

WSR 19-07-001
PERMANENT RULES
ARTS COMMISSION

[Filed March 6, 2019, 2:41 p.m., effective April 6, 2019]

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

Purpose: Update grant rules to reflect current processes and ensure the rules are easy to understand and follow.

Citation of Rules Affected by this Order: Amending 4 [WAC 30-01-055, 30-02-010, 30-12-015, and 30-12-030].

Statutory Authority for Adoption: RCW 43.46.040.

Adopted under notice filed as WSR 19-03-093 on January 15, 2019.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 4, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 4, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 0.

Date Adopted: March 6, 2019.

Karen Hanan
Executive Director

AMENDATORY SECTION (Amending WSR 10-23-102, filed 11/16/10, effective 12/17/10)

WAC 30-01-055 Responsibilities. (1) Board responsibilities.

(a) Approves the commission budget each fiscal year and biennium;

(b) Approves the commission's strategic plan and goals each biennium;

(c) Approves all grants, except when ~~((such authority is specifically delegated to))~~ the executive director has been delegated approval authority;

(d) Approves changes to rosters, as specified in these rules;

(e) Fulfills other responsibilities as established in Title 30 WAC; and

(f) May delegate specific responsibilities to the executive director.

(g) Officers of the board serve as specified in WAC 30-08-080 (Board officers and committees).

(2) Executive director responsibilities.

(a) Manages the agency;

(b) Approves and signs contracts;

(c) Acts as official spokesperson for the commission;

(d) Fulfills other responsibilities as established in Title 30 WAC and as otherwise determined by the board; and

(e) May delegate specific responsibilities to staff.

(3) Staff responsibilities.

Under the direction of the executive director, staff develop and implement the commission's strategic plan, budget, and programs. Staff have the authority to:

(a) Manage and develop programs, and pilot programs, including development of application forms, guidelines, and review criteria, and convene and manage panels to review applications~~((;))~~ and nominations~~((; and staff recommendations))~~;

(b) Define and publish definitions in addition to those in chapter 30-02 WAC (Definitions), as necessary to implement commission programs;

(c) Negotiate, prepare, and administer contracts; and

(d) Fulfill other responsibilities as established in Title 30 WAC and otherwise as determined by the executive director.

AMENDATORY SECTION (Amending WSR 18-08-043, filed 3/28/18, effective 4/28/18)

WAC 30-02-010 Definitions. The following definitions shall apply throughout Title 30 WAC:

"Accession" means to formally acquire a work of art for the state art collection, including the action of assigning an accession or control number to the work of art.

"Appeal procedure" means the procedure as established in WAC 30-12-036 (Request for review of denied applications) whereby an applicant may request a review of a denied application.

"Application form" means ~~((the))~~ printed, electronic, or web-based forms created and published by staff ~~((to be used in))~~ and used by the public to apply to commission program applications.

"Application guidelines" means the published document that provides the public with information on how to apply for commission programs, including eligibility requirements, review criteria used to evaluate and score applications, deadlines, timelines, and information on the appeal procedure. ~~((Application guidelines may be))~~ Published in ~~((a printed format))~~ print and/or ~~((in))~~ electronic format. guidelines are accessible through the commission's web site.

"Art advisory committee" means a committee formed by staff and a partner agency to develop plans and overall project specifications, and to make funding allocation decisions related to the state art collection.

"Art in public places program" means the visual art program of the commission established by the legislature in RCW 43.46.090 to acquire works of art and to develop, administer, and manage the state art collection.

"Art selection committee" means a committee formed by a partner agency, and approved by staff, to review and select artists to create works of art for the state art collection, or to review and select works of art for or from the state art collection, through a process facilitated by staff.

"Artistic disciplines" means dance, design, folk and traditional arts, media arts, music, literature, theater, visual arts, and interdisciplinary arts.

"Artistic excellence" means evidence of some or all of the following: Mastery of skills and techniques, communication of unique vision or perspective, professional approaches to process and presentation. Additionally, for groups and

organizations, includes the contribution the artistic work(s) make to the development of the artists involved, the art form and the arts generally; or for services delivered, the contribution the services make to the development of a vibrant arts and cultural community in the state.

"Arts professional" means an individual who has professional work experience in the arts or an arts-related field.

"Board" means the board of commissioners, consisting of nineteen members appointed by the governor and four members of the legislature appointed to the Washington state arts commission pursuant to RCW 43.46.015.

"Chair" means the chair of the board, elected pursuant to WAC 30-08-050 and fulfilling duties as established in Title 30 WAC.

"Collections management" means the ongoing care, preservation, and maintenance of the state art collection, including activities such as the management of conservation, restoration, deaccession, documentation, inventory, labeling, loans, and resiting of works of art.

"Commission" means the collective entity of the Washington state arts commission, including the board, executive director, and staff.

"Commissioner" means an individual appointed to the board of the Washington state arts commission.

"Conservation" means treatment of malfunctioning or damaged works of art for the purpose of bringing them to a stable condition so that future routine and special maintenance can be effective. Conservation-related activities may also include examination and documentation.

"Creative district" means a land area designated by a local government in accordance with RCW 43.46.105 that contains either a hub of cultural facilities, creative industries, or arts-related businesses, or multiple vacant properties in close proximity that would be suitable for redevelopment as a creative district.

"Curator" means a qualified visual arts professional with past curatorial experience selected to recommend works of art for acquisition to the state art collection.

"Deaccession" means board action to remove an accessioned work of art from the state art collection.

"Disability" is defined in RCW 49.60.040(7).

"Eligibility requirements" means published standards ~~((by which applications are reviewed to determine if they meet the minimum required qualifications to apply for a commission program))~~ and/or minimum required qualifications which applicants and/or applications must meet in order for their application to be considered by the panel.

"Executive director" means that person employed pursuant to RCW 43.46.045 to carry out the functions of that chapter and Title 30 WAC.

"Grant" means a contract ~~((for arts or cultural services))~~ for arts or cultural services, awarded through a competitive application process and approved or ratified by the board.

"Inventory" means a periodic survey of the physical state and current location of works of art in the state art collection.

"Local government" means a local governing body, city, county, town, municipal county, tribal government, or other entity as approved.

"Nonprofit" means incorporation under the nonprofit laws of the state of Washington or another state, and determination by the Internal Revenue Service (IRS) that the incorporated entity is exempt from taxation under Section 501(c)(3) of the IRS code.

"Panel" means a group of individuals convened by staff to review applications ~~((;))~~ or nominations ~~((; or staff recommendations based on))~~ using published review criteria, ((in order to)) and make recommendations to the board or executive director.

"Partner agency" means a state agency, K-12 public school, university, college, community or technical college, or other public entity working with the art in public places program.

"Pilot program" means a limited scale, flexible program that evaluates administrative needs and costs, adverse and favorable events, and improves upon the design prior to launch of a full program or integration of pilot into an existing program.

"Professional artist" means an individual who has a history of paid work as an artist.

"Public artist roster" means the board approved list of professional artists eligible to create visual works of art for the state art collection.

"Public benefit" means ~~((evidence of))~~ project outcomes that have an impact on a community, including some or all of the following: ((Potential impact on the)) Broadening access to the arts or expanding and diversifying audiences for the arts; improving artistic, cultural, ((professional)) educational, or economic development ((of)) within a community ((or individuals; and/or potential to broaden access to, expand and diversify the audiences for, and/or strengthen communities through the arts)); and/or supporting specific community goals such as health and wellness, public safety, civic discourse, or other quality of life measures.

"Resiting" means the relocation of a work of art in the state art collection within the jurisdiction of a partner agency or between partner agencies.

"Restoration" means treatment that returns a malfunctioning or damaged work of art to a known or assumed state, often through the addition of nonoriginal material.

"Review criteria" means the standards used by panels to evaluate and score applications ~~((;))~~ or nominations ~~((; or staff recommendations)).~~

"Roster" means a list of approved arts professionals who have the skills and experience to address the needs of a specific commission program.

"Routine maintenance" means a regular procedure to preserve a work of art in the state art collection in proper condition: Clean, presentable, and in working order.

"Site responsive" means created, planned, or intended for a particular site. A site responsive work of art addresses both the physical characteristics of its location and the context of the community in which it is situated.

"Special maintenance" means anticipated but infrequent activities required to maintain aesthetic and/or structural aspects of the works of art in the state art collection, including integrity of the overall surface and/or individual elements.

"Staff" means employees of the Washington state arts commission, under the direction of the executive director,

pursuant to RCW 43.46.045, employed to carry out the functions of that chapter, and Title 30 WAC.

"State art collection" means all works of art and select design models commissioned or purchased under RCW 43.17.200, 28A.58.055, 28A.335.210, 43.46.090, and 43.19.455.

"State-certified creative district" means a creative district whose application for certification has been approved by the commission.

"Teaching artist" means a professional artist who is dedicated to arts education as an integral part of ~~((his/her))~~ their professional practice, and who has cultivated skills as an educator in concert with skills as an artist.

"Underserved" means populations whose opportunities to experience the arts are limited by geography, historical exclusion and marginalization due to race, ethnicity, sexual orientation, gender identity, economics, disability, or other social or institutionally imposed barriers.

"Under-resourced" means a lack of access to specialized, professional, financial, or institutional expertise and communal knowledge, and/or working with neglected or dated infrastructures and limited or absent assets and resources resulting in lack of recognition, competitiveness, and cyclical absent or diminished funding.

"Washington state arts commission" means the collective entity of the Washington state arts commission, including the board and staff.

AMENDATORY SECTION (Amending WSR 18-02-086, filed 1/2/18, effective 2/2/18)

WAC 30-12-015 Grants. (1) The commission provides grants through a competitive process to organizations or individuals for the purpose of developing, sponsoring, and promoting the growth and development of the arts and arts education in the state of Washington.

(2) ~~((Application cycles, forms, guidelines, eligibility requirements, and review criteria are established and published by staff.~~

(3) ~~The application process is managed pursuant to) Staff create and publish applications, application cycles, forms and documents, guidelines, eligibility requirements, review criteria, and select review panelists.~~

(3) Staff manage the application process. Panelists evaluate and score applications and offer recommendations to the board. See also WAC 30-12-017 (Applications) and ((applications are reviewed by a panel pursuant to)) WAC 30-12-030 (Panels).

(4) The board reviews panel recommendations and approves grants, except as noted below.

(a) The executive director may approve grants ~~((which))~~ that do not exceed three thousand dollars. ~~((Such actions are reviewed and ratified))~~ Grants approved by the executive director are subject to ratification by the board at the next board meeting ~~((of the board)).~~

(b) The board may delegate to the executive director approval of grants ~~((which))~~ that exceed three thousand dollars. ~~((Such actions are reviewed and ratified at the next meeting of the board.))~~ Grants approved by the executive

director are subject to ratification by the board at the next board meeting.

AMENDATORY SECTION (Amending WSR 10-23-102, filed 11/16/10, effective 12/17/10)

WAC 30-12-030 Panels. (1) ~~((Panels are convened by staff and are authorized to serve by the executive director.))~~ Staff convenes panels. The executive director authorizes panels to serve.

(2) Panels may include members of the public, commissioners, and staff and will be three to seven members.

(a) ~~((Panelists are selected in order to achieve a balance of relevant expertise, and representation of diverse geographic and cultural communities, as appropriate to the program and review criteria.~~

(b) ~~Panel members may be reimbursed for their services and/or their travel expenses. Commissioners and staff are not reimbursed for their panel services, but may be reimbursed for their travel expenses.)~~ Selected panelists will represent a balance of expertise, demographic composition, and diverse cultural communities.

(b) Reimbursement for members of the public who serve as panelists may include a stipend and/or travel and lodging expenses. Reimbursement for commissioners who serve as panelists may include travel and lodging expenses. Staff are not compensated for panel service.

(3) Staff provide panel members an orientation ~~((, including))~~ that includes conflict of interest rules pursuant to WAC 30-12-035 (Conflict of interest in panels and program committees).

(4) Panel members ~~((are instructed to apply their critical judgment and expertise to))~~ evaluate applications ~~((, nominations, or staff))~~ and nominations objectively, using critical judgment and expertise, and making final recommendations based on the published review criteria.

(5) The record of the panel process includes ~~((,))~~ the names and qualifications of the panel members; panel orientation materials; declared conflicts of interest or recusals; scoring ~~((sheets))~~ records; and the panel's recommendations ~~((to the board)).~~

(6) Panels may refrain from scoring an application ~~((,))~~ or nomination ~~((, or staff recommendation,))~~ if they find there is insufficient information ~~((in the material under review))~~ to make a fair and objective recommendation.

(7) All panel recommendations are subject to the review and approval or ratification of the board.

WSR 19-07-010

PERMANENT RULES PROFESSIONAL EDUCATOR STANDARDS BOARD

[Filed March 7, 2019, 2:53 p.m., effective April 7, 2019]

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

Purpose: Amends chapter 181-79A WAC to align with statutory requirements that permit nonuniversity preparation programs.

Citation of Rules Affected by this Order: Amending chapter 181-79A WAC.

Statutory Authority for Adoption: RCW 28A.410.220.

Adopted under notice filed as WSR 19-02-050 on December 27, 2018.

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 the Request of a Non-governmental 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 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: March 7, 2019.

Justin Montermini
Government Relations

AMENDATORY SECTION (Amending WSR 18-08-064, filed 4/2/18, effective 5/3/18)

WAC 181-79A-030 Definitions. The following definitions shall apply to terms used in this chapter:

(1) The terms, "program approval," "endorsement," and "interstate compact," (~~"college or university," and "accredited institution of higher education,"~~) as defined in WAC 181-78A-010 shall apply to the provisions of this chapter.

(2) "Certificate" means the license issued by the superintendent of public instruction to teachers, administrators, and educational staff associates verifying that the individual has met the requirements set forth in this chapter.

(3) "Certificate renewal" means the process whereby the validity of a certificate, subject to expiration, is extended.

(4) "Certificate reinstatement" means the process whereby the validity of an expired certificate is regained.

(5) "Lapsed certificate" means a residency certificate that is subject to the timelines and renewal described under WAC 181-79A-251.

(6) "Expired certificate" means a teacher certificate that can only be reinstated under WAC 181-79A-251.

(7) "Classroom teaching" means instructing pupils in an instructional setting.

(8) "Approved baccalaureate degree" for the purpose of this chapter, means a baccalaureate from an accredited college or university in any of the subject areas of the endorsement listed in chapter 181-82 WAC as now or hereafter amended: Provided, That if a candidate is accepted into a program in Washington state on or before August 31, 2000, and completes the program on or before August 31, 2003, in accordance with WAC 181-79A-299, the candidate may hold a baccalaureate degree in any of the subject areas of the endorsements listed in WAC 181-79A-302. Such degrees shall require the completion of at least forty-five quarter

hours (thirty semester hours) of course work in the subject area: Provided, That a candidate who holds a baccalaureate degree in another academic field will not be required to obtain a second baccalaureate degree if the candidate provides evidence to the superintendent of public instruction that he or she has completed the required forty-five quarter or thirty semester hours of course work in one of the subject areas of the endorsements listed in chapter 181-82 WAC: Provided further, That a candidate who holds a baccalaureate degree in early childhood education, elementary education, or special education will not be required to obtain a second baccalaureate degree if the candidate provides evidence to the superintendent of public instruction that he or she has completed thirty quarter or twenty semester credit hours in one academic field in an approved endorsement area pursuant to WAC 181-82A-202.

(9) "Issues of abuse course work requirement" means completion of course work or an in-service program on issues of abuse. The content shall discuss the identification of physical, emotional, sexual, and substance abuse; commercial sexual abuse of a minor, as defined in RCW 9.68A.100; sexual exploitation of a minor as defined in RCW 9.68A.040; information on the impact of abuse on the behavior and learning abilities of students; discussion of the responsibilities of a teacher to report abuse or provide assistance to students who are victims of abuse; and methods for teaching students about abuse of all types and their prevention. Additionally, content areas identified by the legislature in RCW 28A.410.035 shall be required in the issues of abuse course, including knowledge and skill standards pertaining to recognition, initial screening and response to emotional or behavioral distress in students including, but not limited to, indicators of possible substance abuse, violence and youth suicide.

(10) "Approved master's degree" for the purpose of this chapter, means a master's or doctorate degree from an accredited college or university.

(11) "Credit hour(s)" means credit (normally 100 level or above) awarded by an accredited institution of higher education.

(12) "Previous standards" means a certification system in place prior to a revision in rules that results in changed names and/or validity periods for the certificates issued.

(13) "Application for certification" means an application for a certificate or endorsement that includes a signed affidavit (as specified in WAC 181-79A-157) by the applicant. Such application shall be considered valid for two years from the date of receipt by the superintendent of public instruction, or its designee.

(14) "Professional growth team" for the purpose of certificate renewal means a team comprised of the individual renewing the certificate and a minimum of one colleague, who holds a current Washington state educator certificate, chosen by the individual.

(15) "Professional growth plan."

(a) Teacher individualized professional growth plan means the document which identifies the formalized learning opportunities and professional development activities that relate to the specific competencies, knowledge, skills and experiences needed to meet the standards at the "career level"

benchmarks as published by the professional educator standards board.

(b) Principal/program administrator individualized professional growth plan means the document which identifies the formalized learning opportunities and professional development activities that relate to the specific competencies, knowledge, skills and experiences needed to meet the standards at the "career level" benchmarks as published by the professional educator standards board.

(c) ESA individualized professional growth plan means the document which identifies the formalized learning opportunities and professional development activities that relate to the specific competencies, knowledge, skills and experiences needed to meet the standards at the career level benchmarks as published by the professional educator standards board.

(d) Only one professional growth plan may be completed each year. Professional growth plans will be completed during the period beginning July 1st of one year and ending June 30th of the following year. Completion of the professional growth plan will include review by the professional growth team, as defined in subsection (14) of this section.

(e) Individuals may apply their focused evaluation professional growth activities of the evaluation system toward the professional growth plan for certificate renewal, per RCW 28A.405.100 (12)(c)(vi).

(f) Until June 30, 2018, individuals who complete the requirements of the annual professional growth plan to renew their certificate shall receive the equivalent of thirty hours of continuing education credit hours. Beginning July 1, 2018, individuals who complete an annual professional growth plan to renew their certificate shall receive the equivalent of twenty-five continuing education credit hours.

(g) For educators holding multiple certificates in chapter 181-85 or 181-79A WAC, a professional growth plan for teacher, administrator or educational staff associate shall meet the requirements for all certificates held by an individual.

(16) "A positive impact on student learning" means that a teacher through instruction and assessment has been able to document students' increased knowledge and/or demonstration of a skill or skills related to the state goals and/or essential academic learning requirements: Provided, That teachers employed by private schools who are candidates for the professional teaching certificate shall document students' increased knowledge and/or demonstration of a skill or skills related to either:

(a) The state goals or essential academic learning requirements; or

(b) Such alternative learning goals as the private school has established.

(17) "Professional certificate support provider" means any organization or institution operating training or consulting services as a public entity or private company holding an appropriate business license.

(18) "Approved private school" means any organization of institution providing educational services to children including, but not limited to, approved private schools, state institutions, juvenile institutions, nonpublic agencies providing special education services, development centers, and bureau of Indian affairs schools.

(19) "College" or "university" means any accredited institution as defined in WAC 250-61-050.

WSR 19-07-021

PERMANENT RULES DEPARTMENT OF

CHILDREN, YOUTH, AND FAMILIES

[Filed March 12, 2019, 8:35 a.m., effective April 12, 2019]

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

Purpose: The proposed rules establish (1) how to apply to participate in an outdoor preschool pilot, (2) criteria the department will consider when reviewing applications and selecting pilot participants, and (3) the minimum terms and conditions that applicants must agree to in order to participate in the pilot. The proposed rules also establish what constitutes enforcement actions for pilot participants and clarify their appeal rights.

Citation of Rules Affected by this Order: New WAC 110-300D-0001, 110-300D-0005, 110-300D-0010, 110-300D-0015, 110-300D-0020, and 110-300D-0025.

Statutory Authority for Adoption: RCW 43.216.055, 43.216.065, and 43.216.740, chapter 43.216 RCW.

Adopted under notice filed as WSR 19-01-034 on December 12, 2018.

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 6, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental 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 6, 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: March 12, 2019.

Brenda Villarreal
Rules Coordinator

Chapter 110-300D WAC

OUTDOOR PRESCHOOL PILOT PROJECT

NEW SECTION

WAC 110-300D-0001 Authority. (1) Chapter 43.216 RCW establishes the department of children, youth, and families' responsibility and authority to set and enforce licensing requirements and standards for licensed child care agencies in Washington state, including the authority to adopt rules to implement chapter 43.216 RCW.

(2) Under RCW 43.216.740(1), the department must establish a pilot project to license outdoor, nature-based early learning and child care programs (the "pilot project") to commence August 31, 2017, and conclude June 30, 2021.

(3) Pursuant to RCW 43.216.740(2), the department shall adopt rules to implement the pilot project and may waive or adapt licensing requirements when necessary to allow for the operation of outdoor preschools in Washington state.

NEW SECTION

WAC 110-300D-0005 Findings and intent. (1) Under section 1, chapter 162, Laws of 2017, the legislature made the following findings:

(a) Over the past decade, more than forty outdoor, nature-based early-learning and child care programs have opened in Washington, several of which are in high demand based on existing waitlists;

(b) These programs are currently unlicensed and unable to offer full-day programs, which many working families are seeking;

(c) Unlicensed outdoor programs are also unable to serve families who are eligible to receive assistance through the department's working connections child care program;

(d) The outdoor preschool model could help expand the number of high quality early learning opportunities available to families throughout Washington, particularly in areas where preschool-appropriate indoor space is unavailable or unaffordable;

(e) When early learning programs spend less on physical facilities, they are able to spend more on recruiting and retaining teachers and other early learning professionals; and

(f) Research on outdoor preschools operating in Scandinavian countries for decades has demonstrated a positive impact on children's development, including improved cognitive and social skills when children transition to grade school.

(2) Based on the findings described in this section the legislature declared its intent to establish a pilot project to license outdoor preschools in order to expand access to affordable, high quality early learning programs, and to further investigate the benefits of outdoor, nature-based classrooms for Washington's children and families.

(3) The data collected from the pilot project will be evaluated by the department to determine whether an outdoor preschool program in Washington can be implemented, consistent with the intent and purposes of chapter 43.216 RCW, to provide access to affordable, high quality early learning programs.

NEW SECTION

WAC 110-300D-0010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

"Agency" shall have the same meaning as described in RCW 43.216.010.

"Department" or "DCYF" means the Washington state department of children, youth, and families.

"Early learning" shall have the same meaning as described in RCW 43.216.010.

"Outdoor, nature-based early learning and child care program," "outdoor classroom," or "outdoor preschool" means an agency-offered program operated primarily outdoors in which children are enrolled on a regular basis for three or more hours per day. For the purposes of this section "primarily" means that a participant must operate an outdoor classroom for more than fifty percent of program hours per day. Such programs may be offered as:

(a) An outdoor component of a licensed early learning program;

(b) A program operating entirely outdoors on private or public park land, with or without a permanently located outdoor classroom.

"Participants" refers to the entities operating nature-based early learning and child care programs licensed by the department to participate in the outdoor preschool pilot project.

NEW SECTION

WAC 110-300D-0015 Pilot project licenses—Licensing rules. (1) To participate in the outdoor, nature-based early learning and child care program pilot project, the applicant must apply to the department for and obtain a license to operate a pilot project.

(2) The department will select outdoor classroom sites after considering:

(a) The criteria described in RCW 43.216.740 (4) and (5);

(b) The characteristics of an applicant's outdoor classroom and whether those characteristics are a part of any existing licensed outdoor classroom; and

(c) The department's ability to monitor the applicant's outdoor classroom sites identified in the application.

(3) To protect the health and safety of children enrolled in outdoor classrooms, agency participants in this pilot project must agree, enter into, and comply with the terms and conditions of an outdoor classroom agreement prepared by the department. The outdoor classroom agreement shall require compliance with the following minimum terms and conditions:

(a) Compliance with the background check requirements contained in chapter 110-06 WAC;

(b) Compliance with the outdoor classroom agreement; and

(c) Compliance with the federal Child Care Development Fund (45 C.F.R. Part 98) requirements.

(4) Pursuant to RCW 34.05.310 (2)(b), the department will use this pilot project to test the feasibility of complying with or administering draft new rules or draft amendments to existing rules.

(5) To establish a uniform set of requirements for outdoor classrooms, the department may draft new rules or add amendments to existing rules; or add or amend current licensed child care rules under chapters 110-300, 110-300A, and 110-300B WAC.

NEW SECTION

WAC 110-300D-0020 Denial, modification, suspension, and revocation of a pilot project license—Right of review. (1) A license authorized to be issued under this chapter may be denied pursuant to chapter 43.216 RCW, this chapter, and chapter 110-06 WAC.

(2) A license issued under this chapter may be suspended, modified, or revoked if the licensee fails to comply with the requirements contained in chapter 43.216 RCW, this chapter, or chapter 110-06 WAC.

NEW SECTION

WAC 110-300D-0025 Process of seeking review. (1) Pursuant to RCW 43.216.250 and 43.216.325, the department is authorized to take enforcement action against an applicant or licensee if the licensee fails to comply with this chapter, chapter 110-06 WAC or chapter 43.216 RCW. For purposes of this chapter enforcement actions only include the denial, suspension, revocation, modification, or nonrenewal of a license to participate in the outdoor, nature-based early learning and child care program.

(2) An applicant or licensee has the right to appeal an enforcement action by requesting an adjudicative proceeding (or "hearing") pursuant to the hearing rules codified in chapter 170-03 WAC.

(3) The department must issue a notice of violation to an early learning provider when taking enforcement actions. A notice of violation must be sent certified mail or personal service and must include:

- (a) The reason why the department is taking the action;
 - (b) The rules the provider failed to comply with;
 - (c) The provider's right to appeal enforcement actions;
- and
- (d) How the provider may appeal and request a hearing.

WSR 19-07-026**PERMANENT RULES****DEPARTMENT OF TRANSPORTATION**

[Filed March 12, 2019, 4:59 p.m., effective April 12, 2019]

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

Purpose: Changes to these WAC are made to correct the division name, reflect a new web-based public disclosure system and recent legislation that updates the fees agencies are permitted to charge for production of public records.

Citation of Rules Affected by this Order: Amending WAC 468-06-040, 468-06-060, and 468-06-090.

Statutory Authority for Adoption: RCW 42.56.040.

Adopted under notice filed as WSR 19-03-057 on January 9 [10], 2019.

Changes Other than Editing from Proposed to Adopted Version: A date was added to WAC 468-06-090(1) to start new fees payment and payment procedures.

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 the Request of a Non-governmental 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 3, 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: March 12, 2019.

Kara Larsen, Director
Risk Management and
Legal Services Division

AMENDATORY SECTION (Amending WSR 15-24-130, filed 12/2/15, effective 1/2/16)

WAC 468-06-040 Organization of the department and records management and public disclosure office.

The department is a statutorily created agency of the state of Washington, with headquarters, division, and regional offices. The department's public records office is headed by the director of the ~~((torts, claims and records))~~ risk management and legal services division. Current organizational and contact information can be found on the records management and public disclosure web site at: <http://www.wsdot.wa.gov/Contact/PublicDisclosure>.

AMENDATORY SECTION (Amending WSR 15-24-130, filed 12/2/15, effective 1/2/16)

WAC 468-06-060 Requesting public records. (1) Submitting a request. Requests for public records ~~((must be submitted in writing. Requests))~~ can be made by:

(a) ~~((Completing the department's public records request form (DOT Form 722-023) which is available on the department's web site at www.wsdot.wa.gov))~~ Using the public disclosure request center, by clicking on the link on the web site at <http://www.wsdot.wa.gov/Contact/PublicDisclosure>, or going to https://wsdot.mycusthelp.com/WEBAP/_rs/support/home.aspx; or

(b) Submitting a written request to the department that includes:

- (i) The name, address, telephone number, and email address of the person requesting the records;
- (ii) The date and time of the request;
- (iii) A description of the public records sought adequate for the department to identify and locate all responsive records;

(iv) Language stating that the request for records is intended as a public records request or a similar statement placing the department on fair notice that records are being sought under the PRA; and

(v) A statement indicating whether copies or the records are sought or if the requestor wants to arrange to inspect records.

Requests not submitted through the public disclosure request center identified in (a) of this subsection can be submitted to the department via ~~((email,))~~ U.S. mail, hand delivery, or facsimile at:

Public Records Office
Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47410
Olympia, WA ((98504-7300

Email: ~~publicdisclosurerequests@wsdot.wa.gov [publicdisclosurerequests@wsdot.wa.gov])~~ 98504-7410

Facsimile: 360-705-6808

Failure to submit requests to the department at the above location may result in a delay in the department's response.

(2) Requested production. Nonexempt records are available through inspection, paper copies, or electronic copies. The requestor should indicate the production preference and make arrangements to pay the fees, if any.

AMENDATORY SECTION (Amending WSR 15-24-130, filed 12/2/15, effective 1/2/16)

WAC 468-06-090 Fees. ~~((The department will notify the requestor of any fees associated with the request and requires full payment before providing records.~~

~~(1) Costs for paper and electronic copies.~~

~~(a) There is no fee for inspecting public records or emailing electronic records to a requestor, unless another cost applies, such as a scanning fee.~~

~~(b) The department will charge an amount necessary to reimburse its costs for providing paper and electronic copies of records, including costs for electronic copies on a CD-ROM or posting on online and scanning paper or other non-electronic records.~~

~~(c) The fee amounts shall be reviewed from time to time by the department, and shall represent the costs of providing copies of public records and for use of the department's equipment, including staff time spent copying or scanning records, preparing records for copying or scanning, and restoring files. This charge is the amount necessary to reimburse the department for its actual costs. The charge for special copy work of nonstandard public records shall reflect the total cost, including the staff time necessary to safeguard the integrity of these records.~~

~~(d) The department may charge actual costs of mailing, including the cost of the shipping container.~~

~~(2) Waiver of fees. The department is authorized to waive any fees if the department determines it is cost effective to do so.))~~ (1) The following copy fees and payment procedures apply to requests to the department under chapter 42.56 RCW and received on or after April 12, 2019.

(2) Pursuant to RCW 42.56.120 (2)(b), the department is not calculating all actual costs for copying records because to do so would be unduly burdensome for the following reasons:

(a) The department does not have the resources to conduct a study to determine all its actual copying costs;

(b) To conduct such a study would interfere with other essential agency functions; and

(c) Through the 2017 legislative process, the public and requestors have commented on and been informed of authorized fees and costs, including for electronic records, provided in RCW 42.56.120 (2)(b) and (c), (3) and (4).

(3) The department will charge for copies of records pursuant to the default fees in RCW 42.56.120 (2)(b) and (c). The department will charge for customized services pursuant to RCW 42.56.120(3). Under RCW 42.56.130, the department may charge other copy fees authorized by statutes outside of chapter 42.56 RCW. The charges for copying methods used by the department are summarized in the fee schedule available on the department's web site at www.wsdot.wa.gov.

(4) Requestors are required to pay for copies in advance of receiving records. Fee waivers are an exception and are available for some small requests under the following conditions:

(a) It is within the discretion of the public records officer to waive copying fees when:

(i) All of the records responsive to an entire request are paper copies only and are twenty-five or fewer pages; or

(ii) All of the records responsive to an entire request are electronic and can be provided in a single email with attachments of a size totaling no more than the equivalent of one hundred printed pages. If that email for any reason is not deliverable, records will be provided through another means of delivery, and the requestor will be charged in accordance with this rule.

(b) Fee waivers are not applicable to records provided in installments.

(5) All required fees must be paid in advance of release of the copies or an installment of copies. The office will notify the requestor of when payment is due.

(6) Payment should be made by check or money order to the Washington state department of transportation.

(7) The department will close a request when a requestor fails by the payment date to pay in the manner prescribed for records or an installment of records.

WSR 19-07-033

PERMANENT RULES DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed March 13, 2019, 2:14 p.m., effective April 13, 2019]

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

Purpose: The department is amending WAC 388-78A-2190 Activities of daily living, to assure compliance with SHB 1671 (chapter 201, Laws of 2017), which requires the term "medication assistance" to be added to the "activities of daily living" which currently includes bathing, dressing, eating, personal hygiene, transferring, toileting, and ambulation and mobility.

Citation of Rules Affected by this Order: Amending WAC 388-78A-2190.

Statutory Authority for Adoption: Chapter 18.20 RCW.

Other Authority: RCW 18.20.310.

Adopted under notice filed as WSR 18-21-098 on October 16, 2018.

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 the Request of a Non-governmental 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: March 13, 2019.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-13-063, filed 6/18/13, effective 7/19/13)

WAC 388-78A-2190 Activities of daily living. Assistance with activities of daily living is ~~((an optional))~~ a service that the assisted living facility may provide.

(1) If an assisted living facility chooses not to provide assistance with activities of daily living:

(a) The assisted living facility must admit or retain only those residents who are independent in activities of daily living; except that

(b) A resident, or the resident's representative, may independently arrange for outside services to assist with activities of daily living.

(2) When an assisted living facility chooses to provide, either directly or indirectly, assistance with activities of daily living, the assisted living facility must provide that assistance consistent with the reasonable accommodation requirements in state and federal laws.

(3) When an assisted living facility chooses to provide, either directly or indirectly, assistance with activities of daily living, the assisted living facility must provide to each resident, consistent with the resident's assessed needs, minimal assistance with the following activities of daily living:

(a) **Bathing:** Minimal assistance with bathing means the assisted living facility must provide the resident with occasional:

(i) Reminding or cuing to wash and dry all areas of the body as needed;

(ii) Stand-by assistance getting into and out of the tub or shower; and

(iii) Physical assistance limited to steadying the resident during the activity.

(b) **Dressing:** Minimal assistance with dressing means the assisted living facility must provide the resident with occasional:

(i) Reminding or cuing to put on, take off, or lay out clothing, including prostheses when the assistance of a licensed nurse is not required;

(ii) Stand-by assistance during the activity; and

(iii) Physical assistance limited to steadying the resident during the activity.

(c) **Eating:** Minimal assistance with eating means the assisted living facility must provide the resident with occasional:

(i) Reminding or cuing to eat and drink; and

(ii) Physical assistance limited to cutting food up, preparing food and beverages, and bringing food and fluids to the resident.

(d) **Personal hygiene:** Minimal assistance with personal hygiene means the assisted living facility must provide the resident with occasional:

(i) Reminding and cuing to comb hair, perform oral care and brush teeth, shave, apply makeup, and wash and dry face, hands and other areas of the body;

(ii) Stand-by assistance during the activity; and

(iii) Physical assistance limited to steadying the resident during the activity.

(e) **Transferring:** Minimal assistance in transferring means the assisted living facility must provide the resident with occasional:

(i) Reminders or cuing to move between surfaces, for example to and from the bed, chair and standing;

(ii) Stand-by assistance during the activity; and

(iii) Physical assistance limited to steadying the resident during self-transfers.

(f) **Toileting:** Minimal assistance in toileting means the assisted living facility must provide the resident with occasional:

(i) Reminders and cuing to toilet, including resident self-care of ostomy or catheter, to wipe and cleanse, and to change and adjust clothing, protective garments and pads;

(ii) Stand-by assistance during the activity; and

(iii) Physical assistance limited to steadying the resident during the activity.

(g) **Mobility:** Minimal assistance in mobility means the assisted living facility must provide the resident with occasional:

(i) Reminding or cuing to move between locations on the assisted living facility premises;

(ii) Stand-by assistance during the activity; and

(iii) Physical assistance limited to steadying the resident during the activity; and

(h) Medication assistance: As defined in RCW 69.41.-010.

(4) The assisted living facility may choose to provide more than minimal assistance with activities of daily living consistent with state and federal law.

WSR 19-07-034

PERMANENT RULES

DEPARTMENT OF COMMERCE

[Filed March 13, 2019, 3:43 p.m., effective April 13, 2019]

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

Purpose: The department is amending chapter 365-220 WAC, Developmental disabilities endowment trust fund, as follows: Correcting RCW citations; correcting the name of the department; updating definitions; clarifying disbursement authorities and types; clarifying disposition plan authorities and processes; clarifying dispute process; clarifying eligibility; correcting agency name of developmental disabilities administration; clarifying notification responsibilities when a beneficiary moves out of state; clarifying when a beneficiary no longer meets the eligibility definitions; clarifying the fees; clarifying transfer practices; and clarifying match practices. These changes to chapter 365-220 WAC will update policy, improve clarity, and remove outdated information.

Citation of Rules Affected by this Order: New WAC 365-220-048; repealing WAC 365-220-085, 365-220-125 and 365-220-130; and amending WAC 365-220-005, 365-220-010, 365-220-015, 365-220-020, 365-220-025, 365-220-040, 365-220-045, 365-220-055, 365-220-060, 365-220-065, 365-220-070, 365-220-075, 365-220-080, 365-220-095, 365-220-100, 365-220-115, 365-220-140, 365-220-150, 365-220-175, 365-220-180, 365-220-185, and 365-220-190.

Statutory Authority for Adoption: RCW 43.330.430 though [through] 43.330.437.

Adopted under notice filed as WSR 18-21-129 on October 18, 2018.

Changes Other than Editing from Proposed to Adopted Version: WAC 365-220-040, inadvertent deletion at the end of the clause. Instead of the whole sentence getting deleted, only a few words will be deleted. It will read as follows "When an individual trust account is closed ~~by reason of the death of the beneficiary~~, the unexpended state matching money and any earnings attributable to the unexpended state matching money revert to the developmental disabilities endowment trust fund."

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 22, Repealed 3.

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: March 13, 2019.

Connie Robins
Acting Director

AMENDATORY SECTION (Amending WSR 02-07-026, filed 3/12/02, effective 4/12/02)

WAC 365-220-005 What is the purpose and scope of this chapter? The purpose of this chapter is to establish the rules for the developmental disabilities endowment trust fund

to implement RCW (~~(43.330.195 through 43.330.240)~~) 43.330.430 through 43.330.437.

AMENDATORY SECTION (Amending WSR 02-07-026, filed 3/12/02, effective 4/12/02)

WAC 365-220-010 How may a member of the public appear before the governing board? Members of the public may appear before the governing board at ~~((their))~~ the board's regularly scheduled meetings or may submit written comments to the governing board for consideration at their regularly scheduled meetings. Requests for meeting schedules and agendas should be made to the ~~((program manager))~~ chair of the governing board or his or her designee. Meeting schedules and agendas are also available online at the department's boards and councils web page.

AMENDATORY SECTION (Amending WSR 02-07-026, filed 3/12/02, effective 4/12/02)

WAC 365-220-015 What definitions apply to this chapter? "Beneficiary" means an eligible person for whom an individual trust account has been established within the trust fund and who is identified in the joinder agreement.

"Department" means the department of ~~((community, trade and economic development, office of community development))~~ commerce.

"Disbursement plan" means a plan, submitted by the primary donor at the time of enrollment as part of the joinder agreement, that identifies the goods or services most likely to be appropriate to the supplemental needs of the beneficiary. The primary donor may periodically change the disbursement plan by amending the joinder agreement.

"Disposition plan" means a plan, submitted by the primary donor at the time of enrollment as part of the joinder agreement, that directs how any remaining private funds will be disbursed from the individual trust account on the death of the beneficiary.

"Governing board" means the seven-member group established according to RCW (~~(43.330.210)~~) 43.330.433 to design and administer the trust fund.

"Individual trust account" means the account that holds assets for the benefit of an individual beneficiary within the trust fund.

"Joinder agreement" means an agreement establishing the primary donor's consent to the master trust document for the trust fund. The joinder agreement shall include the disbursement plan and the disposition plan for the individual trust account, and designate the primary representative and additional persons authorized to request disbursements.

"Master trust" means the developmental disabilities endowment trust I agreement or the developmental disabilities endowment trust II agreement, as may from time-to-time be amended.

"Primary donor" means the person ~~((who sets up an account for a beneficiary and submits and signs the joinder agreement. Under conditions described in the master trust document, the primary donor may be the beneficiary))~~ whose funds are contributed to an individual trust account at the time the individual trust account is established pursuant to the joinder agreement.

"Primary representative" means ~~((the person named in the joinder agreement with whom the governing board and/or the trust manager is authorized to communicate regarding an individual beneficiary's interests))~~ one or more persons designated in the joinder agreement as having the authority to communicate to the trust manager or governing board concerning the interests and needs of the beneficiary of an individual trust account. Multiple alternate primary representatives may be designated in the joinder agreement and the joinder agreement may include a process to identify additional alternate primary representatives.

~~("Program manager" means the person designated by the department to manage the developmental disabilities endowment fund and act as the department liaison with other state agencies to facilitate governing board activities.)~~

"Resident" means a person who lives in the state of Washington. For purposes of the trust fund, a beneficiary must be a resident at the time of enrollment.

"State administrator" means the person designated by the governing board to serve the administrative functions of the developmental disabilities endowment trust fund as defined by the governing board and act as the liaison with other state agencies to facilitate governing board activities.

"Trust fund" means the developmental disabilities endowment trust fund.

"Trust manager" means the person or persons or entity designated by the governing board pursuant to RCW ~~((43.330.200 to authorize disbursements from the trust fund))~~ 43.330.431. The trust manager ~~((is))~~ may be authorized to:

- (a) Process enrollments;
- (b) Receive contributions to individual trust accounts;
- (c) Make disbursements in its discretion consistent with and as authorized under this chapter ~~((and will consider))~~, upon consideration of the disbursement plan filed by the primary donor as part of the joinder agreement when making decisions regarding disbursements ~~((The trust manager shall take into account how any individual disbursement will affect the ability of the account to sustain the needed disbursements over a significant portion of the beneficiary's anticipated remaining life));~~
- (d) Manage and provide accounting information on the individual trust accounts; and
- (e) Other duties as assigned by the governing board in accordance with the contract with the trust manager.

"Vested account" means an account that has initially qualified for matching funds by meeting requirements over a three-year period.

AMENDATORY SECTION (Amending WSR 02-07-026, filed 3/12/02, effective 4/12/02)

WAC 365-220-020 Who authorizes disbursements?
The trust manager will review all disbursement requests submitted by persons authorized in the joinder agreement. Only the governing board and/or the trust manager may authorize disbursements. ~~((In the event of disbursement denial, the trust manager will provide a written explanation for such a denial on the request of the primary representative.))~~

AMENDATORY SECTION (Amending WSR 02-07-026, filed 3/12/02, effective 4/12/02)

WAC 365-220-025 What types of disbursements are allowed? ~~((Recommended supplemental services and supports))~~ (1) Goods or services that are most likely to be appropriate to the supplemental needs of the beneficiary may include, but are not limited to:

~~((1))~~ (a) Education, information, and training opportunities.

~~((2))~~ (b) Living arrangements, including personal assistance services, skill building, financial management, medical monitoring, meal preparation, shopping, home maintenance, and house cleaning.

~~((3))~~ (c) Unusual or extraordinary disability-related shelter expenses.

~~((4))~~ (d) Capital expenses, including environmental modifications and transportation.

~~((5))~~ (e) Employment supports and tuition.

~~((6))~~ (f) Social productivity and personal fulfillment activities, such as volunteering, club membership, and recreation.

~~((7))~~ (g) Assistive technology, including computers and electronic equipment.

~~((8))~~ Specialized clothing, or clothing not covered by public benefits.

~~((9))~~ (h) Clothing.

(i) Respite care.

~~((10))~~ (j) Disability-related support groups.

~~((11))~~ (k) Medical care, counseling, therapies, and other health related services, including alternative practitioners, not covered by public benefits.

~~((12))~~ (l) Utility and transportation costs, including the purchase of a vehicle.

~~((13))~~ (m) Vacation, travel, and recreation

(14) Birthday and holiday presents for the beneficiary to give to others.

~~((15))~~, including travel companion(s) as appropriate to meet the beneficiary's needs.

(n) Advocacy and legal services.

~~((16))~~ (o) Prepaid funeral and burial expenses consistent with federal and state law.

(p) Individual trust account expenses including enrollment, bookkeeping, tax return preparation and filing, tax payments, annual management expenses, and other trust related fees.

~~((17))~~ (q) Distributions to the beneficiary's achieving a better life experience (ABLE) account for qualified disability expenses as defined by WAC 182-560-100(7). The trust manager is relieved of having to account for any withdrawals from the beneficiary's ABLE account using the money contributed from the DDETF individual trust account.

(r) Items the trust manager deems appropriate and reasonable within the guidelines of the governing board.

(2) All disbursements shall be for the sole benefit of the beneficiary.

AMENDATORY SECTION (Amending WSR 02-07-026, filed 3/12/02, effective 4/12/02)

WAC 365-220-040 What happens to an account when the beneficiary dies? ~~((At the time of enrollment, the primary donor will designate in the joinder agreement how any remaining private funds, and any earnings attributable to remaining private funds, will be distributed on the death of the beneficiary. The primary donor will indicate the amount of funds to be disbursed and to whom they will be disbursed.))~~ Upon the death of the beneficiary, the beneficiary's account shall be distributed consistent with the master trust, joinder agreement and disposition plan. In some cases, state and federal law may require certain distributions of remaining funds notwithstanding the joinder agreement and the disposition plan. When an individual trust account is closed ~~((by reason of the death of the beneficiary))~~, the unexpended state matching money and any earnings attributable to the unexpended state matching money revert to the developmental disabilities endowment trust fund.

AMENDATORY SECTION (Amending WSR 02-07-026, filed 3/12/02, effective 4/12/02)

WAC 365-220-045 Can the disposition plan be changed? Once an individual trust account is funded, the primary donor cannot amend the joinder agreement to change the disposition plan. A change to the disposition plan may be made only by court order or other dispute resolution mechanism available under state law, including a nonjudicial resolution of dispute agreement under chapter 11.96A RCW. The nonjudicial resolution could be an agreement signed by all of the interested parties changing the terms of the disposition plan of a developmental disabilities endowment trust fund individual trust account. The agreement needs to be in writing, state that it is being made pursuant to RCW 11.96A.220, set forth the change that is being made to the trust, and be signed by the primary donor (if alive), the trustee, and all beneficiaries (current and residual) of the trust account.

NEW SECTION

WAC 365-220-048 What if a disbursement request is denied? In the event of disbursement denial, the trust manager will provide a written explanation for such a denial on the request of the primary representative.

AMENDATORY SECTION (Amending WSR 02-07-026, filed 3/12/02, effective 4/12/02)

WAC 365-220-055 What is the dispute process? (1) To appeal a board decision, a primary donor or primary representative must send a letter addressed to the ~~((program manager at the department))~~ state administrator. The letter of appeal must be signed by the appealing party and be received by the ~~((program manager))~~ state administrator within thirty calendar days of the date of the decision. The letter must include:

- (a) The name and mailing address of the appealing party;
- (b) A description of the decision being appealed; and

(c) A statement explaining why the appealing party believes the decision was incorrect, outlining the facts surrounding the decision and including supporting documentation.

(2) On receiving the letter of appeal, the ~~((program manager))~~ state administrator will send written notice to the appealing party within fourteen days, confirming the appeal has been received and indicating when a decision can be expected.

(3) The governing board or its designee will conduct appeals according to RCW 34.05.485. The governing board or its designee will review and decide the appeal based on the submitted documents unless the governing board or its designee and the appealing party agree to hold a hearing in person or by telephone.

(4) The ~~((program manager))~~ state administrator will send the appealing party written notification of the governing board or its designee's initial decision within ~~((ninety))~~ one hundred twenty days of receiving the letter of appeal. The notice will include the reasons for the initial decision, and instructions on further appeal rights.

(5) The initial decision of the governing board or its designee becomes the final decision unless the ~~((program manager))~~ state administrator receives a request for a review hearing from the appealing party within thirty days of the date of the decision. The appealing party may, by written notice, request review of the initial decision. The person requesting review must reference the initial decision and provide any additional written information that the appealing party would like considered in the review. A review officer designated by the governing board will review the decision through a hearing conducted under RCW 34.05.488 through 34.05.494.

(6) The officer will review and decide the appeal based on submitted documents unless the governing board or its designee and the appealing party agree to hold a hearing in person or by telephone.

(7) The review officer will make any inquiries necessary to determine whether the proceeding must become a formal adjudicative proceeding under the provisions of chapter 34.05 RCW.

(8) If the appealing party disagrees with a review decision under subsection (6) of this section, the appealing party may request judicial review of the decision, as provided for in RCW 34.05.542. Request for judicial review must be filed with the court within thirty days of service of the final agency decision.

AMENDATORY SECTION (Amending WSR 02-07-026, filed 3/12/02, effective 4/12/02)

WAC 365-220-060 Who is eligible to be a beneficiary in the trust fund? Individuals are eligible to be beneficiaries if they meet ~~((two))~~ the following conditions at the time of enrollment:

- (1) Beneficiaries must reside in Washington state; and
- (2) Must meet the definition of developmental disability in RCW 71A.10.020~~((3))~~ (5); and
- (3) Any other condition(s) required under the master trust.

AMENDATORY SECTION (Amending WSR 02-07-026, filed 3/12/02, effective 4/12/02)

WAC 365-220-065 How is eligibility determined? At the time of enrollment, a prospective beneficiary must meet the definition of developmental disability in RCW 71A.10.020(~~((3))~~) (5), as determined by a representative of the (~~(division of)~~) developmental disabilities administration of the department of social and health services. The primary donor must make arrangements for notification of this determination to be sent to the trust (~~(fund office)~~) manager.

AMENDATORY SECTION (Amending WSR 02-07-026, filed 3/12/02, effective 4/12/02)

WAC 365-220-070 What happens if a beneficiary moves out of the state of Washington? If the beneficiary moves out of the state of Washington(7):

(1) The primary representative is required to notify the trust manager in writing within thirty days of the beneficiary's move out of the state of Washington.

(2) The governing board may elect, in its discretion, one of three options:

- A The balance of the beneficiary's individual trust account will be placed in another existing special needs trust established for the beneficiary. Any costs relating to the transfer will be charged to the beneficiary's individual trust account.

-OR-

- B The individual trust account will remain open, and the account will be assessed fees at a level that will support all costs of maintaining the account. The beneficiary will no longer be eligible for the state match as of the date the beneficiary ceases to be a resident of Washington.

-OR-

- C The beneficiary's individual trust account will be terminated and distributed as if the beneficiary had died.

~~((The primary representative is required to notify the trust manager if the beneficiary moves out of the state of Washington.))~~

AMENDATORY SECTION (Amending WSR 02-07-026, filed 3/12/02, effective 4/12/02)

WAC 365-220-075 What happens if a beneficiary is determined to no longer meet the Washington state definition of developmental disability in RCW 71A.10.020(~~((3))~~) (5)? (1) The primary representative is required to notify the trust manager in writing if the beneficiary is found to no longer meet the definition of a person with a developmental disability in RCW 71A.10.020(5) within thirty days of the decision.

(2) If the beneficiary is determined to no longer meet the definition of a person with a developmental disability in RCW 71A.10.020(~~((3))~~) (5), the governing board may elect, at its discretion, one of three options:

- A The balance of the beneficiary's individual trust account will be placed in another existing special needs trust established for the beneficiary. Any costs relating to the transfer will be charged to the beneficiary's individual trust account.

-OR-

- B The beneficiary's individual trust account will remain open, and the account will be assessed fees at a level that will support all costs of maintaining the account. The beneficiary will no longer be eligible for the state match as of the date the beneficiary is determined to no longer meet the definition of a person with a developmental disability in RCW 71A.10.020(~~((3))~~) (5). New contributions will not be accepted into the individual trust account during any period when the beneficiary does not meet the definition of the person with a developmental disability in RCW 71A.10.020(5).

-OR-

- C The trust manager will make or direct distributions to or for the benefit of the beneficiary or to an achieving a better life experience (ABLE) account of the beneficiary, after first, the taxes and administrative expenses are paid and after second, the medicaid payback is enforced (if applicable).

~~((The primary representative is required to notify the trust manager if the beneficiary is found to no longer meet the definition of a person with a developmental disability in RCW 71A.10.020(3).))~~

AMENDATORY SECTION (Amending WSR 02-07-026, filed 3/12/02, effective 4/12/02)

WAC 365-220-080 What fees must be paid to enroll in and participate in the trust fund? The following fees may be charged by entities or individuals associated with the developmental disabilities endowment trust fund as a condition of participation:

(1) State investment board fees. All investment and operating costs associated with the investment of money shall be paid to the state investment board from the trust fund, as required by RCW 43.33A.160 and 43.84.160.

(2) State treasurer fees. Fees charged for the services of the state treasurer will not exceed .00274% per day while funds remain in the custody of the state treasurer, as specified in RCW 43.08.190. State treasurer fees will be deducted from the trust fund.

(3) Annual management fees. An annual management fee will be charged to each individual trust account for services (~~(including bookkeeping, banking services, governing board and department activities, legal services.))~~) and other expenses deemed necessary by the governing board. The governing board shall authorize all changes in the annual management fees. The governing board may establish a minimum and a maximum annual management fee. Primary representatives of existing accounts will be notified sixty days in

advance of the effective date of any changes in the minimum or maximum annual management fees.

(4) Enrollment fees. ~~((Each individual trust account will be charged))~~ A six hundred dollar enrollment fee will be charged for each individual trust account at the time of enrollment. The governing board may ~~((increase))~~ adjust the enrollment fee on an annual basis, ~~((within))~~ consistent with the limits set forth in RCW 43.135.055. The governing board shall authorize all changes in enrollment fees.

(5) Trust manager fees. Any fees for trust manager services will be charged by the entity under contract for trust management according to the terms of the contract between the trust manager and the developmental disabilities endowment trust fund. Current fee levels will be disclosed prior to enrollment. The governing board shall authorize all changes in the trust manager fees. Primary representatives of existing accounts will be notified sixty days in advance of the effective date of any changes in trust manager fees.

(6) Tax return preparation and filing fees. As necessary, the fees associated with preparing and filing tax returns for individual trust accounts will be deducted from those accounts. Current fee levels will be disclosed prior to enrollment. The governing board shall authorize all changes in tax return preparation and filing fees. Primary representatives of existing accounts will be notified sixty days in advance of the effective date of any changes in tax return preparation and filing fees.

(7) Fees for locating remainder beneficiaries named in the disposition plan. ~~The ((trust fund))~~ governing board or its designee reserves the right to charge fees to cover the costs associated with locating any remainder beneficiary under the disposition plan. Fees for locating a remainder beneficiary of an individual trust account will be levied only against such accounts.

(8) Fees for resolving disposition plans and remainder beneficiaries. The governing board or its designee reserves the right to charge fees to cover the costs associated with resolving any remainder beneficiary under a disposition plan or terminating an account. This could include, but not be limited to, resolving tribal per capita payments, payments under the Alaska Native Claims Settlement Act, unnamed heirs in law, and nonjudicial agreements changing the disposition plan pursuant to WAC 365-220-045. Fees for resolving disposition plans or terminating an individual trust account will be levied only against such accounts.

AMENDATORY SECTION (Amending WSR 02-07-026, filed 3/12/02, effective 4/12/02)

WAC 365-220-095 What happens when fees are past due? Accounts with fees that are not paid for a period of ninety days will be closed. The primary representative of an account will be sent notification that the account will be closed prior to its closure. ~~The ((trust manager))~~ governing board or its designee will make a determination regarding the disposition of any remaining money in the individual trust account.

AMENDATORY SECTION (Amending WSR 02-07-026, filed 3/12/02, effective 4/12/02)

WAC 365-220-100 When and how may individual accounts be transferred? A primary representative may request governing board approval for a transfer of an account to another special needs trust. This must be done through written correspondence to the governing board stating the reasons for the request. The governing board shall review all requests for transfers. Only the governing board or its designee may approve transfers. Any such transfers shall be consistent with the master trust and federal and state law.

Transferring funds from an individual trust account to a qualified achieving a better life experience (ABLE) 529A account for the same beneficiary does not require governing board approval. The primary representative must contact the trust manager to initiate the funds transfer.

AMENDATORY SECTION (Amending WSR 02-07-026, filed 3/12/02, effective 4/12/02)

WAC 365-220-115 How will access to state matching money be determined? The state matching money is limited. Individual trust accounts will be assigned access to state matching money on a first come, first served basis or on another prioritized basis as determined by the governing board. Matching policies apply only to those individual trust accounts that have been assigned access to matching funds.

AMENDATORY SECTION (Amending WSR 02-07-026, filed 3/12/02, effective 4/12/02)

WAC 365-220-140 Are extensions allowed? One twelve-month extension may be granted to each individual trust account to extend the time to become vested ~~((or to maintain active participation))~~ to receive the match. To obtain the extension, a written request must be approved by the governing board or its designee.

AMENDATORY SECTION (Amending WSR 02-07-026, filed 3/12/02, effective 4/12/02)

WAC 365-220-150 What is the amount of maximum annual contributions eligible for state matching money? The amount of maximum annual private contributions eligible for state matching money is three thousand one hundred dollars. The maximum annual state match available for each beneficiary is seven hundred ~~((fifty))~~ seventy-five dollars. The amount of the state match is based on the amount of private contributions, and does not take into account any return on the investment of the private contributions. This maximum may be changed at the discretion of the governing board.

AMENDATORY SECTION (Amending WSR 02-07-026, filed 3/12/02, effective 4/12/02)

WAC 365-220-175 For beneficiaries with multiple individual trust accounts, how is it determined which individual trust account is eligible for state matching money? For beneficiaries with multiple individual trust

accounts, the first individual trust account assigned access to the state match will be eligible to receive the state match, provided it is qualified.

If a beneficiary has only one individual trust account, and that account is closed after it has vested, the next individual trust account opened for that beneficiary and assigned access to state matching money will be eligible to receive matching funds, subject to the first come, first served policy or other prioritized policy as determined by the governing board.

If a beneficiary has multiple individual trust accounts, and if an individual trust account for which they have vested is closed, vesting and access to the match are automatically transferred to another individual trust account for that beneficiary, with the transfer made to the longest existing account first.

AMENDATORY SECTION (Amending WSR 02-07-026, filed 3/12/02, effective 4/12/02)

WAC 365-220-180 In what proportion are state matching funds spent? State matching money will only be disbursed from an individual trust account after that individual trust account has vested. For every disbursement made from an individual trust account that has vested, the amount of state matching money disbursed will be equal to the percentage of the overall balance of the individual trust account which is represented by the state matching money (plus the earnings on the state matching money) ((for which the individual trust account has qualified,)) multiplied by the amount of the disbursement.

AMENDATORY SECTION (Amending WSR 02-07-026, filed 3/12/02, effective 4/12/02)

WAC 365-220-185 What is the enrollment match? After two hundred dollars of the enrollment fee is paid, the enrollment fee will be matched at the rate of one dollar to one dollar. The maximum enrollment match is four hundred dollars per beneficiary. The governing board may ~~((increase))~~ adjust the maximum enrollment match at its discretion. The enrollment match may be earned prior to vesting but may not be spent prior to vesting. Matching funds allocated for this purpose will not count against the beneficiary's maximum annual or lifetime match. The enrollment match will be credited to the individual trust account and begin to accumulate earnings when the enrollment process is completed for that individual trust account.

AMENDATORY SECTION (Amending WSR 02-07-026, filed 3/12/02, effective 4/12/02)

WAC 365-220-190 What is the annual management fee match? The annual management fee match will be ~~((applied to individual trust accounts that are levied annual management fees in excess of two percent of the account balance. This match will be applied at a rate of one dollar for each dollar the annual management fee exceeds two percent of the account balance. This match only applies when two percent of the account balance is greater than the minimum annual management fee.~~

~~The annual management fee match may be earned prior to vesting but may not be spent prior to vesting. Matching funds allocated for this purpose will not count against the beneficiary's maximum annual or lifetime match)) determined by the governing board.~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 365-220-085 Is it possible to be placed on the list for state matching funds, and delay payment of the enrollment fees?

WAC 365-220-125 How does an individual trust account maintain qualification for state matching money?

WAC 365-220-130 What happens when an individual trust account becomes inactive?

WSR 19-07-036 PERMANENT RULES CRIMINAL JUSTICE TRAINING COMMISSION

[Filed March 13, 2019, 5:44 p.m., effective April 13, 2019]

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

Purpose: The proposed change makes this WAC applicable to full-time, general authority peace officers. Also, a paragraph was added to clearly state ineligibility for previously revoked, suspended, sanctioned, etc., peace officers. This closes the loophole in the existing WAC.

Citation of Rules Affected by this Order: Amending WAC 139-05-200.

Statutory Authority for Adoption: RCW 43.101.080.

Other Authority: RCW 43.101.200.

Adopted under notice filed as WSR 18-23-089 on November 20, 2018.

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 the Request of a Non-governmental 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 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: March 13, 2019.

T. H. Jones
Peace Officer
Certification Manager

AMENDATORY SECTION (Amending WSR 06-17-021, filed 8/7/06, effective 9/7/06)

WAC 139-05-200 Requirement of basic law enforcement training for general authority peace officers. (1) Unless certification eligibility has been reinstated, a peace officer or tribal police officer whose certification, commission and/or licensing has been revoked, sanctioned, suspended, or is under review by this state or any other state or territory, is not eligible for a basic law enforcement academy certificate, regardless of the officer's prior years of law enforcement service.

(2) All fully commissioned law enforcement officers of a city, county, or political subdivision of the state of Washington, (~~((except volunteers and reserve officers, whether paid or unpaid,))~~) and officers of the Washington state patrol, unless otherwise exempted by the commission must, as a condition of continued employment, successfully complete a basic law enforcement academy or an equivalent basic academy sponsored or conducted by the commission. Basic law enforcement training must be commenced within the initial six-month period of law enforcement employment, unless otherwise extended by the commission.

~~((2))~~ (3) Law enforcement personnel exempted from the requirement of subsection ~~((4))~~ (2) of this section include:

(a) Individuals holding the office of sheriff of any county on September 1, 1979; and

(b) Commissioned personnel:

(i) Whose initial date of full-time, regular and commissioned law enforcement employment within the state of Washington precedes January 1, 1978;

(ii) Who have received a certificate of completion in accordance with the requirement of subsection ~~((4))~~ (2) of this section, and thereafter have engaged in regular and commissioned law enforcement employment without break or interruption in excess of twenty-four months duration; or

(iii) Who are employed as tribal police officers in Washington state, natural resource investigators employed by the Washington department of natural resources, special agents employed by the Washington state gambling commission, and liquor enforcement officers employed by the Washington state liquor control board who have received a certificate of successful completion from the basic law enforcement academy or the basic law enforcement equivalency and thereafter engage in regular and commissioned law enforcement employment with that agency without break or interruption in excess of twenty-four months duration.

~~((3))~~ (4) Each law enforcement agency of the state of Washington, or any political subdivision thereof, must immediately notify the commission by approved form of each instance where a commissioned officer begins continuing and regular employment with that agency.

~~((4))~~ (5) Failure to comply with any of the above requirements of basic law enforcement training will result in notification of noncompliance by the commission to:

(a) The individual in noncompliance;

(b) The head of his/her agency; and

(c) Any other agency or individual, as determined by the commission.

WSR 19-07-037
PERMANENT RULES
CRIMINAL JUSTICE
TRAINING COMMISSION

[Filed March 13, 2019, 5:50 p.m., effective April 13, 2019]

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

Purpose: The proposed changes include wording clarifying that a reserve academy curriculum shall include specific areas of instruction (same as full-time peace officer academy).

Citation of Rules Affected by this Order: Amending WAC 139-05-250.

Statutory Authority for Adoption: RCW 43.101.080.

Other Authority: RCW 43.101.200.

Adopted under notice filed as WSR 18-23-090 on November 20, 2018.

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 the Request of a Non-governmental 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 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: March 13, 2019.

T. H. Jones
Peace Officer
Certification Manager

AMENDATORY SECTION (Amending WSR 05-20-029, filed 9/28/05, effective 10/29/05)

WAC 139-05-250 Basic law enforcement curriculum.

The basic law enforcement and reserve academy curriculum of the commission may include, but not be limited to, the following core subject areas with common threads of communications, community policing, and professional ethics throughout:

- (1) Orientation and history of policing;
- (2) Criminal law;
- (3) Criminal procedures;
- (4) Patrol procedures;
- (5) Crisis intervention;
- (6) Emergency vehicle operation course;
- (7) Report writing;
- (8) Traffic law;
- (9) Firearms;
- (10) Defensive tactics; and
- (11) Criminal investigation.

WSR 19-07-038
PERMANENT RULES
CRIMINAL JUSTICE
TRAINING COMMISSION

[Filed March 14, 2019, 9:23 a.m., effective April 14, 2019]

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

Purpose: RCW 43.101.427 requires the commission to establish by rule: a program to certify organizations, other than the commission, to provide crisis intervention training as required and standards for the successful completion of the annual two hours of crisis intervention training.

Citation of Rules Affected by this Order: New WAC 139-09-010, 139-09-020, 139-09-030, 139-09-040, and 139-09-060.

Statutory Authority for Adoption: RCW 43.101.080.

Other Authority: RCW 43.404.427.

Adopted under notice filed as WSR 18-23-107 on November 20, 2018.

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 5, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental 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: March 13, 2019.

T. H. Jones
 Peace Officer
 Certification Manager

Chapter 139-09 WAC

CRISIS INTERVENTION TRAINING (CIT)

NEW SECTION

WAC 139-09-010 Definitions. For the purposes of this chapter:

(1) The term "crisis intervention training" means training designed to provide tools and resources to Washington state law enforcement personnel in order to respond effectively to individuals who may be experiencing an emotional, mental, physical, behavioral, or chemical dependency crisis, distress or problem and that are designed to increase the safety of both criminal justice personnel and individuals in crisis.

(2) The term "crisis intervention team training" means a forty-hour crisis intervention training and is equivalent in meaning to the enhanced crisis intervention training referenced in RCW 43.101.427(3).

(3) "Peace officer" means any law enforcement personnel subject to the basic law enforcement training requirement

of RCW 43.101.200 and any other requirements of that section, notwithstanding any waiver or exemption granted by the commission, and notwithstanding the statutory exemption based on date of initial hire under RCW 43.101.200. Commissioned officers of the Washington state patrol, whether they have been or may be exempted by rule of the commission from the basic training requirement of RCW 43.101.200, are included as peace officers for purposes of this chapter. Fish and wildlife officers with enforcement powers for all criminal laws under RCW 77.15.075 are peace officers for purposes of this chapter.

NEW SECTION

WAC 139-09-020 Requirements of training for law enforcement personnel. (1) The following law enforcement personnel are subject to the requirements of this chapter:

- (a) All general authority Washington peace officers;
- (b) Reserve peace officers who have completed a reserve academy as per WAC 139-05-810 or 139-05-825; and
- (c) Certified tribal police officers as defined in RCW 43.101.157.

(2) Annually, every peace officer must complete the commission's two-hour online crisis intervention course as part of the officer's annual twenty-four-hour in-service training requirement (WAC 139-05-300). Successful completion will include a passing score of eighty percent or higher on the online test given at the conclusion of the training.

(3) Each recruit as part of the basic law enforcement academy or Washington state patrol academy will successfully complete the eight-hour block of crisis intervention training. (RCW 43.101.427)

(4) Every general authority Washington peace officer that did not complete eight-hours of crisis intervention training as part of their basic law enforcement academy or Washington state patrol academy shall complete a training of not less than eight hours and shall be substantially similar in hours and content to the training offered through the basic training academy, or show proof of successful completion of an enhanced CIT program after January 1, 2008. Each attendee of the program shall be required to obtain written proof of completion of the program as provided by rules of the commission. (RCW 43.101.427)

NEW SECTION

WAC 139-09-030 Crisis intervention training—Eight-hour course. (1) Agencies seeking to provide the eight-hour crisis intervention training shall receive a certification from the commission and use commission-certified curricula and instructors.

(2) Agencies must use commission-approved curricula that contains at the minimum the following subject matter:

- (a) Signs and symptoms of common mental health issues encountered by law enforcement personnel;
- (b) Recommended crisis intervention techniques for common behavioral health and substance use disorder issues; and
- (c) Deescalation skills.

NEW SECTION

WAC 139-09-040 Crisis intervention team training—Forty-hour course. (1) Agencies seeking to provide the forty-hour crisis intervention team training shall receive a certification from the commission and use commission-certified curricula and instructors.

(2) Agencies must use commission-approved curricula that contains at the minimum the following subject matter:

- (a) Signs and symptoms of common mental health issues encountered by law enforcement;
- (b) Crisis intervention techniques for common behavioral health and substance use disorder issues;
- (c) Deescalation skills;
- (d) Suicide prevention;
- (e) Elders in crisis;
- (f) Developmental and intellectual disabilities;
- (g) Community resources;
- (h) Interactions with community members with a mental health diagnosis;
- (i) Commonly prescribed psychotropic medications; and
- (j) Mock scenes or other practical exercises for students to demonstrate proficiency.

NEW SECTION

WAC 139-09-060 Exemption, waiver, extension or variance. Any request for exemption, waiver, extension, or variance from any requirement of this chapter must be made under WAC 139-03-030.

WSR 19-07-040**PERMANENT RULES****DEPARTMENT OF HEALTH**

[Filed March 14, 2019, 10:23 a.m., effective April 14, 2019]

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

Purpose: WAC 246-976-420 and 246-976-430, trauma registry, the department has adopted changes to [the] existing rule to: (1) More closely align with the National Trauma Data Standard data elements; (2) improve alignment with the new registry collection software (Collector V5); (3) allow for changes in the international classification of disease (ICD-10) coding system; (4) remove outdated or unnecessary data elements; and (5) add new data elements to improve data quality and overall trauma system evaluation. Rule amendments will benefit the public's health by ensuring participating providers will collect and report trauma data based on current industry standards culminating in stronger trauma system evaluation for Washington state.

Citation of Rules Affected by this Order: Amending WAC 246-976-420 and 246-976-430.

Statutory Authority for Adoption: RCW 70.168.060.

Other Authority: RCW 70.168.070, 70.168.090.

Adopted under notice filed as WSR 18-23-064 on November 16, 2018.

Changes Other than Editing from Proposed to Adopted Version: Minor edits where [were] made to WAC 246-976-420(2) which pertains to confidentiality. The change more

completely captures the recommendations from the attorney general's office. The edits expanded upon the confidentiality of patient care quality assurance proceedings, records, and reports exemption from discovery by subpoena or admissible as evidence.

WAC 246-976-430(5) pertains to the submission of trauma data elements to include data submission from licensed hospitals that are not trauma designated. The sentence referencing the data submission from licensed hospitals that are not trauma designated was removed. Program leaders determined there is no statutory authority to require them to submit trauma related data and it would not be enforceable.

A final cost-benefit analysis is available by contacting Tim Orcutt, P.O. Box 47853, Olympia, WA 98504-7853, phone 360-236-2874, fax 360-236-2830, TTY 360-833-6388 or 711, email tim.orcutt@doh.wa.gov, web site doh.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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 2, 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 2, Repealed 0.

Date Adopted: March 13, 2019.

Jessica Todorovich
Chief of Staff

AMENDATORY SECTION (Amending WSR 14-19-012, filed 9/4/14, effective 10/5/14)

WAC 246-976-420 Trauma registry—Department responsibilities. (1) Purpose: The department maintains a trauma registry, as required by RCW 70.168.060 and 70.168.090. The purpose of this registry is to:

(a) Provide data for trauma surveillance, analysis, and prevention programs;

(b) Monitor and evaluate the outcome of care of ~~((major))~~ trauma patients, in support of statewide and regional quality assurance and system evaluation activities;

(c) Assess compliance with state standards for trauma care;

(d) Provide information for resource planning, system design and management; and

(e) Provide a resource for research and education.

(2) Confidentiality: ~~((It is essential for the department to protect information regarding specific patients and providers.))~~ RCW 70.168.090, 70.41.200, and chapter 42.56 RCW apply to trauma registry data and patient quality assurance proceedings, records, and reports developed pursuant to RCW 70.168.090. Data elements related to the identification of individual patient's, provider's, and facility's care out-

comes ~~((must))~~ shall be confidential, ~~((must))~~ shall be exempt from ~~((RCW 42.17.250 through 42.17.450, and must))~~ chapter 42.56 RCW, and shall not be subject to discovery by subpoena or admissible as evidence. Patient care quality assurance proceedings, records, and reports developed pursuant to RCW 70.168.090 are confidential, exempt from chapter 42.56 RCW, and are not subject to discovery by subpoena or admissible as evidence.

(a) The department may release confidential information from the trauma registry in compliance with applicable laws and regulations. No other person may release confidential information from the trauma registry without express written permission from the department.

(b) The department may approve requests for trauma registry data reports from qualified agencies or individuals, consistent with applicable statutes and rules. The department may charge reasonable costs associated with customized reports, prepared in response to such requests.

~~(c) ((The data elements indicated in Tables E, F and G below are considered confidential.~~

~~(d))~~ The department ~~((will establish))~~ has established criteria defining situations in which additional trauma registry information is confidential, in order to protect confidentiality for patients, providers, and facilities.

~~((e) This paragraph)~~ (d) Subsection (2)(a) through (d) of this section does not limit access to confidential data by approved regional quality assurance and improvement programs established under chapter 70.168 and described in WAC 246-976-910.

(3) Inclusion criteria: ~~((a))~~ The department ~~((will establish))~~ establishes inclusion criteria to identify those injured patients whom ~~((designated))~~ trauma services must report to the trauma registry.

~~((These))~~ (a) The criteria ~~((will))~~ includes ~~((:))~~ all patients who were discharged with International Classification of Diseases (ICD) diagnosis codes for injuries, drowning, burns, asphyxiation, or electrocution per the department's specifications ~~((:))~~ and one of the following additional criteria:

(i) ~~((For whom the hospital))~~ The trauma service trauma resuscitation team (full or modified) was activated for the patient; ~~((or))~~

(ii) ~~((Who were))~~ The patient was dead on arrival at the ~~((facility; or))~~ trauma service;

(iii) ~~((Who were))~~ The patient was dead at discharge from the ~~((facility; or))~~ trauma service;

(iv) ~~((Who were))~~ The patient was transferred by ambulance into the ~~((facility))~~ trauma service from another facility; ~~((or))~~

(v) ~~((Who were))~~ The patient was transferred by ambulance out of the ~~((facility))~~ trauma service to another acute care facility; ~~((or))~~

(vi) The patient was an adult patient ~~((s))~~ (age fifteen or greater) ~~((who were))~~ and was admitted to the ~~((facility))~~ trauma service and ~~((have))~~ had a length of stay of more than ~~((forty-eight))~~ twenty-four hours; ~~((or))~~

(vii) The patient was a pediatric patient ~~((s))~~ (ages under fifteen years) ~~((who were))~~ and was admitted ~~((as inpatients))~~ to the ~~((facility))~~ trauma service, regardless of length of stay; or

(viii) ~~((All injuries))~~ The patient was an injured patient flown from the scene.

(b) For all licensed rehabilitation services, ~~((these))~~ the criteria ~~((will))~~ includes all patients who ~~((were included in the trauma registry for acute care))~~ received rehabilitative care for acute injury or illness.

(4) Other data: The department and regional quality assurance programs may request data from medical examiners and coroners to be used in support of the trauma registry.

(5) Data submission: The department ~~((will establish))~~ establishes procedures and format for ~~((providers))~~ trauma services to submit data electronically. These will include a mechanism for the reporting agency to check data for validity and completeness before data is sent to the trauma registry.

(6) Data quality: The department ~~((will establish))~~ establishes mechanisms to evaluate the quality of trauma registry data. These mechanisms will include ~~((at least))~~:

(a) Detailed protocols for quality control, consistent with the department's most current data quality guidelines.

(b) Validity studies to assess the timeliness, completeness and accuracy of case identification and data collection.

(7) Trauma registry reports:

(a) Annually, the department ~~((will))~~ reports:

(i) Summary statistics and trends for demographic and related trauma care information ~~((about trauma care;))~~ for the state and for each emergency medical service/trauma care (EMS/TC) region;

(ii) Risk adjusted benchmarking and outcome measures, for system-wide evaluation ~~((:))~~ and regional quality improvement programs;

(iii) Trends, patient care outcomes, and other data, for the state and each EMS/TC region ~~((and for the state;))~~, for the purpose of regional evaluation; and

(iv) Aggregate regional data ~~((to the regional EMS/TC council))~~ upon request, excluding any confidential or identifying data.

(b) The department will provide reports to ~~((facilities))~~ trauma services and qualified agencies upon request, according to the confidentiality provisions in subsection (2) of this section.

AMENDATORY SECTION (Amending WSR 14-19-012, filed 9/4/14, effective 10/5/14)

WAC 246-976-430 Trauma registry—Provider responsibilities. (1) ~~((All))~~ A trauma care provider ~~((s must))~~ shall protect the confidentiality of data in their possession and as it is transferred to the department.

(2) A verified prehospital ~~((agencies))~~ agency that transports trauma patients ~~((shall))~~ must:

(a) Provide an initial report of patient care to the receiving facility at the time the trauma patient is delivered as described in WAC 246-976-330.

(b) Within twenty-four hours after the trauma patient is delivered, send a complete patient care report to the receiving facility to include the data shown in Table ~~((E))~~ A.

Table A:
Prehospital Patient Care Report Elements for the Washington Trauma Registry

<u>Data Element</u>	<u>Prehospital-Transport:</u>	<u>Inter-Facility:</u>
<u>Incident Information</u>		
<u>Transporting emergency medical services (EMS) agency number</u>	X	X
<u>Unit en route date/time</u>	X	
<u>Patient care report number</u>	X	X
<u>First EMS agency on scene identification number</u>	X	
<u>Crew member level</u>	X	X
<u>Method of transport</u>	X	X
<u>Incident county</u>	X	
<u>Incident zip code</u>	X	
<u>Incident location type</u>	X	
<u>Patient Information</u>		
<u>Name</u>	X	X
<u>Date of birth, or age</u>	X	X
<u>Sex</u>	X	X
<u>Cause of injury</u>	X	
<u>Use of safety equipment</u>	X	
<u>Extrication required</u>	X	
<u>Transportation</u>		
<u>Facility transported from (code)</u>		X
<u>Times</u>		
<u>Unit notified by dispatch date/time</u>	X	X
<u>Unit arrived on scene date/time</u>	X	X
<u>Unit left scene date/time</u>	X	X
<u>Vital Signs</u>		
<u>Date/time of first vital signs taken</u>	X	
<u>First systolic blood pressure</u>	X	
<u>First respiratory rate</u>	X	
<u>First pulse</u>	X	
<u>First oxygen saturation</u>	X	
<u>First Glasgow coma score (GCS) with individual component values (eye, verbal, motor, total, and qualifier)</u>	X	
<u>Treatment</u>		
<u>Procedure performed</u>	X	

(3) A designated trauma service(~~s shall~~) must:
 (a) Have a person identified as responsible for trauma registry activities, and who has completed (~~a department-approved~~) the department trauma registry training(~~(-~~
 (~~b~~)) course within eighteen months of hire. For level I-III trauma services the person identified must also complete the abbreviated injury scale (AIS) course within eighteen months of hire;
 (b) Report data elements (~~shown in Table F~~) for all patients defined in WAC 246-976-420(~~(-)~~);

(c) Report patients with a discharge date (~~in a~~) for each calendar quarter in a department-approved format by the end of the following quarter(~~(-~~
 (4) ~~All designated trauma care facilities shall~~);
 (d) Have procedures in place for internal monitoring of data validity, which may include methods to reabstract data for accuracy; and
 (e) Correct and resubmit records that fail the department's validity tests as described in WAC 246-976-420(7)(~~(-~~

The trauma care facilities shall send corrected records to the department)) within three months of notification of errors.

((5)) (4) A designated trauma rehabilitation service((s shall)) must provide data, as identified in subsection (7) of

this section, to the trauma registry in a format determined by the department upon request.

((Data elements shown in Table G are to be provided to the trauma registry in a format determined by the department.

TABLE E: Prehospital Data Elements for the Washington Trauma Registry

Data Element	Type of patient	Pre-Hosp Trans- port	Inter-Facility
Incident Information			
Transporting EMS agency number		X	X
Unit en route date/time		X	
Patient care report number		X	X
First EMS agency on scene identification number		X	
Crew member level		X	X
Method of transport		X	X
Incident county		X	
Incident zip code		X	
Incident location type		X	
Mass casualty incident declared			
Patient Information			
Name		X	X
Date of birth, or Age		X	X
Sex		X	X
Cause of injury		X	
Use of safety equipment (occupant)		X	
Extrication required		X	
Transportation			
Facility transported from (code)			X
Times			
Unit notified by dispatch date/time		X	X
Unit arrived on scene date/time		X	X
Unit left scene date/time		X	X
Vital Signs			
Date/time vital signs taken		X	
Systolic blood pressure (first)		X	
Respiratory rate (first)		X	
Pulse (first)		X	
GCS eye, GCS verbal, GCS motor, GCS total, GCS qualifier		X	
Treatment: Procedure performed			
Procedure performed prior to this unit's care		X	

TABLE F: Hospital-Designated Trauma Services Data Elements for the Washington Trauma Registry

AH)) (5) A designated trauma service((s)) must submit the following data elements for trauma patients((; all other licensed hospitals must submit data upon request per WAC 246-976-420(3))):

(a) Record identification data elements must include:

- (i) Identification (ID) of reporting facility;
- (ii) Date and time of arrival at reporting facility;
- (iii) Unique patient identification number assigned to the patient by the reporting facility((;)).

(b) Patient identification data elements must include:

- (i) Name;
- (ii) Date of birth;

(iii) Sex;
 (iv) Race;
 (v) Ethnicity;
 (vi) Last four digits of the patient's Social Security number;
 (vii) Home zip code((?));
 (c) Prehospital (~~(Incident Information)~~) data elements must include:
 (i) Date and time of incident;
 (ii) Incident zip code;
 (iii) Mechanism/type of injury;
 (iv) External cause codes;
 (v) Injury location codes;
 (vi) First EMS agency on-scene identification (ID) number;
 (vii) Transporting agency ID and unit number;
 (viii) Transporting agency patient care report number;
 (ix) Cause of injury;
 (x) Incident county code;
 (~~(Incident location type);~~)
 (xi) Work related;
 (xii) Use of safety equipment (~~((occupant))~~);
 (xiii) Procedures performed((? **Earliest Available**));
 (d) Prehospital vital signs data elements (from first EMS agency on scene) must include:
 (i) Time;
 (ii) First systolic blood pressure ((first));
 (iii) First respiratory rate ((first));
 (iv) First pulse rate ((first);
~~Glascow coma score (GCS));~~
 (v) First oxygen saturation;
 (vi) First GCS with individual component values (eye, verbal, motor, total, and qualifiers)((total));
 (vii) Intubated at time of ((scene GCS)) first vital sign assessment;
 (viii) Pharmacologically paralyzed at time of ((scene GCS;
Vitals from first EMS agency on scene)) first vital sign assessment;
 (ix) Extrication((?));
 (e) Transportation (~~(Information)~~) data elements must include:
 (i) Date and time unit dispatched;
 (ii) Time unit arrived at scene;
 (iii) Time unit left scene;
 (iv) Transportation mode;
 (~~(Crew member level);~~)
 (v) Transferred in from another facility;
 (~~(Transported from (hospital patient transferred from); Who initiated the transfer);~~)
 (vi) Transferring facility ID number;
 (f) Emergency department (ED) (~~(or Admitting Information)~~) data elements must include:
 (i) Readmission;
 (ii) Direct admit;
 (iii) Time ED physician was called;
 (iv) Time ED physician was available for patient care;
 (v) Trauma team activated;
 (vi) Level of trauma team activation;

(vii) Time of trauma team activation;
 (viii) Time trauma surgeon was called;
 (ix) Time trauma surgeon was available for patient care;
 (x) Vital signs in ED((?)), which must also include:
 (A) First systolic blood pressure;
 (B) First temperature;
 (C) First pulse rate;
 (D) First spontaneous respiration rate;
 (E) Controlled rate of respiration;
 (F) First oxygen saturation measurement;
 (G) Lowest systolic blood pressure (SBP);
 (~~(Lowest SBP confirmed Y/N?;~~
~~First hematocrit level;~~
 GCS)) (H) GCS score with individual component values (eye, verbal, motor, total, and qualifiers);
 (I) Whether intubated at time of ED GCS;
 (J) Whether pharmacologically paralyzed at time of ED GCS;
 ((MCI)) (K) Height;
 (L) Weight;
 (M) Whether mass casualty incident disaster plan implemented((?));
 (xi) Injury scores must include:
 (A) Injury severity score ((ISS));
 (B) Revised trauma score ((RTS)) on admission;
 (~~(For pediatric patients);~~)
 (C) Pediatric trauma score ((PTS)) on admission;
 (~~(TRISS);~~) (D) Trauma and injury severity score;
 (xii) ED procedures performed;
 (~~(ED care issues);~~)
 (xiii) Blood and blood components administered;
 (xiv) Date and time of ED discharge;
 (xv) ED discharge disposition, including:
 (A) If transferred ((out)), ID number of receiving hospital;
 (B) Was patient admitted to hospital((?))
 (C) If admitted, the admitting service;
 (~~(Reason for referral (receiving facility));~~)
 (D) Reason for transfer (sending facility)((?));
 (g) Diagnostic and consultative ((Information Did)) data elements must include:
 (i) Whether the patient ((receive)) received aspirin in the four days prior to the injury((? Did));
 (ii) Whether the patient ((receive clopidogrel (Plavix))) received any oral antiplatelet medication in the four days prior to the injury((? Did), such as clopidogrel (Plavix), or other antiplatelet medication, and, if so, include:
 (A) Whether the patient ((receive)) received any oral anticoagulation medication in the four days prior to the injury, such as warfarin (Coumadin), dabigatran (Pradaxa), rivaroxaban (Xarelto), or other((s? What was)) anticoagulation medication, and, if so, include:
 (B) The name of the anticoagulation medication((?));
 (iii) Date and time of head ((CT)) computed tomography scan;

~~((Date/time))~~ (iv) Date and time of first international normalized ratio (INR) performed at ((your hospital)) the reporting trauma service;

(v) Results of first INR ((done at your hospital)) performed at the reporting trauma service;

~~((Date/time))~~ (vi) Date and time of first partial ((thrombin)) thromboplastin time (PTT) performed at the ((hospital)) reporting trauma service;

(vii) Results of first PTT ((done)) performed at the ((hospital);

Source of date and time of CT scan of head)) reporting trauma service;

~~((Was an))~~ (viii) Whether any attempt was made to reverse anticoagulation((?)) at the reporting trauma service;

~~((What))~~ (ix) Whether any medication (other than Vitamin K) was first used to reverse anticoagulation((?)) at the reporting trauma service;

(x) Date and time of the first dose of anticoagulation reversal medication at the reporting trauma service;

(xi) Elapsed time from ED arrival;

~~((Date of physical therapy consult;))~~

(xii) Date of rehabilitation consult;

(xiii) Blood alcohol content;

(xiv) Toxicology ((screen)) results;

~~((Drugs found;~~

~~Was))~~ (xv) Whether a brief substance ((use intervention done?)) abuse assessment, intervention, and referral for treatment done at the reporting trauma service;

(xvi) Comorbid factors/preexisting conditions;

(xvii) Hospital events.

~~((h))~~ Procedural ((Information For the)) data elements:

(i) First operation information must include:

~~((Date and time patient arrived in operating room;))~~

(A) Date and time operation started;

(B) Operating room (OR) procedure codes;

(C) OR disposition((?)).

(ii) For later operations information must include:

(A) Date and time of operation;

(B) OR procedure codes;

(C) OR disposition((?))

Critical Care Unit Information

Patient admitted to ICU;

Patient readmitted to ICU;))

(i) Admission data elements must include:

(i) Date and time of admission order;

(ii) Date and time of admission or readmission;

(iii) Date and time of admission for primary stay in critical care unit;

(iv) Date and time of discharge from primary stay in critical care unit;

(v) Length of readmission stay(s) in critical care unit;

(vi) Other in-house procedures performed (not in OR).

~~((Discharge Status))~~

(j) Disposition data elements must include:

(i) Date and time of facility discharge;

(ii) Most recent ICD diagnosis codes/discharge codes, including nontrauma diagnosis codes;

~~((E-codes, primary and secondary;~~

Glasgow Score at discharge;))

(iii) Disability at discharge (feeding/locomotion/expression);

(iv) Total ventilator days;

~~((Discharge Disposition~~

~~Hospital))~~ (v) Discharge disposition location;

(vi) If transferred out, ID of facility the patient was transferred to;

(vii) If transferred to rehabilitation, facility ID;

~~((If patient died in the))~~ (viii) Death in facility((?)).

(A) Date and time of death;

(B) Location of death;

~~((Was an autopsy done?;~~

~~Was patient declared brain dead?;~~

~~Was))~~ (C) Autopsy performed;

(D) Organ donation requested((?));

(E) Organs donated((? Did)).

(ix) End-of-life care and documentation:

(A) Whether the patient ((have)) had an end-of-life care document before injury((?));

~~((Was))~~ (B) Whether there was any new end-of-life care decision documented during the inpatient stay ((in the facility?)) at the reporting trauma service;

~~((Did))~~ (C) Whether the patient receive a consult for comfort care, hospice care, or palliative care during the inpatient stay((?) at the reporting trauma service;

~~((Did))~~ (D) Whether the patient ((receive)) received any comfort care, in-house hospice care, or palliative care during the inpatient stay (i.e., was acute care withdrawn((?))) at the reporting trauma service;

(k) Financial information ((All Confidential For each patient)) must include:

(i) Total billed charges;

(ii) Payer sources (by category);

(iii) Reimbursement received (by payer category)((?))

~~TABLE G: Data Elements for Designated Rehabilitation Services)).~~

(6) Designated trauma rehabilitation services must provide the following data upon request by the department for patients identified in WAC 246-976-420(3).

~~((Rehabilitation services, Levels I and II~~

Patient Information

Facility ID

Patient code

Date of birth

Social Security number

Patient name

Patient sex

Care Information

Date of admission

Admission class

Date of discharge

Impairment group code

ASIA impairment scale

Diagnosis Codes

Etiologic diagnosis

Comorbidities

Complications

Diagnosis for transfer or death

Other Information

- Date of onset
- Admit from (type of facility)
- Admit from (ID of facility)
- Acute trauma care by (ID of facility)
- Prehospital living setting
- Discharge to living setting

Inpatient Rehabilitation Facility – Patient Assessment Instrument (IRF-PAI) – One set on admission and one on discharge

Self-care

- Eating
- Grooming
- Bathing
- Dressing – Upper
- Dressing – Lower
- Toileting

Sphincter control

- Bladder
- Bowel

Transfers

- Bed/chair/wheelchair
- Toilet
- Tub/shower

Locomotion

- Walk/wheelchair
- Stairs

Communication

- Comprehension
- Expression

Social cognition

- Social interaction
- Problem solving
- Memory

Payment Information (all confidential)

- Payer source – Primary and secondary
- Total charges
- Total remitted reimbursement

Rehabilitation, Level III

Patient Information

- Facility ID
- Patient number
- Social Security number
- Patient name

Care Information

- Date of admission

Impairment Group Code

Diagnosis Codes

- Etiologic diagnosis
- Comorbidities
- Complications

Other Information

- Admit from (type of facility)
- Admit from (ID of facility)
- Acute trauma care given by (ID of facility)
- Inpatient trauma rehabilitation given by (ID of facility)
- Discharge to living setting

Payment Information (all confidential)

- Payer source – Primary and secondary

Total charges

Total remitted reimbursement)) (a) Data submission elements will be based on the current inpatient rehabilitation facility patient assessment instrument (IRF-PAI). All individual data elements included in the IRF-PAI categories below and defined in the data dictionary must be submitted upon request:

(i) Identification information;

(ii) Payer information;

(iii) Medical information;

(iv) Function modifiers (admission and discharge);

(v) Functional measures (admission and discharge);

(vi) Discharge information;

(vii) Therapy information.

(b) In addition to IRF-PAI data elements each rehabilitation service must submit the following information to the department:

(i) Admit from (facility ID);

(ii) Payer source (primary and secondary);

(iii) Total charges;

(iv) Total remitted reimbursement.

WSR 19-07-045

PERMANENT RULES

EASTERN WASHINGTON UNIVERSITY

[Filed March 14, 2019, 2:02 p.m., effective April 14, 2019]

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

Purpose: The revisions to chapter 172-90 WAC, Student academic integrity, update titles of personnel and update hearing procedures to reflect changes to the student conduct code, chapter 172-121 WAC.

Citation of Rules Affected by this Order: Amending chapter 172-90 WAC.

Statutory Authority for Adoption: RCW 28B.35.120 (12), 42.56.070.

Adopted under notice filed as WSR 19-01-104 on December 18, 2018.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 8, 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: February 22, 2019.

Joseph Fuxa
Labor Relations Manager

AMENDATORY SECTION (Amending WSR 17-11-052, filed 5/15/17, effective 6/15/17)

WAC 172-90-020 Responsibilities. (1) (~~Dean: The dean of the university~~) Associate vice president for academic policy (AVP): The AVP is primarily responsible for the university academic integrity program. The (~~dean~~) AVP shall:

- (a) Oversee the academic integrity program;
- (b) Appoint the chair and members of the academic integrity board (AIB);
- (c) Maintain a system for academic integrity reporting and recordkeeping;
- (d) Serve as the final authority in administering the academic integrity program;
- (e) Maintain all academic integrity records per Washington state records retention standards;
- (f) Coordinate academic integrity training for instructors and students, as needed or requested; and
- (g) Develop and/or facilitate development of academic integrity program support resources, including guides, procedures, web presence, training materials, presentations, and similar resources.

Throughout this chapter and unless otherwise stated, the term "~~dean~~ AVP," shall mean the (~~dean~~) AVP who is handling the academic integrity case or their designee.

(2) Academic integrity board (AIB): The academic integrity board is a standing committee of the faculty organization. The academic integrity board is responsible for administering and managing academic integrity functions.

- (a) The AIB shall:
 - (i) Promote academic integrity at EWU;
 - (ii) Review academic integrity cases, make determinations as to whether a violation occurred, and impose academic and/or institutional sanctions;
 - (iii) Conduct academic integrity board hearings;
 - (iv) Assist (~~dean~~) the AVP in development of academic integrity program support resources;
 - (v) Respond, as appropriate, to campus needs related to the academic integrity program;
 - (vi) Coordinate AIB activities with the (~~dean~~) AVP; and
 - (vii) Continually assess academic integrity process outcomes to ensure equitability of sanctions vis-à-vis violations.
- (b) The AIB is appointed by the (~~dean~~) AVP, based on recommendations from represented groups (e.g., colleges, library, ASEWU). Board composition or membership may be modified to support university needs with the consent of the (~~dean~~) AVP and approval of the provost. At a minimum, AIB membership will include:
 - (i) Two members from each college, one primary and one alternate. Both must hold or have held instructor rank. The primary and alternate must be from different academic departments. The alternate shall serve when a case involves an instructor in the primary member's own department. The alternate may also serve when the primary member is not available. One of the primary members shall also be designated as vice chair.
 - (ii) One member representing EWU libraries.
 - (iii) One student member representing ASEWU.
 - (iv) One chair (does not vote except to break a tie).

(c) The AIB holds regular meetings every two weeks at fixed times and reviews cases at these meetings. The AIB also conducts AIB hearings, as needed, for academic integrity cases involving possible sanctions of suspension or expulsion. AIB reviews and hearings are held in abeyance during holidays, academic breaks, and other times when no classes are scheduled. AIB reviews and hearings may be canceled in other circumstances with the consent of the AIB chair. Any member who is unavailable shall inform the AIB chair who will arrange for a replacement.

(d) A quorum shall consist of three voting members plus the chair or vice chair.

(3) Instructors shall:

- (a) Know and follow the academic integrity rules and policies of the university;
- (b) Include, in each course syllabus, a reference to university academic integrity standards and a clear statement that suspected violations will be handled in accordance with those standards;
- (c) Hold students responsible for knowing these rules;
- (d) Foster an environment where academic integrity is expected and respected;
- (e) Endeavor to detect and properly handle violations of academic integrity; and
- (f) Support and comply with the determinations of the AIB and the (~~dean~~) AVP.

(4) Students shall:

- (a) Demonstrate behavior that is honest and ethical in their academic work; and
- (b) Know and follow the academic integrity rules and policies of the university.

AMENDATORY SECTION (Amending WSR 18-06-020, filed 2/27/18, effective 3/30/18)

WAC 172-90-100 Violations and sanctions. (1) **Violations:** Violations of academic integrity involve the use or attempted use of any method or technique enabling a student to misrepresent the quality or integrity of any of his or her work. Violations of academic integrity include, but are not limited to:

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

(2) **Classes of violations:**

- (a) Class I violations are acts that are mostly due to ignorance, confusion and/or poor communication between instructor and class, such as an unintentional violation of the class rules on collaboration. Sanctions for class I offenses typically include a reprimand, educational opportunity, and/or a grade penalty on the assignment/test.
- (b) Class II violations are acts involving a deliberate failure to comply with assignment directions, some conspiracy

and/or intent to deceive, such as use of the internet when prohibited, fabricated endnotes or data, or copying answers from another student's test. Sanctions for class II offenses typically include similar sanctions as described for class I violations, as well as a course grade penalty or course failure.

(c) Class III violations are acts of violation of academic integrity standards that involve significant premeditation, conspiracy and/or intent to deceive, such as purchasing or selling a research paper. Sanctions for class III violations typically include similar sanctions as given for class I and II violations, as well as possible removal from the academic program and/or suspension or expulsion.

(3) **Sanctions:** A variety of sanctions may be applied in the event that a violation of academic integrity is found to have occurred. Sanctions are assigned based primarily on the class of the violation and whether or not the student has previously violated academic integrity rules. Absent extenuating circumstances, assigned sanctions are imposed without delay and are not held in abeyance during appeal actions. Sanctions may be combined and may include, but are not limited to:

- (a) Verbal or written reprimand;
- (b) Educational opportunity, such as an assignment, research or taking a course or tutorial on academic integrity;
- (c) Grade penalty for the assignment/test;
- (d) Course grade penalty;
- (e) Course failure;
- (f) Removal from the academic program;
- (g) Suspension for a definite period of time; and
- (h) Expulsion from the university.

If a student was previously found to have violated an academic integrity standard, the sanction imposed for any subsequent violations should take into account the student's previous behavior. Sanctions of suspension or expulsion may be noted on a student's transcript.

(4) **Sanctioning authorities:**

(a) Instructors may impose reprimands, educational opportunities, grade penalties, and/or course failure sanctions and may recommend more severe sanctions.

(b) The academic integrity board (AIB) has the authority to impose the same sanctions as an instructor, or to modify any sanctions imposed by the instructor. In addition, the AIB may remove a student from an academic program, with the concurrence of the instructor and the department chair. The AIB may also refer the case for an AIB hearing per WAC 172-90-170 for cases where possible sanctions include suspension or expulsion.

(c) An AIB hearing panel's recommendation to suspend or expel a student will be forwarded to the director of student rights and responsibilities. The director of student rights and responsibilities will ensure the student is provided with a full (~~council~~) hearing under the student conduct code, chapter 172-121 WAC. In such cases, a member of the AIB hearing panel will serve as the "complainant" for purposes of the student conduct code process. The AIB hearing panel member will explain the hearing panel's findings and recommendations to the (~~student discipline council. The student discipline council~~) conduct review officer. The conduct review officer will make its own factual determinations and may impose a sanction of suspension or expulsion, or a lesser sanction, in accordance with the student conduct code.

AMENDATORY SECTION (Amending WSR 17-11-052, filed 5/15/17, effective 6/15/17)

WAC 172-90-120 Initiation. (1) **Reporting:** Each member of the university community is responsible for supporting academic integrity standards. Any person who suspects a violation of these rules is expected to report their suspicion to the course instructor or other appropriate university official. Students are strongly encouraged to report suspected violations to the course instructor, the (~~dean~~) AVP, or other university official.

Throughout this chapter, the term "instructor" shall refer to the instructor or other university official who reports a suspected violation under this chapter.

A person who knowingly makes a false allegation that a violation of these rules has occurred, will be subject to disciplinary action as appropriate.

(2) **Authority:** The primary responsibility for bringing a charge of violating academic integrity standards rests with the instructor. Graduate assistants, teaching assistants, research assistants, student workers, exam proctors, online coordinators and any other persons who assist or support an instructor in teaching should report suspected violations of academic integrity standards to the instructor of record.

Instructors may be represented by their academic department chair in cases where the instructor is unavailable or otherwise unable to actively participate in the process.

(3) **Contact student:** If an instructor suspects that a violation has occurred, the instructor may elect to discuss the matter with the student or contact the student via email or other form of electronic communication prior to taking any other action.

(4) **Instructor action:** In response to a report or suspicion of violation of academic integrity standards, the instructor has the following options:

(a) Dismiss the matter: If the instructor concludes that there is no violation of these rules, the matter is over.

(b) Resolve internally (internal resolution): If the instructor believes that the student committed a class I violation of academic rules, the instructor may take one or more of the following actions without entering an official violation per subsection (5) of this section:

(i) Instruct the student on academic integrity standards and explain how the student failed to comply with those standards;

(ii) Allow the student to modify or redo the assignment; and/or

(iii) Provide the student with an educational opportunity to reiterate academic integrity (such as an assignment, research, course or tutorial on academic integrity).

Note: If an instructor intends to impose any sanction that will affect the student's course grade, he/she must initiate the academic integrity process; internal resolution may not be used in such cases.

If the student does not cooperate with the internal resolution, the instructor should initiate the formal academic integrity process by reporting the violation as described in subsection (5) of this section.

(c) Initiate the academic integrity process: If the instructor believes that the student violated academic integrity stan-

dards and internal resolution is not appropriate, the instructor shall initiate the academic integrity process by reporting the violation to the ((~~dean~~)) AVP per institutional practice.

(5) **Report violation:** To initiate an academic integrity action, the instructor provides information regarding the violation to the ((~~dean~~)) AVP, including:

- (a) A description of the alleged violation;
- (b) A summary of any conversations the instructor has had with the student regarding the violation;
- (c) The sanction(s) imposed and/or recommended by the instructor; and
- (d) The method of resolution desired by the instructor (i.e., summary process, AIB review, or AIB hearing).

When reporting the violation, the instructor may also submit documents (e.g., syllabus, test, essay, etc.) that are pertinent to the violation being reported. Alternatively, the instructor may elect to defer providing such documents unless or until the materials are later requested by the student, ((~~dean~~)) AVP, or the AIB.

Instructors should initiate this process within seven calendar days after becoming aware of the suspected violation. If the instructor attempted to contact the student via email or another form of electronic communication and the student is not responsive, the instructor should initiate the process up to seven calendar days after the first electronic communication. In cases where the student has agreed to certain conditions to resolve the matter internally, per subsection (4)(b) of this section, and the student has failed to comply with those conditions, the instructor may initiate the process up to seven calendar days after the student has failed to meet a resolution condition.

(6) ((~~Dean~~)) AVP review. After a violation has been reported, the ((~~dean~~)) AVP will determine whether the summary process, AIB review process, or AIB hearing process will be used.

In cases where the student has any prior violation, the ((~~dean~~)) AVP must process the case for AIB review under WAC 172-90-160, or AIB hearing under WAC 172-90-170.

AMENDATORY SECTION (Amending WSR 17-11-052, filed 5/15/17, effective 6/15/17)

WAC 172-90-140 Summary process. (1) **Initiation:** The summary process may be initiated when:

- (a) The instructor and student both agree to the summary process;
- (b) The ((~~dean~~)) AVP agrees that the summary process is appropriate to the circumstances;
- (c) The student has no prior violations of academic integrity; and
- (d) The alleged behavior would most likely not warrant a sanction of suspension or expulsion.

(2) **Student notification:** The ((~~dean~~)) AVP will notify the student of the violation, proposed sanctions, and of their response options. Notification will be made to the student's official university email address. If the student is no longer enrolled in the university, the ((~~dean~~)) AVP shall send the notification to the student's last known address. Notification will include:

(a) All information provided by the instructor when the violation was reported and all documents related to the alleged violation. However, information and documents should be redacted to the extent their release would compromise test or examination contents or if the documents include other student's education records;

- (b) Documents related to the alleged violation;
- (c) A description of the university's academic integrity rules and processes, including a list of possible sanctions;
- (d) A description of the student's options; and
- (e) Contact information for the ((~~dean's~~)) AVP's office where the student can request further information and assistance.

(3) Student response options:

(a) **Concur:** The student may accept responsibility for the stated violation and accept all sanctions imposed and/or recommended by the instructor. The student indicates their acceptance by following the instructions provided with the notification. The ((~~dean~~)) AVP will coordinate sanctioning with the instructor and/or the AIB as needed.

(b) **Conference:** If a conference had not already occurred, the student may request to meet with the instructor in order to discuss the alleged violation and/or proposed sanction(s). If the instructor declines the request, the matter will be referred to the AIB for further review and action. The instructor and student may discuss the matter by any means that is agreeable to both (e.g., in-person, telephonically, or via email). The student shall contact the instructor to arrange a discussion time/method.

(i) In arranging a conference, the instructor shall make a reasonable effort to accommodate the student's preferences, but is not obligated to meet with the student outside of normal "office" hours. If the student and instructor cannot agree on a date/time to meet, the instructor or student may refer the matter to the AIB for review and action.

(ii) During a conference, the instructor and student will attempt to reach an agreement regarding the allegation and sanction(s).

(iii) If the student and instructor come to an agreement, the instructor will inform the ((~~dean~~)) AVP of the outcome. The ((~~dean~~)) AVP will coordinate sanctioning with the instructor and/or the AIB as needed.

(iv) If the student and the instructor cannot come to an agreement within seven instruction days, the instructor will inform the ((~~dean~~)) AVP and the matter will then be referred for AIB review and action.

(c) **AIB review:** The student may request that the matter be referred to the AIB for review and further action.

(d) **Failure to respond:** If the student does not respond to the notification within three instruction days, the ((~~dean~~)) AVP will send another notification to the student. Failure of the student to respond to the second notification within three instruction days will be treated as an admission of responsibility and acceptance of the proposed sanctions. The ((~~dean~~)) AVP will coordinate with the instructor to impose the appropriate sanction(s).

AMENDATORY SECTION (Amending WSR 17-11-052, filed 5/15/17, effective 6/15/17)

WAC 172-90-160 Academic integrity board review process. (1) **Initiation:** The AIB review process will be initiated when:

- (a) The instructor or student requests AIB review;
- (b) The instructor refers the matter to the AIB because the instructor and student could not agree to a conference date/time or did not reach an agreement during a conference; or

(c) The ~~((dean))~~ AVP determines that the AIB review process is appropriate to the circumstances.

(2) **Scheduling:** Within five instruction days of determining that an AIB review is in order, the ~~((dean))~~ AVP shall schedule a review for the next available meeting of the AIB.

(3) **Notification:** The ~~((dean))~~ AVP will notify the student, instructor, and AIB chair. Notification will include:

(a) All information provided by the instructor when the violation was reported and all documents related to the alleged violation. However, any such information and documents that were previously provided to the student are not required to be included in this notification. Also, information and documents should be redacted to the extent their release would compromise test or examination contents or if the documents include other student's education records;

(b) The date/time of the AIB review;

(c) Instructions on how to submit documents, statements, and other materials for consideration by the AIB;

(d) A clear statement that the AIB review is a closed process (no student, instructor or person other than the board is present at the review);

(e) A description of the specific rules governing the AIB review process;

(f) A description of the university's academic integrity rules and processes; and

(g) Contact information for the ~~((dean's))~~ AVP's office where the student and/or instructor can request further information and assistance. Notifications will strongly encourage the student to contact the ~~((dean))~~ AVP to ensure that the student understands the process, the violation, and the potential sanctions.

(4) **Student and instructor response:** The student must prepare a written statement and submit the statement to the ~~((dean's))~~ AVP's office within three instruction days after receiving the AIB review notice. The student may include any relevant written documentation, written third-party statements, or other evidence deemed relevant to the student's interests. Unless already provided, the instructor should submit the syllabus, the relevant test/assignment, and other materials that are pertinent to the violation to the ~~((dean's))~~ AVP's office.

(5) **Failure to respond:** If the student does not respond to the notification of the AIB review within three instructional days, the ~~((dean))~~ AVP will send another notification to the student. Failure of the student to respond to the second notification within three instruction days will be treated as an admission of responsibility and acceptance of the proposed sanctions. The ~~((dean))~~ AVP will coordinate sanctioning with the instructor and/or the AIB as needed. If a recommended

sanction requires higher level authority to impose, the AIB will proceed with a hearing.

(6) **Proceedings:** The board's responsibility is to review the statements and other materials provided by each party, review other relevant records, information, or materials, and make a determination as to whether the alleged academic integrity violation occurred. The board primarily reviews written evidence. Neither the student nor the instructor is permitted to attend the AIB review. The board may, at its discretion, consult with the instructor, the student or others as deemed appropriate or necessary. All evidence collected in this process will be made available to the student and/or instructor upon request.

(7) **Sanctions:** The board will determine what, if any, sanctions will be imposed. The board may impose the same sanctions assigned and/or recommended by the instructor, or may impose greater or lesser sanctions. If the student has any previous violation(s) of academic integrity standards, the AIB may increase the sanction imposed to account for repeat offenses. If the board decides to pursue sanctions that include suspension or expulsion, the board shall initiate an AIB hearing per WAC 172-90-170.

(8) **Conclusion:** The board should conclude its review and issue a decision within thirty days after the violation was initially reported. The ~~((dean))~~ AVP shall notify the student and instructor of the board's decisions, along with the right to request reconsideration.

(9) **Requests for review:** Either the student or the instructor may request reconsideration by the ~~((dean))~~ AVP by submitting a request in writing to the ~~((dean))~~ AVP within twenty-one days after the board issues its written decision. The ~~((dean))~~ AVP shall allow the student and the instructor an opportunity to respond in writing to the request for review. The student and instructor's responses, if any, must be submitted within five instructional days of the request for review. After reviewing the responses and materials considered by the board, the ~~((dean))~~ AVP shall issue a decision in writing within twenty days of receipt of the request for review. The decision must include a brief statement of the reasons for the ~~((dean's))~~ AVP's decision and notice that judicial review may be available. All decisions of the ~~((dean))~~ AVP are final and no appeals within the university are permitted. Judicial review may be available under chapter 34.05 RCW.

AMENDATORY SECTION (Amending WSR 17-11-052, filed 5/15/17, effective 6/15/17)

WAC 172-90-170 Academic integrity board hearing. AIB hearings will only be conducted when the institution is pursuing sanctions that include either suspension or expulsion. The AIB hearing provides the instructor and the student with the opportunity to present evidence and witnesses.

(1) **Scheduling and notification:**

(a) **Initiation:** The AIB hearing process will be initiated when the ~~((dean))~~ AVP or the AIB determines that the alleged violation may involve a possible sanction of suspension or expulsion.

(b) **Scheduling:** Within five instruction days of determining that an AIB hearing is in order, the ~~((dean))~~ AVP shall

schedule the hearing. The student must receive at least seventy-two hours' notice as to the time and place of the hearing. The ((~~dean~~)) AVP may coordinate with the parties to facilitate scheduling, but is not required to do so.

(c) Notification: The ((~~dean~~)) AVP will notify the student, instructor, and AIB hearing panel members. Notification will include:

(i) All information provided by the instructor when the violation was reported and all documents related to the alleged violation. However, any such information and documents that were previously provided to the student are not required to be included in the notification sent to the student. Also, information and documents should be redacted to the extent their release would compromise test or examination contents or if the documents include other students' education records;

(ii) A description of the university's academic integrity rules and processes, including any possible sanctions;

(iii) The date, time, and place of the AIB hearing;

(iv) Instructions on how to submit documents, statements, and other materials for consideration by the AIB hearing panel;

(v) A description of the specific rules governing the AIB hearing process;

(vi) A description of the student's options; and

(vii) Contact information for the ((~~dean's~~)) AVP's office where the student and/or instructor can request further information and assistance. Notifications will strongly encourage the student to contact the ((~~dean~~)) AVP to ensure that the student understands the process, the violation, and the potential sanctions.

(2) General provisions:

(a) All academic integrity board hearings are brief adjudicative proceedings in accordance with WAC 172-108-010 and shall be conducted in an informal manner.

(b) Nonjudicial proceedings: Formal rules of procedure, evidence, and/or technical rules, such as are applied in criminal or civil courts, do not apply to AIB hearings.

(c) Hearing authority: When scheduling an AIB hearing, a member of the AIB will be designated as hearing authority. The hearing authority exercises control over hearing proceedings. All procedural questions are subject to the final decision of the hearing authority.

(d) Hearing panel composition: In addition to the hearing authority, an AIB hearing panel shall consist of three voting members of the AIB.

(e) Closed hearings: All AIB hearings will be closed. Admission of any person, other than the instructor and the student involved, to an AIB hearing shall be at the discretion of the hearing authority.

(f) Consolidation of hearings: In the event that one or more students are charged with an academic integrity violation arising from the same occurrence, the university 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.

(3) Appearance:

(a) Failure to appear: The student is expected to attend the AIB hearing. In cases where proper notice has been given but the student fails to attend an AIB hearing, the hearing

panel shall decide the case based on the information available.

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

(c) Alternative methods of appearance. In the interest of fairness and expedience, the hearing authority may permit any person to appear by telephone, written statement, or other means, as appropriate.

(d) The instructor may attend the hearing but is not required to do so. The instructor's report of the violation and all associated evidence shall constitute the appearance of the instructor.

(4) **Advisors:** The instructor and the student may 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 are the responsibility of the instructor or the student that employed the advisor;

(b) The advisor may be an attorney;

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

(d) If an attorney is used as an advisor, the person using the attorney shall inform the AIB hearing authority of their intent to do so at least two business days prior to the hearing.

(5) **Review of evidence:** The student and the instructor may request to view material related to the case prior to a scheduled hearing by contacting the ((~~dean~~)) AVP. To facilitate this process, the party should contact the ((~~dean~~)) AVP as early as possible prior to the scheduled hearing. The ((~~dean~~)) AVP shall make a reasonable effort to support the request to the extent allowable by state and federal law.

(6) Evidence:

(a) Evidence: Pertinent records, exhibits and written statements may be accepted as information for consideration by the hearing panel. However, AIB hearings are not bound by the rules of evidence observed by courts. The hearing authority may exclude incompetent, irrelevant, immaterial or unduly repetitious material.

(b) The student and the instructor have the right to view all material presented during the course of the hearing.

(7) **Standard of proof:** The hearing panel shall determine whether the student violated student academic integrity standards, as charged, based on a preponderance of the evidence.

A preponderance means, based on the evidence admitted, whether it is more probable than not that the student violated academic integrity standards.

(8) Witnesses:

(a) The instructor, student, and hearing authority may present witnesses at AIB hearings.

(b) The party who wishes to call a witness is responsible for ensuring that the witness is available and present at the time of the hearing.

(c) The hearing authority may exclude witnesses from the hearing room when they are not testifying. The hearing authority is not required to take the testimony of all witnesses

called by the parties if such testimony may be inappropriate, irrelevant, immaterial, or unduly repetitious.

(d) All parties have the right to hear all testimony provided by witnesses during the hearing.

(9) Questioning:

(a) The instructor and the student 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 an AIB 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.

(10) Deliberations and sanctions:

(a) Within seven days after the hearing, the AIB hearing panel shall meet in closed session, without either of the parties present, and determine by majority vote whether, by a preponderance of the evidence, the accused violated academic integrity standards. If the hearing panel determines that the accused violated academic integrity standards, the panel shall then determine, by majority vote, what sanctions shall be imposed. This session may take place immediately following the hearing or at another time within the seven days following the hearing.

(b) In determining what sanctions shall be imposed, the hearing panel may consider the evidence presented at the hearing as well as any information contained in the student's records.

(11) **Notification:** If the panel determines that suspension or expulsion is appropriate, they will forward that recommendation to the director of student rights and responsibilities to conduct a hearing under the student conduct code. If the panel is not recommending suspension or expulsion, they shall notify the ~~((dean))~~ AVP of the sanctions to be imposed.

(12) ~~((Dean))~~ AVP:

(a) If the AIB panel recommends suspension or expulsion, the ~~((dean))~~ AVP will appoint a member of the AIB hearing panel to serve as the complainant for purposes of the student conduct proceeding and will forward the records used during the academic integrity proceeding to the director of student rights and responsibilities. If the AIB panel does not recommend suspension or expulsion, the ~~((dean))~~ AVP shall impose the sanctions determined by the AIB panel.

(b) The ~~((dean))~~ AVP shall notify the student and the instructor of the hearing panel's decision, the sanctions to be imposed, and of the right to appeal.

(13) **Appeals of AIB hearing determinations:** Either the student or the instructor may request reconsideration by the provost by submitting a request in writing to the provost within twenty-one days after the hearing panel issues its decision. The provost shall allow the student and the instructor an opportunity to respond in writing to the request for review. The student and instructor's responses, if any, must be submitted within five instructional days of the request for review. After reviewing the responses and materials consid-

ered by the hearing panel, the provost shall issue a decision in writing within twenty days of receipt of the request for review. The decision must include a brief statement of the reasons for the provost's decision and notice that judicial review may be available under chapter 34.05 RCW. All decisions of the provost are final and no appeals are permitted.

If the AIB recommended a suspension or expulsion and the case was forwarded for a full hearing under the student conduct code, the imposition of a sanction of suspension or expulsion may be appealed in accordance with the appeals process set forth in WAC 172-121-130. If the AIB imposed a sanction in addition to recommending a suspension or expulsion, such as removal from an academic program, such sanction may be appealed to the provost in accordance with this section. The timeline for filing an appeal with the provost commences at the time of service of the conduct review officer's decision under the student conduct code.

AMENDATORY SECTION (Amending WSR 17-11-052, filed 5/15/17, effective 6/15/17)

WAC 172-90-180 Administration. After the resolution process, the ~~((dean))~~ AVP will coordinate sanctions and administrative actions, including:

- (1) Notifying the parties of the results in writing;
- (2) Creating or updating the student's academic disciplinary record;
- (3) Updating academic integrity reporting and record-keeping systems;
- (4) Coordinating sanctioning; and
- (5) Referring cases to the student disciplinary council as needed.

AMENDATORY SECTION (Amending WSR 17-11-052, filed 5/15/17, effective 6/15/17)

WAC 172-90-200 Failing grade. A sanction of a failing course grade is recorded on the transcript as an "XF" and indicates a failure of the course due to violation of academic integrity standards. An XF is counted as a 0.0 for purposes of grade point average calculation.

(1) To petition to have an XF grade changed to an "F" (0.0), a student must submit a written request to the ~~((dean))~~ AVP. Requests will generally not be considered unless the following conditions are met:

- (a) At least one year has passed since the XF grade was entered;
- (b) The student has had no other violations of academic integrity standards since the XF; ~~((and))~~
- (c) The student has successfully completed a university sponsored noncredit seminar on academic integrity; or, for a person no longer enrolled at the university, an equivalent educational activity as determined by the AIB; and
- (d) The student has not had any other XF grades converted while attending the university.

(2) The ~~((dean))~~ AVP will review the case and may consult with the referring instructor or academic unit head who originally reported the violation(s). If the ~~((dean))~~ AVP denies the request, the student may submit a new request one year later.

WSR 19-07-057

PERMANENT RULES

HORSE RACING COMMISSION

[Filed March 18, 2019, 10:20 a.m., effective April 18, 2019]

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

Purpose: To amend the fingerprint requirement to exempt certain applicants based on age.

Citation of Rules Affected by this Order: Amending WAC 260-36-100.

Statutory Authority for Adoption: RCW 67.16.020.

Adopted under notice filed as WSR 19-03-002 on January 2, 2019.

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 the Request of a Non-governmental Entity: New 0, Amended 1, 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 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, 2019.

Douglas L. Moore
Executive Secretary

AMENDATORY SECTION (Amending WSR 10-17-071, filed 8/13/10, effective 9/13/10)

WAC 260-36-100 Fingerprints. (1) Every person, between the ages of eighteen and sixty-nine, applying for a license must furnish the commission his or her fingerprints upon making an initial application for a license.

Persons who have previously held a license while under the age of eighteen must furnish fingerprints in the license period which follows their eighteenth birthday whenever an application is submitted.

(2) Following the initial application, each person that meets the requirements in subsection (1) of this section must then submit fingerprints at an interval determined by the commission. However, the commission, executive secretary, stewards, or security investigators, in their discretion, may require fingerprints from any applicant or licensee, regardless of age, at any time.

(3) If fingerprints are requested for any applicant or licensee over the age of sixty-nine or under the age of eighteen, the entire cost of submission will be due at time of processing.

(4) If an applicant fails to furnish fingerprints, the stewards may suspend the license or deny, and/or assess a fine.

WSR 19-07-058

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed March 18, 2019, 10:28 a.m., effective April 18, 2019]

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

Purpose: Existing language regarding instruction schedule is ambiguous. Amending rules to provide consistency in application of rule.

Citation of Rules Affected by this Order: Amending WAC 308-108-150.

Statutory Authority for Adoption: Chapter 46.82 RCW.

Adopted under notice filed as WSR 18-24-026 on November 28, 2018.

Changes Other than Editing from Proposed to Adopted Version: Changed name of section from curriculum requirements to course requirements.

A final cost-benefit analysis is available by contacting Driver Training School Program, P.O. Box 9027, Olympia, WA 98507, phone 360-664-6692, fax 360-570-4976, email TSE@dol.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 the Request of a Non-governmental 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 1, 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: March 18, 2019.

Damon Monroe
Rules Coordinator

AMENDATORY SECTION (Amending WSR 09-21-092, filed 10/20/09, effective 1/1/10)

WAC 308-108-150 ((Curriculum schedule)) Course requirements. ((A)) Driver training schools ~~((may offer classroom and behind the wheel instruction to students throughout the year. In order to be approved by the director, a curriculum schedule must satisfy or include the following requirements:~~

~~(1) Classroom and behind the wheel instruction that is complementary. This means that classroom instruction is integrated in a timely manner with behind the wheel instruction;~~

~~(2) Having students under age eighteen complete no more than two hours of classroom instruction during any single day, except for make-up classes which shall be no more than two additional hours of class not to exceed three total make-up classes during the traffic safety education course;~~

and no more than one hour of behind the wheel instruction during any single day;

(3) For students under the age of eighteen to meet the traffic safety education requirement of RCW 46.20.100, instruction that:

(a) Includes not less than thirty hours of classroom instruction;

(b) Meets the behind the wheel instruction and observation requirements of WAC 308-108-160;

(c) Consists of at least one hour minimum and no more than two hours maximum of class session during a single day, except when adding a make-up class as provided in subsection (2) of this section, in which case classroom instruction must not exceed four hours in a single day;

(d) With the exception of make-up lessons, ensures that all students in a classroom session must be on the same lesson. Open enrollment or self-paced instruction is not permitted; and

(e) Ensures that each traffic safety education classroom course) that provide education for persons under the age of eighteen must ensure their course:

(1) Includes a minimum of thirty hours of classroom instruction;

(2) Meets the behind the wheel instruction and observation requirements of WAC 308-108-160;

(3) Has a minimum of one hour and no more than two hours of classroom instruction and no more than one hour of behind the wheel instruction during a single day, except when adding a make-up class, in which case classroom instruction must not exceed four hours in a single day;

(4) Has a classroom portion that is at least fifty-percent instructor-led with verbal instruction consisting of:

((i)) (a) In-person training;

((ii)) (b) Teacher and student interaction; ~~(and~~

((iii)) (c) Questions and answers; and

((4) ~~Classroom and behind the wheel instruction in a course that is scheduled for not less than thirty days in which lessons must be in contiguous weeks;~~

(5) ~~Students may not enroll in a traffic safety education course after the third class session of any given course;~~

(6) ~~All make-up assignments and instruction must be equivalent to the instruction given during the missed sessions;~~

(7) ~~Distributing to students)) (d) No more than six make-up hours of alternative classroom instruction, delivering the same information that was missed.~~

(5) Has all students in a classroom session on the same lesson, with the exception of make-up lessons. Open enrollment or self-paced instruction is not permitted;

(6) Is not completed in fewer than thirty calendar days;

(7) Includes comprehensive final written and behind the wheel examinations;

(8) Has a flow chart that indicates how the classroom and behind the wheel instruction are completed throughout the course;

(9) Includes information on the state of Washington's intermediate license requirements, restrictions, violations, and sanctions for violation of these requirements;

(10) Includes the delivery of instructional material developed by the department and the federally designated

organ procurement organization for Washington state relating to organ and tissue donation awareness education; and

~~((8) Review and approval of the local school curriculum by the department as part of the initial application for a school license. To help ensure that minimum standards of instruction are met, the local school curriculum must include but is not limited to the following:~~

~~(a) Comprehensive elements of classroom and behind the wheel instruction as defined by the department;~~

~~(b) Comprehensive written and behind the wheel examinations, to include:~~

~~(i) Written examinations as submitted to and approved by the department; and~~

~~(ii) Behind the wheel examination criteria as approved by the department;~~

~~(c) A flow chart that indicates how the classroom and behind the wheel instruction are integrated;~~

~~(d) Information on the state of Washington's intermediate license requirements, restrictions, violations, and sanctions for violation of these requirements; and~~

~~(e) A designated time for a parent, guardian, or employer night that is no less than one hour, which may be a part of the thirty hours required for student training, and must include:~~

~~((i)) (1) Has a designated time for a parent, guardian, or employer night that is no less than one hour, which may fulfill one of the thirty hours required for student training, and must include:~~

~~(a) Instruction on the parent, guardian, or employer responsibilities and the importance of parent, guardian, or employer involvement with the teen driver;~~

~~((ii)) (b) Information on intermediate license laws, restrictions, and sanctions;~~

~~((iii)) (c) An introduction to the parent guide to teen driving; and~~

~~((iv)) (d) A questions and answers period.~~

WSR 19-07-063

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed March 19, 2019, 9:08 a.m., effective April 19, 2019]

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

Purpose: WAC 246-290-638 Analytical requirements, the department of health (department) adopted an amendment to reference Environmental Protection Agency (EPA)-approved methods for turbidimeter instruments instead of listing each EPA-approved turbidimeter in the rule section. Making this change will keep the department from having to update the rule each time EPA approves new turbidimeter instruments and it will allow public water systems to use the new instruments as soon as EPA approves them without any delay between EPA adoption and state rule adoption.

Citation of Rules Affected by this Order: Amending WAC 246-290-638.

Statutory Authority for Adoption: RCW 43.20.050, 34.05.365.

Other Authority: RCW 70.119A.080.

Adopted under notice filed as WSR 19-04-022 on January 25, 2019.

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 the Request of a Non-governmental 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 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: March 19, 2019.

Clark Halvorson
Assistant Secretary

AMENDATORY SECTION (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

WAC 246-290-638 Analytical requirements. (1) The purveyor shall ensure that only qualified persons conduct measurements for pH, temperature, turbidity, and residual disinfectant concentrations. In this section, qualified means:

(a) A person certified under chapter 246-292 WAC;

(b) An analyst, with experience conducting these measurements, from the state public health laboratory or another laboratory certified by the department;

(c) A state or local health jurisdiction professional experienced in conducting these measurements; or

(d) For the purpose of monitoring distribution system residual disinfectant concentration only, a person designated by and under the direct supervision of a waterworks operator certified under chapter 246-292 WAC.

(2) The purveyor shall ensure that measurements for temperature, turbidity, pH, and residual disinfectant concentration are made in accordance with "standard methods," or other EPA approved methods.

(3) The purveyor shall ensure that samples for coliform and HPC analysis are:

(a) Collected and transported in accordance with department-approved methods; and

(b) Submitted to the state public health laboratory or another laboratory certified by the department to conduct the analyses.

(4) Turbidity monitoring.

(a) The purveyor shall equip the system's water treatment facility laboratory with a:

(i) Bench model turbidimeter; and

(ii) Continuous turbidimeter and recorder if required under WAC 246-290-664 or 246-290-694.

(b) The purveyor shall ensure that bench model and continuous turbidimeters are:

(i) Designed to meet the criteria in "standard methods," (~~EPA Method 180.1, Hach FilterTrak Method 10133, Hach Method 10258, AMI Turbiwell Method, or Great Lakes Instruments Method 2~~) approved methods under 40 C.F.R.

141.74 (a)(1), or alternative testing methods under Appendix A to Subpart C of 40 C.F.R. Part 141; and

(ii) Properly operated, calibrated, and maintained at all times in accordance with the manufacturer's recommendations.

(c) The purveyor shall validate continuous turbidity measurements for accuracy as follows:

(i) Calibrate turbidity equipment based upon a primary standard in the expected range of measurements on at least a quarterly basis for instruments using an incandescent light source and on at least an annual basis for instruments using an LED or laser light source; and

(ii) Verify continuous turbidimeter performance on a weekly basis, not on consecutive days, with grab sample measurements made using a properly calibrated bench model turbidimeter.

(d) When continuous turbidity monitoring equipment fails, the purveyor shall measure turbidity on grab samples collected at least every four hours from the combined filter effluent and individual filters while the system serves water to the public and the equipment is being repaired or replaced. The purveyor shall have continuous monitoring equipment online within five working days of failure.

(5) Purveyors shall verify instruments used for continuous monitoring of free and total chlorine residual with a grab sample measurement at least every five days, or with a protocol approved by the department as required under 40 C.F.R. 141.74 (a)(2).

(6) Purveyors monitoring for *Cryptosporidium* or *E. coli* as required under 40 C.F.R. 141.701 shall collect samples and have them analyzed under 40 C.F.R. 141.704 and 141.705.

WSR 19-07-070

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed March 19, 2019, 2:35 p.m., effective April 19, 2019]

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

Purpose: These rule changes align with federal requirements and remove redundant language regarding signatures that are already required by statute.

Citation of Rules Affected by this Order: Amending WAC 308-105-020 Application for enhanced driver's license or identicaid.

Statutory Authority for Adoption: RCW 46.01.110 and 46.20.202.

Other Authority: 6 C.F.R. 37.

Adopted under notice filed as WSR 19-04-023 on January 25, 2019.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 1, 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 the Request of a Non-governmental 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 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: March 19, 2019.

Damon Monroe
Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-22-031, filed 10/29/07, effective 11/29/07)

WAC 308-105-020 Application for enhanced driver's license or identicard. (1) An applicant for an enhanced driver's license must be eligible for a standard driver's license under chapter 46.20 RCW, provide the information required by RCW 46.20.091 and WAC 308-104-014, and establish his or her identity as provided by RCW 46.20.035 and WAC 308-104-040.

(2) An applicant for an enhanced identicard must be eligible for a standard identicard under chapter 46.20 RCW, provide the information required by RCW 46.20.117 and WAC 308-104-014, and establish his or her identity as provided by RCW 46.20.035 and WAC 308-104-040.

~~(3) ((An applicant for an enhanced driver's license or identicard must sign a declaration acknowledging that his or her photograph will be used as a facial recognition biometric identifier, and that he or she understands that the biometric identifier will be used in a one-to-many biometric matching system for purposes of verifying the identity of the applicant.~~

~~(4))~~ (4)) An applicant for an enhanced driver's license or identicard must sign a declaration acknowledging that he or she has been notified that the enhanced driver's license or identicard contains a radio frequency identification chip, that he or she has been given written information on the type of information the chip contains and how it may be used, and that tampering with or deactivating the chip will invalidate the enhanced driver's license or identicard for purposes of border crossing.

~~((5))~~ (4) An applicant for an enhanced driver's license or identicard must provide the department with satisfactory proof of United States citizenship. United States citizenship may be established by providing at least one of the following pieces of documentation:

(a) A United States passport that is valid ~~((or has been expired for no more than five years))~~;

(b) Certified state birth certificate;

(c) Certificate of naturalization;

(d) Certificate of citizenship; or

(e) Department of state consular report of birth abroad.

~~((6))~~ (5) An applicant for an enhanced driver's license or identicard must provide the department with satisfactory proof of residency in the state of Washington.

~~((7))~~ (6) An enhanced driver's license or identicard will not be issued to an applicant who is unable to provide the department with satisfactory proof required under this section.