

## WSR 21-07-076

## EMERGENCY RULES

## STATE BOARD OF EDUCATION

[Filed March 17, 2021, 11:25 a.m., effective March 17, 2021, 11:25 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The state board of education is reviewing chapter 180-111 WAC to implement recently passed legislation, make changes as necessary to align rule to current policy or practice, correct references to law, improve readability of the rule, or make other changes identified during the review. The purpose of this chapter is to establish an emergency waiver program to allow school districts as defined in WAC 180-111-020, and private schools, to waive certain graduation requirements on an individual student basis and emergency waiver of certain requirements for private schools in WAC 180-111-060. The intent is to help prevent students from being unduly impacted by unforeseen disruptions to coursework and assessments resulting from an "emergency or disaster" as defined in RCW 38.52.010. "Emergency" may also include a national declaration of emergency by an authorized federal official.

Citation of Rules Affected by this Order: New WAC 180-111-060; and amending WAC 180-111-010, 180-111-020, 180-111-030, 180-111-040, and 180-111-050.

Statutory Authority for Adoption: Chapter 7, Laws of 2021 (EHB 1121); RCW 28A.195.040, 28A.195.010, 28A.230.090, 28A.150.220(7).

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Chapter 7, Laws of 2021 (EHB 1121) and RCW 28A.195.040 authorize the state board of education to engage in rule making to provide flexibility in response to the novel coronavirus (COVID-19) emergency. Immediate adoption and amendment of rule is necessary for the preservation of the public health, safety, and general welfare during the public health crisis due to continued disruptions caused by the COVID-19 pandemic, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest. There is an immediate need for an emergency waiver program to prevent students from being unduly impacted by the unforeseen disruptions to coursework and assessments that are beyond the students' control. Public health and safety responses to COVID-19 have caused disruption to student coursework to complete graduation requirements. This waiver preserves the general welfare of graduating cohorts who were affected by disruptions due to those public health and safety responses to the COVID-19 pandemic.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 5, Repealed 0.

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

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 5, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 5, 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 11, 2021.

Dr. Randy Spaulding  
Executive Director

OTS-2954.4

**Chapter 180-111 WAC**

**EMERGENCY WAIVER OF CERTAIN REQUIREMENTS ((IN RESPONSE TO NOVEL CORONAVIRUS))**

AMENDATORY SECTION (Amending WSR 21-01-077, filed 12/10/20, effective 1/10/21)

**WAC 180-111-010 Authority and purpose.** (1) ~~((The authority for this chapter is sections 10 through 12, chapter 7, Laws of 2020 (EHB 2965) which authorizes the state board of education to administer an emergency waiver program.~~

~~(2))~~ The purpose of this chapter is ~~((:~~

~~(a))~~ to establish an emergency waiver program to ((grant local education agencies and private schools flexibility so that students in the graduating class of 2020 or earlier who were on track to graduate before the gubernatorial declaration of emergency of February 29, 2020, the proclamation of statewide school closures on March 13, 2020, and any subsequent amendments to these proclamations, are not negatively impacted by measures taken by the local education agency or private school in response to the novel coronavirus (COVID-19); and

~~(b) To allow flexibility from instructional hour or school day requirements for the 2019-20 school year for private schools that close due to the novel coronavirus.~~

~~(3) This chapter expires July 31, 2020))~~ allow school districts as defined in WAC 180-111-020, and private schools, to waive certain graduation requirements on an individual student basis and emergency waiver of certain requirements for private schools in WAC 180-111-060. The intent is to help prevent students from being unduly impacted by unforeseen disruptions to coursework and assessments resulting from an "emergency or disaster" as defined in RCW 38.52.010. "Emergency" may also include a national declaration of emergency by an authorized federal official.

(2) These emergency rules are for the novel coronavirus emergency, in response to the gubernatorial declaration of emergency on February 29, 2020. They apply to the classes of 2020 and 2021 in the 2020-21 school year.

[Statutory Authority: 2020 c 7 § 10-12 and RCW 28A.195.010, 28A.230.090, 28A.150.220(7). WSR 21-01-077, § 180-111-010, filed 12/10/20, effective 1/10/21.]

AMENDATORY SECTION (Amending WSR 21-01-077, filed 12/10/20, effective 1/10/21)

**WAC 180-111-020 Definitions.** The definitions in this section apply throughout this chapter.

(1) (~~"Good faith effort" means the local education agency or private school considered and implemented options, determined appropriate by the local education agency or private school, to support individual students in meeting credit requirements. Options for helping students meet credit requirements or waive credit requirements include, but are not limited to:~~

~~(a) Recommendations provided by the office of the superintendent of public instruction in its published guidance on supporting seniors during long term school closures, as outlined in Bulletin Number 022-20 issued on March 20, 2020, and Bulletin Number 024-20 issued on March 23, 2020, and any related subsequent bulletins.~~

~~(b) Awarding or waiving of credits through existing authority of local education agencies and private schools:~~

~~(i) Local graduation requirements under WAC 180-51-020 may be waived at local discretion without approval of the state board of education.~~

~~(ii) Local education agencies and private schools that have implemented state credit requirements under WAC 180-51-068 (the twenty-four credit graduation requirement framework) have the authority to award a two credit waiver of flexible credits for individual student circumstances.~~

~~(iii) Students may be excused from physical education, provided they demonstrate competency/mastery in the knowledge portion of the required one and one-half credits, as articulated in WAC 180-51-056 (1)(e), 180-51-067(6), and 180-51-068(6).~~

~~(iv) Per WAC 180-51-056 (1)(e)(ii), 180-51-067 (4)(b), and 180-51-068 (4)(b)(i) and (ii), the noncredit requirement of Washington state history can be waived for students who either have completed a state history course in another state, or for eleventh or twelfth grade students who have not completed the course because of previous residence in another state.~~

~~(v) Credits may be awarded based on the student's demonstrated proficiency/competency of the state's learning standards under WAC 180-51-050.~~

~~(2) "Local education agency" means a school district, charter school established under chapter 28A.710 RCW, or tribal compact school operated according to the terms of state-tribal education compacts authorized under chapter 28A.715 RCW. References within this chapter to local education agency shall also apply to community and technical college colleges per WAC 180-51-015.~~

~~(3) "On track to graduate" means the individual student's earned credits and current or planned enrollment as of the gubernatorial declaration of emergency of February 29, 2020, would have been sufficient, as determined by the student's local education agency or private school, for the student to meet the applicable state minimum~~

~~graduation requirements (as defined in WAC 180-51-056, 180-51-067, and 180-51-068) by the end of the 2019-20 school year as defined by RCW 28A.150.203.)~~ "Demonstrated postsecondary preparation" means the student has demonstrated skills and knowledge indicating preparation for the next steps identified in their high school and beyond plan under RCW 28A.230.090 and for success in postsecondary education, gainful employment, and civic engagement.

(a) The school district shall review the individual student's completed and planned coursework and other information applicable to the individual student and determine if the student has demonstrated postsecondary preparation.

(b) This individual student review may include, but is not limited to, whether the following considerations apply to that student:

(i) The student has completed a graduation pathway option in accordance with RCW 28A.655.250 and WAC 180-51-230.

(ii) The student has completed activities consistent with the criteria for "career prep" or has participated in an approved "career launch" program through career connect Washington.

(iii) The student has completed a preparatory career and technical education course or a course that meets the preparatory standards as defined in RCW 28A.700.030.

(iv) The student has developed and practiced leadership and employability skills through a job, volunteer position, or a career and technical student organization that would enable them to advance in their chosen career field and has obtained external validation from an employer, tribal elder, CTE business or industry advisory committee member, or other community member that can attest to the student's preparation for their next steps.

(v) The student is a participant in a recognized apprenticeship preparation program or registered apprenticeship program or has signed an apprenticeship agreement with an employer.

(vi) The student has earned college credit in a core subject area.

(vii) The student has earned an industry recognized credential.

(viii) The student has completed minimum college admission standards for four-year institutions of higher education, in accordance with RCW 28B.77.020 (7) (a).

(ix) The student placed into a college-level math or English course at an institution of higher education.

(x) The student completed a summer bridge program or a senior transition course (bridge to college).

(xi) The student has completed an option permissive under RCW 28A.655.065 (5) (c) (i), including:

(A) A college-level class in the relevant subject area;

(B) Admission to a higher education institution or career preparation program;

(C) Award of a scholarship for higher education; or

(D) Enlistment in a branch of the military.

(2) "Eligible student" means:

(a) The student was reasonably expected to graduate in the school year when the emergency waiver is being considered;

(b) The student has demonstrated postsecondary preparation as defined in subsection (1) of this section; and

(c) The student experienced a significant disruption to their ability to complete graduation requirements due to the emergency, which could include, but is not limited to: Inability for the student to access the school building or other education facility due to clo-

sure or, if online learning is a part of the school program, the student did not have a reliable internet connection or sufficient technology within their household, had to support their family by working during the emergency, had to care for family members during the emergency, illness of the student or student's household member, or other circumstances that directly compromised the student's ability to complete the credit requirements or a graduation pathway option.

(3) "Emergency" means the same as the definition for "emergency or disaster" in RCW 38.52.010. "Emergency" may also include a national declaration of emergency by an authorized federal official.

(4) "Good faith effort" means the school district considered and implemented options, determined appropriate by the school district, to support each individual student in meeting credit and pathway requirements.

(a) For each student who is being considered for the emergency waiver, school districts shall provide individual student advising to help each student determine: What supports they need to be successful; how they might meet the graduation requirements, including the feasibility of summer or a partial or full additional year of high school enrollment; and whether the emergency waiver is appropriate for the individual student.

(b) Options for supporting students to meet credit and course-based graduation pathway requirements include, but are not limited to:

(i) Provision of additional academic supports to aid student completion.

(ii) Awarding credits based on the student's demonstrated proficiency/mastery of the state's learning standards under WAC 180-51-050, 180-51-051, and 392-410-300, including credits, grades, and courses transcribed on the high school transcript.

(iii) Awarding credit through expanded learning opportunities, dual credit programs, work-based learning (WAC 392-410-315), traditional online, summer learning, CTE course equivalencies, and other local credit options for awarding credit outside of school.

(c) Options for supporting students to meet the exam-based graduation pathway requirement include, but are not limited to: Efforts to ensure students are aware of, and can access, online or by other alternative access options, the SAT, ACT, ASVAB, AP, IB, Cambridge International, and state assessments (if applicable). School districts are encouraged to reduce or eliminate any cost to students in using these options.

(5) "Reasonably expected to graduate" means the individual student's earned credits and current or planned enrollment would have been sufficient, as determined by the school district, for the student to meet the applicable state minimum graduation requirements (as defined in WAC 180-51-056, 180-51-067, 180-51-068, and 180-51-210) by the end of the school year when the emergency waiver is granted if not for the impact of the novel coronavirus disruption.

(6) "School district" means any school district, charter school established under chapter 28A.710 RCW, tribal compact school operated according to the terms of state-tribal education compacts authorized under chapter 28A.715 RCW, state schools established under chapter 72.40 RCW, and community and technical colleges granting high school diplomas.

[Statutory Authority: 2020 c 7 § 10-12 and RCW 28A.195.010, 28A.230.090, 28A.150.220(7). WSR 21-01-077, § 180-111-020, filed 12/10/20, effective 1/10/21.]

AMENDATORY SECTION (Amending WSR 21-01-077, filed 12/10/20, effective 1/10/21)

**WAC 180-111-030 Application and approval process for public school districts.** (1) ~~((Beginning no later than April 15, 2020,))~~ The state board of education ~~((shall))~~ will make an application available to ~~((local education agencies))~~ school districts seeking ~~((this waiver. A local education agency))~~ the emergency waiver of certain graduation requirements for the novel coronavirus emergency. A school district may apply to the state board of education for the authority to waive pathway and credit-based graduation requirements for individual students. The state board of education will accept applications through a deadline to be determined by the state board of education.

(2) ~~((In order))~~ To be granted the waiver authority, the ~~((local education agency must certify the following:~~

~~((a) The local education agency has considered equity in applying for the waiver and will consider equity in administering the waiver. This may include, but is not limited to, an equity analysis, community outreach, or other means to assess and mitigate potential disparate impacts of this waiver.~~

~~((b) The local education agency will grant waivers on an individual student basis to eligible students in accordance with WAC 180-111-040.~~

~~((c) Prior to granting a waiver, the local education agency will make a good faith effort, as defined in WAC 180-111-020, to help individual students address credit deficiencies and meet core course requirements.~~

~~((d) The local education agency will administer the waiver in accordance with program rules as outlined))~~ school district must certify it will administer the waiver in accordance with program rules as stated in this chapter.

(3) The application must be certified by the school district superintendent or equivalent personnel with authority to sign on behalf of the ~~((local education agency))~~ school district.

(4) The state board of education may approve applications that meet the criteria ~~((outlined))~~ stated in subsections (2) and (3) of this section. The board may delegate this authority to its executive director for efficiency per RCW 28A.305.130(7).

(5) The state board of education ~~((shall))~~ will promptly post on its public website ~~((the information collected on the application,))~~ a list of all approved applications ~~((received, and the decision to approve or deny each application)).~~

[Statutory Authority: 2020 c 7 § 10-12 and RCW 28A.195.010, 28A.230.090, 28A.150.220(7). WSR 21-01-077, § 180-111-030, filed 12/10/20, effective 1/10/21.]

AMENDATORY SECTION (Amending WSR 21-01-077, filed 12/10/20, effective 1/10/21)

**WAC 180-111-040 School district implementation of the emergency waiver of ~~((credit-based))~~ certain graduation requirements.** (1) Before granting any emergency waivers, the school district board or equivalent governing body shall adopt by resolution a plan that de-

scribes the school district's process for granting and declining emergency waivers for students. The plan must include:

(a) A process for school district staff to initiate a waiver and a process for students to request a waiver if not initiated by the district;

(b) A school district process if an initial decision is made to decline a waiver for an individual student, for further review and recommendations by a panel with at least one counselor and educators with expertise in trauma-informed instruction and culturally responsive education, and if appropriate, special education, instruction for multilingual/English language learners, and a migrant graduation specialist or migrant student advocate;

(c) A process for students to appeal within the school district a decision to not grant an emergency waiver; and

(d) Culturally responsive ways, based on the school district's local community, to communicate with students and families about the waiver and the process to request, appeal, or decline the waiver.

(2) Beginning from the date of approval of its waiver, in accordance with WAC 180-111-030, through ~~((July 31, 2020, in accordance with the establishing legislation, a local education agency))~~ August 31, 2021, a school district may waive subject area credit and pathway graduation requirements ~~((outlined in subsection (2) of this section for individual students))~~ stated in WAC 180-111-050 for eligible students on an individual student basis after completing all of the following requirements:

(a) ~~((The local education agency))~~ Before use of this waiver for graduation credit requirements, school districts shall consider using their existing authority to waive credits through the following ways:

(i) Local graduation requirements under WAC 180-51-020 may be waived at local discretion without approval of the state board of education.

(ii) Two-credit waiver of flexible credits may be granted for individual student circumstances, in accordance with WAC 180-51-068(13) and 180-51-210(2).

(iii) Students may be excused from physical education in accordance with the applicable requirements in WAC 180-51-067(6), 180-51-068(6), and 180-51-210 (4) (f).

(iv) The noncredit requirement of Washington state history may be waived in accordance with WAC 180-51-067 (4) (b), 180-51-068 (4) (b) (i) and (ii), and 180-51-210 (4) (d) (iv) (A) and (B).

(b) The school district shall review the individual student's completed and planned coursework and determine that the student was ~~((on track))~~ reasonably expected to graduate ~~((r))~~ as defined in WAC 180-111-020 and that the student has demonstrated postsecondary preparation as defined in WAC 180-111-020.

~~((b) The local education agency))~~ (c) The school district shall demonstrate a good faith effort, as defined in WAC 180-111-020, to help the individual student ~~((meet credit-based graduation requirements through other options))~~ complete coursework, address credit deficiencies, and meet core course and graduation pathway option requirements through other options that align with their high school and beyond plan. The school district shall document the steps taken to demonstrate this good faith effort in the individual student record.

~~((c) The local education agency))~~ (d) The school district shall consult with the individual student, and make a reasonable effort to consult with a parent or guardian of the student, and shall make a reasonable effort to provide information about this waiver in the pre-

ferred languages of the student, and of the parent or guardian of the student if applicable. The information ((shall)) must include, but is not limited to:

(i) ~~((What is being waived for the individual student;))~~ In the consideration of whether waiver(s) are appropriate for an individual student, and if so what waiver(s), the school district shall advise the student to waive only those credit(s) that are least applicable to the student's postsecondary plans as articulated in the student's high school and beyond plan;

(ii) The potential benefits and limitations that could result from receiving the waiver including impacts on ((high school graduation and)) postsecondary plans((;)) and, if applicable to their high school and beyond plan, the recommendation to contact the student's intended postsecondary institutions or apprenticeship provider regarding potential impacts; and

(iii) The option for the individual student to decline the waiver and for the student to be provided with the opportunity to earn the credits needed or meet their intended pathway option to complete graduation requirements ~~((through))~~ which may include continued enrollment beyond the planned graduation date.

~~((2) Waived credit graduation requirements:~~

~~(a) Waived credit graduation requirements are limited to credits a student would have had the opportunity to earn by the end of the 2019-20 school year including:~~

~~(i) Courses and other credit-earning opportunities the student was enrolled in as of February 29, 2020; and~~

~~(ii) Credits that the student planned to complete by the end of the 2019-20 school year as defined in RCW 28A.150.203 for terms not yet started as of February 29, 2020, that were scheduled to occur during the period of school closure due to the novel coronavirus. These planned credits must be indicated on the student's high school and beyond plan, in course registration records, or in the student's credit attainment or recovery plan.~~

~~(b) Waived graduation requirement credits may include both core credit graduation requirements and flexible credit graduation requirements, as defined in WAC 180-51-210.~~

~~(3) This waiver may apply to individual students participating in the international baccalaureate diploma programme as defined in RCW 28A.230.122 to enable these students to earn a Washington high school diploma.~~

~~(4) Schools operating under the waiver defined in WAC 180-18-055 may waive graduation requirements in a manner consistent with this section.~~

~~(5) Each local education agency shall maintain a record of courses and requirements waived as part of the individual student record and shall report to the state board of education in a manner determined by the state board of education.~~

~~(6) The local education agency shall consider equity in administering the emergency waiver under this section. This consideration should be designed to identify and mitigate potential disparate impacts of the emergency waiver and to determine if any changes to the local education agency's approach in administering the emergency waiver are needed before the conclusion of the 2019-20 school year.)~~ (3) The school district shall ensure equity in administering the emergency waiver. The school district shall disaggregate waiver data by student subgroups as referenced in RCW 28A.300.042(3) and shall conduct further disaggregation of subgroups if data are available to do so. If

disproportionality is found, the school district shall take appropriate actions to ensure equitable administration. This consideration must further be designed to identify and mitigate potential disparate impacts of the emergency waiver and to determine if any changes to the school district's approach in administering the emergency waiver, including supports under WAC 180-111-020(4) to help students meet the requirements, are needed before the conclusion of the school year.

(4) The school district shall:

(a) Maintain a record of the following in the individual student record: Actions taken under the good faith effort to help the student meet the graduation requirements, courses (including the term and amount of credit) and requirements waived, and how the student demonstrated postsecondary preparation;

(b) Include a notation of waived credits and graduation pathway on the student's high school transcript in accordance with RCW 28A.230.125;

(c) Keep a record of the number of waivers requested and not granted;

(d) Report on administration of the emergency waiver to the state board of education in a manner determined by the state board of education; and

(e) Report student level emergency waiver data to the office of the superintendent of public instruction in a manner determined by the superintendent of public instruction in consultation with the state board of education.

[Statutory Authority: 2020 c 7 § 10-12 and RCW 28A.195.010, 28A.230.090, 28A.150.220(7). WSR 21-01-077, § 180-111-040, filed 12/10/20, effective 1/10/21.]

AMENDATORY SECTION (Amending WSR 21-01-077, filed 12/10/20, effective 1/10/21)

**WAC 180-111-050 Emergency waiver ((for private schools)) of certain requirements in response to novel coronavirus.** ~~((1) This section applies to private schools approved to operate in Washington for the 2019-20 school year under chapter 180-90 WAC.~~

~~(2) Private schools may waive credit-based graduation requirements for individual students who were on track to graduate, as defined in WAC 180-111-020, in a manner consistent with the provisions of WAC 180-111-040.~~

~~(3) Private schools that have implemented an online education program consistent with the provisions of RCW 28A.195.090 that provide the remaining curriculum will be considered to have the instructional hour requirements met. Private schools have discretion to determine whether the curriculum has been adequately satisfied.~~

~~(4) The state board of education waives the instructional hours and days requirement under RCW 28A.195.010 for the 2019-20 school year. The number of hours or days offered after February 29, 2020, will not be considered for continued approval of private schools.~~

~~(5) Each private school shall notify the state board of education in a format provided by the board whether the private school is waiving requirements under this section.)~~ (1) Waived credit graduation requirements are limited to the student's classes impacted by the novel coronavirus disruption. The school district shall prioritize stu-

dent completion of core coursework and coursework related to the student's high school and beyond plan under RCW 28A.230.090. Beginning in the 2020-21 school year, school districts may waive credits for eligible students in the classes of 2020 and 2021:

(a) In addition to existing waiver authorities as described in WAC 180-111-040 (2)(a), school districts may waive up to two additional credits under this emergency waiver, provided that students graduate with no fewer than a total of twenty credits.

(b) The emergency waiver in (a) of this subsection may be applied to core credits or flexible credits as defined in WAC 180-51-210, provided that no more than one credit in each core subject area is waived.

(2) A student's graduation pathway requirement may be waived for eligible students in the classes of 2020 and 2021 after a school district has made a good faith effort to help the student meet their pathway requirement, as defined in WAC 180-111-020.

(3) This waiver may apply to individual students participating in the international baccalaureate diploma programme as defined in RCW 28A.230.122 to enable these students to earn a Washington high school diploma.

(4) Schools operating under the waiver defined in WAC 180-18-055 may waive graduation requirements in a manner consistent with this section.

[Statutory Authority: 2020 c 7 § 10-12 and RCW 28A.195.010, 28A.230.090, 28A.150.220(7). WSR 21-01-077, § 180-111-050, filed 12/10/20, effective 1/10/21.]

#### NEW SECTION

**WAC 180-111-060 Emergency waiver of certain requirements in response to novel coronavirus for private schools.** (1) This section applies to private schools approved to operate in Washington for the 2020-21 school year under chapter 180-90 WAC.

(2) Private schools may waive credit-based graduation requirements for individual students who have demonstrated postsecondary preparation as defined in WAC 180-111-020, in a manner consistent with the provisions of WAC 180-111-040 and 180-111-050. Private schools are exempt from the reporting requirements listed in WAC 180-111-040 (4)(d) and (e).

(3) Private schools that have implemented an online education program consistent with the provisions of RCW 28A.195.090 will be considered to have met the instructional hour requirements. Private schools have discretion to determine whether the curriculum has been adequately satisfied.

(4) For the 2020-21 school year, the state board of education will maintain a private school's status as an approved private school if, due to a significant disruption caused by the novel coronavirus, the school is unable to fulfill the requirements of RCW 28A.195.010 of a full school year of one hundred eighty days or are unable to fulfill the annual average total instructional hours requirements.

(5) Each private school shall notify the state board of education in a format provided by the board whether the private school is waiving requirements under this section.

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