

**WSR 21-17-088
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION**

[Filed August 13, 2021, 9:06 a.m., effective September 13, 2021]

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

Purpose: The purpose of this rule making order is to (1) establish a definition of absence concerning synchronous and asynchronous instruction, (2) establish excused absences that pertain only during times of emergency school facility closures where districts are required to provide synchronous and asynchronous instruction, and (3) establish the minimum criteria of a district's multi-tiered system of support for attendance.

Citation of Rules Affected by this Order: New WAC 392-401-011, 392-401-012, 392-401-016, 392-401-018, 392-401-038, 392-401-040 and 392-401-045; and amending WAC 392-401-005, 392-401-010, 392-401-015, and 392-401-020.

Statutory Authority for Adoption: RCW 28A.300.046; and ESHB 1113 (2021), section 3.

Adopted under notice filed as WSR 21-13-127 on June 22, 2021.

Changes Other than Editing from Proposed to Adopted Version: WAC 392-401-005 Purpose, section edited to provide more clarity and use plain speak; WAC 392-401-018 Daily attendance taking, section edited to clarify intent is [in] this section applies specifically to synchronous and asynchronous instruction; WAC 392-401-045 Multitiered system of support for attendance, subsection (1) edited to specify these are minimum requirements only; WAC 392-401-045 (2)(d)(ii) edited to state that the assigned person to conduct outreach can be a district or school designee, and the outreach can happen in coordination with community partners or other programs; WAC 392-401-045 [(2)](iv) edited to remove reference to juvenile court and department of children, youth, and families; WAC 392-401-045 [(2)](v) edited to remove reference to filing a truancy petition and add the early intervention requirements from the law, namely parent communication, truancy screener and best practice interventions.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; **Federal Rules or Standards:** New 0, Amended 0, Repealed 0; **or Recently Enacted State Statutes:** New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 7, Amended 4, Repealed 0.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: August 10, 2021.

Chris P. S. Reykdahl
State Superintendent
of Public Instruction

OTS-3114.2

AMENDATORY SECTION (Amending WSR 18-11-011, filed 5/3/18, effective 8/1/18)

WAC 392-401-005 Purpose. The purpose of this chapter is to ~~((provide a definition of))~~:

(1) Define student absence ((to)) for school districts ((that)) in order to support((s)) accurate and consistent attendance data collection across the state; and

(2) Establish the minimum criteria of a multitiered system of support for attendance that each school district must implement in order to address barriers to student attendance, provide timely interventions and best practices to reduce chronic absenteeism and truancy as required under chapter 28A.225 RCW.

Attendance data is timely, actionable, and measures when a student has accessed instruction. Attendance data highlights the inequities in our systems and signals areas for system and school improvement. Attendance data also signals to adults when students might need additional support.

~~((This effort will))~~ These rules support the state and school districts to address the challenge of chronic absenteeism, ~~((in an effort to))~~ improve learning outcomes and success in school for all students and ~~((to))~~ support the whole child.

[Statutory Authority: RCW 28A.300.046. WSR 18-11-011, § 392-401-005, filed 5/3/18, effective 8/1/18.]

AMENDATORY SECTION (Amending WSR 18-11-011, filed 5/3/18, effective 8/1/18)

WAC 392-401-010 Authority. The authority for this chapter is RCW 28A.300.046, which requires the superintendent of public instruction to adopt rules establishing a standard definition of student absence from school. Additional authority for this chapter is in chapter 28A.225 RCW, which requires the superintendent of public instruction to adopt rules pertaining to required actions on the part of school districts to address barriers to student attendance and truancy.

[Statutory Authority: RCW 28A.300.046. WSR 18-11-011, § 392-401-010, filed 5/3/18, effective 8/1/18.]

NEW SECTION

WAC 392-401-011 Scope and application. (1) This chapter applies to common school districts, charter public schools, and state-tribal education compact schools.

(2) This chapter does not apply to students enrolled in an alternative learning experience and claimed for state funding pursuant to WAC 392-121-182.

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NEW SECTION

WAC 392-401-012 General definitions. (1) "Asynchronous instruction" means instruction prepared by a certificated teacher that occurs away from the physical school setting without two-way interactive communication.

(2) "In-person instruction" is when instructional activity is planned and delivered under the supervision of school district staff and on school grounds.

(3) "Parent" has the same meaning as in WAC 392-172A-01125.

(4) "Synchronous online instruction" means scheduled real-time instruction between the student and a certified teacher or a district staff supervised by a certified teacher that provides opportunities for live two-way interactive communication online.

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AMENDATORY SECTION (Amending WSR 18-11-011, filed 5/3/18, effective 8/1/18)

WAC 392-401-015 Definition of ((absent or)) absence from in-person instruction. ((1)) A student is absent from in-person instruction when ((they are)) the student is:

((a)) (1) Not physically present on school grounds; and

((b)) (2) Not participating in the following activities at an approved location:

((i)) (a) Instruction; or

((ii)) (b) Any instruction-related activity; or

((iii)) (c) Any other district or school approved activity that is regulated by an instructional/academic accountability system, such as participation in district-sponsored sports.

((2) Students shall not be absent if:

(a) They have been suspended, expelled, or emergency expelled pursuant to chapter 392-400 WAC;

(b) Are receiving educational services as required by RCW 28A.600.015 and chapter 392-400 WAC; and

(c) The student is enrolled in qualifying "course of study" activities as defined in WAC 392-121-107.

((3) A full day absence is when a student is absent for fifty percent or more of their scheduled day.

((4) A school or district shall not convert or combine tardies into absences that contribute to a truancy petition.))

[Statutory Authority: RCW 28A.300.046. WSR 18-11-011, § 392-401-015, filed 5/3/18, effective 8/1/18.]

NEW SECTION

WAC 392-401-016 Definition of absence from synchronous and asynchronous instruction. (1) A student is absent from synchronous online instruction when the student does not log in to the synchronous meeting/class.

(2) A student is absent from asynchronous instruction when there is no evidence that the student accessed the planned asynchronous activity.

(3) Evidence of student participation in asynchronous activities must occur daily, within a twenty-four-hour time frame of when the participation is planned or expected.

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NEW SECTION

WAC 392-401-018 Daily attendance taking. School districts must take daily attendance for all enrolled students whether the instructional modality is in-person, synchronous or asynchronous.

When instruction is synchronous online or asynchronous, secondary schools must take attendance daily in each course with planned instruction and elementary schools must take attendance at least twice a day.

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AMENDATORY SECTION (Amending WSR 18-11-011, filed 5/3/18, effective 8/1/18)

WAC 392-401-020 Excused absences. (1) Absences due to the following reasons must be excused:

((+1+)) (a) Illness, health condition or medical appointment (including, but not limited to, medical, counseling, dental, optometry, pregnancy, and in-patient or out-patient treatment for chemical dependency or mental health) for the student or person for whom the student is legally responsible;

((+2+)) (b) Family emergency including, but not limited to, a death or illness in the family;

((+3+)) (c) Religious or cultural purpose including observance of a religious or cultural holiday or participation in religious or cultural instruction;

((+4+)) (d) Court, judicial proceeding, court-ordered activity, or jury service;

((+5+)) (e) Post-secondary, technical school or apprenticeship program visitation, or scholarship interview;

((+6+)) (f) State-recognized search and rescue activities consistent with RCW 28A.225.055;

((+7+)) (g) Absence directly related to the student's homeless or foster care/dependency status;

((+8+)) (h) Absences related to deployment activities of a parent or legal guardian who is an active duty member consistent with RCW 28A.705.010;

((+9+)) (i) Absences due to suspensions, expulsions or emergency expulsions imposed pursuant to chapter 392-400 WAC if the student is not receiving educational services and is not enrolled in qualifying "course of study" activities as defined in WAC 392-121-107;

((+10+)) (j) Absences due to student safety concerns, including absences related to threats, assaults, or bullying;

((11)) (k) Absences due to a student's migrant status; ((and (12))) (l) Absences due to an approved activity that is consistent with district policy and is mutually agreed upon by the principal or designee and a parent, guardian, or emancipated youth; and

(m) Absences due to the student's lack of necessary instructional tools, including internet access or connectivity.

(2) In the event of emergency school facility closure due to COVID-19, other communicable disease outbreak, natural disaster, or other event when districts are required to provide synchronous and asynchronous instruction, absences due to the following reasons must be excused:

(a) Absences related to the student's illness, health condition, or medical appointments due to COVID-19 or other communicable disease;

(b) Absences related to caring for a family member who has an illness, health condition, or medical appointment due to COVID-19, other communicable disease, or other emergency health condition related to school facility closures;

(c) Absences related to the student's family obligations during regularly scheduled school hours that are temporarily necessary because of school facility closures, until other arrangements can be made; and

(d) Absences due to the student's parent's work schedule or other obligations during regularly scheduled school hours, until other arrangements can be made.

(3) Districts may define additional categories or criteria for excused absences. A school principal or designee has the authority to determine if an absence meets the ((above)) criteria in subsections (1) and (2) of this section and school district policy for an excused absence. ((Districts may define additional categories or criteria for excused absences.))

[Statutory Authority: RCW 28A.300.046. WSR 18-11-011, § 392-401-020, filed 5/3/18, effective 8/1/18.]

NEW SECTION

WAC 392-401-038 Data reporting. School districts must report student absences to the office of superintendent of public instruction through the comprehensive education data and research system (CEDARS) as provided in the CEDARS data manual.

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NEW SECTION

WAC 392-401-040 Student absences—General requirements. (1) Students shall not be considered absent if:

(a) The student has been suspended, expelled, or emergency expelled pursuant to chapter 392-400 WAC;

(b) Are receiving educational services as required by RCW 28A.600.015 and chapter 392-400 WAC; and

(c) The student is enrolled in qualifying "course of study" activities as defined in WAC 392-121-107.

(2) A school or district shall not convert or combine tardies into absences that contribute to a truancy petition.

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NEW SECTION

WAC 392-401-045 Multitiered system of support for attendance.

(1) School districts must implement these minimum requirements of a multitiered system of support for attendance to address barriers to student attendance, provide timely interventions and best practices to reduce chronic absenteeism and truancy.

(2) Multitiered systems of support under this section must include:

(a) Monitoring daily attendance data for all students who are absent, whether the absence is excused or unexcused;

(b) A process to contact families and verify current contact information for each enrolled student that includes multiple attempts and modalities in the parent's home language;

(c) Differentiated supports that address the barriers to attendance and participation that includes universal supports for all students and tiered interventions for students at-risk of and experiencing chronic absence, including school and district attendance or engagement teams, connecting to community resources, and community engagement boards; and

(d) A process for outreach and reengagement for students who have been withdrawn due to nonattendance and there is no evidence that the student is enrolled elsewhere. This outreach and reengagement process must include:

(i) A school and/or district point person/people to maintain the list, keep it updated, and coordinate the outreach;

(ii) School or district staff assigned to conduct the outreach and attempts at reengagement in coordination with community partners or other programs;

(iii) Multiple methods of communication and outreach in a language or mode of communication that the parent understands including phone calls, texts, letters, and home visits;

(iv) Referral to community-based organizations;

(v) Documentation of the attempts to reach student and family; and

(vi) Follow the required steps to address unexcused absences in chapter 28A.225 RCW, including early communication to parents, holding parent conferences and administering a truancy screener to understand the underlying reasons for the absences, and providing evidence-based or best practice interventions, even if the student has been withdrawn due to nonattendance.

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