

Title 392 WAC

PUBLIC INSTRUCTION, SUPERINTENDENT OF

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Chapter 392-121 WAC

FINANCE—GENERAL APPORTIONMENT

WAC

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WAC 392-121-106 Definition—Enrolled student. As used in this chapter, "enrolled student" means a person residing in Washington state who:

(1) Is eligible to enroll in the school district's education programs because he or she:

(a) Resides in the school district with or without an address (RCW 28A.225.010, 28A.225.160 and 28A.225.215);

(b) Resides on a United States reservation, national park, national forest, or Indian reservation contiguous to the school district (RCW 28A.225.170);

(c) Resides in a school district not offering the grade for which they are eligible to enroll such as a nonhigh district (RCW 28A.225.210);

(d) Has been released from the school district he or she resides in and has been accepted by the school district claiming enrollment (RCW 28A.225.225 and 28A.225.230);

(e) Will be attending the school district as part of an interdistrict cooperative program (RCW 28A.225.250); or

(f) Will be attending school in a school district in another state per a reciprocity agreement pursuant to RCW 28A.225.-260.

(2) After the close of the prior school year has presented himself or herself, or has been presented, to the school district's appropriate official to be entered on the school district's rolls for the purpose of attending school in grades kindergarten through twelve;

(3) Is under twenty-one years of age at the beginning of the school year;

(4) Actually participated on a school day during the first four school days of the current school term (semester or quarter), or on a school day during the current school year on or prior to the date being counted, in a course of study offered by the school district as defined in WAC 392-121-107; and

(5) Does not qualify for any of the enrollment exclusions set forth in WAC 392-121-108.

[Statutory Authority: RCW 28A.150.290(1), 09-21-019, § 392-121-106, filed 10/9/09, effective 11/9/09. Statutory Authority: RCW 28A.150.290, 95-10-011 (Order 95-03), § 392-121-106, filed 4/25/95, effective 5/26/95; 95-01-013, § 392-121-106, filed 12/8/94, effective 1/8/95. Statutory Authority: RCW 28A.41.055 and 28A.41.170, 88-03-013 (Order 88-8), § 392-121-106, filed 1/11/88.]

WAC 392-121-107 Definition—Course of study. As used in this chapter, "course of study" means those activities for which students enrolled pursuant to chapters 180-16, 180-51, 392-169, 392-134, and 392-410 WAC may be counted as enrolled students for the purpose of full-time equivalent student enrollment counts.

(1) Course of study includes:

(a) Instruction - teaching/learning experiences conducted by school district staff as directed by the administration and the board of directors of the school district, inclusive of intermissions for class changes, recess and teacher/parent-guardian conferences that are planned and scheduled by the district for the purpose of discussing students' educational needs or progress, and exclusive of time for meals.

(b) Alternative learning experience - alternative learning experience provided by the school district in conformance with WAC 392-121-182.

(c) Instruction provided by a contractor - instruction provided by a contractor in conformance with WAC 392-121-188.

(d) National guard - participation in a national guard high school career training program for which credit is being given toward either required or elective high school credits pursuant to RCW 28A.300.165 and WAC 392-410-320. Such participation may be counted as a course of study only by the school district which the individual last attended.

(e) Ancillary service - any cocurricular service or activity, any health care service or activity, and any other services or activities, for or in which enrolled students are served by

appropriate school district staff. The term shall include, but not be limited to, counseling, psychological services, testing, remedial instruction, speech and hearing therapy, health care services, and if such service is provided by the district, certificated contact time pursuant to RCW 28A.225.010 (4)(a) with students who are in a home-based instruction program. The term shall exclude all extracurricular activities and all other courses of study defined in this section. In conformance with WAC 392-134-025, school districts report the actual number of student contact hours of ancillary service for part-time, private school, and home-based students to the superintendent of public instruction.

(f) Work based learning - training provided pursuant to WAC 392-410-315 and reported as provided in WAC 392-121-124.

(g) Running start - attendance at an institution of higher education pursuant to RCW 28A.600.300 through 28A.600.-400, chapter 392-169 WAC.

(h) Transition school - participation in the University of Washington's transition school and early entrance program pursuant to RCW 28A.185.040, and chapter 392-120 WAC. Such participation shall be reported by the University of Washington and shall not be reported by a school district.

(i) Technical college direct funding - enrollment at a technical college pursuant to RCW 28A.150.275 and WAC 392-121-187. Such participation shall be reported by the technical college and shall not be reported by a school district unless the technical college and the school district agree to have the school district report such enrollment.

(2) Course of study does not include:

(a) Home-based instruction pursuant to RCW 28A.225.010(4): Education programs provided by a parent which do not meet the requirements of WAC 392-121-182 cannot be claimed for state funding;

(b) Private school instruction pursuant to chapter 28A.195 RCW;

(c) Adult education as defined in RCW 28B.50.030(12);

(d) Instruction provided to students who do not reside in Washington state (RCW 28A.225.260);

(e) Enrollment in state institutions, i.e., state operated group homes, county juvenile detention centers, state institutions for juvenile delinquents, and state residential habilitation centers;

(f) Instruction preparing a student for the general education development (GED) test if such instruction generates state or federal moneys for adult education;

(g) Enrollment in education centers except as provided under contract with a school district pursuant to RCW 28A.150.305 and WAC 392-121-188;

(h) Enrollment in the Washington state school for the deaf and the Washington state school for the blind;

(i) Extracurricular activities including but not limited to before and after school activities such as classes, sports and other activities offered outside the regular curriculum or for which credit is not earned; or

(j) Attendance at universities, colleges, community colleges, or technical colleges of students not earning high school credit.

[Statutory Authority: RCW 28A.150.290. 09-06-038, § 392-121-107, filed 2/25/09, effective 3/28/09; 07-23-008, § 392-121-107, filed 11/8/07, effective 12/9/07. Statutory Authority: 1997 c 265 § 6 and RCW 28A.150.290.

99-08-008 (Order 99-01), § 392-121-107, filed 3/25/99, effective 4/25/99. Statutory Authority: RCW 28A.150.290. 97-22-013 (Order 97-06), § 392-121-107, filed 10/27/97, effective 11/27/97; 95-18-097, § 392-121-107, filed 9/6/95, effective 10/7/95; 95-01-013, § 392-121-107, filed 12/8/94, effective 1/8/95. Statutory Authority: 1990 c 33. 90-16-002 (Order 18), § 392-121-107, filed 7/19/90, effective 8/19/90. Statutory Authority: RCW 28A.41.055 and 28A.41.170. 88-03-013 (Order 88-8), § 392-121-107, filed 1/11/88.]

WAC 392-121-133 Definition—Annual average full-time equivalent students. As used in this chapter, "annual average full-time equivalent students" means the sum of the following:

(1) The annual total of full-time equivalent students enrolled on the nine enrollment count dates of the school year and reported to the superintendent of public instruction pursuant to WAC 392-121-122 divided by nine;

(2) Annual hours of ancillary service to part-time, private school, and home-based students reported pursuant to WAC 392-121-107 divided by 720 for grades kindergarten through third and 900 for grades fourth through twelfth; and

(3) Annual hours of eligible enrollment in nonstandard school year programs pursuant to WAC 392-121-123 divided by 720 for grades kindergarten through third and 900 for grades fourth through twelfth.

[Statutory Authority: RCW 28A.150.290. 09-03-052, § 392-121-133, filed 1/13/09, effective 2/13/09; 97-22-013 (Order 97-06), § 392-121-133, filed 10/27/97, effective 11/27/97. Statutory Authority: RCW 28A.150.290, 28A.150.250 and 28A.150.260. 91-02-096 (Order 50), § 392-121-133, filed 1/2/91, effective 2/2/91. Statutory Authority: RCW 28A.41.055 and 28A.41.170. 88-03-013 (Order 88-8), § 392-121-133, filed 1/11/88.]

WAC 392-121-137 Full-time equivalent enrollment of students with a disability. In determining the full-time equivalent enrollment of students reported as students with a disability pursuant to chapter 392-172A WAC, the following rules apply:

(1) If the student is enrolled exclusively in an ungraded special education program, the student's grade level shall be based on the typical grade level of students of the same age (e.g., a student who is six years old at the beginning of the school year shall be counted as a first grader).

(2) If the student is enrolled in a grade level below the typical grade level of students of the same age, the school district shall have the option of counting the student in the grade enrolled or the typical grade level of students of the same age.

(3) A student with a disability who is five years old at the beginning of the school year may be counted as a kindergarten student only if the student is enrolled full time (twenty hours or more per week), or is enrolled in a kindergarten program and is provided special education services in addition to the kindergarten program.

[Statutory Authority: RCW 28A.150.290. 09-06-038, § 392-121-137, filed 2/25/09, effective 3/28/09; 97-22-013 (Order 97-06), § 392-121-137, filed 10/27/97, effective 11/27/97; 95-01-013, § 392-121-137, filed 12/8/94, effective 1/8/95.]

WAC 392-121-182 Alternative learning experience requirements. (1) An alternative learning experience may be counted as a course of study. A school district alternative learning experience may make use of digital and/or on-line curricula, and may be delivered over the internet or using other electronic means. A school district alternative learning experience may also include significant participation by stu-

dents, parents, and families in the design and implementation of a student's learning experience. This section provides an alternative method of determining full-time equivalent enrollment and claiming state funding for public school learning experiences that are:

(a) Individual courses of study for students who meet the definition for enrollment specified by WAC 392-121-106. Students may enroll part-time in alternative learning experiences. Such enrollment shall be subject to the provisions of RCW 28A.150.350 and chapter 392-134 WAC;

(b) Supervised, monitored, assessed, and evaluated by school staff. As used in this section, "school staff" means certificated instructional staff of the school district according to the provisions of chapter 181-82 WAC, or a contractor pursuant to WAC 392-121-188;

(c) Provided in accordance with a written alternative learning experience plan that is implemented pursuant to the school district board's policy for alternative learning experiences; and

(d) Provided in whole or part, outside the regular classroom setting, including those learning experiences provided digitally via the internet or other electronic means.

This section sets forth the standards, procedures, and requirements for state funded alternative learning experiences. This section is not intended to prevent or limit alternative education programs provided by a school district with federal or local resources.

An alternative learning experience may be counted as a course of study pursuant to WAC 392-121-107 if the following requirements are met:

(2) **School district board policies for alternative learning experiences:** The board of directors of a school district claiming state funding for alternative learning experiences shall adopt and annually review written policies for each alternative learning experience program and program provider that:

(a) Require a written plan for each student participating in an alternative learning experience that meets the minimum criteria pursuant to subsection (4) of this section;

(b) Require that the overall ratio of certificated instructional staff to full-time equivalent students enrolled in alternative learning experience programs and courses, including those that rely primarily on digital curriculum, be identified and approved by the school district board of directors in a public meeting;

(c) Describe how student performance will be supervised, monitored, assessed, evaluated, and recorded by school staff. Such description shall include methods for periodic grade reporting, if different from existing school district policy;

(d) Require each student enrolled in an alternative learning experience to have direct personal contact with school staff at least weekly, until the student completes the course objectives or the requirements of the learning plan. Direct personal contact shall be for the purposes of instruction, review of assignments, testing, reporting of student progress, or other learning activities. Direct personal contact means a face-to-face meeting with the student and, where appropriate, the student's parent or guardian. In establishing policies for alternative learning experience programs and program providers, the school district board of directors may determine

that direct personal contact can be accomplished through the use of telephone, e-mail, instant messaging, interactive video communication, or other means of digital communication, instead of a face-to-face meeting, if in the judgment of the board such contact methods do not compromise educational quality, student health and safety, or the fiscal integrity of the district;

(e) Require that each student's educational progress be reviewed at least monthly and that the results of each review be communicated to the student and if the student is in grades K–8, the student's parent or guardian;

(f) At the discretion of the school district board, the policy may describe responsibilities of the student's parent(s) or guardian including, but not limited to:

(i) Approval of the written alternative learning experience plan;

(ii) Responsibility for the parent(s) or guardian to provide or implement a portion of the student's alternative learning experience under the supervision of school staff, if the parent(s) or guardian agrees; and

(iii) Requirements to meet with school staff for purposes of evaluating the student's performance and/or receiving instructions on assisting with the student's alternative learning experience. The school district board may also prescribe requirements for appointing a person to provide or supervise a portion of the student's alternative learning experience in the event the student's parent(s) or guardian will not or cannot be a participant in the student's alternative learning experience;

(g) Designate one or more school district official(s) responsible for approving specific alternative learning experience programs or courses, monitoring compliance with this section, and reporting at least annually to the school district board of directors on the program. This annual report shall include at least the following:

(i) Documentation of alternative learning experience student headcount and full-time equivalent enrollment claimed for basic education funding;

(ii) A description of how certificated and classified staff are assigned program management and instructional responsibilities that maximize student learning, including the ratio of certificated instructional staff to full-time equivalent students;

(iii) A description of how a written student learning plan pursuant to subsection (4) of this section, is developed, and student performance supervised and evaluated, by certificated staff;

(iv) A description of how the program supports the district's overall goals and objectives for student academic achievement; and

(v) Results of any self-evaluations conducted pursuant to subsection (7) of this section;

(h) Satisfy the office of superintendent of public instruction's requirements for courses of study and equivalencies (chapter 392-410 WAC);

(i) For alternative learning experience courses offering credit, or for alternative learning experience programs issuing a high school diploma, satisfy the state board of education's high school graduation requirements (chapter 180-51 WAC); and

(j) Identify what, if any, expenditures which are directly related to the written student learning plan and are paid by participants of an alternative learning experience may be subject to reimbursement by the district.

(3) Alternative learning experience implementation standards:

(a) Alternative learning experiences shall be accessible to all students, including those with disabilities. Alternative learning experiences for special education students shall be provided in accordance with chapter 392-172A WAC.

(b) It is the responsibility of the school district or school district contractor to ensure that students have all curricula, course content, instructional materials, and other learning resources essential to successfully complete the requirements of the written student learning plan. Curricula, course content, instructional materials, and other learning resources for alternative learning experiences shall at minimum be consistent in quality with those available to the district's overall student population. Instructional materials shall be provided in accordance with RCW 28A.320.230.

(c) Work-based learning as a component of an alternative learning experience course of study shall be subject to the provisions of WAC 392-410-315 and 392-121-124.

(d) Contracting for alternative learning experiences shall be subject to the provisions of WAC 392-121-188 and RCW 28A.150.305.

(e) A school district that provides one or more alternative learning experiences to a student shall provide the parent(s) or guardian of the student, prior to the student's enrollment, with a description of the difference between home-based instruction pursuant to chapter 28A.200 RCW and the enrollment option selected by the student. The parent or guardian shall sign documentation attesting to his or her understanding of the difference and the documentation shall be retained by the district and made available for audit.

(f) The school district shall institute reliable methods to verify a student is doing his or her own work. The methods may include proctored examinations or projects, including the use of web cams or other technologies. "Proctored" means directly monitored by an adult authorized by the school district.

(g) State funded public schools or public school programs whose primary purpose is to provide alternative learning experiences using digital or on-line means shall be accredited through the state accreditation program or through the regional accreditation program.

(4) Written student learning plan: Each student enrolled in an alternative learning experience course of study shall have a written student learning plan designed to meet the student's individual educational needs. The written student learning plan may be developed in partnership with the student, the student's parents, and other interested parties, with recognition that school staff has the primary responsibility and accountability for the plan, including supervision and monitoring, and evaluation and assessment of the student's progress. The written student learning plan shall include, but not be limited to, the following elements:

(a) A beginning and ending date for the learning experience;

(b) An estimate of the average number of hours per week that the student will engage in learning activities to meet the

requirements of the student learning plan. This estimate may be used in reporting enrollment in compliance with subsection (5) of this section and must be based upon the criteria in subsection (6) of this section;

(c) A description of how weekly contact requirements will be fulfilled;

(d) A description of the specific learning goals and performance objectives of the alternative learning experience. This requirement may be met through the use of course syllabi or other similarly detailed descriptions of learning requirements. The description shall clearly identify the requirements a student must meet to successfully complete the course or program;

(e) Identification of instructional materials essential to successful completion of the learning plan; and

(f) A description of the timelines and methods for evaluating student progress toward the learning goals and performance objectives specified in the learning plan.

The written student learning plan shall identify whether the alternative learning experience meets one or more of the state essential academic learning requirements or any other academic goals, objectives, and learning requirements defined by the school district. For a high school alternative learning experience, the plan shall specify whether the experience meets state and district graduation requirements.

(5) Enrollment reporting: Effective the 2005–06 school year, the full-time equivalency of students enrolled in alternative learning experience programs shall be determined as follows:

(a) Using the definition of full-time equivalent student in WAC 392-121-122 and the number of hours the student is expected to engage in learning activities as follows:

(i) On the first enrollment count date on or after the start date specified in the written student learning plan, the estimated average weekly hours of learning activity described in the written student learning plan;

(ii) On subsequent monthly count dates, if the student's progress review pursuant to subsection (6) of this section indicates satisfactory progress, the student's full-time equivalent shall be based on the estimated average weekly hours of learning activity identified in the student learning plan;

(iii) If the student's progress review indicates a lack of satisfactory progress, the student's full-time equivalent shall be based on the estimated average weekly hours of learning activity described in the student learning plan, and the actual number of hours the student engages in learning activity pursuant to the written student learning plan shall be documented during the ensuing month. Documented hours shall encompass only time spent on those learning activities intended to accomplish the learning goals and performance objectives identified in the written student learning plan, shall meet the following criteria and shall be verified by district staff:

(A) Those hours of classroom instruction provided by school staff;

(B) Those hours of work based learning calculated in accordance with WAC 392-121-107 (1)(f);

(C) Those hours of learning activity other than those specified in (a)(iii)(A), (B) and (D) of this subsection that are conducted and supervised by the student's parent(s) or guardian, or other person as designated by the written plan; and

(D) Those hours that the student participates in learning activities other than those specified in (a)(iii)(A), (B) and (C) of this subsection. If the student is in grades K–8, such learning activity shall be supervised by the student's parent(s) or guardian or other person designated by the written student learning plan;

(iv) On subsequent monthly count dates, if the student's progress review indicates a lack of satisfactory progress, the student's full-time equivalent shall be based on the actual average weekly hours of learning activity documented during the prior month;

(v) Enrollment of part-time students shall be subject to the provisions of RCW 28A.150.350, and shall generate the pro rata share of full-time funding.

(b) The enrollment count shall exclude students meeting the definition of enrollment exclusions in WAC 392-121-108 or students who have not had direct personal contact with school staff for twenty consecutive school days. Any such student shall not be counted as an enrolled student until the student has met with appropriate school staff and resumed participation in their alternative learning experience or participated in another course of study as defined in WAC 392-121-107;

(c) School districts providing alternative learning experiences to nonresident students shall document the district of the student's physical residence, and shall establish procedures that address, at a minimum, the coordination of student counting for state funding so that no student is counted for more than one full-time equivalent in the aggregate.

(6) Accountability for student performance:

(a) At minimum, students enrolled in alternative learning experiences shall have their educational performance evaluated according to the following process and schedule:

(i) Each student's educational progress shall be reviewed at least once per month. The progress review shall be based on the learning goals and performance objectives defined in the written student learning plan.

(ii) The progress review shall be conducted by school staff and shall include direct personal contact with the student. If allowed by district policy, direct personal contact may include the use of telephone, e-mail, instant messaging, interactive video communication, or other means of digital communication. The results of the review shall be communicated to the student and, where possible, the student's parent(s) or guardian.

(iii) Based on the progress review, school staff shall determine and document whether the student is making satisfactory progress in completing the learning activities and reaching the learning goals and performance objectives defined in the written plan.

(iv) If the student fails to make satisfactory progress for no more than two consecutive evaluation periods or if the student fails to follow the written student learning plan, an intervention plan designed to improve student progress shall be developed and implemented. This intervention plan shall be developed by school staff in conjunction with the student and, for students in grades K–8, the student's parent(s) or guardian.

(v) If, after no more than three subsequent evaluation periods, the student still is not making satisfactory progress, a plan designed to more appropriately meet the student's educa-

tional need shall be developed and implemented by school staff in conjunction with the student and, for students in grades K-8, the student's parent(s) or guardian.

(b) The educational progress of students enrolled in alternative learning experiences shall be assessed at least annually, using, for full-time students, the state assessment for the student's grade level and using any other annual assessments required by the school district. Part-time students shall also be assessed at least annually. However, part-time students who are either receiving home-based instruction under chapter 28A.200 RCW or who are enrolled in an approved private school under chapter 28A.195 RCW are not required to participate in the assessments required under chapter 28A.655 RCW.

(c) Students enrolled full-time in nonresident alternative learning experience schools, programs, or courses shall have the opportunity to participate in any required annual state assessments at the district of residence, subject to that district's planned testing schedule. It is the responsibility of the enrolling district to facilitate all necessary coordination with the district of residence and with the student and, where appropriate, the student's parent(s) or guardian to fulfill this requirement. Such coordination may include arranging for appropriate assessment booklets, student notification of assessment administration schedules, arrangements for forwarding of completed assessment booklets to the enrolling district for submission for scoring and reporting, and other steps as may be necessary. Assessment results for students assessed according to these provisions shall be included in the enrolling district's accountability measurements, and not in the district of residence's accountability measurements.

(7) **Program evaluation:** School districts offering alternative learning experiences shall engage in periodic self-evaluation of these learning experiences in a manner designed to objectively measure their effectiveness, including the impact of the experiences on student learning and achievement. Self-evaluation shall follow a continuous improvement model, and may be implemented as part of the school district's school improvement planning efforts.

(8) **Annual reporting:** Each school district offering alternative learning experiences shall report annually to the superintendent of public instruction on the types of programs and course offerings subject to this section, including student headcount and full-time equivalent enrollment claimed for basic education funding. The report shall identify the ratio of certificated instructional staff to full-time equivalent students enrolled in alternative learning experience courses or programs. The report shall separately identify alternative learning experience enrollment of students provided under contract pursuant to RCW 28A.150.305 and WAC 392-121-188.

(9) **Documentation:** In accordance with required records retention schedules, a school district claiming state funding for alternative learning experiences shall maintain the following written documentation available for audit:

(a) School board policy for alternative learning experiences pursuant to this section;

(b) Annual reports to the school district board of directors as required by subsection (2)(g) of this section;

(c) Annual reports to the superintendent of public instruction as required by subsection (8) of this section;

(d) The written student learning plans required by subsection (4) of this section, including documentation of required weekly direct personal contact;

(e) Student progress reviews, evaluations, and assessments required by subsection (6) of this section;

(f) Student enrollment detail substantiating full-time equivalent enrollment reported to the state, including estimated total hours of participation in educational activities, and any actual documentation of hours of learning for those students failing to make satisfactory progress; and

(g) Signed parent enrollment disclosure documents required by subsection (3)(e) of this section.

[Statutory Authority: RCW 28A.150.290. 09-06-038, § 392-121-182, filed 2/25/09, effective 3/28/09. Statutory Authority: RCW 28A.150.290 and 2005 c 356. 05-13-154, § 392-121-182, filed 6/21/05, effective 7/22/05. Statutory Authority: 1997 c 265 § 6 and RCW 28A.150.290. 99-08-008 (Order 99-01), § 392-121-182, filed 3/25/99, effective 4/25/99. Statutory Authority: RCW 28A.150.290. 95-18-097, § 392-121-182, filed 9/6/95, effective 10/7/95; 95-01-013, § 392-121-182, filed 12/8/94, effective 1/8/95. Statutory Authority: RCW 28A.150.290, 28A.150.250 and 28A.150.260. 91-02-096 (Order 50), § 392-121-182, filed 1/2/91, effective 2/2/91. Statutory Authority: RCW 28A.41.055 and 28A.41.170. 88-03-013 (Order 88-8), § 392-121-182, filed 1/11/88.]

WAC 392-121-187 Technical college direct-funded enrollment. Enrollment in a technical college pursuant to an interlocal agreement with a school district as provided in RCW 28B.50.533 may be counted as course of study generating state moneys payable directly to the technical college as provided in this section.

(1) The technical college shall submit a written request to the superintendent of public instruction and for each school district whose students are to be claimed by the college shall provide a copy of the interlocal agreement signed by the school district superintendent and the technical college president or authorized officials of the school district and college.

(2) The technical college shall report enrolled students monthly (October through June) to the superintendent of public instruction pursuant to this chapter and instructions provided by the superintendent. A separate report shall be submitted for each school district whose students are reported. Reports of students eligible for state basic education support shall show the total number of students served and total non-vocational and vocational FTE students on the monthly count date. Reports shall also show the name of each student, hours of enrollment per week on the monthly count date, and the nonvocational and vocational full-time equivalent reported for the student on the count date. Technical colleges claiming direct state handicapped funding under the interlocal agreement shall also report the number of enrolled handicapped students by handicapping category on the count dates of October through May pursuant to WAC 392-122-160 and chapter 392-172A WAC.

(3) The technical college shall report monthly to each school district whose students are served pursuant to this section. The report shall include at a minimum the data reported to the superintendent of public instruction pursuant to subsection (2) of this section.

(4) The technical college shall report only students who:

(a) Were under twenty-one years of age at the beginning of the school year;

(b) Are enrolled tuition-free;

(c) Are enrolled in a school district with which the technical college has a signed interlocal agreement on file with the superintendent of public instruction pursuant to subsection (1) of this section;

(d) Are enrolled in the school district for the purpose of earning a high school diploma or certificate; and

(e) Have actually participated in instructional activity at the technical college during the current school year.

(5) Enrollments claimed for state basic education funding by the technical college:

(a) Shall be for courses for which the student is earning high school graduation credit through the school district or the technical college; and

(b) Shall not include:

(i) Enrollment which is claimed by the school district for state funding; or

(ii) Enrollment which generates state or federal moneys for higher education, adult education, or job training for the technical college.

(6) Full-time equivalent students reported by the technical college for state basic education funding shall be determined pursuant to WAC 392-121-106 through 392-121-183 except that the enrollment count dates shall be for the months of October through June. If a student is enrolled in courses provided by the school district as well as courses provided by the technical college, the combined full-time equivalents reported by the school district and the technical college are limited by WAC 392-121-136.

(7) The superintendent of public instruction shall make quarterly payments to the technical college as follows:

(a) Basic education allocations shall be determined pursuant to chapter 392-121 WAC based on average enrollments reported by the technical college for each school district times the average allocation per full-time equivalent high school student of the school district: Provided, That allocations for students enrolled in school districts with no more than two high schools with enrollments of less than three hundred annual average full-time equivalent students shall be at the incremental rate generated by students in excess of sixty annual average full-time equivalent students. Allocations for nonvocational and vocational full-time equivalent enrollments shall be calculated separately.

(b) Handicapped allocations shall be determined pursuant to WAC 392-122-100 through 392-122-165 based on average handicapped enrollments and the school district's average allocation per handicapped student in each handicapping category.

(c) Quarterly payments shall provide the following percentages of the annual allocation:

December	30%
March	30%
June	20%
August	20%

[Statutory Authority: RCW 28A.150.290. 09-06-038, § 392-121-187, filed 2/25/09, effective 3/28/09; 94-17-096, § 392-121-187, filed 8/17/94, effective 9/17/94.]

WAC 392-121-188 Instruction provided under contract. School districts have general authority to contract for

the services of individuals to provide instruction, subject to applicable state and federal laws and local collective bargaining agreements. School districts also have authority to enter into interdistrict cooperative agreements for instructional services with other school districts under RCW 28A.225.250. However, when a school district contracts with an entity other than a school district and that entity employs staff to provide basic education instruction claimed by the school district for state basic education funding, the requirements of this section also apply. Instruction provided by such an entity (hereafter called the contractor) may be counted as a course of study and claimed by the school district for state funding if the following requirements are met:

(1) The school district board of directors in accordance with RCW 28A.320.015 adopts a resolution that concludes it is in the best interest of the students to expand the options available by providing an appropriate basic education program pursuant to the contract and sets forth the rationale in support of the conclusion;

(2) The school district retains full responsibility for compliance with all state and federal laws;

(3) The contractor complies with all relevant state and federal laws that are applicable to the school district;

(4) The contractor provides instruction free of sectarian or religious influence or control.

(5) The contractor serves the students at no cost to the student for tuition and fees and enrollment is voluntary and no student or person is unlawfully excluded from participation on the grounds of race, creed, color, national origin, sex, marital status, or presence of any sensory, mental, or physical handicap;

(6) Each student is enrolled in the school district reporting the enrollment and each high school student is working toward course credits which satisfy high school graduation requirements;

(7) If the contractor is a state higher education institution, a state funded education center, or any other state funded entity, the contractor is not claiming enrollment of the student or receiving direct state support for the contracted instruction reported pursuant to this section.

(8) The curriculum is approved by the district;

(9) The contractor provides enrollment reports to the school district that comply with this chapter;

(10) The contractor maintains and has available for audit or review by the school district, state, or federal authorities documentation of enrollment, hours of instructional activity participated in by the students, personnel data, and financial data including all revenues and expenditures pertaining to the contract with the school district;

(11) If a contractor other than an institution of higher education at any time during the school year serves more than twenty-five students which equals more than one quarter of one percent (.0025) of the district's annual average full-time equivalent enrollment claimed for basic education funding the school district reports the certificated instructional employees of the contractor funded with any state moneys or federal moneys that flow through the school district as required by the SPI annual personnel reporting system for calculation of state funding, staff ratios and statistics;

(12) If the contract is with an entity other than an institution of higher education, for the students served pursuant to

the contract, the contractor maintains a ratio of full-time equivalent certificated instructional staff serving the annual average full-time equivalent students reported for basic education funding pursuant to this section which is at least equal to the district's basic education funding ratio for the grade level of the students being reported for basic education funding pursuant to this section;

(13) The school district and contractor execute a written contract which is consistent with this section, and which sets forth the duties of the contractor in detail sufficient to hold the contractor accountable to the school district;

(14) The school district and contractor establish a process for periodic on-site monitoring by the school district for compliance with this section and other terms of the contract between the school district and contractor;

(15) Contracts for services for students with disabilities shall comply with WAC 392-172A-04085 and 392-172A-04090;

(16) Full-time equivalent enrollment reported for students served under a contract with a higher education institution shall be based on the number of hours of instruction meeting the criteria in WAC 392-121-107 (1)(a) provided by staff of the higher education institution under the contract. This section does not apply to running start enrollment, which is governed by chapter 392-169 WAC or at-risk programs meeting the standards of subsection (18) of this section; and

(17) When a school district contracts for an alternative learning experience program and the contractor exercises primary responsibility for the student's written learning plan, the program shall be for academically at-risk students and shall comply with RCW 28A.150.305. Enrollment in these programs shall be reported pursuant to WAC 392-121-182.

(18) Full-time equivalent enrollment reported for students served under contract with a community or technical college as defined in RCW 28B.50.030 shall be based on the credits generated by the student consistent with WAC 392-169-025 if the program meets the following standards:

(a) The student is earning credits applicable to a high school diploma.

(b) The program is focused on serving credit deficient students.

(c) The student population served is considered at-risk and meet the following criteria:

(i) The students have already dropped out of high school;

or

(ii) The students have not demonstrated success in the traditional high school environment.

[Statutory Authority: RCW 28A.150.290. 09-06-038, § 392-121-188, filed 2/25/09, effective 3/28/09; 07-23-024, § 392-121-188, filed 11/9/07, effective 12/10/07. Statutory Authority: 1997 c 265 § 6 and RCW 28A.150.290. 99-08-008 (Order 99-01), § 392-121-188, filed 3/25/99, effective 4/25/99. Statutory Authority: RCW 28A.150.290. 95-18-097, § 392-121-188, filed 9/6/95, effective 10/7/95; 95-01-013, § 392-121-188, filed 12/8/94, effective 1/8/95.]

WAC 392-121-250 Definition—Highest degree level.
As used in this chapter, the term "highest degree level" means:

(1) The highest degree earned by the employee from a regionally accredited institution of higher education;

(2) "Nondegreed" for a certificated instructional employee who holds no bachelor's or higher level degree; or

(3) "Nondegreed" for a certificated instructional employee who holds a valid vocational/career and technical education certificate: Provided, That the employee has obtained no other past or present education certificate or permit in which a degree is required pursuant to chapter 181-79A WAC.

[Statutory Authority: RCW 28A.150.290(1), 09-15-127, § 392-121-250, filed 7/20/09, effective 8/20/09; 08-08-033, § 392-121-250, filed 3/25/08, effective 4/25/08; 06-19-045, § 392-121-250, filed 9/15/06, effective 10/16/06. Statutory Authority: RCW 28A.150.290, 28A.150.400 and the Biennial Operating Appropriations Act. 94-01-190, § 392-121-250, filed 12/22/93, effective 1/22/94. Statutory Authority: RCW 28A.41.055 and 28A.41.170, 88-03-013 (Order 88-8), § 392-121-250, filed 1/11/88.]

WAC 392-121-264 Definition—Certificated years of experience. Regardless of the experience factors used by a school district for the purposes of its salary schedule(s), as used in this chapter, the term "certificated years of experience" means the number of years of accumulated full-time and part-time professional education employment prior to the current reporting school year in the state of Washington, out-of-state, and a foreign country. School districts shall report all certificated years of experience including those beyond the experience limit of the school district's salary schedule.

(1) Professional education employment shall be limited to the following:

(a) Employment in public or private preschools or elementary and secondary schools in positions which require certification where:

(i) Schools include the Centrum education program, the Pacific Science Center education program, and educational centers authorized under chapter 28A.205 RCW;

(ii) Certification means the concurrent public professional education licensing requirements established in the state, province, country, or other governmental unit in which employment occurred and which, for the state of Washington, refers to the certificates authorized by WAC 181-79A-140 and temporary permits authorized by WAC 181-79A-128;

(b) Employment in public or private vocational-technical schools, technical colleges, community/junior colleges, colleges, and universities in positions comparable to those which require certification in Washington school districts;

(c) Employment in a governmental educational agency with regional administrative responsibilities for preschool, elementary, and/or secondary education including but not limited to an educational service district, office of superintendent of public instruction, or United States department of education in any professional position including but not limited to C.P.A., architect, business manager, or physician;

(d) Experience in the following areas:

(i) Military, Peace Corps, or Vista service which interrupted professional education employment included in (a), (b), or (c) of this subsection; and

(ii) Sabbatical leave.

(e) For nondegreed vocational/career and technical education instructors, up to a maximum of six years of management experience as defined in WAC 181-77-003(6) acquired after the instructor meets the minimum vocational/career and technical education certification requirements of three years

(six thousand hours) established in WAC 181-77-041 (1)(a)(i), regardless of when the initial certificate is issued and regardless of type of vocational/career and technical education certificate held. If a degree is obtained while employed in the state of Washington as a nondegreed vocational/career and technical education instructor, the eligible years of management experience pursuant to this subsection reported on Report S-275 prior to the awarding of the degree shall continue to be reported but shall not increase.

(f) Beginning in the 2007-08 school year, for occupational therapists, physical therapists, nurses, speech-language pathologists, audiologists, counselors, psychologists, and social workers regulated under Title 18 RCW, years of experience may include employment as occupational therapists, physical therapists, nurses, speech-language pathologists, audiologists, counselors, psychologists, and social workers, that does not otherwise meet the requirements of (a) through (e) of this subsection, subject to the following conditions and limitations:

(i) Experience included under this subsection shall be limited to a maximum of two years.

(ii) The calculation of years of experience shall be that one year of experience in a school or other nonschool position counts as one year of experience for the purposes of this subsection, per subsection (2)(a) of this section.

(iii) Employment as occupational therapists shall be limited to the following:

(A) In positions requiring licensure as an occupational therapist under Title 18 RCW, or comparable out-of-state employment; and

(B) While holding a valid occupational therapist license, or other comparable occupational therapist credential.

(iv) Employment as physical therapists shall be limited to the following:

(A) In positions requiring licensure as a physical therapist under Title 18 RCW, or comparable out-of-state employment; and

(B) While holding a valid physical therapist license, or other comparable physical therapist credential.

(v) Employment as nurses shall be limited to the following:

(A) In positions requiring licensure as a registered nurse under Title 18 RCW, or comparable out-of-state employment; and

(B) While holding a valid registered nurse license, or other comparable registered nurse credential.

(vi) Employment as speech-language pathologists or audiologists shall be limited to the following:

(A) In positions requiring the same or similar duties and responsibilities as are performed by speech-language pathologists or audiologists regulated under Title 18 RCW; and

(B) After completion of the minimum requirements for conditional certification as a school speech-language pathologist or audiologist established in WAC 181-79A-231 (1)(c)(iv).

(vii) Employment as counselors shall be limited to the following:

(A) In positions requiring the same or similar duties and responsibilities as are performed by counselors regulated under Title 18 RCW; and

(B) After completion of the minimum requirements for emergency certification as a school counselor established in WAC 181-79A-231(3).

(viii) Employment as psychologists shall be limited to the following:

(A) In positions requiring the same or similar duties and responsibilities as are performed by psychologists regulated under Title 18 RCW; and

(B) After completion of the minimum requirements for emergency certification as a school psychologist established in WAC 181-79A-231(3).

(ix) Employment as social workers shall be limited to the following:

(A) In positions requiring the same or similar duties and responsibilities as are performed by social workers regulated under Title 18 RCW; and

(B) After completion of the minimum requirements for emergency certification as a school social worker established in WAC 181-79A-231(3).

(x) Certificated years of experience as occupational therapists, physical therapists, nurses, speech-language pathologists, audiologists, counselors, psychologists, and social workers, determined pursuant to this subsection and reported on Report S-275, by teachers and other certificated staff who are no longer employed as occupational therapists, physical therapists, nurses, speech-language pathologists, audiologists, counselors, psychologists, and social workers, shall continue to be reported but shall not increase.

(2) Years of full-time and part-time professional education employment prior to the current reporting school year are accumulated as follows:

(a) For each professional education employment which is not employment as a casual substitute pursuant to subsection (1)(a) of this section;

(i) Determine the total number of hours, or other unit of measure, per year for an employee working full-time with each employer;

(ii) Determine the number of hours, or other unit of measure, per year with each employer, including paid leave and excluding unpaid leave;

(iii) Calculate the quotient of the hours, or other unit of measure, determined in (a)(ii) of this subsection divided by the hours, or other unit of measure, in (a)(i) of this subsection rounded to two decimal places for each year.

(b) For professional education employment as a casual substitute pursuant to subsection (1)(a) of this section:

(i) Determine the total number of full-time equivalent substitute days per year;

(ii) Calculate the quotient of full-time equivalent days determined in (b)(i) of this subsection divided by 180 rounded to two decimal places for each year.

(c) No more than 1.0 year may be accumulated in any traditional nine-month academic year or any twelve-month period.

(i) Accumulate, for each year, professional education employment calculated in (a)(iii) and (b)(ii) of this subsection.

(ii) Determine the smaller of the result in (c)(i) of this subsection or 1.00 for each year.

(d) Determine certificated years of experience as the accumulation of all years of professional education employ-

ment calculated in (c)(ii) of this subsection and report such years rounded to one decimal place.

[Statutory Authority: RCW 28A.150.290. 09-06-038, § 392-121-264, filed 2/25/09, effective 3/28/09. Statutory Authority: RCW 28A.150.290(1), 08-03-086, § 392-121-264, filed 1/16/08, effective 2/16/08; 07-23-041, § 392-121-264, filed 11/14/07, effective 12/15/07; 06-19-045, § 392-121-264, filed 9/15/06, effective 10/16/06. Statutory Authority: RCW 28A.150.290(1) and section 503 (1)(b) of the 2002 supplemental budget. 02-22-065, amended and recodified as § 392-121-264, filed 11/1/02, effective 12/2/02. Statutory Authority: RCW 28A.150.290 and chapter 28A.415 RCW. 97-22-106 (Order 97-07), § 392-121-245, filed 11/5/97, effective 12/6/97. Statutory Authority: RCW 28A.150.290. 95-21-096 (Order 95-09), § 392-121-245, filed 10/18/95, effective 11/18/95. Statutory Authority: RCW 28A.150.290, 28A.150.400 and the Biennial Operating Appropriations Act. 94-01-190, § 392-121-245, filed 12/22/93, effective 1/22/94. Statutory Authority: RCW 28A.41.055 and 28A.41.170. 88-03-013 (Order 88-8), § 392-121-245, filed 1/11/88.]

WAC 392-121-415 Basic education allocation—Deductible revenues. In addition to those funds appropriated by the legislature for basic education allocation purposes, the following locally available general fund revenues shall be included in the computation of the total annual basic education allocation of each school district pursuant to RCW 28A.150.250 and 28A.150.260 and shall be deducted from payments made pursuant to WAC 392-121-400:

(1) Proceeds from the sale, rental or lease of stone, minerals, timber, forest products, other crops and matter, and improvements from or on tax title real property managed by a county pursuant to chapter 36.35 RCW;

(2) Proceeds from state forests pursuant to RCW 79.22.040 and 79.22.050;

(3) Federal in lieu of tax payments made pursuant to RCW 84.72.020; and

(4) Proceeds from the sale of lumber, timber, and timber products on military reservations or facilities in accordance with U.S.C. §2665, Title 10, and P.L. 97-99.

(5) Local in lieu of tax payments including but not limited to payments made pursuant to RCW 35.82.210, 35.83-040, and 79.19.110.

Otherwise deductible revenues from any of the foregoing sources received by a school district due solely to the district's levy of a capital projects fund or debt service fund excess tax levy shall constitute nongeneral fund revenues and shall not be deducted in the computation of the district's annual basic education allocation for that school year.

[Statutory Authority: RCW 28A.150.290. 09-06-038, § 392-121-415, filed 2/25/09, effective 3/28/09. Statutory Authority: 1990 c 33. 90-16-002 (Order 18), § 392-121-415, filed 7/19/90, effective 8/19/90. Statutory Authority: RCW 28A.41.170. 89-16-015 (Order 89-04), § 392-121-415, filed 7/21/89, effective 8/21/89. Statutory Authority: RCW 28A.41.055 and 28A.41.170. 88-03-013 (Order 88-8), § 392-121-415, filed 1/11/88.]

WAC 392-121-440 Emergency advance payments—Determination of amount. The superintendent of public instruction shall calculate the emergency advance on the school district's basic education allocation as the lesser of:

(1) The amount set forth in the school district's resolution;

(2) An amount not to exceed ten percent of the total amount to become due and apportionable to the district from September 1 through August 31 of the school year.

(3) The highest negative monthly cash and investment balance of the general fund between the date of the resolution

and May 31st of the school year less any redirection of a school district's basic education allocation to the capital projects fund, debt service fund, or both.

[Statutory Authority: RCW 28A.150.290. 09-06-038, § 392-121-440, filed 2/25/09, effective 3/28/09. Statutory Authority: RCW 28A.150.400 and 28A.150.290. 90-19-040 (Order 28), § 392-121-440, filed 9/13/90, effective 10/14/90. Statutory Authority: RCW 28A.41.055 and 28A.41.170. 88-03-013 (Order 88-8), § 392-121-440, filed 1/11/88.]

Chapter 392-122 WAC

FINANCE—CATEGORICAL APPORTIONMENT

WAC

392-122-135	State special education program—Eligible special education students.
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392-122-420	Full-day kindergarten program—Authority.
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392-122-426	Full-day kindergarten program—Apportionment of state moneys.
392-122-600	State learning assistance program—Applicable code provisions.
392-122-705	Formula for the distribution of state moneys for the state transitional bilingual program.
392-122-710	Distribution of state moneys for the transitional bilingual program.
392-122-805	Formula for distribution of state moneys for the state highly capable students education program.
392-122-900	General provision—Indirect cost limitations, carryover limitations and recoveries.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

392-122-265	State institutional education program—Institutional program traffic safety allocation. [Statutory Authority: RCW 28A.220.030. 92-03-138 (Order 92-04), § 392-122-265, filed 1/22/92, effective 2/22/92. Statutory Authority: RCW 28A.41.170. 84-20-078 (Order 84-36), § 392-122-265, filed 10/2/84.] Repealed by 09-04-082, filed 2/3/09, effective 3/6/09. Statutory Authority: RCW 28A.150.290.
392-122-300	Traffic safety education—Applicable provisions. [Statutory Authority: RCW 28A.220.030. 92-03-138 (Order 92-04), § 392-122-300, filed 1/22/92, effective 2/22/92.] Repealed by 09-04-082, filed 2/3/09, effective 3/6/09. Statutory Authority: RCW 28A.150.290.
392-122-301	Traffic safety education—Definition—Completing student. [Statutory Authority: RCW 28A.220.030. 92-03-138 (Order 92-04), § 392-122-301, filed 1/22/92, effective 2/22/92.] Repealed by 09-04-082, filed 2/3/09, effective 3/6/09. Statutory Authority: RCW 28A.150.290.
392-122-302	Traffic safety education—Definition—Low-income student. [Statutory Authority: RCW 28A.220.030. 92-03-138 (Order 92-04), § 392-122-302, filed 1/22/92, effective 2/22/92.] Repealed by 09-04-082, filed 2/3/09, effective 3/6/09. Statutory Authority: RCW 28A.150.290.
392-122-303	Traffic safety education—Low-income eligibility—Documentation and confidentiality. [Statutory Authority: RCW 28A.220.030. 92-03-138 (Order 92-04), § 392-122-303, filed 1/22/92, effective 2/22/92.]

Repealed by 09-04-082, filed 2/3/09, effective 3/6/09. Statutory Authority: RCW 28A.150.290.

392-122-304	Traffic safety education—Definition—Low-income tuition assistance. [Statutory Authority: RCW 28A.220.030. 92-03-138 (Order 92-04), § 392-122-304, filed 1/22/92, effective 2/22/92.] Repealed by 09-04-082, filed 2/3/09, effective 3/6/09. Statutory Authority: RCW 28A.150.290.
392-122-320	Traffic safety education—Apportionment of state moneys. [Statutory Authority: RCW 28A.220.030 and 1992 c 232 § 509. 92-21-009 (Order 92-13), § 392-122-320, filed 10/9/92, effective 11/9/92. Statutory Authority: RCW 28A.220.030. 92-03-138 (Order 92-04), § 392-122-320, filed 1/22/92, effective 2/22/92.] Repealed by 09-04-082, filed 2/3/09, effective 3/6/09. Statutory Authority: RCW 28A.150.290.
392-122-321	Traffic safety education—School district reporting. [Statutory Authority: RCW 28A.220.030 and 1992 c 232 § 509. 92-21-009 (Order 92-13), § 392-122-321, filed 10/9/92, effective 11/9/92. Statutory Authority: RCW 28A.220.030. 92-03-138 (Order 92-04), § 392-122-321, filed 1/22/92, effective 2/22/92.] Repealed by 09-04-082, filed 2/3/09, effective 3/6/09. Statutory Authority: RCW 28A.150.290.
392-122-322	Traffic safety education—Recovery of moneys. [Statutory Authority: RCW 28A.220.030 and 1992 c 232 § 509. 92-21-009 (Order 92-13), § 392-122-322, filed 10/9/92, effective 11/9/92. Statutory Authority: RCW 28A.220.030. 92-03-138 (Order 92-04), § 392-122-322, filed 1/22/92, effective 2/22/92.] Repealed by 09-04-082, filed 2/3/09, effective 3/6/09. Statutory Authority: RCW 28A.150.290.

WAC 392-122-135 State special education program—Eligible special education students. Eligible special education students are those students:

- (1) For the 1994-95 school year as defined in:
 - (a) WAC 392-171-381 (developmentally disabled preschool students);
 - (b) WAC 392-171-386 (seriously behaviorally disabled students);
 - (c) WAC 392-171-391 (communication disordered students);
 - (d) WAC 392-171-396 (orthopedically impaired students);
 - (e) WAC 392-171-401 (health impaired students);
 - (f) WAC 392-171-406 (specific learning disabled students);
 - (g) WAC 392-171-421 (mentally retarded students);
 - (h) WAC 392-171-431 (multidisability students);
 - (i) WAC 392-171-436 (deaf students);
 - (j) WAC 392-171-441 (hard of hearing students);
 - (k) WAC 392-171-446 (visually impaired students); and
 - (l) WAC 392-171-451 (deaf-blind students); and
- (2) For the 1995-96 school year and thereafter:
 - (a) Meeting the definition of enrolled student in WAC 392-121-106, enrolled in a course of study pursuant to WAC 392-121-107 and who qualify and are receiving special education services pursuant to chapter 392-172A WAC; or
 - (b) Who are under six years of age, qualify as developmentally delayed pursuant to WAC 392-172A-01035 and are receiving special education services pursuant to chapter 392-172A WAC; or
 - (c) Who are under six years of age, qualify as communication disordered pursuant to WAC 392-172A-01035 and are receiving special education services pursuant to chapter 392-172A WAC.

[Statutory Authority: RCW 28A.150.290. 09-04-082, § 392-122-135, filed 2/3/09, effective 3/6/09; 96-03-002, § 392-122-135, filed 1/3/96, effective

2/3/96. Statutory Authority: RCW 28A.41.170. 84-20-078 (Order 84-36), § 392-122-135, filed 10/2/84.]

WAC 392-122-140 State special education program—Home and/or hospital care. State special education program moneys shall be allocated to school districts for students eligible under WAC 392-172A-02100 temporarily requiring home and/or hospital care at the maximum rate provided annually by the superintendent of public instruction for the purpose of distributing home and/or hospital care allocations.

[Statutory Authority: RCW 28A.150.290. 09-04-082, § 392-122-140, filed 2/3/09, effective 3/6/09; 96-03-002, § 392-122-140, filed 1/3/96, effective 2/3/96. Statutory Authority: RCW 28A.41.170. 84-20-078 (Order 84-36), § 392-122-140, filed 10/2/84.]

WAC 392-122-145 State special education program—Home and/or hospital care—Extended absences. Students eligible under WAC 392-172A-02100 temporarily requiring home and/or hospital care shall be counted as enrolled students pursuant to WAC 392-121-106 as follows:

(1) Students not deemed eligible special education students pursuant to WAC 392-122-135 whose absence from the regular attendance continues through two consecutive monthly enrollment report days shall be dropped from the rolls and shall not be counted as an enrolled student on the next monthly enrollment report day unless attendance has resumed. Such students shall only be eligible for home and/or hospital care allocations until attendance in the regular program is resumed.

(2) Students deemed eligible special education students pursuant to WAC 392-122-135 shall be reported as enrolled students for the duration of the home and/or hospital care.

[Statutory Authority: RCW 28A.150.290. 09-04-082, § 392-122-145, filed 2/3/09, effective 3/6/09; 05-15-126, § 392-122-145, filed 7/18/05, effective 8/18/05; 96-03-002, § 392-122-145, filed 1/3/96, effective 2/3/96. Statutory Authority: RCW 28A.150.290, 1989 1st ex.s. c 19 and 1990 1st ex.s. c 16. 91-03-118 (Order 2), § 392-122-145, filed 1/23/91, effective 2/23/91. Statutory Authority: RCW 28A.41.170. 84-20-078 (Order 84-36), § 392-122-145, filed 10/2/84.]

WAC 392-122-166 State special education program allocation. The board of directors of a school district may request the superintendent of public instruction to pay a portion of the district's special education allocation to another school district or an educational service district. The request must be submitted on Form 1295 and must state the dollar amount of the transfer. The board can modify the dollar amount of the transfer by submitting another Form 1295 to the superintendent of public instruction. Unless the form requesting a transfer states a timeline for making the transfer, the superintendent of public instruction shall execute the transfer pursuant to the provisions of WAC 392-121-400.

[Statutory Authority: RCW 28A.150.290. 09-04-082, § 392-122-166, filed 2/3/09, effective 3/6/09; 96-03-002, § 392-122-166, filed 1/3/96, effective 2/3/96.]

WAC 392-122-235 State institutional education program—Determination of average state institutional program certificated instructional staff salary for the purpose of apportionment. The determination of average institutional education program certificated instructional staff

salary used in the institutional education allocation formula for the purposes of apportionment shall be the same as specified in WAC 392-121-299; provided, that the words "state institutional education program" shall be substituted for "basic education" throughout that section.

[Statutory Authority: RCW 28A.150.290. 09-04-082, § 392-122-235, filed 2/3/09, effective 3/6/09. Statutory Authority: 1998 c 244 § 9(2) and RCW 28A.150.290. 98-21-065 (Order 98-09), § 392-122-235, filed 10/20/98, effective 11/20/98. Statutory Authority: RCW 28A.150.290, 1989 1st ex.s. c 19 and 1990 1st ex.s. c 16. 91-03-118 (Order 2), § 392-122-235, filed 1/23/91, effective 2/23/91. Statutory Authority: RCW 28A.41.170. 84-20-078 (Order 84-36), § 392-122-235, filed 10/2/84.]

WAC 392-122-420 Full-day kindergarten program—Authority. The authority for WAC 392-122-420 through 392-122-426 is:

- (1) RCW 28A.150.290(1);
- (2) RCW 28A.150.315; and
- (3) RCW 28A.150.370.

[Statutory Authority: RCW 28A.150.290. 09-11-018, § 392-122-420, filed 5/8/09, effective 6/8/09.]

WAC 392-122-421 Full-day kindergarten program—Definitions. As used in WAC 392-122-420 through 392-122-426, the following definitions shall apply:

(1) Full-day kindergarten (FDK) means an approved program that is eligible for state-funded full-day kindergarten program as provided for in the annual state operating budget;

(2) Full-time equivalent (FTE) has the same meaning as defined in WAC 392-121-122 (1)(a);

(3) "Poverty percentage" means the percentage of a school building's students who are eligible for the federal free and reduced price lunch (FRPL) as reported to OSPI for the prior school year October reporting.

[Statutory Authority: RCW 28A.150.290. 09-11-018, § 392-122-421, filed 5/8/09, effective 6/8/09.]

WAC 392-122-422 Full-day kindergarten program—Applicable provisions. The following sections of this chapter are applicable to the distribution of state moneys for the full-day kindergarten program: WAC 392-122-420 through 392-122-426.

[Statutory Authority: RCW 28A.150.290. 09-11-018, § 392-122-422, filed 5/8/09, effective 6/8/09.]

WAC 392-122-423 Full-day kindergarten program—Determination of eligibility. Determination for eligibility for full-day kindergarten programs is based on an individual school's poverty percentage from the prior school year.

(1) By June 1st each year the superintendent of public instruction shall develop and publish an eligibility list for FDK for the subsequent school year, pursuant to the legislative limitation parameters in the annual budget bill to include the specified percentage of kindergarten students to be served; which shall be further limited to the estimated annual funding for the full-day kindergarten program, as provided for in the state Operating Appropriations Act.

(2) Poverty percentage is determined as the higher of the following items as reported for October of the previous year:

(a) FRPL reported to child nutritional services at the superintendent of public instruction; or

(b) FRPL reported in the core student records system; or

(c) The percentage of students who qualify as a low-income student based on information provided by the school district that satisfies the requirements established in WAC 392-100-101(2) for those school districts that do not participate in the National School Lunch Program.

(3) Funding amounts per school shall be calculated in accordance with the state Operating Appropriations Act and WAC 392-121-400.

(4) School districts shall receive funding for eligible schools as follows:

(a) For September through December the additional FDK funding amount shall be calculated based upon one-half of the projected FDK enrollment submitted in the annual approved application.

(b) Commencing with the January payment funding shall be based upon the year-to-date (YTD) average FDK enrollment reported by the district less one-half of the YTD average FDK reported headcount.

(c) The remaining one-half of the YTD average FDK reported headcount will be paid under guaranteed entitlement funding on the Report 1191.

[Statutory Authority: RCW 28A.150.290. 09-11-018, § 392-122-423, filed 5/8/09, effective 6/8/09.]

WAC 392-122-424 Full-day kindergarten program—Applications and approvals. Eligible schools shall submit an application to the superintendent of public instruction. This application must include the following:

(1) Assurances that the school shall comply with all program requirements outlined in RCW 28A.150.315(1);

(2) Assurances that the district can provide the full-day kindergarten program for all children of parents who request it in each eligible school for which the district is including in their application (ref: Section 511(14), chapter 329, Laws of 2008);

(3) A projected estimate of full-day kindergarten enrollment for each applicant school for the application year; and

(4) Any other requirements as established by the office of superintendent of public instruction.

The eligibility for FDK is determined based upon an individual building's student poverty and may not transfer to other buildings or students within the district.

[Statutory Authority: RCW 28A.150.290. 09-11-018, § 392-122-424, filed 5/8/09, effective 6/8/09.]

WAC 392-122-425 Full-day kindergarten program—Subsequent determination of eligible schools. After consideration of the funding requirement of all submitted applications, the school projected FTE and subject to the amount of remaining funding available, the office of superintendent of public instruction may publish a subsequent list of additional eligible schools that may apply for the FDK program. Eligibility on this list shall be ranked in order of decreasing poverty percentage, in the manner outlined in WAC 392-122-423.

Upon program approval for the full-day kindergarten program, a school shall remain eligible for funding in subsequent school years regardless of changes in the school's per-

centage of students eligible for FRPL as long as all other program requirements are fulfilled.

[Statutory Authority: RCW 28A.150.290. 09-11-018, § 392-122-425, filed 5/8/09, effective 6/8/09.]

WAC 392-122-426 Full-day kindergarten program—Apportionment of state moneys. Apportionment of state moneys for full-day kindergarten will be conducted in a manner prescribed by WAC 392-121-400.

[Statutory Authority: RCW 28A.150.290. 09-11-018, § 392-122-426, filed 5/8/09, effective 6/8/09.]

WAC 392-122-600 State learning assistance program—Applicable code provisions. The following sections of this chapter are applicable to the distribution of state moneys for the state learning assistance program:

(1) WAC 392-122-600 through 392-122-610;

(2) WAC 392-122-900; and

(3) WAC 392-122-905 through 392-122-910.

[Statutory Authority: RCW 28A.150.290. 09-04-082, § 392-122-600, filed 2/3/09, effective 3/6/09. Statutory Authority: RCW 28A.150.290, 1989 1st ex.s. c 19 and 1990 1st ex.s. c 16. 91-03-118 (Order 2), § 392-122-600, filed 1/23/91, effective 2/23/91. Statutory Authority: RCW 28A.41.170. 84-20-078 (Order 84-36), § 392-122-600, filed 10/2/84; 84-13-020 (Order 84-10), § 392-122-600, filed 6/13/84.]

WAC 392-122-705 Formula for the distribution of state moneys for the state transitional bilingual program.

(1) As used in this section the term "eligible student" shall mean those students defined under WAC 392-160-005(3) and 392-150-015.

(2) A district's entitlement for state moneys for the state transitional bilingual program shall be calculated as follows:

(a) Multiplying the number of eligible students by the per pupil allocation established in the State Appropriation Act for the state transitional bilingual program.

(b) The result of the calculation provided in (a) of this subsection is the district's entitlement subject to WAC 392-122-710 and its provision for enrollment adjustment.

[Statutory Authority: RCW 28A.150.290. 09-04-082, § 392-122-705, filed 2/3/09, effective 3/6/09. Statutory Authority: RCW 28A.41.170. 84-20-078 (Order 84-36), § 392-122-705, filed 10/2/84; 84-13-020 (Order 84-10), § 392-122-705, filed 6/13/84.]

WAC 392-122-710 Distribution of state moneys for the transitional bilingual program.

The superintendent of public instruction shall apportion to districts for the state transitional bilingual program the amount calculated per district in WAC 392-122-705 according to the apportionment schedule provided in RCW 28A.510.250. Monthly payments to districts shall be adjusted during the year to reflect changes in the district's reported eligible students as reported on the P223, monthly report of school district enrollment form. For the purpose of transitional bilingual allocations, the district's eight-month average annual headcount enrollment of eligible students as defined in WAC 392-160-005(3) and 392-160-015 shall be the average of such enrollment for the first school day of the second reporting month and the subsequent seven months.

[Statutory Authority: RCW 28A.150.290. 09-04-082, § 392-122-710, filed 2/3/09, effective 3/6/09; 96-03-002, § 392-122-710, filed 1/3/96, effective 2/3/96. Statutory Authority: 1990 c 33. 90-16-002 (Order 18), § 392-122-

710, filed 7/19/90, effective 8/19/90. Statutory Authority: RCW 28A.41.170, 86-01-021 (Order 85-16), § 392-122-710, filed 12/9/85; 84-20-078 (Order 84-36), § 392-122-710, filed 10/2/84; 84-13-020 (Order 84-10), § 392-122-710, filed 6/13/84.]

WAC 392-122-805 Formula for distribution of state moneys for the state highly capable students education program. (1) As used in this section, the term "average annual full-time equivalent students" or AAFTE shall be defined as that term defined in WAC 392-121-133.

(2) A district's entitlement for state moneys for the state highly capable students education program shall be calculated as follows:

(a) Multiplying the AAFTE of the reporting district by the per pupil allocation established in the State Operating Appropriations Act in effect at the time the apportionment is due; and

(b) The product is the district's entitlement subject to WAC 392-122-810 and its provision for enrollment adjustment.

[Statutory Authority: RCW 28A.150.290, 09-04-082, § 392-122-805, filed 2/3/09, effective 3/6/09; 96-03-002, § 392-122-805, filed 1/3/96, effective 2/3/96. Statutory Authority: RCW 28A.150.290, 1989 1st ex.s. c 19 and 1990 1st ex.s. c 16, 91-03-118 (Order 2), § 392-122-805, filed 1/23/91, effective 2/23/91. Statutory Authority: RCW 28A.41.170, 84-20-078 (Order 84-36), § 392-122-805, filed 10/2/84; 84-13-020 (Order 84-10), § 392-122-805, filed 6/13/84.]

WAC 392-122-900 General provision—Indirect cost limitations, carryover limitations and recoveries. Categorical apportionment moneys shall be expended for allowable categorical program costs. Indirect cost charges to categorical programs are limited as provided in this section. Categorical moneys may be carried over from one school district fiscal year to another only as provided in this section.

(1) The superintendent of public instruction shall recover categorical program allocations made pursuant to this chapter if not expended by the school district during the school year for allowable program costs.

(2) For the 2000-01 school year and thereafter, "allowable program costs" means direct program expenditures plus allowable indirect program charges.

(a) Direct program expenditures are expenditures directly traceable to the program for the school year reported consistent with the *Accounting Manual for Public School Districts in the State of Washington* and instructions provided by the superintendent of public instruction including the *Administrative Budgeting, and Financial Reporting Handbook*.

(b) For the purposes of this section, special education program expenditures shall be reduced (abated) by revenues to account 7121 special education revenues from other districts.

(c) For special education, highly capable, and transitional bilingual, allowable indirect program charges equal direct program expenditures times the percentage calculated from the school district's annual financial statements (Report F-196) for two school years prior as follows:

(i) Divide direct expenditures for program 97 district-wide support by;

(ii) Total general fund direct expenditures for all programs minus direct expenditures for program 97 districtwide support; and

(iii) Round to three decimal places.

(d) For the learning assistance program, allowable indirect program charges equal the direct program expenditures times the federal restricted indirect rate calculated by the superintendent of public instruction.

(e) For the institutional education program, allowable indirect program charges equal the state institutional education program allocation times the percentage allocated for indirect costs pursuant to the biennial operating appropriations act and the state funding formula.

(3) Commencing with the 1994-95 school year allocation, a school district may carry over from one school district fiscal year to the next up to ten percent of the state learning assistance program allocation. Carryover moneys shall be expended solely for allowable learning assistance program costs.

(4) Commencing with the 1997-98 school year allocation, a district may carry over from one school fiscal year to the next up to ten percent of state special education program allocation. Carryover moneys shall be expended solely for allowable state special education program costs.

(5) Commencing with the 1998-99 school year allocation, a district may carry over from one school district fiscal year to the next up to ten percent of the state institutional education program allocation. Carryover moneys shall be expended solely for allowable state institutional education program costs.

(6) The amount recovered pursuant to this section for special education, highly capable, bilingual, and learning assistance programs shall be determined as follows:

(a) Sum the state allocation for the categorical program for the school year and any carryover from the prior school year if applicable;

(b) Determine the district's allowable program costs for the school year pursuant to this section;

(c) If the result of (a) of this subsection exceeds the result of (b) of this subsection, the difference less any allowable carryover shall be recovered.

(7) The amount recovered pursuant to this section for the institutional education program shall be determined as follows:

(a) Sum the state allocation for the institutional education program for the school year excluding any amount provided for indirect costs, and any carryover from the prior school year if applicable;

(b) Determine the district's direct expenditures for the institutional education program as reported on Report F-196 or such other document filed pursuant to instructions provided by the superintendent of public instruction;

(c) If the amount of (a) of this subsection exceeds the amount of (b) of this subsection, the difference less any allowable carryover shall be recovered.

(8) This section applies to categorical program allocations to school districts, educational service districts and, in the case of institutional education programs, entities contracting to provide an institutional education program funded under this chapter.

[Statutory Authority: RCW 28A.150.290. 09-04-082, § 392-122-900, filed 2/3/09, effective 3/6/09. Statutory Authority: RCW 28A.150.290 and 1999 c 309 § 512. 02-04-023, § 392-122-900, filed 1/24/02, effective 1/24/02. Statutory Authority: RCW 28A.150.290. 96-03-002, § 392-122-900, filed 1/3/96, effective 2/3/96. Statutory Authority: 1995 2nd sp.s. c 18 § 519. 95-18-074, § 392-122-900, filed 9/1/95, effective 10/2/95. Statutory Authority: RCW 28A.150.290. 92-19-125 (Order 92-08), § 392-122-900, filed 9/21/92, effective 10/22/92. Statutory Authority: RCW 28A.41.170. 86-01-021 (Order 85-16), § 392-122-900, filed 12/9/85; 84-20-078 (Order 84-36), § 392-122-900, filed 10/2/84; 84-13-020 (Order 84-10), § 392-122-900, filed 6/13/84.]

Chapter 392-124 WAC
FINANCE—NATIONAL GUARD YOUTH
CHALLENGE APPORTIONMENT

WAC

392-124-005	Authority.
392-124-010	Purpose.
392-124-020	Definition—National Guard youth challenge.
392-124-030	Definition—State average rate.
392-124-035	Definition—State average rate free and reduced price lunch program.
392-124-040	Definition—Form P-223YC.
392-124-050	Definition—Full-time equivalency.
392-124-060	Definition—Annual average full-time equivalency.
392-124-070	Definition—Headcount.
392-124-080	Definition—Annual average headcount.
392-124-090	Definition—Eligible student.
392-124-100	Definition—Apportionment.
392-124-110	Definition—Apportionment allocation.

WAC 392-124-005 Authority. The authority for this chapter is RCW 28A.300.165 which authorizes the superintendent of public instruction to adopt rules and regulations for the implementation of chapter 28A.150 RCW.

[Statutory Authority: RCW 28A.150.310. 09-21-020, § 392-124-005, filed 10/9/09, effective 11/9/09.]

WAC 392-124-010 Purpose. The purpose of this chapter is to establish policies and procedures for the distribution of state moneys to school districts for the National Guard youth challenge program authorized by RCW 28A.150.310.

[Statutory Authority: RCW 28A.150.310. 09-21-020, § 392-124-010, filed 10/9/09, effective 11/9/09.]

WAC 392-124-020 Definition—National Guard youth challenge. National Guard youth challenge means an alternative program that is operated in conjunction with the military department as defined in 2SHB 1646 in the 2002 legislative session. For the purposes of funding, the National Guard youth challenge program shall be defined as a separate and unique entity.

[Statutory Authority: RCW 28A.150.310. 09-21-020, § 392-124-020, filed 10/9/09, effective 11/9/09.]

WAC 392-124-030 Definition—State average rate. For the purpose of this chapter, the state average rate for basic and vocational programs shall be those rates established annually for the running start program.

[Statutory Authority: RCW 28A.150.310. 09-21-020, § 392-124-030, filed 10/9/09, effective 11/9/09.]

WAC 392-124-035 Definition—State average rate free and reduced price lunch program. For the purpose of this chapter, the state average rate for the free and reduced

price lunch program shall be the statewide average of all students of all districts participating in the free and reduced price lunch program as reported to the superintendent of public instruction.

[Statutory Authority: RCW 28A.150.310. 09-21-020, § 392-124-035, filed 10/9/09, effective 11/9/09.]

WAC 392-124-040 Definition—Form P-223YC. "Form P-223YC" means the report of school district enrollment for students enrolled in a National Guard youth challenge program submitted monthly by the hosting school district(s) to the superintendent of public instruction for the school year for the purpose of calculating the program allocations.

(1) The count dates for the National Guard youth challenge program shall be:

(a) The fourth day of school in the months of January and July, or the start of the term of the educational program; and

(b) The first day of school in the months of February through June and the months of August through December.

(2) This report shall indicate the enrollment by resident school district and serving school district.

[Statutory Authority: RCW 28A.150.310. 09-21-020, § 392-124-040, filed 10/9/09, effective 11/9/09.]

WAC 392-124-050 Definition—Full-time equivalency. For the purposes of this chapter, full-time equivalency is calculated as a 1.0 FTE for every one hundred hours of instruction each month in a course of study as defined in WAC 392-121-107, a course of study shall encompass that instruction which will generate credit towards a high school diploma when successfully completed. Students who participate in more than one hundred hours may be counted for more than a 1.0 FTE. FTE shall be rounded to two decimal places (e.g., 1.725 would be reported as 1.73).

[Statutory Authority: RCW 28A.150.310. 09-21-020, § 392-124-050, filed 10/9/09, effective 11/9/09.]

WAC 392-124-060 Definition—Annual average full-time equivalency. For the purposes of this chapter, annual average full-time equivalency shall be calculated by taking the annual total of full-time equivalent students enrolled on the twelve count dates of the school year and reported to the superintendent of public instruction Form P-223YC for the months of September through August divided by nine. This calculation applies to the reporting of basic education and vocational students.

[Statutory Authority: RCW 28A.150.310. 09-21-020, § 392-124-060, filed 10/9/09, effective 11/9/09.]

WAC 392-124-070 Definition—Headcount. For the purposes of this chapter students may be counted for a maximum of one headcount for basic education, special education, or bilingual education. A student who participates in more than one of these educational opportunities shall be counted for a maximum of one headcount under each separate category.

[Statutory Authority: RCW 28A.150.310. 09-21-020, § 392-124-070, filed 10/9/09, effective 11/9/09.]

WAC 392-124-080 Definition—Annual average headcount. For the purposes of this chapter, annual average headcount shall be calculated by taking the sum of the monthly headcounts as reported on Form P-223YC for the months of September through August divided by twelve. This calculation applies to the reporting of basic education, special education, and bilingual education students.

[Statutory Authority: RCW 28A.150.310. 09-21-020, § 392-124-080, filed 10/9/09, effective 11/9/09.]

WAC 392-124-090 Definition—Eligible student. An eligible student shall be one who:

- (1) Is likely to be expelled or is enrolled in a school district but has been suspended;
- (2) Is academically at risk; or
- (3) Has been subject to repeated disciplinary actions due to behavioral problems.

[Statutory Authority: RCW 28A.150.310. 09-21-020, § 392-124-090, filed 10/9/09, effective 11/9/09.]

WAC 392-124-100 Definition—Apportionment. Apportionment shall be paid to the school district the National Guard youth challenge program is operating within pursuant to chapter 28A.510 RCW.

[Statutory Authority: RCW 28A.150.310. 09-21-020, § 392-124-100, filed 10/9/09, effective 11/9/09.]

WAC 392-124-110 Definition—Apportionment allocation. The apportionment allocation shall be based and made consistent with state funding formulas with the following items set as:

- (1) The basic education funding rate shall be the basic state average rate as defined in WAC 392-124-030.
- (2) The vocational education funding rate shall be the vocational state average rate as defined in WAC 392-124-030.
- (3) The special education rate shall be 93.09% of the basic state average rate as defined in WAC 392-124-030 with the number of funded special education headcount limited to 12.7% of the reported basic education headcount.
- (4) Funding under the following categorical programs shall use the legislative provided formulas and rates. Categorical programs are subject to legislative allotment and program standards and include:
 - (a) Highly capable;
 - (b) Bilingual;
 - (c) Learning assistance - shall use the statewide average for the free and reduced price lunch rate;
 - (d) Student achievement.
- (5) Funding for categorical programs and vocational education is subject to program approval by the superintendent of public instruction.

[Statutory Authority: RCW 28A.150.310. 09-21-020, § 392-124-110, filed 10/9/09, effective 11/9/09.]

Chapter 392-137 WAC

FINANCE—NONRESIDENT ATTENDANCE

WAC

392-137-235 Residency of handicapped children—Special condition.

WAC 392-137-235 Residency of handicapped children—Special condition. Notwithstanding the definitions of resident and nonresident district pursuant to this chapter, in the event a student who is eligible for special education pursuant to chapter 392-172A WAC transfers pursuant to this chapter from a resident school district to a nonresident district, the nonresident district shall be deemed the resident district for the purposes of chapter 392-172A WAC and shall be required to perform all legal duties as otherwise required by the resident district, including the transportation of the transferring handicapped student if so required as a related service.

[Statutory Authority: RCW 28A.150.290. 09-06-040, § 392-137-235, filed 2/25/09, effective 3/28/09. Statutory Authority: RCW 28A.22.230 [28A.225.230] and 34.05.220(4). 90-19-068 (Order 26), § 392-137-235, filed 9/17/90, effective 10/18/90.]

Chapter 392-140 WAC

FINANCE—SPECIAL ALLOCATIONS

WAC

392-140-950	Learning improvement days—Applicable provisions.
392-140-956	Learning improvement days—Other definitions.
392-140-961	Learning improvement days—Determination of the number of funded learning improvement days in the 2001-02 school year and thereafter.
392-140-962	Learning improvement days—Salary allocations for learning improvement days.
392-140-973	Salary bonus for teachers and other certificated staff who hold current certification by the national board—Eligibility.

WAC 392-140-950 Learning improvement days—Applicable provisions. The provisions of WAC 392-140-950 through 392-140-967 govern state funding for learning improvement days for certificated instructional staff. The authority for WAC 392-140-950 through 392-140-967 is the state Biennial Operating Appropriations Act and RCW 28A.150.290(1).

[Statutory Authority: RCW 28A.150.290(1). 09-19-050, § 392-140-950, filed 9/11/09, effective 10/12/09. Statutory Authority: RCW 28A.150.-290(1) and section 503(7) of the 2001-03 state budget and 2002 supplemental budget. 02-20-063, § 392-140-950, filed 9/27/02, effective 10/28/02. Statutory Authority: RCW 28A.150.290(2) and 1999 c 309 § 503(7). 99-20-021 (Order 98-07), § 392-140-950, filed 9/28/99, effective 9/29/99.]

WAC 392-140-956 Learning improvement days—Other definitions. As used in WAC 392-140-950 through 392-140-967:

(1) "Certificated instructional staff" means district certificated instructional employees and contractor certificated instructional employees as defined in WAC 392-121-205 and 392-121-206.

(2) "Base contract" means a contract protected by the continuing contract law, RCW 28A.405.300. The base contract does not include hours or compensation provided under a supplemental contract as defined in RCW 28A.400.200.

(3) "Number of days in the base contract" means the number of full work days in the school year for a full-time certificated instructional employee holding the position for the full school year. Days include paid leave. The number of hours in a full work day is determined by each school district. Days scheduled before September 1 can be counted in the

school year if included and compensated in the base contract for the school year beginning September 1.

(4) "Selected state-funded programs" means the following programs as defined in the *Accounting Manual for Public School Districts in the State of Washington*:

- 01 Basic Education
- 21 Special Education-Supplemental-State
- 31 Vocational-Basic-State
- 34 Middle School Career and Technical Education-State
- 45 Skills Center-Basic-State
- 55 Learning Assistance Program-State
- 65 Transitional Bilingual-State
- 74 Highly Capable
- 97 District-wide Support

(5) "State institutional education programs" means the following programs:

- 26 Special Education-Institutions-State
- 56 State Institutions, Centers, and Homes-Delinquent

[Statutory Authority: RCW 28A.150.290(1). 09-19-050, § 392-140-956, filed 9/11/09, effective 10/12/09. Statutory Authority: RCW 28A.150.290 [28A.150.290], 28A.505.140. 01-08-048, § 392-140-956, filed 3/30/01, effective 4/30/01. Statutory Authority: RCW 28A.150.290(2) and 1999 c 309 § 503(7). 99-20-021 (Order 98-07), § 392-140-956, filed 9/28/99, effective 9/29/99.]

WAC 392-140-961 Learning improvement days—Determination of the number of funded learning improvement days in the 2001-02 school year and thereafter. The superintendent of public instruction shall separately determine for selected state-funded programs and for institutional education programs the number of funded learning improvement days for each school district for the 2001-02 school year and for each school year thereafter as follows:

(1) In September through December of each school year, the superintendent will use the number of learning improvement days budgeted by the district and reported on Form F-203.

(2) Monthly, beginning in January of the school year, using current personnel data reported on the S-275 Personnel Report:

(a) Select all certificated instructional staff with assignments in the programs.

(b) For each employee, subtract one hundred eighty days from the number of days reported in the base contract.

(c)(i) For the 2001-02 school year, take the lesser of three days or the result of (b) of this subsection but not less than zero.

(ii) For the 2002-03 through 2008-09 school years, take the lesser of two days or the result of (b) of this subsection but not less than zero.

(iii) For the 2009-10 school year and thereafter, take the lesser of one day or the result of (b) of this subsection but not less than zero.

(d) Sum the number of days determined for all employees pursuant to (b) and (c) of this subsection.

(e) Divide the result of (d) of this subsection by the number of employees and round to two decimal places.

(f) The result is the number of funded learning improvement days for the district.

(3) After the close of the school year, the superintendent shall fund the lesser of:

(a) The number of days determined pursuant to subsection (2) of this section; or

(b) The number of days reported by the district pursuant to WAC 392-140-967.

[Statutory Authority: RCW 28A.150.290(1). 09-19-050, § 392-140-961, filed 9/11/09, effective 10/12/09. Statutory Authority: RCW 28A.150.290(1) and section 503(7) of the 2001-03 state budget and 2002 supplemental budget. 02-20-063, § 392-140-961, filed 9/27/02, effective 10/28/02. Statutory Authority: RCW 28A.150.290(2) and 1999 c 309 § 503(7). 99-20-021 (Order 98-07), § 392-140-961, filed 9/28/99, effective 9/29/99.]

WAC 392-140-962 Learning improvement days—Salary allocations for learning improvement days. Using the number of learning improvement days determined pursuant to WAC 392-140-961, the superintendent of public instruction shall adjust salary allocations to school districts as follows:

(1) For general apportionment, the derived base salary allocation for learning improvement days as shown on LEAP Document 2 shall be reduced pro rata for any district with less than three learning improvement days in the 2001-02 school year, or less than two learning improvement days in the 2002-03 through 2008-09 school years, or less than one learning improvement day in the 2009-10 school year and thereafter in selected state-funded programs.

(2) Special education allocations shall be adjusted based on adjustments to the unenhanced basic education allocation per full-time equivalent student.

(3) For transitional bilingual, highly capable, and learning assistance program allocations, the additional state allocation per pupil for three learning improvement days in the 2001-02 school year, for two learning improvement days in the 2002-03 through 2008-09 school years, and for one learning improvement day in the 2009-10 school year and thereafter as calculated by the superintendent shall be reduced pro rata for any district with fewer learning improvement days in selected state-funded programs.

(4) For state institutional education programs the salary allocation for three learning improvement days in the 2001-02 school year, for two learning improvement days in the 2002-03 through 2008-09 school years, and for one learning improvement day in the 2009-10 school year and thereafter as calculated by the superintendent shall be reduced pro rata for any district with fewer learning improvement days in state institutional education programs. Educational service districts or contractors operating state-funded institutional education programs shall be eligible for learning improvement day funding in the same manner as school districts.

(5) Allocations for learning improvement days are subject to adjustment or recovery based on findings of the Washington state auditor and chapters 392-115 and 392-117 WAC.

[Statutory Authority: RCW 28A.150.290(1). 09-19-050, § 392-140-962, filed 9/11/09, effective 10/12/09. Statutory Authority: RCW 28A.150.290(1) and section 503(7) of the 2001-03 state budget and 2002 supplemental budget. 02-20-063, § 392-140-962, filed 9/27/02, effective 10/28/02. Statutory Authority: RCW 28A.150.290(2) and 1999 c 309 § 503(7). 99-20-021 (Order 98-07), § 392-140-962, filed 9/28/99, effective 9/29/99.]

WAC 392-140-973 Salary bonus for teachers and other certificated staff who hold current certification by the national board—Eligibility. Candidates who are eligi-

ble for the bonus shall be limited to those meeting the following requirements:

(1) Hold current certification by the national board for professional teaching standards; and

(2) Who are:

(a) Teachers and other certificated staff employed full time or part time under written contract by Washington public school districts or educational service districts pursuant to RCW 28A.405.210; or

(b) Teachers and other certificated staff employed full time or part time by a contractor pursuant to WAC 392-121-188 and 392-121-206 (2)(a); or

(c) Teachers and other certificated staff employed full time or part time by the Washington school for the deaf or Washington school for the blind; or

(d) Beginning in the 2007-08 school year and thereafter, national board certified teachers who received the bonus as a teacher or other certificated instructional staff in Washington and become public school principals or vice-principals shall continue to receive the bonus for as long as they are principals or vice-principals and maintain the national board certification.

(3) In addition to bonuses provided by subsection (2) of this section, teachers and other certificated staff shall be eligible for additional bonuses if the employee is in an instructional assignment in challenging, high poverty schools, subject to the following conditions and limitations:

(a) For the 2007-08 school year, challenging, high poverty schools are schools where, for the prior year, the student headcount enrollment eligible for the federal free or reduced-price lunch program is at least 70 percent, as determined by any of the following sources:

(i) The October 2006 count by the child nutrition section of the office of superintendent of public instruction; or

(ii) The October 2006 count by the core student records system of the office of superintendent of public instruction.

(b) For the 2008-09 school year, challenging, high poverty schools are schools eligible by either:

(i) Subsection (3)(a) of this section; or

(ii) Schools where, for the prior year, the student headcount enrollment eligible for the federal free or reduced price lunch program was at least:

(A) 70 percent for elementary schools;

(B) 60 percent for middle schools; or

(C) 50 percent for high schools; as determined by any of the following sources:

(D) The October 2007 count by the child nutrition section of the office of superintendent of public instruction; or

(E) The October 2007 count by the core student records system of the office of superintendent of public instruction. For purposes of the national board challenging, high poverty schools bonus, a building shall be categorized based upon the highest grades served as follows:

(I) A building whose highest grade served is 6th grade or lower shall be considered an elementary school;

(II) A building whose highest grade served is either 7th, 8th, or 9th grade shall be considered a middle school; and

(III) A building whose highest grade served is either 10th, 11th, or 12th grade shall be considered a high school; provided, that, a building shall not be considered unless it serves greater than 20 students as of the October 2006 count,

and greater than 30 students as of the October 2007 count, or is the largest building in the district serving its designated category.

(c) For the 2009-10 school year and thereafter, challenging, high poverty schools are schools eligible by either:

(i) Eligibility in the prior year; or

(ii) Schools where, for the prior year, the student headcount enrollment eligible for the federal free or reduced price lunch program was at least:

(A) 70 percent for elementary schools;

(B) 60 percent for middle schools; or

(C) 50 percent for high schools; as determined by the October count of the core student records system of the office of superintendent of public instruction.

(d) Teachers and other certificated staff that meet the qualifications for additional bonuses under this subsection who are assigned for less than one full school year or less than full time for the school year shall receive the additional bonuses in a prorated manner, subject to the following conditions and limitations:

(i) The portion of the employee's assignment to challenging, high poverty schools shall be determined as of either October 1 of the current school year or the employee's employment contract date for the current school year.

(ii) If the employee's assignment to challenging, high poverty schools is less than 1.0 full-time equivalent, the proration shall use the methodology in WAC 392-121-212 and shall be rounded to three decimal places.

(e) Principals and vice-principals shall not be eligible for additional bonuses that are based on instructional assignments in challenging, high poverty schools.

[Statutory Authority: RCW 28A.150.290(1), 09-07-043, § 392-140-973, filed 3/11/09, effective 4/11/09; 08-17-013, § 392-140-973, filed 8/8/08, effective 9/8/08. Statutory Authority: RCW 28A.150.290(2) and 2001 c 7 § 514(12), 02-15-023, § 392-140-973, filed 7/9/02, effective 8/9/02.]

Chapter 392-141 WAC

TRANSPORTATION—STATE ALLOCATION FOR OPERATIONS

WAC

392-141-185 Operation allocation computation.

WAC 392-141-185 Operation allocation computation. The computation of the transportation operation allocation shall be as follows:

(1) All basic and transit tripper students defined in WAC 392-141-115 who are transported to school shall be measured by radius mile intervals between the bus route stop and the destination sites in accordance with WAC 392-141-170(3) and multiplied by two to yield the round trip totals in each distance interval;

(2) All midday students defined in WAC 392-141-115 and basic shuttle students transported shall be measured by radius mile intervals between the bus route stop and the destination school in accordance with WAC 392-141-170(3). Basic shuttle transportation whose schedule is less than five days a week shall have the weighted units multiplied by the appropriate percent shown in the table below:

No. of days per week	Percent factor
1	20%
2	40%
3	60%
4	100%

(3) The total students in subsections (1) and (2) of this section in each distance interval, multiplied by the applicable distance weighting factor contained in WAC 392-141-170(3) shall equal the weighted student units in each distance interval. Midday transportation students whose schedule is one day per week shall have the weighted student units multiplied by twenty percent;

(4) The district's minimum load factor, if applicable, is calculated pursuant to WAC 392-141-170(5). This factor is multiplied by the total weighted student units generated by basic and tripper students. This total is the additional weighted units attributable to the district's small average bus load;

(5) The sum of the cumulative weighted student units calculated in subsections (3) and (4) of this section, if applicable, equals the total basic transportation weighted units;

(6) The basic allocation is the total basic transportation weighted units calculated in subsection (5) of this section multiplied by the standard student mile allocation rate;

(7) All special students defined in RCW 28A.155.020 transported on special transportation bus routes to school or agencies for related services shall be measured by radius mile intervals between their bus route stops and destinations sites in accordance with WAC 392-141-170(3) and multiplied by two to yield the round trip total in each distance interval;

(8) All special shuttle students transported between schools or agencies less frequently than five days a week shall be measured by radius mile intervals between the bus route stop and destination sites in accordance with WAC 392-141-170(3);

(9) The total students in subsections (7) and (8) of this section in each distance interval multiplied by the applicable distance weighting factor contained in WAC 392-141-170(3) shall equal the weighted student units in each distance interval. Special shuttle transportation whose schedule is less than five days a week shall have the weighted units multiplied by the appropriate percent shown in the table below:

No. of days per week	Percent factor
1	20%
2	40%
3	60%
4	100%

(10) The district's special transportation load factor, if applicable, is calculated pursuant to WAC 392-141-170. The factor is multiplied by the total weighted student units generated by special students (not special shuttle students);

(11) The weighted student units calculated in subsections (9) and (10) of this section, if applicable, equals the total special transportation weighted units;

(12) The special allocation is the total special transportation weighted units calculated in subsection (11) of this section, multiplied by the standard student mile allocation rate;

(13) The one radius mile allocation for basic trippers and midday kindergarten students shall be calculated by the number of kindergarten through fifth grade students enrolled during the five consecutive day count week and living one radius mile or less from their enrollment school less kindergarten through fifth grade special education students living and transported within one mile, multiplied by the allocation rate, and further multiplied by a factor established by the Biennial Appropriations Act;

(14) The district car allocation is computed for each vehicle and then totaled to equal the district car allocation. The computation is based on one hundred eighty days and fifty mile increments multiplied by the appropriate district car operation and depreciation rates published by the superintendent of public instruction. All vehicles traveling over two hundred fifty miles receive only the depreciation rate for miles in excess of two hundred fifty for the one hundred eighty day period;

(15) The district's annual allocation for transportation operation is the total of the calculations made in subsections (6), (12), (13) and (14) of this section;

(16) The allocation for kindergarten through fifth grade students living one radius mile or less from their school of enrollment may be used for transporting students, funding crossing guards or local and the state matching funds for capital projects. Projects managed by the federal government are ineligible;

(17) When a district submits a revised report pursuant to WAC 392-141-165, to the extent funds are available, the district's operation allocation shall be recalculated. Any increase in operations allocations shall be prorated for the remainder of the annual school term or until termination of activities before the end of the scheduled school term. The date that the district documents first meeting the ten percent increase in eligible students transported shall be used to prorate any increase in annual transportation operation allocations.

(18) The funding assumption for the transportation operation allocation is that kindergarten through twelfth grade (K-12) school transportation services are provided by the school district five days per week, to and from school, before and after the regular school day. K-12 service being provided on any other basis is subject to corresponding proration of the operation allocation.

[Statutory Authority: RCW 28A.150.290. 09-24-076, § 392-141-185, filed 11/30/09, effective 12/31/09; 07-03-072, § 392-141-185, filed 1/17/07, effective 2/17/07. Statutory Authority: 1996 c 279 and RCW 28A.150.290. 96-16-010 (Order 96-09), § 392-141-185, filed 7/25/96, effective 8/25/96. Statutory Authority: 1995 2nd sp.s. c 18 and RCW 28A.150.290. 95-18-050 (Order 95-04), § 392-141-185, filed 8/30/95, effective 9/30/95. Statutory Authority: RCW 28A.150.290. 92-08-024 (Order 92-03), § 392-141-185, filed 3/23/92, effective 4/23/92. Statutory Authority: 1990 c 33. 90-16-002 (Order 18), § 392-141-185, filed 7/19/90, effective 8/19/90. Statutory Authority: RCW 28A.41.170. 84-15-025 (Order 84-26), § 392-141-185, filed 7/11/84.]

Chapter 392-153 WAC

TRAFFIC SAFETY—DRIVER EDUCATION

WAC

- 392-153-021 Conditional traffic safety education certificates—
Behind the wheel or classroom.
- 392-153-032 Curriculum guide and course requirements.

WAC 392-153-021 Conditional traffic safety education certificates—Behind the wheel or classroom. (1) You may be issued a behind the wheel conditional certificate by the superintendent of public instruction to teach the laboratory phase, provided you meet the following requirements:

(a) Complete a behind the wheel conditional certificate course, consisting of at least sixty clock hours of instruction, approved by the superintendent of public instruction that includes supervised practice in instructing and demonstration of instructional competencies within two years prior to application. You must also pass practical and knowledge examinations administered by an agent approved by the office of the superintendent of public instruction.

(b) Possess a valid Washington state driver's license (or a valid license from another state provided you are a resident of that state).

(c) Hold a high school diploma or its equivalent.

(d) Have at least five years of licensed driving experience.

(e) Provide a current satisfactory driving record to the employing school district on an annual basis.

(f) Provide verification to the office of the superintendent of public instruction that the employing school district has determined that you comply with all of the requirements set forth in this chapter.

(g) To teach using a simulator or on a multiple car driving range, you must provide evidence of having completed an additional thirty hours of course work which includes supervised practice in instructing using the designated method.

(2) You may be issued a classroom conditional certificate by the superintendent of public instruction to teach the classroom phase, provided you meet the following requirements:

(a) Possess a valid Washington state driver's license (or a valid license from another state provided you are a resident of that state).

(b) Provide a current satisfactory driving record to the employing school district on an annual basis.

(c) Complete at least one thousand hours of behind the wheel teaching experience within the last five years.

(d) Complete an eighty clock hour classroom instructor training course approved by the superintendent of public instruction.

(e) Provide verification to the office of the superintendent of public instruction that the employing school district has determined that you comply with all of the requirements set forth in this chapter.

(3) A behind the wheel or classroom conditional certificate is valid for two years or less. The superintendent of public instruction may reissue the conditional certificate if you provide verification that you continue to meet all requirements of this chapter, including having completed sixty hours of course work within the previous two years. However, for the purpose of reissue, the employing school district superintendent (or designee) may approve up to forty-eight of the sixty hours, including approving credit for professional development courses or traffic safety education related projects.

(4) Conditional certificates are subject to suspension and revocation under the provisions of 180-79A WAC.

[Statutory Authority: Chapter 28A.220 RCW and RCW 46.20.100. 09-03-086, § 392-153-021, filed 1/20/09, effective 2/20/09. Statutory Authority: RCW 28A.150.290. 06-08-043, § 392-153-021, filed 3/30/06, effective 4/30/06. Statutory Authority: Chapters 28A.220 and 46.82 RCW. 01-16-003, § 392-153-021, filed 7/18/01, effective 8/18/01.]

WAC 392-153-032 Curriculum guide and course requirements. (1) Each school district curriculum guide shall include:

(a) The minimum concepts to be taught, which are: Introduction to highway transportation system; preparing and controlling the vehicle; maneuvering in limited space; signs, signals, and pavement markings; vehicle characteristics; human functions used in driving; roadway variations; intersections, which shall include highway-rail grade crossings; management of time and space; lane changes; passing; non-motorized traffic; internal factors affecting driving performance, which shall include emotional and behavior issues; physical factors affecting driving performance, which shall include seatbelt usage and its benefits; alcohol and drugs; vehicle maintenance; planning for travel; limited visibility; reduced traction; special driving conditions; vehicle malfunctioning; avoiding and minimizing impact; post-crash responsibilities; legal responsibilities; highway transportation system improvement; fuel conservation; and motorcycle awareness; and driving safely among bicyclists and pedestrians using materials approved by the director of the department of licensing.

(b) The methods of instruction used by the teacher in presenting the material.

(c) The student performance objectives and evaluation criteria.

(d) The activities that will enable a student to accomplish the objectives (while allowing for individual differences) and the required level of competency for each objective.

(e) Information on the fifty hours of adult guided practice and the driving restrictions required by the intermediate driver license.

(f) A flow chart that indicates how the classroom and laboratory lessons are sequenced and integrated.

(g) Classroom and laboratory lesson plans, including driving routes for laboratory experience.

(2) Each traffic safety education course shall include comprehensive written and driving exams.

[Statutory Authority: Chapter 28A.220 RCW and RCW 46.20.100. 09-03-086, § 392-153-032, filed 1/20/09, effective 2/20/09. Statutory Authority: RCW 28A.150.290. 06-08-043, § 392-153-032, filed 3/30/06, effective 4/30/06. Statutory Authority: Chapters 28A.220 and 46.82 RCW. 01-16-003, § 392-153-032, filed 7/18/01, effective 8/18/01. Statutory Authority: RCW 46.20.100(2), 28A.220.020 (2), (3), (4), and 28A.220.030(1). 96-24-044 (Order 96-18), § 392-153-032, filed 11/27/96, effective 12/28/96. Statutory Authority: RCW 28A.220.030. 92-20-061 (Order 92-10), § 392-153-032, filed 10/2/92, effective 11/2/92; 92-03-138 (Order 92-04), § 392-153-032, filed 1/22/92, effective 2/22/92. Statutory Authority: RCW 46.81.020. 80-09-027 (Order 80-24), § 392-153-032, filed 7/9/80; Order 6-77, § 392-153-032, filed 7/27/77, effective 9/11/77.]

Chapter 392-160 WAC

SPECIAL SERVICE PROGRAM—TRANSITIONAL BILINGUAL

WAC

392-160-020

Approved test for determining initial eligibility—
English proficiency scores.

WAC 392-160-020 Approved test for determining initial eligibility—English proficiency scores. Approved English proficiency test: Washington language proficiency placement test (WLPT).

[Statutory Authority: RCW 28A.180.010. 09-04-014, § 392-160-020, filed 1/23/09, effective 2/23/09. Statutory Authority: Chapter 28A.180 RCW. 91-17-008 (Order 12), § 392-160-020, filed 8/12/91, effective 9/12/91. Statutory Authority: RCW 28A.58.808. 84-20-083 (Order 84-41), § 392-160-020, filed 10/2/84. Statutory Authority: RCW 28A.58.800 through 28A.58.810. 84-13-027 (Order 84-17), § 392-160-020, filed 6/13/84. Statutory Authority: RCW 28A.58.808. 80-07-039 (Order 80-21), § 392-160-020, filed 6/17/80.]

Chapter 392-162 WAC

SPECIAL SERVICE PROGRAM—LEARNING ASSISTANCE

WAC

392-162-010	Purpose.
392-162-020	Definition—Learning assistance program (LAP).
392-162-036	Definition—Extended learning opportunities.
392-162-054	Definition—District eligibility and distribution of funds.
392-162-060	District application.
392-162-068	Program plan.
392-162-072	Program plan—Approved activities.
392-162-075	Program approval.

WAC 392-162-010 Purpose. The purpose of this chapter is to set forth policies and procedures for the administration of and to ensure district compliance with state requirements for a program designed to provide extended learning opportunities to public school students in grades kindergarten through twelve who score below standard for his or her grade level on the statewide assessments and assessments in the basic skills administered by local school districts.

The learning assistance program requirements in this chapter are designed to:

- (1) Provide the means by which a school district becomes eligible for learning assistance program funds and the distribution of those funds;
- (2) Promote the use of assessment data when developing programs to assist underachieving students;
- (3) Guide school districts in providing the most effective and efficient practices when implementing supplemental instruction and services; and
- (4) Guide school districts in providing extended learning opportunities to assist underachieving students and students in grades eleven and twelve who are at risk of not meeting state and local graduation requirements.

[Statutory Authority: RCW 28A.165.075. 09-24-075, § 392-162-010, filed 11/30/09, effective 12/31/09; 08-21-053, § 392-162-010, filed 10/9/08, effective 11/9/08. Statutory Authority: RCW 28A.300.070. 07-02-015, § 392-162-010, filed 12/21/06, effective 1/21/07. Statutory Authority: 1987 c 478. 87-22-001 (Order 87-14), § 392-162-010, filed 10/22/87. Statutory Authority: RCW 28A.41.408. 84-14-038 (Order 84-21), § 392-162-010, filed 6/28/84.]

WAC 392-162-020 Definition—Learning assistance program (LAP). As used in this chapter, the term "learning assistance program" means a statewide program designed to enhance educational opportunities for public school students in grades kindergarten through twelve who do not meet state standards by providing supplemental instruction and services to those students.

[Statutory Authority: RCW 28A.165.075. 09-24-075, § 392-162-020, filed 11/30/09, effective 12/31/09; 08-21-053, § 392-162-020, filed 10/9/08, effective 11/9/08. Statutory Authority: RCW 28A.300.070. 07-02-015, § 392-162-020, filed 12/21/06, effective 1/21/07. Statutory Authority: 1987 c 478. 87-22-001 (Order 87-14), § 392-162-020, filed 10/22/87. Statutory Authority: RCW 28A.41.408. 84-14-038 (Order 84-21), § 392-162-020, filed 6/28/84.]

WAC 392-162-036 Definition—Extended learning opportunities. As used in this chapter the term "extended learning opportunities" means a program of learning assistance in addition to the required basic education instruction designed to improve the educational performance of underachieving students selected under WAC 392-162-080. The minimum allocation for the learning assistance program shall provide an extended school day and extended school year for each level of school and a per student allocation for maintenance, supplies, and operating costs.

[Statutory Authority: RCW 28A.165.075. 09-24-075, § 392-162-036, filed 11/30/09, effective 12/31/09; 08-21-053, § 392-162-036, filed 10/9/08, effective 11/9/08.]

WAC 392-162-054 Definition—District eligibility and distribution of funds. Each school district with an approved program is eligible for state funds provided for the learning assistance program. The funds shall be appropriated for the learning assistance program in accordance with the Omnibus Appropriations Act and RCW 28A.150.260. The distribution formula is for school district allocation purposes only, but funds appropriated for the learning assistance program must be expended for the purposes of RCW 28A.165.005 through 28A.165.065. The distribution formula shall be based on one or more family income factors measuring economic need.

[Statutory Authority: RCW 28A.165.075. 09-24-075, § 392-162-054, filed 11/30/09, effective 12/31/09; 08-21-053, § 392-162-054, filed 10/9/08, effective 11/9/08. Statutory Authority: RCW 28A.300.070. 07-02-015, § 392-162-054, filed 12/21/06, effective 1/21/07.]

WAC 392-162-060 District application. Each district that seeks an allocation from the state for a learning assistance program shall submit an application or significant changes to a previously approved application by July 1st of each year, including the district program plan outlined in WAC 392-162-070, and an annual expenditure plan for approval on electronic forms provided by the superintendent of public instruction.

[Statutory Authority: RCW 28A.165.075. 09-24-075, § 392-162-060, filed 11/30/09, effective 12/31/09; 08-21-053, § 392-162-060, filed 10/9/08, effective 11/9/08. Statutory Authority: RCW 28A.300.070. 07-02-015, § 392-162-060, filed 12/21/06, effective 1/21/07. Statutory Authority: 1987 c 478. 87-22-001 (Order 87-14), § 392-162-060, filed 10/22/87. Statutory Authority: RCW 28A.41.408. 84-14-038 (Order 84-21), § 392-162-060, filed 6/28/84.]

WAC 392-162-068 Program plan. (1) A participating school district shall submit the district's plan for using learning assistance funds to the office of the superintendent of public instruction for approval to the extent required under subsection (2) of this section. The program plan must identify the program activities to be implemented from RCW 28A.165.035 and implement all of the elements in (a)

through (h) of this subsection. The school district plan shall include the following:

(a) District and school-level data on reading, writing, and mathematics achievement as reported pursuant to chapter 28A.655 RCW and relevant federal law;

(b) Processes used for identifying the underachieving students to be served by the program, including the identification of school or program sites providing program activities;

(c) How accelerated learning plans are developed and implemented for participating students. Accelerated learning plans may be developed as part of an existing student achievement plan process such as student plans for achieving state high school graduation standards, individual student academic plans, or the achievement plans for groups of students. Accelerated learning plans shall include:

(i) Achievement goals for students;

(ii) Roles of the student, parents or guardians, and teachers in the plan;

(iii) Communication procedures regarding student accomplishments; and

(iv) Plan reviews and adjustments processes;

(d) How state level and classroom assessments are used to inform instruction;

(e) How focused and intentional instructional strategies have been identified and implemented;

(f) How highly qualified instructional staff are developed and supported in the program and in participating schools;

(g) How other federal, state, district, and school resources are coordinated with school improvement plans and the district's strategic plan to support underachieving students; and

(h) How a program evaluation will be conducted to determine direction for the following school year.

(2) If a school district has received approval of its plan once, it is not required to submit a plan for approval under RCW 28A.165.045 or this section unless the district has made a significant change to the plan. If a district has made a significant change to only a portion of the plan, the district need only submit a description of the change made and not the entire plan. Plans or descriptions of changes to the plan must be submitted by July 1st as required under this section. The office of the superintendent of public instruction shall establish guidelines for what a "significant change" is.

[Statutory Authority: RCW 28A.165.075, 09-24-075, § 392-162-068, filed 11/30/09, effective 12/31/09; 08-21-053, § 392-162-068, filed 10/9/08, effective 11/9/08. Statutory Authority: RCW 28A.300.070, 07-02-015, § 392-162-068, filed 12/21/06, effective 1/21/07.]

WAC 392-162-072 Program plan—Approved activities. Through the identification of best practices, which maximize the opportunities for student success, services and activities which support the learning assistance program include:

(1) Extended learning time through extended day, week or year activities;

(2) Instructional services to provide extended learning opportunities for eligible eleventh and twelfth grade students who are at risk of not meeting local or state graduation requirements as well as eighth grade students who need addi-

tional assistance for a successful entry into high school. The instruction services may include, but are not limited to, the following:

(a) Individual or small group instruction;

(b) Instruction in English language arts and/or mathematics that eligible students need to pass all or part of the Washington assessment of student learning;

(c) Inclusion in remediation programs, including summer school;

(d) Language development instruction for English language learners;

(e) On-line curriculum and instructional support, including programs for credit retrieval;

(3) Professional development for certificated and classified staff that focuses on the needs of diverse student populations, specific literacy and mathematics content and instructional strategies, and the use of student work to guide effective instruction;

(4) Consultant teacher to assist in implementing effective instructional practices by teachers serving participating students;

(5) Tutoring support for participating students; and

(6) Outreach activities and support for parents of participating students.

[Statutory Authority: RCW 28A.165.075, 09-24-075, § 392-162-072, filed 11/30/09, effective 12/31/09; 08-21-053, § 392-162-072, filed 10/9/08, effective 11/9/08. Statutory Authority: RCW 28A.300.070, 07-02-015, § 392-162-072, filed 12/21/06, effective 1/21/07.]

WAC 392-162-075 Program approval. A participating school district shall submit a program plan to the office of the superintendent of public instruction for approval. The program plan must address all of the elements in RCW 28A.165.025 and identify the program activities to be implemented from RCW 28A.165.035.

School districts achieving state reading and mathematics goals as prescribed in chapter 28A.655 RCW shall have their program approved once the program plan and activities submittal is completed.

School districts not achieving state reading and mathematics goals as prescribed in chapter 28A.655 RCW and that are not in a state or federal program of school improvement shall be subject to program approval once the plan components are reviewed by the office of the superintendent of public instruction for the purpose of receiving technical assistance in the final development of the plan.

School districts with one or more schools in a state or federal program of school improvement shall have their plans and activities reviewed and approved in conjunction with the state or federal program school improvement program requirements.

The superintendent of public instruction shall review and approve each district's program. A district's learning assistance program shall not be implemented prior to approval. If a district does not make significant changes to its learning assistance plan, it is only required to develop and submit a new budget and inform the superintendent of public instruction that no significant changes to the program were made by July 1st. If significant program changes have been made, a new application must be submitted to the superintendent of public instruction. Examples of significant changes include,

but are not limited to, changes in the required components in WAC 392-162-068, description of intended uses of funds and the amounts to be expended for approved activities in WAC 392-162-072, number of students to be served by content area and amounts distributed to individual buildings. These changes must be submitted to the superintendent of public instruction by July 1st.

[Statutory Authority: RCW 28A.165.075. 09-24-075, § 392-162-075, filed 11/30/09, effective 12/31/09. Statutory Authority: RCW 28A.300.070. 07-02-015, § 392-162-075, filed 12/21/06, effective 1/21/07. Statutory Authority: 1987 c 478. 95-19-031 (Order 95-08), § 392-162-075, filed 9/12/95, effective 10/13/95; 87-22-001 (Order 87-14), § 392-162-075, filed 10/22/87. Statutory Authority: RCW 28A.41.408. 84-14-038 (Order 84-21), § 392-162-075, filed 6/28/84.]

Chapter 392-172A WAC RULES FOR THE PROVISION OF SPECIAL EDUCATION

(Formerly chapter 392-172 WAC)

WAC

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392-172A-07055	State safety net fund for high need students.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

392-172A-04075	Other service arrangements for students, including students placed in sectarian schools. [Statutory Authority: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. 07-14-078, § 392-172A-04075, filed 6/29/07, effective 7/30/07.] Repealed by 09-20-053, filed 10/1/09, effective 11/1/09. Statutory Authority: RCW 28A.155.090 and 34 C.F.R. Part 300.
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WAC 392-172A-01040 Consent. (1) Consent means that:

(a) The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;

(b) The parent understands and agrees in writing to the carrying out of the activity for which consent is sought, and the consent describes that activity. This includes a list of any records that will be released, and to whom they will be released, or records that will be requested and from whom; and

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

(2) If a parent revokes consent, that revocation is not retroactive. This means that it does not undo an action that occurred after consent was given and before the consent was revoked.

(3) If the parent revokes consent in writing for their child's receipt of special education services after the student is initially provided special education and related services, the school district is not required to amend the student's education records to remove any references to the student's receipt of special education and related services because of the revocation of consent.

[Statutory Authority: RCW 28A.155.090 and 34 C.F.R. Part 300. 09-20-053, § 392-172A-01040, filed 10/1/09, effective 11/1/09. Statutory Authority: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. 07-14-078, § 392-172A-01040, filed 6/29/07, effective 7/30/07.]

WAC 392-172A-01060 Elementary or secondary school. Elementary or secondary school means a public school, a nonprofit institutional day or residential school, including a private school, that provides education to students in any combination of kindergarten through twelfth grade. The definition does not include any education beyond grade twelve.

[Statutory Authority: RCW 28A.155.090 and 34 C.F.R. Part 300. 09-20-053, § 392-172A-01060, filed 10/1/09, effective 11/1/09. Statutory Authority: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. 07-14-078, § 392-172A-01060, filed 6/29/07, effective 7/30/07.]

WAC 392-172A-01145 Private school. Private school means a nonpublic school or nonpublic school district conducting a program consisting of kindergarten and at least grade one, or a program of any combination of grades one through twelve and meeting:

(1) Minimum state board private school approval standards as outlined in chapter 180-90 WAC; and

(2) The definition of elementary and secondary schools in WAC 392-172A-01060.

[Statutory Authority: RCW 28A.155.090 and 34 C.F.R. Part 300. 09-20-053, § 392-172A-01145, filed 10/1/09, effective 11/1/09. Statutory Authority: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. 07-14-078, § 392-172A-01145, filed 6/29/07, effective 7/30/07.]

WAC 392-172A-02000 Students' rights to a free appropriate public education (FAPE). (1) Each school district, public agency, and residential or day schools operated pursuant to chapters 28A.190 and 72.40 RCW shall provide every student who is eligible for special education between the age of three and twenty-one years, a free appropriate public education program (FAPE). The right to a FAPE includes special education for students who have been suspended or

expelled from school. A FAPE is also available to any student determined eligible for special education even though the student has not failed or been retained in a course or grade and is advancing from grade to grade. The right to special education for eligible students starts on their third birthday with an IEP in effect by that date. If an eligible student's third birthday occurs during the summer, the student's IEP team shall determine the date when services under the individualized education program will begin.

(2) A student who is determined eligible for special education services shall remain eligible until one of the following occurs:

(a) A group of qualified professionals and the parent of the student, based on a reevaluation, determines the student is no longer eligible for special education; or

(b) The student has met high school graduation requirements established by the school district pursuant to rules of the state board of education, and the student has graduated from high school with a regular high school diploma. A regular high school diploma does not include a certificate of high school completion, or a general educational development credential. Graduation from high school with a regular high school diploma constitutes a change in placement, requiring written prior notice in accordance with WAC 392-172A-05010; or

(c) The student enrolled in the public school system or is receiving services pursuant to chapter 28A.190 or 72.40 RCW has reached age twenty-one. The student whose twenty-first birthday occurs on or before August 31 would no longer be eligible for special education. The student whose twenty-first birthday occurs after August 31, shall continue to be eligible for special education and any necessary related services for the remainder of the school year; or

(d) The student stops receiving special education services based upon a parent's written revocation to a school district pursuant to WAC 392-172A-03000 (2)(e).

[Statutory Authority: RCW 28A.155.090 and 34 C.F.R. Part 300. 09-20-053, § 392-172A-02000, filed 10/1/09, effective 11/1/09. Statutory Authority: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. 07-14-078, § 392-172A-02000, filed 6/29/07, effective 7/30/07.]

WAC 392-172A-02040 Child find. (1) The school district shall conduct child find activities calculated to reach all students with a suspected disability for the purpose of locating, evaluating and identifying students who are in need of special education and related services, regardless of the severity of their disability. The child find activities shall extend to students residing in the district whether or not they are enrolled in the public school system. Students attending private elementary or secondary schools located within the district shall be located, identified and evaluated consistent with WAC 392-172A-04005. Districts will conduct child find activities for infants and toddlers, consistent with the child find requirements of the lead agency for Part C of the act.

(2) Child find activities must be calculated to reach students who are homeless, wards of the state, highly mobile students with disabilities, such as homeless and migrant students and students who are suspected of being a student with a disability and in need of special education, even though they are advancing from grade to grade.

(3) The local school district shall have policies and procedures in effect that describe the methods it uses to conduct child find activities in accordance with subsections (1) and (2) of this section. Methods used may include but are not limited to activities such as:

(a) Providing written notification to all parents of students in the district's jurisdiction regarding access to and the use of its child find system;

(b) Posting notices in school buildings, other public agency offices, medical facilities, and other public areas, describing the availability of special education programs;

(c) Offering preschool developmental screening;

(d) Conducting local media informational campaigns;

(e) Coordinating distribution of information with other child find programs within public and private agencies; and

(f) Using internal district child find methods such as screening, reviewing district-wide test results, providing in-service education to staff, and other methods developed by the school district to identify, locate and evaluate students including a systematic, intervention based, process within general education for determining the need for a special education referral.

[Statutory Authority: RCW 28A.155.090 and 34 C.F.R. Part 300. 09-20-053, § 392-172A-02040, filed 10/1/09, effective 11/1/09. Statutory Authority: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. 07-14-078, § 392-172A-02040, filed 6/29/07, effective 7/30/07.]

WAC 392-172A-02090 Personnel qualifications. (1) In addition to the highly qualified requirements for teachers, pursuant to WAC 392-172A-01085, all school district personnel providing special education services shall meet the following qualifications:

(a) All employees shall hold such credentials, certificates, endorsements or permits as are now or hereafter required by the professional educator standards board for the particular position of employment and shall meet such supplemental standards as may be established by the school district of employment. Supplemental standards established by a district or other public agency may exceed, but not be less than, those established by the professional educator standards board in accordance with Title 181 WAC and this section.

(b) In addition to the requirement of this subsection (1), all special education teachers providing, designing, supervising, monitoring or evaluating the provision of special education shall possess "substantial professional training." "Substantial professional training" as used in this section shall be evidenced by issuance of an appropriate special education endorsement on an individual teaching certificate issued by the OSPI, professional education and certification section.

(c) Other certificated related services personnel providing specially designed instruction or related services as defined in this chapter, shall meet standards established under the educational staff associate rules of the professional educator standards board, as now or hereafter amended.

(d) Employees with only an early childhood special education endorsement may be assigned to programs that serve students birth through eight. Preference for an early childhood special education assignment must be given first to employees having early childhood special education endorsement.

(e) Certified and/or classified staff assigned to provide instruction in Braille, the use of Braille, or the production of Braille must demonstrate competency with grade two standard literary Braille code by successful completion of a test approved by the professional educator standards board pursuant to WAC 181-82-130.

(f) Paraprofessional staff and aides shall present evidence of skills and knowledge necessary to meet the needs of students eligible for special education, and shall be under the supervision of a certificated teacher with a special education endorsement or a certificated educational staff associate, as provided in (g) of this subsection. Paraprofessional staff in Title 1 school-wide programs shall meet ESEA standards for paraprofessionals. Districts shall have procedures that ensure that classified staff receive training to meet state recommended core competencies pursuant to RCW 28A.415.310.

(g) Special education and related services must be provided by appropriately qualified staff. Other staff including general education teachers and paraprofessionals may assist in the provision of special education and related services, provided that the instruction is designed and supervised by special education certificated staff, or for related services by a certificated educational staff associate. Student progress must be monitored and evaluated by special education certificated staff or for related services, a certificated educational staff associate.

(2) School districts must take measurable steps to recruit, hire, train, and retain highly qualified personnel to provide special education and related services to students eligible for special education. There may be occasions when, despite efforts to hire or retain highly qualified teachers, they are unable to do so. The following options are available in these situations:

(a) Teachers who meet state board criteria pursuant to WAC 181-82-110(3) as now or hereafter amended, are eligible for a preendorsement waiver. Application for the special education preendorsement waiver shall be made to the special education section at the OSPI.

(b) In order to temporarily assign a classroom teacher without a special education endorsement to a special education position, the district or other public agency must keep written documentation on the following:

(i) The school district must make one or more of the following factual determinations:

(A) The district or other public agency was unable to recruit a teacher with the proper endorsement who was qualified for the position;

(B) The need for a teacher with such an endorsement could not have been reasonably anticipated and the recruitment of such a classroom teacher at the time of assignment was not reasonably practicable; and/or

(C) The reassignment of another teacher within the district or other public agency with the appropriate endorsement to such assignment would be unreasonably disruptive to the current assignments of other classroom teachers or would have an adverse effect on the educational program of the students assigned such other classroom teachers.

(ii) Upon determination by a school district that one or more of these criteria can be documented, and the district determines that a teacher has the competencies to be an effective special education teacher but does not have endorsement

in special education, the district can so assign the teacher to special education. The teacher so assigned must have completed six semester hours or nine quarter hours of course work which are applicable to an endorsement in special education. The following requirements apply:

(A) A designated representative of the district and any such teacher shall mutually develop a written plan which provides for necessary assistance to the teacher, and which provides for a reasonable amount of planning and study time associated specifically with the out-of-endorsement assignment;

(B) Such teachers shall not be subject to nonrenewal or probation based on evaluations of their teaching effectiveness in the out-of-endorsement assignments;

(C) Such teaching assignments shall be approved by a formal vote of the local school board for each teacher so assigned; and

(D) The assignment of such teachers for the previous school year shall be reported annually to the professional educator standards board by the employing school district as required by WAC 181-16-195.

(3) Teachers placed under the options described in subsection (2) of this section do not meet the definition of highly qualified.

(4) Notwithstanding any other individual right of action that a parent or student may maintain under this chapter, nothing in this section shall be construed to create a right of action on behalf of an individual student or a class of students for the failure of a particular school district employee be highly qualified, or to prevent a parent from filing a state complaint about staff qualifications with the OSPI under WAC 392-172A-05025 through 392-172A-05040.

(5) School districts and other public agencies that are recipients of funding under Part B of the act must make positive efforts to employ, and advance in employment, qualified individuals with disabilities in programs assisted under Part B of the act.

[Statutory Authority: RCW 28A.155.090 and 34 C.F.R. Part 300.09-20-053, § 392-172A-02090, filed 10/1/09, effective 11/1/09. Statutory Authority: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. 07-14-078, § 392-172A-02090, filed 6/29/07, effective 7/30/07.]

WAC 392-172A-02100 Home/hospital instruction.

Home or hospital instruction shall be provided to students eligible for special education and other students who are unable to attend school for an estimated period of four weeks or more because of disability or illness. As a condition to such services, the parent of a student shall request the services and provide a written statement to the school district from a qualified medical practitioner that states the student will not be able to attend school for an estimated period of at least four weeks. A student who is not determined eligible for special education, but who qualifies pursuant to this subsection shall be deemed "disabled" only for the purpose of home/hospital instructional services and funding and may not otherwise qualify as a student eligible for special education for the purposes of generating state or federal special education funds. A school district shall not pay for the cost of the statement from a qualified medical practitioner for the purposes of qualifying a student for home/hospital instructional services pursuant to this section.

Home/hospital instructional services funded in accordance with the provisions of this section shall not be used for the initial or ongoing delivery of services to students eligible for special education. It shall be limited to services necessary to provide temporary intervention as a result of a physical disability or illness.

[Statutory Authority: RCW 28A.155.090 and 34 C.F.R. Part 300. 09-20-053, § 392-172A-02100, filed 10/1/09, effective 11/1/09. Statutory Authority: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. 07-14-078, § 392-172A-02100, filed 6/29/07, effective 7/30/07.]

WAC 392-172A-03000 Parental consent for initial evaluations, initial services and reevaluations. (1)(a) A school district proposing to conduct an initial evaluation to determine if a student is eligible for special education services must provide prior written notice consistent with WAC 392-172A-05010 and obtain informed consent from the parent before conducting the evaluation.

(b) Parental consent for an initial evaluation must not be construed as consent for initial provision of special education and related services.

(c) The school district must make reasonable efforts to obtain the informed consent from the parent for an initial evaluation to determine whether the student is eligible for special education.

(d) If the student is a ward of the state and is not residing with the student's parent, the school district or public agency is not required to obtain informed consent from the parent for an initial evaluation to determine eligibility for special education services if:

(i) Despite reasonable efforts to do so, the school district cannot discover the whereabouts of the parent of the child;

(ii) The rights of the parents of the child have been terminated; or

(iii) The rights of the parent to make educational decisions have been subrogated by a judge in accordance with state law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.

(e) If the parent of a student enrolled in public school or seeking to be enrolled in public school does not provide consent for an initial evaluation under subsection (1) of this section, or the parent fails to respond to a request to provide consent, the school district may, but is not required to, pursue the initial evaluation of the student by using due process procedures or mediation.

(f) The school district does not violate its child find and evaluation obligations, if it declines to pursue the initial evaluation when a parent refuses to provide consent under (e) of this subsection.

(2)(a) A school district that is responsible for making FAPE available to a student must obtain informed consent from the parent of the student before the initial provision of special education and related services to the student.

(b) The school district must make reasonable efforts to obtain informed consent from the parent for the initial provision of special education and related services to the student.

(c) If the parent of a student fails to respond to a request for or refuses to consent to the initial provision of special education and related services, the school district may not use the due process procedures or mediation in order to obtain

agreement or a ruling that the services may be provided to the student.

(d) If the parent of the student refuses to consent to the initial provision of special education and related services, or the parent fails to respond to a request to provide consent for the initial provision of special education and related services, the school district:

(i) Will not be considered to be in violation of the requirement to make available FAPE to the student for the failure to provide the student with the special education and related services for which the school district requests consent; and

(ii) Is not required to convene an IEP team meeting or develop an IEP.

(e) If at any time after the initial provision of special education and related services, the parent revokes consent in writing for the continued provision of special education and related services, the school district:

(i) Must provide prior written notice to the parent in accordance with WAC 392-172A-05015 before ceasing to provide special education and related services and may not continue to provide special education and related services after the effective date of the prior written notice;

(ii) May not use mediation or the due process procedures in order to obtain agreement or a ruling that the services may be provided to the student;

(iii) Will not be considered to be in violation of the requirement to make FAPE available to the student because of the failure to provide the student with further special education and related services; and

(iv) Is not required to convene an IEP team meeting or develop an IEP for the student for further provision of special education services.

(3)(a) A school district must obtain informed parental consent, prior to conducting any reevaluation of a student eligible for special education services, subject to the exceptions in (d) of this subsection and subsection (4) of this section.

(b) If the parent refuses to consent to the reevaluation, the school district may, but is not required to, pursue the reevaluation by using the due process procedures to override consent or mediation to obtain an agreement from the parent.

(c) The school district does not violate its child find obligations or the evaluation and reevaluation procedures if it declines to pursue the evaluation or reevaluation.

(d) A school district may proceed with a reevaluation and does not need to obtain informed parental consent if the school district can demonstrate that:

(i) It made reasonable efforts to obtain such consent; and

(ii) The child's parent has failed to respond.

(4)(a) Parental consent for an initial or a reevaluation is not required before:

(i) Reviewing existing data as part of an evaluation or a reevaluation; or

(ii) Administering a test or other evaluation that is administered to all students unless, before administration of that test or evaluation, consent is required of parents of all students.

(b) A school district may not use a parent's refusal to consent to one service or activity of an initial evaluation or reevaluation to deny the parent or student any other service,

benefit, or activity of the school district, except as required by this chapter.

(c) If a parent of a child who is home schooled or placed in a private school by the parents at their own expense does not provide consent for the initial evaluation or the reevaluation, or the parent fails to respond to a request to provide consent, the public agency may not use the consent override procedures and the public agency is not required to consider the student as eligible for special education services.

(d) To meet the reasonable efforts requirements to obtain consent for an evaluation or reevaluation the school district must document its attempts to obtain parental consent using the procedures in WAC 392-172A-03100(6).

[Statutory Authority: RCW 28A.155.090 and 34 C.F.R. Part 300.09-20-053, § 392-172A-03000, filed 10/1/09, effective 11/1/09. Statutory Authority: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. 07-14-078, § 392-172A-03000, filed 6/29/07, effective 7/30/07.]

WAC 392-172A-03045 District procedures for specific learning disabilities. In addition to the evaluation procedures for determining whether students are eligible for special education, school districts must follow additional procedures for identifying whether a student has a specific learning disability. Each school district shall develop procedures for the identification of students with specific learning disabilities which may include the use of:

(1) A severe discrepancy between intellectual ability and achievement; or

(2) A process based on the student's response to scientific, research-based intervention; or

(3) A combination of both within a school district, provided that the evaluation process used is the same for all students within the selected grades or buildings within the school district and is in accordance with district procedures.

[Statutory Authority: RCW 28A.155.090 and 34 C.F.R. Part 300.09-20-053, § 392-172A-03045, filed 10/1/09, effective 11/1/09. Statutory Authority: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. 07-14-078, § 392-172A-03045, filed 6/29/07, effective 7/30/07.]

WAC 392-172A-03105 When IEPs must be in effect.

(1) At the beginning of each school year, each school district must have an IEP in effect for each student eligible for special education that it is serving through enrollment in the district.

(2) For an initial IEP, a school district must ensure that:

(a) A meeting to develop the student's IEP within thirty days of a determination that the student is eligible for special education and related services; and

(b) As soon as possible following development of the IEP, special education and related services are made available to the student in accordance with the student's IEP.

(3) Each school district must ensure that:

(a) The student's IEP is accessible to each general education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation; and

(b) Each teacher and provider described in (a) of this subsection is informed of:

(i) His or her specific responsibilities related to implementing the student's IEP; and

(ii) The specific accommodations, modifications, and supports that must be provided for the student in accordance with the IEP.

(4) If a student eligible for special education transfers from one school district to another school district within the state and has an IEP that was in effect for the current school year from the previous school district, the new school district, in consultation with the parents, must provide FAPE to the student including services comparable to those described in the student's IEP, until the new school district either:

(a) Adopts the student's IEP from the previous school district; or

(b) Develops, adopts, and implements a new IEP that meets the applicable requirements in WAC 392-172A-03090 through 392-172A-03110.

(5) If a student eligible for special education transfers from a school district located in another state to a school district within the state and has an IEP that is in effect for the current school year from the previous school district, the new school district, in consultation with the parents, must provide FAPE to the student including services comparable to those described in the student's IEP, until the new school district:

(a) Conducts an evaluation to determine whether the student is eligible for special education services in this state, if the school district believes an evaluation is necessary to determine eligibility under state standards; and

(b) Develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements in WAC 392-172A-03090 through 392-172A-03110.

(6) To facilitate the transition for a student described in subsections (4) and (5) of this section:

(a) The new school in which the student enrolls must take reasonable steps to promptly obtain the student's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the student, from the school district in which the student was previously enrolled, pursuant to RCW 28A.225.335 and consistent with applicable Family Education Rights and Privacy Act (FERPA) requirements; and

(b) The school district in which the student was enrolled must take reasonable steps to promptly respond to the request from the new school district, pursuant to RCW 28A.225.335 and applicable FERPA requirements.

[Statutory Authority: RCW 28A.155.090 and 34 C.F.R. Part 300.09-20-053, § 392-172A-03105, filed 10/1/09, effective 11/1/09. Statutory Authority: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. 07-14-078, § 392-172A-03105, filed 6/29/07, effective 7/30/07.]

WAC 392-172A-03135 Aversive interventions—Individualized education program requirements. (1) If the need for use of aversive interventions is determined appropriate by the IEP team, the individualized education program shall:

(a) Be consistent with the recommendations of the IEP team which includes a school psychologist and/or other certificated employee who understands the appropriate use of the aversive interventions and who concurs with the recommended use of the aversive interventions, and a person who works directly with the student.

(b) Specify the aversive interventions that may be used.

(c) State the reason the aversive interventions are judged to be appropriate and the behavioral objective sought to be achieved by its use, and shall describe the positive interventions attempted and the reasons they failed, if known.

(d) Describe the circumstances under which the aversive interventions may be used.

(e) Describe or specify the maximum duration of each isolation or restraint.

(f) Specify any special precautions that must be taken in connection with the use of the aversive interventions technique.

(g) Specify the person or persons permitted to use the aversive interventions and the current qualifications and required training of the personnel permitted to use the aversive interventions.

(h) Establish a means of evaluating the effects of the use of the aversive interventions and a schedule for periodically conducting the evaluation at least every three months when school is in session.

(2) School districts shall document each use of an aversive intervention, circumstances under which it was used, and the length of time of use.

[Statutory Authority: RCW 28A.155.090 and 34 C.F.R. Part 300. 09-20-053, § 392-172A-03135, filed 10/1/09, effective 11/1/09. Statutory Authority: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. 07-14-078, § 392-172A-03135, filed 6/29/07, effective 7/30/07.]

WAC 392-172A-04015 Expenditures. (1) To meet the requirement of WAC 392-172A-04010(2), each school district must make available the following amounts for providing special education and related services, including direct services to parentally placed private students eligible for special education.

(a) For students eligible for special education aged three through twenty-one, an amount that is the same proportion of the school district's total subgrant under section 611(f) of the act as the number of private school students eligible for special education aged three through twenty-one who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district, is to the total number of students eligible for special education in its jurisdiction aged three through twenty-one.

(b)(i) For children aged three through five, an amount that is the same proportion of the school district's total subgrant under section 619(g) of the act as the number of parentally placed private school students eligible for special education aged three through five who are enrolled by their parents in a private, including religious, elementary schools located in the school district, is to the total number of students eligible for special education in its jurisdiction aged three through five.

(ii) As described in (b)(i) of this subsection, students aged three through five are considered to be parentally placed private school students enrolled by their parents in private, including religious, elementary schools, if they are enrolled in a private school kindergarten level or above.

(c) If a school district has not expended all of the funds for equitable services described in (a) and (b) of this subsection by the end of the fiscal year for which Congress appropriated the funds, the remaining funds must be obligated for special education and related services to parentally placed

private school students eligible for special education during a carry-over period of one additional year.

(2) In calculating the proportionate amount of federal funds to be provided for parentally placed private school students eligible for special education, the school district, after timely and meaningful consultation with representatives of private schools under WAC 392-172A-04020, must conduct a thorough and complete child find process to determine the number of parentally placed students eligible for special education attending private schools located in the school district.

(3)(a) After timely and meaningful consultation with representatives of parentally placed private school students eligible for special education, school districts must:

(i) Determine the number of parentally placed private school students eligible for special education attending private schools located in the school district; and

(ii) Ensure that the count is conducted on any date between October 1 and December 1, inclusive, of each year.

(b) The count must be used to determine the amount that the school district must spend on providing special education and related services to parentally placed private school students eligible for special education in the next subsequent fiscal year.

(4) State and local funds may supplement and in no case supplant the proportionate amount of federal funds required to be expended for parentally placed private school students eligible for special education to the extent consistent with state law.

[Statutory Authority: RCW 28A.155.090 and 34 C.F.R. Part 300. 09-20-053, § 392-172A-04015, filed 10/1/09, effective 11/1/09. Statutory Authority: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. 07-14-078, § 392-172A-04015, filed 6/29/07, effective 7/30/07.]

WAC 392-172A-04040 Equitable services provided.

(1) The services provided to parentally placed private school students eligible for special education must be provided by personnel meeting the same standards as personnel providing services in the public schools, except that private elementary school and secondary school teachers who are providing equitable services to parentally placed private school students eligible for special education do not have to meet the highly qualified special education teacher requirements.

(2) Parentally placed private school students eligible for special education may receive a different amount of services than students eligible for special education attending public schools.

(3) Each parentally placed private school student eligible for special education who has been designated to receive services must have a services plan that describes the specific special education and related services that the school district will provide in light of the services that the school district has determined, it will make available to parentally placed private school students eligible for special education.

(4) The services plan must, to the extent appropriate:

(a) Meet the requirements of WAC 392-172A-03090, with respect to the services provided; and

(b) Be developed, reviewed, and revised consistent with WAC 392-172A-03090 through 392-172A-03110.

(5) The provision of services must be provided:

(a) By employees of a school district or ESD; or

(b) Through contract by the school district with an individual, association, agency, organization, or other entity.

(6) Special education and related services provided to parentally placed private school students eligible for special education, including materials and equipment, must be secular, neutral, and nonideological.

[Statutory Authority: RCW 28A.155.090 and 34 C.F.R. Part 300.09-20-053, § 392-172A-04040, filed 10/1/09, effective 11/1/09. Statutory Authority: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. 07-14-078, § 392-172A-04040, filed 6/29/07, effective 7/30/07.]

WAC 392-172A-04045 Location of services and transportation. (1) Services to parentally placed private school students eligible for special education may be provided on the premises of private schools.

(2) If necessary for the student to benefit from or participate in the services provided, a parentally placed private school student eligible for special education must be provided transportation:

(a) From the student's school or the student's home to a site other than the private school; and

(b) From the service site to the private school, or to the student's home, depending on the timing of the services.

(3) School districts are not required to provide transportation from the student's home to the private school.

(4) The cost of the transportation described in subsection (2) of this section may be included in calculating whether the school district has met its proportional share requirement.

[Statutory Authority: RCW 28A.155.090 and 34 C.F.R. Part 300.09-20-053, § 392-172A-04045, filed 10/1/09, effective 11/1/09. Statutory Authority: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. 07-14-078, § 392-172A-04045, filed 6/29/07, effective 7/30/07.]

WAC 392-172A-04060 Use of personnel. (1) School district or other public agency personnel may be made available to private schools and agencies only to the extent necessary to provide services required by the student if those services are not normally provided by the private school.

(2) Each school district or other public agency providing services to students enrolled in private schools or agencies shall maintain continuing administrative control and direction over those services.

(3) Services to private school students shall not include the payment of salaries of teachers or other employees of private schools or agencies, except for services performed outside regular hours of the school day and under public supervision and control.

[Statutory Authority: RCW 28A.155.090 and 34 C.F.R. Part 300.09-20-053, § 392-172A-04060, filed 10/1/09, effective 11/1/09. Statutory Authority: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. 07-14-078, § 392-172A-04060, filed 6/29/07, effective 7/30/07.]

WAC 392-172A-04070 Property, equipment and supplies. (1) A school district must control and administer the funds used to provide special education and related services for students eligible for those services in private schools, and hold title to and administer materials, equipment, and property purchased with those funds for the uses and purposes provided in the act.

(2) Equipment and supplies used with students in a private school or agency may be placed on private school premises for the period of time necessary for the program.

Equipment and supplies placed on private school premises will be used only for Part B purposes.

(3) Records shall be kept of equipment and supplies and an accounting made of the equipment and supplies which shall assure that the equipment is used solely for the purposes of the program. Equipment and supplies placed in private schools must be able to be removed from the private school without remodeling the private school facility.

(4) The equipment and supplies shall be removed from the private school or agency if necessary to avoid its being used for other purposes or if it is no longer needed for Part B purposes.

(5) Funds shall not be used for repairs, minor remodeling, or to construct facilities for private schools or agencies.

[Statutory Authority: RCW 28A.155.090 and 34 C.F.R. Part 300.09-20-053, § 392-172A-04070, filed 10/1/09, effective 11/1/09. Statutory Authority: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. 07-14-078, § 392-172A-04070, filed 6/29/07, effective 7/30/07.]

WAC 392-172A-05005 Independent educational evaluation. (1)(a) Parents of a student eligible for special education have the right under this chapter to obtain an independent educational evaluation of the student if the parent disagrees with the school district's evaluation subject to subsections (2) through (7) of this section.

(b) Each school district shall provide to parents, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained, and the agency criteria applicable for independent educational evaluations as set forth in subsection (7) of this section.

(c) For the purposes of this section:

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

(ii) Public expense means that the school district either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent, consistent with this chapter.

(2)(a) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation conducted or obtained by the school district.

(b) A parent is entitled to only one independent educational evaluation at public expense each time the school district conducts an evaluation with which the parent disagrees.

(c) If a parent requests an independent educational evaluation at public expense consistent with (a) of this subsection, the school district must either:

(i) Initiate a due process hearing within fifteen days to show that its evaluation is appropriate; or

(ii) Ensure that an independent educational evaluation is provided at public expense without unnecessary delay, unless the school district demonstrates in a hearing under this chapter that the evaluation obtained by the parent did not meet agency criteria.

(3) If the school district initiates a hearing and the final decision is that the district's evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.

(4) If a parent requests an independent educational evaluation, the school district may ask for the parent's reason why he or she objects to the school district's evaluation. However, the explanation by the parent may not be required and the school district must either provide the independent educational evaluation at public expense or initiate a due process hearing to defend the educational evaluation.

(5) If the parent obtains an independent educational evaluation at public or private expense, the results of the evaluation:

(a) Must be considered by the school district, if it meets agency criteria, in any decision made with respect to the provision of FAPE to the student; and

(b) May be presented as evidence at a hearing under this chapter regarding that student.

(6) If an administrative law judge requests an independent educational evaluation as part of a due process hearing, the cost of the evaluation must be at public expense.

(7)(a) If an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the school district uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an independent educational evaluation.

(b) Except for the criteria described in (a) of this subsection, a school district may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.

[Statutory Authority: RCW 28A.155.090 and 34 C.F.R. Part 300. 09-20-053, § 392-172A-05005, filed 10/1/09, effective 11/1/09. Statutory Authority: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. 07-14-078, § 392-172A-05005, filed 6/29/07, effective 7/30/07.]

WAC 392-172A-05100 Hearing rights. These hearing rights govern both due process hearings conducted pursuant to WAC 392-172A-05080 through 392-172A-05125 and hearings for disciplinary matters conducted pursuant to WAC 392-172A-05160 and 392-172A-05165.

(1) Any party to a due process hearing has the right to:

(a) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of students eligible for special education;

(b) Present evidence and confront, cross-examine, and compel the attendance of witnesses;

(c) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing, or two business days if the hearing is expedited pursuant to WAC 392-172A-05160;

(d) Obtain a written, or, at the option of the parents, electronic, verbatim record of the hearing; and

(e) Obtain written, or, at the option of the parents, electronic findings of fact and decisions.

(2)(a) At least five business days prior to a due process hearing conducted pursuant to this section, or two business days prior to a hearing conducted pursuant to WAC 392-172A-05165, each party must disclose to all other parties all evaluations completed by that date and the recommendations based on the offering party's evaluations that the party intends to use at the hearing.

(b) An administrative law judge may bar any party that fails to comply with (a) of this subsection from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

(3) The party requesting the due process hearing may not raise issues at the due process hearing that were not raised in the due process hearing request unless the other party agrees otherwise.

(4) Either party may file a separate due process hearing request on an issue separate from a due process hearing request already filed.

(5) Parents involved in hearings must be given the right to:

(a) Have the student who is the subject of the hearing present;

(b) Open the hearing to the public; and

(c) Have the record of the hearing and the findings of fact and decisions described in subsection (1)(d) and (e) of this section provided to the parent at no cost.

(6) To the extent not modified by the hearing procedures addressed in this section and the timelines and procedures for civil actions addressed in WAC 392-172A-05115 the general rules applicable for administrative hearings contained in chapter 10-08 WAC govern the conduct of the due process hearing.

[Statutory Authority: RCW 28A.155.090 and 34 C.F.R. Part 300. 09-20-053, § 392-172A-05100, filed 10/1/09, effective 11/1/09. Statutory Authority: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. 07-14-078, § 392-172A-05100, filed 6/29/07, effective 7/30/07.]

WAC 392-172A-05130 Surrogate parents. (1) School districts must ensure that the rights of a student are protected when:

(a) No parent as defined in WAC 392-172A-01125 can be identified;

(b) The school district, after reasonable efforts, cannot locate a parent;

(c) The student is a ward of the state;

(d) The student is an unaccompanied homeless youth as defined in section 725(6) of the McKinney-Vento Homeless Assistance Act; or

(e) An educational representative is appointed for a student pursuant to WAC 392-172A-05135(5).

(2) School districts must develop procedures for assignment of an individual to act as a surrogate for the parents. This must include a method:

(a) For determining whether a student needs a surrogate parent;

(b) For assigning a surrogate parent to the student; and

(c) Ensuring that an assignment of a surrogate parent is provided within thirty days of the district's determination that a surrogate parent is required.

(3) If a student is a ward of the state, the judge overseeing the student's case, may appoint a surrogate parent, provided that the surrogate meets the requirements in subsections (4)(a) and (5) of this section.

(4) School districts must ensure that a person selected as a surrogate parent:

(a) Is not an employee of the OSPI, the school district, or any other agency that is involved in the education or care of the student;

(b) Has no personal or professional interest that conflicts with the interest of the student the surrogate parent represents; and

(c) Has knowledge and skills that ensure adequate representation of the student.

(5) A person otherwise qualified to be a surrogate parent under subsection (4) of this section is not an employee of the OSPI, school district or other agency solely because he or she is paid by the agency to serve as a surrogate parent.

(6) In the case of a student who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents without regard to subsection (4)(a) of this section until a surrogate parent can be appointed that meets all of the requirements of subsection (4) of this section.

(7) The surrogate parent may represent the student in all matters relating to the identification, evaluation, educational placement and the provision of FAPE to the student.

[Statutory Authority: RCW 28A.155.090 and 34 C.F.R. Part 300. 09-20-053, § 392-172A-05130, filed 10/1/09, effective 11/1/09. Statutory Authority: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. 07-14-078, § 392-172A-05130, filed 6/29/07, effective 7/30/07.]

WAC 392-172A-05135 Transfer of parental rights to the student at age of majority. (1) Subject to subsections (4) and (5) of this section, when a student eligible for special education reaches the age of eighteen or is deemed to have reached the age of majority, consistent with RCW 26.28.010 through 26.28.020:

(a) The school district shall provide any notices required under this chapter to both the student and the parents; and

(b) All other rights accorded to parents under the act and this chapter transfer to the student.

(2) All rights accorded to parents under the act transfer to students at the age of majority who are incarcerated in an adult or juvenile, state, or local correctional institution.

(3) Whenever a school district transfers rights under this section, it shall notify the student and the parents of the transfer of rights.

(4) Students who have been determined to be incapacitated pursuant to chapter 11.88 RCW shall be represented by the legal guardian appointed under that chapter.

(5) Students over the age of eighteen who have not been determined incapacitated under chapter 11.88 RCW, may be certified as unable to provide informed consent or to make educational decisions, and have an educational representative appointed for them pursuant to the following procedures:

(a) Two separate professionals must state in writing they have conducted a personal examination or interview with the student, the student is incapable of providing informed consent to make educational decisions, and the student has been informed of this decision. The professionals must be:

(i) A medical doctor licensed in the state where the doctor practices medicine;

(ii) A physician's assistant whose certification is countersigned by a supervising physician;

(iii) A certified nurse practitioner;

(iv) A licensed clinical psychologist; or

(v) A guardian ad litem appointed for the student.

(b) When it receives the required written certification, the school district will designate an educational representative from the following list and in the following order of representation:

(i) The student's spouse;

(ii) The student's parent(s);

(iii) Another adult relative willing to act as the student's educational representative; or

(iv) A surrogate educational representative appointed pursuant to and acting in accordance with WAC 392-172A-05130.

(c) A student shall be certified as unable to provide informed consent pursuant to this section for a period of one year. However, the student, or an adult with a bona fide interest in and knowledge of the student, may challenge the certification at any time. During the pendency of any challenge, the school district may not rely on the educational representative under this section until the educational representative obtains a new certification under the procedures outlined in (a) of this subsection. If a guardianship action is filed on behalf of the student while a certification is in effect, the school district must follow any court orders in the guardianship proceeding regarding the student's capacity.

(6) Nothing within this section shall prevent a student, who has reached the age of majority, from authorizing another adult to make educational decisions on that student's behalf using a power of attorney consistent with the requirements in chapter 11.94 RCW.

[Statutory Authority: RCW 28A.155.090 and 34 C.F.R. Part 300. 09-20-053, § 392-172A-05135, filed 10/1/09, effective 11/1/09. Statutory Authority: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. 07-14-078, § 392-172A-05135, filed 6/29/07, effective 7/30/07.]

WAC 392-172A-05150 Determination of setting. The student's IEP team determines the interim alternative educational setting for services under WAC 392-172A-05145 (3), (4)(e) and (7).

[Statutory Authority: RCW 28A.155.090 and 34 C.F.R. Part 300. 09-20-053, § 392-172A-05150, filed 10/1/09, effective 11/1/09. Statutory Authority: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. 07-14-078, § 392-172A-05150, filed 6/29/07, effective 7/30/07.]

WAC 392-172A-05170 Protections for students not determined eligible for special education and related services. (1) A student who has not been determined to be eligible for special education and related services under this chapter and who has engaged in behavior that violated a code of student conduct, may assert any of the protections provided for in this chapter if the school district had knowledge as determined in accordance with subsection (2) of this section that the student was a student eligible for special education before the behavior that precipitated the disciplinary action occurred.

(2) Basis of knowledge. A school district must be deemed to have knowledge that a student is eligible for special education if before the behavior that precipitated the disciplinary action occurred:

(a) The parent of the student expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the student, that the student is in need of special education and related services;

(b) The parent of the student requested an evaluation of the student pursuant to WAC 392-172A-03005; or

(c) The teacher of the student, or other personnel of the school district, expressed specific concerns about a pattern of behavior demonstrated by the student directly to the director of special education or to other supervisory personnel of the school district.

(3) A school district would not be deemed to have knowledge under subsection (2) of this section if:

(a) The parent of the student:

(i) Has not allowed an evaluation of the student pursuant to WAC 392-172A-03000 through 392-172A-03080; or

(ii) Has refused services under this chapter; or

(b) The student has been evaluated in accordance with WAC 392-172A-03005 through 392-172A-03080 and determined to not be eligible for special education and related services under this part.

(4)(a) If a school district does not have knowledge that a student is eligible for special education prior to taking disciplinary measures against the student, the student may be disciplined using the same disciplinary measures applied to students without disabilities who engage in comparable behaviors consistent with (b) of this subsection.

(b)(i) If a request is made for an evaluation of a student during the time period in which the student is subjected to disciplinary measures under WAC 392-172A-05145, the evaluation must be conducted in an expedited manner.

(ii) Until the evaluation is completed, the student remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.

(iii) If the student is determined to be eligible for special education services, taking into consideration information from the evaluation conducted by the school district and information provided by the parents, the agency must provide special education and related services in accordance with this chapter and follow the discipline requirements, including the provision of a free appropriate public education for students suspended or expelled from school.

[Statutory Authority: RCW 28A.155.090 and 34 C.F.R. Part 300. 09-20-053, § 392-172A-05170, filed 10/1/09, effective 11/1/09. Statutory Authority: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. 07-14-078, § 392-172A-05170, filed 6/29/07, effective 7/30/07.]

WAC 392-172A-05180 Definitions—Destruction of records, educational records, participating agency. As used in WAC 392-172A-05180 through 392-172A-05245:

(1) Destruction means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

(2) Education records means the type of records covered under the definition of "education records" in the Family Educational Rights and Privacy Act, 34 CFR Part 99.

(3) "Participating agency" means any agency or institution which collects, maintains, or uses personally identifiable information or from which information is obtained in implementing this chapter, and includes the OSPI, school districts and other public agencies.

[Statutory Authority: RCW 28A.155.090 and 34 C.F.R. Part 300. 09-20-053, § 392-172A-05180, filed 10/1/09, effective 11/1/09. Statutory Author-

ity: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. 07-14-078, § 392-172A-05180, filed 6/29/07, effective 7/30/07.]

WAC 392-172A-06000 Condition of assistance. As a condition of receipt and expenditure of federal special education funds, a school district or other public agency shall annually submit a request for federal funds to the superintendent of public instruction, and conduct its special education and related services program in compliance with the requirements of this chapter. The request shall be made through an application that includes, but is not limited to the following assurances and types of information:

(1) Assurances that: The school district or other public agency meets each of the conditions contained in 34 CFR 300.201 through 300.213 relating to:

(a) Development of policies and procedures consistent with this chapter and Part B of the act;

(b) The provision of FAPE to students;

(c) Child find requirements for students; including evaluation;

(d) Development of an IEP;

(e) The provision of services in the least restrictive environment, and the availability of a continuum of services, including access to extracurricular and nonacademic activities;

(f) The provision of procedural safeguard protections and implementation of the procedural safeguards notices;

(g) Confidentiality of records and information;

(h) Transition of children from Part C to Part B services;

(i) Participation of students enrolled in private school programs, using a proportional share of Part B funds;

(j) Use of funds;

(k) Personnel preparation;

(l) Availability of documents relating to the eligibility of the school district;

(m) Provision to OSPI of all necessary information and data for the state's performance goals;

(n) Provision of instructional materials to blind persons or persons with print disabilities;

(o) Timely correction of noncompliance; and

(p) A goal and detailed timetable for providing full educational opportunity to all special education students.

(2) Identification of the local district designee responsible for child identification activities and confidentiality of information.

(3) Information related to participation of students enrolled in private school programs using a proportional share of Part B funds.

(4) Information that addresses the school district's progress or slippage in meeting the state's performance goals and in addressing the state's annual performance plan.

(5) A description of the use of funds received under Part B of the act.

(6) Any other information requested by the OSPI which is necessary for the management of the special education program, including compliance with enforcement activities related to monitoring, due process, citizen complaints, or determinations status.

[Statutory Authority: RCW 28A.155.090 and 34 C.F.R. Part 300. 09-20-053, § 392-172A-06000, filed 10/1/09, effective 11/1/09. Statutory Author-

ity: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. 07-14-078, § 392-172A-06000, filed 6/29/07, effective 7/30/07.]

WAC 392-172A-06005 Consistency with state policies. The school district or other public agency, in providing for the education of students eligible for special education must have in effect policies, procedures, and programs that are consistent with the state policies and procedures established in this chapter.

[Statutory Authority: RCW 28A.155.090 and 34 C.F.R. Part 300. 09-20-053, § 392-172A-06005, filed 10/1/09, effective 11/1/09. Statutory Authority: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. 07-14-078, § 392-172A-06005, filed 6/29/07, effective 7/30/07.]

WAC 392-172A-06085 Coordinated early intervening services. (1) A school district may not use more than fifteen percent of the amount the school district receives under Part B of the act for any fiscal year, less any amount reduced by the school district pursuant to WAC 392-172A-06015 if any, in combination with other amounts (which may include amounts other than education funds), to develop and implement coordinated early intervening services, which may include interagency financing structures. Those services are for students in kindergarten through grade twelve, with a particular emphasis on students in kindergarten through grade three, who are not currently identified as needing special education or related services, but who need additional academic and behavioral support to succeed in a general education environment.

(2) In implementing coordinated early intervening services under this section, a school district may carry out activities that include:

(a) Professional development, which may be provided by entities other than the school district, for teachers and other school staff to enable such personnel to deliver scientifically based academic and behavioral interventions, including scientifically based literacy instruction, and, where appropriate, instruction on the use of adaptive and instructional software; and

(b) Providing educational and behavioral evaluations, services, and supports, including scientifically based literacy instruction.

(3) Nothing in this section shall be construed to either limit or create a right to FAPE under Part B of the act or to delay appropriate evaluation of a student suspected of having a disability.

(4) Each school district that develops and maintains coordinated early intervening services under this section must annually report to the OSPI on:

(a) The number of students served under this section who received coordinated early intervening services; and

(b) The number of students served under this section who received coordinated early intervening services and later receive special education and related services within the following two year period.

(5) Funds made available to carry out this section may be used to carry out coordinated early intervening services aligned with activities funded by, and carried out under the ESEA if those funds are used to supplement, and not supplant, funds made available under the ESEA for the activities and services assisted under this section.

(6) Districts who have been determined to have significant disproportionality will be required to reserve the maximum amount of coordinated early intervening funds for students, in accordance with WAC 392-172A-07040.

[Statutory Authority: RCW 28A.155.090 and 34 C.F.R. Part 300. 09-20-053, § 392-172A-06085, filed 10/1/09, effective 11/1/09. Statutory Authority: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. 07-14-078, § 392-172A-06085, filed 6/29/07, effective 7/30/07.]

WAC 392-172A-07010 Monitoring. (1) OSPI's monitoring of school districts' special education program is to:

(a) Improve educational results and outcomes for all students eligible for special education;

(b) Ensure that school districts meet the program requirements under Part B of the act with a particular emphasis on those requirements that are most closely related to improving educational results for students eligible for special education;

(c) Determine the school district's compliance with this chapter, chapter 28A.155 RCW, and federal regulations implementing 20 U.S.C. Sec. 1400, et seq.;

(d) Validate information included in school district or other public agency requests for federal funds; and

(e) Measure and report district performance on relative targets and priorities from federally approved state performance plans.

(2) Procedures for monitoring school districts and other public agencies may include any or all of the following:

(a) Collection, review, and analysis of quantitative and qualitative data and other information;

(b) Conduct of on-site visits;

(c) Review and analysis of such quantifiable and qualitative data and indicators as are needed to measure performance in the following areas:

(i) Provision of a FAPE in the least restrictive environment;

(ii) State exercise of general supervision, including child find, effective monitoring, and the use of resolution meetings, mediation, and a system of transition services; and

(iii) Disproportionate representation of racial and ethnic groups in special education and related services to the extent the representation is the result of inappropriate identification.

(3) As part of the monitoring process, a notification of identified noncompliance shall be issued to the school district. This notification will initiate a process of corrections, verification, and validation to ensure that the noncompliance is corrected as soon as possible, but no later than one year from the identification of noncompliance. If noncompliance is systemic in nature, a systemic corrective action plan is required.

(4) If the school district does not timely address compliance with corrective actions, the OSPI shall institute procedures to ensure compliance with applicable state and federal rules and priorities and targets from the state performance plan. Such procedures may include one or more of the following:

(a) Verification visits by OSPI staff, or its designee, to:

(i) Determine whether the school district is taking the required corrective action(s); and/or

(ii) Provide any necessary technical assistance to the school district or other public agency in its efforts to comply.

(b) Withhold, in whole or part, a specified amount of state and/or federal special education funds, to address non-compliance.

(c) Request assistance from the state auditors office.

[Statutory Authority: RCW 28A.155.090 and 34 C.F.R. Part 300. 09-20-053, § 392-172A-07010, filed 10/1/09, effective 11/1/09. Statutory Authority: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. 07-14-078, § 392-172A-07010, filed 6/29/07, effective 7/30/07.]

WAC 392-172A-07012 Determinations. (1) OSPI annually reviews the data it obtains from school districts through monitoring, submission of other data required by the district, and other public information provided by the district. Based on the data and information provided, OSPI determines if the school district:

(a) Meets the requirements and purposes of Part B of the act;

(b) Needs assistance in implementing the requirements of Part B of the act;

(c) Needs intervention in implementing the requirements of Part B of the act; or

(d) Needs substantial intervention in implementing the requirements of Part B of the act.

(2) If the OSPI determines, for two consecutive years, that a district needs assistance in implementing the OSPI's annual performance requirements, OSPI will advise the district of available sources of technical assistance that may help the district address the areas in which the district needs assistance, which may include assistance from the OSPI, office of special education programs, other offices of the department of education, other federal agencies, technical assistance providers approved by the department of education, and other federally or state funded nonprofit agencies, and require the district to work with appropriate entities. Such technical assistance may include:

(a) The provision of advice by experts to address the areas in which the district needs assistance, including explicit plans for addressing the areas of concern within a specified period of time;

(b) Assistance in identifying and implementing professional development, instructional strategies, and methods of instruction that are based on scientifically based research;

(c) Designating and using distinguished superintendents, principals, special education administrators, special education teachers, and other teachers to provide advice, technical assistance, and support; and

(d) Devising additional approaches to providing technical assistance, such as collaborating with institutions of higher education, educational service districts, national centers of technical assistance, and private providers of scientifically based technical assistance.

(3) If the OSPI determines, for three or more consecutive years, that a district needs intervention in implementing the OSPI's annual performance requirements, OSPI may take actions described under subsection (2) of this section and will take one or more of the following actions:

(a) Require the district to prepare a corrective action plan or improvement plan if the OSPI determines that the district should be able to correct the problem within one year;

(b) Withhold, in whole or in part, any further payments to the district under Part B of the act;

(4) Notwithstanding subsections (2) or (3) of this section, at any time that the OSPI determines that a district needs substantial intervention in implementing the requirements of Part B of the act or that there is a substantial failure to comply with any condition of a school district's eligibility under Part B of the act, OSPI will withhold, in whole or in part, any further payments to the district under Part B of the act, in addition to any other actions taken under subsections (2) or (3) of this section.

[Statutory Authority: RCW 28A.155.090 and 34 C.F.R. Part 300. 09-20-053, § 392-172A-07012, filed 10/1/09, effective 11/1/09.]

WAC 392-172A-07035 Child count. The OSPI reports to the secretary of the department of education no later than February 1 of each year the number of students aged three through twenty-one residing in the state who are receiving special education and related services. This report is based on the school districts' annual federal count of eligible students provided to OSPI on a date selected by OSPI between October 1 and December 1 of each year.

(1) Information required in the report includes:

(a) The number of students receiving special education and related services;

(b) The number of students aged three through five receiving special education and related services;

(c) The number of students aged six through seventeen, and eighteen through twenty-one within each disability category; and

(d) The number of students aged three through twenty-one for each year of age (three, four, five, etc.).

(2) For the purpose of this part, a student's age is the student's actual age on the date of the child count.

(3) A student may not be reported under more than one disability category.

(4) If a special education student has more than one disability, the student is reported as follows:

(a) A student with deaf-blindness and not reported as having a developmental delay must be reported under the category "deaf-blindness."

(b) A student who has more than one disability (other than deaf-blindness or developmental delay) must be reported under the category "multiple disabilities."

(5) School districts must provide OSPI a certification signed by an authorized official of the district, stating that the information provided by the district is an accurate and unduplicated count of special education students receiving special education and related services on the dates in question.

[Statutory Authority: RCW 28A.155.090 and 34 C.F.R. Part 300. 09-20-053, § 392-172A-07035, filed 10/1/09, effective 11/1/09. Statutory Authority: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. 07-14-078, § 392-172A-07035, filed 6/29/07, effective 7/30/07.]

WAC 392-172A-07040 Significant disproportionality. (1) The state collects and examines data annually from school districts to determine if significant disproportionality based on race or ethnicity is occurring in the state with respect to:

(a) The identification of children as students eligible for special education;

(b) The identification of students with a particular disability;

(c) The placement of students in particular educational settings; or

(d) The incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

(2)(a) In the case of a determination of significant disproportionality with respect to the identification of students eligible for special education including those with a particular disability, the placement in particular educational settings of these students, or discipline, the OSPI shall provide for the review and, if appropriate, revision of the policies, procedures, and practices used in the identification or placement to ensure that the policies, procedures, and practices comply with the requirements of the act;

(b) Require any school district identified under this section to reserve the maximum amount of federal funds under WAC 392-172A-06085 to provide comprehensive coordinated early intervening services to serve students in the school district, particularly, but not exclusively, students in those groups that were significantly over identified; and

(c) Require the school district to publicly report on the revision of policies, practices, and procedures described under (b) of this subsection.

[Statutory Authority: RCW 28A.155.090 and 34 C.F.R. Part 300. 09-20-053, § 392-172A-07040, filed 10/1/09, effective 11/1/09. Statutory Authority: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. 07-14-078, § 392-172A-07040, filed 6/29/07, effective 7/30/07.]

WAC 392-172A-07055 State safety net fund for high need students. (1) The state has established a special education safety net fund for students eligible for special education. The rules for applying for reimbursement for the fund are contained in WAC 392-14-600 through 392-14-685 or as may be amended.

(2) Part B funding is available through the safety net fund to reimburse high need, low incidence, catastrophic, or extraordinary aid for applicants with eligible high need special education students whose cost is at least three times the average per pupil expenditure; and whose placement is consistent with least restrictive environment provisions and other applicable rules regarding placement, including placement in nonpublic agencies.

(3) Disbursements provided under subsection (2) of this section must not be used to pay costs that otherwise would be reimbursed as medical assistance for a student eligible for special education under the state medicaid program under Title XIX of the Social Security Act.

(4) The costs associated with educating a high need student eligible for special education, in subsections (2) and (3) of this section, are only those costs associated with providing direct special education and related services to the student that are identified in that student's IEP, including the cost of room and board for a residential placement determined necessary, consistent to implement a student's IEP.

(5) The disbursements to an applicant must not be used to support legal fees, court costs, or other costs associated with a cause of action brought on behalf of a student to ensure FAPE for such student.

(6) Federal funds reserved for the safety net fund from the appropriation for any fiscal year, but not expended to eligible applicants for safety net funding must be allocated to school districts in the same manner as other funds from the

appropriation for that fiscal year are allocated to school districts during their final year of availability.

(7) The funds in the high cost fund remain under the control of the state until disbursed to a school district to support a specific child who qualifies under this section and the state regulations for safety net funding described in subsection (1) of this section.

(8) Nothing in this section:

(a) Limits or conditions the right of a student eligible for special education who is assisted under Part B of the act to receive a FAPE in the least restrictive environment; or

(b) Authorizes the state or a school district to establish a limit on what may be spent on the education of a student eligible for special education.

[Statutory Authority: RCW 28A.155.090 and 34 C.F.R. Part 300. 09-20-053, § 392-172A-07055, filed 10/1/09, effective 11/1/09. Statutory Authority: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. 07-14-078, § 392-172A-07055, filed 6/29/07, effective 7/30/07.]

Chapter 392-300 WAC

FINGERPRINT RECORD CHECKS—ACCESS TO RECORDS—PRIVACY

WAC

392-300-070 Private school fingerprint process.

WAC 392-300-070 Private school fingerprint process. Fingerprinting of subject individuals employed by private schools.

(1) Definitions of private school terms.

(a) "Subject individual" means: Any person, certified or classified employed by a private school in a position having regularly scheduled, unsupervised access to children;

(b) "Regularly scheduled, unsupervised access to children" means contact with students that provides the person opportunity and probability for personal communication or touch when not under direct supervision;

(c) "Fee" means the total charges assessed to process fingerprint cards through the Washington state patrol and Federal Bureau of Investigation records check;

(d) "Information to be required" means all information requested by the office of the superintendent of public instruction;

(e) "Convictions of crimes" means, notwithstanding any other statutes or Washington administrative rule, conviction of a crime listed in WAC 180-86-013, or being under indictment for any of the crimes listed in WAC 180-86-013;

(f) "Private school" means a school that is approved with the Washington state board of education under chapter 180-90 WAC.

(2) The office of the superintendent of public instruction shall request criminal information from the Washington state patrol and the Federal Bureau of Investigation in the manner prescribed by law. A fee shall be charged for such services.

(3) Upon the private school's submission of the completed fingerprint cards and information form, the office of the superintendent of public instruction shall review the criminal records of subject individual.

(4) The office of the superintendent of public instruction shall not provide copies of criminal records to anyone except as provided by law. The private school will receive a copy of

subject individual's record of arrest and prosecution (RAP) sheet from the Washington state patrol. The subject individual will be sent a copy of his or her personal criminal records.

(5) For the Federal Bureau of Investigation portion, the superintendent of public instruction or designee shall notify the private school if the subject individual has been convicted of a crime listed in WAC 180-86-013, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Washington under a different statutory name or number; if the subject individual falsified information on the application form; or if the subject individual has no conviction of crimes as listed in WAC 180-86-013.

(6) The office of the superintendent of public instruction shall assure the destruction of all fingerprint cards, facsimiles or other materials from which fingerprints can be reproduced used by Washington state patrol or Federal Bureau of Investigation.

(7) Only cards and forms approved by the office of the superintendent of public instruction will be accepted. The office of the superintendent of public instruction will hold fingerprint cards on file and notify the private school and subject individual when there is no fee, an incorrect fee, when necessary information is missing from the fingerprint cards, or the information form was not received.

(8) The office of the superintendent of public instruction will return to the private school any fingerprint cards that the Washington state patrol or Federal Bureau of Investigation rejects for poor quality prints. The private school will be responsible for having the subject individual submit additional prints as required.

(9) The superintendent's office shall maintain a record of all properly submitted fingerprint cards in the current records data base for a period of at least two years. The record shall include at least the following:

- (a) Card sequence number;
- (b) Name of private school submitting the cards;
- (c) Date cards received at the Washington state patrol;
- (d) Date letter regarding incomplete card was sent to the subject individual with a copy to the private school (only if applicable);
- (e) Date Washington state patrol received fingerprint cards;
- (f) Date private school was notified of Washington state patrol criminal history record or clearance;
- (g) Date private school was notified of Federal Bureau of Investigation record or lack of record.

[Statutory Authority: RCW 28A.400.303. 09-04-031, § 392-300-070, filed 1/29/09, effective 3/1/09. Statutory Authority: RCW 28A.410.010, 28A.400.305. 00-21-077, § 392-300-070, filed 10/17/00, effective 11/17/00.]

Chapter 392-340 WAC
SCHOOL DISTRICT ORGANIZATION
 (Formerly chapter 180-24 WAC)

WAC

- 392-340-003 Authority.
- 392-340-007 Purpose and policy of chapter.
- 392-340-00701 Regional committee decision making.
- 392-340-207 Transfer of territory—Other district requirements.

- 392-340-209 Transfer of territory—Sufficiency of written record for appeal to the superintendent of public instruction—Referral of case back to regional committee.
- 392-340-210 Adjustment of assets and liabilities—Time considerations.
- 392-340-225 Frequency of petitions—Limitation.
- 392-340-336 Regional committee members—Position numbers—Appointments—Terms of office.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 392-340-009 Constitutional and statutory framework. [Statutory Authority: RCW 28A.305.130 (5), (10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.195(4), 28A.315.205(3). 06-17-038, recodified as § 392-340-009, filed 8/8/06, effective 9/8/06. Statutory Authority: 1999 c 315, partial veto and chapter 28A.315 RCW. 99-24-125, § 180-24-009, filed 12/1/99, effective 1/1/00.] Repealed by 09-03-053, filed 1/13/09, effective 2/13/09. Statutory Authority: RCW 28A.525.020.
- 392-340-105 Election of regional committee members—Applicable provisions. [Statutory Authority: RCW 28A.305.130 (5), (10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.195(4), 28A.315.205(3). 06-17-038, amended and recodified as § 392-340-105, filed 8/8/06, effective 9/8/06. Statutory Authority: 1999 c 315, partial veto and chapter 28A.315 RCW. 99-24-125, § 180-24-105, filed 12/1/99, effective 1/1/00.] Repealed by 09-03-053, filed 1/13/09, effective 2/13/09. Statutory Authority: RCW 28A.525.020.
- 392-340-110 Election of regional committee members—Election officer. [Statutory Authority: RCW 28A.305.130 (5), (10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.195(4), 28A.315.205(3). 06-17-038, recodified as § 392-340-110, filed 8/8/06, effective 9/8/06. Statutory Authority: 1999 c 315, partial veto and chapter 28A.315 RCW. 99-24-125, amended and recodified as § 180-24-110, filed 12/1/99, effective 1/1/00. Statutory Authority: 1990 c 33. 90-17-009, § 180-24-305, filed 8/6/90, effective 9/6/90. Statutory Authority: RCW 28A.04.120(9). 87-04-059 (Order 1-87), §§ 180-24-110 and 180-24-305, filed 2/4/87.] Repealed by 09-03-053, filed 1/13/09, effective 2/13/09. Statutory Authority: RCW 28A.525.020.
- 392-340-115 Election of regional committee members—Dissolution—Position numbers—Initial elections—Regular elections—Terms of office. [Statutory Authority: RCW 28A.305.130 (5), (10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.195(4), 28A.315.205(3). 06-17-038, amended and recodified as § 392-340-115, filed 8/8/06, effective 9/8/06. Statutory Authority: 1999 c 315, partial veto and chapter 28A.315 RCW. 99-24-125, amended and recodified as § 180-24-115, filed 12/1/99, effective 1/1/00. Statutory Authority: RCW 28A.305.130(10), 28A.315.010(1) and 1993 c 416. 94-13-018, § 180-24-310, filed 6/3/94, effective 7/4/94. Statutory Authority: RCW 28A.04.120(9). 87-04-059 (Order 1-87), §§ 180-24-1150 and 180-24-310, filed 2/4/87.] Repealed by 09-03-053, filed 1/13/09, effective 2/13/09. Statutory Authority: RCW 28A.525.020.
- 392-340-120 Election of regional committee members—Tentative certification of electors. [Statutory Authority: RCW 28A.305.130 (5), (10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.195(4), 28A.315.205(3). 06-17-038, recodified as § 392-340-120, filed 8/8/06, effective 9/8/06. Statutory Authority: 1999 c 315, partial veto and chapter 28A.315 RCW. 99-24-125, amended and recodified as § 180-24-120, filed 12/1/99, effective 1/1/00. Statutory Authority: RCW 28A.305.130(10), 28A.315.010(1) and 1993 c 416. 94-13-018, § 180-24-312, filed 6/3/94, effective 7/4/94. Statutory Authority: 1990 c 33. 90-17-009, § 180-24-312, filed 8/6/90, effective 9/6/90. Statutory Authority: RCW 28A.04.120(9). 87-04-059 (Order 1-87), §§ 180-24-120 and 180-24-312, filed 2/4/87.] Repealed by 09-03-053, filed 1/13/09, effective 2/13/09. Statutory Authority: RCW 28A.525.020.
- 392-340-125 Election of regional committee members—Call for election—Regional committee members. [Statutory Authority: RCW 28A.305.130 (5), (10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.195(4), 28A.315.205(3). 06-17-038, recodified as § 392-340-125, filed 8/8/06, effective 9/8/06. Statutory Authority: 1999 c 315, partial veto

- and chapter 28A.315 RCW. 99-24-125, amended and recodified as § 180-24-125, filed 12/1/99, effective 1/1/00. Statutory Authority: RCW 28A.305.130(10), 28A.315.010(1) and 1993 c 416. 94-13-018, § 180-24-315, filed 6/3/94, effective 7/4/94. Statutory Authority: RCW 28A.04.120(9), 87-04-059 (Order 1-87), §§ 180-24-125 and 180-24-315, filed 2/4/87.] Repealed by 09-03-053, filed 1/13/09, effective 2/13/09. Statutory Authority: RCW 28A.525.020.
- 392-340-130 Election of regional committee members—Candidates—Eligibility—Filing. [Statutory Authority: RCW 28A.305.130 (5), (10), 28A.315.015 (2)(e), 28A.315.-175, 28A.315.195(4), 28A.315.205(3). 06-17-038, amended and recodified as § 392-340-130, filed 8/8/06, effective 9/8/06. Statutory Authority: 1999 c 315, partial veto and chapter 28A.315 RCW. 99-24-125, amended and recodified as § 180-24-130, filed 12/1/99, effective 1/1/00. Statutory Authority: RCW 28A.305.-130(10), 28A.315.010(1) and 1993 c 416. 94-13-018, § 180-24-320, filed 6/3/94, effective 7/4/94. Statutory Authority: 1990 c 33. 90-17-009, § 180-24-320, filed 8/6/90, effective 9/6/90. Statutory Authority: RCW 28A.04.120(9), 87-04-059 (Order 1-87), §§ 180-24-130 and 180-24-320, filed 2/4/87.] Repealed by 09-03-053, filed 1/13/09, effective 2/13/09. Statutory Authority: RCW 28A.525.020.
- 392-340-135 Election of regional committee members—Declaration and affidavit of candidacy form. [Statutory Authority: RCW 28A.305.130 (5), (10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.195(4), 28A.315.205(3). 06-17-038, recodified as § 392-340-135, filed 8/8/06, effective 9/8/06. Statutory Authority: 1999 c 315, partial veto and chapter 28A.315 RCW. 99-24-125, § 180-24-135, filed 12/1/99, effective 1/1/00.] Repealed by 09-03-053, filed 1/13/09, effective 2/13/09. Statutory Authority: RCW 28A.525.020.
- 392-340-140 Election of regional committee members—Biographical data form. [Statutory Authority: RCW 28A.305.130 (5), (10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.-195(4), 28A.315.205(3). 06-17-038, recodified as § 392-340-140, filed 8/8/06, effective 9/8/06. Statutory Authority: 1999 c 315, partial veto and chapter 28A.315 RCW. 99-24-125, amended and recodified as § 180-24-140, filed 12/1/99, effective 1/1/00. Statutory Authority: RCW 28A.04.120(9), 87-04-059 (Order 1-87), §§ 180-24-140 and 180-24-327, filed 2/4/87.] Repealed by 09-03-053, filed 1/13/09, effective 2/13/09. Statutory Authority: RCW 28A.525.020.
- 392-340-145 Election of regional committee members—Withdrawal of candidacy. [Statutory Authority: RCW 28A.305.130 (5), (10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.-195(4), 28A.315.205(3). 06-17-038, amended and recodified as § 392-340-145, filed 8/8/06, effective 9/8/06. Statutory Authority: 1999 c 315, partial veto and chapter 28A.315 RCW. 99-24-125, § 180-24-145, filed 12/1/99, effective 1/1/00.] Repealed by 09-03-053, filed 1/13/09, effective 2/13/09. Statutory Authority: RCW 28A.525.020.
- 392-340-150 Election of regional committee members—Ballots—Contents. [Statutory Authority: RCW 28A.305.130 (5), (10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.-195(4), 28A.315.205(3). 06-17-038, recodified as § 392-340-150, filed 8/8/06, effective 9/8/06. Statutory Authority: 1999 c 315, partial veto and chapter 28A.315 RCW. 99-24-125, § 180-24-150, filed 12/1/99, effective 1/1/00.] Repealed by 09-03-053, filed 1/13/09, effective 2/13/09. Statutory Authority: RCW 28A.525.020.
- 392-340-155 Election of regional committee members—Ballots and envelopes—Mailing to voters. [Statutory Authority: RCW 28A.305.130 (5), (10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.195(4), 28A.315.205(3). 06-17-038, amended and recodified as § 392-340-155, filed 8/8/06, effective 9/8/06. Statutory Authority: 1999 c 315, partial veto and chapter 28A.315 RCW. 99-24-125, § 180-24-155, filed 12/1/99, effective 1/1/00.] Repealed by 09-03-053, filed 1/13/09, effective 2/13/09. Statutory Authority: RCW 28A.525.020.
- 392-340-160 Election of regional committee members—Voting—Marking and return of ballots. [Statutory Authority: RCW 28A.305.130 (5), (10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.195(4), 28A.315.205(3). 06-17-038, recodified as § 392-340-160, filed 8/8/06, effective 9/8/06. Statutory Authority: 1999 c 315, partial veto and chapter 28A.315 RCW. 99-24-125, § 180-24-160, filed 12/1/99, effective 1/1/00.] Repealed by 09-03-053, filed 1/13/09, effective 2/13/09. Statutory Authority: RCW 28A.525.020.
- 392-340-165 Election of regional committee members—Election board—Appointment and composition. [Statutory Authority: RCW 28A.305.130 (5), (10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.195(4), 28A.315.205(3). 06-17-038, recodified as § 392-340-165, filed 8/8/06, effective 9/8/06. Statutory Authority: 1999 c 315, partial veto and chapter 28A.315 RCW. 99-24-125, § 180-24-165, filed 12/1/99, effective 1/1/00.] Repealed by 09-03-053, filed 1/13/09, effective 2/13/09. Statutory Authority: RCW 28A.525.020.
- 392-340-170 Election of regional committee members—Receipt of ballots and count of votes. [Statutory Authority: RCW 28A.305.130 (5), (10), 28A.315.015 (2)(e), 28A.315.-175, 28A.315.195(4), 28A.315.205(3). 06-17-038, recodified as § 392-340-170, filed 8/8/06, effective 9/8/06. Statutory Authority: 1999 c 315, partial veto and chapter 28A.315 RCW. 99-24-125, § 180-24-170, filed 12/1/99, effective 1/1/00.] Repealed by 09-03-053, filed 1/13/09, effective 2/13/09. Statutory Authority: RCW 28A.525.020.
- 392-340-175 Election of regional committee members—Ineligible votes. [Statutory Authority: RCW 28A.305.130 (5), (10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.-195(4), 28A.315.205(3). 06-17-038, recodified as § 392-340-175, filed 8/8/06, effective 9/8/06. Statutory Authority: 1999 c 315, partial veto and chapter 28A.315 RCW. 99-24-125, § 180-24-175, filed 12/1/99, effective 1/1/00.] Repealed by 09-03-053, filed 1/13/09, effective 2/13/09. Statutory Authority: RCW 28A.525.020.
- 392-340-180 Election of regional committee members—Recount of votes cast—Automatic or by request. [Statutory Authority: RCW 28A.305.130 (5), (10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.195(4), 28A.315.205(3). 06-17-038, recodified as § 392-340-180, filed 8/8/06, effective 9/8/06. Statutory Authority: 1999 c 315, partial veto and chapter 28A.315 RCW. 99-24-125, § 180-24-180, filed 12/1/99, effective 1/1/00.] Repealed by 09-03-053, filed 1/13/09, effective 2/13/09. Statutory Authority: RCW 28A.525.020.
- 392-340-185 Election of regional committee members—Certification of election. [Statutory Authority: RCW 28A.305.130 (5), (10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.-195(4), 28A.315.205(3). 06-17-038, recodified as § 392-340-185, filed 8/8/06, effective 9/8/06. Statutory Authority: 1999 c 315, partial veto and chapter 28A.315 RCW. 99-24-125, § 180-24-185, filed 12/1/99, effective 1/1/00.] Repealed by 09-03-053, filed 1/13/09, effective 2/13/09. Statutory Authority: RCW 28A.525.020.
- 392-340-190 Election of regional committee members—Run-off elections. [Statutory Authority: RCW 28A.305.130 (5), (10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.-195(4), 28A.315.205(3). 06-17-038, amended and recodified as § 392-340-190, filed 8/8/06, effective 9/8/06. Statutory Authority: 1999 sp.s. c 315, partial veto and chapter 28A.315 RCW. 99-24-125, § 180-24-190, filed 12/1/99, effective 1/1/00.] Repealed by 09-03-053, filed 1/13/09, effective 2/13/09. Statutory Authority: RCW 28A.525.020.
- 392-340-205 Transfer of territory—Procedures and timelines. [Statutory Authority: RCW 28A.305.130 (5), (10), 28A.315.-015 (2)(e), 28A.315.175, 28A.315.195(4), 28A.315.205 (3). 06-17-038, recodified as § 392-340-205, filed 8/8/06, effective 9/8/06. Statutory Authority: 1999 c 315, partial veto and chapter 28A.315 RCW. 99-24-125, § 180-24-205, filed 12/1/99, effective 1/1/00. Statutory Authority: 1990 c 33. 90-17-009, § 180-24-205, filed 8/6/90, effective 9/6/90. Statutory Authority: RCW 28A.04.130 and 28A.04.120(9), 89-22-005, § 180-24-205, filed 10/20/89, effective 11/20/89.] Repealed by 09-03-053, filed 1/13/09, effective 2/13/09. Statutory Authority: RCW 28A.525.020.
- 392-340-335 Election of regional committee members—Certification of electors. [Statutory Authority: RCW 28A.305.130 (5), (10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.-195(4), 28A.315.205(3). 06-17-038, recodified as § 392-340-335, filed 8/8/06, effective 9/8/06. Statutory Authority: 1990 c 33. 90-17-009, § 180-24-335, filed 8/6/90, effective 9/6/90. Statutory Authority: RCW 28A.04.120(9), 87-04-059 (Order 1-87), § 180-24-335, filed 2/4/87.] Repealed by 09-03-053, filed 1/13/09,

effective 2/13/09. Statutory Authority: RCW 28A.525.020.

WAC 392-340-003 Authority. The general authority for this chapter is RCW 28A.315.005, 28A.315.015 (2)(e), 28A.315.175, 28A.315.195(4), and 28A.315.205(3).

[Statutory Authority: RCW 28A.525.020. 09-03-053, § 392-340-003, filed 1/13/09, effective 2/13/09. Statutory Authority: RCW 28A.305.130 (5), (10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.195(4), 28A.315.205(3). 06-17-038, recodified as § 392-340-003, filed 8/8/06, effective 9/8/06. Statutory Authority: 1999 c 315, partial veto and chapter 28A.315 RCW. 99-24-125, § 180-24-003, filed 12/1/99, effective 1/1/00. Statutory Authority: 1990 c 33. 90-17-009, § 180-24-003, filed 8/6/90, effective 9/6/90. Statutory Authority: RCW 28A.04.120(9). 87-04-059 (Order 1-87), § 180-24-003, filed 2/4/87.]

WAC 392-340-007 Purpose and policy of chapter. The purpose of this chapter is the same as set forth under RCW 28A.315.015.

[Statutory Authority: RCW 28A.525.020. 09-03-053, § 392-340-007, filed 1/13/09, effective 2/13/09. Statutory Authority: RCW 28A.305.130 (5), (10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.195(4), 28A.315.205(3). 06-17-038, recodified as § 392-340-007, filed 8/8/06, effective 9/8/06. Statutory Authority: 1999 c 315, partial veto and chapter 28A.315 RCW. 99-24-125, § 180-24-007, filed 12/1/99, effective 1/1/00. Statutory Authority: 1990 c 33. 90-17-009, § 180-24-007, filed 8/6/90, effective 9/6/90. Statutory Authority: RCW 28A.04.120(9). 87-04-059 (Order 1-87), § 180-24-007, filed 2/4/87.]

WAC 392-340-00701 Regional committee decision making. (1) The regional committee shall give consideration to all of the criteria in RCW 28A.315.015 (2)(a) through (d) and 28A.315.205 (4)(a) through (e) when reviewing the proposed transfer of territory:

(2) The boundaries of the school districts affected by a proposed change in school district organization shall be contiguous to one another.

(3) When considering student educational opportunities under RCW 28A.315.205 (4)(a), the regional committee shall not consider one set of test scores alone as a sufficient basis to make a judgment about student educational opportunities. Test scores in the district affected by the proposed transfer of territory shall be looked at in context, including over time and by disaggregating the scores by student subgroups.

(4) "Communities affected" under RCW 28A.315.205 (4)(c), include all citizens living within the territory proposed to be transferred, all other citizens residing within the school district from which the proposed territory will be transferred, all citizens residing within the school district to which the proposed territory will be transferred.

(5) When considering "geographic accessibility" under RCW 28A.315.205 (4)(d), the regional committee shall consider, but is not limited to the following factors:

(a) Mountains, hills, valleys, wasteland, and related geographic and man-made features, which either enhance or impede travel.

(b) Rivers, lakes, canals, and other natural or man-made waterways and bodies of water, which either enhance or impede travel.

(c) The extent and nature of roads, highways, ferries, and traffic patterns.

(d) Climatic conditions.

(e) Time required to travel to and from school.

(6) After considering all factors, the regional committee shall make one judgment on geographic accessibility, regardless of how many individual components may apply to the particular transfer of territory petition.

(7) Each regional committee shall use the same criterion checklist included in the *Guide to Changing School District Boundaries* and published on the superintendent of public instruction web site.

(8) If a regional committee needs to continue a public hearing or schedule more than one additional hearing on a proposed transfer of territory, each such hearing is subject to public notice requirements.

(9) Regional committees shall use the decision format (motion) included in the *Guide to Changing School District Boundaries* and published on the superintendent of public instruction web site.

[Statutory Authority: RCW 28A.525.020. 09-03-053, § 392-340-00701, filed 1/13/09, effective 2/13/09. Statutory Authority: RCW 28A.305.130 (5), (10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.195(4), 28A.315.205 (3). 06-17-038, amended and recodified as § 392-340-00701, filed 8/8/06, effective 9/8/06. Statutory Authority: RCW 28A.305.130(10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.195. 05-19-112, § 180-24-00701, filed 9/20/05, effective 10/21/05. Statutory Authority: Chapter 28A.315 RCW. 03-23-040, § 180-24-00701, filed 11/12/03, effective 12/13/03. Statutory Authority: 1999 c 315, partial veto and chapter 28A.315 RCW. 99-24-125, § 180-24-00701, filed 12/1/99, effective 1/1/00.]

WAC 392-340-207 Transfer of territory—Other district requirements. (1) At least one member of each school board whose district is affected by a proposed transfer of territory must be part of the respective district's negotiating team.

(2)(a) Upon reaching a decision recommendation through the district-to-district negotiation process on a proposed transfer of territory, the negotiating parties shall produce, at a minimum, a written summary of the recommendation, including rationale for the recommendation, and submit to the respective affected school district boards of directors.

(b) Each school board of directors shall adopt at a public meeting of the board a written resolution indicating whether the board approves or disapproves the recommendation on the proposed transfer of territory. The resolution format included in the *Guide to Changing School District Boundaries* and published on the superintendent of public instruction web site shall be used.

[Statutory Authority: RCW 28A.525.020. 09-03-053, § 392-340-207, filed 1/13/09, effective 2/13/09. Statutory Authority: RCW 28A.305.130 (5), (10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.195(4), 28A.315.205(3). 06-17-038, amended and recodified as § 392-340-207, filed 8/8/06, effective 9/8/06. Statutory Authority: RCW 28A.305.130(10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.195. 05-19-112, § 180-24-207, filed 9/20/05, effective 10/21/05.]

WAC 392-340-209 Transfer of territory—Sufficiency of written record for appeal to the superintendent of public instruction—Referral of case back to regional committee. (1) For purposes of review by the superintendent of public instruction, the record of regional committee proceedings must be sufficient to allow the superintendent of public instruction to determine what facts the regional committee relied on in applying the required statutory and regulatory criteria. Evidence of facts relied on may be contained in the written findings required in RCW 28A.315.205(2) or in a

written verbatim transcript of the proceedings, or elsewhere in the record.

(2) When referring a transfer of territory case back to the originating regional committee, the superintendent of public instruction will make every effort to submit the written referral as expeditiously as possible.

[Statutory Authority: RCW 28A.525.020. 09-03-053, § 392-340-209, filed 1/13/09, effective 2/13/09. Statutory Authority: RCW 28A.305.130 (5), (10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.195(4), 28A.315.205(3). 06-17-038, amended and recodified as § 392-340-209, filed 8/8/06, effective 9/8/06. Statutory Authority: RCW 28A.305.130(10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.195. 05-19-112, § 180-24-209, filed 9/20/05, effective 10/21/05.]

WAC 392-340-210 Adjustment of assets and liabilities—Time considerations. A regional committee is authorized to phase in the adjustment of assets and liabilities over a period not less than two years nor more than eight years. This authorization is subject to the annual March 1 deadline for taxing districts to establish the taxing boundaries and rates for the ensuing tax collection year.

[Statutory Authority: RCW 28A.525.020. 09-03-053, § 392-340-210, filed 1/13/09, effective 2/13/09. Statutory Authority: RCW 28A.305.130 (5), (10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.195(4), 28A.315.205(3). 06-17-038, recodified as § 392-340-210, filed 8/8/06, effective 9/8/06. Statutory Authority: RCW 28A.305.130(10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.195. 05-19-112, § 180-24-210, filed 9/20/05, effective 10/21/05. Statutory Authority: 1999 c 315, partial veto and chapter 28A.315 RCW. 99-24-125, § 180-24-210, filed 12/1/99, effective 1/1/00.]

WAC 392-340-225 Frequency of petitions—Limitation. An educational service district superintendent may not accept a petition to transfer territory if any portion of such territory was included in a previous petition brought before the regional committee, unless five years have expired since the date of final disposition of the previous petition.

[Statutory Authority: RCW 28A.525.020. 09-03-053, § 392-340-225, filed 1/13/09, effective 2/13/09. Statutory Authority: RCW 28A.305.130 (5), (10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.195(4), 28A.315.205(3). 06-17-038, amended and recodified as § 392-340-225, filed 8/8/06, effective 9/8/06. Statutory Authority: Chapter 28A.315 RCW. 04-04-091, § 180-24-225, filed 2/3/04, effective 3/5/04.]

WAC 392-340-336 Regional committee members—Position numbers—Appointments—Terms of office. (1) Regional committee members shall be appointed by the educational service district boards of directors in accordance with RCW 28A.315.105.

(2) Regional committee member position numbers shall be assigned by the educational service district superintendent. Regional committee member positions one, three, seven, and nine shall serve terms staggered with positions two, four, six, and eight. Each position shall correspond to an educational service district director districts determined pursuant to chapter 28A.310 RCW.

(3) Regular appointments of regional committee members shall be made in even-numbered years for four-year terms.

(4) Appointments to fill vacancies occurring during a term shall be made as soon as possible and shall be for the remainder of the original term.

(5) Each committee member must reside in the director district for which the appointment is made.

[Statutory Authority: RCW 28A.525.020. 09-03-053, § 392-340-336, filed 1/13/09, effective 2/13/09.]

Chapter 392-347 WAC

STATE ASSISTANCE IN PROVIDING SCHOOL PLANT FACILITIES—MODERNIZATION

(Formerly chapter 180-33 WAC)

WAC

392-347-023 State assistance in post 1993 facilities.

WAC 392-347-023 State assistance in post 1993 facilities. As a condition precedent to receiving state assistance for modernization under WAC 392-347-015 or new-in-lieu of modernization under WAC 392-347-042, school districts that received state assistance for new and new-in-lieu school buildings and whose buildings were accepted as complete by school board of directors as of January 1, 1994, and later, shall adopt by board resolution and implement an asset preservation program (APP).

(1) Definitions: For purposes of this chapter:

(a) An asset preservation program is a systematic approach to ensure performance accountability; promote student health and safety by maintaining and operating building systems to their design capacity; maintain an encouraging learning environment; and extend building life, thus minimizing future capital needs.

(b) An asset preservation system is a system of tasks or projects that are active, reactive, or proactive in maintaining the day to day health, safety, and instructional quality of the school facility and tasks or projects that are proactive, predictive or preventative in maintaining the school facility over its thirty-year expected life cycle.

(c) A building condition evaluation is an evaluation of the condition of building components and systems using a standardized scoring matrix.

(d) A building condition standard is a numeric scoring table with a scale identifying the expected condition score for each year of the building's expected life cycle.

(2) The office of the superintendent of public instruction shall establish and adopt a uniform program of specifications, standards, and requirements for implementing and maintaining the asset preservation program.

(3) School districts with affected buildings under this chapter are required to:

(a) Adopt or implement an asset preservation system;

(b) Annually perform a building condition evaluation and report the condition of such building to the school district's board of directors no later than April 1st of each year;

(c) Thereafter in six year intervals during the thirty-year expected life span of the building, have a certified evaluator, as approved by the office of the superintendent of public instruction, perform a building condition evaluation and report the condition to the school district's board of directors and to the office of the superintendent of public instruction no later than April 1st.

(4) A school district building affected under this chapter and that does not meet the minimum building condition standard score of forty points at the end of the thirty years from the accepted date shall:

(a) Have its allowable cost per square foot used to determine the amount of state assistance in any modernization project reduced at a rate of two percent for each point below forty points, not to exceed a total twenty percent reduction; or

(b) Be ineligible for state assistance when the building condition score is less than thirty points.

(5) The following schedule shall apply to school districts with buildings affected under this chapter, and the requirements set forth shall replace the former requirements of this section:

(a) Buildings accepted by the school board in 1994 must begin an asset preservation program in 2009, and shall fully implement the program within no more than one and one-half years;

(b) Buildings accepted by the school board in 1995 must begin an asset preservation program in 2010, and shall fully implement the program within no more than one year;

(c) Buildings accepted by the school board in 1996 through 2010 must begin an asset preservation program in 2011, and shall fully implement the program within no more than six months;

(d) Buildings accepted by the school board after December 31, 2010, must implement an asset preservation program within six months of facility acceptance.

[Statutory Authority: RCW 28A.525.020, 09-10-023, § 392-347-023, filed 4/28/09, effective 5/29/09; 08-09-024, § 392-347-023, filed 4/8/08, effective 5/9/08; 06-16-031, amended and recodified as § 392-347-023, filed 7/25/06, effective 8/25/06; 01-09-012, § 180-33-023, filed 4/6/01, effective 5/7/01; 91-12-058, § 180-33-023, filed 6/5/91, effective 7/6/91.]

Chapter 392-410 WAC

COURSES OF STUDY AND EQUIVALENCIES

(Formerly chapter 180-50 WAC)

WAC

392-410-117 Temporary exemption from credit requirements.

WAC 392-410-117 Temporary exemption from credit requirements. Annual exemptions to the definition of an annualized high school credit may be granted upon the request of a public or approved private school which offers evidence of student learning which is substantially equivalent to the definition stated in WAC 180-51-050. The request for exemption process shall be administered by the office of superintendent of public instruction. Guidelines and the application for the annual request for exemption can be found on the superintendent of public instruction's web site or through the private school approval process.

[Statutory Authority: RCW 28A.655.180(1), 09-23-076, § 392-410-117, filed 11/16/09, effective 12/17/09. Statutory Authority: 2006 c 263, 06-14-009, recodified as § 392-410-117, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.230.090, 00-19-108, § 180-51-100, filed 9/20/00, effective 10/21/00. Statutory Authority: RCW 28A.230.090 and 28A.230.-100, 93-04-115, § 180-51-100, filed 2/3/93, effective 3/6/93. Statutory Authority: 1990 c 33, 90-17-009, § 180-51-100, filed 8/6/90, effective 9/6/90. Statutory Authority: RCW 28A.05.060, 85-12-041 (Order 12-85), § 180-51-100, filed 6/5/85. Statutory Authority: Chapter 28A.05 RCW, 84-11-049 (Order 7-84), § 180-51-100, filed 5/17/84.]

Chapter 392-500 WAC

PUPIL TESTING AND RECORDKEEPING—REQUIREMENTS—PARENTS' RIGHTS

WAC

392-500-030 Pupil tests and records—Certain tests, questionnaires, etc.—Limitations.

WAC 392-500-030 Pupil tests and records—Certain tests, questionnaires, etc.—Limitations.

No written or oral test, questionnaire, survey, or examination shall be used to elicit the personal beliefs or practices of a student or his parents as to religion except with the written consent of parent or guardian.

[Statutory Authority: RCW 28A.150.070 and 28A.150.290, 09-16-144, § 392-500-030, filed 8/5/09, effective 9/5/09. Statutory Authority: 2006 c 263, 06-14-009, recodified as § 392-500-030, filed 6/22/06, effective 6/22/06; Order 10-69, § 180-52-030, filed 12/5/69.]

Chapter 392-501 WAC

ACADEMIC ACHIEVEMENT, ACCOUNTABILITY AND ASSESSMENT

WAC

392-501-510 Access to alternative assessment.
 392-501-600 General description.
 392-501-601 Eligibility and application requirements.
 392-501-602 Special, unavoidable circumstance appeal review board and approval criteria.
 392-501-700 General description.
 392-501-705 Eligibility and application requirements.

WAC 392-501-510 Access to alternative assessment.

(1) Students who transfer into a public school from out-of-state or from out-of-country in the eleventh or twelfth grade year may utilize an objective alternative assessment for purposes of meeting the high school standards as provided in RCW 28A.655.061 and 28A.655.065 without taking the state high school assessment.

(2) Students who transfer for their 11th or 12th grade year into a public school from within the state from a nonpublic school setting may utilize an objective alternative assessment for meeting the high school standards as provided in RCW 28A.655.061 and 28A.655.065 without taking the state high school assessment.

(3) Students who were exempted from the high school assessment in 10th grade due to their status as a new student with non-English proficiency, may utilize an objective alternative assessment after their 10th grade year, in the content areas originally exempted, for purposes of meeting the high school standards as provided in RCW 28A.655.061 and 28A.655.065 without taking the state high school assessment.

[Statutory Authority: RCW 28A.655.061 and 28A.665.065 [28A.655.065], 10-01-055, § 392-501-510, filed 12/9/09, effective 1/9/10; 07-13-035, § 392-501-510, filed 6/13/07, effective 7/22/07.]

WAC 392-501-600 General description.

RCW 28A.655.065 directs the superintendent of public instruction to develop guidelines and appeal processes for waiving specific requirements in RCW 28A.655.061 pertaining to the certificate of academic achievement and RCW 28A.155.045 pertaining to the certificate of individual achievement for students who have special, unavoidable circumstances.

[Statutory Authority: RCW 28A.665.065 [28A.655.065], 28A.665.061 [28A.655.061], 28A.155.045. 10-01-053, § 392-501-600, filed 12/9/09, effective 1/9/10. Statutory Authority: RCW 28A.655.061 and 28A.655.065. 07-13-035, § 392-501-600, filed 6/13/07, effective 7/22/07.]

WAC 392-501-601 Eligibility and application requirements. (1) A student, or a student's parent or guardian may file an appeal to the superintendent of public instruction if the student has special, unavoidable circumstances that prevented the student, during the student's twelfth grade year, from successfully demonstrating his or her skills and knowledge on the Washington assessment of student learning (WASL), on an objective alternative assessment authorized in RCW 28A.655.061 or 28A.655.065, or on a Washington alternate assessment available to students eligible for special education services.

(2) Special, unavoidable circumstances shall include the following:

(a) Not being able to take or complete an assessment because of:

(i) The death of a parent, guardian, sibling or grandparent;

(ii) An unexpected and severe medical condition. The condition must be documented by a medical professional and included with the application; or

(iii) Another unavoidable event of a similarly compelling magnitude that reasonably prevented the student from sitting for or completing the assessment.

(b) A major irregularity in the administration of the assessment;

(c) Loss of the assessment material;

(d) Failure to receive an accommodation during administration of the assessment that was documented in the student's individualized education program that is required in the federal Individuals with Disabilities Education Act, as amended, or in a plan required under Section 504 of the Rehabilitation Act of 1973;

(e) For students enrolled in the state transitional bilingual instructional program, failure to receive an accommodation during the administration of the assessment that was scheduled to be provided by the school district; or

(f) Students who transfer from an out-of-state or out-of-country school to a Washington public school in the twelfth grade year after March 1.

(3) To file an appeal, the student or the student's parent or guardian, with appropriate assistance from school staff, must complete and submit to the principal of the student's school an appeal application on a form developed by the superintendent of public instruction.

(4) The application shall require that the following be submitted: All available score reports from prior standardized assessments taken by the student during his or her high school years, the medical condition report (if applicable), and the student's transcript. The principal of the school shall review the application and accompanying material and certify that, to the best of his or her knowledge, the information in the application is accurate and complete.

(5) Once the principal certifies that the application and accompanying material is accurate and complete, the principal shall transmit the application to the school district's assessment coordinator who will conduct an independent

review for completeness prior to transmitting the application to the state superintendent of public instruction.

(6) Applications must be received by the superintendent of public instruction on or before May 1 or October 1.

[Statutory Authority: RCW 28A.665.065 [28A.655.065], 28A.665.061 [28A.655.061], 28A.155.045. 10-01-053, § 392-501-601, filed 12/9/09, effective 1/9/10. Statutory Authority: RCW 28A.655.061 and 28A.655.065. 07-13-035, § 392-501-601, filed 6/13/07, effective 7/22/07.]

WAC 392-501-602 Special, unavoidable circumstance appeal review board and approval criteria. (1) The special, unavoidable circumstance appeal review board shall be created to review and make recommendations to the superintendent of public instruction on all special, unavoidable circumstance appeal applications.

(2) The superintendent of public instruction shall appoint seven members total to the board, five voting members and two alternates (for cases of unanticipated absenteeism or potential conflict of interest on the part of a regular voting member). The board shall be chaired by a current or former high school principal and shall consist of current or former teachers, department heads, and/or school district assessment directors with experience and expertise in the Washington essential academic learning requirements. Each member shall be appointed for a three-year term, provided that the initial terms may be staggered as the superintendent deems appropriate.

(3) The high school graduation certificate appeals review board shall review applicable special, unavoidable circumstance appeal applications submitted to it by the superintendent of public instruction. The board shall:

(a) Review the written information submitted to the superintendent to determine whether sufficient evidence was presented that the student has the required knowledge and skills; and

(b) Make a recommendation to the superintendent, based on the criteria in subsection (6) of this section, regarding whether or not the appeal should be granted.

(4) Staff from the office of superintendent of public instruction (OSPI) shall coordinate and assist the work of the board. In this capacity, staff from the OSPI shall prepare a preliminary analysis of each application and accompanying information that evaluates the extent in which the criteria in subsection (6) of this section have been met.

(5) If the board determines that additional information on a particular student is needed in order to fulfill its duties, the chair of the board shall contact the OSPI staff to request the information.

(6) The board shall recommend to the superintendent of public instruction that the appeal be granted if it finds that:

(a) The student, due to special, unavoidable circumstances as defined in WAC 392-501-601(2), was not able to successfully demonstrate his or her skills on the WASL, on an objective alternative assessment, or on a Washington alternate assessment available to students eligible for special education services;

(b) No other recourse or remedy exists to address the special, unavoidable circumstance prior to the student's expected graduation date;

(c) The student has met, or is on track to meet, all other state and local graduation requirements; and

(d) After considering the criteria below, in the board's best judgment, the student more likely than not possesses the skills and knowledge required to meet the state standard. The board shall consider the following criteria:

- (i) Trends indicated by prior WASL or alternate assessment results;
- (ii) How near the student has been in achieving the standard;
- (iii) Scores on other assessments, as available;
- (iv) Participation and successful completion of remediation courses and other academic assistance opportunities;
- (v) Cumulative grade point average;
- (vi) Whether the student has taken advanced placement, honors, or other higher-level courses; and
- (vii) Other available information deemed relevant by the board.

(7) Based upon the recommendation of the high school graduation appeals board and any other information that the superintendent deems relevant, the superintendent of public instruction shall decide, based on the criteria established in subsection (6) of this section, whether to:

- (a) Grant the appeal and waive the requirement that a student earn a certificate to graduate;
- (b) Deny the appeal and not waive the certificate; or
- (c) Remand the appeal back to the appeals board for further information or deliberation.

(8) The superintendent of public instruction shall act upon the student's application and notify the student, the student's school principal or designee, and the school district assessment coordinator whether the application was approved or denied within thirty days of the deadline for receiving the recommendation from the certificate appeals review board. This deadline for acting on the application may be extended if additional information is required from the student or the school district.

(9) If approved, the student's transcript shall indicate that the applicable certificate was waived.

(10) School staff shall include a copy of the application, supporting information, and the superintendent's decision in the student's cumulative folder.

[Statutory Authority: RCW 28A.665.065 [28A.655.065], 28A.665.061 [28A.655.061], 28A.155.045. 10-01-053, § 392-501-602, filed 12/9/09, effective 1/9/10. Statutory Authority: RCW 28A.655.061 and 28A.655.065. 07-13-035, § 392-501-602, filed 6/13/07, effective 7/22/07.]

WAC 392-501-700 General description. RCW 28A.155.045 authorizes the superintendent of public instruction to develop guidelines for waiving specific requirements in RCW 28A.655.061 pertaining to the graduation requirements and the state assessment system, and to determine appropriate assessment alternatives through which to assess identified students.

[Statutory Authority: RCW 28A.665.061 [28A.655.061], 28A.155.045. 10-01-054, § 392-501-700, filed 12/9/09, effective 1/9/10.]

WAC 392-501-705 Eligibility and application requirements. (1) A student, or a student's parent or guardian, may initiate a waiver request to the superintendent of public instruction if a student's cognitive development is identified at the awareness level. The waiver request can cover one or all state assessed content areas of study. Stu-

dents with cognitive development at the awareness level exhibit behaviors that include, but are not limited to, the following:

- (a) Having limited intentionality and being unable to communicate using presymbolic strategies.
- (b) Reactions to environmental stimuli are limited to crying, opening eyes, movement, etc.
- (c) Behavior not under the student's control but reflects a general physical state (e.g., hungry, wet, sleepy).
- (d) Being conscious (awake) during limited times each day.
- (e) Requiring parents, teachers, or other adults to interpret the child's state from behaviors such as sounds, body movements, and facial expressions.
- (f) Other criteria as defined by the superintendent of public instruction's guidelines posted to the agency web site.

(2) For a student requesting a waiver under this section, the student must have the following documented in his or her records:

- (a) The student is in high school and is designated as being in the 11th or 12th grade.
- (b) The individualized education program (IEP) team as identified under WAC 392-172A-03095, through an evaluation of the student's behaviors and educational history, determines that the student is functioning at the awareness level (as defined in subsection (1) of this section).

(3) Filing a waiver request requires the use of a specific form developed by the superintendent of public instruction. Completing the waiver request requires:

(a) The special education teacher responsible for the IEP of the student to complete and sign the awareness waiver application and document the student's nonparticipation in the state assessment system in the student's IEP.

(b) The waiver application is submitted to the district's special education director for review, verification, and signature.

(c) Upon verification, the district special education director files the waiver application form with the district assessment coordinator.

(d) The district assessment coordinator reviews, signs, and transmits the waiver application to the superintendent of public instruction per instruction listed on the form.

(e) Staff from the office of superintendent of public instruction shall record a status of "waived" in the state data base, then transmit a confirmation e-mail to the student's high school principal and the district assessment coordinator.

(f) The school shall complete all necessary school and district documentation, including but not limited to, IEP documentation.

[Statutory Authority: RCW 28A.665.061 [28A.655.061], 28A.155.045. 10-01-054, § 392-501-705, filed 12/9/09, effective 1/9/10.]

Chapter 392-502 WAC

ON-LINE LEARNING—APPROVAL OF MULTIDISTRICT ON-LINE PROVIDERS

WAC

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WAC 392-502-001 Authority. The authority for these rules is chapter 34.05 RCW which authorizes the superintendent of public instruction to adopt rules regarding approval of multidistrict on-line providers.

[Statutory Authority: 2009 c 542. 10-01-099, § 392-502-001, filed 12/17/09, effective 1/17/10.]

WAC 392-502-005 Purposes. The purpose of this chapter is to develop and implement criteria and processes for approving multidistrict on-line providers in order to further on-line learning opportunities for K-12 students in Washington state.

[Statutory Authority: 2009 c 542. 10-01-099, § 392-502-005, filed 12/17/09, effective 1/17/10.]

WAC 392-502-010 Definitions. As used in this chapter, the term:

(1) "Multidistrict on-line provider" means:

(a) A private or nonprofit organization that enters into a contract with a school district to provide on-line courses or programs to K-12 students from more than one school district;

(b) A private or nonprofit organization or a school district that enters into contracts with multiple school districts to provide on-line courses or programs to K-12 students from those districts; or

(c) Except as provided in (c)(i) and (ii) of this subsection, a school district that provides on-line courses or programs to students who reside outside the geographic boundaries of the school district.

(i) "Multidistrict on-line provider" does not include a school district on-line learning program in which fewer than ten percent of the students enrolled in the program are from other districts under the interdistrict student transfer provisions of RCW 28A.225.225. If, at the end of a school year, the annual average headcount for that school year of students who reside outside the geographic boundaries of a school district and are enrolled in a school district on-line program increases to ten percent or more of the total program enrollment headcount, the program shall be required to apply as a multidistrict on-line provider in the next approval cycle. The program can continue operating the year of the required approval review, but not the following school year unless approved as a multidistrict on-line provider.

(ii) "Multidistrict on-line provider" also does not include regional on-line learning programs that are jointly developed and implemented by two or more school districts or an educational service district through an interdistrict cooperative program agreement that addresses, at minimum, how the districts share student full-time equivalency for state basic education funding purposes and how categorical education programs, including special education, are provided to eligible students unless at the end of a school year, the annual average headcount for that school year of students who reside outside the geographic boundaries of those school districts

and are enrolled in the regional on-line program increases to ten percent or more of the total program enrollment headcount, the program shall be required to apply as a multidistrict on-line provider in the next approval cycle. The program can continue operating the year of the required approval review, but not the following school year unless approved as a multidistrict on-line provider.

(2) "On-line course" means a course that:

(a) Is delivered primarily electronically using the internet or other computer-based methods; and

(b) Is taught by a teacher primarily from a remote location. Students enrolled in an on-line course may have access to the teacher synchronously, asynchronously, or both.

An on-line course may be delivered to students at school as part of the regularly scheduled school day. An on-line course also may be delivered to students, in whole or in part, independently from a regular classroom schedule, but such courses must comply with RCW 28A.150.262 and WAC 392-121-182 to qualify for state basic education funding.

(3) "On-line school program" means a school program that:

(a) Is delivered primarily electronically using the internet or other computer-based methods;

(b) Is taught by a teacher primarily from a remote location. Students enrolled in an on-line program may have access to the teacher synchronously, asynchronously, or both;

(c) Delivers a part-time or full-time sequential program; and

(d) Has an on-line component of the program with on-line lessons and tools for student and data management.

An on-line school program may be delivered to students at school as part of the regularly scheduled school day. An on-line school program also may be delivered to students, in whole or in part, independently from a regular classroom schedule, but such programs must comply with RCW 28A.150.262 and WAC 392-121-182 to qualify for state basic education funding.

(4) "Accrediting organizations" means the designated bodies identified by the superintendent of public instruction after consultation with the Washington council for on-line learning and published on the superintendent of public instruction web site. Accrediting organizations are for providers to use to satisfy the accreditation qualification for being an approved multidistrict on-line provider.

(5) "Approval" means the provider may offer courses/programs taught by Washington certified teachers to Washington students, and districts can claim the students for basic education funding starting with the 2011-12 school year.

(6) For the purposes of this section, "primarily" is defined as more than half.

[Statutory Authority: 2009 c 542. 10-01-099, § 392-502-010, filed 12/17/09, effective 1/17/10.]

WAC 392-502-020 Multidistrict on-line provider approval process and timeline. (1) Multidistrict on-line providers as defined in WAC 392-502-010 must complete the approval process as specified in this subsection in order to be eligible for listing as an approved multidistrict provider on the OSPI web site; and for school districts to claim state basic education funding for students enrolled in those approved

multidistrict on-line courses or programs beginning in the 2011-12 school year and to the extent otherwise allowed by state law.

When questions arise whether an entity is subject to approval as a multidistrict on-line course or program provider, the final determination will be made by the superintendent of public instruction taking into consideration the intent of the SSB 5410 legislation.

(2) The superintendent of public instruction shall make a first round of approval decisions by April 1, 2010, for those multidistrict on-line providers applying for approval. Subsequent approval decisions shall be made annually by November 1, 2010, and each subsequent year.

	Application for approval available	Application due date	Approval decisions made by
Initial Approval	December 31, 2009	January 31, 2010	April 1, 2010
Fall 2010 Approval Cycle	July 1, 2010	September 1, 2010	November 1, 2010
Subsequent Approvals	April 1	September 1	November 1

For each of the dates on the table above, the effective dates move to the subsequent business day if they fall on a holiday or weekend; all are 5:00 p.m. deadlines.

(3) Any multidistrict on-line provider that was approved by the digital learning commons or accredited by the Northwest association of accredited schools before July 26, 2009, and meets the Washington state teacher certification requirements is exempt from the initial approval process until August 31, 2012, but must comply with the process for renewal of approvals and must comply with approval requirements including the approval assurances and criteria.

(4) If at the end of a given school year, the annual average headcount for that school year of students who reside outside the geographic boundaries of a school district or regional on-line learning program and are enrolled in a school district on-line program or regional on-line learning program increases to ten percent or more of the total program enrollment headcount, the program shall:

(a) Be required to seek approval in the upcoming November cycle in order to be eligible to claim state basic education funding the subsequent school year.

(b) Continue operating the year of the required review, but not the following school year unless approved as a multidistrict on-line provider.

(5) Multidistrict on-line providers seeking approval will submit an application outlined on the superintendent of public instruction web site which will be reviewed for compliance with the requested assurances and designated approval criteria and must meet or exceed the acceptable defined score.

(6) The superintendent of public instruction will notify provider applicants of the results of the review, including feedback about the assurances and criteria that were not in compliance, by April 1, 2010, for the initial round of approvals and by November 1, 2010, and each subsequent year after that.

(7) Any modifications to the conditions for approval, required assurances, approval criteria, and application forms

will appear on the superintendent of public instruction web site by July 1, 2010, and April 1st each subsequent year.

[Statutory Authority: 2009 c 542. 10-01-099, § 392-502-020, filed 12/17/09, effective 1/17/10.]

WAC 392-502-030 Approval assurances and criteria.

(1) In order to be approved, multidistrict on-line providers must meet the following assurances and criteria.

(a) The following required assurances include, but are not limited to:

(i) Have accreditation through an accrediting body as defined in WAC 392-502-010.

(ii) Offer courses/programs eighty percent aligned to Washington state academic standards.

(iii) Demonstrate that all teachers are certificated in accordance with chapter 181-82 WAC.

(iv) For multidistrict on-line providers that offer high school courses, the courses offered by the provider must be eligible for high school credit per WAC 180-51-050. (However, final decisions regarding the awarding of high school credit shall remain the responsibility of school districts.)

(v) Courses meet the credit/content requirements as outlined in any respective WACs.

(vi) Advanced placement courses have all been approved via the college board advanced placement course audit.

(vii) Data management systems ensure all student information remains confidential, as required by the Family Educational Rights and Privacy Act (FERPA).

(viii) Web systems meet specified accessibility conformance levels.

(ix) Provide all information as directed or as requested by the office of superintendent of public instruction, the secretary for the department of education, and other federal officials for audit, program evaluation compliance, monitoring, and other purposes and to maintain all records for the current year and three previous years.

(x) Inform the office of superintendent of public instruction in writing of any significant changes to the program including, but not limited to, changes in assurances, program description, fiscal status, or ownership.

(xi) Uphold any pertinent federal or state laws, rules or regulations, in the delivery of the on-line courses or programs.

(xii) The applicant retains responsibility for the quality of courses and content offered, regardless of any third-party contractual arrangements, partnerships or consortia, contributing to the content or delivery of the on-line courses or programs.

(xiii) Comply with the state assessment requirements.

(xiv) All career and technical education (CTE) courses are aligned to Washington state CTE program standards.

(b) The following criteria categories must be met through evidence submitted with the application at an acceptable level established by the superintendent of public instruction. Criteria shall include, but are not limited to:

(i) Course content and instructional design incorporating course goals and outcomes, materials and content organization, and student engagement.

(ii) Classroom management incorporating grading and privacy policies, internet etiquette, and expectations for communications.

(iii) Student assessment incorporating various types, frequent feedback, and appropriateness for the on-line learning environment.

(iv) Course evaluation and management incorporating strategies for obtaining feedback about the courses/programs and processes for quality assurance and updating content.

(v) Student support incorporating policies and systems to enhance the students' learning experience and their success.

(vi) Mentor support incorporating strategies and systems to allow them to support student success.

(vii) Technology elements, requirements and support including descriptions and ease of navigation.

(viii) Staff development and support including training and on-line instructor performance reviews conducted on a planned and regularly scheduled basis.

(ix) Program management including timeliness and quality of teachers' responses to students, handling of fees, prompt distribution of materials and processing of enrollments, and handling fees and payments.

(2) The approval criteria with explanations and suggested supporting evidence will be posted on the superintendent of public instruction web site by December 31, 2009, and any modifications to those will appear by July 1, 2010, and by April 1st each subsequent year after review by the on-line learning advisory committee and the state board of education.

(3) Applications will be reviewed by a committee selected by the superintendent of public instruction for their experience and expertise. The committee will be provided orientations and training to review and score the multidistrict on-line provider applications using the approval criteria and scoring protocols.

(4) When developing local or regional on-line learning programs, school districts shall incorporate the approval criteria developed by the superintendent of public instruction into the program design.

[Statutory Authority: 2009 c 542. 10-01-099, § 392-502-030, filed 12/17/09, effective 1/17/10.]

WAC 392-502-040 Appeal of the superintendent's decision. (1) Provider applicants not approved may file an appeal to the superintendent of public instruction for reconsideration within fifteen business days of notification of denial. The provider must provide specific, objective information that details the basis for their appeal.

(2) The superintendent of public instruction shall act upon the appeal and notify the applicant in writing whether the appeal was approved or denied within forty-five business days. This deadline for acting on the appeal may be extended if additional information is required from the applicant.

(3) Decisions made by the superintendent of public instruction under WAC 392-502-020 may be appealed as provided for in RCW 34.05.514.

[Statutory Authority: 2009 c 542. 10-01-099, § 392-502-040, filed 12/17/09, effective 1/17/10.]

WAC 392-502-050 Approval duration and conditions for approval. Approvals will be for the four subsequent consecutive full school years.

(1) Grandfathered multidistrict on-line providers are granted their initial approval only until August 31, 2012, and

must be approved in a renewal process prior to that date in order to continue offering their courses/school programs for the 2012-13 school year.

(2) Multidistrict providers that have been approved shall annually be required to provide information on the following:

(a) On-line provider's overall instructional program;

(b) Content of individual on-line courses and on-line school programs;

(c) Direct link to the on-line provider's web site;

(d) Registration information for on-line learning programs and courses;

(e) Teacher qualifications;

(f) Student-to-teacher ratios as defined by the superintendent of public instruction;

(g) Course completion and pass rates as defined by the superintendent of public instruction; and

(h) Other evaluative and comparative information requested by the superintendent of public instruction.

(3) Carry out the program/courses described in the approval application, abide by the assurances listed in WAC 392-502-030 and certified in the application process and maintain the approval criteria listed in WAC 392-502-030.

[Statutory Authority: 2009 c 542. 10-01-099, § 392-502-050, filed 12/17/09, effective 1/17/10.]

WAC 392-502-060 Rescinding approvals. (1) Approved multidistrict on-line providers that fail to comply with the conditions of approval in WAC 392-502-050, may be subject to rescindment of approval.

(2) Process for rescindment.

(a) Providers will be notified when there is substantial evidence that they are not meeting one or more of the approval conditions and that rescindment is being considered. The letter shall state the specific areas of concern.

(b) The provider will be invited to submit a corrective action plan with a timeline to address the specific areas of concern.

(c) The superintendent of public instruction shall consider the corrective action plan and make a determination whether it satisfactorily addresses the specific areas of concern, whether additional actions are necessary, or the plan is substantially incomplete and the approval should be immediately rescinded. Before making this decision, the superintendent shall provide an opportunity for the multidistrict on-line provider to clarify and adjust their plan.

(d) Recognizing the serious nature of rescindment and its potential impact on students, districts and providers, the superintendent of public instruction will only rescind approvals if he or she finds that the multidistrict on-line provider is unwilling to take the necessary corrective actions to bring the courses/programs in compliance with the approval assurances and criteria. If the superintendent of public instruction determines that a multidistrict on-line provider's approval must be rescinded, the implementation of the rescindment shall, to the greatest extent possible, be timed to prevent unnecessary disruption to the education of the students.

(e) The superintendent of public instruction reserves the right to immediately rescind approval of any provider where conditions exist that jeopardize academic or fiscal integrity or compromise the health and safety of students or staff.

(3) Rescinded providers are responsible for communicating that change in status to their clients. The superintendent of public instruction will remove rescinded providers from the agency's web site.

(4) Rescinded providers are permitted to submit for reapproval during subsequent approval application periods.

[Statutory Authority: 2009 c 542. 10-01-099, § 392-502-060, filed 12/17/09, effective 1/17/10.]

WAC 392-502-070 Renewal process. (1) The approval period is four years, and the renewal process is the same as the approval process.

(2) Approved providers must initiate their renewal no later than the approval cycle in their fourth year of approved status in order to maintain approval for the following school year.

[Statutory Authority: 2009 c 542. 10-01-099, § 392-502-070, filed 12/17/09, effective 1/17/10.]

WAC 392-502-080 Approval required for state funding. (1) Beginning with the 2011-12 school year, school districts may claim state basic education funding, to the extent otherwise allowed by state law, for students enrolled in on-line courses or programs only if the on-line courses or programs are:

(a) Offered by a multidistrict on-line provider approved by the superintendent of public instruction;

(b) Offered by a school district on-line learning program if the program serves students who reside within the geographic boundaries of the school district, including school district programs in which fewer than ten percent of the program's students reside outside the school district's geographic boundaries; or

(c) Offered by a regional on-line learning program jointly developed and offered by two or more school districts or an educational service district through an interdistrict cooperative or consortium program agreement in which fewer than ten percent of the program's students reside outside the school districts' geographic boundaries.

(2) Criteria shall be established by the superintendent of public instruction to allow on-line courses that have not been approved by the superintendent of public instruction to be eligible for state funding if the course is in a subject matter in which no courses have been approved and, if it is a high school course, the course meets Washington high school graduation requirements. These criteria will be posted on the superintendent of public instruction web site by December 31, 2009, and any modifications to those will appear by July 1, 2010, and April 1st each subsequent year after review by the on-line learning advisory committee and the state board of education.

[Statutory Authority: 2009 c 542. 10-01-099, § 392-502-080, filed 12/17/09, effective 1/17/10.]