result of sharing legal custody of a minor child))~~ relatives who live in the same home with the eligible client. Relatives include spouse or registered domestic partner; natural, adoptive or step parent; grandparent; child; stepchild; sibling; stepsibling; uncle; aunt; first cousin; niece; or nephew.

"**Family home**" means the residence where you and your relatives live.

"**Formal caregiver**" is a person/agency who receives payment from DDD to provide a service.

"**Individual and family services contract**" means a contract between DDD and the family to reimburse the family for the purchase of goods and services.

"**Individual provider**" means an individual who is contracted with DDD to provide medicaid or waiver personal care, respite care, or attendant care services.

"**Individual support plan**" or "**ISP**" is a document that authorizes the DDD paid services to meet a client's needs identified in the DDD assessment.

"**Informal caregiver**" is a person who provides supports without payment from DDD for a service.

"**Legal guardian**" means a person/agency, appointed by a court, which is authorized to make some or all decisions for a person determined by the court to be incapacitated. In the absence of court intervention, parents remain the legal guardian for their child until the child reaches the age of eighteen.

~~("Parent family support contract" means a contract between DDD and the parent to reimburse the parent for the purchase of goods and services paid for by the parent.)~~

"**Pass through contract**" means a contract between DDD and a third party to reimburse the third party for the purchase of goods and services ~~((paid for by the third party)).~~

"Primary caregiver" is the formal or informal caregiver who provides the most support.

"Residential habilitation center" or **"RHC"** is a state operated facility certified to provide ICF/MR and/or nursing facility level of care for persons with developmental disabilities per chapter 71A.20 RCW.

"Significant change" means changes in your medical condition, caregiver status, behavior, living situation or employment status.

"State funded services" means services that are funded entirely with state dollars.

"State supplementary payment" or **"SSP"** means a state paid cash assistance program for certain DDD clients eligible for supplemental security income per chapter 388-827 WAC.

"You" means the client.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0005 What is the individual and family services program? The "individual and family services program" (IFS program) is a state-only funded program that:

(1) Provides an array of services to families to help maintain and stabilize the family unit; and

(2) Replaces (~~WAC 388-825-200 through 388-825-242 (the family support opportunity program), WAC 388-825-252 through 388-825-256 (the traditional family support program), WAC 388-825-500 through 388-825-595, (the flexible family support pilot program), and WAC 388-825-244 through 388-825-250 (other family support rules))~~);

(a) The family support opportunity program (WAC 388-825-200 through 388-825-242);

(b) The traditional family support program (WAC 388-825-252 through 388-825-256);

(c) The family support pilot program (WAC 388-825-500 through 388-825-595); and

(d) Other family support rules (WAC 388-825-244 through 388-825-250).

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0007 What is the purpose of the individual and family services (IFS) program? The purpose of the IFS program is to (~~have one DDD family support program that will~~):

(1) Form a partnership between the state and families to help support families who have a (~~client of~~) DDD eligible family member living in the family home; and

(2) Provide families with a choice of services and allow families more control over the resources allocated to them.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0015 Am I eligible (~~to participate in~~) for the IFS program? (1) You are eligible to be considered for the IFS program if you meet the following criteria:

(a) You are currently an eligible client of DDD;

(b) You live in your family home;

(c) You are not enrolled in a DDD home and community based services waiver defined in chapter 388-845 WAC;

(d) You are currently enrolled in traditional family support, family support opportunity or the family support pilot or funding has been approved for you to receive IFS program services;

(e) You are age three or older (~~as of July 1, 2007~~);

(f) You have been assessed as having a need for IFS program services as listed in WAC 388-832-0140; and

(g) You are not receiving a DDD adult or child residential service or licensed foster care.

(2) If you are a parent who is a client of DDD, you are eligible to receive IFS program services in order to promote the integrity of the family unit, provided:

(a) You meet the criteria in subsections (1)(a) through (f) above; and

(b) Your minor child who lives in your home is at risk of being placed up for adoption or into foster care.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0020 Will I be authorized to receive IFS services if I meet the eligibility criteria in WAC 388-832-0015? Meeting eligibility criteria per WAC 388-832-0015 for the IFS program does not ensure access to or receipt of the IFS program services.

(1) Receipt of IFS services is limited by availability of funding and your assessed need.

(2) WAC 388-832-0085 through 388-832-0090 describes how DDD will determine who will be approved to receive funding.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0022 What determines the allocation of funds available to me to purchase IFS services? The allocation of funds is based upon the ((IFS)) DDD assessment described in chapter 388-828 WAC. The DDD assessment will determine your service level based on your assessed need.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0023 If I qualify for another DDD service, will my IFS program be reduced or terminated? Since your IFS amount is based on the assessed need, if your needs change, the dollar amount (~~with~~) may be impacted. However, if you are qualified for another DDD service, you can still receive IFS as long as you continue to have an assessed need and have met the eligibility criteria per WAC 388-832-0015 for the IFS program with the exception of WAC 388-832-0024.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0024 If I participate in the IFS program, will I be eligible for services through the DDD

home and community based services (HCBS) waiver? (1) If you participate in the IFS program you may not participate in the DDD HCBS waiver (~~(at the same time)~~).

(2) You may request enrollment in a DDD HCBS waiver at any time per WAC 388-845-0050.

(3) Participation in the IFS program will not affect your potential waiver eligibility.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0025 Am I eligible for the IFS program if I currently receive other DDD paid services? (1) If you receive other nonwaiver DDD funded services, you may be eligible for the IFS program.

(2) If you receive SSP in lieu of traditional family support or family support opportunity, you are not eligible to receive IFS program funding.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0060 (~~Can~~) May DDD terminate my eligibility for the IFS program? You may be terminated from the IFS program for any of the following reasons:

(1) You no longer meet DDD eligibility per WAC 388-823-0010 through 388-823-0170;

(2) You no longer meet the eligibility criteria for the IFS program per WAC 388-832-0015;

(3) You have not used an IFS program service during the last twelve calendar months;

(4) You cannot be located or do not make yourself available for the annual DDD assessment;

(5) You refuse to participate with DDD in service planning; and/or

(6) You begin to receive a DDD residential service.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0065 If I go into a temporary out of home placement, will I be eligible for IFS upon my return home? (~~You can apply for~~) (1) If you are disenrolled in the IFS program due to out of home placement, you may request reinstatement in the IFS program once you return to your family home (~~from placement~~).

(2) You may make this request by contacting your DDD case manager (~~(, if your out of home placement does not exceed twelve months)~~).

(3) Your case manager will schedule an assessment with you and, if you meet all the eligibility criteria described in WAC 388-832-0015, have an assessed need, and funding is available, you (~~will~~) may receive an IFS program allocation.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0067 (~~If I am a parent with a developmental disability and a client of DDD,~~) Are my children eligible for IFS program services, if I am a client of

DDD? If you are a parent with a developmental disability and a client of DDD, your children may be eligible for IFS program services if funding is available and your children:

(1) Are ages birth through (~~(twenty-one))~~ seventeen years of age;

(2) Are at risk of out of home placement; and

(3) Live with you.

INDIVIDUAL AND FAMILY SERVICES PROGRAM (~~WAIT~~) REQUEST LIST

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0070 What is the IFS program (~~wait~~) request list? The IFS (~~wait~~) request list is a list of clients who live with their family and the family has requested family support services. At the time of the family's request for IFS program services, funding was not available; therefore these clients were placed on the IFS program (~~wait~~) request list effective on the date of their request.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0072 Who is eligible to be on the IFS program (~~wait~~) request list? (1) To be on the IFS (~~wait~~) request list you must live in your family home and remain eligible for DDD services.

(2) If you are in temporary placement and the plan is to return home you may remain on the IFS request list.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0075 Do I have to have a DDD assessment before I can be added to the IFS (~~wait~~) request list? You do not have to have a DDD assessment prior to your name being added to the IFS (~~wait~~) request list.

(1) Your name and request date will be added to the (~~wait~~) request list.

(2) A notice will be sent to you to let you know your name has been added to the IFS (~~wait~~) request list.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0080 How or when am I taken off the IFS (~~wait~~) request list? You are taken off the (~~wait~~) IFS request list if:

(1) You no longer live in your family home;

(2) You are no longer eligible for DDD services;

(3) You request your name to be removed from the IFS (~~wait~~) request list;

(4) You do not respond (~~(to)~~) by the date outlined on the IFS notification to schedule the DDD assessment;

(5) You are offered IFS services and (~~(accept or))~~ refuse services; or

(6) You are on the HCBS waiver (~~(or~~

(7) Your DDD assessment determines you are not eligible for the IFS program).

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0082 **If the DDD assessment determines I am not eligible for the IFS program, may I remain on the IFS (~~(wait)~~) request list?** If the DDD assessment determines you are not eligible for the IFS program, you may request to remain on the (~~(wait list, however, your)) request list.~~ The date (~~(will change)) you ask to remain on the list becomes your new request date (~~(of your current assessment))~~).~~

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0085 **When there is state funding available to enroll (~~(new)) additional clients in the IFS program, how will DDD select from the clients on the IFS program (~~(wait)) request list?~~~~** When there is state funding available for (~~(new)) additional IFS participants, DDD may enroll participants based on the following considerations:~~

(1) Clients who have requested residential habilitation center (RHC) respite, emergency services, or residential placement, prior to June 30, 2007.

(2) Clients with the highest scores in caregiver and behavior status on the mini assessment.

(3) Clients who have been on the IFS program (~~(wait)) request list the longest.~~

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0087 **What happens next if I am selected from the IFS program (~~(wait)) request list?~~** If you are selected from the IFS program (~~(wait)) request list:~~

(1) Your DDD case/resource manager will contact you, and determine if you meet the eligibility criteria for IFS program per WAC 388-832-0015 (~~((1) though (6);))~~).

(2) If you meet the criteria per (1) above, your case/resource manager will schedule an appointment to complete your DDD assessment or reassessment.

(3) If you have not been receiving any DDD paid services, your DDD eligibility (~~(will)) may need to be reviewed per WAC 388-823-1010(3).~~

(4) Your DDD eligibility review must be (~~(completed)) finalized prior to (~~(completing)) the completion of the DDD assessment for the IFS program.~~~~

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0090 **If I currently receive funding from the traditional family support program, the family support opportunity program or the family support pilot program, will I qualify for the IFS program?** If you currently receive funding from the traditional family support program, the family support opportunity program or the family support pilot program, you may qualify for the IFS program if you meet the eligibility criteria in WAC 388-832-0015.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0091 **If I currently receive funding from the traditional family support program, the family support opportunity program or the family support pilot program, will that funding continue until my next assessment?** If you currently receive funding from the traditional family support (TFS) program, the family support opportunity (FSO) program or the family support pilot (FSP) program, you (~~(will)) may continue to receive funding under the TFS, FSO, or the FSP program until your next DDD assessment.~~

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0113 **Will my IFS allocation be impacted by my income?** The amount of (~~(services you receive)) your allocation will be solely based on your assessed needs. Your income will not affect your (~~(level of service)) IFS allocation.~~~~

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0120 **Will my IFS allocation be impacted if I am eligible for medicaid personal care services?** If you meet financial and functional eligibility for medicaid personal care services, your IFS allocation will be adjusted according to WAC 388-828-9100 through 388-828-9140.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0123 **Will my IFS allocation be impacted if I am eligible for private duty nursing or the medically intensive children's program?** If you meet eligibility for private duty nursing described in WAC 388-106-1000, or the medically intensive children's program described in WAC 388-551-3000, your IFS allocation will be adjusted according to WAC 388-828-9100 through 388-828-9140.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0125 **Will my IFS allocation be impacted if I am eligible for the community options programs entry system (COPEs)?** If you are eligible for the community options programs entry system (COPEs), your IFS allocation will not be adjusted.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0127 **What if I have assessed needs that cannot be met by the IFS program?** If you complete the DDD assessment and are assessed to have an unmet need and there is no approved funding to support that need, DDD will offer you referral information for ICF/MR services. In addition, DDD may:

(1) Provide information and referral for non-DDD community-based supports; and

(2) Add your name to the waiver data base, if you have requested enrollment in a DDD HCBS waiver per chapter 388-845 WAC(~~and~~)

~~(3) Request short term emergency services as an exception to rule (ETR) per WAC 388-440-0001. Approval is required by the director of DDD or designee).~~

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0128 When is the individual support plan effective? (1) For an initial individual support plan, the plan is effective the date DDD signs and approves (~~it after~~) the plan based on a signature or verbal consent (~~is obtained~~).

(2) For a reassessment, amendment or review of the individual support plan, the plan is effective the date DDD signs and approves it after a signature or verbal consent is obtained.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0135 How (~~can~~) may my family use its IFS program allocation? Your IFS program allocation is available to pay for any of the services listed in WAC 388-832-0140 if:

(1) The service need relates to (~~and results from~~) your (~~developmental~~) disability, and

(2) The need is identified in your DDD assessment and identified on your ISP.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0136 If I have a family support reimbursement contract, (~~can~~) may DDD ask me to verify my purchases through reviewing receipts? (1) If you have a family support reimbursement contract, you (~~will~~) must first need prior approval from your DDD case manager and then DDD will ask you to verify your purchases through reviewing receipts.

(2) You (~~need to~~) must submit receipts to your case manager whenever you are asking for reimbursement.

(3) Your request for reimbursement must be received within ninety days of the date that the service was received and no later than thirty days after the end of your allocation year.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0137 May I use my allocation over a two year period for large costly expenditures? (1) You may not use your allocation over a two year period for a large costly expenditure.

(2) Your annual allocation (~~must~~) can only be used during the twelve month period your assessed needs were determined.

(3) If you do not use all of your allocation, your remaining dollars do not carry over to next (~~year's allocation~~) year.

(4) (~~If at least some~~) You must use a portion of your IFS program (~~services are not used in the~~) allocation within your twelve month assessment period(~~s~~) or you (~~will~~) may be terminated from the IFS program.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0160 Are there limits to the respite care I receive? The following limitations apply to the respite care you can receive:

(1) Respite cannot replace:

(a) Daycare, childcare or preschool while a parent (~~or guardian~~) is at work; and/or

(b) Personal care hours available to you. When determining your unmet need, DDD will first consider the personal care hours available to you.

(2) Respite providers have the following limitations and requirements:

(a) If respite is provided in a private home, the home must be licensed unless it is the client's home or the home of a relative of specified degree per WAC 388-825-345;

(b) The respite provider cannot be the spouse of the caregiver receiving respite if the spouse and the caregiver reside in the same residence; and

(c) If you receive respite from a provider who requires licensure, the respite services are limited to those age-specific services contained in the provider's license.

(d) The respite care provider cannot be your natural, step or adoptive parent living with you.

(3) Your caregiver will not be paid to provide DDD services for you or other persons at the same time you receive respite services.

(4) The need for respite must be identified in your ISP and, in combination with other IFS services, (~~cannot~~) may not exceed your IFS allocation.

(5) If your personal care provider is your parent, your parent provider may not be paid to provide respite services to any client in the same month that you receive respite services.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0165 What are considered excess medical costs not covered by another source? Excess medical costs are medical expenses incurred by (~~a client~~) you after medicaid or private insurance have been accessed or when (~~the client does~~) you do not have medical insurance. This may include the following:

(1) Skilled nursing services (e.g., ventilation, catheterization, and insulin shots);

(2) Psychiatric services;

(3) Medical and dental services (~~related to the person's disability~~) deemed medically necessary by your health care professional and an allowable medicaid covered expense;

(4) Prescriptions for medications; and/or

(5) (~~Copays~~) Medical and (~~deductible limited to your IFS allocation~~) dental premiums.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0166 How are excess medical costs paid? (1) Excess medical costs ~~((are))~~ may be paid directly to a DDD contracted provider or reimbursed to a family member who has an individual and family ((support)) services contract with the division of developmental disabilities ~~((and))~~ if receipts are received within ~~((thirty))~~ ninety days from the date of service.

(2) Skilled nursing services are paid to the DSHS contracted nurse directly.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0168 Are there limits to excess medical costs? There are limits to excess medical costs.

(1) The ~~((payment))~~ service must be of direct medical or remedial benefit to ~~((the individual))~~ you and deemed medically necessary ((as a result of the individual's disability;)) by your health care professional.

(2) Therapies included under WAC 388-832-0170 may not be paid under excess medical costs.

(3) Medical and dental premiums are excluded for family members other than the DDD eligible clients ~~((; and))~~.

~~((3))~~ (4) The need for excess medical costs must be identified in your ISP and, in combination with other IFS services, ~~((cannot))~~ may not exceed your IFS allocation.

~~((4))~~ (5) Other restriction per WAC 388-832-0333 also apply.

(6) Prior approval by regional administrator or designee is required.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0170 What therapies ~~((can))~~ may I receive? The therapies you ~~((can))~~ may receive are:

- (1) Physical therapy;
- (2) Occupational therapy; and/or
- (3) Speech, hearing and language therapy.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0175 Who is a qualified therapist? Providers must be certified, registered or licensed therapists as required by law and contracted with DDD for the therapy they are providing. DDD will pay the contracted therapist directly for the therapy services they provide.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0180 Are there limits to the therapy I ~~((can))~~ may receive? The following limitations apply to therapy you may receive:

(1) Additional therapy may be authorized as a service only after you have accessed what is available to you under

medicaid and any other private health insurance plan or school;

(2) DDD does not pay for treatment determined by DSHS to be experimental;

(3) DDD ~~((and the treating professional))~~ determines the need ~~((for))~~ and amount of services you ~~((can))~~ will receive based upon information received from the therapist;

(a) DDD may require a second opinion from a DDD selected provider.

(b) DDD ~~((will))~~ requires you to provide evidence that you have accessed your full benefits through medicaid, private insurance and the school before authorizing this service.

(4) The need for therapies must be identified in your ISP and, in combination with other IFS services, ~~((cannot))~~ may not exceed your IFS allocations.

(5) ~~((Prior approval by the regional administrator or designee is required))~~ Other restrictions per WAC 388-832-0333 also apply.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0185 What are architectural and vehicular modifications? (1) Architectural and vehicular modifications are physical adaptations to the home and vehicle of the individual to:

(a) Ensure the health, welfare and safety of the client and or caregiver; or

(b) Enable a client who would otherwise require a more restrictive environment to function with greater independence in the home or in the community.

(2) Architectural modifications include the following:

(a) Installation of ramps and grab bars;

(b) Widening of doorways;

(c) Modification of bathroom facilities; ~~((or))~~

(d) Installing specialized electrical and/or plumbing systems necessary to accommodate the medical equipment and supplies that are necessary for the welfare of the individual;

(e) Repairs for damages to the client's residence as a result of the client's disability up to the balance of the client's allocation; or

(f) Repairs to architectural modifications if necessary for client safety.

(3) Vehicular modifications include the following:

(a) Wheel chair lifts;

(b) Strap downs; ~~((or))~~

(c) Other access modifications; or

(d) Repairs and maintenance to vehicular modifications if necessary for client safety.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0195 What limits apply to architectural and vehicular modifications? The following service limitations apply to architectural and vehicular modifications are in addition to any limitations in other rules governing this service:

(1) Prior approval by the regional administrator or designee is required.

(2) Architectural and vehicular modifications to the home and vehicle are excluded if they are of general utility without direct medical or remedial benefit to the individual, such as floor covering (e.g., carpeting, linoleum, tile, hard wood flooring, decking), roof repair, central air conditioning, fencing for the yard, etc.

(3) Architectural modifications ~~((cannot))~~ may not add to the square footage of the home.

(4) DDD ~~((will))~~ requires evidence that you accessed your full benefits through medicaid, private insurance and the division of vocational rehabilitation (DVR) before authorizing this service.

(5) Architectural and vehicular modifications must be the most cost effective modification based upon a comparison of contractor bids as determined by DDD.

(6) Architectural and vehicular modifications ~~((will be))~~ are prorated by the number of other members in the household who use these modifications.

(7) The need for architectural and vehicular modifications must be identified in your ISP and, in combination with other IFS services, ~~((cannot))~~ may not exceed your ~~((annual))~~ IFS allocation.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0200 What are ~~((specialized medical))~~ equipment and supplies? (1) ~~((Specialized medical))~~ Equipment and supplies are ~~((durable and nondurable medical equipment not available through Medicaid or the state plan which enables individuals))~~ designed to assist clients to:

(a) Increase or maintain their abilities to perform their activities of daily living; or

(b) Perceive, control or communicate with the environment in which they live.

(2) Equipment and supplies may include durable and nondurable ~~((medical))~~ equipment that are ~~((defined in WAC 388-543-1000 and 388-543-2800 respectively))~~ specialized or adapted, and generally not useful to a person in the absence of illness, injury or disability.

(3) Also included are items ~~((necessary for life support and ancillary supplies))~~ and ~~((equipment))~~ services necessary to the proper functioning of the equipment and supplies ~~((described in subsection (1) above)).~~

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0205 Who are qualified providers of ~~((specialized medical))~~ equipment and supplies? The provider of ~~((specialized medical))~~ equipment and supplies must be ~~((a medical))~~ an equipment supplier contracted with DDD ~~((or))~~, a parent who has an individual and family services contract ~~((with DDD))~~, or a provider who purchases goods and services through the pass through contract~~((s))~~.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0210 Are there limitations to my receipt of ~~((specialized medical))~~ equipment and sup-

plies? The following limitations apply to your receipt of ~~((specialized medical))~~ equipment and supplies:

(1) ~~((Specialized medical))~~ Equipment and supplies with the exception of supplies for incontinence (e.g., diapers, disposable underpads, and wipes) require prior approval by the DDD regional administrator or designee for each authorization.

(2) DDD reserves the right to require a second opinion by a department-selected provider.

(3) Items reimbursed with state funds ~~((shall))~~ must be in addition to any medical equipment and supplies furnished under medicaid or private insurance.

(4) Items must be of direct medical or remedial benefit to the individual and necessary as a result of the individual's disability.

(5) Medications, prescribed or nonprescribed, and vitamins are excluded.

(6) The need for ~~((specialized medical))~~ equipment and supplies must be identified in your ISP and, in combination with other IFS services, ~~((cannot))~~ may not exceed your IFS allocation.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0215 What are specialized nutrition and specialized clothing? (1) Specialized nutrition is specialized formulas or specially prepared foods for which a written recommendation has been provided by a qualified and appropriate professional and when it constitutes fifty percent or more of the person's caloric intake (e.g., licensed physician or registered dietician).

(2) Specialized clothing is nonrestrictive clothing adapted for a physical disability, excessive wear clothing, or specialized footwear for which a written recommendation has been provided by a qualified and appropriate professional (e.g., a podiatrist, physical therapist, or behavior specialist).

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0220 How do I pay for specialized nutrition and specialized clothing? Specialized nutrition and specialized clothing can be a reimbursable expense through the ~~((parent))~~ individual and family ~~((support))~~ services contract and the pass through contract.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0225 Are there limits for specialized nutrition and specialized clothing? (1) The need for specialized nutrition and specialized clothing must be identified in your ISP and, in combination with other IFS services, ~~((cannot))~~ may not exceed your IFS allocation.

(2) Prior approval by regional administrator or designee is required.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0235 What are copays for medical and therapeutic services? Copays ~~((for medical and therapeutic services))~~ are fixed fees that subscribers to a medical plan must pay ((for disability-related)) to use specific medical or therapeutic services ((you may have received that were not)) covered by the plan. These services must have been deemed medically necessary by your ~~((private insurance or Medicaid))~~ health care professional.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0240 How do I pay for medical and therapeutic copays? Medical and therapeutic copays can be a reimbursable expense through the ~~((parent))~~ individual and family ((support)) services contract and the pass through contract.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0245 Are there limits to medical and therapeutic copays? (1) Medical and therapeutic copays must be identified ~~((as a need))~~ in your ISP and, in combination with other IFS services, ~~((cannot))~~ may not exceed your IFS ~~((program))~~ allocation.

(2) The copays must be for your ~~((disability-related))~~ medical or therapeutic needs.

(3) Prescribed or nonprescribed vitamins and supplements are excluded.

~~((4) Prior approval by regional administrator or designee is required.))~~

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0255 Who is a qualified provider for transportation services? (1) The provider of transportation services can be an individual or agency contracted with DDD.

(2) Transportation services can be a reimbursable expense through the ~~((parent))~~ individual and family ((support)) services contract.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0260 Are there limitations to the transportation services I can receive? The following limitations apply to transportation services:

(1) Transportation to/from medical or medically related appointments is a medicaid transportation service and is to be considered and used first.

(2) Transportation is offered in addition to medical transportation but cannot replace medicaid transportation services.

(3) Transportation is limited to travel to and from an IFS program service.

~~((4))~~ ~~((Transportation does not include the purchase of a bus pass.~~

~~((5))~~ ~~((Reimbursement for provider mileage requires prior approval by DDD and is paid according to contract.~~

~~((6))~~ ~~((This service does not cover the purchase or lease of vehicles.~~

~~((7))~~ ~~((Reimbursement for provider travel time is not included in this service.~~

~~((8))~~ ~~((5))~~ Reimbursement to the provider is limited to transportation that occurs when you are with the provider.

~~((9))~~ ~~((6))~~ You are not eligible for transportation services if the cost and responsibility for transportation is already included in your provider's contract and payment.

~~((10))~~ ~~((Transportation services require prior approval by the DDD regional administrator or designee.~~

~~((11))~~ ~~((7))~~ Per diem costs may be reimbursed ~~((with prior approval from DDD regional administrator or designee))~~ utilizing the state rate to access medical services if the DDD client and one family member must travel over one hundred fifty miles one way ~~((for client receiving medical services and one family member)).~~

~~((12))~~ ~~((8))~~ Air ambulance costs due to an emergency may be reimbursed after insurance, deductibles, medicaid and other resources have been exhausted not to exceed your annual IFS allocation.

~~((13))~~ ~~((9))~~ The need for transportation services must be identified in your ISP and, in combination with other IFS services, ~~((cannot))~~ may not exceed your IFS allocation.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0275 Are there limitations to the training and counseling ((I can receive))? There are limitations to training and counseling that your family may receive.

(1) Expenses to the family for room and board or attendance, including registration fees for conferences are excluded as a service under family counseling and training.

(2) The need for training and counseling must be identified in your ISP and, in combination with other IFS services, ~~((cannot))~~ may not exceed your IFS allocation.

~~((3) Prior approval by regional administrator or designee is required.))~~

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0285 Who is a qualified provider of behavior management? The provider of behavior management and consultation must be one of the following professionals contracted with DDD and must adhere to and follow DDD's positive behavior support policy and be duly licensed, registered or certified to provide this service:

(1) Marriage and family therapist;

(2) Mental health counselor;

(3) Psychologist;

(4) Sex offender treatment provider;

(5) Social worker;

(6) Registered nurse (RN) or licensed practical nurse (LPN);

(7) Psychiatrist;

- (8) Psychiatric advanced registered nurse practitioner (ARNP);
- (9) Physician assistant working under the supervision of a psychiatrist;
- (10) Registered counselor; or
- (11) Polygrapher.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0290 Are there limits to behavior management? The following limits apply to your receipt of behavior management:

- (1) DDD (~~and the treating professional~~) will determine the need and amount of service you (~~will~~) may receive based upon information from the treating professional.
- (2) DDD may require a second opinion from a DDD-selected provider.
- (3) Only scientifically proven, nonexperimental methods may be utilized.
- (4) Providers may not use methods that cause pain, threats, isolation or locked settings.
- (5) The need for behavior management must be identified in your ISP and, in combination with other IFS services, (~~cannot~~) may not exceed your IFS allocation.
- (6) Psychological testing is not allowed.
- (7) Behavior management services require prior approval by the regional administrator or designee.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0308 How is parent/sibling education paid? Parent/sibling education may be a reimbursable expense through the (~~parent~~) individual and family (~~support~~) services contract, the pass through contract or paid directly to the contracted provider.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0310 Are there limitations to parent/sibling education? There are limitations to parent/sibling education that your family may receive.

- (1) Parent/sibling education does not include conference fees or lodging.
- (2) Viewing of VHS or DVD at home by (~~yourself~~) your parent or sibling does not meet the definition of parent or sibling education.
- (3) The need for parent/sibling education must be identified in your ISP and, in combination with other IFS services, (~~cannot~~) may not exceed your IFS allocation.
- (~~(4) Prior approval by regional administrator or designee is required.~~)

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0315 What are recreational opportunities? (1) Recreational opportunities are leisure activities that may be available to children and adults with a develop-

mental disability such as summer camps, YMCA activities, day trips or typical activities available in your community.

- (2) Recreational opportunities may include memberships in civic groups, clubs, crafting classes, or classes outside of K-12 school curriculum or sport activities.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0320 How are recreational opportunities paid for? Recreational opportunities may be a reimbursable expense through the (~~parent~~) individual and family (~~support~~) services contract (~~and~~), the pass through contract or the recreational opportunity contract.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0325 Are there limitations to recreation opportunities? The following limitations apply to recreation opportunities:

- (1) (~~The~~) Recreational opportunities must occur in your community or the bordering states addressed in WAC 388-832-0331.
- (2) The need for recreation opportunities must be identified in your ISP and, in combination with other IFS services, (~~cannot~~) may not exceed your IFS allocation.
- (3) DDD does not pay for recreational opportunities that may pose a risk to individuals with disabilities or the community at large.
- (~~(4) Prior approval by regional administrator or designee is required.~~)

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0330 (~~Does my family~~) Do I have a choice of IFS program services? In collaboration with your case manager and based upon your assessed need, you may choose the services available with this program.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0332 (~~Will~~) May I (~~have a choice of~~) choose my provider? You may choose a qualified individual, agency or licensed provider within the guidelines described in WAC 388-825-300 through 388-825-400. These WACs describe:

- (1) Qualifications for individuals and agencies providing DDD services in the client's residence or the provider's residence or other settings; and
- (2) Conditions under which DDD will pay for the services of an individual provider or a home care agency provider or other provider.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0333 What restrictions apply to the IFS program services? The following restrictions apply to the IFS program services:

(1) IFS program services are authorized only after you have accessed what is available to you under medicaid, including medicaid personal care, and any other private health insurance plan, school, division of vocational rehabilitation or child development services.

(2) All IFS program service payments must be agreed to by DDD and you in your ISP.

(3) DDD (~~(will)~~) may contract directly with a service provider or parent for the reimbursement of goods or services purchased by the family member.

(4) DDD (~~(will)~~) may not pay for treatment determined by DSHS/MAA or private insurance to be experimental.

(5) Your choice of qualified providers and services may be limited to the most cost effective option that meets your assessed need.

(6) The IFS program (~~(will)~~) must not pay for services provided after the death of the eligible client. Payment may occur after the date of death, but not the service.

(7) DDD's authorization period (~~(will start)~~) begins when you agree to be in the IFS program and have given written or verbal approval for your ISP. The period will last up to one year and may be renewed if you continue to need and utilize services. If you have not utilized the services within one year period you will be terminated from this program.

(8) IFS program (~~(will)~~) must not pay for psychological evaluations or testing, or DNA testing.

(9) Supplies/materials related to (~~(community integration or recreational activities)~~) recreation opportunities are the responsibility of the family.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0335 What is a one-time award? (1) One-time awards are payments to individuals and families who meet the IFS program eligibility requirements and have a one time unmet need not covered by any other sources for which they are eligible.

(2) One-time awards can only be used for architectural/vehicular modifications, or specialized equipment.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0340 Who is eligible for a one-time award? You are eligible to be considered for a one-time award if:

(1) You are not currently authorized for IFS program services in your ISP(~~(-)~~);

(2) You meet the eligibility for the IFS program(~~(-)~~);

(3) The need is critical to the health or safety of you or your caregiver; and

(4) You and your family have no other resource to meet the need or your resources do not cover all of the expense.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0345 Are there limitations to one-time awards? (1) One-time awards are limited to architectural/vehicular modifications or specialized equipment.

(2) One-time awards cannot exceed six thousand dollars in a twenty-four month period.

(3) One-time awards must be approved by the (~~(director~~ ~~of~~)) DDD regional administrator or designee.

(4) Eligibility for a one-time award does not guarantee approval and authorization of the service by DDD. Services are based on availability of funding.

(5) One-time awards will be prorated by the number of other members in the household who use these modifications or specialized equipment.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0350 How do I (~~(apply for the)~~) request a one-time award? If you have a need for a one-time award, you (~~(can)~~) may make the request to your case manager.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0353 Do I need to have a DDD assessment before I receive a one-time award? You need to have a DDD assessment (~~(prior to)~~) before receiving a one-time award.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0366 What limitations apply to emergency services? (1) Emergency services may be granted to individuals and families who are on the IFS wait list and have an emergent need.

(2) Funds are provided for a limited period not to exceed (~~(sixty)~~) ninety days.

(3) All requests are reviewed and approved or denied by the regional administrator or designee.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0367 What if the client or family situation requires more than (~~(sixty)~~) ninety days of emergency service? (~~(+)~~) If the client or family situation requires more than ninety days of emergency services (~~(are limited to sixty days)~~;

~~(2)~~) DDD will conduct an administrative review of (~~(other)~~) DDD services to determine if the need can be met through other services.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0369 Do I need to have a DDD assessment before I receive an emergency service? You do not need to have a DDD assessment (~~((prior to))~~) before receiving an emergency service; however the regional manager/designee may request a DDD assessment for a client at any time.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-832-0460 How will DDD notify me ~~((on))~~ of their decisions? Your DDD case resource manager will call you and send a written planned action notice per WAC 388-825-100 to notify you of their decision.

WSR 09-12-001

PERMANENT RULES

EASTERN WASHINGTON UNIVERSITY

[Filed May 20, 2009, 1:14 p.m., effective June 20, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: These rules constitute a major revision in the content and organization of the student conduct code for Eastern Washington University (EWU) which are more easily implemented by repealing the existing conduct code and adopting the new chapter. These rules clarify EWU's requirements for student conduct. Rules will also streamline the hearing, disciplinary, and appeals processes.

Citation of Existing Rules Affected by this Order: Repealing chapter 172-120 WAC.

Statutory Authority for Adoption: RCW 28B.35.120(12).

Adopted under notice filed as WSR 09-08-066 on March 27, 2009.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 16, Amended 0, Repealed 15.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 16, Amended 0, Repealed 15.

Number of Sections Adopted Using Negotiated Rule Making: New 16, Amended 0, Repealed 15; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 15, 2009.

Trent Lutey
University Policy Administrator

Chapter 172-121 WAC

EASTERN WASHINGTON UNIVERSITY STUDENT CONDUCT CODE

NEW SECTION

WAC 172-121-010 Introduction. Eastern Washington University is an academic community dedicated to providing instruction in higher education, advancing knowledge through scholarship and research, and providing related services to the community.

As a public institution of higher education, the university has a special responsibility to create and maintain an academic environment that promotes freedom of inquiry and expression while protecting the rights, opportunities and welfare of students, faculty, staff and guests. To achieve this, the university establishes rules, regulations, procedures, policies, and standards of conduct.

Through the student conduct code as well as other university policies and directives, the university sets forth specific behavioral expectations for students and student organizations. It is the responsibility of each student to clearly understand and comply with those expectations. The responsibility for enforcement of the student conduct code rests with the university president.

The board of trustees of Eastern Washington University, acting under the authority granted by RCW 28B.35.120, has established the following regulations for student conduct and discipline.

NEW SECTION

WAC 172-121-020 Definitions. For purposes of the student conduct code, chapter 172-121 WAC, the definitions in this section apply.

"Accused" refers to any student or student organization that is accused of violating the standards of conduct for students under this chapter.

"Appeal authority" refers to the conduct review official presiding over an appeal under WAC 172-121-130.

"Appellant" refers to any accused or complainant who appeals the decisions or sanctions of a hearing authority under WAC 172-121-130.

"Business days" refers to the days and hours the university is open for business. Business days are Monday through Friday, from 8:00 a.m. to 5:00 p.m., excluding holidays as set forth in the university holiday schedule.

"Complainant" means any person who files a complaint alleging that a student or student organization violated the standards of conduct for students.

"Council" or "the council" refers to the student disciplinary council as described in WAC 172-121-070.

"Council hearing" refers to a conduct review hearing before the student disciplinary council.

"Dean of students" refers to the dean of students or a designee of the dean of students.

"Director of OSRR" refers to the director of the office of student rights and responsibilities, or designated representative.

"Hearing authority" refers to the university official holding a conduct review hearing. The conduct review officer is the hearing authority for a summary hearing while the student disciplinary council is the hearing authority for a council hearing.

"Local or surrounding communities" refers to communities having an existing relationship with Eastern Washington University (EWU) including, but not limited to, satellite campus communities and surrounding Spokane County communities.

"Off-campus" refers to any location or facility that is not owned, leased, rented, or operated by Eastern Washington University.

"Officer" or "the officer" refers to the conduct review officer as described in WAC 172-121-070.

"Policies" or "university policy" refers to the written regulations of the university, including the standards of conduct for students, residence life handbook, university policies, and graduate/undergraduate catalogs.

"Recognized student organizations" refers to clubs, organizations, societies or similarly organized groups recognized by the university or the associated students of Eastern Washington University (ASEWU).

"Session council" refers to the student disciplinary council members selected for a specific hearing or appeal.

"Student" includes all persons taking courses through the university, both full and part time, pursuing undergraduate, graduate or professional studies. Nonmatriculated, international students attending language institutes or foreign study programs through the university, and persons, who have been notified of acceptance for admission at EWU, are also considered students. Any person who engaged in conduct in violation of the student conduct code during a period in which they had student status as previously described in this subsection, remain subject to action under this conduct code even if the person has graduated, withdrawn, or has not officially enrolled for a particular term at the university.

"Summary hearing" refers to a conduct review hearing before the conduct review officer.

"University" means Eastern Washington University.

"University official" includes any person employed or contracted by the university, performing assigned administrative or professional responsibilities.

"University premises" means buildings and/or property (including adjacent streets and sidewalks) which are owned, leased or used by the university, to include all satellite campuses affiliated with the university.

"University president" refers to the university president or a designee of the university president.

"Vice-president for student affairs" refers to the vice-president for student affairs or a designee of the vice-president for student affairs.

NEW SECTION

WAC 172-121-030 Rights of students. (1) Any student or student organization accused of or charged with any violation of the student conduct code has the following rights in conduct review proceedings:

(a) The right to a fair and impartial conduct review hearing before the conduct review officer or the student disciplinary council;

(b) The right to prior written notice to attend a preliminary conference as described in WAC 172-121-110;

(c) The right to remain silent during any conduct review proceeding;

(d) The right to prior written notice to attend a council hearing as described in WAC 172-121-120 if the matter is not resolved through a summary hearing process;

(e) The right to waive his/her right to prior notice about a council hearing and to request that the case be heard in a summary hearing immediately following the preliminary conference;

(f) The right to know who is bringing the accusation(s) against them as described in WAC 172-121-110 and 172-121-120 (2)(b);

(g) The right to speak on his/her own behalf in all proceedings;

(h) The right to consult an advisor as described in WAC 172-121-090;

(i) The right to appeal as provided in WAC 172-121-130; and

(j) The right to be subjected to university disciplinary action only one time for the same incident.

(2) Any student or student organization appearing before a council hearing has the following additional rights:

(a) The accused has the right to hear all information and view all material to be presented against them;

(b) The accused and complainant have the right to present witnesses as described in WAC 172-121-120;

(c) The accused and complainant have the right to submit questions to be asked of witnesses as described in WAC 172-121-120.

NEW SECTION

WAC 172-121-040 Jurisdiction. Eastern Washington University shall have jurisdiction over student behavior which occurs on university premises. The university may also exercise jurisdiction over student conduct which occurs at off-campus locations if the behavior adversely affects the university and/or the pursuit of its objectives and the university determines that a significant university interest is affected. The university has sole discretion in determining what conduct adversely impacts the university and/or the pursuit of its objectives.

Similarly, the student conduct code shall apply to conduct without regard to a student's academic status at the time the conduct took place. This includes all periods from the time of application for admission through the actual awarding of a degree, including times between academic periods or outside of normal business hours.

The student conduct code shall also apply to former students if the accused was in a student status as defined in WAC 172-121-020 when the misconduct took place. This is true even if the alleged misconduct is discovered after the student was awarded a degree or if the student withdrew from school while a disciplinary matter was pending.

These provisions are not intended to protect any person or class of persons from injury or harm, or to deny students their legally and/or constitutionally protected rights.

NEW SECTION

WAC 172-121-050 External authorities. Many offenses under this code are also violations of federal, state or local laws. A student or student organization may face criminal and civil prosecution as well as university disciplinary action for violation of these laws.

The university reserves the right to initiate action for offenses that have an impact on the educational or administrative functions or the general well-being of the university and its surrounding communities. Proceedings under this code may be carried out prior to, simultaneously with, or following civil or criminal proceedings in the courts. University proceedings under the student conduct code are not subject to challenge or dismissal based solely on the disposition of any criminal charges related to the same incident.

NEW SECTION

WAC 172-121-060 Notification of criminal arrest. A student is responsible for notifying the university of any off-campus arrest.

When the office of student rights and responsibilities (OSRR) is informed of the arrest of a student, the university may send a letter to the student requiring that he or she make an appointment for an interview with the OSRR. During this interview, the director of OSRR shall discuss with the student:

- (1) The facts involved in the student's arrest;
- (2) The student's obligation to keep the university informed of the progress of the criminal charge(s); and
- (3) The student's obligation to advise the university of the final disposition of the criminal charge(s).

The university will cooperate fully with law enforcement and other agencies administering a corrective or rehabilitative program for the student. The university reserves the right to initiate concurrent disciplinary action.

NEW SECTION

WAC 172-121-070 Conduct review officials. (1) The director of OSRR shall:

- (a) Serve as the primary point of contact for all matters relating to student conduct code violations and proceedings;
- (b) Manage the proceedings as described in this chapter;
- (c) Maintain all records of conduct review proceedings as described in WAC 172-121-080.

(2) Conduct review officer: The university president shall designate one or more conduct review officers. The director of OSRR may be designated as a conduct review officer. The conduct review officer(s) shall:

- (a) Perform conduct review proceedings under this chapter; and
- (b) Review off-campus incidents of alleged misconduct and make determinations as to whether the conduct involved adversely affects the university community and/or the pursuit of its objectives.

(3) Student disciplinary council: The student disciplinary council hears cases of conduct code violations as described in WAC 172-121-120. The council also serves as an appeal authority under WAC 172-121-130.

(a) Council pool: For each academic year, a pool of council members is established based on availability. Appointment of council pool members and their terms of service are as follows:

(i) Faculty: Three faculty members shall be selected by the faculty senate for three-year terms;

(ii) Staff: Three university staff members shall be appointed by the university president for three-year terms;

(iii) Students: Six students shall be appointed by the president of the ASEWU for one-year terms. Student appointments shall be made with the advice and consent of the associated students' legislature, as described in the constitution of the ASEWU. Students holding a position with any of the associated student courts, or who are in any way affiliated with any judicial, quasi-judicial, or advocacy position with the courts of the ASEWU, may not be appointed to the council pool;

(iv) Nonvoting chair: Two nonvoting chairs shall be elected for a one-year term by members of the council pool. Reelection of chairs is permissible;

(v) Vacancies: Council pool vacancies shall be filled as needed by the designated appointing authority.

(b) Session council: When a student disciplinary council is needed for a hearing or an appeal, council members shall be selected from the council pool as follows:

(i) Composition: A session council shall include, at a minimum, one nonvoting chair, two student members, and two faculty or staff members. The faculty/staff members may be both faculty, both staff, or one faculty and one staff member;

(ii) Selection: The director of OSRR shall select members from the council pool to serve as the session council. As much as possible, council members should be selected based on their availability;

(iii) If a nonvoting chair is unavailable, the director of OSRR shall select another member of the council pool to serve as chair;

(iv) Quorum: Four voting members constitute a quorum;

(v) Members of the student disciplinary council shall not participate in any case in which they are a defendant, complainant or witness; in which they have a direct or personal interest or bias; or in which they have acted previously in an advisory or adjudicatory capacity;

(vi) A council member's eligibility to participate in a case may be challenged by parties to the case or by other council members. When such a challenge is made, the session council shall make a decision on the challenge and respond as needed and appropriate; and

(vii) In the event members of the session council are disqualified or disqualify themselves from a case, a temporary (for that case only) replacement will be appointed by the director of OSRR.

NEW SECTION

WAC 172-121-080 Administration and records. (1) Student conduct code.

(a) Interpretation: Any question regarding the interpretation or application of this student conduct code are referred to the vice-president for student affairs for final determination.

(b) Review: This student conduct code shall be reviewed every three years under the direction of the vice-president for student affairs.

(2) Records of conduct review proceedings.

(a) Records of conduct review proceedings under this chapter shall be prepared by the conduct review official(s) involved and maintained by the director of OSRR. As much as possible, records should include:

(i) A summary of the proceedings during a preliminary conference;

(ii) A written record of the statements made during a conduct review hearing;

(iii) All letters, statements, memoranda, decisions, orders, notices, and other documents related to conduct review proceedings; and

(iv) Any images, articles, recordings, or other materials presented as evidence in a conduct review proceeding.

(b) The director of OSRR shall keep records of conduct review proceedings for seven years.

(c) Records of conduct review proceedings are the property of the university and are confidential to the extent provided in applicable law.

(d) Prior to the final disposition of a case, the accused may review the records relative to their case. The accused shall request to review the case records by contacting the conduct review officer. The conduct review officer shall make every reasonable effort to support the accused's request.

(3) Student disciplinary records.

(a) Student disciplinary records are confidential and shall be treated consistently with the requirements of the Family Educational Rights and Privacy Act (FERPA) and applicable law. Disciplinary records shall be maintained in accordance with the university's records retention schedule.

(b) Release of student disciplinary records. The university may not communicate a student's disciplinary record to any person or agency outside the university without the prior written consent of the student, except as required or permitted by law. Exceptions include but are not limited to:

(i) The student's parents or legal guardians may review these records as permitted by FERPA (20 U.S.C. Sec. 1232g; 34 CFR Part 99).

(ii) Release to another educational institution, upon request, where the student seeks or intends to enroll, as allowed by FERPA (20 U.S.C. Sec. 1232g; 34 CFR Part 99).

(iii) The university may inform the complainant of the outcome of any disciplinary proceeding involving a crime of violence as defined by FERPA (20 U.S.C. Sec. 1232g; 34 CFR Part 99).

(iv) The university will, upon written request, disclose to the alleged victim of any crime of violence (as that term is defined in section 16 of Title 18, United States Code), or a nonforcible sex offense, the report on the results of any disciplinary proceeding conducted by the university against a stu-

dent who is the alleged perpetrator of such crime or offense with respect to such crime or offense. If the alleged victim of such crime or offense is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this subsection (3)(b)(iv). Such disclosure will be subject to the provisions of 20 U.S.C. 1094.

(v) Disciplinary records will be made available to hearing councils and university personnel as needed for legitimate educational purposes.

(vi) A student may authorize release of his or her own disciplinary record to a third party in compliance with FERPA (20 U.S.C. Sec. 1232g; 34 CFR Part 99) by providing a written consent to the office of student rights and responsibilities.

(vii) Any student may review his/her own disciplinary records by contacting the office of student rights and responsibilities.

(viii) A student may obtain a copy of his or her disciplinary record by making a written request to the office of student rights and responsibilities. The office of student rights and responsibilities may charge the student a reasonable amount to cover copying expenses.

(ix) The university may disclose to a student's parents a violation of any federal, state, or local law, or of any university policy or rules regarding use or possession of alcohol or a controlled substance so long as the student is under the age of twenty-one at the time of the disclosure to the parent.

(c) When disciplinary records are released, personally identifiable information may be redacted to protect the privacy of others as permitted by applicable law.

(4) Holds:

(a) Types of holds. Holds placed on a student's academic records may prevent admission, registration, graduation, or other academic activities. Holds may also restrict access to transcripts, grades, or other academic records.

(b) Discretionary holds: The conduct review officer may place a hold on a student's academic records in either of the following situations:

(i) Pending the student's satisfactory completion of any sanctions imposed by a conduct review hearing; or

(ii) If the student fails to respond to any properly delivered notice from the conduct review officer.

(c) Required holds: The conduct review officer shall place a hold on a student's academic record if the student is accused of violating the conduct code and has withdrawn from the university, or if the student withdraws from the university after a complaint is filed against the student.

(i) In such cases, the student shall be notified that disciplinary action may be initiated when the student reenters or applies for readmission.

(ii) Holds of this type may not be implemented in cases where the university proceeds with a conduct review hearing or other disciplinary action under this chapter.

NEW SECTION

WAC 172-121-090 Conduct review proceedings. (1) General provisions:

(a) All conduct review proceedings are conducted in an informal manner.

(b) Nonjudicial proceedings: Formal rules of process, procedure, and/or technical rules such as are applied in criminal or civil court, are not used in student conduct code proceedings.

(2) Notification for student organizations: When a charge is directed towards a student organization, the conduct review officer will communicate all matters relative to conduct review proceedings with the president of the organization or that position's designee.

(3) Advisors: The complainant and the accused may each be assisted by one advisor of their choice, subject to the following provisions:

(a) Any fees or expenses associated with the services of an advisor will be incurred by the complainant or the accused that employed the advisor;

(b) The advisor may be an attorney;

(c) The complainant and the accused are responsible for presenting their own case and, therefore, advisors may not speak or participate directly in any conduct review proceeding. The complainant and/or the accused may, however, speak quietly with their advisor during such proceedings;

(d) If an attorney is used as an advisor, the person using the attorney shall inform the conduct review officer or the council of their intent to do so at least two business days prior to any conduct review proceeding; and

(e) If the complainant and/or the accused elect to be advised by an attorney, the conduct review officer or the council may elect to have the university advised by an assistant attorney general.

NEW SECTION

WAC 172-121-100 Complaints. (1) Filing of complaints.

(a) Any student, faculty member, staff member, or other member of the university community may file a complaint against a student or student organization for any violation of the student conduct code.

(b) A person wishing to file a complaint must submit the complaint, in writing, to one of the following:

(i) The office of student rights and responsibilities;

(ii) The office of the dean of students; or

(iii) Another designated university office or official.

(c) In instances of alleged violations of local, county, state or federal law, nothing in this student conduct code will prohibit or limit the rights of persons to go directly to the civil and/or criminal authorities and file charges.

(d) All complaints will be forwarded to the director of OSRR for further review and action.

(2) Complaint review. The director of OSRR will review the complaint to determine if there is sufficient information to hear the matter. During this review, the director of OSRR will also evaluate the circumstances to determine if any interim restriction action is warranted.

(3) Inform complainant. As part of the complaint review process, the director of OSRR will contact the complainant and explain to him/her:

(a) The complainant rights under the student conduct code;

(b) The allegations which the complainant has against the accused; and

(c) The potential conduct code violations related to the allegations.

(4) Following the complaint review, the director of OSRR will either dismiss the matter or arrange a preliminary conference with the accused.

(a) Dismiss the matter. If the director of OSRR believes that there is insufficient justification or insufficient evidence to pursue conduct review proceedings against the accused, he/she may dismiss the matter. In such cases, the director of OSRR will prepare a written record of the dismissal. The director of OSRR will also notify the complainant of their decision, if such notification is appropriate and feasible.

(b) Preliminary conference. If the director of OSRR does not dismiss the matter he/she will arrange a preliminary conference as described in WAC 172-121-110.

(5) Records. The dismissal letter, along with the original complaint and any other related documents, shall be maintained as described in WAC 172-121-080.

NEW SECTION

WAC 172-121-110 Preliminary conference. (1) Scheduling. If, after reviewing a complaint, the director of OSRR decides to initiate conduct review proceedings, the director of OSRR shall appoint a conduct review officer (CRO) to the case and notify the accused according to the following provisions:

(a) Notification shall be in writing;

(b) A written list of charges against the accused shall be included with the notification; and

(c) Notification shall include the name of the conduct review officer assigned to the case and the deadline for the accused to contact the CRO in order to schedule a preliminary conference.

(2) Failure to respond: If the accused fails to comply with the notification requirements, the director of OSRR shall schedule the preliminary conference and notify the accused. The notification shall be in writing and shall include a date, time, and location of the preliminary conference.

(3) Appearance. Only the accused and the accused's advisor may attend the preliminary conference. The accused may be assisted by an advisor during the preliminary conference. The complainant, complainant's advisor, and witnesses may not appear at the preliminary conference.

(4) Failure to appear. In cases where proper notice has been given but the accused fails to attend the preliminary conference, the CRO may:

(a) Proceed with a hearing and decide the case based on the information available; or

(b) Place a hold on the accused's academic records as described in WAC 172-121-080.

(5) Proceedings. During the preliminary conference, the conduct review officer will:

(a) Review the written list of charges with the accused;

(b) Inform the accused who is bringing the accusation(s) against them;

- (c) Provide the accused with a copy of the student conduct code and any other relevant university policies;
 - (d) Explain the accused's rights under the student code;
 - (e) Explain the conduct review procedures;
 - (f) Explain the accused's rights and responsibilities in the conduct review process; and
 - (g) Explain possible penalties under the student conduct code.
- (6) After the preliminary conference, the conduct review officer will take one of the following actions:
- (a) Conduct a summary hearing with the accused as described in WAC 172-121-120;
 - (b) Schedule a summary hearing with the accused as described in WAC 172-121-120; or
 - (c) Refer the case to the student disciplinary council for a council hearing under WAC 172-121-120.
- (7) Records. Records of the preliminary conference shall be maintained as described in WAC 172-121-130.

NEW SECTION

WAC 172-121-120 Hearings. (1) General provisions.

(a) Hearing authority: The hearing authority exercises control over hearing proceedings. All procedural questions are subject to the final decision of the hearing authority.

(b) Closed hearings: All conduct review hearings will be closed. Admission of any person to a conduct review hearing shall be at the discretion of the hearing authority.

(c) Consolidation of hearings: In the event that one or more students are charged with the same misconduct arising from the same occurrence, the hearing authority may conduct separate hearings for each student or consolidate the hearings as practical, as long as consolidation does not impinge on the rights of any student.

(2) Appearance.

(a) Failure to appear: In cases where proper notice has been given but the accused fails to attend a conduct review hearing, the hearing authority shall decide the case based on the information available, without the accused's input.

(b) Complainant's appearance: The complainant may appear at the conduct review hearing in person, through telephone conference, or through any other practical means of communication, so long as the complainant's identity can be reasonably established.

(c) Advisors: The complainant and the accused may be assisted by an advisor during conduct review hearings as described in WAC 172-121-090.

(d) Disruption of proceedings: Any person, including the accused, who disrupts a hearing may be excluded from the proceedings.

(e) Telephonic appearance. In the interest of fairness and expedience, the hearing authority may permit any person to appear by telephone, audio tape, written statement, or other means, as determined appropriate.

(3) Evidence.

(a) Evidence: Pertinent records, exhibits and written statements may be accepted as information for consideration by the hearing authority. However, hearing authorities are not bound by the rules of evidence observed by courts and

may exclude incompetent, irrelevant, immaterial or unduly repetitious material.

(b) The accused has the right to view all material admitted into evidence by the hearing authority.

(i) If the accused wishes to view such material prior to the scheduled hearing, he/she shall contact the CRO. The CRO shall make a reasonable effort to support the request of the accused. To facilitate this process, the accused should contact the CRO as early as possible prior to the scheduled hearing.

(ii) In every case, the accused may examine any material presented against him/her during the course of the hearing.

(4) Reasonable cause. The hearing authority shall consider information presented at the hearing in determining whether there is reasonable cause to believe that the accused violated the student conduct code as charged. In determining whether such reasonable cause exists, the hearing authority shall decide whether it is more likely that the accused violated the student code by engaging in the conduct for which he or she is charged than that he or she did not.

(5) Sanctions. In determining what sanctions shall be imposed, the hearing authority may consider the information presented at the hearing as well as any information available from past conduct and academic performance. If a student fails to appear for a hearing, then the hearing authority shall review the evidence provided and may consider information available from past conduct and academic performance in determining what sanction should be imposed. The hearing authority cannot impose a sanction based solely on the failure to answer the charges or appear at the hearing.

(6) Witnesses.

(a) The complainant, the accused and the hearing authority may present witnesses at council review hearings. Witnesses may not appear during summary hearings unless the CRO specifically allows it.

(b) The complainant and the accused shall provide the name and reasonable contact information for each proposed witness to the office of student rights and responsibilities at least two business days before the scheduled hearing. For each proposed witness requested, the complainant and the accused must also provide a brief statement regarding what relevant information the witness may have.

(c) The office of student rights and responsibilities shall attempt to contact each proposed witness and request their attendance at the scheduled hearing. The office of student rights and responsibilities is not obligated to contact proposed witnesses who appear to have no relevant first hand information.

(d) The accused has the right to hear or view all information provided by witnesses during the hearing.

(7) Questioning:

(a) The complainant and the accused may submit questions to be asked of each other or of any witnesses. Questions shall be submitted, in writing, to the hearing authority. The hearing authority may ask such questions, but is not required to do so. The hearing authority may reject any question which it considers inappropriate, irrelevant, immaterial or unduly repetitious. The hearing authority has complete discretion in determining what questions will be asked during the hearing.

(b) During a conduct review hearing, only the hearing authority may pose questions to persons appearing before them.

(c) The hearing authority may ask their own questions of any witness called before them.

(8) Risk management. The hearing authority may accommodate concerns for personal safety, well-being, or fears of confrontation of any person appearing at the hearing by providing separate facilities, or by permitting participation by telephone, audio tape, written statement, or other means, as determined appropriate.

(9) Summary hearing procedures.

(a) The CRO may hold a summary hearing with the accused only if all of the following conditions are met:

(i) The accused waives his/her right to prior notice about a conduct review hearing;

(ii) The accused requests that the case be heard in a summary hearing with the CRO; and

(iii) The CRO agrees to conduct the summary hearing. The CRO is not obligated to conduct a summary hearing, but may instead refer the case to the student disciplinary council for a council hearing.

(b) Scheduling and notification. The summary hearing may take place immediately following the preliminary conference or it may be scheduled for a later date or time.

(i) If the summary hearing will be held at a later date or time, the CRO shall schedule the hearing in the presence of the accused so that the accused is informed of the date, time, and place of the hearing.

(ii) If the CRO is not able to schedule the hearing in the presence of the accused, the accused shall contact the CRO at a later time, as specified by the CRO, to be informed of the date, time, and location of the summary hearing. If the accused fails to contact the CRO, the CRO shall conduct the summary hearing without the accused present or refer the case to the student disciplinary council for a council hearing under WAC 172-121-110. The CRO may also place a hold on the accused's academic records under WAC 172-121-080.

(c) Deliberation: After the hearing, the conduct review officer shall decide whether there is reasonable cause to establish the accused violated the student conduct code.

(i) If the CRO determines that there is not sufficient information to establish reasonable cause, the CRO shall terminate the complaint.

(ii) If the CRO determines that there is reasonable cause to establish the accused violated the student conduct code, the CRO shall impose any number of sanctions as described in WAC 172-121-210.

(10) Council hearing procedures.

(a) Scheduling and notification. If the conduct review officer has decided to refer the case to the student disciplinary council for a council hearing, director of OSRR shall schedule the hearing and notify the accused and the council. The council must receive at least seventy-two hours notice as to the time and place of the hearing. The CRO may coordinate with the accused to facilitate scheduling, but is not required to do so. The CRO shall notify the accused of the preliminary conference. Notification will be in writing and will include the date, time and location of the hearing.

(b) Deliberations and sanctions. After the hearing, the council shall meet in closed session and determine by majority vote whether reasonable cause exists to indicate that the accused violated the conduct code. If the council decides that the accused did violate the conduct code, the council shall then decide what sanctions shall be imposed. Sanctions shall be decided by majority vote and in closed session.

(c) Notification. The council's decision must be made within seven business days of the hearing conclusion. The council chair shall forward the council decision to the director of OSRR. The director of OSRR shall notify the accused of the council decision and sanctions (if any).

(11) Records. Records of the conduct review hearing shall be maintained as described in WAC 172-121-080.

NEW SECTION

WAC 172-121-130 Appeals. (1) Basis: Appeals may be filed by either the accused or the complainant for one or more of the following reasons:

(a) To determine whether the hearing was conducted according to established procedures. A hearing may have deviated from established procedures if:

(i) The hearing was not conducted fairly in light of the charges and information presented;

(ii) The complainant was not given a reasonable opportunity to prepare and to present information as provided by the student conduct code;

(iii) The accused was not given a reasonable opportunity to prepare and to present a response as provided by the student conduct code.

(b) To determine whether the decision reached by the hearing authority was based on the information presented and that that information was sufficient to reasonably establish that a violation of the conduct code did or did not occur.

(c) To determine whether the sanction(s) imposed were reasonable and appropriate for the associated conduct code violation(s).

(d) To consider new information or other relevant facts not previously presented because such information and/or facts were not known to the appellant at the time of the original hearing. In such cases, if the information was reasonably available at the time of the original hearing but the appellant did not make a good faith effort to discover the information, there is no basis for appeal. It is important for the parties to make a good faith effort to gather all relevant facts before the hearing. The university is not obligated to hold an appeal when the parties did not take reasonable efforts to prepare their case for the initial hearing.

(2) Filing: Following a conduct review hearing, if the accused or the complainant believes there is basis to support an appeal, they may file such an appeal, subject to the following provisions:

(a) The appeal must be submitted to the director of the office of student rights and responsibilities within five business days of receipt of the decision;

(b) The appeal shall be in writing and shall include:

(i) The appellant's name;

(ii) The nature of the decision and sanctions reached by the hearing official;

(iii) The basis, as described in subsection (1) of this section, for the appeal; and

(iv) What remedy the appellant is seeking.

(3) Appeal authorities:

(a) For summary hearings heard by the conduct review officer, the appeal authority is the student disciplinary council.

(b) For council hearings heard by the student disciplinary council, the appeal authority is the dean of students.

(4) Forwarding of appeals: The director of the office of student rights and responsibilities shall, within five business days of receipt of an appeal, forward the appeal to the appropriate appeal authority. The submitted appeal will include, at a minimum, the appellant's written appeal and the written report of the case. The director of OSRR may also forward any other written records related to the case.

(5) Review of appeals:

(a) Before rendering a decision, the appeal authority may request additional information or explanation from any of the parties to the proceedings.

(b) Except as required to explain the basis of new information, an appeal shall be limited to a review of the verbatim record of the conduct review hearing and supporting documents.

(c) In making its decision, the appeal authority will only consider the written record before it, the appellant's notice of appeal and other information and/or explanation it has requested from the parties to the proceedings.

(6) Decisions: After reviewing the appeal, the appeal authority may affirm, reverse, or remand the decision(s) of the hearing authority.

(7) Remanded cases: In cases where the appeal authority remands the decision or sanction(s) of the hearing authority, the case will be returned to the hearing authority for reconsideration or other action as specified by the appeal authority. Following such reconsideration, the hearing authority will return the case to the appeal authority for further review/action. The appeal authority will then complete the appeal process or remand the case again. No appeal may, however, be remanded more than two times. After a case has been remanded twice, the appeal authority must affirm or reverse the decision and affirm, reverse, or modify the sanctions.

(8) Sanctions: The appeal authority may affirm, reverse, remand, or modify the sanctions assigned to the accused. When determining sanctions, the appeal authority may consider the complete record of the accused's prior conduct and academic performance in addition to all other information associated with the case.

(9) Further proceedings. After an appeal authority has completed an appeal action, no further appeals may be made under this chapter.

(10) Appeals standards:

(a) Appeal authorities must weigh all pertinent information presented to them in determining whether reasonable evidence exists to support reversal or modification of decisions or sanctions.

(b) For appeals based on a deviation from established procedures, such deviations will not be a basis for sustaining

an appeal unless the alleged deviation resulted in a material change in the outcome of the case or the sanctions imposed.

(11) Records: Records of appeal proceedings shall be maintained as described in WAC 172-121-080.

NEW SECTION

WAC 172-121-140 Interim restriction. Ordinarily, the disciplinary authority of the university will be invoked only after all related review, hearing, and appeal procedures have been completed. However, in situations where there is cause to believe that a student or a student organization endangers the health, safety, or welfare of themselves, the university community, or property of the university community, the dean of students may take immediate action(s) against the student or student organization without prior notice or hearing.

Simultaneous with such action(s), the dean of students will refer the charges to the conduct review officer, who will process such charges in accordance with the provisions of this student conduct code.

Interim restriction is subject to the following:

(1) Interim restriction actions may only be imposed in the following situations:

(a) When a student or student organization poses an immediate threat to:

(i) The health, safety or welfare of any part of the university community or public at large;

(ii) The student's own physical safety and well-being; or

(iii) Any property of the university community;

(b) When it is believed that the student's or student organization's continued attendance or presence may cause disorder, substantially interfere with or impede the lawful activities of others, or imperil the physical or mental health and safety of members of the university community;

(c) In all cases where a student is undergoing criminal proceedings for any felony charge.

(2) During the interim restriction period, a student may be restricted by any or all of the following means:

(a) Denial of access, including but not limited to: Assignment to alternate university housing or removal from university housing, limitation of access to university facilities, or restriction of communication with specific individuals or groups;

(b) Interim suspension, including temporary total removal from the university or restriction of access to campus;

(c) Mandatory medical/psychological assessment of the student's capability to remain in the university.

(3) The dean of students will determine what restriction(s) will be ordered.

(4) All interim restrictions that involve any type of restriction from any university premises will be accomplished by giving a notice against trespass. The notice against trespass may be given by any manner specified in WAC 172-122-200.

(5) The dean of students will prepare a brief memorandum for record containing the reasons for the interim restriction. The dean of students will forward copies of the memorandum for record by personal delivery or by U.S. mail to the

restricted student, the office of student rights and responsibilities, and all other persons or offices bound by it. At a minimum, the memorandum will state:

(a) The alleged act(s) or behavior(s) of the student or student organization which prompted the interim restriction;

(b) How those alleged act(s) or behavior(s) constitute a violation of the student conduct code; and

(c) How the circumstances of the case necessitated the interim restriction action(s).

(6) In all such cases, the student or student organization may appeal the interim restriction to the vice-president for student affairs. The challenge must be submitted, in writing, within ten business days after the interim restriction action is taken, unless the student requests an extension. Requests for extension will only be granted to review the following issues:

(a) The reliability of the information concerning the student's behavior; and

(b) Whether the student's continued presence or prior or present behavior warrants interim restriction for the causes listed in subsection (1) of this section.

(7) As a result of the challenge, the vice-president for student affairs will schedule a meeting with the accused. The vice-president for student affairs may have the dean of students or any other person deemed relevant attend the meeting. The accused may have an advisor present at the meeting so long as the name of that person is provided to the director of OSRR at least two business days prior to the scheduled meeting.

(8) During the appeal meeting, the vice-president for student affairs will review available materials and statements. After the meeting, the vice-president for student affairs may either uphold or terminate the interim restriction action.

(9) The interim restriction does not replace the regular hearing process, which will proceed consistent with this chapter.

(10) Records. Records of interim restriction proceedings shall be maintained as described in WAC 172-121-080.

NEW SECTION

WAC 172-121-200 Violations. The following are defined as offenses which are subject to disciplinary action by the university.

(1) Acts of academic dishonesty. University policy regarding academic dishonesty is governed by the university academic integrity policy. However, repeated violations, as described in the academic integrity policy, are subject to action under the student conduct code. Academic dishonesty includes, but is not limited to, any of the following activities:

(a) Plagiarism: Representing the work of another as one's own work;

(b) Preparing work for another that is to be used as that person's own work;

(c) Cheating by any method or means;

(d) Knowingly and willfully falsifying or manufacturing scientific or educational data and representing the same to be the result of scientific or scholarly experiment or research;

(e) Knowingly furnishing false information to a university official relative to academic matters.

(2) Acts of social misconduct.

(a) Violence/threats/abuse/endangerment.

(i) Abuse or harm of others. Conduct which causes physical abuse, harm, threats, intimidation, coercion, detention, and/or other conduct which threatens or endangers the health or safety of any person.

(ii) Reckless endangerment. Engaging in conduct that creates an unreasonable risk of harm to another person or property.

(b) Sexual misconduct. Sexual misconduct is any sexual activity with another person that is unwanted and nonconsensual. Sexual misconduct includes, but is not limited to:

(i) Unwanted verbal (including telephone), written (including electronic media), pictorial or physical conduct of a sexual nature which a reasonable person would consider to be harassing, intimidating, hostile, offensive and/or which adversely affects the learning or living environment of the campus;

(ii) Unwanted, forceful, sexual contact. The use of force may include, but is not limited to use of body weight, pushing or hitting, coercion, threats, or intimidation;

(iii) The use of force (body weight, hitting or pushing, use of a weapon, threats to kidnap or kill, for example) to overcome earnest resistance to engaging in sexual intercourse. Earnest resistance may be verbal, physical or both;

(iv) Sexual intercourse which occurs without consent whether force is used or not. Consent requires actual words or conduct demonstrating freely given agreement to the sexual activity. Sexual activity is nonconsensual when the victim is incapable of consent by reason of mental incapacity, drug/alcohol intoxication, illness, unconsciousness or physical helplessness. Silence and passivity do not constitute consent;

(v) Voyeurism. Voyeurism occurs when an individual, for the purpose of arousing or gratifying his/her sexual desire, knowingly views, photographs, or films another person, without that person's knowledge or consent, while the person being viewed, photographed, or filmed is in a place where he or she has a reasonable expectation of privacy;

(vi) Charges of sexual harassment may be adjudicated under the university sexual harassment policy in addition to any processing under this student conduct code.

(c) Harassment. Harassment of any sort is prohibited. Conduct (physical, verbal, graphic, written, or electronic) that is sufficiently severe, pervasive, or persistent to have the purpose or effect of unreasonably interfering with an individual's ability to work, study, or participate in his/her regular life or university activities. Examples of harassment include, but are not limited to the following:

(i) Cyberstalking;

(ii) Unwanted telephone calls;

(iii) Unwanted text messaging; and/or

(iv) Unwanted conversation.

(d) Stalking. Any repeated conduct directed specifically at another person that causes that person to fear for his/her health and safety. Such behaviors and activities may include, but are not limited to the following:

(i) Nonconsensual communication or contact, including face-to-face, telephone calls, voice messages, electronic mail, instant messaging, written letters, unwanted gifts, etc.;

- (ii) Harassment, either by the individual or through a third party;
- (iii) Use of threatening or obscene gestures;
- (iv) Pursuing or following;
- (v) Surveillance or other types of observation;
- (vi) Use of electronic devices or software to track or obtain private information;
- (vii) Trespassing;
- (viii) Vandalism; and
- (ix) Nonconsensual touching.

(e) Unauthorized use of electronic or other devices: Making an audio or video record of any person while on university premises without his or her prior knowledge, or without his or her effective consent when such a recording is of a private conversation or of images taken of a person(s) at a time and place where she or he would reasonably expect privacy and where such images are likely to cause injury or distress. This includes, but is not limited to, surreptitiously taking pictures of another person in a gym, locker room, or restroom, but does not include taking pictures of persons in areas which are considered by the reasonable person to be open to public view.

(3) Property violations. Theft from, or damage to, or misuse of university property or the property of any person on or off campus are subject to university disciplinary action.

(4) Weapons. No individual shall have on his/her person, in his/her vehicle or otherwise in his/her possession any gun, pistol, or firearm or explosives, dangerous chemicals or other dangerous weapons or instruments on the university campus or other university premises except as follows:

(a) Authorized law enforcement officers are permitted to carry arms while on duty and engaged in their regular duties;

(b) Activities requiring use of the prohibited items may be conducted on approval of the activity by the board of trustees;

(c) Persons are permitted to have firearms in their possession directly en route to or from campus firearm storage facilities where such possession is incidental to approved on or off campus possession or use of such firearms;

(d) Examples of weapons under this section include, but are not limited to: Shotguns, rifles, pistols, air guns, BB guns, pellet guns, longbows, hunting bows, throwing weapons, any item that can be used as an object of intimidation and/or threat, replica or look-a-like weapons, etc.

(5) Disobedience. Disobedience, interference, resistance, or failure to comply with direction of an identified university official or other authority acting in the line of duty, including:

(a) Failure to comply with lawful and/or reasonable directions of university officials or law enforcement officers acting in performance of their duties on campus or affecting conduct on campus;

(b) Failure to identify oneself to university officials in their course of duty, refusal or failure to appear before university officials or disciplinary bodies when directed to do so, or the violation of sanctions imposed after such proceedings;

(c) Failure to attend any medical treatment or evaluation program when directed to do so by the dean of students, the self-harm prevention team, or other authorized university official.

(6) Trespassing/unauthorized use of keys.

(a) Trespass. The unauthorized entry into or onto, or the unauthorized remaining in any building or facility or on any property.

(b) Unauthorized use of keys and unauthorized entry. Unauthorized possession, duplication, or use of keys to university premises or unauthorized entry to or use of university premises.

(7) Deception, forgery, fraud, unauthorized representation.

(a) Knowingly furnishing false information to the university.

(b) Forgery, alteration, or misuse of university documents, records, or instruments of identification. This includes situations of identity theft where a person knowingly uses or transfers another person's identification for any purpose.

(c) Forgery or issuing a bad check with intent to defraud.

(d) Unauthorized representation. The unauthorized use of the name of the university or the names of members or organizations in the university community.

(8) Safety.

(a) Intentionally activating a false fire alarm.

(b) Making a bomb threat.

(c) Tampering with fire extinguishers, alarms, or safety equipment.

(d) Tampering with elevator controls and/or equipment.

(e) Failure to evacuate during a fire, fire drill, or false alarm.

(9) Alcohol, drugs, and controlled substances.

(a) Alcohol and substance violations. Use, possession, distribution, or sale of alcoholic beverages (except as permitted by university policy and state law) is prohibited. Under no circumstances may individuals under the age of twenty-one use, possess, distribute, manufacture or sell alcoholic beverages. Public intoxication is also prohibited.

(b) Illegal drugs and paraphernalia. Use, possession, distribution, manufacture, or sale of drug paraphernalia and/or illegal drugs, including marijuana, narcotics or other controlled substances, is prohibited except as authorized by federal or state law. Being under the influence of an illegal substance, while on property owned or operated by the university, is prohibited. Being under the influence of a controlled substance is also prohibited while on property owned or operated by the university, except when legally prescribed by a licensed medical practitioner.

(10) Hazing. Any action required of or imposed on current or potential members of an organization or group which, regardless of location of the incident or consent of the participant(s):

(a) Produces or is reasonably likely to produce bodily harm or danger, mental or physical discomfort, embarrassment, harassment, fright, humiliation or ridicule; or

(b) Compels an individual to participate in any activity which is illegal, perverse or publicly indecent or contrary to university rules, regulations or policies, or which is known by the compelling person(s) to be contrary to the individual's moral or religious beliefs.

(11) Disruptive conduct/obstruction.

(a) Disruptive conduct. Conduct which disrupts or obstructs teaching, research, administration, disciplinary proceedings, freedom of movement or other lawful activities.

(b) Disorderly conduct. Conduct that is disorderly, lewd, indecent or a breach of peace.

(c) Obstruction. Obstruction of the free flow of pedestrian or vehicular traffic on university premises or at university-sponsored or university-supervised events.

(d) Demonstration. Participation in a campus demonstration which violates the university regulations governing campus assembly and peaceful demonstration.

(12) Violations of other laws, regulations and policies.

(a) Violation of a local, county, state, or federal law.

(b) Violation of other university policies or regulations.

(13) Assisting. Soliciting, aiding, abetting, concealing, or attempting conduct in violation of this code. Conduct involving being an accessory to any person who violates this code.

(14) Acts against the administration of this code.

(a) Initiation of a complaint or charge knowing that the charge was false or with reckless disregard of its truth.

(b) Interference with or attempt to interfere with the enforcement of this code, including but not limited to, intimidation or bribery of hearing participants, acceptance of bribes, dishonesty, or disruption of proceedings and hearings held under this code.

(c) Knowing violation of the terms of any disciplinary sanction or attached conditions imposed in accordance with this code.

(15) Other provisions:

(a) Responsibility for guests. A student, student group or student organization is responsible for the conduct of guests on or in university property and at functions sponsored by the university or sponsored by any recognized university organization.

(b) Students studying abroad. Students who participate in any university sponsored or sanctioned foreign country study program shall observe the following rules and regulations:

(i) The laws of the host country;

(ii) The academic and disciplinary regulations of the educational institution or residential housing program where the student is studying; and

(iii) Any other agreements related to the student's study program in the foreign country.

(c) Student organization and/or group offenses. Clubs, organizations, societies or similarly organized groups in or recognized by the university and/or ASEWU are subject to the same standards as are individuals in the university community. The commission of any of the offenses in this section by such groups or the knowing failure of any organized group to exercise preventive measures relative to violations of the code by their members shall constitute a group offense.

NEW SECTION

WAC 172-121-210 Sanctions. If any student or student organization is found to have committed any of the offenses described in WAC 172-121-200, one or more of the following sanctions may be imposed against the student or student

organization. Failure to comply with any imposed sanction may result in additional sanctions.

(1) Individual student sanctions:

(a) Admonition: An oral statement to a student that he/she has violated university rules and regulations.

(b) Warning: A notice to the student or student organization that they have violated the standards for student conduct and that any repeated or continuing violation of the same standard, within a specified period of time, may result in more severe disciplinary action. A warning may be verbal or written.

(c) Censure: A written reprimand for violation of specified regulations. A censure will also state that more severe disciplinary sanctions may be imposed if the student or student organization is found in violation of any regulation within a stated period of time

(d) Disciplinary probation: A formal action which places one or more conditions, for a specified period of time, on the student's continued attendance. Disciplinary probation sanctions will be executed in writing and will specify the probationary conditions and the period of the probation. A disciplinary probation notice will also inform the student that any further misconduct will automatically involve consideration of suspension. Probationary conditions may include, but are not limited to:

(i) Restricting the student's university-related privileges;

(ii) Limiting the student's participation in extra-curricular activities; and/or

(iii) Enforcing a "no contact" order which would prohibit direct or indirect physical and/or verbal contact with specific individuals or groups.

(e) Restitution: Reimbursement to the university or others for damage, destruction, or other loss of property suffered as a result of theft or negligence. Restitution also includes reimbursement for medical expenses incurred due to conduct code violations. Restitution may take the form of appropriate service or other compensation. Failure to fulfill restitution requirements will result in cancellation of the student's registration and will prevent the student from future registration until restitution conditions are satisfied.

(f) Fines: The university conduct officer and the student disciplinary council may assess monetary fines up to a maximum of four hundred dollars against individual students for violation of university rules or regulations or for failure to comply with university standards of conduct. Failure to promptly pay such fines will prevent the student from future registration. Failure to pay may also result in additional sanctions.

(g) Discretionary sanctions: Work assignments, service to the university community or other related discretionary assignments for a specified period of time as directed by the hearing authority.

(h) Loss of financial aid: In accordance with RCW 28B.30.125, a person who participates in the hazing of another forfeits entitlement to state-funded grants, scholarships or awards for a specified period of time.

(i) Assessment: Referral for drug/alcohol or psychological assessment may be required. Results of the assessment may lead to the determination that conditions of treatment

and further assessment apply to either continued attendance or return after a period of suspension.

(j) **Deferred suspension:** Notice of suspension from the university with the provision that the student may remain enrolled contingent on meeting a specified condition or conditions. Not meeting the specified condition(s) will immediately invoke the suspension for the period of time and under the conditions originally imposed.

(k) **Suspension:** Exclusion from classes and other privileges or activities for a specified period of time. Suspensions will be executed through a written order of suspension and will state all restrictions imposed by the suspension, as well as the suspension period and what conditions of readmission, if any, are ordered.

(l) **Dismissal:** Permanent separation of the student from the university with no promise (implied or otherwise) that the student may return at any future time. The student will also be barred from university premises. Dismissal actions will be accomplished by issuing both an order of dismissal and a notice against trespass. The notice against trespass may be given by any manner specified in chapter 9A.52 RCW.

(m) **Loss of institutional, financial aid funds:** Formal withholding of all or a part of institutional funds currently being received by the student or promised for future disbursement to the student for a specified period of time.

(2) **Student organizations and/or group sanctions:** Any of the above sanctions may be imposed in addition to those listed below:

(a) **Probation:** Formal action placing conditions on the group's continued recognition by or permission to function at the university. The probationary conditions will apply for a specified period of time. Violation of the conditions of probation or additional violations while under probation may result in more severe sanctions;

(b) **Social probation:** Prohibition of the group from sponsoring any organized social activity, party or function, or from obtaining a permission for the use of alcoholic beverages at social functions for a specified period of time;

(c) **Charter restriction:** The temporary withdrawal of university or ASEWU recognition for a group, club, society or other organization. It may be recommended by the appropriate disciplinary body, but may only be imposed by the university president;

(d) **Charter revocation:** The permanent withdrawal of university or ASEWU recognition for a group, club, society or other organization. It may be recommended by the appropriate judicial body, but can only be imposed by the university president;

(e) **Additional sanctions:** In addition to or separately from the above, any one or a combination of the following may be concurrently imposed on the group:

- (i) Exclusion from intramural competition as a group;
- (ii) Denial of use of university facilities for meetings, events, etc.;
- (iii) Restitution; and/or
- (iv) Fines.

WSR 09-12-013

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed May 21, 2009, 2:48 p.m., effective June 21, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule amendment more accurately reflects the functions of the programs included in the department's pesticide management division.

Citation of Existing Rules Affected by this Order: Amending WAC 16-06-165.

Statutory Authority for Adoption: RCW 42.56.380, chapter 43.23 RCW.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 09-07-031 on March 10, 2009.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 21, 2009.

Dan Newhouse
Director

AMENDATORY SECTION (Amending WSR 09-03-032, filed 1/12/09, effective 2/12/09)

WAC 16-06-165 Department organization description by division and program. An organizational description by division and program is as follows:

Director's office:

- The director's office covers legislative affairs, internal program review, domestic and international marketing, policy development and review, bioenergy coordination, agency communications, and quality and performance.

Administrative services division:

- The administrative services division includes accounting, budget, payroll, forms and records, adjudicative proceedings, public disclosure, Washington administrative code filings, personnel office, information technology services, safety and risk management, commodity commission activities, and the fairs commission program.

Animal services division:

- The animal health program conducts programs to monitor, diagnose, manage and eradicate specific

animal diseases such as tuberculosis, scrapie, and poultry diseases, and conducts programs to prevent the introduction of foreign animal diseases. The program manages animal health emergencies and responds to certain animal welfare issues.

- The livestock brand inspection program registers brands and inspects livestock when animal ownership changes or animals leave the state. This program provides services to cattle and horse owners in an effort to prevent theft of the animals and licenses feedlots and sales facilities. The establishment and licensure of livestock markets is also implemented within this program.
- The animal identification program implements the voluntary national animal identification system in Washington state to facilitate the tracking of animals and managing animal disease outbreaks.

Commodity inspection division:

- The fruit and vegetable inspection program provides phytosanitary certification, shipping point inspection, third-party grading of raw product for processing and export certification, and licenses controlled atmosphere storage facilities.
- The grain inspection program provides inspection, analytical, and weighing services to ensure orderly commerce for grain, dry peas, lentils, rapeseed, and similar commodities produced in Washington state or shipped through Washington ports from other states.
- The grain warehouse audit program licenses, bonds, and audits public grain storage warehouses and grain dealers who buy covered commodities from producers. Auditing procedures include verification of grain records and purchase contracts with producers, and a physical inventory of stored commodities at warehouses.
- The seed program inspects fields for insects and disease; inspects and tests seed for purity and germination; provides phytosanitary certification for export; and issues labeling permits. The program areas of responsibility are seed certification, seed testing, phytosanitary inspection and testing, and seed law enforcement.

Food safety and consumer services division:

- The food safety program inspects and licenses dairy and food processing facilities and provides services aimed to protect the public from injury and illness caused by food, dairy, and egg products that are contaminated, adulterated or otherwise unfit for consumption.
- The livestock nutrient management program inspects dairy farms; provides assistance; and enforces laws that include state and federal water quality laws and rules regarding animal feeding operations.
- The microbiology laboratory supports the food safety program by testing food and dairy products for quality measures and for food poisoning organisms, and by examining food products for contamination by insects, rodents or filth. The laboratory

also supports animal health programs by testing animal blood and tissue for disease to aid in disease eradication programs and to allow animals to move interstate or internationally.

- The organic food program inspects and licenses organic producers and processors. The program provides services to consumers and supports the organic food industry by ensuring that all food products making organic claims meet standards for organic production and labeling.

Pesticide management division:

- The pesticide management division administers the laws and rules related to pesticides, animal feed and fertilizer, and administers the ~~((pesticide))~~ waste pesticide disposal program.
- The pesticide compliance program enforces state and federal pesticide laws, ~~((animal feed laws and fertilizer laws;))~~ conducts routine inspections of pesticide applications and pesticide distribution facilities, and investigates ~~((complaints))~~ allegations of pesticide misuse.
- The registration services program registers pesticides, fertilizer~~(s)~~ and animal feed~~((s sold and used))~~ distributed in ((the)) Washington; inspects fertilizer and feed manufacturing, storage and distribution facilities; conducts waste pesticide collection events; and conducts environmental assessments related to pesticide use in the state of Washington.
- The certification and training program ~~((conducts waste pesticide disposal activities; provides inter-agency coordination on pesticide-related issues;))~~ provides outreach and safety training on the use of pesticides, ~~((including public outreach and new program development;))~~ licenses pesticide application equipment, ~~((pesticide dealers;))~~ structural pest inspectors, dealer managers, and commercial, public, and private pesticide applicators, operators and consultants; approves recertification courses; and tracks educational credits on pesticide and inspector licensees.

Plant protection division:

- The chemistry and hop program supports several department programs by analyzing samples taken in investigations of alleged pesticide misuse; monitors food for pesticide residues; analyzes commercial feed and fertilizer samples to determine if they meet label guarantees; grades hops for seed, stem and leaf content; and analyzes hops for brewing value.
- The commission merchants program licenses commission merchants, dealers, brokers, and cash buyers, which includes administering required bonds and the investigation of complaints.
- The pest program provides services aimed to prevent the establishment of high-risk and exotic insects, plant diseases, weeds and other pest species through surveys, inspections, quarantines, and eradication projects.
- Plant services program provides regulatory inspection of nurseries in an effort to provide consumers and the nursery industry with healthy, pest-free and

disease-free plant materials; enforces quarantines to prevent pest introductions; and provides testing and inspection services to assure pest-free planting stock.

- The weights and measures program checks prepackaged items to verify quantity of contents; inspects and tests commercial weighing and measuring devices; licenses public weighmasters and weighers; responds to consumer complaints; surveys labeling and advertising of products packaged or sold by weight, measure, or count; and develops standards and conducts compliance activities related to motor fuels and biofuels.

WSR 09-12-033
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed May 27, 2009, 10:02 a.m., effective June 30, 2009]

Effective Date of Rule: June 30, 2009.

Purpose: The purpose of this rule making is to make clarification and technical changes to the Board of boiler rules—Substantive (chapter 296-104 WAC) based on actions and requests of the board of boiler rules. The changes will:

- Reduces board meetings from five times a year to four and allows the department to set times, date and location of board meetings with board approval, as the department has access to meeting room calendars.
- Keep the requirements for rules interpretation but moves the procedure to the boiler web site.
- Establish rules for applying for Washington state specials and extension of inspection frequency.
- Amend the rule to conform with the adopted API-510 and the NBIC.
- Eliminate confusion of the term "agent."
- Remove conflict between rules and adopted code.
- Remove installation standards from construction codes.
- Remove International Building Code (IBC) requirement from the boiler rules.

Citation of Existing Rules Affected by this Order: Amending WAC 296-104-015 Administration—When and where are the board meetings held?, 296-104-018 Administration—How are rules interpreted and revised?, 296-104-020 Administration—What are the filing requirements for boilers and unfired pressure vessels before their installation/reinstallation?, 296-104-100 Inspection—How often must boilers and unfired pressure vessels be inspected?, 296-104-200 Construction—What are the standards for new construction? and 296-104-273 Installation—What inspections are required for reinstalled standard boilers or unfired pressure vessels?; and repealing WAC 296-104-310 Installation—How many exits are required in boiler rooms?

Statutory Authority for Adoption: RCW 70.79.030, 70.79.040, 70.79.150, 70.79.290, 70.79.330, and 70.79.350.

Adopted under notice filed as WSR 09-08-107 filed on March 31, 2009.

Changes Other than Editing from Proposed to Adopted Version: WAC 296-104-018 removed "s" from "stakehold-

ers" and 296-104-273 changed word "appliance" to "apparances."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 6, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 6, Repealed 1.

Date Adopted: May 27, 2009.

Steven E. Bacon, Chair
Board of Boiler Rules

AMENDATORY SECTION (Amending WSR 99-22-026, filed 10/26/99, effective 11/26/99)

WAC 296-104-015 Administration—When and where are the board meetings held? The board of boiler rules shall hold its regular meetings in ~~((January))~~ February, ~~((March,))~~ May, September and November of each year. The time, place, and date of each regular meeting shall be set by the ~~((chairman of the board))~~ department, approved by the board chair and published annually. Special meetings may be called by the chair.

AMENDATORY SECTION (Amending WSR 07-11-137, filed 5/22/07, effective 6/30/07)

WAC 296-104-018 Administration—How are rules interpreted and revised? Stakeholder~~((s may))~~ requests for clarifications and interpretations of these rules ~~((by contacting))~~ shall be made to the chief inspector in writing upon the form furnished by the chief inspector located on the boiler program web site. Interpretations will be brought to the board in the same manner if the inquirer is aggrieved by the interpretation of the chief inspector (RCW 70.79.360). ~~((The))~~ For board ~~((will consider written requests for interpretations and revisions to these definitions, rules, and regulations. Inquiries shall be limited to requests for interpretation of the rules or to proposed revisions to the existing rules and shall be submitted to the department of labor and industries forty five days prior to the board of boiler rules meeting date. The requests shall be in writing upon the form furnished by the chief inspector located on the boiler program web site. Requests not using the form must be in the following format:~~

(1) Scope. Identify a single rule or closely related rules that are in dispute.

(2) Background. State the purpose of the inquiry, which should be either to obtain an interpretation or to propose a revision to existing rules. Provide concise information needed for the board's understanding of the inquiry, including

references to the WAC section as well as other code and/or standards paragraphs.

(3) ~~Inquiry structure. Provide statements in a condensed and precise question format and, where appropriate, compose in such a way that "yes" or "no" (perhaps with provisos) would be an acceptable reply.~~

(4) ~~Proposed reply. State what it is believed the rule requires. If in the inquirer's opinion a revision to the definitions, rules, and regulations is needed, recommended wording should be provided.~~

Inquiries shall be submitted by mail to:

Board of Boiler Rules
e/o Chief Inspector
Department of Labor & Industries
Boiler Section
P.O. Box 44410
Olympia, WA 98504-4410

or

Inquiries shall be submitted by delivery to:

Board of Boiler Rules
e/o Chief Inspector
Department of Labor & Industries
Boiler Section
7273 Linderson Way SW
Tumwater, WA 98501

or

Inquiries shall be submitted electronically to:

Board of Boiler Rules
e/o Chief Inspector
BoilerBoardInquires@lni.wa.gov) consideration the form must be submitted to the department of labor and industries forty-five days prior to the board of boiler rules meeting date. Forms may also be requested by contacting the department.

NEW SECTION

WAC 296-104-019 Administration—How are Washington state specials and extensions of inspection frequencies for boilers and pressure vessels obtained? Stakeholders may request a Washington state special or an extension of inspection frequencies for boilers and pressure vessels by submitting a written request to the board of boiler rules. The request shall be in writing upon the appropriate form furnished by the chief inspector located on the boiler program web site. These requests shall be submitted to the department of labor and industries forty-five days prior to the board of boiler rules meeting date.

(1) Washington state specials may be granted for boilers and pressure vessels that meet the requirements of RCW 70.79.060, WAC 296-104-205, 296-104-210, and 296-104-220.

(2) Extension of inspection frequencies may be granted for boilers and pressure vessels that meet the requirements of RCW 70.79.240 and 70.79.260.

AMENDATORY SECTION (Amending WSR 02-23-036, filed 11/13/02, effective 12/14/02)

WAC 296-104-020 Administration—What are the filing requirements for boilers and unfired pressure vessels before their installation/reinstallation? A "boiler and pressure vessel installation/reinstallation permit," as defined in WAC 296-104-010 shall be submitted by the owner or ((agent and)) designee on a form approved by the chief inspector.

AMENDATORY SECTION (Amending WSR 08-12-015, filed 5/27/08, effective 6/30/08)

WAC 296-104-100 Inspection—How often must boilers and unfired pressure vessels be inspected? In accordance with RCW 70.79.080, 70.79.090, and 70.79.240 the following inspection requirements shall apply:

(1) **Power boilers** shall be inspected:

(a) Externally while under pressure - Annually.

(b) Internally and externally while not under pressure - Annually, except as noted in the following paragraph.

A power boiler in a national board accredited owner-user inspection program may have the internal inspection intervals extended by the owner-user inspection organization to five years maximum under the following conditions:

(i) The boiler water treatment and specific chemical limits are prescribed and monitored by an individual or company that specializes in the water treatment field;

(ii) Nondestructive examination (NDE) is performed along with the internal inspections;

(iii) The boiler is monitored within a manned operating facility;

(iv) Inspection, maintenance, and water treatment records are maintained;

(v) There is sufficient inspection history for the boiler or a boiler in similar service to justify the increase in the inspection interval; and

(vi) This provision shall not apply to a black liquor recovery boiler or any boiler with an unsuitable corrosion rate, remaining life, and/or repair history.

(2) **Organic vapor boilers** shall be inspected:

(a) Externally while under pressure - Annually.

(b) Internally and externally while not under pressure - Biennially.

(3) **Low pressure heating boilers** shall be inspected:

(a) Externally while in operation and under pressure - Biennially.

(b) Where construction permits, internally while not under pressure. Also, as a minimum, an internal of their low water fuel cutoff(s) must be completed, where construction permits - Biennially.

(4) **Hot water heaters** shall be inspected:

(a) Externally - Biennially.

(b) Internally - None required.

(5) **Unfired pressure vessels** shall be inspected:

(a) Externally - Biennially.

(b) Internally:

(i) When subject to corrosion and construction permits - Biennially. Vessels in an owner-user inspection program may follow intervals established by the NBIC or API-510 ninth

edition with addenda (~~(provided nondestructive examination (NDE) is performed at the biennial external inspection)~~).

(ii) Pulp or paper dryer rolls may be inspected on a five-year basis in accordance with TAPPI TIP 0402-16 2001 edition, provided the owner has established a written inspection program accepted by the inspector that meets the minimum requirements of TAPPI TIP 0402-16 2001 edition.

(iii) Vessels not subject to corrosion do not require an internal.

AMENDATORY SECTION (Amending WSR 08-24-072, filed 12/1/08, effective 1/1/09)

WAC 296-104-200 Construction—What are the standards for new construction? The standards for new construction are:

(1) ASME Boiler and Pressure Vessel Code, 2007 edition, with addenda Sections I, III, IV, VIII, Division 1, 2, 3, X, XII;

(2) ASME PVHO-1 2007 Safety Standard for Pressure Vessels for Human Occupancy; and

(3) ~~((ASME CSD-1 Part CF 2004 edition with addenda; and~~

~~(4) NFPA 85 Boiler and Combustion Systems Hazards Code 2004 edition (for use with boilers with fuel input ratings of 12, 500,000 BTU/hr) or greater; and~~

~~(5)) Standards of construction approved by the chief inspector and meeting the National Board Criteria for Registration of Boilers, Pressure Vessels and Other Pressure Retaining Items.~~

These codes and standards may be used on or after the date of issue and become mandatory twelve months after adoption by the board as specified in RCW 70.79.050(2). ASME Code Cases may be approved for use when accepted by the chief inspector. The board recognizes that the ASME Code states that new editions of the code become mandatory on issue and that subsequent addenda become mandatory six months after the date of issue. For nuclear systems, components and parts the time period for addenda becoming mandatory is defined in the Code of Federal Regulations.

AMENDATORY SECTION (Amending WSR 01-24-061, filed 11/30/01, effective 12/31/01)

WAC 296-104-205 Construction—What are the requirements for nonstandard new construction? Those boilers and unfired pressure vessels that are exempted by the codes adopted in WAC 296-104-200 due to volume, temperature or pressure requirements, and are not to be constructed to those codes, must be certified to a nationally recognized testing agency or constructed to WAC 296-104-230. See WAC ~~((296-104-307))~~ 296-104-316 for safety pressure relief devices.

Other boilers and unfired pressure vessels that are not to be constructed to the codes adopted in WAC 296-104-200 may be treated as special designs at the discretion of the board. Nonstandard construction shall not be permitted to avoid standard construction.

AMENDATORY SECTION (Amending WSR 02-23-036, filed 11/13/02, effective 12/14/02)

WAC 296-104-273 Installation—What inspections are required for reinstalled standard boilers or unfired pressure vessels? When a stationary standard boiler or unfired pressure vessel is moved and reinstalled it must be inspected and documented on the inspection report by an inspector. The following will be required:

(1) ~~((The fittings and appliances must comply with the latest codes adopted in WAC 296-104-200.~~

~~(2))~~ An installation permit must be submitted in accordance with WAC 296-104-020.

(2) The fittings and appurtenances must comply with the latest codes adopted in WAC 296-104-200. For automatically fired boilers, fuel controls and other limit devices as listed in WAC 296-104-303 shall be provided.

(3) For any boiler or unfired pressure vessel not currently registered with the department, the following are required ~~((to be documented and submitted))~~ unless waived by the inspector:

(a) A hydrostatic or pressure test ~~((up to 150% of the maximum allowable working pressure, MAWP))~~ as prescribed in the original code of construction.

(b) An internal inspection.

(c) An operational test.

(d) Any repairs deemed necessary.

(e) A complete history of inspection, operation and repairs/alterations.

~~((4))~~ ~~The following are required unless waived by the inspector:~~

~~(a))~~ (f) Additional examination or nondestructive testing.

~~((b))~~ (g) A written evaluation by a professional engineer knowledgeable with boilers and pressure vessels, an ASME certificateholder, or a National Board R certificateholder.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-104-310

Installation—How many exits are required in boiler rooms?

WSR 09-12-034

PERMANENT RULES DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Health and Recovery Services Administration)

[Filed May 27, 2009, 10:26 a.m., effective July 1, 2009]

Effective Date of Rule: July 1, 2009.

Purpose: The purpose of these rule changes is to bring the hearing aids and services program in line with current industry standards as much as possible, reorganize the hearing aids and services WACs into their own chapter, and sep-

arate out the policy by adults and children. The major changes to the rules include removal of the cumbersome and costly prior authorization (PA) process for children as requested by its hearing aid providers, thus allowing quicker access to hearing aids and services for children, and removal of PA requirements for bone conduction hearing aids for adults. The department lowered the average degree of hearing loss decibel requirement which expands the availability of hearing aids to a larger population and removed digital and programmable hearing aids from the noncovered list. In addition, the department added pocket talkers and similar devices to the noncovered list for adults and changed the criteria for replacement ear molds for adults to once a year regardless of whether they are soft or hard.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-544-1010, 388-544-1100, 388-544-1200, 388-544-1300, and 388-544-1400.

Statutory Authority for Adoption: RCW 74.08.090 and 74.09.530.

Adopted under notice filed as WSR 09-04-091 on February 4, 2009.

A final cost-benefit analysis is available by contacting Jean Gowen, DSHS/HRSA, P.O. Box 45506, Olympia, WA 98504-5506, phone (360) 725-2005, fax (360) 586-9727, e-mail gowenje@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 11, Amended 0, Repealed 5.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 11, Amended 0, Repealed 5.

Date Adopted: May 19, 2009.

Susan N. Dreyfus
Secretary

Chapter 388-547 WAC

HEARING AIDS

NEW SECTION

WAC 388-547-0100 Hearing aids—General. Unless otherwise defined in WAC 388-547-0200, the terms within this chapter are intended to correspond with the terms in chapter 18.35 RCW.

(1) The department covers the hearing aid services listed in this chapter, according to department rules and subject to the limitations and requirements in this chapter.

(2) The department pays for hearing aids and services when:

(a) Covered. Refer to WAC 388-547-0400 for covered hearing aids and services for clients twenty-one years of age and older; and refer to WAC 388-547-0800 for covered hearing aids and services for clients twenty years of age and younger;

(b) Within the scope of an eligible client's medical care program;

(c) Medically necessary as defined under WAC 388-500-0005;

(d) Authorized, as required within this chapter, chapters 388-501 and 388-502 WAC, and the department's published billing instructions and numbered memoranda;

(e) Billed according to this chapter, chapters 388-501 and 388-502, and the department's published billing instructions and numbered memoranda; and

(f) The client:

(i) Completes a hearing evaluation, including an audiogram and/or developmentally appropriate diagnostic physiologic test results performed and/or interpreted by a hearing healthcare professional;

(ii) Is referred by a hearing healthcare professional for a hearing aid; and

(iii) For clients twenty-one years of age and older only, has an average degree of hearing loss at forty-five decibels (dBHL) in the better ear based on a pure-tone audiometric evaluation by a licensed audiologist or licensed hearing instrument fitter/dispenser at one thousand, two thousand, three thousand, and four thousand Hertz (Hz) with effective masking as indicated.

(3) The department requires prior authorization for covered hearing aid services when the clinical criteria set forth in this chapter are not met. The department evaluates these requests on a case-by-case basis to determine whether they are medically necessary, according to the process found in WAC 388-501-0165.

NEW SECTION

WAC 388-547-0200 Hearing aids—Definitions. "**Digital hearing aids**" - Hearing aids that use a digital circuit to analyze and process sound.

"**FM systems**" - Devices used to improve and augment access to auditory information in poor acoustic conditions (helps mitigate a negative impact of noise and reverberation on the ability to understand) that are found in classrooms, auditoriums, theaters, restaurants, etc. These devices use frequency modulated (FM) radio signals to transmit the primary auditory signal from a microphone/transmitter to a receiver worn by the person.

"**Hearing aids**" - Wearable sound-amplifying devices that are intended to compensate for hearing loss. Hearing aids are described by where they are worn in the ear as In-the-Ear (ITE), Behind-the-Ear (BTE), etc. Hearing aids can also be described by how they process the amplified signal. This would include analog conventional, analog programmable, digital conventional, and digital programmable.

"**Hearing healthcare professional**" - An audiologist or hearing aid fitter/dispenser licensed under chapter 18.35 RCW, or an otorhinolaryngologist or otologist licensed under chapter 18.71 RCW.

"Maximum allowable fee" - The maximum dollar amount that the department will pay a provider for specific services, supplies and equipment.

"Prior authorization" - A form of authorization used by the provider to obtain approval for a specific hearing aid and service(s). The approval is based on medical necessity and must be received before the service(s) are provided to clients as a precondition for payment.

NEW SECTION

WAC 388-547-0300 Hearing aids—Eligibility—Clients twenty-one years of age and older. (1) Hearing aid services are available to clients twenty one years of age or older covered under:

(a) A categorically needy (CN) medicaid program; or
 (b) General assistance (GAU/ADATSA) (within Washington state and designated border cities.

(2) Clients who are enrolled in a department-contracted managed care plan are eligible under fee-for-service for covered hearing aid services that are not covered by their plan, subject to the provisions of this chapter and other applicable WAC.

NEW SECTION

WAC 388-547-0400 Hearing aids—Covered services—Clients twenty-one years of age and older. The department covers all of the following for eligible clients twenty-one years of age and older, without prior authorization:

(1) One new, nonrefurbished, monaural hearing aid, which includes the ear mold, every five years when the hearing aid meets the client's specific hearing needs and is under warranty for a minimum of one year.

(2) One replacement hearing aid, which includes the ear mold, in a five year period when the client's hearing aid(s) is lost or beyond repair and all warranties are expired.

(3) A replacement ear mold once a year when the client's existing ear mold is damaged or no longer fits the client's ear.

(4) A maximum of two repairs, per hearing aid, per year, when the repair is less than fifty percent of the cost of a new hearing aid. To receive payment, all of the following must be met:

(a) All warranties are expired; and
 (b) The repair is under warranty for a minimum of ninety days.

(5) Rental hearing aid(s) for up to two months while the client's own hearing aid is being repaired. In the case of a rental hearing aid(s), the department pays separately for an ear mold(s).

NEW SECTION

WAC 388-547-0500 Hearing aids—Noncovered services—Clients twenty-one years of age and older. The department does not cover the following hearing and hearing aid-related items for eligible clients twenty-one years of age and older:

- (1) Batteries;
- (2) Tinnitus maskers;

- (3) FM systems; or
- (4) Pocket talkers or similar devices.

NEW SECTION

WAC 388-547-0600 Hearing aids—Prior authorization—Clients twenty-one years of age and older. (1) The department requires prior authorization for binaural hearing aids for eligible clients twenty-one years of age and older.

(2) The department evaluates requests for covered services that are subject to limitations or other restrictions and approves such services beyond those limitations or restrictions as described in WAC 388-501-0169.

(3) To request prior authorization from the department, a provider must fax the prior authorization request to the department using the appropriate fax number listed in published hearing aid services billing instructions.

(4) When the department authorizes hearing aids and/or services, the prior authorization indicates only that the specific service is medically necessary; it is not a guarantee of payment. The client must be eligible for covered services at the time those services are provided.

(5) To receive payment, hearing aids and/or services must be ordered and dispensed within the authorized time-frame.

NEW SECTION

WAC 388-547-0700 Hearing aids—Eligibility—Clients twenty years of age and younger. (1) Clients twenty years of age and younger who are receiving services under any medical assistance program, except for the family planning only program and the TAKE CHARGE program:

(a) Are eligible for covered hearing aids and services under this chapter and for the audiology services under WAC 388-545-0700;

(b) Must have a complete hearing evaluation, including an audiogram and/or developmentally appropriate diagnostic physiologic test results performed by a hearing healthcare professional; and

(c) Must be referred by a licensed audiologist, otorhinolaryngologist or otologist for a hearing aid.

(2) Clients who are enrolled in a department-contracted managed care plan are eligible under fee-for-service for covered hearing aid services that are not covered by their plan, subject to the provisions of this chapter and other applicable WAC.

NEW SECTION

WAC 388-547-0800 Hearing aids—Covered services—Clients twenty years of age and younger. (1) The department covers new, nonrefurbished, monaural or binaural hearing aid(s), which includes the ear mold, for eligible clients twenty years of age and younger. In order for the provider to receive payment, the hearing aid must meet the client's specific hearing needs and be under warranty for a minimum of one year.

(2) The department pays for:

(a) Replacement hearing aid(s), which includes the ear mold, when:

(i) The client's hearing aid(s) are:

- (A) Lost;
 - (B) Beyond repair; or
 - (C) Not sufficient for the client's hearing loss; and
- (ii) All warranties are expired.

(b) Replacement ear mold(s) when the client's existing ear mold is damaged or no longer fits the client's ear.

(c) A maximum of two repairs, per hearing aid, per year, when the repair is less than fifty percent of the cost of a new hearing aid. To receive payment, all of the following must be met:

- (i) All warranties are expired; and
- (ii) The repair is under warranty for a minimum of ninety days.

(d) A rental hearing aid(s) for up to two months while the client's own hearing aid is being repaired. In the case of a rental hearing aid(s), the department pays separately for an ear mold(s).

NEW SECTION

WAC 388-547-0900 Hearing aids—Noncovered services—Clients twenty years of age and younger. (1) The department does not cover the following hearing and hearing aid-related items and services for clients twenty years of age and younger:

- (a) Batteries or tinnitus maskers;
- (b) Group screenings for hearing loss, except as provided under the early and periodic screening, diagnosis and treatment (EPSDT) program under WAC 388-534-0100; or
- (c) Computer-aided hearing devices for FM systems used in school.

(2) When EPSDT applies, the department evaluates a noncovered service, equipment, or supply according to the process in WAC 388-501-0165 to determine if it is medically necessary, safe, effective, and not experimental (see WAC 388-534-0100 for EPSDT rules).

NEW SECTION

WAC 388-547-1000 Hearing aids—Prior authorization—Clients twenty years of age and younger. (1) Prior authorization is not required for clients twenty years of age and under for hearing aid(s) and services. Providers should send claims for clients twenty years of age and younger directly to the department. Providers do not have to obtain authorization from the local children with special health care needs (CSHCN) coordinator.

(2) The department evaluates requests for covered services that are subject to limitations or other restrictions and approves such services beyond those limitations or restrictions as described in WAC 388-501-0169.

NEW SECTION

WAC 388-547-1100 Hearing aids—Reimbursement—General. (1) The department's payment for purchased hearing aids includes:

- (a) A prefitting evaluation;
- (b) An ear mold; and
- (c) A minimum of three post-fitting consultations.

(2) The department denies payment for hearing aids and/or services when claims are submitted without the prior authorization number, when required, or the appropriate diagnosis or procedure code(s).

(3) The department does not pay for hearing aid charges paid by insurance or other payer source.

(4) To receive payment, the provider must keep documentation in the client's medical file to support the medical necessity for the specific make and model of the hearing aid ordered for the client. This documentation must include the record of the audiology testing providing evidence that the client's hearing loss meets the eligibility criteria for a hearing aid.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-544-1010	Definitions.
WAC 388-544-1100	Hearing aid services—General.
WAC 388-544-1200	Hearing aid services—For adults.
WAC 388-544-1300	Hearing aid services—For children.
WAC 388-544-1400	Hearing aid services—Non-covered services.

**WSR 09-12-056
PERMANENT RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD**

[Filed May 28, 2009, 11:35 a.m., effective June 28, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 181-79A-211 (3)(b)(ii), removes classroom experience requirement for program administrators.

Citation of Existing Rules Affected by this Order: Amending X [WAC 181-79A-211].

Statutory Authority for Adoption: RCW 28A.410.210.

Adopted under notice filed as WSR 09-03-072 on January 15, 2009.

A final cost-benefit analysis is available by contacting David Brenna, 600 Washington Street South, Room 252, Olympia, WA 98504-7236, phone (360) 725-6238, fax (360) 586-4548, e-mail david.brenna@k12.wa.us.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 18, 2009.

David Brenna
Legislative and
Policy Coordinator

AMENDATORY SECTION (Amending WSR 08-15-141, filed 7/22/08, effective 8/22/08)

WAC 181-79A-211 Academic and experience requirements for certification—Administrators. Candidates for the respective administrative certificate shall complete the following requirements in addition to those set forth in WAC 181-79A-150 and 181-79A-213.

(1) Superintendent.

(a) Initial.

(i) The candidate shall hold an approved master's degree and have completed subsequent to the baccalaureate degree at least forty-five quarter credit hours (thirty semester credit hours) of graduate level course work in education.

(ii) The candidate must meet requirements for a superintendent's certificate pursuant to WAC 181-79A-150(4).

(b) Continuing.

(i) The candidate shall hold an approved master's degree and have completed subsequent to the baccalaureate degree at least sixty quarter credit hours (forty semester credit hours) of graduate level course work in education or shall hold a doctorate in education.

(ii) The candidate must meet requirements for a superintendent's certificate pursuant to WAC 181-79A-150(4).

(iii) Candidates applying for continuing superintendent's certificate shall provide documentation of one hundred eighty days or full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(2) Principal.

(a) Initial.

(i) The candidate shall hold an approved master's degree and have completed an approved program for the preparation of principals.

(ii) The candidate shall have documented successful school-based experience in an instructional role with students.

(b) Residency.

(i) The candidate shall hold an approved master's degree and have completed an approved program for the preparation of principals.

(ii) The candidate shall have documented successful school-based experience in an instructional role with students.

(c) Continuing.

(i) The candidate who holds a valid initial principal's certificate issued prior to August 31, 1998, shall hold an approved master's degree and completed subsequent to the baccalaureate degree at least forty-five hours (thirty semester hours) of graduate level course work in education or shall hold a doctorate in education.

(ii) The candidate who applies on or after August 31, 1998, shall hold a valid initial principal's certificate, an approved master's degree and shall have completed at least fifteen quarter (ten semester) credit hours of graduate course work offered by a college or university with a state approved principal program or one hundred fifty clock hours of study, which meet the state continuing education clock hour criteria pursuant to chapter 181-85 WAC, or a combination of credits and clock hours equivalent to the above. Such study shall:

(A) Be based on the principal performance domains included in WAC 181-78A-270 (2)(a) or (b);

(B) Be taken subsequent to the issuance of the initial principal's certificate; and

(C) Be determined in consultation with and approved by the candidate's employer or the administrator of a state approved principal preparation program.

(iii) Provided, That a candidate who held a valid initial principal's certificate on August 31, 1998, may meet the academic requirement for the continuing certificate described in WAC 181-79A-211 (2)(c)(i), if the candidate meets requirements for and applies for the continuing certificate by the expiration date on that initial certificate.

(iv) The candidate must meet requirements for a principal's certificate pursuant to WAC 181-79A-150(4).

(v) Candidates applying for continuing principal's certificate shall provide documentation of one hundred eighty days or full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer. Candidates applying for the continuing principal's certificate on or after August 31, 1998, shall provide documentation of three contracted school years of full-time employment as a principal or assistant principal.

(vi) Provided, That a candidate who held a valid initial principal's certificate on August 31, 1998, may meet the one hundred-eighty day experience requirement described in WAC 181-79A-211 (2)(c)(v), if that candidate meets requirements and applies for the continuing certificate by the expiration date on that initial certificate.

(d) Professional certificate.

(i) The candidate shall have completed an approved professional certificate program.

(ii) The candidate shall have documentation of three contracted school years of employment as a principal or assistant principal.

(3) Program administrator.

(a) Initial.

(i) The candidate shall hold an approved master's degree and have completed subsequent to the baccalaureate degree at least twenty-four quarter credit hours (sixteen semester credit hours) of graduate level course work in education.

(b) Residency certificate.

((+)) The candidate shall hold an approved master's degree and have completed an approved program for the preparation of program administrators.

~~((ii) The candidate shall have documented successful school-based experience in an instructional role with students.))~~

(c) Continuing.

(i) The candidate shall hold a valid initial program administrator's certificate, an approved master's degree and have completed subsequent to the baccalaureate degree at least thirty quarter credit hours (twenty semester credit hours) of graduate level course work in education or shall hold a doctorate in education.

(ii) Candidates applying for continuing program administrator's certificate shall provide documentation of one hundred eighty days or full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(d) Professional certificate.

The candidate shall have completed an approved professional certificate program.

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 18, 2009.

David Brenna
Legislative and
Policy Coordinator

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

WAC 181-82A-204 Endorsement requirements. (1) Candidates completing endorsements required to obtain a residency certificate, shall complete college/university teacher preparation programs approved by the professional educator standards board pursuant to chapter 181-78A WAC, which include methodology (see WAC 181-78A-264(5)) and field experience/internship (see WAC 181-78A-264(6)) and pursuant to endorsement program approval requirements in this chapter.

(2) In order to add an additional endorsement, the candidate shall:

(a) Have completed a state-approved endorsement program which includes methodology (see WAC 181-78A-264(5)) and addresses all endorsement-specific competencies adopted by the professional educator standards board and published by the superintendent of public instruction. The requirement for field experience shall be at the discretion of the college/university. Provided, that in cases where programs require a field experience/internship, the colleges/universities should make every attempt to allow the individual to complete field-based requirements for the endorsement within the confines of the individual's teaching schedule; or

(b) Achieve National Board certification in a Washington teaching endorsement area and hold a valid National Board certificate; or

(c) Pass the subject knowledge test approved by the professional educator standards board for the certificate endorsement being sought. The instructional methodology and content-related skills of the desired subject endorsement must be compatible with one or more of the current endorsement(s) on the applicant's teacher certificate, per the list of Pathway 1 endorsements adopted by the professional educator standards board and published by the superintendent of public instruction. The applicant must document a minimum of ninety days teaching experience as a contracted teacher via full-time, part-time, or substitute experience, in a public or state approved private school, or state agency providing educational services for students, in the endorsement area that is compatible in instructional methodology and content-related skills to the Pathway 1 endorsement; or

(d)(i) Pass the subject knowledge test approved by the professional educator standards board for the certificate endorsement being sought and successfully meet all eligibility criteria and process requirements for Pathway 2 endorsements as adopted by the professional educator standards board and published by the superintendent of public instruction. The desired subject endorsement must be identified as a Pathway 2 endorsement for one or more of the current endorsement(s) on the applicant's teacher certificate, per the list of Pathway 2 endorsements adopted by the professional

WSR 09-12-057

PERMANENT RULES

PROFESSIONAL EDUCATOR STANDARDS BOARD

[Filed May 28, 2009, 11:46 a.m., effective June 28, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 181-82A-204, clarifies teaching experience requirements for applicants in Pathway 1 & 2 who are seeking additional endorsements.

Citation of Existing Rules Affected by this Order: Amending X [WAC 181-82A-204].

Statutory Authority for Adoption: RCW 28A.410.210.

Adopted under notice filed as WSR 09-03-071 on January 15, 2009.

A final cost-benefit analysis is available by contacting David Brenna, 600 Washington Street South, Room 252, Olympia, WA 98504-7236, phone (360) 725-6238, fax (360) 586-4548, e-mail david.brenna@k12.wa.us.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Mak-

educator standards board and published by the superintendent of public instruction. The applicant must document a minimum of ninety days teaching experience as a contracted teacher via full-time, part-time, or substitute experience, in a public or state approved private school, or state agency providing educational services for students, in the endorsement area that is compatible in instructional methodology and content-related skills to the Pathway 2 endorsement.

(ii) Teacher preparation programs that offer Pathway 2 endorsement programs shall follow process steps as adopted by the professional educator standards board and published by the superintendent of public instruction to verify successful completion of the Pathway 2 process and to recommend adding the endorsement to the applicant's teacher certificate.

(3) Candidates from out-of-state shall be required to present verification that they completed a state-approved program (equivalent to a major) in a Washington endorsement area.

(4) Course work used to meet endorsement requirements must be completed through a regionally accredited college/university.

(5) Only course work in which an individual received a grade of C (2.0) or higher or a grade of pass on a pass-fail system of grading shall be counted toward the course work required for the approved endorsement program.

(6) Nothing within this chapter precludes a college or university from adopting additional requirements as conditions for recommendation, by such college or university, to the superintendent of public instruction for a particular subject area endorsement.

WSR 09-12-058

PERMANENT RULES DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed May 28, 2009, 1:14 p.m., effective July 1, 2009]

Effective Date of Rule: July 1, 2009.

Purpose: DSHS is amending WAC 388-513-1350 as follows:

- Increasing the state spousal resource maximum from \$45,104, based on RCW 74.09.575. The maximum resource allowance amount for the community spouse shall be adjusted by the consumer price index every other odd year on July 1, and will be effective July 1, 2009. DSHS will continue to point to the internet long-term care standards chart for current resource standards starting July 1, 2009, and every odd year thereafter at <http://www.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCstandardspna.shtml>.

- Updating the federal maximum community spouse resource standard to \$109,500, effective January 1, 2009. This standard increases annually on January 1 based on the consumer price index. DSHS will continue to point to the internet long-term care standards chart for current resource standards starting January 1, 2009, and each year thereafter at <http://www.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCstandardspna.shtml>.

Citation of Existing Rules Affected by this Order:
Amending WAC 388-513-1350.

Statutory Authority for Adoption: RCW 74.04.050, 74.-04.057, 74.08.090, 74.09.500, 74.09.530, 74.09.575.

Adopted under notice filed as WSR 09-09-119 on April 22, 2009.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: May 27, 2009.

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-13-072, filed 6/16/08, effective 7/17/08)

WAC 388-513-1350 Defining the resource standard and determining resource eligibility for long-term care (LTC) services. This section describes how the department defines the resource standard and countable or excluded resources when determining a client's eligibility for LTC services. The department uses the term "resource standard" to describe the maximum amount of resources a client can have and still be resource eligible for program benefits.

(1) The resource standard used to determine eligibility for LTC services equals:

(a) Two thousand dollars for:

(i) A single client; or

(ii) A legally married client with a community spouse, subject to the provisions described in subsections (8) through (11) of this section; or

(b) Three thousand dollars for a legally married couple, unless subsection (3) of this section applies.

(2) When both spouses apply for LTC services the department considers the resources of both spouses as available to each other through the month in which the spouses stopped living together.

(3) When both spouses are institutionalized, the department will determine the eligibility of each spouse as a single client the month following the month of separation.

(4) If the department has already established eligibility and authorized services for one spouse, and the community spouse needs LTC services in the same month, (but after eligibility has been established and services authorized for the institutional spouse), then the department applies the standard described in subsection (1)(a) of this section to each spouse. If doing this would make one of the spouses ineligi-

ble, then the department applies (1)(b) of this section for a couple.

(5) When a single institutionalized individual marries, the department will redetermine eligibility applying the rules for a legally married couple.

(6) The department applies the following rules when determining available resources for LTC services:

(a) WAC 388-475-0300, Resource eligibility;

(b) WAC 388-475-0250, How to determine who owns a resource; and

(c) WAC 388-470-0060(6), Resources of an alien's sponsor.

(7) For LTC services the department determines a client's countable resources as follows:

(a) The department determines countable resources for SSI-related clients as described in WAC 388-475-0350 through 388-475-0550 and resources excluded by federal law with the exception of:

(i) WAC 388-475-0550(16);

(ii) WAC 388-475-0350 (1)(b) clients who have submitted an application for LTC services on or after May 1, 2006 and have an equity interest greater than five hundred thousand dollars in their primary residence are ineligible for LTC services. This exception does not apply if a spouse or blind, disabled or dependent child under age twenty-one is lawfully residing in the primary residence. Clients denied or terminated LTC services due to excess home equity may apply for an undue hardship waiver described in WAC 388-513-1367.

(b) For an SSI-related client one automobile per household is excluded regardless of value if it is used for transportation of the eligible individual/couple.

(i) For an SSI-related client with a community spouse, the value of one automobile is excluded regardless of its use or value.

(ii) A vehicle not meeting the definition of automobile is a vehicle that has been junked or a vehicle that is used only as a recreational vehicle.

(c) For an SSI-related client, the department adds together the countable resources of both spouses if subsections (2), (5) and (8)(a) or (b) apply, but not if subsection (3) or (4) apply.

(d) For an SSI-related client, excess resources are reduced:

(i) In an amount equal to incurred medical expenses such as:

(A) Premiums, deductibles, and coinsurance/copayment charges for health insurance and medicare;

(B) Necessary medical care recognized under state law, but not covered under the state's medicaid plan;

(C) Necessary medical care covered under the state's medicaid plan incurred prior to medicaid eligibility.

(ii) As long as the incurred medical expenses:

(A) Are not subject to third-party payment or reimbursement;

(B) Have not been used to satisfy a previous spend down liability;

(C) Have not previously been used to reduce excess resources;

(D) Have not been used to reduce client responsibility toward cost of care;

(E) Were not incurred during a transfer of asset penalty described in WAC 388-513-1363, 388-513-1364, 388-513-1365 and 388-513-1366; and

(F) Are amounts for which the client remains liable.

(e) Expenses not allowed to reduce excess resources or participation in personal care:

(i) Unpaid expense(s) prior to waiver eligibility to an adult family home (AFH) or boarding home is not a medical expense.

(ii) Personal care cost in excess of approved hours determined by the CARE assessment described in chapter 388-106 WAC is not a medical expense.

(f) The amount of excess resources is limited to the following amounts:

(i) For LTC services provided under the categorically needy (CN) program:

(A) Gross income must be at or below the special income level (SIL), 300% of the federal benefit rate (FBR).

(B) In a medical institution, excess resources and income must be under the state medicaid rate.

(C) For CN waiver eligibility, incurred medical expenses must reduce resources within allowable resource limits for CN-waiver eligibility. The cost of care for the waiver services cannot be allowed as a projected expense.

(ii) For LTC services provided under the medically needy (MN) program when excess resources are added to nonexcluded income, the combined total is less than the:

(A) Private medical institution rate plus the amount of recurring medical expenses for institutional services; or

(B) Private hospice rate plus the amount of recurring medical expenses, for hospice services in a medical institution.

(C) For MN waiver eligibility, incurred medical expenses must reduce resources within allowable resource limits for MN-waiver eligibility. The cost of care for the waiver services cannot be allowed as a projected expense.

(g) For a client not related to SSI, the department applies the resource rules of the program used to relate the client to medical eligibility.

(8) For legally married clients when only one spouse meets institutional status, the following rules apply. If the client's current period of institutional status began:

(a) Before October 1, 1989, the department adds together one-half the total amount of countable resources held in the name of:

(i) The institutionalized spouse; or

(ii) Both spouses.

(b) On or after October 1, 1989, the department adds together the total amount of nonexcluded resources held in the name of:

(i) Either spouse; or

(ii) Both spouses.

(9) If subsection (8)(b) of this section applies, the department determines the amount of resources that are allocated to the community spouse before determining countable resources used to establish eligibility for the institutionalized spouse, as follows:

(a) If the client's current period of institutional status began on or after October 1, 1989 and before August 1, 2003, the department allocates the maximum amount of resources

ordinarily allowed by law. Effective January 1, ~~((2008))~~ 2009, the maximum allocation is one hundred and ~~((four))~~ nine thousand ~~((four))~~ five hundred and sixty dollars. This standard increases annually on January 1st based on the consumer price index. (For the current standard starting January ~~((2008))~~ 2009 and each year thereafter, see long-term care standards at <http://www1.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCstandardspna.shtml>); or

(b) If the client's current period of institutional status began on or after August 1, 2003, the department allocates the greater of:

(i) A spousal share equal to one-half of the couple's combined countable resources as of the beginning of the current period of institutional status, up to the amount described in subsection (9)(a) of this section; or

(ii) The state spousal resource standard of forty-five thousand one hundred four dollars effective July 1, 2007 through June 30, 2009. Effective July 1, 2009 this standard increases to forty-eight thousand six hundred thirty-nine dollars (this standard increases every odd year on July 1st). This increase is based on the consumer price index published by the federal bureau of labor statistics. For the current standard starting July ~~((2007))~~ 2009 and each year thereafter, see long-term care standards at <http://www1.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCstandardspna.shtml>.

(10) The amount of the spousal share described in (9)(b)(i) can be determined anytime between the date that the current period of institutional status began and the date that eligibility for LTC services is determined. The following rules apply to the determination of the spousal share:

(a) Prior to an application for LTC services, the couple's combined countable resources are evaluated from the date of the current period of institutional status at the request of either member of the couple. The determination of the spousal share is completed when necessary documentation and/or verification is provided; or

(b) The determination of the spousal share is completed as part of the application for LTC services if the client was institutionalized prior to the month of application, and declares the spousal share exceeds the state spousal resource standard. The client is required to provide verification of the couple's combined countable resources held at the beginning of the current period of institutional status.

(11) The amount of allocated resources described in subsection (9) of this section can be increased, only if:

(a) A court transfers additional resources to the community spouse; or

(b) An administrative law judge establishes in a fair hearing described in chapter 388-02 WAC, that the amount is inadequate to provide a minimum monthly maintenance needs amount for the community spouse.

(12) The department considers resources of the community spouse unavailable to the institutionalized spouse the month after eligibility for LTC services is established, unless subsection (5) or (13)(a), (b), or (c) of this section applies.

(13) A redetermination of the couple's resources as described in subsection (7) is required, if:

(a) The institutionalized spouse has a break of at least thirty consecutive days in a period of institutional status;

(b) The institutionalized spouse's countable resources exceed the standard described in subsection (1)(a), if subsection (8)(b) applies; or

(c) The institutionalized spouse does not transfer the amount described in subsections (9) or (11) to the community spouse or to another person for the sole benefit of the community spouse as described in WAC 388-513-1365(4) by either:

(i) The first regularly scheduled eligibility review; or

(ii) The reasonable amount of additional time necessary to obtain a court order for the support of the community spouse.

WSR 09-12-062

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Health and Recovery Services Administration)

[Filed May 28, 2009, 2:48 p.m., effective July 1, 2009]

Effective Date of Rule: July 1, 2009.

Purpose: In accordance with sections 201 and 209 of the operating budget for fiscal years 2010 and 2011, the department will be adjusting its payment rates for inpatient and outpatient hospital services. The department is amending language in sections in chapter 388-550 WAC and adding a new section in order to meet the legislature's targeted budget expenditure levels. Changes include: Adding language that the department may change the method for calculating the outpatient prospective payment system (OPPS) payments to achieve the legislature's targeted expenditure levels; adding language that incorporates into rule which hospitals are no longer exempted from the OPPS payment method and that the department pays all covered outpatient hospital services, except for those provided in critical access hospitals (CAHs), under the OPPS methodology; and implementing a prorated inpatient payment policy when a facility transfers a client to another facility under certain circumstances. The rules also remove "neonatal" from the list of diagnostic related group (DRG) service categories for claims that group to a medical, surgical, or burn DRG category, remove "prepay" from "retrospective prepay utilization review," and clarify that the department may perform these reviews. In addition, the rules eliminate outdated information, and update and clarify language, including removing language for "administrative day rate and swing bed rate" from WAC 388-550-4500 and placing it into a new section.

Citation of Existing Rules Affected by this Order: Amending WAC 388-550-3600, 388-550-3700, 388-550-4500, 388-550-4550, 388-550-7050, 388-550-7100, 388-550-7450, 388-550-7500, and 388-550-7600.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500.

Other Authority: 2009-11 Omnibus Operating Budget (ESHB 1244).

Adopted under notice filed as WSR 09-08-118 on March 31, 2009.

A final cost-benefit analysis is available by contacting Carolyn Adams, P.O. Box 45510, Olympia, WA 98504-5510, phone (360) 725-1854, fax (360) 753-9152, e-mail adamscr@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 7, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 7, Repealed 0.

Date Adopted: May 28, 2009.

Susan N. Dreyfus
Secretary

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 09-13 issue of the Register.

WSR 09-12-063

PERMANENT RULES DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Health and Recovery Services Administration)

[Filed May 28, 2009, 2:50 p.m., effective July 1, 2009]

Effective Date of Rule: July 1, 2009.

Purpose: In accordance with sections 201 and 209 of the operating budget for fiscal years 2010 and 2011, the department will be adjusting its payment rates. The department is amending language in sections in chapter 388-550 WAC and WAC 388-502-0150 in order to meet the legislature's targeted budget expenditure levels for payment of hospital and hospital-related services provided to medical assistance clients. Changes include adding language to equalize rates paid for child birth, incorporating a prorated inpatient payment policy, adjusting rates to meet targeted inpatient and outpatient reductions, reducing the total period allowed for resubmission or modification of a claim other than a prescription drug or major trauma claim, incorporating into rule how per diem rates are determined for chronic pain services, and clarifying that WAC 388-550-4000 applies to both emergency and nonemergency services provided by out-of-state hospitals. In addition, the rules eliminate outdated information, and update and clarify language.

Citation of Existing Rules Affected by this Order: Amending WAC 388-502-0150, 388-550-2800, 388-550-3000, 388-550-3010, 388-550-3020, 388-550-3460, 388-550-3900, and 388-550-4000.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090 and 74.09.500.

Other Authority: 2009-11 Omnibus Operating Budget (ESHB 1244).

Adopted under notice filed as WSR 09-08-117 on March 31, 2009.

A final cost-benefit analysis is available by contacting Carolyn Adams, P.O. Box 45510, Olympia, WA 98504-5510, phone (360) 725-1854, fax (360) 753-9152, e-mail adamscr@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 8, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 8, Repealed 0.

Date Adopted: May 28, 2009.

Susan N. Dreyfus
Secretary

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 09-13 issue of the Register.

WSR 09-12-064

PERMANENT RULES PUGET SOUND

CLEAN AIR AGENCY

[Filed May 28, 2009, 4:59 p.m., effective July 1, 2009]

Effective Date of Rule: July 1, 2009.

Purpose: To update the asbestos provisions for fire department training. This amendment requires that the asbestos survey and the agency notification be kept on-site during the training exercises rather than be submitted to the agency.

Citation of Existing Rules Affected by this Order: Amending Regulation I, Section 8.08.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 09-09-062 on April 13, 2009.

Changes Other than Editing from Proposed to Adopted Version: In order to clarify the proposed amendment, "asbestos" was changed to "asbestos-containing material," and a reference to Regulation III, Section 4.04 was added.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 28, 2009.

Dennis J. McLerran
Executive Director

AMENDATORY SECTION

REGULATION I: SECTION 8.08 FIRE DEPARTMENT TRAINING EXERCISES

(a) **Applicability.** This section applies to structural fires set by fire departments, fire marshals, vocational schools, or fire districts for training fire fighters under realistic conditions.

(b) **General Requirements.** Fire departments, fire marshals, vocational schools, or fire districts may conduct structural fire training provided all of the following requirements are met:

(1) The fire training shall not occur during any stage of an air pollution episode or period of impaired air quality;

(2) ~~((Before the training begins, the fire department, fire marshal, vocational school, or fire district conducting the training fire must have submitted to the Agency a copy of the asbestos survey for the structure, and a completed Agency Asbestos/Demolition Notification form indicating all asbestos has been removed from the structure prior to training;))~~
All asbestos-containing material shall be removed from the structure prior to demolition/training in accordance with Regulation III, Section 4.04 and copies of the asbestos AHERA survey and Agency notification shall be kept on-site during the demolition/training exercise;

(3) The fire department, fire marshal, vocational school, or fire district conducting the fire training must have a fire-training plan available to the Agency upon request, and the purpose of the structural fire must be to train fire fighters;

(4) Composition roofing, asphalt roofing shingles, asphalt siding materials, miscellaneous debris from inside the structure, carpet, linoleum, and floor tile must not be burned. These materials must be lawfully removed from the structure and disposed of in a lawful manner prior to the training exercise;

(5) Nuisance complaints or citizen inquiries relating to any training fire shall be resolved by the fire departments, fire marshals, vocational schools, or fire districts conducting the training fire; and

(6) The fire departments, fire marshals, vocational schools, or fire districts conducting the training fire shall obtain any permits, licenses, or other approvals required by any entity for such training fires. All permits, licenses, and approvals must be kept on-site and available for inspection.

WSR 09-12-067

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed May 29, 2009, 9:51 a.m., effective June 29, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Replace chapter 308-390 WAC with new chapter 308-391 WAC:

- To align rules with the model rules adopted by the International Association of Commercial Administrators.
- To simplify the public's ability to discover and understand the UCC filing and search procedures.
- To reflect technological enhancements made to the UCC Information Management System.

Citation of Existing Rules Affected by this Order: Repealing chapter 308-390 WAC.

Statutory Authority for Adoption: RCW 62A.9A-526.

Other Authority: Chapters 60.68, 60.13, 9A.82 RCW.

Adopted under notice filed as WSR 09-09-029 on April 6, 2009.

Changes Other than Editing from Proposed to Adopted Version: Clarified WAC 308-391-202(3) by replacing the word "record" with "financing statement form."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 45, Amended 0, Repealed 44.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 29, 2009.

Nancy Skewis
Administrator

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 308-390-100	General provisions.
WAC 308-390-101	Definitions.
WAC 308-390-102	UCC record delivery and time of filing.
WAC 308-390-103	Search request delivery.
WAC 308-390-104	Forms.
WAC 308-390-105	Fees.
WAC 308-390-106	Expedited services.

WAC 308-390-107	Methods of payment.	WAC 308-390-505	Transition.
WAC 308-390-108	Overpayment and underpayment policies.	WAC 308-390-600	Other lien notices.
WAC 308-390-109	Bulk records.	WAC 308-390-601	Agricultural liens.
WAC 308-390-201	Multiple names.	WAC 308-390-602	Processor lien or preparer.
WAC 308-390-202	Deadline for filing a continuation statement.	WAC 308-390-603	Notice of liens in favor of a governmental body.
WAC 308-390-203	Acknowledgment.	Chapter 308-391 WAC	
WAC 308-390-204	Grounds for refusal.	UNIFORM COMMERCIAL CODE, ARTICLE 9	
WAC 308-390-300	UCC information management system.	SECTION 1 - GENERAL PROVISIONS	
WAC 308-390-301	Primary data elements.	<u>NEW SECTION</u>	
WAC 308-390-302	Names of debtors who are individuals.	WAC 308-391-100 Definitions. Terms used in these filing office rules but not defined below shall have the same meanings as those terms in chapter 62A.9A RCW.	
WAC 308-390-303	Names of debtors that are organizations.	(1) "Active record" means a UCC record that has been stored in the UCC information management system and indexed in, but not yet removed from, the searchable indexes.	
WAC 308-390-304	Estates.	(2) "Address" means information provided as an address on a UCC record as long as it includes at least a city and a state or foreign country.	
WAC 308-390-305	Trusts.	(3) "Amendment" means a UCC record that amends the information contained in a financing statement. Amendments include assignments, continuations and terminations.	
WAC 308-390-306	Initial financing statement.	(4) "Assignment" is an amendment that assigns all or a part of a secured party's power to authorize an amendment to a financing statement.	
WAC 308-390-307	Amendment.	(5) "Correction statement" means a UCC record that indicates a financing statement is inaccurate or wrongfully filed.	
WAC 308-390-308	Assignment of powers of secured party of record.	(6) "Filing office" and "filing officer" mean the director of the department of licensing or designee.	
WAC 308-390-309	Status of parties upon filing a continuation.	(7) "Filing officer statement" means a statement entered into the filing office's information system to correct an error made by the filing office.	
WAC 308-390-310	Status of parties upon filing a termination.	(8) "Initial financing statement" means a UCC record that causes the filing office to establish the initial record of filing of a financing statement.	
WAC 308-390-311	Correction statement.	(9) "Remitter" means a person who submits a UCC record and payment to the filing office for filing, whether the person is a filer or an agent of a filer responsible for submitting the record for filing. "Remitter" does not include a person responsible merely for the delivery of the record to the filing office, such as the postal service or a courier service but does include a service provider who acts as a filer's representative in the filing process.	
WAC 308-390-312	Procedure upon lapse.	(10) "Searchable indexes" means the searchable index of individual debtor names and the searchable index of organization debtor names maintained in the UCC information management system.	
WAC 308-390-313	XML records.	(11) "Secured party of record" includes a secured party of record as defined in the UCC as well as the person who has been a secured party of record and an amendment has been filed to delete that person as a secured party of record.	
WAC 308-390-314	EDI documents.		
WAC 308-390-315	Direct on-line (non-XML) filing and search procedures.		
WAC 308-390-400	Filing and data entry procedures.		
WAC 308-390-401	Errors of the filing officer.		
WAC 308-390-402	Notice of bankruptcy.		
WAC 308-390-403	Data entry of names.		
WAC 308-390-500	Search requests and reports.		
WAC 308-390-501	Search requests.		
WAC 308-390-502	Rules applied to search requests.		
WAC 308-390-503	Optional information.		
WAC 308-390-504	Search responses.		

(12) "UCC" means the Uniform Commercial Code as adopted in this state under chapter 62A.9A RCW.

(13) "UCC information management system" means the information management system used by the filing office to store, index, and retrieve information relating to financing statements and liens as described in these filing office rules.

(14) "UCC record" means an initial financing statement, an amendment, an assignment, a continuation statement, a termination statement, a filing officer statement, or a correction statement, and includes a record maintained by the filing office. The term does not refer exclusively to paper or paper-based writings.

(15) "Unlapsed record" means a UCC record that has been stored and indexed in the UCC information management system, which has not yet lapsed under RCW 62A.9A-515 with respect to all secured parties of record.

NEW SECTION

WAC 308-391-101 Methods to deliver UCC records—Time of filing. UCC records may be tendered for filing at the filing office as follows:

(1) Personal delivery at the filing office's street address. Delivery is accepted between 8:00 a.m. and 5:00 p.m. Monday through Friday except state holidays. The file time for a UCC record delivered by this method is when the UCC record is first examined by a filing officer for processing, even though the UCC record may not yet have been accepted for filing and subsequently may be rejected.

(2) Courier delivery at the filing office's street address. Delivery by courier is considered personal delivery under subsection (1) of this section and the same rules apply.

(3) Postal service delivery to the filing office's mailing address. The file time for a UCC record delivered by this method is when the UCC record is first examined by a filing officer for processing, even though the UCC record may not yet have been accepted for filing and subsequently may be rejected.

(4) Electronic mail and telefacsimile delivery are not accepted.

(5) Electronic filing. UCC records may be transmitted electronically using the XML format prescribed by the filing office. The time of filing of a UCC record delivered by this method is the time the filing office's information management system determines that all the required elements of the transmission have been received in the required format.

(6) Direct web page data entry. UCC records may be delivered by on-line data entry using the filing office's web site on the internet. The file time for a UCC record delivered by this method is the time the entry of all required elements of the UCC record in the proper format is acknowledged by the on-line entry system.

(7) Means of communication. Regardless of the method of delivery, information in UCC records communicated to the filing office must be machine readable and only in the form of characters included in the American National Standards Institute (ANSI) character set 0-255. Handwriting is not an acceptable means of completing any UCC form.

(8) Transmitting utility. The only means to indicate to the filing office that an initial financing statement is being

filed against a debtor that is a transmitting utility, in order to affect the filing office's determination of lapse date, is to check the appropriate box on a UCC1 Addendum filed with the initial financing statement or by transmitting the information in the proper field in an electronic filing of the initial financing statement.

NEW SECTION

WAC 308-391-102 Search request delivery. UCC search requests may be delivered to the filing office by any of the means by which UCC records may be delivered to the filing office. A search request for a debtor named on an initial financing statement may be made on the initial financing statement if the initial financing statement is accepted for filing and the search fee is also tendered.

NEW SECTION

WAC 308-391-103 Forms. The filing office accepts only the forms prescribed by RCW 62A.9A-521, and paper-based forms approved by the International Association of Commercial Administrators, and forms otherwise approved by the filing office. Forms approved by the filing office are available on the UCC web site.

NEW SECTION

WAC 308-391-104 Fees. (1) The nonrefundable processing fee for filing and indexing a UCC record is:

FILINGS	DELIVERY MODE	FEE INCLUDING SURCHARGE
Financing Statement	electronic	\$11.00
Financing Statement Amendment	electronic	\$11.00
UCC1 Financing Statement (1 or 2 pages)	mail	\$23.00
UCC3 Financing Statement Amendment (1 or 2 pages)	mail	\$23.00
UCC5 Correction Statement (1 or 2 pages)	mail	\$23.00
Attachment	mail and electronic	\$1.00 each page

(2) UCC search fee. The nonrefundable fee for processing a UCC search request is:

SEARCH TYPE	DELIVERY MODE	FEE
Search by debtor name	electronic	No charge
Search by file number	electronic	No charge

SEARCH TYPE	DELIVERY MODE	FEE
Debtor name search with copies	electronic	\$15.00
Search held to reflect the filing	electronic	\$10.00/debtor name
UCC11 Search response	mail	\$10.00
UCC11 Search response with copies	mail	\$15.00
Search held to reflect the filing (UCC1 box 7)	mail	\$10.00/debtor name

(3) The fees for purchase of bulk data are:

BULK DATA	DELIVERY MODE	FEE
Full text	electronic	\$500
Text plus images	electronic	\$1,000
Weekly updates	electronic	\$150

NEW SECTION

WAC 308-391-105 Expedited services. Expedited services are not provided.

NEW SECTION

WAC 308-391-106 Methods of payment. Filing fees and search fees may be paid by the following methods:

(1) Cash. Payment in cash is accepted if paid in person at the filing office.

(2) Checks. Personal checks, cashier's checks, and money orders made payable to the filing office are accepted for payment provided that the drawer (or the issuer in the case of a cashier's check or money order) is deemed creditworthy by the filing office in its discretion. Checks may be made payable in an amount to be filled in by the filing office if the filing office is clearly authorized to fill in the amount.

(3) Electronic funds transfer. The filing office may accept payment via electronic funds transfer under National Automated Clearing House Association (NACHA) rules from remitters who have entered into appropriate NACHA-approved arrangements for electronic transfers with the UCC filing office and who authorize the relevant transfer under those arrangements and rules.

(4) Credit cards. The filing office accepts payment by credit cards issued by approved issuers. Remitters must provide the card number, the expiration date of the card, the name of the card issuer, the name of the person or entity to whom the card was issued, the billing address for the card, and any other information required by the filing office to complete the transaction. Payment will not be deemed tendered until the issuer or its agent has confirmed payment. This method of payment is accepted for on-line services only.

(5) The filing office accepts payment for bulk data by check or electronic funds transfer, except weekly updates which must be paid by electronic funds transfer.

NEW SECTION

WAC 308-391-107 Overpayment and underpayment policies. (1) Overpayment. The filing office refunds the amount of an overpayment exceeding \$9.99 to the remitter. The filing office refunds an overpayment of \$9.99 or less only upon the written request of the remitter. The refund is mailed to the name and address provided in box B within thirty days under separate cover.

(2) Underpayment. Upon receipt of a UCC record or search request with an insufficient payment, the filing office returns a copy of the request to the name and address provided in box B. The processing fees paid under WAC 308-391-104 are not refundable and the remitter must submit a new payment.

NEW SECTION

WAC 308-391-108 Public bulk records services. Records filed at the UCC office are available in bulk electronic format to any member of the public on a nondiscriminatory basis. A reimbursable services agreement between the purchaser and the department must be established prior to purchase.

(1) Full text data. The data elements of all active records may be purchased monthly.

(2) Image data. Images of those records filed on paper since October 1, 2001, may be purchased monthly if purchased with full text data.

(3) Weekly updates. A purchaser may subscribe to receiving weekly updates of the records and images filed in the previous week.

NEW SECTION

WAC 308-391-109 Fees for public records services. Fees and payment methods for purchase of bulk data are identified in WAC 308-391-104.

SECTION 2 - ACCEPTANCE AND REFUSAL OF RECORDS

NEW SECTION

WAC 308-391-200 Role of the filing officer. The duties and responsibilities of the filing officer are ministerial. In accepting for filing or refusing to file a UCC record under these rules, the filing officer does not:

- Determine the legal sufficiency or insufficiency of the UCC record;
- Determine that information in the record is correct or incorrect, in whole or in part; or
- Create a presumption that information in the UCC record is correct or incorrect, in whole or in part.

NEW SECTION

WAC 308-391-201 Time schedule for filing a continuation statement. (1) First day permitted.

(a) A continuation statement may be filed no earlier than six months preceding the date in which the financing state-

ment would lapse. Example: If a financing statement will lapse on July 7th, the earliest the corresponding continuation statement may be filed is January 7th of the same year.

(b) If there is no corresponding date, the first day on which a continuation may be filed is the last day of the sixth month preceding the month in which the financing statement would lapse. Example: If a financing statement will lapse on October 31st, the earliest the corresponding continuation statement may be filed is April 30th. This rule is subject to the ability of the filing office to take delivery of the continuation statement.

(2) Last day permitted.

(a) The last day on which a continuation statement may be filed is the date upon which the related financing statement lapses. This rule is subject to the ability of the filing office to take delivery of the continuation statement. Accordingly, the time of filing of the continuation statement must occur on or prior to the last day. Delivery by certain means of communication may not be available on the last day if the filing office is not open for business or the on-line services are unavailable.

(b) The one exception to this rule pertains to a record which lapses on February 29th in a year when there is no February 29th. The last day on which a continuation statement may be filed is March 1st.

NEW SECTION

WAC 308-391-202 Grounds for refusal. In determining under RCW 62A.9A-516 whether or not there is one or more grounds to refuse a UCC record, the filing office will refuse a record for any of the following reasons:

(1) The financing statement does not provide an address that meets the minimum requirements for an address as set forth in these filing office rules.

(2) The information on the financing statement form is not machine-printed. However, attachments to the form may be handwritten.

(3) The financing statement form contains illegible information. Labels and imprints from ink stamps are considered illegible.

(4) The named debtor(s) is a public official, as provided in RCW 60.70.030.

NEW SECTION

WAC 308-391-203 Procedure upon refusal. If the filing office finds grounds to refuse a UCC record, the filing office communicates the reason(s) for the refusal and other related information to the name and address provided in box B on the financing statement. The refusal notice will be communicated within two business days after the refused UCC record was received by the filing office, by mail or more expeditious means as the filing office shall determine. Records of refusal, including a copy of the refused UCC record and the ground(s) for refusal, are maintained until the first anniversary of the lapse date that applies or would have applied to the related financing statement, assuming that the refused record had been accepted and filed.

NEW SECTION

WAC 308-391-204 Refusal errors. If a secured party or a remitter demonstrates to the satisfaction of the filing officer that a UCC record that was refused for filing should not have been refused, the filing officer will file the UCC record with the filing date and time the UCC record was originally submitted for filing. A filing officer statement record relating to the initial financing statement is placed in the UCC information management system on the date that the corrective action was taken. The filing officer statement provides the date of the correction and explains the nature of the corrective action taken. The filing officer statement record is preserved for so long as the record of the initial financing statement is preserved in the UCC information management system.

NEW SECTION

WAC 308-391-205 Notification of defects. Nothing in these rules prevents a filing officer from communicating to a filer or a remitter that the filing officer noticed apparent potential defects in a UCC record, whether or not it was filed or refused for filing. However, the filing office is under no obligation to do so. The responsibility for the legal effectiveness of filing rests with filers and remitters and the filing office bears no responsibility for such effectiveness.

SECTION 3 - UCC INFORMATION MANAGEMENT SYSTEM

NEW SECTION

WAC 308-391-300 General. The filing office uses an information management system to store, index, and retrieve information relating to financing statements. The information management system includes an index of the names included on financing statements and liens that are in active records. The rules in this section describe the UCC information management system.

NEW SECTION

WAC 308-391-301 Primary data elements. The primary data elements used in the UCC information management system are the following:

(1) Identification numbers.

(a) Each initial financing statement or lien is identified by its unique file number. A record is created in the information management system for each initial financing statement or lien and all information comprising the record is maintained in the system. The record is identified by the same information assigned to the initial financing statement or lien.

(b) A UCC record other than an initial financing statement or lien is identified by a unique file number assigned by the UCC information management system. In the UCC information management system, all UCC records other than initial financing statements and liens are linked to the record of their related initial record.

(2) Type of record. The type of UCC record from which data is transferred is identified in the UCC information management system from information supplied by the remitter.

(3) Filing date and filing time. The filing date and filing time of UCC records are stored in the UCC information management system. Calculation of the lapse date of an initial financing statement is based upon the filing date.

(4) Identification of parties. The names and addresses of debtors and secured parties are transferred from UCC records to the UCC information management system.

(5) Page count. The total number of pages in a UCC record is maintained in the UCC information management system.

(6) Lapse indicator. An indicator is maintained by which the information management system identifies whether or not a financing statement will lapse and, if it does, when it will lapse.

(7) Indexes of names. The filing office maintains in the UCC information management system a searchable index of organization debtor names, a searchable index of individual debtor names, a searchable index of organization secured party names, and a searchable index of individual secured party names. The index is not a separate data base but is comprised of records in the UCC information management system identified to be included in the searchable index.

NEW SECTION

WAC 308-391-302 Individual debtor names. For purposes of these rules, an "individual debtor name" is any name provided as a debtor name in a UCC record in a format that identifies the name as that of a debtor who is an individual, without regard to the nature or character of the name or to the nature or character of the actual debtor.

(1) Individual name fields. Individual debtor names are stored in files that include only the individual debtor names, and not organization debtor names. Separate data entry fields are established for first (given), middle (given), and last names (surnames or family names) of individuals. The name of a debtor with a single name (e.g., "Cher") is treated as a last name and shall be entered in the last name field. The filing office assumes no responsibility for the accurate designation of the components of a name but shall accurately enter the data in accordance with the filer's designations.

(2) Titles, prefixes and suffixes. Titles, prefixes (e.g., "Ms.") and suffixes or indications of status (e.g., "M.D.") are not typically part of a debtor's name. However, when entering a "name" into the UCC information management system, the filing office will enter the data exactly as it appears in the fields.

(3) Truncation of individual names. Personal name fields in the UCC information management system are fixed in length. Although filers should continue to provide full names on their UCC records, a name that exceeds the fixed length is entered as presented to the filing office, up to the maximum length of the data entry field. The lengths of data entry name fields are as follows:

- (a) First name: 100 characters.
- (b) Middle name: 100 characters.
- (c) Last name: 100 characters.

(d) Suffix: 10 characters.

NEW SECTION

WAC 308-391-303 Organization debtor names. For purposes of these rules, an "organization debtor name" is any name provided as a debtor name in a UCC record in a format that identifies the name as that of a debtor who is an organization, without regard to the nature or character of the name or to the nature or character of the actual debtor.

(1) Single field. Organization debtor names are stored in files that include only organization debtor names and not individual debtor names. A single field is used to store an organization debtor name.

(2) Truncation of organization names. The organization debtor name field in the UCC data base is fixed in length. The maximum length is 300 characters. Although filers should continue to provide full names on their UCC records, a name that exceeds the fixed length is entered as presented to the filing office, up to the maximum length of the organization debtor name field.

NEW SECTION

WAC 308-391-304 Estates. The debtor name to be provided on a financing statement for a debtor that is an estate is the name of the relevant decedent. In order for the information management system to function in accordance with the usual expectations of filers and searchers, the filer should provide the debtor name as an individual debtor name. However, the filing office will enter data submitted by a filer in the fields designated by the filer exactly as it appears in the fields.

NEW SECTION

WAC 308-391-305 Trusts. The debtor name provided for a debtor that is a trust or a trustee acting in respect of trust property is the name of the trust as set forth in its organic record(s), if the trust has such a name. If the trust does not have such a name, the name of the trust's settlor will be used for the debtor name. In order for the information management system to function in accordance with the usual expectations of filers and searchers, the name of a trust or of a settlor that is an organization is provided as an organization debtor name, and the name of a settlor who is an individual is provided as an individual debtor name, in each case without regard to the nature or character of the debtor. However, the filing office will enter data submitted by a filer in the fields designated by the filer exactly as it appears in the fields.

NEW SECTION

WAC 308-391-306 Initial financing statement. Upon filing an initial financing statement the status of the parties and the status of the financing statement will be as follows:

(1) Status of secured party. Each secured party named on an initial financing statement is a secured party of record, except that if the UCC record names an assignee, the secured party/assignor is not a secured party of record and the secured party/assignee is a secured party of record. Both names are

indexed in the UCC information management system while the financing statement is an active record.

(2) Status of debtor. Each debtor name provided in the initial financing statement is indexed in the UCC information management system while the financing statement is an active record.

(3) Status of financing statement. The financing statement is an active record. A lapse date is calculated, five years from the file date, unless the initial financing statement indicates that it is filed against a transmitting utility, in which case there will be no lapse date.

NEW SECTION

WAC 308-391-307 Amendments generally. Filing an amendment does not change the status of the parties on the record.

(1) If an amendment adds a debtor or a secured party to the record, the new debtor or secured party is added to the appropriate index and associated with the record of the financing statement in the UCC information management system.

(2) An amendment that designates an assignee causes the assignee to be added as a secured party of record.

(3) If an amendment deletes a debtor or a secured party from a financing statement, no debtor or secured party of record is deleted from the UCC information management system. A deleted secured party will still be treated by the filing office as a secured party of record as the filing office cannot verify the effectiveness of an amendment.

NEW SECTION

WAC 308-391-308 Continuation statement. (1) Continuation of lapse date. Upon the timely filing of one or more continuation statements by any secured party(s) of record, the lapse date of the financing statement is postponed for five years. The lapse date is postponed once only, even if more than one continuation statement is filed within a given six-month period prior to a lapse date.

(2) Status. The filing of a continuation has no effect upon the status of any party to the financing statement or upon the status of the financing statement.

NEW SECTION

WAC 308-391-309 Termination. The filing of a termination has no effect upon the status of any party to the financing statement or upon the status of the financing statement.

NEW SECTION

WAC 308-391-310 Correction statement. The filing of a correction statement has no effect upon the status of any party to the financing statement, the status of the financing statement, or to the information maintained in the information management system.

NEW SECTION

WAC 308-391-311 Filing officer statement. A filing officer statement affects the status of parties and of the relevant financing statement as provided in the corrective action described in the filing officer statement.

NEW SECTION

WAC 308-391-312 Procedure upon lapse. If there is no timely filing of a continuation with respect to a financing statement, the financing statement lapses on its lapse date but no action is then taken by the filing office.

NEW SECTION

WAC 308-391-313 Removal of record. A financing statement must remain as an active record until at least one year after it lapses, or if it is indicated to be filed against a transmitting utility, until at least one year after it is terminated with respect to all secured parties of record. On or after the first anniversary of the lapse or termination date, the filing office or the UCC information management system may remove the financing statement and all related UCC records from the searchable indexes or from the UCC information management system and the removed UCC records will cease to be active records. UCC records removed from the UCC information management system cannot be retrieved.

SECTION 4 - FILING AND DATA ENTRY PROCEDURES

NEW SECTION

WAC 308-391-400 Errors of the filing office. The filing office may correct data entry and indexing errors of filing office personnel in the UCC information management system at any time. If a correction is made to a record after the filing office has issued a search report with a through date and time on or after the filing date and time of the financing statement, the filing office will add a filing officer statement for that UCC record on the date that the corrective action was taken. The filing officer statement will provide the date and an explanation of the correction.

NEW SECTION

WAC 308-391-401 Data entry. Data provided on a paper-based form is keyed into the system exactly as it appears without regard to apparent errors. Data provided in electronic form is transferred to the information management system exactly as submitted by the remitter. The UCC information management system will not recognize characters outside the ANSI character set as described in WAC 308-391-101. The filing office may determine alternate characters or letters for nonstandard characters and will post these alternates on the web site.

NEW SECTION

WAC 308-391-402 Verification of data entry. (1) The filing office verifies accuracy of the data entry performed by

the filing officers of UCC records entered into the UCC information management system.

(2) Data entry performed by remitters in filing UCC records electronically is the responsibility of the remitter and is not verified by the filing office.

NEW SECTION

WAC 308-391-403 Master amendments. The filing office will not accept a master or global amendment to multiple records.

NEW SECTION

WAC 308-391-404 Notice of bankruptcy. The filing office takes no action upon receipt of a notification, formal or informal, of a bankruptcy proceeding involving a debtor named in the UCC information management system.

NEW SECTION

WAC 308-391-405 Redaction of certain information. The filing office may be obliged to redact certain information from the information it provides to searchers and bulk data purchasers in accordance with applicable privacy and identity theft protection laws. Such information should not be included in UCC financing statements and may be redacted in accordance with those laws.

SECTION 5 - SEARCH REQUESTS AND REPORTS

NEW SECTION

WAC 308-391-500 General requirements. The filing office maintains for public inspection a searchable index of all active records in the UCC information management system. Active records are retrievable by the name of the debtor, by the name of the secured party, or by the file number of the UCC record. Each active record related to an initial financing statement is retrieved with the initial financing statement. A search by file number does not retrieve related records.

NEW SECTION

WAC 308-391-501 Search requests—Required information. Search requests must include the following:

(1) Name to be searched. A search request must set forth the name to be searched using designated fields for organization and individual first, middle, and last names. A search request will be processed using the data and designated fields exactly as submitted, including the submission of no data in a given field, without regard to the nature or character of the debtor or secured party that is the subject of the search.

(2) Requesting party. The name and address of the person to whom the search results are to be sent.

(3) Fee. The appropriate fee shall be tendered by a method described in WAC 308-391-106.

(4) Search logic. The request shall specify if a search methodology other than that described in WAC 308-391-503 is to be applied in conducting the search. If no such method-

ology is specified, the one described in WAC 308-390-503 will be applied.

NEW SECTION

WAC 308-391-502 Search requests—Optional information. Search requests may include the following:

(1) The request may limit the UCC records that would normally be provided by requesting that results be limited to those UCC records that:

- Include a particular city in the debtor address;
- Were filed within a particular range of dates; or
- Relate to agricultural liens and non-UCC records only.

(2) Scope of search. A search request may ask for a search that reports all active records retrieved by the search rather than only unlapsed records retrieved by the search.

(3) Mode of delivery. The filing office will honor an online request to return the results by courier if the remitter provides a valid courier account number and the requested mode is available to the filing office.

(4) Search request with filing. If a filer requests a search at the time an initial financing statement is filed, by checking box 7 of the UCC1 or by marking the appropriate field on the on-line initial financing statement, the search request will be conducted as soon as it is possible to retrieve all relevant UCC records filed on or prior to the date the initial financing statement is filed. A fee is required for each debtor name searched.

NEW SECTION

WAC 308-391-503 Search methodology. Search results are produced by the application of search logic to the name presented to the filing office. Human judgment does not play a role in determining the results of the search.

(1) Standard search logic. The following rules describe the filing office's standard search logic and apply to all searches except for those where the search request specifies that a nonstandard search logic be used:

(a) There is no limit to the number of matches that may be returned in response to the search criteria.

(b) No distinction is made between upper and lower case letters.

(c) The character "&" (the ampersand) is deleted and replaced with the characters "and" in each place it appears in the name.

(d) Punctuation marks and accents are disregarded. Punctuation and accents include all characters other than the numerals 0 through 9 and the letters A through Z (in any case) of the English alphabet.

(e) The following words and abbreviations at the end of an organization name that indicate the existence or nature of the organization are "disregarded" to the extent practicable as determined by the filing office's programming of its UCC information management system:

ATTORNEYS AT LAW, MEDICAL DOCTORS PROFESSIONAL ASSOCIATION, PROFESSIONAL ASSOCIATION, NATIONAL ASSOCIATION, SAVINGS ASSOCIATION, MEDICAL DOCTORS PROFESSIONAL CORPORATION, PROFESSIONAL CORPORATION, SERVICE CORPORATION, PROFESSIONAL LIMITED LIABILITY COM-

PANY, LIMITED LIABILITY COMPANY" & ", PROFESSIONAL LIMITED LIABILITY CO, REGISTERED LIMITED LIABILITY PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, LIMITED PARTNERSHIP, GENERAL PARTNERSHIP, AS TRUSTEE, REAL ESTATE INVESTMENT TRUST, BUSINESS TRUST, FEDERAL CREDIT UNION, CREDIT UNION, FEDERAL SAVINGS BANK" & ", NATIONAL BANK, SOLE PROPRIETORSHIP, GEN PART, PROF ASSN, PROF CORP, INCORPORATED, ASSOCIATION, CORPORATION, PARTNERSHIP, ASSOCIATES, CHARTERED, CHARTER, COMPANY, PARTNERS, RAILROAD, LIMITED, PARTSH, TRUSTEE, AGENCY, ASSOC, TRUST, ASSN, ASSC, BANK, CORP, LTEE, L T E E" & ", MDP A, M D P A, MDPC, M D P C, PLLC, P L L C, REIT, R E I T, RLLP, L L L P, DBA, D B A, FCU, F C U, FSB, F S B, INC, LLP, L L P, LLC, L L C, LTD, SPA, S P A, CO, CU, C U, GP, G P, LC, L C, LP, L P, NA, N A, PA, P A, PC, P C, P S, PS, RR, SA, S A, SC, SP, S P

(f) The word "the" at the beginning of an organization debtor name is disregarded.

(g) All spaces are disregarded.

(h) For first and middle names of individual debtor names, initials are treated as the logical equivalent of all names that begin with those initials. For example, a search request for "John A. Smith" would cause the search to retrieve all records against all individual debtors with "John" or the initial "J" as the first name, "Smith" as the last name, and with the initial "A" or any name beginning with "A" in the middle name field.

A first name with no middle name or initial is equated with all middle names and initials. For example, if the search request were for "John Smith" (first and last names with no designation in the middle name field), the search would retrieve all records against an individual with "John" or the initial "J" as the first name, "Smith" as the last name, and with any name or initial, or no name or initial, in the middle name field.

(i) If the name being searched is the last name of an individual name without any first or middle name provided, the search will retrieve from the UCC information management system all unexpired records or, if requested by the searcher, all active records with individual names that consist of only that last name.

(j) After using the preceding rules to modify the name being searched, the search will retrieve from the UCC information management system all unexpired records, or, if requested by the searcher, all active records with names that, after being modified as provided in this rule, exactly match the modified name being searched.

(2) Nonstandard search logic. The filing office provides a flexible Browse Names tool to help the searcher narrow the search to one specific name for the standard search request. It helps identify UCC records filed under old laws or under other laws (like IRS liens). It also helps to find names with alternate spellings, abbreviations and other variations.

NEW SECTION

WAC 308-391-504 Changes in standard search logic.

If the filing office changes its standard search logic or the implementation of its standard search logic in a manner that

could alter search results, the filing office will provide public notice of the change.

NEW SECTION

WAC 308-391-505 Search responses. Reports created in response to a search request include the following:

(1) Copies. If copies are requested, copies of all UCC records retrieved by a debtor name search are provided unless only limited copies are requested by the searcher. Copies may reflect redaction of certain personal identifying information. The filing office cannot provide copies with a search by secured party name.

(2) Introductory information. The filing office includes the following information with a search response:

(a) Identification of the agency director responsible for the search report.

(b) Unique number that identifies the search report.

(c) The date and time the report was generated.

(d) The date on or prior to which a UCC record must have been filed with the filing office for it to be reflected on the search.

(e) Certification language: "The Director certifies that the following list and attached copies, if any, are a true and exact representation of all financing statements and non-UCC liens for the name searched, as filed with the Department of Licensing, Uniform Commercial Code Program, as of the through date shown above."

(f) Search logic disclaimer language: "A search limited to a particular city, range of dates, or file number may not reveal all records against a name searched. The searcher bears the risk of relying on such a search result."

(g) Name provided by the searcher to be searched.

(h) Search string. The name searched after modifications made as provided by WAC 308-391-503.

(i) Lien type searched. Identifies the types of records included: All UCC records, or Ag liens, or non-UCC records.

(j) Scope of search: Indicates whether it includes only unexpired, or all active records.

(k) Search logic used: RA-9 standard search logic is used in all certified searches.

(l) Copies. When requested, copies of records will be attached to a certified search report, but the individual copies will not be certified. The requestor may specify certain copies related to one specific debtor name.

(3) Report. The body of the search report will contain the following:

(a) Identification of record. Identification of each initial financing statement and non-UCC lien, including a listing of all related amendments, correction statements, or filing officer notices, filed on or prior to the through date corresponding to the search criteria. Financing statement information includes, but is not limited to the following:

- 1 Initial financing statement or lien file number.
- 2 The date and time the financing statement or lien was filed.
- 3 The lapse date as calculated as of the through date and time.

- 4 The debtor name(s) that appear(s) on record.
 - 5 The debtor address(es) that appear(s) on record.
 - 6 The secured party name(s) that appear(s) on record.
 - 7 The secured party address(es) that appear(s) on record.
 - 8 An indication of the type of each amendment, if any.
 - 9 The date and time each amendment was filed, if any.
 - 10 The amendment file number of each amendment, if any.
 - 11 The date and time a correction statement was filed, if any.
 - 12 The date and time a filing officer statement was filed, if any.
- (b) A unique number assigned to the search report.

SECTION 6 - OTHER NOTICES OF LIENS

NEW SECTION

WAC 308-391-601 Agricultural liens. Agricultural liens are filed in the same manner as an initial financing statement. The filer shall designate the statement as an agricultural lien in box 5 of the UCC-1 form or the appropriate field on-line. The lien will be indexed by debtor name and will be revealed by searches as provided in WAC 308-391-505.

NEW SECTION

WAC 308-391-602 Processor lien or preparer lien.

(1) A producer or commercial fisherman may satisfy the condition in chapter 60.13 RCW that a statement evidencing the processor lien or preparer lien be filed under RCW 60.13.040 in a record, authenticated by the producer or fisherman, by using the same filing forms and procedures outlined in this chapter for filing a financing statement, and by satisfying the following additional statutory requirements prescribed in RCW 60.13.040:

(a) Designate the financing statement as a statement filed under RCW 60.13.040 evidencing the processor lien or preparer lien by marking "Non-UCC Filing" (not AG-lien) in box 5, and by stating which type of lien is claimed in box 8.

(b) State the true amount or a reasonable estimate of the debt demanded after deducting all credits and offsets and the date on which payment was due for the agricultural product or fish to be charged with the lien in box 10 of the Addendum.

(c) State the name and address of the processor(s), conditioner(s) or preparer(s) who received the agricultural product or fish to be charged with the lien in boxes 1, 2 and 11, as needed.

(d) State the name and address of the lien holder in box 3.

(e) Add a description sufficient to identify the agricultural product or fish to be charged with the lien in box 4.

(f) Include the statement that the amount claimed is a true and bona fide existing debt as of the date of the filing of the notice evidencing the lien, and the statement that the act

of filing this notice constitutes the present intention of the producer or commercial fisherman that the statements there are true and adopted by the producer or commercial fisherman as their own in box 10 of the Addendum. If you cannot include all of the information required to be included in box 10, use the additional space provided in box 16 of the Addendum with a cross-reference that it is a continuation of the information to be added to box 10.

(2) Authentication. The authorized filing of the financing statement on the approved forms, containing the additional information, and in the manner that complies with the requirements of this section is deemed to be an authenticated record by the producer or commercial fisherman as required by RCW 60.13.040(2).

(3) Where to file. File in the department of licensing as provided in WAC 308-391-101.

(4) Fee. The fees are the same as provided in WAC 308-391-104.

(5) Duration. As provided in RCW 60.13.060(1), the processor lien shall terminate twelve months after, and the preparer lien shall terminate fifty days after, the later of the date of attachment of the lien or filing of the statement, unless a suit to foreclose the lien has been filed before that time as provided in RCW 60.13.070. Thus a filed statement evidencing a processor lien or a preparer lien is not effective for five years, and need not, and may not be continued as provided in WAC 308-391-201.

(6) Mechanics of search. Crop liens claimed under chapter 60.11 RCW, processor liens or preparer liens claimed under chapter 60.13 RCW for which statements have been filed in accordance with this rule, and financing statements filed under RCW 62A.9A-310 are revealed in a search as provided in WAC 308-391-505.

NEW SECTION

WAC 308-391-603 Notice of liens in favor of a governmental body. Records of certain governmental liens are maintained by the filing office under statutes other than the UCC and are treated in a manner substantially similar to UCC records. These liens are included on all searches as provided in WAC 308-391-505:

(1) Notice of Federal Tax Lien, RCW 60.68.045;

(2) Criminal Profiteering Lien, RCW 9A.82.120 through 9A.82.140;

(3) Department of Justice Lien, RCW 60.68.015.

WSR 09-12-068

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed May 29, 2009, 10:36 a.m., effective July 1, 2009]

Effective Date of Rule: July 1, 2009.

Purpose: The department is amending WAC 388-492-0070 to implement changes necessary to meet cost neutrality requirements between the Washington state combined application project (WASHCAP) and the supplemental nutrition

assistance program (SNAP) as specified in the approved WASHCAP demonstration project waiver.

The department is required by USDA Food and Nutrition Service to maintain cost neutrality between WASHCAP and SNAP as specified in the approved WASHCAP demonstration project waiver. This proposed rule change will fulfill this federal requirement.

Citation of Existing Rules Affected by this Order: Amending WAC 388-492-0070.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, and 74.08.090.

Adopted under notice filed as WSR 09-09-105 on April 20, 2009.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: May 27, 2009.

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-21-106, filed 10/16/08, effective 11/16/08)

WAC 388-492-0070 How are my WASHCAP food benefits calculated? We calculate your food benefits as follows:

- (1) We begin with your gross income.
- (2) We subtract one hundred forty-four dollars from your gross income to get your countable income.
- (3) We figure your shelter cost based on information we receive from Social Security Administration (SSA), unless you report a change as described under WAC 388-492-0080. If you pay:
 - (a) (~~Two hundred eighty-four~~) Three hundred dollars or more a month for shelter, we use three hundred seventy-nine dollars as your shelter cost; or
 - (b) Less than (~~two hundred eighty-four~~) three hundred dollars for shelter, we use one hundred eighty-two dollars as your shelter cost; and
 - (c) We add the current standard utility allowance under WAC 388-450-0195 to determine your total shelter cost.
- (4) We figure your shelter deduction by subtracting one half of your countable income from your shelter cost.
- (5) We figure your net income by subtracting your shelter deduction from your countable income and rounding the resulting figure up from fifty cents and down from forty-nine cents to the nearest whole dollar.

(6) We figure your WASHCAP food benefits (allotment) by:

- (a) Multiplying your net income by thirty percent and rounding up to the next whole dollar; and
- (b) Subtracting the result from the maximum allotment under WAC 388-478-0060.
- (c) If you are eligible for WASHCAP, you will get at least the minimum monthly benefit for Basic Food under WAC 388-412-0015.

WSR 09-12-072

PERMANENT RULES

BOARD OF

PILOTAGE COMMISSIONERS

[Filed May 29, 2009, 12:02 p.m., effective July 1, 2009]

Effective Date of Rule: July 1, 2009.

Purpose: To establish an annual tariff for pilotage services in the Puget Sound Pilotage District.

Citation of Existing Rules Affected by this Order: Amending WAC 363-116-300.

Statutory Authority for Adoption: RCW 88.16.035.

Adopted under notice filed as WSR 09-08-098 on March 31, 2009.

Changes Other than Editing from Proposed to Adopted Version: The proposed rule reflects a tariff adjustment to be an amount in a range between a decrease of 6% and an increase of 5% across-the-board with the exception of the \$10.00 Training Surcharge and the \$2.00 per mile charge for Transportation to Vessels on Puget Sound at any new facility or other seldom used terminal.

The adopted rule reflects a tariff adjustment of 0% across-the-board with exceptions as noted below:

- British Columbia Direct Transit Charge category - Transportation Charge Vancouver Area and the Transportation Charge Outports were increased by 1.7% rather than the proposed adjustment of an amount between -6% and +6%; and
- Transportation to Vessels on Puget Sound category - Taxi Rates were increased from \$2 per mile to \$2.50 rather than the proposed adjustment of an amount between -6% and +6%.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: May 19, 2009.

Peggy Larson
Administrator

AMENDATORY SECTION (Amending WSR 08-12-018, filed 5/28/08, effective 7/1/08)

WAC 363-116-300 Pilotage rates for the Puget Sound pilotage district. Effective 0001 hours July 1, ((2008)) 2009, through 2400 hours June 30, ((2009)) 2010.

CLASSIFICATION	RATE
Ship length overall (LOA)	
Charges:	
Per LOA rate schedule in this section.	
Boarding charge:	\$47.00
Per each boarding/deboarding at the Port Angeles pilot station.	
Harbor shift - Live ship (Seattle Port)	LOA Zone I
Harbor shift - Live ship (other than Seattle Port)	LOA Zone I
Harbor shift - Dead ship	Double LOA Zone I
Towing charge - Dead ship:	Double LOA Zone
LOA of tug + LOA of tow + beam of tow	

Any tow exceeding seven hours, two pilots are mandatory. Harbor shifts shall constitute and be limited to those services in moving vessels from dock to dock, from anchorage to dock, from dock to anchorage, or from anchorage to anchorage in the same port after all other applicable tariff charges for pilotage services have been recognized as payable.

Compass Adjustment	\$339.00
Radio Direction Finder Calibration	\$339.00
Launching Vessels	\$509.00
Trial Trips, 6 hours or less (minimum \$954.00)	\$159.00 per hour
Trial Trips, over 6 hours (two pilots)	\$318.00 per hour
Shilshole Bay – Salmon Bay	\$199.00
Salmon Bay – Lake Union	\$154.00
Lake Union – Lake Washington (plus LOA zone from Webster Point)	\$199.00
Cancellation Charge	LOA Zone I
Cancellation Charge – Port Angeles:	LOA Zone II

(When a pilot is ordered and vessel proceeds to a port outside the Puget Sound pilotage district without stopping for a pilot or when a pilot order is canceled less than twelve hours prior to the original ETA.)

Waterway and Bridge Charges:

Ships up to 90' beam:

A charge of \$250.00 shall be in addition to bridge charges for any vessel movements both inbound and outbound required to transit south of Spokane Street in Seattle, south of Eleventh Street in any of the Tacoma waterways, in Port Gamble, or in the Snohomish River. Any vessel movements required to transit through bridges shall have an additional charge of \$119.00 per bridge.

Ships 90' beam and/or over:

A charge of \$340.00 shall be in addition to bridge charges for any vessel movements both inbound and outbound required to transit south of Spokane Street in Seattle and south of Eleventh Street in any of the Tacoma waterways. Any vessel movements required to transit through bridges shall have an additional charge of \$237.00 per bridge.

(The above charges shall not apply to transit of vessels from Shilshole Bay to the limits of Lake Washington.)

Two or three pilots required:

In a case where two or three pilots are employed for a single vessel waterway or bridge transit, the second and/or third pilot charge shall include the bridge and waterway charge in addition to the harbor shift rate.

Docking Delay After Anchoring:

Applicable harbor shift rate to apply, plus \$258.00 per hour standby. No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is \$258.00 for every hour or fraction thereof.

Sailing Delay:

No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is \$258.00 for every hour or fraction thereof. The assessment of the standby charge shall not

exceed a period of twelve hours in any twenty-four-hour period.

Slowdown:

When a vessel chooses not to maintain its normal speed capabilities for reasons determined by the vessel and not the pilot, and when the difference in arrival time is one hour, or greater, from the predicted arrival time had the vessel maintained its normal speed capabilities, a charge of \$258.00 per hour, and each fraction thereof, will be assessed for the resultant difference in arrival time.

Delayed Arrival – Port Angeles:

When a pilot is ordered for an arriving inbound vessel at Port Angeles and the vessel does not arrive within two hours of its ETA, or its ETA is amended less than six hours prior to the original ETA, a charge of \$258.00 for each hour delay, or fraction thereof, shall be assessed in addition to all other appropriate charges.

When a pilot is ordered for an arriving inbound vessel at Port Angeles and the ETA is delayed to six hours or more beyond the original ETA, a cancellation charge shall be assessed, in addition to all other appropriate charges, if the ETA was not amended at least twelve hours prior to the original ETA.

Tonnage Charges:

0 to 20,000 gross tons:

Additional charge to LOA zone mileage of \$0.0080 a gross ton for all gross tonnage up to 20,000 gross tons.

20,000 to 50,000 gross tons:

Additional charge to LOA zone mileage of \$0.0821 a gross ton for all gross tonnage in excess of 20,000 gross tons up to 50,000 gross tons.

50,000 gross tons and up:

In excess of 50,000 gross tons, the charge shall be \$0.0983 per gross ton.

For vessels where a certificate of international gross tonnage is required, the appropriate international gross tonnage shall apply.

Transportation to Vessels on Puget Sound:

March Point or Anacortes	\$((157.00)) <u>195.00</u>
Bangor	((153.00)) <u>190.00</u>
Bellingham	((181.00)) <u>225.00</u>
Bremerton	((135.00)) <u>167.50</u>
Cherry Point	((209.00)) <u>260.00</u>
Dupont	((97.00)) <u>120.00</u>
Edmonds	((35.00)) <u>42.50</u>
Everett	((59.00)) <u>72.50</u>

Ferndale	((199.00)) <u>247.50</u>
Manchester	((131.00)) <u>162.50</u>
Mukilteo	((53.00)) <u>65.00</u>
Olympia	((125.00)) <u>155.00</u>
Point Wells	((35.00)) <u>42.50</u>
Port Gamble	((185.00)) <u>230.00</u>
Port Townsend (Indian Island)	((223.00)) <u>277.50</u>
Seattle	((15.00)) <u>18.75</u>
Tacoma	((71.00)) <u>87.50</u>

(a) Intraharbor transportation for the Port Angeles port area: Transportation between Port Angeles pilot station and Port Angeles harbor docks - \$15.00.

(b) Interport shifts: Transportation paid to and from both points.

(c) Intraharbor shifts: Transportation to be paid both ways. If intraharbor shift is canceled on or before scheduled reporting time, transportation paid one way only.

(d) Cancellation: Transportation both ways unless notice of cancellation is received prior to scheduled reporting time in which case transportation need only be paid one way.

(e) Any new facilities or other seldom used terminals, not covered above, shall be based on mileage x \$2.00 per mile.

Delinquent Payment Charge:

1 1/2% per month after 30 days from first billing.

Nonuse of Pilots:

Ships taking and discharging pilots without using their services through all Puget Sound and adjacent inland waters shall pay full pilotage charges on the LOA zone mileage basis from Port Angeles to destination, from place of departure to Port Angeles, or for entire distance between two ports on Puget Sound and adjacent inland waters.

British Columbia Direct Transit Charge:

In the event that a pilot consents to board or disembark a vessel at a British Columbia port, which consent shall not unreasonably be withheld, the following additional charges shall apply in addition to the normal LOA, tonnage and other charges provided in this tariff that apply to the portion of the transit in U.S. waters:

Direct Transit Charge	\$2,046.00
Sailing Delay Charge. Shall be levied for each hour or fraction thereof that the vessel departure is delayed beyond its scheduled departure from a British Columbia port, provided that no charge will be levied for delays of one hour or less and further provided that the charge shall not exceed a period of 12 hours in any 24 hour period.	\$275.00 per hour
Slow Down Charge. Shall be levied for each hour or fraction thereof that a vessel's arrival at a U.S. or BC port is delayed when a vessel chooses not to maintain its normal safe speed capabilities for reasons determined by the vessel and not the pilot, and when the difference in arrival time is one hour, or greater from the arrival time had the vessel maintained its normal safe speed capabilities.	\$275.00 per hour
Cancellation Charge. Shall be levied when a pilot arrives at a vessel for departure from a British Columbia port and the job is canceled. The charge is in addition to the applicable direct transit charge, standby, transportation and expenses.	\$510.00
Transportation Charge Vancouver Area. Vessels departing or arriving at ports in the Vancouver-Victoria-New Westminster Range of British Columbia.	\$(476.00) <u>484.00</u>
Transportation Charge Outports. Vessels departing or arriving at British Columbia ports other than those in the Vancouver-Victoria-New Westminster Range.	\$(602.00) <u>612.00</u>

Training Surcharge:

A surcharge of \$10.00 for each pilot trainee then receiving a stipend pursuant to the training program provided in WAC 363-116-078 shall be added to each pilotage assignment.

LOA Rate Schedule:

The following rate schedule is based upon distances furnished by National Oceanic and Atmospheric Administration, computed to the nearest half-mile and includes retirement fund contributions.

LOA (Length Overall)	ZONE I Intra Harbor	ZONE II 0-30 Miles	ZONE III 31-50 Miles	ZONE IV 51-75 Miles	ZONE V 76-100 Miles	ZONE VI 101 Miles & Over
UP to 449	248	384	655	977	1,315	1,706
450 - 459	258	391	659	991	1,336	1,715
460 - 469	260	395	670	1,008	1,354	1,722
470 - 479	269	407	678	1,028	1,358	1,725
480 - 489	277	414	681	1,047	1,367	1,733
490 - 499	281	419	691	1,066	1,383	1,742
500 - 509	295	427	701	1,078	1,394	1,752
510 - 519	297	435	708	1,094	1,409	1,759
520 - 529	301	450	718	1,099	1,421	1,773
530 - 539	310	456	727	1,112	1,444	1,793
540 - 549	315	462	744	1,123	1,466	1,810
550 - 559	321	478	749	1,140	1,478	1,827
560 - 569	333	497	763	1,150	1,491	1,844
570 - 579	340	501	766	1,155	1,507	1,856
580 - 589	354	509	784	1,164	1,516	1,875
590 - 599	371	520	789	1,170	1,538	1,897
600 - 609	384	536	800	1,174	1,557	1,906
610 - 619	406	541	814	1,179	1,572	1,923
620 - 629	421	548	821	1,193	1,590	1,946
630 - 639	441	557	830	1,196	1,604	1,962
640 - 649	458	570	839	1,198	1,617	1,977
650 - 659	490	580	854	1,208	1,637	1,997
660 - 669	500	587	861	1,215	1,655	2,013

LOA (Length Overall)	ZONE I Intra Harbor	ZONE II 0-30 Miles	ZONE III 31-50 Miles	ZONE IV 51-75 Miles	ZONE V 76-100 Miles	ZONE VI 101 Miles & Over
670 - 679	518	602	870	1,237	1,674	2,025
680 - 689	525	612	882	1,247	1,688	2,045
690 - 699	541	621	895	1,269	1,706	2,087
700 - 719	565	642	912	1,285	1,739	2,111
720 - 739	598	659	935	1,303	1,773	2,146
740 - 759	621	691	953	1,315	1,810	2,184
760 - 779	646	713	977	1,336	1,844	2,213
780 - 799	678	745	991	1,354	1,875	2,252
800 - 819	705	766	1,011	1,361	1,906	2,286
820 - 839	727	794	1,034	1,383	1,946	2,313
840 - 859	758	826	1,054	1,399	1,975	2,352
860 - 879	786	854	1,073	1,435	2,013	2,386
880 - 899	814	879	1,094	1,468	2,045	2,421
900 - 919	838	908	1,113	1,506	2,087	2,454
920 - 939	864	935	1,140	1,538	2,109	2,488
940 - 959	895	959	1,156	1,572	2,146	2,518
960 - 979	916	987	1,177	1,604	2,184	2,556
980 - 999	946	1,011	1,197	1,637	2,213	2,589
1000 - 1019	1,004	1,076	1,250	1,724	2,317	2,701
1020 - 1039	1,031	1,108	1,289	1,773	2,387	2,780
1040 - 1059	1,062	1,135	1,327	1,827	2,455	2,862
1060 - 1079	1,094	1,175	1,366	1,882	2,532	2,947
1080 - 1099	1,127	1,208	1,406	1,936	2,606	3,036
1100 - 1119	1,159	1,245	1,449	1,996	2,684	3,127
1120 - 1139	1,195	1,284	1,493	2,054	2,765	3,220
1140 - 1159	1,229	1,320	1,536	2,116	2,849	3,318
1160 - 1179	1,266	1,358	1,584	2,180	2,933	3,416
1180 - 1199	1,305	1,400	1,630	2,245	3,022	3,519
1200 - 1219	1,345	1,442	1,678	2,313	3,113	3,623
1220 - 1239	1,383	1,485	1,727	2,382	3,204	3,732
1240 - 1259	1,424	1,529	1,778	2,452	3,301	3,843
1260 - 1279	1,466	1,574	1,832	2,526	3,401	3,958
1280 - 1299	1,510	1,622	1,888	2,602	3,500	4,078
1300 - 1319	1,556	1,668	1,943	2,679	3,606	4,198
1320 - 1339	1,603	1,719	2,003	2,759	3,713	4,325
1340 - 1359	1,649	1,771	2,062	2,841	3,824	4,455
1360 - 1379	1,699	1,822	2,123	2,928	3,937	4,586
1380 - 1399	1,749	1,877	2,188	3,014	4,056	4,726
1400 - 1419	1,802	1,934	2,251	3,103	4,177	4,867
1420 - 1439	1,855	1,992	2,319	3,197	4,304	5,013
1440 - 1459	1,913	2,052	2,390	3,292	4,432	5,162
1460 - 1479	1,966	2,112	2,460	3,390	4,565	5,315
1480 - 1499	2,026	2,175	2,533	3,491	4,700	5,475
1500 & Over	2,087	2,241	2,608	3,598	4,840	5,638

WSR 09-12-077

PERMANENT RULES

WASHINGTON CITIZENS' COMMISSION ON
SALARIES FOR ELECTED OFFICIALS

[Filed June 1, 2009, 8:43 a.m., effective July 2, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To adopt WAC chapters to inform the public about the commission's operating policies and procedures.

Citation of Existing Rules Affected by this Order: Repealing chapters 183-04 and 183-06 WAC.

Statutory Authority for Adoption: RCW 43.03.300 through [43.03].310.

Adopted under notice filed as WSR 09-09-037 on April 8, 2009.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 9, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 9, Amended 0, Repealed 2.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 28, 2009.

Carol Sayer
Director

Chapter 183-01 WAC

PURPOSE AND AUTHORITY

NEW SECTION

WAC 183-01-010 Purpose. The purpose of the commission is to set the salaries of the elected officials in the executive, legislative, and judicial branches of state government including:

(1) Governor, lieutenant governor, secretary of state, treasurer, auditor, attorney general, superintendent of public instruction, commissioner of public lands, and insurance commissioner;

(2) Members of the legislature; and

(3) Justices of the supreme court and judges of the court of appeals, superior courts, and district courts.

NEW SECTION

WAC 183-01-020 Authority and duties. The commission's authority and duties are described in Article 2, section 1 of the state Constitution and in RCW 43.03.310.

Chapter 183-02 WAC

DEFINITIONS

NEW SECTION

WAC 183-02-010 Definitions. The definitions in this chapter apply throughout the title unless the context clearly requires otherwise.

(1) "Commission" means the Washington citizens' commission on salaries for elected officials. Where appropriate, the term "commission" also refers to the staff and employees of the commission.

(2) "Agency" means the Washington citizens' commission on salaries for elected officials. Where appropriate, the term "agency" also refers to the staff and employees of the commission.

(3) "Chair" means the chair of the commission.

(4) "Vice-chair" means the vice-chair of the commission.

(5) "Executive director" means the executive director of the commission.

(6) "Members" means the appointed members of the commission.

(7) As used in this chapter:

(a) Citations to state statutes and regulations include such laws as now or hereafter amended.

(b) The singular shall take the plural and either gender, the other, as the context requires.

Chapter 183-03 WAC

OPERATION

NEW SECTION

WAC 183-03-010 Organization. The commission is a state agency authorized by Article 28, section 1 of the state Constitution and chapter 43.03 RCW. The commission shall be solely responsible for its own organization, operation, and action as described in RCW 43.03.310(2).

NEW SECTION

WAC 183-03-020 Delegation of duties. The commission may delegate certain duties to the executive director but remains responsible for the official acts of its employees.

NEW SECTION

WAC 183-03-030 Operation and office location. The public can find out the commission's hours of operation by contacting the commission at its general mailing address, toll free telephone number, fax, or e-mail as follows:

(1) Contact information.

P.O. Box 43120, Olympia, WA 98504-3120

866-809-8116 (toll free)

360-586-7544 (fax)

(2) E-mail requests shall be sent to the commission by accessing the commission's web site at www.salaries.wa.gov and following the contact instructions.

(3) Office. The commission's office is located in the General Administration Building in Olympia, Washington, 210 11th Avenue S.W., Room 301A.

NEW SECTION

WAC 183-03-040 Information. Information about the commission and its operation, meetings, and actions may be obtained on the commission's web site at www.salaries.wa.gov or by contacting the commission at its general mailing address, toll free telephone number, fax, or e-mail as follows:

(1) Contact information.

P.O. Box 43120, Olympia, WA 98504-3120

866-809-8116 (toll free)

360-586-7544 (fax)

(2) E-mail requests shall be sent to the commission by accessing the commission's web site at www.salaries.wa.gov and following the contact instructions.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 183-04-010	Purpose.
WAC 183-04-020	Definitions.
WAC 183-04-030	Description of organization, operations, and procedures.
WAC 183-04-040	Where and when public records may be obtained.
WAC 183-04-050	Public records available.
WAC 183-04-060	Public records officer.
WAC 183-04-070	Requests for public records.
WAC 183-04-080	Copying and fees.
WAC 183-04-090	Disclosure procedure.
WAC 183-04-100	Review of denials of requests for public records.
WAC 183-04-110	Records index.

Chapter 183-05 WAC

PUBLIC RECORDS

NEW SECTION

WAC 183-05-010 Purpose. The purpose of this chapter is to implement the public records provisions of chapter 42.56 RCW.

NEW SECTION

WAC 183-05-020 Where and when public records may be obtained. The public may obtain public records by contacting the commission at its general mailing address, e-

mail, fax, or in person. Requests may not be made by telephone.

(1) Mail. Requests by mail shall be addressed to the commission's mailing address: The Washington Citizens' Commission on Salaries for Elected Officials, c/o Public Records Officer, P.O. Box 43120, Olympia, WA 98504-3120. The front of the envelope shall conspicuously state: "Public Records Request."

(2) E-mail. The commission will accept public disclosure requests by e-mail. E-mail requests shall be sent to the commission by accessing the commission's web site at www.salaries.wa.gov and following the contact instructions for e-mail. E-mail requests shall contain the subject line "Public Records Request."

(3) Fax. The commission will accept public disclosure requests by fax. Fax requests shall be addressed to "The Washington Citizens' Commission on Salaries for Elected Officials, c/o Public Records Officer" with the subject line "Public Records Request" and sent to 360-586-7544.

(4) In person. The public can find out the commission's hours of operation by contacting the commission as described in WAC 183-03-030. Requests may be made in person at the commission's office at the address identified in WAC 183-03-030(3).

NEW SECTION

WAC 183-05-030 Public records available. (1) The public may obtain public records of the commission under this chapter, in accordance with chapter 42.56 RCW, except as otherwise provided by law.

(2) Public records are available for inspection and copying by contacting the commission at its general mailing address, toll free number, fax, or e-mail as identified in WAC 183-03-030.

NEW SECTION

WAC 183-05-040 Public records officer. The executive director shall serve as the commission's public records officer and shall have charge of its public records. The executive director shall be responsible for implementing the commission's public disclosure rules and for coordinating staff and employees in this regard. The executive director may choose such designees as may be appropriate.

NEW SECTION

WAC 183-05-050 Requests for public records. Chapter 42.56 RCW requires the commission to prevent invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions and unreasonable disruptions of operations. Accordingly, the public may inspect, copy, or obtain copies of public records upon compliance with the following procedures:

(1) A member of the public who seeks a public record shall make a written request. No particular form of writing is required so long as the request complies with WAC 183-05-020 and contains the following additional information:

(a) The name, mailing address, and telephone number of the person requesting the record.

(b) The calendar date on which the request is made.

(c) Identification of the record requested with sufficient particularity that the commission can identify the requested record and make it available. Such identifying information might include the title, subject matter, and date of the record.

(d) A signed statement that the records will not be used for commercial purposes if a list of individuals is being requested, or for any other use prohibited by law.

(2) To facilitate processing the request, the person requesting the record may also include:

(a) Either a fax number or an e-mail address, or both.

(b) A reference to the record as it is described in the current public record index maintained by the commission.

(3) The public may make written public records requests to the commission by mail, fax, or e-mail in accordance with WAC 183-05-020. Members of the public making public records requests in person who have not reduced their request to writing shall be asked to complete a short form with the needed information. The purpose of requiring written requests is to assist the commission in tracking, managing, and responding to requests in a timely and orderly fashion.

(4) The commission shall assist persons making public records requests to appropriately identify the public records being sought. The commission may ask the requesting party to clarify what information is being sought.

NEW SECTION

WAC 183-05-060 Copying and fees. (1) Copying.

(a) The commission shall make copies on the commission's copy equipment when doing so will not unreasonably disrupt the operations of the commission or cause excessive interference with other essential functions or organizations with which the commission may share office space.

(b) Persons requesting public records may use their own copying equipment and paper without charge when the use of such equipment does not cause damage or disorganization to the public records, unreasonably impede the operations of the commission or cause excessive interference with other essential functions. The commission may supervise such copying at all times.

(2) Fees.

(a) The commission shall not charge a fee for locating documents, for making them available, or for inspection of public records by the public.

(b) The commission may impose a reasonable fee for providing copies of public records, for use of the commission's equipment, and for mailing costs, postage, delivery costs, and other costs directly incident to copying the records. The commission shall not charge fees that exceed the amount necessary to reimburse the commission for its actual costs.

(c) The commission shall not provide copies to requesting parties unless associated fees have been paid in full by cash, check, or money order. To ensure that copies requested and made are actually paid for, the commission may require payment prior to making the copies.

(d) The commission may agree to provide copies without fee to federal, state, local, or tribal governments, or to others, when doing so is in the best interest of the commission.

NEW SECTION

WAC 183-05-070 Disclosure procedure. (1) The commission shall review the requested public records prior to disclosure.

(2) If the records do not contain materials exempt from public disclosure, the commission shall disclose the records.

(3) If the records contain materials exempt from public disclosure, the commission shall deny disclosure of the exempt materials and disclose any remaining, nonexempt materials. At the time of the denial, the commission shall clearly specify in writing the reasons for the denial, including a statement of the specific exemptions or reason for denial of disclosure.

NEW SECTION

WAC 183-05-080 Review of denials of requests for public records. For the purpose of judicial review, final agency action is deemed to have occurred at the end of the second business day after the requesting party receives notification of a denial of inspection.

NEW SECTION

WAC 183-05-090 Records index. (1) Availability. The commission shall maintain and make available for public inspection and copying an index that provides identifying information for public records falling within the requirements of chapter 42.56 RCW.

(2) Form and content. The index shall be maintained in electronic form with copies available on paper. The index shall contain topic and subtopic headings.

(3) Location and availability. The index shall be available to the public under the same rules and on the same conditions as are applied to other public records.

(4) Schedule for revisions and updates. The commission will revise and update the index biennially.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 183-06-010	Definitions.
WAC 183-06-020	Meetings.
WAC 183-06-030	Conduct of meetings and order of business.

Chapter 183-07 WAC

MEETINGS

NEW SECTION

WAC 183-07-010 Meetings. The commission conducts its meetings in compliance with the Open Public Meetings Act, chapter 42.30 RCW.

(1) Other than executive sessions, the commission's regular meetings, special meetings, and emergency meetings are open to the general public.

(2) Regular meetings. In conformance with the requirement of RCW 43.03.310(6) that the commission schedule at least four public hearings to take public testimony on its proposed salary schedule, the commission shall schedule such hearings by majority vote. The public hearings so scheduled shall be "regular meetings" as defined by RCW 42.30.075. The commission shall fix the time and place of these public hearings and publish a schedule in the *Washington State Register*, in accordance with chapter 42.30 RCW, the Open Public Meetings Act.

(3) Special meetings. The chair or a majority of commission members may call a special meeting at any time in accordance with RCW 42.30.080. In addition, the time and place of special meetings scheduled at the same time that the regular meetings described in subsection (1) of this section are scheduled will also be published in the *Washington State Register*.

(4) Regular meetings and special meetings may be adjourned prior to the published end time if all business has been conducted.

(5) Executive sessions. The chair or a majority of commission members may call an executive session at any time in accordance with RCW 42.30.110.

(6) The presence of at least one-half of the members of the commission shall constitute a quorum.

(7) The affirmative vote of at least nine members of the commission is required to set a schedule of salaries as defined in RCW 43.03.310(4).

(8) The commission shall maintain records of meeting proceedings as minutes; duly recorded, and maintained at the commission's office.

NEW SECTION

WAC 183-07-020 Conduct of meetings and order of business. (1) All commission meeting business shall be transacted by motion. Motions may be made by any commission member and shall require a second.

(2) Voting on all motions shall be by voice vote unless a record of the vote is called for in which case the executive director shall call the roll in alphabetical order and record the vote of each member present, "yea" or "nay."

(3) The chair and vice-chair are voting members of the commission.

(4) The order of commission meeting business shall be conducted as prescribed by the agenda.

(5) The executive director shall prepare each meeting's agenda in consultation with the chair.

(6) The commission shall approve the minutes of the preceding meeting as the first act of each meeting.

(7) The chair or any commission member may modify a meeting's agenda by motion.

NEW SECTION

WAC 183-07-030 Public hearing procedures. The commission seeks to foster public comment on proposed salary schedules through its public hearing process. The commission will, whenever possible, allow any person an opportunity to present written or oral testimony at its public hearings, upon compliance with reasonable procedures. Such procedures include, but may not be limited to the following:

(1) Those wishing to present oral testimony shall sign the public testimony roster. The commission will generally call for public comments in the order appearing on the public testimony roster but reserves the right to take testimony out of order if deemed necessary or beneficial. Elected officials and expert witnesses may be scheduled first because their testimony may help answer pending questions from the public.

(2) The commission's sign-in form does not ask persons attending any commission meeting to provide personal information such as a home address, e-mail address, or telephone number. Persons providing personal information are advised that such information becomes a public record and may be subject to public inspection and copying if not protected by federal or state law.

(3) To ensure that everyone attending the hearing can hear all oral testimony and questions, speakers shall address the commission after being recognized by the presiding member of the commission.

(4) Oral testimony and questions should be addressed to the presiding member of the commission.

(5) Because the commission wants to hear from as many people as possible, the commission may place reasonable limits on the time allowed for oral testimony. Time for testimony is generally limited to five minutes per person. Answers to questions from the commission are generally limited to three minutes. These time limits may be reduced if deemed necessary by the presiding member of the commission to accommodate all speakers.

(6) Persons testifying, whether orally or in writing, shall state their name and identify whether they represent an organization. If they represent an organization, they shall identify the organization.

(7) Speakers should focus their testimony on the relationship between elected officials' salaries and the duties of their position (RCW 43.03.300 and 43.03.310(1)). Testimony should not focus on elected officials' job performance. Consideration of job performance is the responsibility of the voters, not the commission.

(8) Speakers shall briefly describe the identity and nature of any documents referenced in their comments, and indicate where the document can be reviewed or obtained.

Chapter 183-08 WAC**APPOINTMENTS**NEW SECTION

WAC 183-08-010 Membership. Membership on the commission is as defined in RCW 43.03.305.

NEW SECTION

WAC 183-08-020 Appointment. The secretary of state and the speaker of the house of representatives and the president of the senate shall forward the names of the persons selected as described in RCW 43.03.305(3) and WAC 434-209-080 to the governor for appointment.

NEW SECTION

WAC 183-08-030 Term of office. The governor shall appoint the individuals selected under RCW 43.03.305 to the commission for a four-year term.

NEW SECTION

WAC 183-08-040 Vacancy. (1) Upon a vacancy in any position on the commission, a successor shall be selected and appointed to fill the unexpired term of the previous member in accordance with RCW 43.03.305(6) and WAC 434-209-090 if the vacancy is in a congressional district.

(2) Upon a vacancy in any position on the commission due to a commissioner having two unexcused absences as defined in RCW 43.03.305(4), the executive director will send a letter to that commissioner informing him or her of the relinquishment of his or her position on the commission. The selection and appointment to fill the vacancy shall be conducted in accordance with RCW 43.03.305(6) and WAC 434-209-090 if the vacancy is in a congressional district.

Chapter 183-09 WAC**OFFICERS**NEW SECTION

WAC 183-09-010 Election of chair and vice-chair. (1) The members of the commission shall elect a chair and vice-chair from among their membership as described in RCW 43.03.310(4). Generally, the election of a chair and vice-chair will occur at the commission's fall planning meeting.

(2) There is no set term of office for the chair or the vice-chair.

(3) Upon election, the chair and vice-chair will immediately assume their duties.

(4) The chair and vice-chair may be replaced by majority vote of the commission members at any time.

NEW SECTION

WAC 183-09-020 Duties and responsibilities of chair. The chair is the presiding officer and shall conduct the meet-

ings of the commission and perform other such duties as necessary.

NEW SECTION

WAC 183-09-030 Duties and responsibilities of vice-chair. In the absence of the chair, the vice-chair shall assume the duties of the chair.

NEW SECTION

WAC 183-09-040 Temporary presiding officer. In the absence of the chair and the vice-chair from a meeting, a temporary presiding officer may be designated as acting chair by a majority vote of the commission members present at the meeting.

Chapter 183-10 WAC**MEMBERS**NEW SECTION

WAC 183-10-010 Commission member duties and responsibilities. Members of the commission are considered to be officers of the state and are required to follow the laws, rules, and regulations of the state of Washington. Commissioners are also required to follow the governing statutes and operating rules, policies, and procedures of the commission.

Chapter 183-11 WAC**EXECUTIVE DIRECTOR**NEW SECTION

WAC 183-11-010 Powers and duties. (1) The executive director shall be responsible to the commission for the administration of the commission and its business.

(2) The executive director shall act as the chief administrative officer of the commission and is delegated authority over all matters affecting the operation of the commission.

(3) The executive director shall report to the chair.

(4) In consultation with the chair, the executive director shall appoint such employees as may be appropriate and necessary to the function of the commission and shall set the salary of such employees.

(5) The executive director may delegate authority to employees to act for him or her as needed and appropriate.

NEW SECTION

WAC 183-11-020 Appointment. The chair shall appoint and set the salary of the executive director.

NEW SECTION

WAC 183-11-030 Removal. The executive director may be discharged by majority vote of the commission.

WSR 09-12-078
PERMANENT RULES
SECRETARY OF STATE
 (Elections Division)

[Filed May 29, 2009, 4:20 p.m., effective June 29, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: These rules change the requirement for jurisdiction questionnaires to be sent out only in the year the local jurisdiction is scheduled to elect officers, clarify the requirement for providing sample ballots at the county auditor's office or on the county auditor's web site, create a definition for overvote and undervote, clarify required information for the county auditor's abstract of votes, clarify a ballot may be rejected where the voter validly transferred out of the county, clarify in a manual recount the two manual counts are compared to each other, clarify when voter registration applicants who fail the identification check are sent letters of notification, clarify county requirements on acceptance testing of voting systems and equipment, change reference from Federal Election Commission to Election Assistance Commission, and repeal language that is obsolete.

Citation of Existing Rules Affected by this Order: Amending WAC 434-215-005, 434-230-010, 434-261-005, 434-262-030, 434-262-031, 434-264-110, 434-324-045, 434-324-075, 434-335-240, and 434-335-250.

Statutory Authority for Adoption: RCW 29A.04.611.

Adopted under notice filed as WSR 09-01-051 [09-09-052] on April 10, 2009.

Changes Other than Editing from Proposed to Adopted Version: A change was made to proposed WAC 434-335-240, to clarify wording regarding hardware functional tests. This change was necessary to minimize confusion.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 10, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 29, 2009.

Steve Excell
 Assistant Secretary of State

AMENDATORY SECTION (Amending WSR 07-09-035, filed 4/11/07, effective 5/12/07)

WAC 434-215-005 Filing information—Questionnaire—Compiling and dissemination. Prior to March 1 (~~of each year~~), the county auditor shall send a questionnaire to the administrative authority of each local jurisdiction for which the auditor is the candidate filing officer subject to the

provisions of RCW 29A.04.321 and 29A.04.330. The questionnaire must be sent in the year the local jurisdiction is scheduled to elect officers. The purpose of the questionnaire shall be to confirm information which the auditor (~~may disseminate to the public regarding the filing for elective offices~~) must use to properly conduct candidate filings for each office. The questionnaire should request, (~~as~~) at a minimum, confirmation of offices to be filled at the general election that year, the name of the incumbent, and the annual salary for the position at the time of the filing period. Responses should be received prior to April 1 of that year so that the filing information can be compiled and disseminated to the public at least two weeks prior to the candidate filing period.

AMENDATORY SECTION (Amending WSR 08-15-052, filed 7/11/08, effective 8/11/08)

WAC 434-230-010 Sample ballots. Sample ballots shall be available at least fifteen days prior to an election. A printed copy must be made available through the office of the county auditor. A sample ballot may be published on the county auditor's web site. Sample paper ballots shall be printed in substantially the same form as official ballots (~~but shall be a different color than the official ballot~~). Sample ballots shall be printed in a manner that makes them easily distinguishable from the official ballot. (~~Sample ballots shall be available at least fifteen days prior to an election. Such sample ballots shall be made available through the office of the county auditor and at least one shall be available at all polling places on election day.~~)

At any primary or election when a local voters' pamphlet is published which contains a full sample ballot, a separate sample ballot need not be (~~printed~~) produced.

Counties with populations of over five hundred thousand may produce more than one sample ballot for a primary or election, each of which lists a portion of the offices and issues to be voted on at that election. Sample ballots may be printed by region or area (e.g., legislative district, municipal, or other district boundary) of the county, provided that all offices and issues to be voted upon at the election appear on at least one of the various sample ballots (~~printed for such county~~). Each regional sample ballot shall contain all offices and issues to be voted upon within that region. A given office or issue may appear on more than one sample ballot, provided it is to be voted upon within that region. Sample ballots shall be made available and distributed to each (~~polling place and to other locations within the appropriate region or area~~) voting center.

AMENDATORY SECTION (Amending WSR 09-03-110, filed 1/21/09, effective 2/21/09)

WAC 434-261-005 Definitions. (1) "Manual inspection" is the process of inspecting each voter response position on each voted ballot. Inspection is performed on an absentee ballot as part of the initial processing, and on a poll ballot after breaking the seals and opening the ballot containers from the precincts or, in the case of precinct counting systems, prior to the certification of the election;

(2) "Duplicating ballots" is the process of making a true copy of valid votes from ballots that may not be properly

counted by the vote tallying system. Ballots may be duplicated on blank ballots or by making changes on an electronic image of the ballot. The original ballot may not be altered in any way;

(3) "Readable ballot" is any ballot that the certified vote tallying system can accept and read as the voter intended without alteration, and that meets the standards of the county canvassing board subject to the provisions contained in this title;

(4) "Unreadable ballot" is any ballot that cannot be read by the vote tallying system as the voter intended without alteration. Unreadable ballots may include, but not be limited to, ballots with damage, write-in votes, incorrect or incomplete marks, and questions of vote intent. Unreadable ballots may subsequently be counted as provided by these administrative rules;

(5) "Valid signature" on a ballot envelope for a registered voter eligible to vote in the election is:

(a) A signature verified against the signature in the voter registration file; or

(b) A mark witnessed by two people.

(6) "Overvote" is votes cast for more than the permissible number of selections allowed in a race or measure. An overvoted race or measure does not count in the final tally of that race or measure. Example of an overvote would be voting for two candidates in a single race with the instruction, "vote for one."

(7) "Undervote" is no selections made for a race or measure.

AMENDATORY SECTION (Amending WSR 07-12-032, filed 5/30/07, effective 6/30/07)

WAC 434-262-030 County auditor's abstract of votes. No later than the fifteenth day following any primary or special election and the twenty-first day following any general election the county canvassing board shall meet and canvass all ballots. Upon completion of this canvass, the board shall direct the county auditor to prepare the auditor's abstract of votes as defined by WAC 434-262-010. The reconciliation of absentee and vote by mail ballots must include documentation that the number of ballots counted plus the number of ballots rejected is equal to the number of ballots received. In addition, county auditors must provide any additional information necessary to explain variances between the number of ballots counted compared to the number of ballots received and credited. ~~((The oaths and the reconciliation report must be substantially similar to the following:))~~ The certification reports established in RCW 29A.60.235(1) must be included with the abstract of votes and must be submitted at the time of the county certification.

((STRICKEN GRAPHIC _____

Oath of County Auditor or Supervisor of Elections

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

I solemnly swear that the returns of the (insert election) held on (insert date), in _____ County, State of Washington, have been in no way altered and that they are the same as when they were deposited in my office.

County Auditor or Supervisor of Elections

Subscribed and sworn to me this ___ day of (insert month, year).

Chairman, County Legislative Authority

Certification Reconciliation Report
_____ Election
(insert date)

County _____
Date of Completion _____

NOTE: Address confidentiality program participants must be included with service voters.

Registration

Total number of active registered voters in all precincts _____
Total number of inactive registered voters in all precincts _____
Total registered voters in all precincts _____

Total absentee ballots counted (includes absentee, VBM, federal write-in, overseas, out of state, and service ballots) _____
Total poll site ballots counted (includes poll site and provisional ballots) _____
Total Ballots counted _____

Absentee and VBM Ballots

The total number of absentee/VBM ballots originally issued _____
The total number of absentee/VBM ballots received _____
The total number of absentee/VBM ballots rejected _____
The total number of absentee/VBM ballots counted _____

(STRICKEN GRAPHIC))

~~((STRICKEN GRAPHIC))~~

Federal Write-In Ballots

The total number of federal write-in ballots counted _____

Out-of-State, Overseas, and Service Voters

The total number of out-of-state, overseas, and service voters' ballots issued _____

The total number of out-of-state, overseas, and service voters' ballots received _____

The total number of out-of-state, overseas, and service voters' ballots rejected _____

The total number of out-of-state, overseas, and service voters' ballots counted _____

Provisional Ballots

The total number of provisional ballots issued (by this county) _____

The total number of provisional ballots rejected (includes sending to other counties) _____

The total number of provisional ballots received from other counties _____

The total number of provisional ballots counted _____

Certification of the Canvassing Board

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

The undersigned officers designated by law as constituting the Canvassing Board for the County of _____, State of Washington, hereby certify that this is a full, true and correct copy of the Abstract of Votes including the cumulative results, precinct results, and a reconciliation report of votes cast at the (insert election) held on (insert date), in _____ County, State of Washington, and that the following are the true and reconciled numbers of voters and votes counted.

Witness our hands and official seal this _____ day of (insert month, year).

County Auditor or Supervisor of Elections

Chairman, County Legislative Authority

County Prosecuting Attorney

~~_____
STRICKEN GRAPHIC))~~

AMENDATORY SECTION (Amending WSR 08-15-052, filed 7/11/08, effective 8/11/08)

WAC 434-262-031 Rejection of ballots or parts of ballots. (1) The disposition of provisional ballots is governed by WAC 434-253-047. The county canvassing board must reject any ballot cast by a voter who was not qualified to vote, or for other reasons required by law or administrative rule. A log must be kept of all voted ballots rejected, and must be included in the minutes of each county canvassing board meeting.

(2) Ballots or parts of ballots shall be rejected by the canvassing board in the following instances:

- (a) Where a voter has already voted one ballot;
- (b) Where two voted ballots are contained within a returned mail ballot envelope containing only one valid signature under the affidavit, unless both ballots are voted identically, in which case one ballot will be counted. If there are two valid signatures under the affidavit, both ballots must be counted;
- (c) Where a ballot or parts of a ballot are marked in such a way that it is not possible to determine the voter's intent consistent with WAC 434-261-086;
- (d) Where the voter has voted for candidates or issues for whom he or she is not entitled to vote;
- (e) Where the voter has ~~((voted for more candidates for an office than are permissible))~~ overvoted;
- (f) Where the voter validly transferred out of the county.

(c) Where a ballot or parts of a ballot are marked in such a way that it is not possible to determine the voter's intent consistent with WAC 434-261-086;

(d) Where the voter has voted for candidates or issues for whom he or she is not entitled to vote;

(e) Where the voter has ~~((voted for more candidates for an office than are permissible))~~ overvoted;

(f) Where the voter validly transferred out of the county.

AMENDATORY SECTION (Amending WSR 07-12-032, filed 5/30/07, effective 6/30/07)

WAC 434-264-110 Manual recount—Process. The counting board may only count the responses for one race or measure at a time. The following process to count the ballots shall be used during a recount.

(1) Each counting board shall be given the ballots one precinct or batch at a time. The results from the original count shall not be given with the ballots. The precinct or batch number must be made available to any observers.

(2) The ballots shall be sorted into separate stacks for each of the candidates or side of a ballot measure. Additional stacks may be created for overvotes, undervotes, and write-ins.

(3) Each stack of ballots must be manually counted at least twice to confirm the number of votes in each stack. The results of the manual count shall not be shared until both persons have counted the ballots.

(4) Individual tallies for each stack shall be compared. If the manual counts match, the results shall be reported to the designated staff person and the results shall be compared to the results ~~((of the original count))~~ previously certified.

(5) If the two manual counts do not match, the ballots shall be counted by the same counting board one more time. If the manual counts still do not match, the discrepancy must be reported to the designated staff person and the ballots referred to another counting board.

AMENDATORY SECTION (Amending WSR 09-03-110, filed 1/21/09, effective 2/21/09)

WAC 434-324-045 Verification of applicant's identity. (1) If the applicant is provisionally registered pursuant to WAC 434-324-040(5), the county auditor must verify the applicant's identity before counting the applicant's ballot. The county auditor may use other government resources and public records to confirm the applicant's driver's license or state identification card number or the last four digits of the applicant's Social Security number. The county auditor may also attempt to contact the applicant by phone, e-mail or other means to obtain identification information.

(2) If, after these attempts, the county auditor is still unable to verify the applicant's identity, the county auditor must send the applicant an identity verification notice that includes a postage prepaid, preaddressed form by which the applicant may verify or send information. The identity verification notice must ~~((be in substantially the following form))~~ include:

~~((Dear Voter:~~

~~)/date/~~

~~Thank you for submitting a voter registration application. Because we were unable to verify your identity based on the information you provided, you are now provisionally registered to vote.~~

~~Federal law requires that you provide identification either before or when you vote. **If you fail to provide identification, your ballot will not be counted.**~~

Please provide one of the following:

■ ~~The number on your Washington driver's license or state ID card: _____~~

~~Your name and date of birth as it appears on your driver's license or state ID card:~~

_____	_____	_____	_____
First	M.I.	Last	date of birth

■ ~~The last four digits of your Social Security number: _____~~

~~Your name and date of birth as maintained by the Social Security Administration:~~

_____	_____	_____	_____
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First	M.I.	Last	date of birth
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- A copy of one of the following:
 - Valid photo identification;
 - A valid enrollment card of a federally recognized tribe in Washington;
 - A current utility bill;
 - A current bank statement;
 - A current government check;
 - A current paycheck; or
 - A government document, other than a voter registration card, that shows both your name and address.

Please provide this documentation as soon possible. **If it is not provided, your ballot will not be counted.**

If you have any questions, please feel free to contact the _____ County Auditor's Office at _____.)

(a) A statement explaining that because the applicant's identity cannot be verified with the information provided on the application, he or she is provisionally registered to vote.

(b) A statement explaining that if this information is not provided, the applicant's ballot will not be counted.

(c) A statement explaining that federal law requires the applicant to provide a copy of one of the following forms of identification either before or when they vote:

(i) A Washington driver's license or state ID card;

(ii) The last four digits of his or her Social Security number;

(iii) Valid photo identification;

(iv) A valid enrollment card of a federally recognized tribe in Washington;

(v) A current utility bill, or a current bank statement;

(vi) A current government check;

(vii) A current paycheck; or

(viii) A government document, other than a voter registration card, that shows both the registrant's name and current address.

(3) If the applicant responds with updated driver's license, state ID card, or Social Security information, or with a copy of one of the alternative forms of identification, the flag on the voter registration record must be removed, allowing the applicant's ballot to otherwise be counted the first time he or she votes after registering.

(4) If the applicant fails to respond with adequate documentation to verify his or her identity, the applicant's voter registration record must remain flagged. If the applicant votes ((absentee)) by mail, he or she must be notified that the ballot will not be counted unless he or she provides adequate verification of identity.

(5) A provisional registration must remain on the official list of registered voters for at least two general elections for federal office. If, after two general elections for federal office, the voter still has not verified his or her identity, the provisional registration shall be canceled.

AMENDATORY SECTION (Amending WSR 06-14-050, filed 6/28/06, effective 7/29/06)

WAC 434-324-075 Timelines for new and transfer registrations. (1) In order to be in effect for an upcoming primary, special, or general election, a registered voter must transfer his or her registration record by mail or in person no later than thirty days prior to the primary, special, or general election. A registered voter may transfer his or her registration record within the county or to another county by completing and submitting a new application for voter registration. ((Upon receipt, the auditor must process the application for voter registration in the same manner as all other applications for voter registration pursuant to WAC 434-324-010.))

(2) In order to vote in an upcoming primary, special, or general election, a person who is not registered to vote in Washington must register:

(a) By mail no later than thirty days prior to the primary, special, or general election; or

(b) In person at the county auditor's office no later than fifteen days before the primary, special, or general election. A person who registers under this subsection will be issued an absentee ballot for the upcoming primary, special, or general election.

AMENDATORY SECTION (Amending WSR 05-18-022, filed 8/29/05, effective 9/29/05)

WAC 434-335-240 Acceptance testing of voting systems and equipment. Whenever a county auditor acquires a new system or an upgrade to an existing system that has been certified by the secretary of state, the county must perform acceptance tests of the equipment before it may be used to count votes at any election. The equipment must operate correctly, pass all tests, and be substantially the same as the equipment certified by the secretary of state. The minimum testing standards are described as follows:

(1) The model number, version number, release number, and any other number, name or description that identifies the product must be the same as the identifying numbers for the product already certified by the secretary of state.

(2) The county must receive all manuals and training necessary for the proper operation of the system.

(3) For ~~((a vote tabulating system, the))~~ new hardware or hardware upgrades, the county must ~~((perform a series of functional and programming tests that test all functions of the system. The tests must include processing a substantial number of test ballots of various ballot codes, including split precincts, multiple candidates, precinct committee officer races, cumulative reports, precinct reports, canvass reports, and any other tests the county auditor finds necessary.~~

(4) The county auditor must certify the results of the acceptance tests to the secretary of state, which must include ~~version numbers of the hardware, software, and firmware installed and tested~~) test the functionality of the hardware to verify the hardware works as designed. The test must include operating the hardware and submitting it to a series of assessments that determine the hardware works, performs, and functions as intended.

AMENDATORY SECTION (Amending WSR 09-03-110, filed 1/21/09, effective 2/21/09)

WAC 434-335-250 Inclusion of the ~~((Federal))~~ Election Assistance Commission standards for voting equipment. The ~~((2002 Federal))~~ Election Assistance Commission standards concerning voting systems and software escrow are hereby included by reference, except where otherwise modified by these rules and the *Revised Code of Washington*. ~~((After January 1, 2006, in order for a modification of a system that was previously certified according to the 1990 Federal Election Commission voting system standards to be administratively approved, the entire voting system must be tested and approved according to the 2002 standards.))~~

WSR 09-12-087
PERMANENT RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed June 1, 2009, 10:53 a.m., effective July 2, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 181-82A-207 and 181-82A-208, specialty endorsements adding environmental and sustainability education, teacher of the visually impaired, and orientation and mobility teacher (WAC 181-82A-207) and requiring assessment of teacher content knowledge in the specialty area (WAC 181-82A-208).

Citation of Existing Rules Affected by this Order: Amending x [WAC 181-82A-207 and 181-82A-208].

Statutory Authority for Adoption: RCW 28A.410.210.

Adopted under notice filed as WSR 09-08-058 on March 26, 2009.

A final cost-benefit analysis is available by contacting David Brenna, 600 Washington Street South, Room 252, Olympia, WA 98504-7236, phone (360) 725-6238, fax (360) 586-4548, e-mail david.brenna@k12.wa.us.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 20, 2009.

David Brenna
Legislative and
Policy Coordinator

AMENDATORY SECTION (Amending WSR 07-23-050, filed 11/15/07, effective 12/16/07)

WAC 181-82A-207 Specialty endorsement criteria.

(1) Specialty endorsements prepare a teacher to work with a specific student population/demographic and/or subject matter area, and are created to help teachers specialize beyond the required certificate endorsements as stated in WAC 181-82A-202. Specialty endorsements have unique endorsement competencies not found in any of the existing endorsements. Specialty endorsements shall include a means of assessing an applicant's content knowledge in the specialty subject area that shall be assessed and verified through program completion.

(2) Each college or university and/or Washington-based organization/association requesting the creation of a specialty endorsement shall seek a two phase approval by the professional educator standards board.

(a) Phase one: Proposers shall submit a preapproval proposal to the professional educator standards board that includes the following information:

(i) Documentation of nationally recognized teaching standards unique to the proposed specialty endorsement;

(ii) Letter of support from a professional educator standards board-approved college or university interested in offering the proposed specialty endorsement program.

(b) Phase two: If proposers receive preapproval from the professional educator standards board, they shall submit a phase two application available by the board. The phase two application, not to exceed ten pages, will address the following information:

(i) A description of the needs, student population and/or subject matter addressed by the proposed specialty endorsement;

(ii) A description of the unique knowledge and skills the proposed specialty endorsement provides to educators;

(iii) An explanation of the expected value and benefit of the proposed specialty endorsement for the K-12 system.

(c) Upon completion of both phases and board approval of a specialty endorsement, the process in WAC 181-82A-206 shall apply.

AMENDATORY SECTION (Amending WSR 06-20-063, filed 9/29/06, effective 10/30/06)

WAC 181-82A-208 Specialty endorsements. The following specialty endorsements may be added to an existing endorsed teaching certificate:

(1) Deaf education (per RCW 28A.410.225).

~~((1))~~ (a) This specialty endorsement is required for teachers who will be working almost exclusively with students who are deaf or hard of hearing.

~~((2))~~ (b) Program ~~((and test))~~ requirements are waived and this specialty endorsement granted if a candidate possesses a baccalaureate or master's degree in deaf education from a teacher training program approved by the council on education of the deaf.

(2) Environmental and sustainability education.

(3) Teacher of the visually impaired.

(4) Orientation and mobility teacher.

WSR 09-12-091

PERMANENT RULES

WESTERN WASHINGTON UNIVERSITY

[Filed June 1, 2009, 2:13 p.m., effective July 2, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of the new rule is to provide updated and clear guidance on the use of skateboards, foot scooters, skates, and other similar devices to students, faculty, staff, and guests of Western Washington University. Highlights of the amendments include: Recognizing skateboarding as a method of sustainable transportation; permitting the use of skateboards, foot scooters, skates, and other similar devices on campus; and establishing speed limits and walk zones on campus.

Citation of Existing Rules Affected by this Order: Repealing WAC 516-15-030 and 516-15-040; and amending WAC 516-15-010, 516-15-020, and 516-15-050.

Statutory Authority for Adoption: RCW 28B.35.120(12).

Other Authority: RCW 28B.10.560.

Adopted under notice filed as WSR 09-07-032 on March 10, 2009.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 3, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 3, Repealed 2.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 1, 2009.

Suzanne M. Baker
Rules Coordinator

Chapter 516-15 WAC

SKATEBOARDS ((AND IN-LINE SKATE POLICY)), FOOT SCOOTERS, SKATES, AND OTHER SIMILAR DEVICES

AMENDATORY SECTION (Amending WSR 96-24-015, filed 11/22/96, effective 1/1/97)

WAC 516-15-010 Definitions. As used in this chapter, the following words mean:

("Skateboard." ~~A toy consisting of an oblong or rectangular board, made of wood, plastic, metal or components thereof, with wheels, ridden, as down an incline, usually in a standing position. It may or may not be motorized.~~

"Skate." ~~A toy consisting of shoes or boots with small wheels on the soles, either in pairs at the toe and heel or in a line down the length of the foot.)~~ (1) "Electric personal assistive mobility device (EPAMD)." A self-balancing device with two wheels not in tandem, designed to transport only one person by an electric propulsion system with an average power of seven hundred fifty watts (one horsepower) having a maximum speed on a paved level surface, when powered solely by such a propulsion system while ridden by an operator weighing one hundred seventy pounds, of less than twenty miles per hour.

(2) "Pedestrian." Any person who is afoot or who is using a wheelchair, a powered wheelchair or a powered scooter for persons with disabilities.

(3) "Skateboard." A flat or curved board, mounted on two or more casters or wheels, manually propelled, and usually made of wood, plastic, fiberglass, or similar materials. The term skateboard is intended to include roller skates, in-line skates, longboards, and foot scooters. It does not include electric or manual wheelchairs or powered scooters for use by persons with disabilities.

(4) "Skateboarder." Is a person using a device included in subsection (3) of this section.

(5) "Walk zone." Any area designated by signs or symbols as a place where bicycles, skateboards, and other regulated devices cannot be ridden during specified periods.

AMENDATORY SECTION (Amending WSR 96-24-015, filed 11/22/96, effective 1/1/97)

WAC 516-15-020 Purpose and application. ~~((Because the university is primarily a pedestrian campus, the purpose of these regulations is:~~

(1) ~~To protect and control pedestrian traffic and traffic of persons using coasters, skateboards, in-line skates, toy vehicles or other similar devices.~~

(2) ~~To protect from physical damage and more than ordinary wear the wooden and concrete benches, brick and paved walkways, stairs, steps, loading ramps, plazas, and ramps for the disabled, caused by use of coasters, skateboards, in-line skates, toy vehicles, or similar devices on such areas.)~~ West-

ern Washington University acknowledges that skateboards, foot scooters, skates, and other similar devices are sustainable forms of transportation. Use is regulated to protect the campus from physical damage and to provide safe and equitable access. This chapter does not apply to bicycles, electric personal assistive mobility devices or other powered devices regulated under chapter 516-13 WAC.

NEW SECTION

WAC 516-15-045 Operation. (1) Skateboarders are expected to use skateboards in a safe, responsible manner.

(2) Skateboarders must comply with these regulations to ensure the safe operation, use, and storage of these devices on campus.

(3) Skateboarders must yield the right of way to pedestrians at all times.

(4) Skateboarders must comply with speed limits on campus as follows:

(a) Share pedestrian spaces and walkways only at pedestrian walking speeds, three miles per hour, within ten feet of any pedestrian or areas congested with pedestrians.

(b) Otherwise, skateboard speeds are limited to pedestrian jogging speeds, five to seven miles per hour maximum.

(5) Speeds in excess of seven miles per hour, stunt riding, or any and all other uses of skateboards that may cause property damage and endanger the user or others are prohibited.

(6) Skateboarders are restricted from the following areas: Lawns, benches, stairways, steps, sculpture, art work, hand rails, loading ramps, building interiors.

(7) Skateboarders must dismount and walk in areas specifically designated as permanent or temporary walk zones from 9 a.m. to 4 p.m. during regular class days, including finals week, during the regular academic year. Designated walk zones are as follows:

(a) In Red Square;

(b) In the congested, narrow walk area from the north side of Engineering Technology to the north side of Carver Gym;

(c) At Viking Union Vendor's Row; and

(d) Such other areas as may be designated by the vice-president for business and financial affairs.

(8) Skateboards may be used in the east-west intertie between Carver Gym, the Art Annex, Bond Hall, and Miller Hall but must yield right of way to pedestrians.

NEW SECTION

WAC 516-15-046 Storage and parking. Skateboarders must store and maintain control of their devices to prevent harm to others.

AMENDATORY SECTION (Amending WSR 99-07-089, filed 3/19/99, effective 4/19/99)

WAC 516-15-050 Enforcement. (1) A ~~((person using a skateboard, coaster, in-line skates, toy vehicle, or similar device))~~ skateboarder who refuses to abide by the rules and regulations set forth under chapter 516-15 WAC may be issued a university notice of infraction (NOI) for ~~((using a~~

~~skateboard, coaster, in-line skates, toy vehicle, or similar device on campus in an area not designated for such use:))~~ one or more of the following:

(a) Failure to yield right of way to a pedestrian;

(b) Failure to stay in control of the skateboard;

(c) Failure to comply with speed limits on campus;

(d) Failure to dismount in walk zone areas;

(e) Failure to responsibly store the skateboard;

(f) Riding in a restricted area; and

(g) Failure to use due care and caution.

(2) Penalties(†). The penalties for violating any part of this ~~((section))~~ chapter shall be progressive~~((, with the monetary penalty increasing for each subsequent offense. The first violation shall have a monetary penalty of ten dollars. A second violation shall have a monetary penalty of fifty dollars))~~. The penalty schedule will be published in the university *Fees and Rates Listings* and is available at parking services.

Any person who violates any portion of this section and as a result is involved in a collision with a pedestrian or an object shall have the monetary penalty for the offense doubled.

Any person using a skateboard, ~~((coaster, in-line))~~ skates, ~~((toy vehicle,))~~ or similar device who attempts to elude a uniformed police officer attempting to enforce these regulations shall have the monetary penalty for the offense doubled.

A rider who refuses to cooperate with a police officer will be subject to arrest for obstructing a law enforcement officer under the provisions of chapter 9A.76 RCW and/or criminal trespass under the provisions of chapter 9A.52 RCW.

(3) Appeal procedure. A university notice of infraction (NOI) may be appealed by filing a completed appeal form at ~~((the))~~ parking services ~~((office))~~ or appeal on-line at www.ps.wvu.edu within seven days of receipt of the notice of infraction; otherwise, the right to a hearing is forfeited.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 516-15-030 Authority.

WAC 516-15-040 Regulation.

WSR 09-12-092

PERMANENT RULES

WESTERN WASHINGTON UNIVERSITY

[Filed June 1, 2009, 2:18 p.m., effective July 2, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of the new rule is to provide updated and clear guidance on the use of bicycles, mopeds, and other powered devices to students, faculty, staff, and guests of Western Washington University. Highlights of the amendments include: Recognizing bicycles as an essential component of a sustainable transportation system; establishing speed limits; and designating walk zones on campus,

where riders must dismount and walk their bicycles, mopeds, and other powered devices.

Citation of Existing Rules Affected by this Order: Repealing WAC 516-13-060; and amending WAC 516-13-010, 516-13-020, 516-13-030, 516-13-080, and 516-13-090.

Statutory Authority for Adoption: RCW 28B.35.120(12).

Other Authority: RCW 28B.10.560.

Adopted under notice filed as WSR 09-07-033 on March 10, 2009.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 5, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 5, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 1, 2009.

Suzanne M. Baker
Rules Coordinator

Chapter 516-13 WAC

BICYCLES ((TRAFFIC AND PARKING REGULATIONS)), MOPEDS, AND OTHER POWERED DEVICES

NEW SECTION

WAC 516-13-005 Definitions. As used in this chapter, the following words mean:

(1) "Bicycle." A vehicle with two wheels in tandem usually propelled by pedals connected to the rear wheel by a chain and having handlebars for steering. The term bicycle is intended to include other pedal-powered cycles.

(2) "Electric personal assistive mobility device (EPAMD)." A self-balancing device with two wheels not in tandem, designed to transport only one person by an electric propulsion system with an average power of seven hundred fifty watts (one horsepower) having a maximum speed on a paved level surface, when powered solely by such a propulsion system while ridden by an operator weighing one hundred seventy pounds, of less than twenty miles per hour. This term is intended to include other similar devices as defined in RCW 46.04.304 as now or hereafter amended.

(3) "Moped." A motorized device designed to travel with not more than three sixteen-inch or larger diameter wheels in contact with the ground, having fully operative pedals for propulsion by human power, and an electric or a liquid fuel motor with a cylinder displacement not exceeding fifty cubic centimeters that produces no more than two gross

brake horsepower as defined in RCW 46.04.304 as now or hereafter amended.

(4) "Motorized foot scooter." A device with no more than two ten-inch or smaller diameter wheels that has handlebars, is designed to be stood or sat upon by the operator, and is powered by an internal combustion engine or electric motor that is capable of propelling the device with or without human propulsion, as defined in RCW 46.04.336 as now or hereafter amended.

(5) "Other powered devices." A device that transports people powered by electric and/or combustion motors except for those licensed under state law for highway use.

(6) "Pedestrian." Any person who is afoot or who is using a wheelchair, a powered wheelchair or a powered scooter for persons with disabilities.

(7) "Walk zone." Any area designated by signs or symbols as a place where bicycles, skateboards, and other regulated devices cannot be ridden during specified periods.

AMENDATORY SECTION (Amending Order 6-02-83, Motion No. 6-02-83, filed 6/28/83, effective 9/19/83)

WAC 516-13-010 Purpose and application. ~~((The primary aim of these regulations shall be to prevent the unsafe use and/or unsafe parking of bicycles on the campus of))~~ Western Washington University acknowledges that bicycles are an essential component of a sustainable transportation system, providing safe and equitable access to and around campus by all users. This chapter does not apply to electric or manual wheelchairs or powered scooters for use by persons with disabilities. This chapter applies only to bicycles, mopeds, and other powered devices and does not apply to skateboards, foot scooters, skates and other similar devices regulated under chapter 516-15 WAC.

NEW SECTION

WAC 516-13-015 Licensable motorized devices. Motorized bicycles and mini-motorcycles are, for the purpose of this regulation, considered to be motorcycles and are subject to all traffic rules and regulations controlling motorcycles. See chapter 516-12 WAC, Parking and traffic regulations.

AMENDATORY SECTION (Amending WSR 96-24-016, filed 11/22/96, effective 1/1/97)

WAC 516-13-020 Parking regulations. (1) ~~((All state of Washington bicycle regulations are applicable on the campus-))~~ Parking a bicycle, moped, or other powered devices in public areas of buildings, on a path, sidewalk, walkway, or in such a manner as to block a building exit or entrance creates a safety hazard and impedes pedestrians.

(2) ~~((All city of Bellingham bicycle regulations are applicable on the campus-))~~ Bicycles, mopeds, and other powered devices are not to be chained to trees, light posts, or designated works of art.

(3) Bicycles, mopeds, and other powered devices are to be parked only in bicycle racks ((where provided)) or in ((parking areas)) specifically designated ((or marked as a)) bicycle parking areas. ((No person shall park a bicycle in the

public areas of buildings, on a path, sidewalk, walkway, or in such a manner as to block a building exit or entrance.)

(4) ~~((Bicycles are not to be chained to a designated work of art.))~~ Vehicles containing combustible fuel may not be parked inside any university building, except in a garage, research facility, or automotive shop designated for parking such vehicles by the vice-president for business and financial affairs.

(5) Improperly parked bicycles, mopeds, and other powered devices are subject to impoundment.

AMENDATORY SECTION (Amending WSR 02-07-045, filed 3/14/02, effective 4/14/02)

WAC 516-13-030 Impounding of bicycles, mopeds, and other powered devices. (1) Bicycles, mopeds, and other powered devices may be impounded for illegal parking.

(2) ~~((Bicycles))~~ They will be released upon presentation of proof of ownership and payment of a (((\$3-00)) fee if claimed within seven days. ((Bicycles)) If unclaimed after seven days, they will be ((released to the university public safety department)) subject to disposal as abandoned property. If the owner of an impounded bicycle, mopeds, or other powered device can be identified, ((they)) the owner will be notified immediately after impound.

AMENDATORY SECTION (Amending WSR 02-07-045, filed 3/14/02, effective 4/14/02)

WAC 516-13-080 Operation. (1) ~~((Pedestrians have the))~~ All state of Washington bicycle regulations are applicable on the campus.

(2) All city of Bellingham bicycle regulations are applicable on the campus.

(3) Riders must yield the right of way ((on all sidewalks, pathways, and plaza areas)) to pedestrians on campus. ((Bicyclists)) Riders will use due caution when riding ((bicycles)) on campus and are encouraged to wear helmets, use lights, and avoid distractions such as cell phones, ear buds, and other devices that inhibit hearing.

~~((2-It is))~~ (4) Riders are prohibited ((for bicycles to be ridden)) from riding in areas specifically designated as permanent and/or temporary ((dismount) walk zones. ((Bicyclists)) Riders must dismount and walk their bicycles, mopeds, and other powered devices in designated ((dismount) walk zones ((during the fifteen minutes prior to and fifteen minutes after each hour)) from ((7:45)) 9 a.m. to ((5:15)) 4 p.m. during regular class days, including finals week, during the regular academic year. Designated walk zones are as follows:

(a) In Red Square;

(b) In the congested, narrow walk area from the north side of Engineering Technology to the north side of Carver Gym;

(c) At Viking Union Vendor's Row; and

(d) Such other areas as may be designated by the vice-president of business and financial affairs.

(5) Riders are permitted to ride in the east-west intertie between Carver Gym, the Art Annex, Bond Hall, and Miller Hall but must yield right of way to pedestrians.

~~((3))~~ (6) Bicyclists are responsible for following the Bicycle Responsibility Code adopted May 21, 1996, by the student bicycle advisory coalition as amended by the central health and safety committee on June 3, 1996, and February 10, 2009:

(a) Pedestrians have right of way, always.

(b) Stay in control.

(c) Avoid congested areas and use back roads when possible.

(d) Obey the ((dismount policy)) walk zone signs, bicycle speed limits, and obey all traffic laws.

(e) ~~((Dismount and))~~ Walk your bike ((when)) in walk zones and ride slowly in crowded areas.

(f) Minimize impact—Stay off the lawns.

(g) Park and lock bikes only at bike racks.

(h) Know the code!

(7) Riders have speed limits as follows:

(a) Share pedestrian spaces and walkways only at pedestrian walking speeds of three miles per hour, within ten feet of any pedestrian or areas congested with pedestrians.

(b) Otherwise, speeds are limited to pedestrian jogging speeds of seven miles per hour maximum.

AMENDATORY SECTION (Amending WSR 02-07-045, filed 3/14/02, effective 4/14/02)

WAC 516-13-090 Enforcement. (1) A ((bicycle)) rider who refuses to abide by these regulations set forth under chapter 516-13 WAC may be issued a university notice of infraction (NOI) ((for one or more of the following infractions:

(1) Failure to yield right of way to pedestrian;

(2) Failure to stay in control of bicycle;

(3) Failure to obey dismount policy;

(4) Riding on lawn or other restricted area;

(5) Failure to use due care and caution.))

(2) **Penalties(+).** The penalties for violating any part of this ((section)) chapter shall be progressive((, with the monetary penalty increasing for each subsequent offense regardless of the nature of the previous offense(s). The first violation shall have a monetary penalty of ten dollars. A second violation shall have a monetary penalty of twenty-five dollars. A third and each subsequent violation shall have a monetary penalty of fifty dollars). The penalty schedule will be published in the university Fees and Rates Listings and is available at parking services.

Any ((bicycle)) rider who violates any portion of this section and as a result is involved in a collision with a pedestrian or an object shall have the monetary penalty for the offense(s) doubled.

Any ((bicycle)) rider who attempts to elude a uniformed police officer attempting to enforce these regulations shall have the monetary penalty for the offense(s) doubled.

Chapter 516-13 WAC notwithstanding, ((bicycle)) riders remain subject to enforcement of applicable city and state traffic laws while riding upon public roadways or sidewalks.

A ((bicycle)) rider who refuses to cooperate with a police officer ((or to present proof of identification)) will be subject to arrest for obstructing a law enforcement officer under the

provisions of chapter 9A.76 RCW and/or criminal trespass under the provisions of chapter 9A.52 RCW.

(3) Appeal procedure. A university notice of infraction (NOI) may be appealed by filing a completed appeal form at ((the)) parking services ((office)) or appeal on-line at ((www.park.wvu.edu)) www.ps.wvu.edu within seven days of receipt of the notice of infraction; otherwise, the right to a hearing is forfeited.

~~((Distribution of funds collected from monetary penalties. Moneys collected for violations of chapter 516-13 WAC shall be applied towards the cost of enforcing this section. Moneys received in excess of these costs shall be applied towards bicycle-related projects, including bicycle parking, bicycle pathways and safe bicycling education.))~~

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 516-13-060 Motorized bicycles.

WSR 09-12-111
PERMANENT RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
(Division of Consumer Services)

[Filed June 2, 2009, 3:34 p.m., effective July 3, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The brief adjudicative proceeding (BAP) is a process in the APA for appealing agency actions. The BAP process is currently available to loan originators on licensing decisions. The adopted rules will make the BAP appeal process available for more categories of agency actions.

Citation of Existing Rules Affected by this Order: Amending WAC 208-660-350(6).

Statutory Authority for Adoption: RCW 43.320.040.

Adopted under notice filed as WSR 09-08-126 on April 1, 2009.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 1, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 2, 2009.

Deborah Bortner, Director
Division of Consumer Services

NEW SECTION

WAC 208-660-009 Application of Administrative Procedure Act. (1) What are my rights when the department begins an administrative enforcement action against me? Under the Administrative Procedure Act (APA), chapter 34.05 RCW, you have the right to request a hearing on the agency's action. Hearings are conducted as either formal adjudicative proceedings or may, under certain circumstances, be handled as a brief adjudicative proceeding (BAP).

(2) What must I do when I want to request a hearing? When you are notified of administrative charges filed against you, you are also notified of your right to request a hearing. At that time, the department will also notify you as to whether the hearing will be conducted as a brief adjudicative proceeding. You are required to notify the department, in writing, within twenty days from the date of the director's notice to you notifying you of the enforcement action against you. This notice must be received by the department by the 20th day following service of the charges on you.

(3) What is a brief adjudicative proceeding? Under the APA, a brief adjudicative proceeding is a hearing that is less formal in nature and typically resolves the charges quickly. The department provides a BAP for violations of the act in which the facts are undisputed and under circumstances where the parties may present their case without the need for witnesses. Typical matters to be heard in a BAP include, but are not limited to, license denials or revocations based on certain undisputed facts, including criminal convictions or misrepresentations on an application.

(4) May I request a brief adjudicative proceeding in response to an administrative enforcement action? Yes, but only if the matter has been designated by the department as one for which a BAP is available. The director adopts RCW 34.05.482 through 34.05.494 for the administration of brief adjudicative proceedings. Brief adjudicative proceedings shall be limited to a determination of one or more of the following issues:

(a) Whether an applicant for a loan originator license meets the requirements of RCW 19.146.310 (1)(a), (b), (c), (d), (e), or (h);

(b) Whether an applicant for a mortgage broker license meets the requirements of RCW 19.146.210 (1)(a), (b), (c), (d), or (e); and

(c) Whether a mortgage broker has failed to maintain the bond required by RCW 19.146.205.

(5) In a matter not listed in subsection (4) of this section, a brief adjudicative proceeding may be conducted at the discretion of the presiding officer when it appears that protection of the public interest does not require that the department provide notice and an opportunity to participate to persons other than the parties, and:

(a) Only legal issues exist; or

(b) Both parties have agreed to a brief proceeding. As used in this section, "persons other than the parties" does not include an attorney or representative for a party, or a witness for a party.

(6) How does the BAP work? Brief adjudicative proceedings are controlled by the provisions of RCW 34.05.482 through 34.05.494. The department will use the following procedure:

(a) **Presiding officer.** The director shall designate a presiding officer to conduct the brief adjudicative proceedings. The presiding officer must have department expertise in the subject matter, but must not have personally participated in the department's licensing application denial, or work in the department's division of consumer services, or such other division within the department delegated by the director to oversee implementation of the act and these rules.

(b) **Preliminary records.** The preliminary record for the brief adjudicative proceeding consists of the application and all associated documents including all documents relied upon by the department to deny the application and all correspondence between the applicant and the department regarding the application.

(c) **Notice of hearing.** The presiding officer will set the date, time, and place of the hearing, giving at least seven business days notice to the applicant.

(d) **Written documents.** The department's staff or representative and the applicant or their representative may present written documentation for consideration by the presiding officer. The presiding officer will designate the date and number of pages allowed for submission of written documents, including supporting exhibits.

(e) **Oral argument.** The presiding officer may exercise discretion on whether to allow oral argument.

(f) **Witnesses.** Live witness testimony will not be allowed. Witnesses providing testimony by sworn declaration or affidavit will be allowed at the discretion of the presiding officer.

(g) If, at the time of the hearing, the presiding officer determines that the alleged violations or evidence concerning the violations is such that a formal adjudicative proceeding is necessary, the presiding officer may immediately adjourn the hearing and direct that the matter be scheduled as a formal adjudicative proceeding.

(h) **Initial order.** The presiding officer must make a written initial order within ten business days of the final date for submission of materials, or oral argument, if any, to include a written statement describing the decision, the reasons for the decision, and describing the right to request review of the decision by the director. The initial order will become final twenty-one days after service on the applicant unless the applicant requests an administrative review or the department decides to review the matter.

AMENDATORY SECTION (Amending WSR 09-01-156, filed 12/23/08, effective 1/23/09)

WAC 208-660-350 Loan originators—Licensing. (1) How do I apply for a loan originator license? Your application consists of an on-line filing through the NMLSR and Washington specific requirements provided directly to DFI. You must pay an application fee through the NMLSR system.

(a) **Be eighteen years or older.**

(b) **Have a high school diploma, an equivalent to a high school diploma, or three years experience in the industry. The experience must meet the criteria in WAC 208-660-250 (1)(e)(i) and (ii).**

(c) **Pass a licensing test.** You must take and pass a test that assesses your knowledge of the mortgage business and related regulations. See WAC 208-660-360, Loan originators—Testing.

(d) **Submit an application.** You must complete an application in a form prescribed by the director.

(e) **Prove your identity.** You must provide information to prove your identity.

(f) **Pay the application fee.** You must pay an application fee for your application. See WAC 208-660-550, Department fees and costs.

(2) In addition to reviewing my application, what else will the department consider to determine if I qualify for a loan originator license?

(a) **General fitness and prior compliance actions.** The department will investigate your background to see that you demonstrate the experience, character, and general fitness that commands the confidence of the community and creates a belief that you will conduct business honestly and fairly within the purposes of the act. This investigation may include a review of the number and severity of complaints filed against you, or any person you were responsible for, and a review of any investigation or enforcement activity taken against you, or any person you were responsible for, in this state, or any jurisdiction.

(b) **License suspensions or revocations.** You are not eligible for a loan originator license if you have been found to be in violation of the act or the rules, or have had a license issued under the act or any similar state statute suspended or revoked within five years of the filing of the present application.

(c) **Criminal history.**

You are not eligible for a loan originator license if you have been convicted of a gross misdemeanor involving dishonesty or financial misconduct, or a felony, within seven years of the filing of the present application.

(d) **Financial background.**

(i) You are not eligible to receive a loan originator license if you have one hundred thousand dollars or more of tax liens against you at the time of appointment by a licensed mortgage broker.

(ii) You may not be eligible to receive a loan originator license if your financial background during the two years prior to the appointment application shows a history of unpaid debts.

(3) What will happen if my loan originator license application is incomplete? After submitting your on-line application through the NMLSR, the department will notify you of any application deficiencies.

(4) How do I withdraw my application for a loan originator license? Once you have submitted the on-line application through NMLSR you may withdraw the application through NMLSR. You will not receive a refund of the NMLSR application fee.

(5) When will the department consider my loan originator license application to be abandoned? If you do not respond within ten business days to the department's second request for information, your loan originator license application is considered abandoned and you forfeit all fees paid. Failure to provide the requested information will not affect

new applications filed after the abandonment. You may reapply by submitting a new application package and new application fee.

(6) What happens if the department denies my application for a loan originator license, and what are my rights if the license is denied?

~~((a) The department will notify you if your application is denied.~~

~~(b) If your license application lists any mortgage brokers, the department will also notify the mortgage brokers of the license denial.~~

~~(c) Under the Administrative Procedure Act, chapter 34.05 RCW, you have the right to request brief adjudicative proceeding. To request a hearing, notify the department, in writing, within twenty days from the date of the director's notice to you notifying you your license application has been denied.~~

~~(i) Brief Adjudicative Proceeding Adopted. The director adopts RCW 34.05.482 through 34.05.494 to administer brief adjudicative proceedings under WAC 208-660-350.~~

~~(ii) Presiding Officer. Brief adjudicative proceedings are conducted by a presiding officer designated by the director. The presiding officer must have department expertise in the subject matter, but must not have personally participated in the department's licensing application denial, or work in the department's division of consumer services, or such other division within the department delegated by the director to oversee implementation of the act and these rules.~~

~~(iii) Preliminary Records. The preliminary record for the brief adjudicative proceeding consists of the application and all associated documents including all documents relied upon by the department to deny the application and all correspondence between the applicant and the department regarding the application.~~

~~(iv) Notice of Hearing. The department will set the date, time, and place of the hearing, giving at least seven business days notice to the applicant.~~

~~(v) Written Documents. The applicant or their representatives may present written documentation. The presiding officer must designate the date for submission of written documents.~~

~~(vi) Oral Argument. The presiding officer may exercise discretion in allowing oral argument.~~

~~(vii) Witnesses. Witnesses will not be allowed to testify.~~

~~(viii) Agency Expertise Considered. The presiding officer may rely upon agency expertise in addition to the written record as a basis for a decision.~~

~~(ix) Initial Order. The presiding officer must make a written initial order within ten business days of the final date for submission of materials, or oral argument, if any. The initial order will become final twenty-one days after service on the applicant unless the applicant requests an administrative review or the department decides to review the matter.)) **See WAC 208-660-009.**~~

(7) How will the department provide me with my loan originator license? The department may use any of the following methods to provide you with your loan originator license:

(a) A printed paper license sent to you by regular mail.

(b) A license sent to you electronically that you may print.

(c) A license verification available on the department's web site and accessible for viewing by the public.

(8) May I transfer, sell, trade, assign, loan, share, or give my loan originator license to someone else? No. A loan originator license authorizes only the individual named on the license to conduct the business at the location listed on the license.

(9) How do I change information on my loan originator license? You must submit an amendment to your license through the NMLSR. You may be charged a fee.

(10) What is an inactive loan originator license? When a licensed loan originator is not sponsored by a licensed or exempt company, the license is inactive. When a person holds an inactive license, they may not conduct any of the activities of a loan originator, or hold themselves out as a licensed loan originator.

(11) When my loan originator license is inactive, am I subject to the director's enforcement authority? Yes. Your license is granted under specific authority of the director and under certain situations you may be subject to the director's authority even if you are not doing any activity covered by the act.

(12) When my loan originator license is inactive, must I continue to pay annual fees, and complete continuing education for that year? Yes. You must comply with all the annual licensing requirements or you will be unable to renew your inactive loan originator license.

(13) May I originate loans from a web site when my license is inactive? No. You may not originate loans, or engage in any activity that requires a license under the act, while your license is inactive.

(14) How do I activate my loan originator license? The sponsoring company must submit a sponsorship request for your license through the NMLSR. The department will notify you and all the companies you are working with of the new working relationship if approved.

(15) When may the department issue interim loan originator licenses? To prevent an undue delay, the director may issue interim loan originator licenses with a fixed expiration date. The license applicant must have substantially met the initial licensing requirements, as determined by the director, to receive an interim license.

For purposes of this section, undue delay includes the adjustment of license expiration or renewal dates to coincide with the implementation of systems designed to assist in uniformity and provide data repositories of licensing information.

One example of having substantially met the initial licensing requirements is: Submitting a complete application, paying all application fees, and the department having received and reviewed the results of the applicant's background check.

(16) When does my loan originator license expire? The loan originator license expires annually on December 31st. If the license is an interim license, it may expire in less than one year.

(17) How do I renew my loan originator license?

(a) Before the license expiration date you must renew your license through the NMLSR. Renewal consists of:

- (i) Pay the annual assessment fee; and
- (ii) Meet the continuing education requirement.

(b) The renewed license is valid until it expires, or is surrendered, suspended or revoked.

(18) If I let my loan originator license expire, must I apply to get a new license? If you complete all the requirements for renewal within forty-five days of the expiration date you may renew an existing license. However, if you renew your license during this forty-five day period, in addition to paying the annual assessment on your license, you must pay an additional fifty percent of your annual assessment. See subsection (17) of this section for the license renewal requirements.

During this forty-five day period, your license is expired and you must not conduct any business under the act that requires a license.

Any renewal requirements received by the department must be evidenced by either a United States Postal Service postmark or department "date received" stamp within the forty-five days. If you fail to comply with the renewal request requirements within forty-five days, you must apply for a new license.

(19) If I let my loan originator license expire and then apply for a new loan originator license within one year of the expiration, must I comply with the continuing education requirements from the prior license period? Yes. Before the department will consider your new loan originator application complete, you must provide proof of satisfying the continuing education requirements from the prior license period.

(20) May I still originate loans if my loan originator license has expired? No. Once your license has expired you may no longer conduct the business of a loan originator, or hold yourself out as a licensed loan originator, as defined in the act and these rules.

(21) What happens to the loan applications I originated before my loan originator license expired? Existing loan applications must be processed by the licensed mortgage broker or another licensed loan originator working for the mortgage broker.

(22) May I surrender my loan originator's license? Yes. Only you may surrender your license before the license expires through the NMLSR.

Surrendering your loan originator license does not change your civil or criminal liability, or your liability for any administrative actions arising from acts or omission occurring before the license surrender.

(23) Must I display my loan originator license where I work as a loan originator? No. Neither you nor the mortgage broker company is required to display your loan originator license. However, evidence that you are licensed as a loan originator must be made available to anyone who requests it.

(24) If I operate as a loan originator on the internet, must I display my license number on my web site? Yes. You must display your license number, and the license number and name as it appears on the license of the licensed mortgage broker you represent, on the web site.

(25) Must I include my loan originator license number on any documents? You must include your license number immediately following your name on solicitations, including business cards, advertisements, and residential mortgage loan applications.

(26) When must I disclose my loan originator license number? In the following situations you must disclose your loan originator license number and the name and license number of the mortgage broker you are associated with:

(a) When asked by any party to a loan transaction, including third party providers;

(b) When asked by any person you have solicited for business, even if the solicitation is not directly related to a mortgage transaction;

(c) When asked by any person who contacts you about a residential mortgage loan;

(d) When taking a residential mortgage loan application.

(27) May I conduct business under a name other than the name on my loan originator license? No. You must only use the name on your license when conducting business. If you use a nickname for your first name, you must use your name like this: "FirstName "Nickname" LastName."

WSR 09-12-129

PERMANENT RULES PROFESSIONAL EDUCATOR STANDARDS BOARD

[Filed June 3, 2009, 11:45 a.m., effective July 4, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 181-79A-206 is amended permitting teachers who participate, complete and meet criteria of the pro cert pilot project to receive their professional certification without attending a program.

Citation of Existing Rules Affected by this Order: Amending x [WAC 181-79A-206].

Statutory Authority for Adoption: RCW 28A.410.210.

Adopted under notice filed as WSR 09-08-103 on March 31, 2009.

A final cost-benefit analysis is available by contacting David Brenna, 600 Washington Street South, Room 252, Olympia, WA 98504-7236, phone (360) 725-6238, fax (360) 586-4548, e-mail david.brenna@k12.wa.us.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 3, 2009.

June 3, 2009
David Brenna
Legislative and
Policy Coordinator

AMENDATORY SECTION (Amending WSR 08-16-003, filed 7/23/08, effective 8/23/08)

WAC 181-79A-206 Academic and experience requirements for certification—Teachers. Candidates for teachers' certificates shall complete the following requirements in addition to those set forth in WAC 181-79A-150.

(1) Initial/residency.

Candidates for the initial or residency certificate shall hold an approved baccalaureate degree from a regionally accredited college or university pursuant to WAC 181-79A-030(5).

(2) Continuing.

(a) Candidates who apply for a continuing certificate shall have at least forty-five quarter hours (thirty semester hours) of upper division and/or graduate work completed from a regionally accredited institution of higher education subsequent to the conferral of the baccalaureate degree: Provided, That if the individual is pursuing study in a new subject matter area or specialization, lower division (freshmen or sophomore level) credit hours in that subject area or specialization shall be accepted toward continuing certification upon completion of the requirements for an endorsement in that subject area or specialization.

(b) Candidates applying for a continuing certificate prior to September 1, 2000, shall have been granted at least two subject area endorsements.

(c) Candidates who apply for a continuing certificate who have not successfully completed course work or an in-service program on issues of abuse, must complete the abuse course work requirement as defined in WAC 181-79A-030(6).

(d) Candidates for continuing teachers' certificates shall provide documentation of one hundred eighty days or full-time equivalent or more satisfactory teaching experience with an authorized employer—i.e., school district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(3) Professional.

(a) Candidates for the professional certificate shall have successfully completed a professional educator standards board-approved, professional certificate program, pursuant to WAC 181-78A-500 through 181-78A-540: Provided, That an individual who holds a teaching certificate issued by the National Board for Professional Teaching Standards (NBPTS) shall be deemed to have met the requirement for completion of a professional certificate program, in recognition that NBPTS certification is issued only to individuals who have demonstrated highly advanced skills as a teacher.

(b) Candidates who apply for a professional certificate who have not successfully completed course work or an in-

service program on issues of abuse, must complete the abuse course work requirement as defined in WAC 181-79A-030(6).

(c) Teacher professional certificate portfolio evidence of assessment pilot participants who have not attended a program but received a "met criteria" on all entries submitted to the pilot assessment would receive the professional certificate and not be required to attend a program.

(d) Prior to January 1, 2010, candidates pursuing the professional certificate will submit a portfolio to the professional educator standards board approved professional certificate program.

~~((+))~~ (e) Between January 1, 2010, and September 1, 2011, candidates pursuing the professional certificate will have two options:

(i) Submit a portfolio for evaluation to the college or university professional certificate program. The college or university has until December 31, 2011, to verify completion.

(ii) Submit a portfolio for evaluation to the uniform and external portfolio of evidence assessment as administered by the professional educator standards board.

~~((+))~~ (f) After September 1, 2011, candidates pursuing the professional certificate must submit a portfolio for evaluation to the uniform and external portfolio of evidence assessment as administered by the professional educator standards board.