

WSR 25-12-006

EMERGENCY RULES

RENTON TECHNICAL COLLEGE

[Filed May 21, 2025, 3:39 p.m., effective May 21, 2025, 3:39 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: On April 19, 2024, the United States (U.S.) Department of Education released its final rule under Title IX. This rule required institutions of higher education to adopt student disciplinary procedures addressing sex discrimination, including sex-based harassment based on gender identity, and Renton Technical College (college) adopted those changes in the permanent rule process on November 30, 2024. On January 9, 2025, a U.S. District Court vacated the final rule. This CR-102 is notice that the college will adopt the previous student conduct and hearing procedures as it pertains to Title IX that the college put into effect in 2021. In addition, sections of the non-Title IX student conduct code are being updated to distinguish Title IX sexual misconduct and non-Title IX sexual misconduct.

Citation of Rules Affected by this Order: Amending WAC 495E-110-010, 495E-110-030, 495E-110-140 [495E-110-040], 495E-110-060, 495E-110-070, 495E-110-080, 495E-110-090, 495E-110-100, 495E-110-110, 495E-110-120, 495E-110-130, 495E-110-140, 495E-110-150, 495E-110-160, 495E-110-225, 495E-110-240, 495E-110-260, 495E-110-280, 495E-110-290, 495E-110-300, and 495E-110-310.

Statutory Authority for Adoption: RCW 28B.50.140(13).

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: New rules are necessary to be in compliance with the District Court decision of *Tennessee, et al. v. Cardona* issued on January 9, 2025, which struck down the 2024 U.S. Department of Education final rule issued by the previous presidential administration. These new rules will accomplish bringing the college's student conduct code into compliance with the 2020 Title IX requirements that are now controlling regarding Title IX. The updates to the student conduct code will make it clearer which procedures are applying to various forms of misconduct.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 21, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: May 21, 2025.

Lesley K. Hogan
Vice President of Human Resources

RDS-6366.1

AMENDATORY SECTION (Amending WSR 24-24-035, filed 11/25/24, effective 11/30/24)

WAC 495E-110-010 Authority. The board of trustees, acting pursuant to RCW 28B.50.140(14), delegates to the president of the college the authority to administer disciplinary action. Administration of the disciplinary procedures is the responsibility of the vice president of student services or their designee. Except in cases involving allegations of (~~sex discrimination, including sex-based harassment,~~) sexual misconduct, the student conduct officer, or delegate, shall serve as the principal investigator and administrator for alleged violations of this code.

AMENDATORY SECTION (Amending WSR 24-24-035, filed 11/25/24, effective 11/30/24)

WAC 495E-110-030 Prohibited student conduct. The college may impose disciplinary sanctions against a student or student group, who commits, attempts to commit, aids, abets, incites, encourages or assists another person to commit, an act(s) of misconduct, which include, but are not limited to, the following:

(1) **Abuse of others.** Assault, physical abuse, verbal abuse, threat(s), intimidation, or other conduct that harms, threatens, or is reasonably perceived as threatening the health or safety of another person or another person's property unless otherwise protected by law.

(2) **Abuse in later life.**

(a) Neglect, abandonment, economic abuse, or willful harm of an adult aged 50 or older by an individual in an ongoing relationship of trust with the victim; or

(b) Domestic violence, dating violence, sexual assault, or stalking of an adult aged 50 or older by any individual; and

(c) Does not include self-neglect.

(3) **Academic dishonesty.** Any act of academic dishonesty including, but not limited to, cheating, plagiarism, and fabrication.

(a) Cheating includes any attempt to give or obtain unauthorized assistance relating to the completion of an academic assignment.

(b) Plagiarism includes taking and using as one's own, without proper attribution, the ideas, writings, or work of another person, or artificial intelligence, in completing an academic assignment. Prohibited conduct may also include the unauthorized submission for credit of academic work that has been submitted for credit in another course.

(c) Fabrication includes falsifying data, information, or citations in completing an academic assignment and also includes providing false or deceptive information to an instructor concerning the completion of an assignment.

(d) Deliberate damage includes taking deliberate action to destroy or damage another's academic work or college property in order to gain an advantage for oneself or another.

(e) Academic consequences for academic dishonesty or abetting in academic dishonesty may be imposed at the discretion of a faculty member up to and including a failing grade for the course. Students

should refer to each faculty course syllabus. Further academic consequences may follow consistent with the provisions in any program handbook. Incidents of academic dishonesty may also be referred to the student conduct officer for disciplinary action consistent with this chapter in addition to the academic consequences identified above.

(4) **Other dishonesty.** Any other acts of dishonesty. Such acts include, but are not limited to:

(a) Forgery, alteration, submission of falsified documents, or misuse of any college document, record, or instrument of identification;

(b) Tampering with an election conducted by or for college students; or

(c) Furnishing false information or failing to furnish correct information, in response to the request or requirement of a college officer or employee.

(d) Knowingly making a false statement or submitting false information in relation, or in response, to a college academic or disciplinary investigation or process.

(5) **Obstruction or disruptive conduct.** Conduct, not otherwise protected by law, that interferes with, impedes, or otherwise unreasonably hinders:

(a) Instruction, research, administration, disciplinary proceeding, or other college activities, including the obstruction of the free flow of pedestrian or vehicular movement on college property or at a college activity; or

(b) Any activity that is authorized to occur on college property, whether or not actually conducted or sponsored by the college.

(6) **Cyber misconduct.** Cyberstalking, cyberbullying or online harassment. Use of electronic communications including, but not limited to, electronic mail, instant messaging, electronic bulletin boards, applications (apps), and social media sites, to harass, abuse, bully, or engage in other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person. Prohibited activities include, but are not limited to, unauthorized monitoring of another's email communications directly or through spyware, sending threatening emails, disrupting electronic communications with spam or by sending a computer virus, sending false messages to third parties using another's email identity, nonconsensual recording of sexual activity, and nonconsensual distribution of a recording of sexual activity.

(7) **Property violation.** Damage to, misappropriation of, unauthorized use or possession of, vandalism, or other nonaccidental damaging or destruction of college property or the property of another person. Property for purposes of this subsection includes computer passwords, access codes, identification cards, personal financial account numbers, other confidential personal information, intellectual property, and college trademarks.

(8) **Failure to comply with directive.** Failure to comply with the directive of a college officer or employee who is acting in the legitimate performance of their duties, including failure to properly identify oneself to such a person when requested to do so.

(9) **Weapons.** Possession, holding, wearing, transporting, storage or presence of any firearm, dagger, sword, knife or other cutting or stabbing instrument, club, explosive device, or any other weapon apparently capable of producing bodily harm is prohibited on the college campus and during college programming and activities, subject to the following exceptions:

(a) Commissioned law enforcement personnel or legally authorized military personnel while in performance of their duties;

(b) A student with a valid concealed weapons permit may store a pistol in their vehicle parked on campus in accordance with RCW 9.41.050 (2) or (3), provided the vehicle is locked and the weapon is concealed from view; or

(c) The president may grant permission to bring a weapon on campus upon a determination that the weapon is reasonably related to a legitimate pedagogical purpose. Such permission shall be in writing and shall be subject to such terms or conditions incorporated in the written permission.

(d) This policy does not apply to the possession and/or use of disabling chemical sprays when possessed and/or used for self-defense.

(10) **Hazing.**

(a) Hazing is any act committed as part of:

(i) A person's recruitment, initiation, pledging, admission into, or affiliation with a student group; or

(ii) Any pastime or amusement engaged in with respect to such a student group;

(iii) That causes, or is likely to cause, bodily danger or physical harm, or serious psychological or emotional harm, to any student.

(b) Examples of hazing include, but are not limited to:

(i) Causing, directing, coercing, or forcing a person to consume any food, liquid, alcohol, drug, or other substance which subjects the person to risk of such harm;

(ii) Humiliation by ritual act;

(iii) Striking another person with an object or body part;

(iv) Causing someone to experience excessive fatigue, or physical and/or psychological shock; or

(v) Causing someone to engage in degrading or humiliating games or activities that create a risk of serious psychological, emotional, and/or physical harm.

(c) "Hazing" does not include customary athletic events or other similar contests or competitions.

(d) Consent is not a valid defense against hazing.

(11) **Alcohol.** The use, possession, manufacture, delivery, sale, or distribution of alcoholic beverages or paraphernalia (except as permitted by federal, state, and local laws and applicable college policies), or being observably under the influence of any alcoholic beverage or public intoxication on college premises or at college-sponsored events. Alcoholic beverages may not, in any circumstance, be used by, be possessed by, or distributed to any person not of legal age.

(12) **Cannabis, drug, and tobacco violations.**

(a) **Cannabis.** The use, possession, growing, delivery, sale, or being visibly under the influence of cannabis or the psychoactive compounds found in cannabis and intended for human consumption, regardless of form, or the possession of cannabis paraphernalia on college premises or college-sponsored events. While state law permits the recreational use of cannabis, federal law prohibits such use on college premises or in connection with college activities.

(b) **Drugs.** The use, possession, production, delivery, sale, or being observably under the influence of any legend drug including, anabolic steroids, androgens, or human growth hormones as defined in chapter 69.41 RCW, or any other controlled substance under chapter 69.50 RCW, except as prescribed for a student's use by a licensed practitioner.

(c) **Tobacco, electronic cigarettes, and related products.** The use of tobacco, electronic cigarettes, and related products in any building owned, leased, or operated by the college or in any location where such use is prohibited, including 25 feet from entrances, exits, windows that open, and ventilation intakes of any building owned, leased, or operated by the college. The use of tobacco, electronic cigarettes, and related products on the college campus is restricted to designated smoking areas. "Related products" include, but are not limited to, cigarettes, pipes, bidi, clove cigarettes, waterpipes, hookahs, chewing tobacco, vaporizers, and snuff. There are designated smoking areas on campus.

(13) **Discriminatory harassment.**

(a) Unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct, not otherwise protected by law, that is directed at a person because of such person's protected status and that is sufficiently severe, persistent, or pervasive so as to:

(i) Limit the ability of a student to participate in or benefit from the college's educational and/or social programs and/or student housing;

(ii) Alter the terms of an employee's employment; or

(iii) Create an intimidating, hostile, or offensive environment for other campus community members.

(b) Protected status includes a person's race; color; creed/religion; national origin; presence of any sensory, mental or physical disability; use of a trained service animal; sex, including pregnancy; marital status; age; genetic information; sexual orientation; gender identity or expression; veteran or military status; HIV/AIDS and hepatitis C status; or membership in any other group protected by federal, state, or local law.

(c) Discriminatory harassment may be physical, verbal, or nonverbal conduct and may include written, social media, and electronic communications not otherwise protected by law.

(14) **Harassment or bullying.** Conduct unrelated to a protected class that is unwelcome and sufficiently severe, persistent, or pervasive such that it could reasonably be expected to create an intimidating, hostile, or offensive environment, or has the purpose or effect of unreasonably interfering with a person's academic or work performance, or a person's ability to participate in or benefit from the college's programs, services, opportunities, or activities.

(a) Harassing conduct may include, but is not limited to, physical, verbal, or nonverbal conduct, including written, social media, and electronic communications not otherwise protected by law.

(b) For purposes of this code, "bullying" is defined as repeated or aggressive unwanted behavior not otherwise protected by law when a reasonable person would feel humiliated, harmed, or intimidated.

(c) For purposes of this code, "intimidation" is an implied threat. Intimidation exists when a reasonable person would feel threatened or coerced even though an explicit threat or display of physical force has not been made. Intimidation is evaluated based on the intensity, frequency, context, and duration of the comments or actions.

(15) **Retaliation.** Harming, threatening, intimidating, coercing, or other adverse action taken against any individual for reporting, providing information, exercising one's rights or responsibilities, participating, or refusing to participate, in the process of responding to, investigating, or addressing allegations or violations of federal, state, or local law, or college policies.

(16) (~~(Sex discrimination.~~ The term "sex discrimination" includes sex-based harassment, and may occur when a respondent causes more than "de minimis" harm to an individual by treating them different from a similarly situated individual on the basis of: Sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Conduct that prevents an individual from participating in an education program or activity consistent with the person's gender identity subjects a person to more than "de minimis" (insignificant) harm on the basis of sex.

~~(a) Sex-based harassment.~~ "Sex-based harassment" is a form of sex discrimination and means sexual harassment or other harassment on the basis of sex, including the following conduct:

~~(i) Quid pro quo harassment.~~ A student, employee, agent, or other person authorized by the college to provide an aid, benefit, or service under the college's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.

~~(ii) Hostile environment.~~ Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

~~(A) The degree to which the conduct affected the complainant's ability to access the college's education program or activity;~~

~~(B) The type, frequency, and duration of the conduct;~~

~~(C) The parties' ages, roles within the college's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;~~

~~(D) The location of the conduct and the context in which the conduct occurred; and~~

~~(E) Other sex-based harassment in the college's education program or activity.~~

~~(iii) Sexual violence.~~ "Sexual violence" includes nonconsensual sexual intercourse, nonconsensual sexual contact, domestic violence, incest, statutory rape, domestic violence, dating violence, and stalking.

~~(A) Nonconsensual sexual intercourse~~ is any sexual intercourse (anal, oral, or vaginal), however slight, with any object, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

~~(B) Nonconsensual sexual contact (fondling)~~ is any actual or attempted sexual touching, however slight, with any body part or object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

~~(C) Incest~~ is sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren and adopted children under the age of 18.

~~(D) Statutory rape (rape of a child)~~ is nonforcible sexual intercourse with a person who is under the statutory age of consent.

~~(E) **Domestic violence** is physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, coercive control, damage or destruction of personal property, stalking or any other conduct prohibited under RCW 10.99.020, committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Washington.~~

~~(F) **Dating violence** is physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:~~

~~(I) The length of the relationship;~~

~~(II) The type of relationship; and~~

~~(III) The frequency of interaction between the persons involved in the relationship.~~

~~(G) **Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or to suffer substantial emotional distress.~~

~~(b) **Consent.** For purposes of this code, "consent" means knowing, voluntary and clear permission by word or action, to engage in mutually agreed upon sexual activity.~~

~~(i) Each party has the responsibility to make certain that the other has consented before engaging in the activity.~~

~~(ii) For consent to be valid, there must be at the time of the act of sexual intercourse or sexual contact actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.~~

~~(iii) A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has engaged in nonconsensual conduct.~~

~~(iv) Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.~~

~~(c) **Title IX retaliation** means intimidation, threats, coercion, or discrimination against any person by a student, for the purpose of interfering with any right or privilege secured by Title IX, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in a sex discrimination investigation, proceeding, or hearing under this part, including during an informal resolution process, during a Title IX investigation, or during any disciplinary proceeding involving allegations of sex discrimination.)) **Sexual misconduct.** The term "sexual misconduct" includes sexual harassment, sexual intimidation, and sexual violence. Sexual harassment prohibited by Title IX is defined in the supplemental procedures to this code. (Supplemental Title IX student conduct procedures.)~~

~~(a) **Sexual harassment.** The term "sexual harassment" means unwelcome sexual or gender-based conduct, including unwelcome sexual advan-~~

ces, requests for sexual favors, quid pro quo harassment, and other verbal, nonverbal, or physical conduct of a sexual or a gendered nature that is sufficiently severe, persistent, or pervasive as to:

(i) Deny or limit the ability of a student to participate in or benefit from the college's educational program;

(ii) Alter the terms or conditions of employment for a college employee(s); and/or

(iii) Creates an intimidating, hostile, or offensive environment for other campus community members.

Sexual harassment does not need to be sexual in nature and can include offensive remarks about a person's gender. There are two types of sexual harassment:

(A) Hostile environment sexual harassment occurs when the conduct is sufficiently severe and/or pervasive and so objectively offensive that it has the effect of altering the terms or conditions of employment or substantially limiting the ability of a student to participate in or benefit from the college's educational and/or social programs and/or student housing.

(B) Quid pro quo harassment occurs when an individual, in a position of real or perceived authority, conditions the receipt of a benefit upon granting of sexual favors.

(b) **Sexual intimidation.** The term "sexual intimidation" incorporates the definition of "sexual harassment" and means threatening or emotionally distressing conduct based on sex including, but not limited to, nonconsensual recording of sexual activity or the distribution of such recording.

(c) **Sexual violence.** "Sexual violence" is a type of sexual discrimination and harassment. Nonconsensual sexual intercourse, nonconsensual sexual contact, domestic violence, dating violence, and stalking are all types of sexual violence.

(i) Nonconsensual sexual intercourse. Any actual or attempted sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

(ii) Nonconsensual sexual contact. Any actual or attempted sexual touching, however slight, with any body part or object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

(iii) Incest. Sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren and adopted children under the age of 18.

(iv) Statutory rape. Consensual intercourse between a person who is 18 years of age or older, and a person who is under the age of 16.

(v) Domestic violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington, or by any other person against an adult or youth victim

who is protected from that person's acts under the domestic or family violence laws of the state of Washington, RCW 26.55.010.

(vi) Dating violence, physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person:

(A) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(I) The length of the relationship;

(II) The type of relationship; and

(III) The frequency of interaction between the persons involved in the relationship.

(vii) Sexual exploitation. Taking nonconsensual or abusive sexual advantage of another for the respondent's own advantage or benefit, or to benefit or take advantage of anyone other than the one being exploited, when the behavior does not otherwise constitute one of the other sexual misconduct offenses described herein. Examples of sexual exploitation may include, but are not limited to:

(A) Invading another person's sexual privacy;

(B) Prostituting another person;

(C) Nonconsensual photography and digital or video recording of nudity or sexual activity, or nonconsensual audio recording of sexual activity;

(D) Unauthorized sharing or distribution of photographs or digital or video recording of nudity or sexual activity, or audio recording of sexual activity, unless otherwise protected by law;

(E) Engaging in voyeurism. A person commits voyeurism if they knowingly view, photograph, record, or film another person, without that person's knowledge and consent, while the person being viewed, photographed, recorded, or filmed is in a place where the person has a reasonable expectation of privacy;

(F) Knowingly or recklessly exposing another person to a significant risk of sexually transmitted disease or infection; or

(G) Causing the nonconsensual indecent exposure of another person.

(viii) Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(A) Fear for their safety or the safety of others; or

(B) Suffer substantive emotional distress.

(d) For purposes of this chapter, "consent" means knowing, voluntary, and clear permission by word or action, to engage in mutually agreed upon sexual activity. Each party has the responsibility to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be at the time of the act of sexual intercourse or sexual contact actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.

A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has engaged in nonconsensual conduct.

(17) Indecent exposure. The intentional or knowing exposure of a person's genitals or other private body parts when done in a place or manner in which such exposure is likely to cause affront or alarm. Breastfeeding or expressing breast milk is not indecent exposure.

- (18) **Misuse of electronic resources.** Theft or other misuse of computer time or other electronic information resources of the college. Such misuse includes, but is not limited to:
- (a) Unauthorized use of such resources or opening of a file, message, or other item;
 - (b) Unauthorized duplication, transfer, or distribution of a computer program, file, message, or other item;
 - (c) Unauthorized use or distribution of someone else's password or other identification;
 - (d) Use of such time or resources to interfere with someone else's work;
 - (e) Use of such time or resources to send, display, or print an obscene or abusive message, text, or image;
 - (f) Use of such time or resources to interfere with normal operation of the college's computing system or other electronic information resources;
 - (g) Use of such time or resources in violation of applicable copyright or other law;
 - (h) Adding to or otherwise altering the infrastructure of the college's electronic information resources without authorization; or
 - (i) Failure to comply with the college's electronic use policy.
- (19) **Unauthorized access.** Unauthorized possession, duplication, or other use of a key, keycard, or other restricted means of access to college property, or unauthorized entry onto or into college property.
- (20) **Safety violations.** Nonaccidental, reckless, or unsafe conduct that interferes with or otherwise compromises any college policy, equipment, or procedure relating to the safety and security of the campus community, including tampering with fire safety equipment and triggering false alarms or other emergency response systems.
- (21) **Violation of other laws or policies.** Violation of any federal, state, or local law, rule, or regulation or other college rules or policies, including college housing, traffic, and parking rules.
- (22) **Ethical violation.** The breach of any generally recognized and published code of ethics or standards of professional practice that governs the conduct of a particular profession for which the student is taking a course or is pursuing as an educational goal or major.

AMENDATORY SECTION (Amending WSR 24-24-035, filed 11/25/24, effective 11/30/24)

WAC 495E-110-040 Corrective action, disciplinary sanctions, and terms and conditions. (1) One or more of the following disciplinary sanctions may be imposed upon students or upon college-sponsored student organizations, athletic teams, or living groups found to have violated the student conduct code.

(a) **Warning.** A verbal or written statement to a student that there is a violation and that continued violation may be cause for further disciplinary action. Warnings are corrective actions, not disciplinary, and may not be appealed.

(b) **Written reprimand.** Notice in writing that the student has violated one or more terms of this code of conduct and that continuation of the same or similar behavior may result in more severe disciplinary action.

(c) **Disciplinary probation.** Formal action placing specific conditions and restrictions upon the student's continued attendance depending upon the seriousness of the violation and which may include a deferred disciplinary sanction. If the student subject to a deferred disciplinary sanction is found in violation of any college rule during the time of disciplinary probation, the deferred disciplinary sanction which may include, but is not limited to, a suspension or a dismissal from the college, shall take effect immediately without further review. Any such sanction shall be in addition to any sanction or conditions arising from the new violation. Probation may be for a limited period of time or may be for the duration of the student's attendance at the college.

(d) **Disciplinary suspension.** Dismissal from the college and from the student status for a stated period of time. There will be no refund of tuition or fees for the quarter in which the action is taken.

(e) **Dismissal.** The revocation of all rights and privileges of membership in the college community and exclusion from the campus and college-owned or controlled facilities without any possibility of return. There will be no refund of tuition or fees for the quarter in which the action is taken.

(2) Disciplinary terms and conditions that may be imposed in conjunction with the imposition of a disciplinary sanction include, but are not limited to, the following:

(a) **Restitution.** Reimbursement for damage to or misappropriation of property, or for injury to persons, or for reasonable costs incurred by the college in pursuing an investigation or disciplinary proceeding. This may take the form of monetary reimbursement, appropriate service, or other compensation.

(b) **Professional evaluation.** Referral for drug, alcohol, psychological, or medical evaluation by an appropriately certified or licensed professional may be required. The student may choose the professional within the scope of practice and with the professional credentials as defined by the college. The student will sign all necessary releases to allow the college access to any such evaluation. The student's return to college may be conditioned upon compliance with recommendations set forth in such a professional evaluation. If the evaluation indicates that the student is not capable of functioning within the college community, the student will remain suspended until future evaluation recommends that the student is capable of reentering the college and complying with the rules of conduct.

(c) **Not in good standing.** A student may be deemed "not in good standing" with the college. If so, the student shall be subject to the following restrictions:

(i) Ineligible to hold an office in any student organization recognized by the college or to hold any elected or appointed office of the college;

(ii) Ineligible to represent the college to anyone outside the college community in any way, including representing the college at any official function, or any forms of intercollegiate competition or representation.

(d) **No contact order.** An order directing a student to have no contact with a specified student, college employee, a member of the college community, or a particular college facility.

(e) **Education.** Participation in or successful completion of an educational assignment designed to create an awareness of the student's misconduct.

(f) **Loss of privileges.** Denial of specified privileges for a designated period of time.

(g) **Trespass or restriction.** A student may be restricted from any or all college premises and/or college-sponsored activities based on the violation.

(3) If a student withdraws from the college or fails to reenroll before completing a disciplinary sanction or condition, the disciplinary sanction or condition must be completed either prior to or upon the student's reenrollment, depending on the nature of the sanction, condition, and/or the underlying violation. Completion of disciplinary sanctions and conditions may be considered in petitions for readmission to the college.

AMENDATORY SECTION (Amending WSR 24-24-035, filed 11/25/24, effective 11/30/24)

WAC 495E-110-060 Definitions. The following definitions shall apply for purpose of this student conduct code:

(1) "Business day" means a weekday, excluding weekends and college holidays.

(2) "College premises" shall include all campuses of the college, wherever located, and includes all land, buildings, facilities, vehicles, equipment, and other property owned, used, or controlled by the college.

(3) (~~"Complainant" means the following individuals who are alleged to have been subjected to conduct that would constitute sex discrimination:~~

~~(a) A student or employee; or~~

~~(b) A person other than a student or employee who was participating or attempting to participate in the college's education program or activity at the time of the alleged discrimination.)~~ A "complainant" is an alleged victim of misconduct.

(4) "Conduct review officer" is the vice president of student services or other college administrator designated by the president to be responsible for receiving and for reviewing or referring appeals of student disciplinary actions in accordance with the procedures of this code.

(5) "Disciplinary action" is the process by which the student conduct officer imposes discipline against a student for a violation of the student conduct code. A written or verbal warning is not disciplinary action.

(6) "Disciplinary appeal" is the process by which an aggrieved party can appeal the discipline imposed or recommended by the student conduct officer. Disciplinary appeals from a suspension in excess of 10 instructional days or a dismissal are heard by the student conduct committee. Appeals of all other appealable disciplinary action shall be reviewed through brief adjudicative proceedings.

(7) "Filing" is the process by which a document is officially delivered to a college official responsible for facilitating a disciplinary review. Unless otherwise provided, filing shall be accomplished by:

(a) Hand delivery of the document to the specified college official or college official's assistant; or

(b) By sending the document by email and first-class mail to the specified college official's office and college email address.

Papers required to be filed shall be deemed filed upon actual receipt during office hours at the office of the specified college official.

(8) "Pregnancy or related conditions" means:

(a) Pregnancy, childbirth, termination of pregnancy, or lactation;

(b) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or

(c) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

(9) "Program" or "programs and activities" means all operations of the college.

(10) "Relevant" means related to the allegations of (~~sex discrimination~~) misconduct under investigation. Questions are relevant when they seek evidence that may aid in showing whether the alleged (~~sex discrimination~~) misconduct occurred, and evidence is relevant when it may aid a decision maker in determining whether the alleged (~~sex discrimination~~) misconduct occurred.

(11) "Remedies" means measures provided to a complainant or other person whose equal access to the college's educational programs and activities has been limited or denied by (~~sex discrimination~~) misconduct. These measures are intended to restore or preserve that person's access to educational programs and activities after a determination that (~~sex discrimination~~) misconduct has occurred.

(12) "Respondent" is a student who is alleged to have violated the student conduct code.

(13) "Service" is the process by which a document is officially delivered to a party. Unless otherwise provided, service upon a party shall be accomplished by:

(a) Hand delivery of the document to the party; or

(b) Sending the document by email and by certified mail or first-class mail to the party's last known address.

Service is deemed complete upon hand delivery of the document or upon the date the document is emailed and deposited in the mail, whichever is first.

(14) "Student" includes all persons taking courses at or through the college, whether on a full-time or part-time basis, and whether such courses are credit courses, noncredit courses, online courses, or otherwise. Persons who withdraw after allegedly violating the code, who are not officially enrolled for a particular term but who have a continuing relationship with the college, or who have been notified of their acceptance for admission are considered "students" for purposes of this chapter.

(15) "Student conduct officer" is a college administrator designated by the president or vice president of student services to be responsible for implementing and enforcing the student conduct code.

(16) "Student employee" means an individual who is both a student and an employee of the college. When a complainant or respondent is a student employee, the college must make a fact-specific inquiry to determine whether the individual's primary relationship with the college is to receive an education and whether any alleged student conduct code violation including, but not limited to, (~~sex-based~~) sexual harassment, occurred while the individual was performing employment-related work.

(17) "Student group" for purposes of this code, is a student organization, athletic team, or living group including, but not limited to, student clubs and organizations, members of a class or student co-

hort, student performance groups, and student living groups within student housing.

(18) "Supportive measures" means reasonably available, individualized and appropriate, nonpunitive and nondisciplinary measures offered by the college to the complainant or respondent without unreasonably burdening either party, and without fee or charge for purposes of:

(a) Restoring or preserving a party's access to the college's educational program or activity, including measures that are designed to protect the safety of the parties or the college's educational environment; or providing support during the college's investigation and disciplinary procedures, or during any informal resolution process; or

(b) Supportive measures may include, but are not limited to: Counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of campus; restriction on contact applied to one or more parties; a leave of absence; change in class, work, housing, or extra-curricular or any other activity, regardless of whether there is or is not a comparable alternative; and training and education programs (~~related to sex-based harassment~~).

(19) "The president" is the president of the college. The president is authorized to:

(a) Delegate any of their responsibilities as set forth in this chapter as may be reasonably necessary; and

(b) Reassign any and all duties and responsibilities as set forth in this chapter as may be reasonably necessary.

(20) "Title IX coordinator" is the administrator responsible for processing complaints of (~~sex discrimination~~) sexual misconduct, including (~~sex-based~~) sexual harassment, overseeing investigations and informal resolution processes, and coordinating supportive measures, in accordance with college policy.

AMENDATORY SECTION (Amending WSR 24-24-035, filed 11/25/24, effective 11/30/24)

WAC 495E-110-070 Initiation of disciplinary actions. (1) Any member of the college community may file a complaint against a student or student group for possible violations of the student conduct code.

(2) The student conduct officer, or designee, may review and investigate any complaint to determine whether it appears to state a violation of the student conduct code.

(a) (~~Sex discrimination~~) **Sexual misconduct, including (sex-based) sexual harassment.** The college's Title IX coordinator or designee shall review, process, and, if applicable, investigate complaints or other reports of (~~sex discrimination~~) sexual misconduct, including (sex-based) sexual harassment that occurs during an "educational program or activity" as defined in WAC 495E-110-250. Allegations of (~~sex discrimination~~) non-Title IX sexual misconduct, including (~~sex-based~~) sexual harassment, by a student shall be addressed through the student conduct code. Allegations involving employees or third parties associated with the college will be handled in accordance with college policies.

(b) **Hazing by student groups.** A student conduct officer, or designee, may review and investigate any complaint or allegation of hazing by a student group. A student group will be notified through its

named officer(s) and address on file with the college. A student group may designate one representative who may speak on behalf of a student group during any investigation and/or disciplinary proceeding. A student group will have the rights of a respondent as set forth below.

(3) Investigations will be completed in a timely manner and the results of the investigation shall be referred to the student conduct officer for disciplinary action.

(4) If a student conduct officer determines that a complaint appears to state a violation of the student conduct code, the student conduct officer will consider whether the matter might be resolved through agreement with the respondent or through alternative dispute resolution proceedings involving the complainant and the reporting party.

~~((a) Informal dispute resolution shall not be used to resolve sex-based harassment complaints without written permission from both the complainant and the respondent.~~

~~(b))~~ If the parties elect to mediate a dispute through informal dispute resolution, either party shall be free to discontinue mediation at any time.

(5) If the student conduct officer has determined that a complaint has merit and if the matter is not resolved through agreement or informal dispute resolution, the student conduct officer may initiate disciplinary action against the respondent.

(6) Both the respondent and the complainant in cases involving allegations of ~~((sex discrimination))~~ non-Title IX sexual misconduct shall be provided the same procedural rights to participate in student discipline matters, including the right to participate in the disciplinary process and to appeal any disciplinary decision.

(7) All disciplinary actions will be initiated by the student conduct officer. If that officer is the subject of a complaint initiated by the respondent, the president shall, upon request and when feasible, designate another person to fulfill any such disciplinary responsibilities relative to the complainant.

(8) The student conduct officer shall initiate disciplinary action by serving the respondent with written notice directing them to attend a disciplinary meeting. The notice shall briefly describe the factual allegations, the provision(s) of the conduct code the respondent is alleged to have violated, the range of possible sanctions for the alleged violation(s), and specify the time and location of the meeting.

(9) At the meeting, the student conduct officer will present the allegations to the respondent and the respondent shall be afforded an opportunity to explain what took place. If the respondent fails to attend the meeting, the student conduct officer may take disciplinary action based upon the available information.

(10) Within 10 business days of the initial disciplinary meeting, and after considering the evidence in the case, including any facts or argument presented by the respondent, the student conduct officer shall serve the respondent with a written decision setting forth the facts and conclusions supporting their decision, the specific student conduct code provisions found to have been violated, the discipline imposed, if any, and a notice of any appeal rights with an explanation of the consequences of failing to file a timely appeal. Except in cases of sexual misconduct falling under Title IX jurisdiction, this period may be extended at the sole discretion of the student conduct officer, if additional information is necessary to reach a determina-

tion. The student conduct officer will notify the parties of any extension period and the reason therefore.

(11) The student conduct officer may take any of the following disciplinary actions:

(a) Exonerate the respondent and terminate the proceedings.

(b) Impose a disciplinary sanction(s), with or without conditions, as described in WAC 495E-110-040.

(c) Refer the matter directly to the student conduct committee for such disciplinary action as the committee deems appropriate. Such referral shall be in writing, to the attention of the chair of the student conduct committee, with a copy served on the respondent.

(12) In cases involving allegations of ~~((sex discrimination, the student conduct officer shall review the investigation report provided by the Title IX coordinator, and determine whether, by a preponderance of the evidence, there was a violation of the student conduct code; and if so, what disciplinary sanction(s) and/or remedies will be recommended. The student conduct officer shall, within five business days of receiving the investigation report, serve respondent, complainant, and the Title IX coordinator with a written recommendation, setting forth the facts and conclusions supporting their recommendation. The time for serving a written recommendation may be extended by the student conduct officer for good cause.~~

~~(a) The complainant and respondent may either accept the student conduct officer's recommended disciplinary sanction(s) or request a hearing before a student conduct committee.~~

~~(b) The complainant and respondent shall have 21 calendar days from the date of the written recommendation to request a hearing before a student conduct committee.~~

~~(c) The request for a hearing may be verbal or written, but must be clearly communicated to the student conduct officer.~~

~~(d) The student conduct officer shall promptly notify the other party of the request.~~

~~(e) In cases involving sex discrimination, the student conduct officer may recommend dismissal of the complaint if:~~

~~(i) The college is unable to identify respondent after taking reasonable steps to do so;~~

~~(ii) The respondent is not participating in the college's educational programs or activities;~~

~~(iii) The complainant has voluntarily withdrawn any or all of the allegations in the complaint, and the Title IX coordinator has declined to initiate their own complaint;~~

~~(iv) The college determines that, even if proven, the conduct alleged by the complainant would not constitute sex discrimination; or~~

~~(v) The conduct alleged by the complainant falls outside the college's disciplinary jurisdiction.~~

~~(f) In cases involving allegations of sex-based harassment, the college must obtain the complainant's voluntary withdrawal in writing before the matter can be dismissed.~~

~~(g) If no request for a full hearing is provided to the student conduct officer, the student conduct officer's written recommendation shall be final and implemented immediately following the expiration of 21 calendar days from the date of the written recommendation.~~

~~(h) Upon receipt of the student conduct officer's written recommendation, the Title IX coordinator or their designee shall review all supportive measures and, within five business days, provide written direction to the complainant and respondent as to any supportive measures that will be implemented, continued, modified, or terminated. If~~

~~either party is dissatisfied with the supportive measures, the party may seek review in accordance with the college's Title IX investigation procedure.~~

~~(i) If the respondent is found responsible for engaging in sex discrimination, the Title IX coordinator shall also take prompt steps to coordinate and implement any necessary remedies to ensure that sex discrimination does not recur and that complainant has equal access to the college's programs and activities)) sexual misconduct, the student conduct officer, on the same date that a disciplinary decision is served on the respondent, will serve a written notice informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including disciplinary suspension or dismissal of the respondent. The notice will also inform the complainant of their appeal rights.~~

AMENDATORY SECTION (Amending WSR 24-24-035, filed 11/25/24, effective 11/30/24)

WAC 495E-110-080 Appeal from disciplinary action. (1) ~~((Except as specified for cases involving allegations of sex discrimination, as set forth in WAC 495E-110-070(12),))~~ The respondent may appeal a disciplinary action by filing a written notice of appeal with the conduct review officer within 21 calendar days of service of the student conduct officer's decision. Failure to timely file a notice of appeal constitutes a waiver of the right to appeal, and the student conduct officer's decision shall be deemed final.

(2) The notice of appeal must include a brief statement explaining why the respondent is seeking review.

(3) The parties to an appeal shall be the respondent, complainant, if any, and the student conduct officer.

(4) A respondent, who timely appeals a disciplinary action or whose case is referred to the student conduct committee, has a right to a prompt, fair, and impartial hearing as provided for in these procedures.

(5) On appeal, the college bears the burden of establishing the evidentiary facts underlying the imposition of a disciplinary sanction by a preponderance of the evidence.

(6) Imposition of disciplinary action for violation of the student conduct code shall be stayed pending appeal, unless respondent has been summarily suspended.

(7) The student conduct committee shall hear appeals from:

(a) The imposition of disciplinary suspensions in excess of 10 instructional days;

(b) Dismissals; and

(c) ~~((Sex discrimination, including sex-based harassment cases; and~~

~~(d))~~ Discipline cases referred to the committee by the student conduct officer, the conduct review officer, or the president.

(8) A conduct review officer shall conduct a brief adjudicative proceeding for appeals of:

(a) Suspensions of 10 instructional days or less;

(b) Disciplinary probation;

(c) Written reprimands; and

(d) Any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions.

(9) Except as provided elsewhere in these rules, warnings and dismissals of disciplinary actions are final action and are not subject to appeal.

(10) In cases involving allegations of non-Title IX sexual misconduct, the complainant has the right to appeal the following actions by the student conduct officer following the same procedures as set forth above for the respondent:

(a) The dismissal of a non-Title IX sexual misconduct complaint;
or

(b) Any disciplinary sanction(s) and conditions imposed against a respondent for a sexual misconduct violation, including a warning.

(11) If the respondent timely appeals a decision imposing discipline for a sexual misconduct violation, the college shall notify the complainant of the appeal and provide the complainant an opportunity to intervene as a party to the appeal.

(12) Except as otherwise specified in this chapter, a complainant who timely appeals a disciplinary decision or who intervenes as a party to the respondent's appeal of a disciplinary decision shall be afforded the same procedural rights as are afforded the respondent.

AMENDATORY SECTION (Amending WSR 24-24-035, filed 11/25/24, effective 11/30/24)

WAC 495E-110-090 Brief adjudicative proceedings—Initial hearing. (1) Brief adjudicative proceedings shall be conducted by a conduct review officer. The conduct review officer shall not participate in any case in which he or she is a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(2) The parties to a brief adjudicative proceeding are the respondent ~~((and))~~, the student conduct officer, and in cases involving sexual misconduct, the complainant. If the complainant chooses, a non-attorney advisor may attend in their place. Before taking action, the conduct review officer shall conduct an informal hearing and provide each party:

(a) An opportunity to be informed of the agency's view of the matter; and

(b) An opportunity to explain the party's view of the matter.

(3) The conduct review officer shall serve an initial decision upon the respondent and the student conduct officer within 10 business days of consideration of the appeal. The initial decision shall contain a brief written statement of the reasons for the decision and information about how to seek administrative review of the initial decision. If no request for review is filed within 21 calendar days of service of the initial decision, the initial decision shall be deemed the final decision.

(4) In cases involving allegations of sexual misconduct, the conduct review officer, on the same date as the initial decision is served on the respondent, will serve a written notice upon the complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the com-

plainant's protection. The notice will also inform the complainant of their appeal rights.

(5) If the conduct review officer upon review determines that the respondent's conduct may warrant imposition of a disciplinary suspension in excess of 10 instructional days or dismissal, the matter shall be referred to the student conduct committee for a disciplinary hearing.

AMENDATORY SECTION (Amending WSR 24-24-035, filed 11/25/24, effective 11/30/24)

WAC 495E-110-100 Brief adjudicative proceedings—Review of an initial decision. (1) An initial decision is subject to review by the president, provided the respondent files a written request for review with the conduct review officer within 21 calendar days of service of the initial decision.

(2) The president shall not participate in any case in which they are a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(3) During the review, the president shall give each party an opportunity to file written responses explaining their view of the matter and shall make any inquiries necessary to ascertain whether the sanctions should be modified or whether the proceedings should be referred to the student conduct committee for a formal adjudicative hearing.

(4) The decision on review must be in writing and must include a brief statement of the reasons for the decision and must be served on the parties within 20 calendar days of the initial decision or of the request for review, whichever is later. The decision on review will contain a notice that judicial review may be available. A request for review may be deemed to have been denied if the president does not make a disposition of the matter within 20 calendar days after the request is submitted.

(5) If the president upon review determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than 10 instructional days or dismissal, the matter shall be referred to the student conduct committee for a disciplinary hearing.

(6) In cases involving allegations of sexual misconduct, the president, on the same date as the final decision is served on the respondent, will serve a written notice upon the complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent. The notice will also inform the complainant of their appeal rights.

AMENDATORY SECTION (Amending WSR 24-24-035, filed 11/25/24, effective 11/30/24)

WAC 495E-110-110 Student conduct committee. (1) The student conduct committee shall consist of five members:

(a) Two full-time students appointed by the student government;
 (b) Two faculty members appointed by the president; and
 (c) One faculty member or administrator (other than an administrator serving as a student conduct or conduct review officer) appointed by the president at the beginning of the academic year.

(2) The faculty member or administrator, appointed on a yearly basis, shall serve as the chair of the committee and may take action on preliminary hearing matters prior to convening the committee.

(3) Hearings may be heard by a quorum of three members of the committee so long as the chair, one faculty member, and one student are included on the hearing panel. Committee action may be taken upon a majority vote of all committee members attending the hearing.

(4) Members of the student conduct committee shall not participate in any case in which they are a party, complainant, or witness, in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity. Any party may petition for disqualification of a committee member.

(5) For cases involving allegations of ~~((sex discrimination))~~ sexual misconduct, including ~~((sex-based))~~ sexual harassment, members of the student conduct committee must receive training on serving impartially, avoiding prejudgment of facts at issue, conflicts of interest, and bias. The chair must also receive training on the student conduct process for ~~((sex discrimination))~~ sexual misconduct cases, as well as the meaning and application of the term "relevant," in relations to questions and evidence, and the types of evidence that are impermissible ~~((, regardless of relevance in accordance with 34 C.F.R. §§ 106.45 and 106.46))~~.

(6) The college may, in its sole discretion, contract with an administrative law judge or other qualified person to act as the presiding officer, authorized to exercise any or all duties of the student conduct committee and/or committee chair.

AMENDATORY SECTION (Amending WSR 24-24-035, filed 11/25/24, effective 11/30/24)

WAC 495E-110-120 Student conduct committee—Prehearing. (1)

Proceedings of the student conduct committee shall be governed by the Administrative Procedure Act, chapter 34.05 RCW.

(2) The student conduct committee chair shall serve all parties with written notice of the hearing not less than seven calendar days in advance of the hearing date. The chair may shorten this notice period if both parties agree, and also may continue the hearing to a later time for good cause shown. The notice must include:

- (a) A copy of the student conduct code;
- (b) The basis for jurisdiction;
- (c) The alleged violation(s);
- (d) A summary of facts underlying the allegations;
- (e) The range of possible sanctions that may be imposed; and
- (f) A statement that retaliation is prohibited.

(3) The committee chair is authorized to conduct prehearing conferences and/or to make prehearing decisions concerning the extent and form of any discovery, issuance of protective decisions, and similar procedural matters.

(4) Upon request filed at least five calendar days before the hearing by any party or at the direction of the committee chair, the parties shall exchange, no later than the third day prior to the hearing, lists of potential witnesses and copies of potential exhibits that they reasonably expect to present to the committee. Failure to participate in good faith in such a requested exchange may be cause for exclusion from the hearing of any witness or exhibit not disclosed, absent a showing of good cause for such failure.

(5) The committee chair may provide to the committee members in advance of the hearing copies of (a) the conduct officer's notification of imposition of discipline (or referral to the committee), and (b) the notice of appeal (or any response to referral) by the respondent. If doing so, however, the chair should remind the members that these "pleadings" are not evidence of any facts they may allege.

(6) The parties may agree before the hearing to designate specific exhibits as admissible without objection and, if they do so, whether the committee chair may provide copies of these admissible exhibits to the committee members before the hearing.

(7) The student conduct officer shall provide reasonable assistance to the respondent and complainant in procuring the presence of college students, employees, staff, and volunteers to appear at a hearing, provided the respondent and complainant provide a witness list to the student conduct officer no less than three business days in advance of the hearing. The student conduct officer shall notify the respondent and complainant no later than 24 hours in advance of the hearing if they have been unable to contact any prospective witnesses to procure their appearance at the hearing. The committee chair will determine how to handle the absence of a witness and shall describe on the record their rationale for any decision.

(8) Communications between committee members and other hearing participants regarding any issue in the proceeding, other than procedural communications that are necessary to maintain an orderly process, are generally prohibited without notice and opportunity for all parties to participate, and any improper "ex parte" communication shall be placed on the record, as further provided in RCW 34.05.455.

(9) In cases heard by the committee, each party may be accompanied at the hearing by an assistant of their choice, which may be an attorney retained at the party's expense.

(10) The committee will ordinarily be advised by an assistant attorney general or their designee. If the respondent and/or the complainant is represented by an attorney, the student conduct officer may be represented by an assistant attorney general.

(11) Attorneys for students must file a notice of appearance with the committee chair at least four business days before the hearing. Failure to do so may, at the discretion of the committee chair, result in a waiver of the attorney's ability to represent the student at the hearing, although an attorney may still serve as an advisor to the student.

~~((12) In cases involving allegations of sex discrimination, the complainant has a right to participate equally in any part of the disciplinary process, including appeals. Respondent and complainant both have the following rights:~~

~~(a) **Notice.** The college must provide a notice that includes all information required in subsection (2) of this section, and a statement that the parties are entitled to an equal opportunity to access relevant and permissible evidence, or a description of the evidence upon request.~~

~~(b) **Advisors.** The complainant and respondent are both entitled to have an advisor present, who may be an attorney retained at the party's expense.~~

~~(c) **Extensions of time.** The chair may, upon written request of any party and a showing of good cause, extend the time for disclosure of witness and exhibit lists, accessing and reviewing evidence, or the hearing date, in accordance with the procedures set forth in subsection (13)(b) of this section.~~

~~(d) **Evidence.** In advance of the hearing, the student conduct officer shall provide reasonable assistance to the respondent and complainant in accessing and reviewing the investigative report and relevant and not otherwise impermissible evidence that is within the college's control.~~

~~(e) **Confidentiality.** The college shall take reasonable steps to prevent the unauthorized disclosure of information obtained by a party solely through the disciplinary process, which may include, but are not limited to, directives by the student conduct officer or chair pertaining to the dissemination, disclosure, or access to evidence outside the context of the disciplinary hearing.~~

~~(13) In cases involving allegations of sex-based harassment, the following additional procedures apply:~~

~~(a) **Notice.** In addition to all information required in subsection (2) of this section, the notice must also inform the parties that:~~

~~(i) The respondent is presumed not responsible for the alleged sex-based harassment;~~

~~(ii) The parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decision maker;~~

~~(iii) They may have an advisor of their choice, who may be an attorney, to assist them during the hearing;~~

~~(iv) They are entitled to an equal opportunity to access relevant and not otherwise impermissible evidence in advance of the hearing; and~~

~~(v) The student conduct code prohibits knowingly making false statements or knowingly submitting false information during a student conduct proceeding.~~

~~(b) **Extensions of time.** The chair may, upon written request of any party and a showing of good cause, extend the time for disclosure of witness and exhibit lists, accessing and reviewing evidence, or the hearing date. The party requesting an extension must do so no later than 48 hours before any date specified in the notice of hearing or by the chair in any prehearing conference. The written request must be served simultaneously by email to all parties and the chair. Any party may respond and object to the request for an extension of time no later than 24 hours after service of the request for an extension. The chair will serve a written decision upon all parties, to include the reasons for granting or denying any request. The chair's decision shall be final. In exceptional circumstances, for good cause shown, the chair may, in their sole discretion, grant extensions of time that are made less than 48 hours before any deadline.~~

~~(c) **Advisors.** The college shall provide an advisor to the respondent and any complainant, if the respondent or complainant have not otherwise identified an advisor to assist during the hearing.~~

~~(d) **Evidence.** In advance of the hearing, the student conduct officer shall provide reasonable assistance to the respondent and complainant in accessing and reviewing the investigative report and rele-~~

~~vant and not otherwise impermissible evidence that is within the college's control.~~

~~(e) **Confidentiality.** The college shall take reasonable steps to prevent the unauthorized disclosure of information obtained by a party solely through the disciplinary process, which may include, but are not limited to, directives by the student conduct officer or chair issuing directives pertaining to the dissemination, disclosure, or access to evidence outside the context of the disciplinary hearing.~~

~~(f) **Separate locations.** The chair may, or upon the request of any party, must conduct the hearing with the parties physically present in separate locations, with technology enabling the committee and parties to simultaneously see and hear the party or the witness while that person is speaking.~~

~~(g) **Withdrawal of complaint.** If a complainant wants to voluntarily withdraw a complaint, they must provide notice to the college in writing before a case can be dismissed.)~~

AMENDATORY SECTION (Amending WSR 24-24-035, filed 11/25/24, effective 11/30/24)

WAC 495E-110-130 Student conduct committee hearings—Presentations of evidence. (1) Upon the failure of any party to attend or participate in a hearing, the student conduct committee may either:

- (a) Proceed with the hearing and issuance of its decision; or
- (b) Serve a decision of default in accordance with RCW 34.05.440.

(2) The hearing will ordinarily be closed to the public. However, if all parties agree on the record that some or all of the proceedings be open, the chair shall determine any extent to which the hearing will be open. If any person disrupts the proceedings, the chair may exclude that person from the hearing room.

(3) The chair shall cause the hearing to be recorded by a method that he/she (~~select~~) selects, in accordance with RCW 34.05.449. That recording, or a copy, shall be made available to any party upon request. The chair shall assure maintenance of the record of the proceeding that is required by RCW 34.05.476, which shall also be available upon request for inspection and copying by any party. Other recording shall also be permitted, in accordance with WAC 10-08-190.

(4) The chair shall preside at the hearing and decide procedural questions that arise during the hearing, except as overridden by majority vote of the committee.

(5) The student conduct officer (unless represented by an assistant attorney general) shall present the case for imposing disciplinary sanctions.

(6) All testimony shall be given under oath or affirmation. Evidence shall be admitted or excluded in accordance with RCW 34.05.452.

(7) In cases involving allegations of (~~sex-based harassment~~) non-Title IX sexual misconduct, the complainant and respondent may not directly question one another or other witnesses. In such circumstances, the chair will determine whether questions will be submitted to the chair, who will then ask questions of the parties and witnesses (~~or~~) or allow questions to be asked directly of any party or witnesses by a party's attorney (~~or advisor~~). The committee chair may revise this process if, in the chair's determination, the questioning by any party, attorney, or advisor, becomes contentious or harassing.

(a) Prior to any question being posed to a party or witness, the chair must determine whether the question is relevant and not otherwise impermissible; and must explain any decision to exclude a question that is deemed not relevant(~~(7)~~) or is otherwise impermissible. The chair will retain for the record copies of any written questions provided by any party.

(b) The chair must not permit questions that are unclear or harassing; but shall give the party an opportunity to clarify or revise such a question.

(c) The chair shall exclude and the committee shall not consider legally privileged information unless the individual holding the privilege has waived the privilege. Privileged information includes, but is not limited to, information protected by the following:

- (i) Spousal/domestic partner privilege;
- (ii) Attorney-client communications and attorney work product privilege;
- (iii) Clergy privileges;
- (iv) Medical or mental health providers and counselor privileges;
- (v) Sexual assault and domestic violence advocate privileges; and
- (vi) Other legal privileges set forth in RCW 5.60.060 or federal law.

(d) The chair shall exclude and the committee shall not consider questions or evidence that relate to the complainant's sexual interests or prior sexual conduct, unless such question or evidence is offered to prove someone other than the respondent committed the alleged conduct, or is evidence of specific instances of prior sexual conduct with the respondent that is offered to prove consent to the alleged (~~(sex-based harassment)~~) sexual misconduct. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged (~~(sex-based harassment)~~) sexual misconduct or preclude determination that (~~(sex-based harassment)~~) sexual misconduct occurred.

(e) The committee may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The committee must not draw an inference about whether (~~(sex-based harassment)~~) sexual misconduct occurred based solely on a party's or witness's refusal to respond to such questions.

(8) Except in cases involving allegations of (~~(sex-based harassment)~~) sexual misconduct, the chair has the discretion to determine whether a respondent may directly question any witnesses; and if not, to determine whether questions must be submitted to the chair to be asked of witnesses, or to allow questions to be asked by an attorney or advisor for the respondent.

AMENDATORY SECTION (Amending WSR 24-24-035, filed 11/25/24, effective 11/30/24)

WAC 495E-110-140 Student conduct committee—Initial decision.

(1) At the conclusion of the hearing, the student conduct committee shall permit the parties to make closing arguments in whatever form it wishes to receive them. The committee also may permit each party to propose findings, conclusions, and/or a proposed decision for its consideration.

(2) Within 20 calendar days following the later of the conclusion of the hearing or the committee's receipt of closing arguments, the committee shall issue an initial decision in accordance with RCW 34.05.461 and WAC 10-08-210. The initial decision shall include findings on all material issues of fact and conclusions on all material issues of law, including which, if any, provisions of the student conduct code were violated. Any findings based substantially on the credibility of evidence, or the demeanor of witnesses, shall be so identified.

(3) The committee's initial order shall also include a determination on appropriate discipline, if any. If the matter was referred to the committee by the student conduct officer, the committee shall identify and impose disciplinary sanction(s) or conditions (if any) as authorized in the student code. If the matter is an appeal by the party, the committee may affirm, reverse, or modify the disciplinary sanction and/or conditions imposed by the student conduct officer and/or impose additional disciplinary sanction(s) or conditions as authorized herein.

(4) The committee chair shall cause copies of the initial decision to be served on the parties and their attorneys, if any. The notice will inform all parties of their appeal rights. The committee chair shall also promptly transmit a copy of the decision and the record of the committee's proceedings to the president.

(5) In cases involving ~~((sex-based harassment, the initial decision shall be served on all parties simultaneously, as well as the Title IX coordinator))~~ allegations of non-Title IX sexual misconduct, the chair of the student conduct committee, on the same date as the initial decision is served on the respondent, will serve a written notice upon the complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent. The complainant may appeal the student conduct committee's initial decision to the president subject to the same procedures and deadlines applicable to other parties. The notice will also inform the complainant of their appeal rights.

AMENDATORY SECTION (Amending WSR 24-24-035, filed 11/25/24, effective 11/30/24)

WAC 495E-110-150 Appeal from student conduct committee initial decision. (1) Any party, including a complainant in ~~((sex-based harassment))~~ sexual misconduct cases, may appeal the committee's initial decision to the president by filing a notice of appeal with the president's office within 21 calendar days of service of the committee's decision. Failure to file a timely appeal constitutes a waiver of the right and the decision shall be deemed final.

(2) The written appeal must identify the specific findings of fact and/or conclusions of law in the decision that are challenged and must contain argument why the appeal should be granted. Appeals may be based upon, but are not limited to:

(a) Procedural irregularity that would change the outcome;

(b) New evidence that would change the outcome and that was not reasonably available when the initial decision was made; and

(c) The investigator, decision maker, or Title IX coordinator had a conflict of interest or bias for or against a respondent or complainant individually or respondents or complainants generally.

(3) Upon receiving a timely appeal, the president or a designee will promptly serve a copy of the appeal on all nonappealing parties, who will have 10 business days from the date of service to submit a written response addressing the issues raised in the appeal to the president or a designee((7)) and serve it on all parties. Failure to file a timely response constitutes a waiver of the right to participate in the appeal.

(4) If necessary to aid review, the president may ask for additional briefing from the parties on issues raised on appeal. The president's review shall be restricted to the hearing record made before the student conduct committee and will normally be limited to a review of those issues and arguments raised in the appeal.

(5) The president shall serve a written decision on all parties and their attorneys, if any, within 20 calendar days after receipt of the appeal. The president's decision shall be final and subject to judicial review pursuant to chapter 34.05 RCW, Part V.

(6) ~~In cases involving allegations of ((sex-based harassment, the president's decision must be served simultaneously on the complainant, respondent, and Title IX coordinator))~~ non-Title IX sexual misconduct, the president, on the same date that the final decision is served upon the respondent, shall serve a written notice informing the complainant of the final decision. This notice shall inform the complainant whether the sexual misconduct allegation was found to have merit and describe any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent.

(7) The president shall not engage in an ex parte communication with any of the parties regarding an appeal.

AMENDATORY SECTION (Amending WSR 24-24-035, filed 11/25/24, effective 11/30/24)

WAC 495E-110-160 Summary suspension. (1) Summary suspension is a temporary exclusion from specified college premises or denial of access to all activities or privileges for which a respondent might otherwise be eligible, while an investigation and/or formal disciplinary procedures are pending.

(2) The student conduct officer may impose a summary suspension if there is probable cause to believe that the respondent:

(a) Has violated any provision of the code of conduct; and

(b) Presents an immediate danger to the health, safety or welfare of members of the college community; or

(c) Poses an ongoing threat of substantial disruption of, or interference with, the operations of the college.

(3) Notice. Any respondent who has been summarily suspended shall be served with oral or written notice of the summary suspension. If oral notice is given, a written notification shall be served on the respondent within two calendar days of the oral notice.

(4) The written notification shall be entitled "Notice of Summary Suspension" and shall include:

(a) The reasons for imposing the summary suspension, including a description of the conduct giving rise to the summary suspension and

reference to the provisions of the student conduct code or the law allegedly violated;

(b) The date, time, and location when the respondent must appear before the conduct review officer for a hearing on the summary suspension; and

(c) The conditions, if any, under which the respondent may physically access the campus or communicate with members of the campus community. If the respondent has been trespassed from the campus, a notice against trespass shall be included warning the respondent that their privilege to enter into or remain on college premises has been withdrawn, and that the respondent shall be considered trespassing and subject to arrest for criminal trespass if they enter the college campus other than to meet with the student conduct officer or conduct review officer, or to attend a disciplinary hearing.

(5) The conduct review officer shall conduct a hearing on the summary suspension as soon as practicable after imposition of the summary suspension.

(a) During the summary suspension hearing, the issue before the conduct review officer is whether there is probable cause to believe that the summary suspension should be continued pending the conclusion of disciplinary proceedings and/or whether the summary suspension should be less restrictive in scope.

(b) The respondent shall be afforded an opportunity to explain why summary suspension should not be continued while disciplinary proceedings are pending or why the summary suspension should be less restrictive in scope.

(c) If the respondent fails to appear at the designated hearing time, the conduct review officer may order that the summary suspension remain in place pending the conclusion of the disciplinary proceedings.

(d) As soon as practicable following the hearing, the conduct review officer shall issue a written decision which shall include a brief explanation for any decision continuing and/or modifying the summary suspension and notice of any right to appeal.

(e) To the extent permissible under applicable law, the conduct review officer shall provide a copy of the decision to all persons or officers who may be bound or protected by it.

(6) In cases involving allegations of (~~sex discrimination~~) sexual misconduct, the complainant shall be notified that a summary suspension has been imposed on the same day that the summary suspension notice is served on the respondent. The college will also provide the complainant with timely notice of any subsequent changes to the summary suspension order.

AMENDATORY SECTION (Amending WSR 21-10-038, filed 4/28/21, effective 5/29/21)

WAC 495E-110-225 Sexual misconduct proceedings. Both the respondent and the complainant in cases involving allegations of sexual misconduct subject to Title IX jurisdiction shall be provided the same procedural rights to participate in student discipline matters, including the right to participate in the initial disciplinary decision-making process and to appeal any disciplinary decision.

AMENDATORY SECTION (Amending WSR 21-10-038, filed 4/28/21, effective 5/29/21)

WAC 495E-110-240 Prohibited conduct under Title IX. Pursuant to RCW 28B.50.140(13) and Title IX of the Education Amendments Act of 1972, 20 U.S.C. Sec. 1681, the college may impose disciplinary sanctions against a student who commits, attempts to commit, or aids, abets, incites, encourages, or assists another person to commit, an act(s) of "sexual harassment."

For purposes of this supplemental procedure, "sexual harassment" ~~((encompasses the following conduct))~~ means conduct on the basis of sex that satisfies one or more of the following:

(1) Quid pro quo harassment. A college employee conditioning the provision of an aid, benefit, or service of college on an individual's participation in unwelcome sexual conduct.

(2) Hostile environment. Unwelcome conduct ~~((that))~~ determined by a reasonable person ((would find)) to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the college's educational programs or activities, or changes the terms of their employment.

(3) Sexual assault. Sexual assault includes the following conduct:

(a) Nonconsensual sexual intercourse. Any actual or attempted sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

(b) Nonconsensual sexual contact. Any actual or attempted sexual touching, however slight, with any body part or object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

(c) Incest. Sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren and adopted children under the age of ~~((eighteen))~~ 18.

(d) Statutory rape. ~~((Consensual))~~ Nonforcible sexual intercourse between someone who is ~~((eighteen))~~ 18 years of age or older and someone who is under the age of ~~((sixteen))~~ 16.

(4) Domestic violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Washington, RCW ~~((26.50.010))~~ 26.55.010.

(5) Dating violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person:

(a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(b) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship;

(ii) The type of relationship; and

(iii) The frequency of interaction between the persons involved in the relationship.

(6) Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.

AMENDATORY SECTION (Amending WSR 21-10-038, filed 4/28/21, effective 5/29/21)

WAC 495E-110-260 Initiation of discipline. (1) Upon receiving ((the)) a Title IX investigation report from the Title IX coordinator, the student conduct officer will independently review the report to determine whether there are sufficient grounds to pursue a disciplinary action against the respondent for engaging in prohibited conduct under Title IX.

(2) If the student conduct officer determines that there are sufficient grounds to proceed under these supplemental procedures, the student conduct officer will initiate a Title IX disciplinary proceeding by filing a written disciplinary notice with the chair of the student conduct committee and serving the notice on the respondent and the complainant, and their respective advisors. The notice must:

(a) Set forth the basis for Title IX jurisdiction;

(b) Identify the alleged Title IX violation(s);

(c) Set forth the facts underlying the allegation(s);

(d) Identify the range of possible sanctions that may be imposed if the respondent is found responsible for the alleged violation(s); ((and))

(e) Explain that the parties are entitled to be accompanied by their chosen advisors during the hearing and that:

(i) The advisors will be responsible for questioning all witnesses on the party's behalf;

(ii) An advisor may be an attorney; and

(iii) The college will appoint ((the party)) an advisor of the college's choosing at no cost to the party, if the party fails to do so((-)); and

((+3)) (f) Explain that if a party fails to appear at the hearing, a decision of responsibility may be made in their absence.

AMENDATORY SECTION (Amending WSR 21-10-038, filed 4/28/21, effective 5/29/21)

WAC 495E-110-280 Rights of parties. (1) The college's student conduct procedures, WAC 495E-110-120, and this supplemental procedure shall apply equally to all parties.

(2) The college bears the burden of offering and presenting sufficient testimony and evidence to establish that the respondent is responsible for a Title IX violation by a preponderance of the evidence.

(3) The respondent will be presumed not responsible until such time as the disciplinary process has been finally resolved.

(4) During the hearing, each party shall be represented by an advisor. The parties are entitled to an advisor of their own choosing, and the advisor may be an attorney. If a party does not choose an advisor, then the Title IX coordinator will appoint an advisor of the college's choosing on the party's behalf at no expense to the party.

AMENDATORY SECTION (Amending WSR 21-10-038, filed 4/28/21, effective 5/29/21)

WAC 495E-110-290 Evidence. The introduction and consideration of evidence during the hearing is subject to the following procedures and restrictions:

(1) Relevance: The committee chair shall review all questions for relevance and shall explain on the record their reasons for excluding any question based on lack of relevance.

(2) Relevance means that information elicited by the question makes facts in dispute more or less likely to be true.

(3) Questions or evidence about a complainant's sexual predisposition or prior sexual behavior are not relevant and must be excluded, unless such question or evidence:

(a) Is asked or offered to prove someone other than the respondent committed the alleged misconduct; or

(b) Concerns specific incidents of prior sexual behavior between the complainant and the respondent, which are asked or offered on the issue of consent.

(4) ~~((Cross-examination required: If a party or witness does not submit to cross-examination during the live hearing, the committee must not rely on any statement by that party or witness in reaching a determination of responsibility.))~~ Complainant and respondent may not ask questions directly of one another. The advisors will be responsible for questioning all witnesses on the party's behalf.

(5) No negative inference: The committee may not make an inference regarding responsibility solely on a witness's or party's absence from the hearing or refusal to answer questions.

(6) Privileged evidence: The committee shall not consider legally privileged information unless the holder has effectively waived the privilege. Privileged information includes, but is not limited to, information protected by the following:

(a) Spousal/domestic partner privilege;

(b) Attorney-client and attorney work product privileges;

(c) Privileges applicable to members of the clergy and priests;

(d) Privileges applicable to medical providers, mental health therapists, and counselors;

(e) Privileges applicable to sexual assault and domestic violence advocates; and

(f) Other legal privileges identified in RCW 5.60.060.

AMENDATORY SECTION (Amending WSR 21-10-038, filed 4/28/21, effective 5/29/21)

WAC 495E-110-300 Initial order. In addition to complying with WAC 495E-110-140, the student conduct committee will be responsible for conferring and drafting an initial order that:

- (1) Identifies the allegations of sexual harassment;
- (2) Describes the ~~((grievance and disciplinary procedures, starting with filing of the formal complaint through the determination of responsibility, including notices))~~ procedural steps taken from receipt of the formal complaint through the determination, including any notifications to parties, interviews with witnesses and parties, site visits, methods used to gather evidence, and hearings held;
- (3) Makes findings of fact supporting the determination ~~((of responsibility));~~
- (4) Reaches conclusions ~~((as to whether the facts establish whether the respondent is responsible for engaging in sexual harassment in violation of Title IX))~~ regarding responsibility by applying the conduct code to the facts;
- (5) Contains a statement of, and rationale for, the ~~((committee's determination of responsibility for each allegation))~~ result as to each allegation, including a determination regarding responsibility;
- (6) Describes any disciplinary sanction or conditions imposed against the respondent, ~~((if any))~~ rising from the committee's determination that the respondent violated the conduct code;
- (7) ~~((Describes to what extent, if any, complainant is entitled to))~~ Determines whether remedies designed to restore or preserve complainant's equal access to the college's educational programs or activities will be provided by the college;
- (8) Describes the process for appealing the initial order to the college president; and
- (9) The committee chair will serve the initial order on the parties simultaneously.

AMENDATORY SECTION (Amending WSR 21-10-038, filed 4/28/21, effective 5/29/21)

WAC 495E-110-310 Appeals. (1) ~~((The parties shall have the right to appeal from the initial order's determination of responsibility and/or dismissal of an allegation(s) of sexual harassment in a formal complaint. The right to appeal will be subject to the same procedures and time frames set forth in WAC 495E-110-150.~~

(2) ~~The president or their delegate will determine whether the grounds for appeal have merit, provide the rationale for this conclusion, and state whether the disciplinary sanction and condition(s) imposed in the initial order are affirmed, vacated, or amended, and, if amended, set forth any new disciplinary sanction and/or condition(s).~~

~~(3))~~ All parties, including the student conduct officer in their capacity as a representative of the college, have the right to appeal from the determination of responsibility and/or from a dismissal, in whole or part, of a formal complaint during the investigative or hearing process. Appeals must be in writing and filed with the president's office within 21 calendar days of service of the initial order or notice of dismissal that the appealing party is challenging and must contain argument as to why the appeal should be granted. Failure to

file a timely appeal constitutes a waiver of the right to appeal and the initial order or notice of dismissal shall be deemed final.

(2) Upon receiving a timely appeal, the president's office will serve a copy of the appeal on all parties, who will have 10 business days from the date of service to submit written responses to the president's office addressing issues raised in the appeal. Failure to file a timely response constitutes a waiver of the right to participate in the appeal. Upon receipt of written responses, the president's office shall serve copies of the responses to the other parties.

(3) Parties receiving a copy of the responses shall have five business days in which to submit a written reply addressing issues raised in the responses to the president's office.

(4) The president or their delegate, based on their review of parties' submissions and the hearing or investigative record, will determine whether the grounds for appeal have merit, provide the rationale for this conclusion, and state whether a dismissal is affirmed or denied, or if the disciplinary sanctions and conditions imposed in the initial order are affirmed, vacated, or amended, and, if amended, set forth the new disciplinary sanctions and conditions.

(5) President's office shall serve the final decision on the parties simultaneously.

(6) All administrative decisions reached through this process may be judicially reviewed pursuant to applicable provisions of chapter 34.05 RCW including, but not limited to, the timelines set forth in RCW 34.05.542.

WSR 25-12-007
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 25-89—Filed May 21, 2025, 4:26 p.m., effective May 21, 2025, 4:26 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This emergency rule is needed to open salmon seasons in the Columbia River from the Rocky Point/Tongue Point line to the Washington/Oregon border and in Deep River.

Citation of Rules Affected by this Order: Repealing WAC 220-312-03000D and 220-312-06000J; and amending WAC 220-312-030 and 220-312-060.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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

Reasons for this Finding: This emergency rule extends the 2025 spring recreational salmon and steelhead season in the mainstem Columbia River from Rocky Point upstream to the Washington/Oregon border. Additionally, this rule aligns the Deep River salmon and steelhead daily limit with the adjacent mainstem Columbia River when the mainstem is open. Endangered Species Act (ESA) impacts for wild fish are available to recreational fisheries in order to access hatchery fish. The fishery is consistent with the *U.S. v. Oregon* management agreement and the associated biological opinion. Conforms Washington state rules with Oregon state rules. This regulation is consistent with Washington state action and compact action on May 7 and May 20, 2025. The general public welfare is protected with the immediate and limited-duration opening of recreational salmon fishing. This limited harvest allows for public use of the resource as well as the maintenance of a sustainable fish population.

Washington and Oregon jointly regulate Columbia River fisheries under the congressionally ratified Columbia River Compact. Four Indian tribes have treaty fishing rights in the Columbia River. The treaties preempt state regulations that fail to allow the tribes an opportunity to take a fair share of the available fish, and the states must manage other fisheries accordingly. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2018-2027 *United States v. Oregon* management agreement (February 26, 2018) (Doc. No. 2607-1). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under ESA. On February 23, 2018, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in the fisheries as described in the 2018-2027 *U.S. v. Oregon* management agreement. Some Columbia River Basin salmon and steelhead stocks are listed as threatened or endangered under ESA. The Washington and Oregon fish and wildlife commissions (commissions) have developed policies to guide the implementation of such biological opinions in the states' regulation of nontreaty fisheries.

Columbia River nontreaty fisheries are monitored very closely to ensure compliance with federal court orders, ESA, and commission

guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. Representatives from the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and take public testimony when considering proposals for new emergency rules. WDFW and ODFW then adopt regulations reflecting agreements reached. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: May 21, 2025.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-03000E Freshwater exceptions to statewide rules—Southwest. Effective immediately through June 12, 2025, the provisions of WAC 220-312-030 regarding Deep River salmon and steelhead seasons shall be modified as described in this section. All other provisions of WAC 220-312-030 not addressed in this section remain in effect unless otherwise amended by emergency rule:

Deep River (Wahkiakum Co.): Salmon and steelhead:

Daily limit is 6, no more than 2 adults may be retained of which no more than 1 may be an adult Chinook. Release all salmon other than hatchery Chinook.

NEW SECTION

WAC 220-312-06000K Freshwater exceptions to statewide rules—Columbia. Effective immediately through June 15, 2025, the provisions of WAC 220-312-060 regarding Columbia River salmon and steelhead seasons from Rocky Point to Hwy. 730 at the Washington/Oregon border, and shad seasons from the mouth to the Bonneville Dam, shall be modified as described in this section, except in areas closed to fishing for salmon and steelhead year-round in WAC 220-312-060. All other provisions of WAC 220-312-060 not addressed in this section remain in effect unless otherwise amended by emergency rule:

(1) From a projected line from Rocky Point on the Washington bank through red buoy 44 to the red navigation marker 2 at Tongue Point on

the Oregon Bank upstream to a deadline marker on the Oregon bank (approximately four miles downstream from Bonneville Dam Powerhouse One) in a straight line through the western tip of Pierce Island to a deadline marker on the Washington bank at Beacon Rock.

Salmon and steelhead: Effective immediately through June 12, 2025: Daily limit is 6, no more than 2 adults may be retained of which no more than 1 may be an adult Chinook. Release all salmon other than hatchery Chinook.

(2) From a deadline marker on the Oregon bank (approximately four miles downstream from Bonneville Dam Powerhouse One) in a straight line through the western tip of Pierce Island to a deadline marker on the Washington bank at Beacon Rock upstream to Bonneville Dam:

Salmon and steelhead: Effective immediately through June 12, 2025: Daily limit is 6, no more than 2 adults may be retained of which no more than 1 may be an adult Chinook. Release all salmon other than hatchery Chinook. Closed to angling from a floating device or by any method except hand-cast lines from shore.

(3) From Bonneville Dam to Tower Island power lines (approximately 6 miles below The Dalles Dam): Salmon and steelhead:

Effective May 22 through June 15, 2025: Daily limit is 6, no more than 2 adults may be retained of which no more than 1 may be an adult Chinook. Release all salmon other than hatchery Chinook. Closed to angling from a floating device or by any method except hand-cast lines from shore.

(4) From Tower Island power lines to The Dalles Dam: Salmon and steelhead:

Effective May 22 through June 15, 2025: Daily limit is 6, no more than 2 adults may be retained of which no more than 1 may be an adult Chinook. Release all salmon other than hatchery Chinook.

(5) From a line starting from a fishing boundary sign on the Washington north shore located approx. 1300' upstream of The Dalles Dam and Lock boat ramp projected easterly across the Columbia River to a boundary sign on the Washington southern shore located approx. 200' above the fish ladder exit upstream to Hwy 730 at the Washington/Oregon border: Salmon and steelhead:

Effective May 22 through June 15, 2025: Daily limit is 6, no more than 2 adults may be retained of which no more than 1 may be an adult Chinook. Release all salmon other than hatchery Chinook.

REPEALER

The following sections of Washington Administrative Code are repealed, effective immediately:

- WAC 220-312-03000D Freshwater exceptions to statewide rules—Southwest. (25-75)
- WAC 220-312-06000J Freshwater exceptions to statewide rules—Columbia. (25-75)

WSR 25-12-009
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 25-91—Filed May 21, 2025, 4:32 p.m., effective May 22, 2025]

Effective Date of Rule: May 22, 2025.

Purpose: This emergency rule will allow nontreaty commercial fishing opportunities in the Columbia River while protecting fish listed as threatened or endangered under the Endangered Species Act (ESA). This rule implements federal court orders governing Washington's relationship with treaty Indian tribes, federal law governing Washington's relationship with Oregon, and Washington fish and wildlife commission (commission) policy guidance for Columbia River fisheries.

Citation of Rules Affected by this Order: Repealing WAC 220-358-03000M; and amending WAC 220-358-030.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2018-2027 *United States v. Oregon* Management Agreement (February 26, 2018) (Doc. No. 2607-1). *Northwest Gillnetters Ass'n v. Sandison*, 95 Wn.2d 638, 628 P.2d 800 (1981); Washington fish and wildlife commission policies concerning Columbia River fisheries; 40 Stat. 515 (Columbia River Compact).

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

Reasons for this Finding: Expands open hours of fishing during the spring period select area commercial seasons for Tongue Point, South Channel, Blind Slough, and Knappa Slough. Impacts to nonlocal stocks are expected to be minimal and local Chinook stocks reared for the select area sites are available for harvest. Current abundance expectations result in a select area commercial fisheries allocation of ≤529 upriver spring Chinook. The fishery is consistent with the *U.S. v. Oregon* Management Agreement and the associated biological opinion. Conforms Washington state rules with Oregon state rules. Regulation is consistent with compact action of February 10 and May 20, 2025. The general public welfare is protected with the immediate opening of nontreaty select area fisheries. This harvest opportunity allows for public access to the resource as well as the maintenance of sustainable fish populations. There is insufficient time to promulgate permanent rules.

Washington and Oregon jointly regulate Columbia River fisheries under the congressionally ratified Columbia River Compact. Four Indian tribes have treaty fishing rights in the Columbia River. The treaties preempt state regulations that fail to allow the tribes an opportunity to take a fair share of the available fish, and the states must manage other fisheries accordingly. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2018-2027 *United States v. Oregon* Management Agreement (February 26, 2018) (Doc. No. 2607-1). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under ESA. On February 23, 2018,

the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in the fisheries as described in the 2018-2027 *U.S. v. Oregon Management Agreement*.

Some Columbia River Basin salmon and steelhead stocks are listed as threatened or endangered under the ESA. The Washington and Oregon fish and wildlife commissions have developed policies to guide the implementation of such biological opinions in the states' regulation of nontreaty fisheries.

Columbia River nontreaty fisheries are monitored very closely to ensure compliance with federal court orders, ESA, and commission guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. Representatives from the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and take public testimony when considering proposals for new emergency rules. WDFW and ODFW then adopt regulations reflecting agreements reached.

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

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

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

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

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

Date Adopted: May 21, 2025.

Kelly Susewind
Director

NEW SECTION

WAC 220-358-03000N Columbia River seasons below Bonneville.

Notwithstanding the provisions of WAC 220-358-030, WAC 220-358-040, and WAC 220-335-050, it is unlawful for a person to take or possess salmon, sturgeon, and shad for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, 1E and Select Areas, except during the times and conditions listed in this section:

(1) Tongue Point and South Channel areas:

Open Dates	Open Days	Open Time	Open Duration
May 22 - June 13	Mon, Tue, Wed, Thu (nights)	6:00 pm - 9:00 am	13 nights
June 16 - July 18	Mon, Wed, Thu (nights)	6:00 pm - 9:00 am	15 nights

(a) Area definitions:

(i) Tongue Point: Waters of the Columbia River bounded by a line from the end of the southern-most pier (#1) at the Tongue Point Job Corps facility projecting in a straight line through flashing red USCG light "6" to the shore of Mott Island, a line from a regulatory marker

at the southeast end of Mott Island northeasterly to a regulatory marker on the northwest shore of Lois Island, and a line from a regulatory marker located on the Oregon shore approximately 300 yards northwest of the railroad bridge crossing the John Day River projecting easterly to a regulatory marker on the southwest shore of Lois Island. If the marker on the Oregon shore is not in place, the upper boundary is defined by a line projecting easterly from a point (46°10'57.7"N latitude 123°44'35.3"W longitude) on the Oregon shore approximately 300 yards northwest of the railroad bridge crossing the John Day River to a regulatory marker on the southwest shore of Lois Island.

(ii) South Channel: Defined as waters of the Columbia River bounded by a line from a regulatory marker on the Oregon shore at John Day Point projecting northeasterly to a regulatory marker on the southwest shore of Lois Island, and a line from a regulatory marker on Settler Point projecting northwesterly to the flashing red USCG light "10" then projecting westerly to the eastern tip of Burnside Island.

(b) Gear: Gillnets:

(i) Immediately, until further notice: 9 3/4-inch maximum mesh size.

(ii) The maximum net length is 1,500 feet (250 fathoms).

(iii) In the Tongue Point Area, the lead line weight may not exceed two pounds per any one fathom.

(iv) In the South Channel Area, there is no lead line weight limit and attachment of additional weight and anchors directly to the lead line is permitted.

(2) Blind Slough and Knappa Slough areas:

Open Dates	Open Days	Open Time	Open Duration
May 22 - June 13	Mon, Tue, Wed, Thu (nights)	6:00 pm - 9:00 am	13 nights
June 16 - July 18	Mon, Wed, Thu (nights)	6:00 pm - 9:00 am	15 nights

(a) Area definitions:

(i) The Blind Slough Select Area is defined as waters of Blind Slough and Gnat Creek from a north-south line represented by regulatory markers at the mouth of Blind Slough upstream to a regulatory marker in Gnat Creek located approximately 0.5 miles southeasterly (upstream) of the Barendse Road Bridge.

(ii) The Knappa Slough Select Area is defined as waters of Knappa Slough, Calendar Slough, and Big Creek Slough bounded to the north (upstream) by a line projecting from a regulatory marker on the eastern shore of Karlson Island to the northernmost regulatory marker at the mouth of Blind Slough and bounded to the west (downstream) by a line projecting southerly from a regulatory marker on the southwestern tip of Karlson Island through regulatory markers on the western tips of Minaker Island to a marker on the Oregon shore.

The waters of Knappa Slough within a 100-foot radius of the railroad bridge crossing Big Creek are closed.

(b) Gear: Gillnets:

(i) Immediately, until further notice: 9 3/4-inch maximum mesh size.

(ii) The maximum net length is 600 feet (100 fathoms).

(iii) There is no lead line weight limit and attachment of additional weight or anchors directly to the lead line is permitted.

(c) Miscellaneous: Permanent transportation rules in effect.

(3) Deep River Select Area:

Open Dates	Open Days	Open Time	Open Duration
May 22 - June 13	Mon, Tue, Wed, Thu (nights)	7:00 pm - 9:00 am	13 nights

(a) Area definition: From the mouth of Deep River defined as a line from USCG navigation marker #16 southwest to a marker on the Washington shore, upstream to the Highway 4 Bridge.

(b) Gear: Gillnets:

(i) Immediately, until further notice: 9 3/4-inch maximum mesh size.

(ii) The maximum net length is 600 feet (100 fathoms).

(iii) There is no lead line weight limit and attachment of additional weight or anchors directly to the lead line is permitted.

(iv) Nets may not fully cross navigation channel. It is unlawful to operate in any river, stream or channel any gillnet longer than three-fourths the width of the stream (WAC 220-354-010). It shall be unlawful in any area to use, operate, or carry aboard a commercial fishing vessel a licensed net or combination of such nets, whether fished singly or separately, in excess of the maximum lawful size or length prescribed for a single net in that area, except as otherwise provided for in the rules and regulations of the department rule (WAC 220-353-060).

(c) Miscellaneous:

(i) Transportation or possession of fish outside the fishing area (except to the sampling station) is unlawful until WDFW staff has biologically sampled individual catches. After sampling, fishers will be issued a transportation permit by WDFW staff.

(ii) Immediately, until further notice: fishers are required to call 360-846-5268 to confirm the place and time of sampling.

(4) Allowable Sales: Salmon (except Chum) and shad.

(5) 24-hour quick reporting is in effect for Washington buyers (WAC 220-352-315). Permanent transportation rules in effect. Oregon buyers are required to submit fish receiving tickets electronically pursuant to OAR 635-006-0210.

(6) Multi-Net Rule: Nets not specifically authorized for use in these areas may be onboard a vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater (WAC 220-358-030(2)).

(7) Lighted Buoys: Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required.

REPEALER

The following section of Washington Administrative Code is repealed, effective May 22, 2025:

WAC 220-358-03000M Columbia River seasons below Bonneville. (25-22)

WSR 25-12-010
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 25-90—Filed May 21, 2025, 4:46 p.m., effective May 22, 2025]

Effective Date of Rule: May 22, 2025.

Purpose: The purpose of this rule making is to provide for treaty Indian fishing opportunity in the Columbia River while protecting salmon listed as threatened or endangered under the Endangered Species Act (ESA). This rule making implements federal court orders governing Washington's relationship with treaty Indian tribes and federal law governing Washington's relationship with Oregon.

Citation of Rules Affected by this Order: Repealing WAC 220-359-02000R; and amending WAC 220-359-020.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, and 77.12.047.

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2018-2027 *United States v. Oregon* management agreement (February 26, 2018) (Doc. No. 2607-1). *Northwest Gillnetters Ass'n v. Sandison*, 95 Wn.2d 638, 628 P.2d 800 (1981); Washington fish and wildlife commission policies concerning Columbia River fisheries; 40 Stat. 515 (Columbia River Compact).

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

Reasons for this Finding: This rule sets a treaty spring season research commercial fishery targeting carp in specific areas of the John Day Pool which allows for treaty commercial sales to nontreaty buyers in 2025. This rule is consistent with actions of the Columbia River Compact on May 20, 2025. Conforms state rules with tribal rules. The general public welfare is protected with the immediate opening of nontreaty buyers purchasing fish from treaty fisheries. This harvest opportunity allows for the tribal use and public access to the resource as well as the maintenance of sustainable fish populations. There is insufficient time to adopt permanent regulations.

The Yakama, Warm Springs, Umatilla, and Nez Perce Indian tribes have treaty fishing rights in the Columbia River and inherent sovereign authority to regulate their fisheries. Washington and Oregon also have some authority to regulate fishing by treaty Indians in the Columbia River, authority that the states exercise jointly under the congressionally ratified Columbia River Compact. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). The tribes and the states adopt parallel regulations for treaty Indian fisheries under the supervision of the federal courts. A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2018-2027 *United States v. Oregon* management agreement (February 26, 2018) (Doc. No. 2607-1). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under ESA. On February 23, 2018, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in the fisheries as described in the 2018-2027 *U.S. v. Oregon* management agreement.

Columbia River fisheries are monitored very closely to ensure consistency with court orders and ESA guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. As required by court order, the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and invite tribal participation when considering proposals for new emergency rules affecting treaty fishing rights. *Sohappy*, 302 F. Supp. at 912. WDFW and ODFW then adopt regulations reflecting agreements reached.

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

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

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

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

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

Date Adopted: May 21, 2025.

Kelly Susewind
Director

NEW SECTION

WAC 220-359-02000S Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-359-010, WAC 220-359-020, WAC 220-359-030, and WAC 220-359-090, effective May 22 through June 14, 2025, it is unlawful for a person to take or possess salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch taken for commercial purposes in Columbia River Salmon Management and Catch Reporting Areas (SMRCA) 1F, 1G, and 1H. However, those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for carp, catfish, walleye, bass, yellow perch, or northern pikeminnow under the following provisions:

(1) Open Areas: SMCRA 1H (John Day Pool):

Railroad Island slough (45.72504, -120.69580) - only the slough side waters up from the railroad tracks.

Paterson Slough (45.70664, -120.46430) - only the slough side to the north of Hwy 14. Sundale slough (45.72008, -120.31364) - only the slough side waters up from the railroad tracks.

Jones Canyon slough (45.71576, -121.24522) - only the slough south of the railroad tracks.

Willow Creek slough (45.79306, -120.01470) - only waters south of the eastbound lanes of I-84.

Alderdale slough (45.83741, -119.92876) - only waters north of Hwy 14.

(a) Season: 6 AM Thursday, May 22, 2025, until 6 PM Saturday, June 14, 2025.

(b) Gear: Gillnets only.

(c) Allowable sales: Yellow perch, bass, walleye, catfish, carp, and northern pikeminnow may be sold. These species may be sold after the permit fishing period concludes. All other species including salmon, steelhead and sturgeon must be released.

(d) These areas do not include any standard closed areas applicable to gillnet gear.

(2) 24-hour quick reporting is required for Washington wholesale dealers for all areas as provided in WAC 220-352-315, except that all landings from treaty fisheries described above must be reported within 24-hours of completing the fish ticket (not 24-hours after the period concludes).

(3) Fish caught during the open period may be sold after the period concludes.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of the Washington Administrative Code is repealed, effective May 22, 2025:

WAC 220-359-02000R Columbia River salmon seasons above
Bonneville Dam. (25-38)

WSR 25-12-018
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 25-92—Filed May 22, 2025, 1:47 p.m., effective May 28, 2025]

Effective Date of Rule: May 28, 2025.

Purpose: This emergency rule is needed to open salmon seasons in upper Skagit River and Cascade River.

Citation of Rules Affected by this Order: Repealing WAC 220-313-06000I; and amending WAC 220-313-060.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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

Reasons for this Finding: This rule is necessary to open hatchery Chinook harvest opportunity in upper Skagit River and Cascade River. The forecasted return of hatchery spring Chinook to Marblemount hatchery is sufficient to support these fisheries. Cascade River is closed Sundays through Tuesdays to all recreational fishing during this spring Chinook fishery to avoid gear conflicts with tribal fisheries. This rule also carries forward previously opened spring Chinook fisheries in the lower Skagit River in filing WSR 25-11-074. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: May 22, 2025.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-04000K Freshwater exceptions to statewide rules—Puget Sound. Effective May 28 through July 15, 2025, the following provisions of WAC 220-312-040 and WAC 220-220-160 regarding salmon seasons and for the Skagit River and Cascade River shall be as described in this section. All other provisions of WAC 220-312-040 and WAC 220-220-160 not addressed in this section, or unless otherwise amended, remain in effect:

- (1) Skagit River (Skagit Co.);
- (a) From the Hwy. 536 (Memorial Hwy.) Bridge in Mt. Vernon to Gilligan Creek:
Salmon, effective May 28 through May 30:
- (i) Daily limit 2. Release all salmon other than hatchery Chinook.
 - (ii) Night closure in effect.
 - (iii) Anglers who possess a valid two-pole endorsement may fish with two lines.
 - (iv) All species other than salmon are closed to fishing for or retaining.
- (b) From Hwy. 530 Bridge at Rockport to Cascade River Rd. (Marblemount Bridge):
Salmon, effective May 28 through July 15:
- (i) Daily limit 4 including no more than 2 adults. Release all salmon other than hatchery Chinook.
 - (ii) Night closure in effect.
 - (iii) Anti-snagging rule in effect.
- (2) Cascade River (Skagit County):
- (a) From mouth to Rockport-Cascade Rd. Bridge:
- (i) Salmon, effective May 28 through July 15:
 - (A) Open Wednesdays through Saturdays only. Closed Sundays through Tuesdays.
 - (B) Daily limit 4 including no more than 2 adults. Release all salmon other than hatchery Chinook.
 - (C) Night closure in effect.
 - (D) Anti-snagging rule in effect.
 - (ii) Game fish, effective May 31 through July 15: Closed Sundays through Tuesdays.
 - (b) From Rockport-Cascade Rd. Bridge upstream 300 feet: Closed waters.

REPEALER

The following section of Washington Administrative Code is repealed, effective May 28, 2025:

WAC 220-312-04000I Freshwater exceptions to statewide rules—Puget Sound. (25-85)

WSR 25-12-021
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 25-88—Filed May 23, 2025, 7:47 a.m., effective May 24, 2025]

Effective Date of Rule: May 24, 2025.

Purpose: This emergency rule is needed to open game fish seasons in Snoqualmie River and North and South fork Skykomish River.

Citation of Rules Affected by this Order: Amending WAC 220-312-040.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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

Reasons for this Finding: This emergency rule is necessary to open recreational game fish seasons in Snoqualmie River and North and South Fork Skykomish River.

These game fish seasons were initially closed in 2022 to protect summer Chinook, which had extremely low returns that year. 2025 Expected returns are sufficient to allow this limited game fish opportunity. Summer Chinook presence in these areas during this time period is low, and coupled with the gear restrictions implemented with this rule, will impose very limited to no impact on returning summer Chinook.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: May 22, 2025.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-04000J Freshwater exceptions to statewide rules—Puget Sound. Effective May 24 through July 13, 2025, provisions of WAC 220-312-040 regarding game fish seasons for Snoqualmie and North Fork and South Fork Skykomish rivers shall be modified as described in this section. All other provisions of WAC 220-312-040 not addressed in this

section, or unless otherwise amended by emergency rule remain in effect:

(1) **Skykomish River, North Fork (Snohomish County)**: From the mouth to 1000 feet downstream of Bear Creek Falls:

Game fish open May 24 through July 13;

- (a) Catch and release.
- (b) Selective gear rules in effect.
- (c) Anti-snagging rule in effect.

(2) **Skykomish River, South Fork (Snohomish County)**: From Sunset Falls upstream:

Game fish open May 24 through July 13;

(a) Statewide minimum size and daily limits, except cutthroat and wild rainbow trout minimum size 14"

- (b) Selective gear rules in effect.
- (c) Anti-snagging rule in effect.

(3) **Snoqualmie River (Snohomish County)**: From Hwy. 202 Bridge at Fall City to Snoqualmie Falls:

Game fish open May 24 through July 13;

(a) Statewide minimum size and daily limits, except cutthroat and wild rainbow trout minimum size 14"

- (b) Selective gear rules in effect.
- (c) Anti-snagging rule in effect.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 25-12-022
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 25-94—Filed May 23, 2025, 7:55 a.m., effective May 23, 2025, 7:55 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This emergency rule is needed to adjust weekly landing and possession limits.

Citation of Rules Affected by this Order: Repealing WAC 220-354-30000I; and amending WAC 220-354-300.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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

Reasons for this Finding: A harvestable quota of salmon is available for the troll fleet, but a significant portion of the quota was caught between May 1 and May 7. This rule reduces weekly landing and possession limits to extend the length of the season and ensure quotas are not exceeded. These rules are adopted at the recommendation of the Pacific Fisheries Management Council, in accordance with preseason fishing plans, and have been adopted for federal waters by the National Oceanic and Atmospheric Administration. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: May 22, 2025.

Kelly Susewind
Director

NEW SECTION

WAC 220-354-30000J Coastal salmon troll seasons—Commercial.

Notwithstanding the provisions of WAC 220-354-300, WAC 220-353-050, and WAC 220-354-010, effective immediately, until further notice, it is unlawful to fish for salmon with troll gear or to land salmon taken with troll gear into a Washington port except during the seasons and under conditions provided in this section:

(1) Salmon Management and Catch Reporting Areas 1, 2, 3, and that portion of Area 4 west of 125°05'00"W longitude and south of 48°23'00"N latitude open: May 22 through June 29, 2025.

(2) Grays Harbor Control Zone, defined by a line drawn from the Westport Lighthouse (46°53'18"N. lat., 124°07'01"W. long.); thence to Buoy #2 (46°52'42"N. lat., 124°12'42"W. long.); thence to Buoy #3 (46°55'00"N. lat., 124°14'48"W. long.); thence to the Grays Harbor north jetty (46°55'36"N. lat., 124°10'51"W. long.), open: May 1 through June 29, 2024.

(3) In Washington Catch Reporting Areas 1, 2, 3 and 4, landing and possession limit combined across all areas is 70 Chinook per vessel per landing week, defined as Thursday through Wednesday.

(4) The Cape Flattery and Columbia River Control Zones are closed. The Salmon Troll Yelloweye Rockfish Conservation Area is closed.

(5) Minimum size for Chinook salmon is 27 inches in length (20 ½ inches frozen dressed). No minimum size for pink, sockeye or chum salmon. It is unlawful to possess coho salmon.

(6) It is unlawful to fish in Salmon Management and Catch Reporting Areas 1, 2, 3 or 4 with fish on board taken south of Cape Falcon, Oregon and all fish taken from Salmon Management and Catch Reporting Areas 1, 2, 3, and 4 must be landed before fishing south of Cape Falcon, Oregon.

(7) It is unlawful for wholesale dealers and trollers retailing their fish to fail to report their landing by 10:00 a.m. the day following landing. Ticket information can be telephoned in by calling 1-866-791-1279, faxing the information to (360) 902-2949, or e-mailing to trollfishtickets@dfw.wa.gov. Report the dealer's name, the dealer license number, the purchasing location, the date of purchase, the fish ticket numbers, the gear used, the catch area, the species, the total number for each species, and the total weight for each species, including halibut.

(8) During any single trip, only one side of the Leadbetter Point line (46°38'10"N. lat.) may be fished.

(9) Vessels fishing or in possession of salmon while fishing south of Leadbetter Point must land and deliver all species of fish within the area south of Leadbetter Point, except Washington permitted vessels may also land all species of fish north of Leadbetter Point.

(a) For delivery to Washington ports north of Leadbetter Point, vessels must notify WDFW at 360-249-1215 prior to crossing the Leadbetter Point line with area fished, total Chinook, coho, and halibut catch aboard, and destination with approximate time of delivery.

(b) Vessels may not land fish east of Tongue Point, Oregon or east of the Sekiu River.

(10) Vessels fishing or in possession of salmon north of Leadbetter Point must land and deliver all species of fish in a Washington port and must possess a Washington troll and/or salmon delivery license.

(a) For delivery to Washington ports south of Leadbetter Point, vessels must notify WDFW at 360-249-1215 or by email at Danielle.Williams@dfw.wa.gov prior to crossing the Leadbetter Point line with area fished, total Chinook and halibut catch aboard, and destination with approximate time of delivery.

(b) Vessels in possession of salmon south of the Queets River may not cross the Queets River line (47°31'42"N. lat.) without first notifying WDFW at 360-249-1215 or by email at Danielle.Williams@dfw.wa.gov

with area fished, total Chinook and halibut catch aboard and destination.

(c) Vessels in possession of salmon north of the Queets River may not cross the Queets River line without first notifying WDFW at 360-249-1215 or by email at Danielle.Williams@dfw.wa.gov with area fished, total Chinook and halibut catch aboard and destination.

(d) Vessels may not land fish east Tongue Point, Oregon or east of the Sekiu River.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of Washington Administrative Code is repealed, effective immediately::

WAC 220-354-30000I Coastal salmon troll seasons—
Commercial. (25-81)

WSR 25-12-024
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 25-93—Filed May 23, 2025, 3:16 p.m., effective June 16, 2025]

Effective Date of Rule: June 16, 2025.

Purpose: This emergency rule is needed to set Columbia River recreational salmon and steelhead seasons from Megler-Astoria Bridge to Highway 395 at Pasco, and summer salmon seasons in the Hanford Reach.

Citation of Rules Affected by this Order: Amending WAC 220-312-060.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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

Reasons for this Finding: This rule implements summer fishery regulations developed through the 2025 North of Falcon season setting process and is consistent with comanager agreements. Endangered Species Act (ESA) impacts and allowable harvest allocations are available to recreational fisheries in order to access salmon and steelhead. The fishery is consistent with the *U.S. v. Oregon* management agreement and the associated biological opinion. Conforms Washington state rules with Oregon state rules. The general public welfare is protected with the immediate opening of recreational salmon fishing. This limited harvest allows for public use of the resource as well as the maintenance of a sustainable fish population.

Washington and Oregon jointly regulate Columbia River fisheries under the congressionally ratified Columbia River Compact. Four Indian tribes have treaty fishing rights in the Columbia River. The treaties preempt state regulations that fail to allow the tribes an opportunity to take a fair share of the available fish, and the states must manage other fisheries accordingly. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2018-2027 *United States v. Oregon* management agreement (February 26, 2018) (Doc. No. 2607-1). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under ESA. On February 23, 2018, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in the fisheries as described in the 2018-2027 *U.S. v. Oregon* management agreement.

Some Columbia River Basin salmon and steelhead stocks are listed as threatened or endangered under ESA. The Washington and Oregon fish and wildlife commissions (commissions) have developed policies to guide the implementation of such biological opinions in the states' regulation of nontreaty fisheries.

Columbia River nontreaty fisheries are monitored very closely to ensure compliance with federal court orders, ESA, and commission guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. Representatives from the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and take public testimony when considering

proposals for new emergency rules. WDFW and ODFW then adopt regulations reflecting agreements reached. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: May 23, 2025.

Nate Pamplin
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-06000L Freshwater exceptions to statewide rules—Columbia River. Effective June 16 through July 31, 2025, the provisions of WAC 220-312-060 regarding recreational salmon and steelhead seasons from the Megler-Astoria Bridge to Priest Rapids Dam, shall be modified as described below, except in areas closed to fishing for salmon and steelhead year-round in WAC 220-312-060. All other provisions of WAC 220-312-060 not addressed herein remain in effect unless otherwise amended by emergency rule:

(1) From the Megler-Astoria Bridge upstream to The Dalles Dam:

Salmon and steelhead:

(a) Effective June 16 through June 21, 2025: Daily limit 6, no more than 1 steelhead may be retained. Release all salmon and steelhead other than hatchery jack Chinook and hatchery steelhead.

Continuing to fish for salmon and steelhead is unlawful once the daily steelhead limit has been retained.

(b) Effective June 22 through July 6, 2025: Daily limit 6, no more than 1 sockeye and no more than 1 steelhead may be retained. Release all salmon and steelhead other than hatchery jack Chinook, sockeye, and hatchery steelhead.

Continuing to fish for salmon and steelhead is unlawful once the adult salmon and steelhead daily limit has been retained.

(c) Effective July 7 through July 31, 2025: Daily limit 6, no more than 1 steelhead may be retained. Release all salmon and steelhead other than hatchery jack Chinook and hatchery steelhead.

Continuing to fish for salmon and steelhead is unlawful once the daily steelhead limit has been retained.

(2) From The Dalles Dam upstream to a line starting from a fishing boundary sign on the Washington north shore located approximately 1300' upstream of The Dalles Dam and Lock boat ramp projected easterly across the Columbia River to a boundary sign on the Washington south-

ern shore located approximately 200' above the fish ladder exit: Salmon and steelhead:

Effective immediately, until further notice: Closed to fishing for and retention of salmon and steelhead.

(3) From a line starting from a fishing boundary sign on the Washington north shore located approximately 1300' upstream of The Dalles Dam and Lock boat ramp projected easterly across the Columbia River to a boundary sign on the Washington south shore located approximately 200' above the fish ladder exit upstream to Hwy. 395 Bridge at Pasco: Salmon and steelhead:

(a) Effective June 16 through June 21, 2025: Daily limit 6, no more than 1 steelhead may be retained. Release all salmon and steelhead other than hatchery jack Chinook and hatchery steelhead.

Continuing to fish for salmon and steelhead is unlawful once the daily steelhead limit has been retained.

(b) Effective June 22 through July 6, 2025: Daily limit 6, no more than 1 sockeye and no more than 1 steelhead may be retained. Release all salmon and steelhead other than hatchery jack Chinook, sockeye, and hatchery steelhead.

Continuing to fish for salmon and steelhead is unlawful once the adult salmon and steelhead daily limit has been retained.

(c) Effective July 7 through July 31, 2025: Daily limit 6, no more than 1 steelhead may be retained. Release all salmon and steelhead other than hatchery jack Chinook and hatchery steelhead.

Continuing to fish for salmon and steelhead is unlawful once the daily steelhead limit has been retained.

(4) From Columbia Point (approximately 1/3 mile downstream of I-182 Bridge) upstream to I-182 Bridge: Salmon:

(a) Effective June 16 through July 15, 2025; closed to angling from a floating device or by any method except hand-cast lines from the west shore (Richland side of the river).

(b) Effective June 16 through July 15, 2025; daily limit 4 sockeye. Release all salmon other than sockeye.

(5) From I-182 Bridge upstream to Priest Rapids Dam: Salmon:

Effective June 16 through July 31, 2025; daily limit 4 sockeye. Release all salmon other than sockeye.

WSR 25-12-030
EMERGENCY RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed May 27, 2025, 1:05 p.m., effective May 27, 2025, 1:05 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this amended WAC is to allow school districts in binding conditions to loan money from their transportation vehicle fund (TVF) to their general fund in order to maintain a positive cash flow in their general fund. When other binding condition efforts fail to resolve the district's financial issues and insolvency is imminent, and to ensure that the district will have a positive cash flow to meet obligations, they need to be able to borrow from TVF.

Citation of Rules Affected by this Order: Amending WAC 392-123-140.

Statutory Authority for Adoption: RCW 28A.150.290, 28A.710.220, and 28A.315.221.

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

Reasons for this Finding: In order for the office of superintendent of public instruction (OSPI) to implement appropriate binding conditions upon districts facing insolvency and depleted cash flow, districts in binding conditions will need authority to borrow resources from other funds to support general operations. To borrow from TVF, a district would need to pass a board resolution authorizing the loan and receive additional approval from OSPI to borrow from TVF.

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

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

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

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

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

Date Adopted: May 27, 2025.

Chris P.S. Reykdal
State Superintendent of Public Instruction

RDS-6406.1

AMENDATORY SECTION (Amending WSR 15-18-078, filed 8/28/15, effective 9/28/15)

WAC 392-123-140 Interfund loans allowable. (1) Loans are allowable to the general fund, the transportation vehicle fund, the capital projects fund, and the debt service fund of school districts.

(2) Loans are allowable from the general fund and the capital projects fund. For school districts subject to official binding conditions by the superintendent of public instruction and facing financial insolvency, loans are allowable from the transportation vehicle fund to the general fund, the capital projects fund, and the debt service fund.

(a) WAC 392-123-135 through 392-123-160 also apply to loans from the transportation vehicle fund.

(b) Loans from the transportation vehicle fund are subject to final approval by the superintendent of public instruction. Districts must submit approved copies of board resolutions with all required information to the superintendent of public instruction five working days prior to the planned interfund loan.

(3) Loans shall not be made to the detriment of any function or project for which the fund was established.

WSR 25-12-046
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 25-95—Filed May 28, 2025, 2:48 p.m., effective May 28, 2025, 2:48 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: (1) Allow the department of fish and wildlife (department) to continue to use contracted crop damage claim adjusters. To do so, the department must establish updated certification and experience standards for department contracted crop adjusters.

(2) Follow 2024 SSB [2SSB] 5784, changing the value limits of an appeal.

Citation of Rules Affected by this Order: Amending WAC 220-440-150 and 220-440-180.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047, 77.12.240, 77.36.170, and 77.36.180.

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

Reasons for this Finding: The refiling of the original emergency rule is necessary for several reasons:

(1) Because of a change in the availability of federal crop insurance, continuing education training for crop adjusters has resulted in the department being unable to comply with existing rule. This has rendered the department unable to assess crop damage claims by current department-contracted adjusters. This change will allow for substitution of experience for the federal license and allow claims to continue to be processed with only a state license.

(2) To comply with recently enacted state statutes resulting from SSB [2SSB] 5784.

This emergency rule was last filed on January 28, 2025, under WSR 25-04-031 and is being extended to provide coverage while the permanent rule is being developed. The permanent rule related to this emergency rule was filed under WSR 24-16-048 on July 30, 2024, and the rule proposal (CR-102), filed under WSR 25-08-092 on April 2, 2025, is still under development. The public hearing for this permanent rule making was held on May 17, 2025, and is being reviewed by the commission for adoption in June.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: May 28, 2025.

Amy H. Windrope

NEW SECTION

WAC 220-440-15000C Application for cash compensation for commercial crop damage—Procedure. Notwithstanding the provisions of WAC 220-440-150, effective immediately, until further notice, WAC 220-440-150 subsection (7) (a) shall be modified as described in this section. All other provisions of WAC 220-440-150 not addressed in this section remain in effect unless otherwise amended by emergency rule:

The claimant must submit a damage claim assessment prepared by a crop insurance adjustor licensed by the state of Washington and certified by the federal crop insurance service, or by a crop adjuster who is under contract with the department that has a current State of Washington insurance adjuster license and a minimum of 10 years of verifiable deer and elk caused crop damage investigation experience which may substitute for the additional federal crop insurance certification.

NEW SECTION

WAC 220-440-18000C Application for cash compensation for livestock damage or domestic animal—Procedure. Notwithstanding the provisions of WAC 220-440-180, effective immediately, until further notice, subsections (8) and (12) of WAC 220-440-180 shall be modified as in this section. All other provisions of WAC 220-440-180 not addressed in this section remain in effect unless otherwise amended by emergency rule:

(8) Subject to funds appropriated to pay for livestock or guard dog losses, undisputed claims will be paid up to the limits in RCW 77.36.130.

(12) Upon completion of an evaluation, the department will notify the claimant of its decision to either deny the claim or make a settlement offer (order). The claimant has sixty days from the date that the offer is received to accept, sign, and mail to the department the original offer for settlement of the claim. If the claimant wishes to appeal the offer, the claimant must request an informal resolution or adjudicative proceeding as described in WAC 220-440-230 up to the limit set forth in RCW 77.36.13.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

WSR 25-12-052
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 25-96—Filed May 29, 2025, 9:25 a.m., effective June 4, 2025]

Effective Date of Rule: June 4, 2025.

Purpose: This emergency rule is needed to open Snake River salmon seasons targeting spring Chinook.

Citation of Rules Affected by this Order: Amending WAC 220-312-050.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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

Reasons for this Finding: The upriver spring Chinook salmon run has been upgraded, increasing the catch balance in the Snake River to 957 based on Washington department of fish and wildlife (WDFW) Commission Policy C-3630. The *U.S. v. Oregon* (2018-2027) management agreement provides Endangered Species Act (ESA) coverage for this fishery.

WDFW will monitor spring Chinook returns throughout the season and may close the fishery at any time due to harvest levels, ESA impacts, in-season run adjustments, or a combination thereof.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: May 29, 2025.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-05000F Freshwater exceptions to statewide rules—Eastside. Effective June 4 through June 6, 2025, the following provisions of WAC 220-312-050, regarding salmon seasons in the Snake River shall be open as described in this section. All other provisions of WAC 220-312-050 remain in effect unless modified by emergency rule:

(1) **Snake River (Franklin/Walla Wall Counties): From Texas Rapids boat launch (located on the south side of the river upstream of the**

mouth of Tucannon River) to the fishing restriction boundary below Little Goose Dam and including the rock and concrete area between the juvenile bypass return pipe and little Goose Dam along the shoreline of the facility (including the walkway area locally known as "the Wall" in front of the juvenile collection facility): Salmon:

(a) Open June 3 and June 6, 2025

(b) Daily limit 4, of which up to 1 adult may be retained. Release all salmon other than hatchery Chinook.

(c) Night Closure.

(d) Barbless hooks required.

(e) Salmon may not be removed from the water unless retained as part of the daily limit.

(2) Snake River (Franklin/Walla Wall Counties): From the South Bound Highway 12 Bridge near Pasco upstream about 7 miles to the fishing restriction boundary below Ice Harbor Dam: Salmon:

(a) Open June 4 and June 5, 2025

(b) Daily limit 4, of which up to 1 adult may be retained. Release all salmon other than hatchery Chinook.

(c) Night Closure.

(d) Barbless hooks required.

(e) Salmon may not be removed from the water unless retained as part of the daily limit.

Reviser's note: The spelling errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 25-12-060
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 25-97—Filed May 29, 2025, 4:50 p.m., effective June 1, 2025]

Effective Date of Rule: June 1, 2025.

Purpose: This emergency rule is needed [to open] nonspot shrimp seasons in Marine Areas 9, 11, and 13.

Citation of Rules Affected by this Order: Repealing WAC 220-330-07000C; and amending WAC 220-330-070.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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

Reasons for this Finding: This regulation is needed to ensure an orderly fishery, manage the fishery within court-ordered sharing requirements, and meet conservation objectives. This regulation opens nonspot shrimp seasons in Marine Areas 9, 11, and 13 with depth restrictions. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: May 29, 2025.

Kelly Susewind
Director

NEW SECTION

WAC 220-330-07000D Shrimp—Areas and seasons. Notwithstanding the provisions of WAC 220-330-070, effective June 1, 2025, until further notice, it is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Areas 4 (east of the Bonilla-Tatoosh line), 5, 6, 7, 8-1, 8-2, 9, 10, 11, 12, 13 and the Discovery Bay Shrimp District, except as provided for in this section:

(1) Marine Areas 4 (east of the Bonilla-Tatoosh line) and 5: Open daily for all shrimp species from 1 hour before official sunrise to 1 hour after official sunset, until further notice.

(2) Marine Area 6 (excluding the Discovery Bay Shrimp District): Open for all shrimp species from 1 hour before official sunrise to 1

hour after official sunset on June 6 through 7, June 20 through 21, and July 18 through 19.

(3) Marine Area 7 South: Open for all shrimp species from 1 hour before official sunrise to 1 hour after official sunset on June 6 through June 7. Only that portion of Marine Area 7 South that is west of a line projected due south from Point Colville on Lopez Island and east of a line projected due south from Cattle Point on San Juan Island, is open from June 20 through 21 for all shrimp species.

(4) Marine Area 7 East: Open for all shrimp species from 1 hour before official sunrise to 1 hour after official sunset on June 6 through 7 for all shrimp species.

(5) Marine Area 7 West: Open for all shrimp species from 1 hour before official sunrise to 1 hour after official sunset on June 6 through 7, June 20 through 21, and July 18 through 19.

(6) Marine Areas 8-1 and 8-2:

(a) Open for all shrimp species on June 6 from 9:00 a.m. through 1:00 p.m.

(b) Divers may take shrimp by hand or hand-held device from 7:00 p.m. until midnight on June 6 in Marine Area 8-2.

(7) Marine Area 9: Open daily through October 15 for shrimp species other than spot shrimp with a 150-foot maximum fishing depth restriction. During this time, it is unlawful to set or pull shrimp gear in waters greater than 150 feet deep. All spot shrimp caught must be immediately returned to the water unharmed.

(8) Marine Area 11: Open daily through October 15 for shrimp species other than spot shrimp with a 150-foot maximum fishing depth restriction. During this time, it is unlawful to set or pull shrimp gear in waters greater than 150 feet deep. All spot shrimp caught must be immediately returned to the water unharmed.

(9) Marine Area 12: Open for all shrimp species June 4, June 18, and July 2 from 9:00 a.m. through 1:00 p.m.

(10) Marine Area 13: Open daily through October 15 for shrimp species other than spot shrimp with a 200-foot maximum fishing depth restriction. During this time, it is unlawful to set or pull shrimp gear in waters greater than 200 feet deep. All spot shrimp caught must be immediately returned to the water unharmed.

REPEALER

The following section of Washington Administrative Code is repealed, effective June 1, 2025:

WAC 220-330-07000C Shrimp—Areas and seasons. (25-70)

WSR 25-12-077
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed May 30, 2025, 2:29 p.m., effective June 2, 2025]

Effective Date of Rule: June 2, 2025.

Purpose: The department of social and health services (department) is adopting emergency amendments to WAC 388-487-0010 What is the sun bucks program?, 388-487-0020 Is my child eligible for sun bucks?, and 388-487-0030 General information about sun bucks benefits.

These amendments support continued implementation of the summer electronic benefits transfer (EBT) program, also known as sun bucks, for the summer following the 2024-25 school year. Sun bucks is a permanent program authorized under the Consolidated Appropriations Act, 2023 (H.R. 2617), to provide additional food benefits to certain eligible school-aged children for a designated summer period. The amendments are in accordance with a federally approved state plan.

Citation of Rules Affected by this Order: Amending WAC 388-487-0010, 388-487-0020, and 388-487-0030.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, and 74.08A.120.

Other Authority: Consolidated Appropriations Act, 2023 (H.R. 2617).

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Emergency rule making is justified because of the federal deadline that has been imposed. The department is concurrently proceeding with the permanent rule-making process and has filed a CR-101 under WSR 25-08-053.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 3, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Date Adopted: May 28, 2025.

Katherine I. Vasquez
Rules Coordinator

SHS-5089.1

AMENDATORY SECTION (Amending WSR 24-23-099, filed 11/20/24, effective 12/21/24)

WAC 388-487-0010 What is the sun bucks program? The sun bucks program is the summer electronic benefits transfer (~~((summer EBT))~~) program that provides a one-time food benefit to eligible children during designated summer periods following ~~((the))~~ an academic school year. Sun bucks is administered by the department of social and health services and is not bound by the same state or federal rules, regulations, or procedures governing basic food as described in WAC 388-400-0040.

The following definitions apply to this program:

~~((1))~~ "Compulsory age" means the age children are required by law to attend school; in Washington this is between the ages of eight and 18.

~~(2)~~ "Direct certification" means a determination that a child is eligible for free or reduced-priced school meals without further application to the national school lunch program due to:

~~(a)~~ Receiving a benefit from a federal means tested assistance program, including supplemental nutrition assistance program, temporary assistance for needy families, food distribution program on Indian reservations, some medicaid programs; or

~~(b)~~ Other source eligible categories, including children in foster care, children experiencing homelessness, students enrolled in the migrant education program, and children enrolled in head start or the early childhood education and assistance program.)

(1) "Categorically eligible" means a school age child who automatically qualifies for sun bucks because they are:

(a) A member of a household receiving the supplemental nutrition assistance program (SNAP) or temporary assistance for needy families (TANF); or

(b) A foster child, homeless child, migrant child, head start child, or runaway child; as defined in the Richard B. Russell act.

(2) "CEP or provision 2 school" means a community eligibility provision or provision 2 school that provides free or reduced-price meals to all children regardless of meeting income eligibility guidelines.

(3) "Child nutrition eligibility and education benefit application" means an application for free and reduced-price meals, submitted by a household for a child or children enrolled at a school that participates in NSLP/SBP.

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

(5) "Direct verification" means the process of verifying household income or categorical eligibility by matching against data sources or other records without the need to contact the household for documentation.

(6) "Dual participation" means a child simultaneously receiving sun bucks benefits from more than one state or simultaneously receiving multiple allotments from the same state.

~~((3))~~ "Expungement") (7) Expunge means removal of benefits ~~((due to nonuse))~~ after ~~((122 days from))~~ the date sun bucks benefits were deposited into the EBT account.

~~((4))~~ (8) "Free or reduced-price meals" means meals provided to students qualified as eligible by the Richard B. Russell ((National School Lunch Act)) national school lunch act.

(9) "Household" means a group of related or nonrelated individuals, who are not residents of an institution or boarding house, but who are living as one economic unit.

~~((5))~~ (10) "Income eligibility guidelines" means income limits to determine eligibility for free and reduced-price meals adjusted annually by the US department of agriculture food and nutrition service as required by the national school lunch act.

(11) "Instructional year" means the period from July 1 of the prior year through one day prior to the summer operational period.

(12) "NSLP/SBP" means the national school lunch program established under the Richard B. Russell national school lunch act and the school breakfast program established under the child nutrition act.

(13) "Period of eligibility" means the period of time from the first day of the instructional year immediately preceding the summer operational period, through the last day of the summer operational period.

(14) "School Aged" means the age children are required to attend school; in Washington this is age eight to 18 years old.

(15) "Streamline certified" means automatically enrolling an eligible child for sun bucks without need for further application or confirmation of school enrollment.

(16) "Summer operational period" means the period between the end of the current school year and the start of the next school year, as determined by the state.

~~((6))~~ (17) "Sun bucks application" means an application available to households with potentially eligible children who do not automatically meet streamline certification criteria.

~~((7))~~ (18) "Sun bucks card" means the unique EBT card that accesses sun bucks food benefits issued to individual eligible children.

(19) "Verification" means the confirmation of eligibility for a sun Bucks application. Verification includes the confirmation of income eligibility and other information as requested by the department.

~~((8))~~ "Streamline certified" means a child automatically approved for sun bucks because they meet the following criteria:

~~(a) A child, regardless of age, who would have access to free or reduced-price school meals through the national school lunch program and school breakfast program during the school year, who:~~

~~(i) Is determined by the school to be eligible for free or reduced-priced school meals; or~~

~~(ii) Attends a school that operates the community eligibility provision or the provision 2 lunch and breakfast program and identified as eligible for free or reduced-price school meals using direct certification or a free or reduced-price school meals application.~~

~~(b) A child who meets compulsory age requirements and resides in a household receiving one of the following public assistance benefits:~~

~~(i) Temporary assistance for needy families as described in WAC 388-400-0005;~~

~~(ii) State funded assistance as described in WAC 388-400-0010;~~

~~(iii) Basic food as described in WAC 388-400-0040; or~~

~~(iv) The state funded food assistance program as described in WAC 388-400-0050.~~

~~(10) "Summer operational period" means the period between the end of the current school year and the start of the next school year, as determined by the state.)~~

AMENDATORY SECTION (Amending WSR 24-23-099, filed 11/20/24, effective 12/21/24)

- WAC 388-487-0020 Is my child eligible for sun bucks?** (1) To be streamline certified for sun bucks benefits, a child must be:
- (a) School aged and categorically eligible;
 ((Attend)) (b) Enrolled in a school that participates in the ((national school lunch program or school breakfast program)) NSLP/SBP; and
- (i) ((Is determined)) Determined by the school to be individually eligible for free or reduced-price ((school)) meals; or
- (ii) ((Who attends)) Attends a school that operates the ((community eligibility provision)) CEP or provision 2 ((lunch and breakfast)) program and ((identified as eligible)) determined by the school to be individually eligible for free or reduced-price meals using ((direct certification or a free or reduced-price school meals application)) a child nutrition eligibility and education benefit application.
- ((b) Meet compulsory age requirements and reside in a household receiving one of the following public assistance benefits:
- (i) ~~Temporary assistance for needy families as described in WAC 388-400-0005;~~
- (ii) ~~State funded assistance as described in WAC 388-400-0010;~~
- (iii) ~~Basic food as described in WAC 388-400-0040; or~~
- (iv) ~~The state funded food assistance program as described in WAC 388-400-0050.)~~
- (2) Children who are not streamline certified must submit a sun bucks application during the summer operational period and must ((meet the following criteria)) be:
- (a) ((Attend)) Enrolled at a school that participates in the ((national school lunch program or school breakfast program)) NSLP/SBP; and
- (b) ((Meet)) A member of a household that meets income eligibility guidelines for free or reduced-price school meals.
- (i) Income eligibility guidelines change annually on July 1.
- (ii) The income eligibility guidelines in effect on the date of application are used to determine eligibility.
- (3) Applications received after the end of the summer operational period will be considered for sun bucks in the following year.
- (4) Applications for sun bucks will be selected at random for additional verification prior to approval.
- (a) The department will attempt direct verification prior to contacting a household.
- (b) If unable to obtain directly verification, households will be notified in writing that they must provide requested verification within 10 business days.
- (c) Verification must indicate eligibility for sun bucks at any time during the period of eligibility.
- (d) Failure to provide requested verification within 10 business days will result in a denial of a household's sun bucks application. If denied, households may reapply during the summer operational period.
- ((4)) (5) If information on an application is questionable, verification may be requested and must be provided within 30 days of the date of application.
- ((5)) (6) Children approved for sun bucks receive a notice of approval describing their eligibility and other information related to the program.

AMENDATORY SECTION (Amending WSR 24-23-099, filed 11/20/24, effective 12/21/24)

WAC 388-487-0030 General information about sun bucks benefits.

(1) The amount of sun bucks each eligible child will receive is \$120 for the summer of ~~((2024))~~ 2025 and ~~((will))~~ may be adjusted annually for inflation.

(2) Sun bucks benefits are deposited into an account accessible with a designated sun bucks card. Each sun bucks card is:

(a) Linked to a sun bucks account for each eligible child; and

(b) Mailed to the last known address as reported by the parent or caregiver to either:

(i) The child's school if ~~((directly))~~ streamline certified via individual eligibility for free or reduced-price meals at an NSLP/SBP school; or

(ii) The department for ~~((the))~~ categorically eligible ~~((child's cash or food assistance household))~~ households.

(c) It is the parent's or caregiver's responsibility to accurately and timely report any address changes to the child's school and to the department. The department or school is not responsible for the expungement of benefits due to unreceived sun bucks notices or cards sent through the mail.

(3) To use a sun bucks account:

(a) The sun bucks EBT card can be used by the eligible child or responsible household member, such as a parent or caregiver on behalf of the eligible child, to purchase eligible food items.

(b) A personal identification number (PIN) must be created to use the sun bucks card. Families are responsible for keeping the sun bucks card and PIN of an eligible child in a safe and secure place.

(c) Sun bucks benefits are only accessed from the sun bucks card and cannot be transferred to a bank account or issued as a check.

(4) The purpose of sun bucks benefits is to help low-income families have a more nutritious diet by providing food benefits to eligible children during the summer months between academic school years.

(a) Any remaining sun bucks benefits not used within 122 days from the date of deposit into each eligible child's account are expunged.

(b) Sun bucks benefits cannot be replaced ~~((, redeemed,))~~ if they are expunged, lost, or stolen due to fraudulent activity or use.

(c) Sun bucks benefits ~~((are))~~ may be used to buy food items for an eligible child from a food retailer authorized to accept supplemental nutrition assistance program benefits.

(d) Intentional misuse of sun bucks benefits may be subject to fines or legal action including criminal prosecution.

(5) ~~((The household))~~ Households must request a hearing within 90 days of the end of the summer operational period when disagreeing with a decision ~~((explained in the notice))~~ made by the department.

(6) ~~((Children cannot receive sun bucks from more than one state at a time for the same summer operational period))~~ Households may be subject to overpayments if dual participation is identified.

WSR 25-12-082
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 25-98—Filed June 2, 2025, 8:10 a.m., effective June 2, 2025, 8:10 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This emergency rule is needed to open game fish seasons in Tokul Creek.

Citation of Rules Affected by this Order: Amending WAC 220-312-040.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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

Reasons for this Finding: This emergency rule is necessary to open recreational game fish seasons in Tokul Creek. These game fish seasons were initially closed in 2022 to protect summer Chinook, which had extremely low returns that year. Expected 2025 returns are sufficient to allow this limited game fish opportunity. Summer Chinook presence in the area is low during this time period. This fishery is expected to have very limited to no impact on returning summer Chinook.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: June 2, 2025.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-04000L Freshwater exceptions to statewide rules—Puget Sound. Effective immediately, through July 13, 2025, provisions of WAC 220-312-040 regarding game fish seasons for Tokul Creek shall be modified as described in this section. All other provisions of WAC 220-312-040 not addressed in this section, or unless otherwise amended by emergency rule remain in effect:

Tokul Creek (King County): From the mouth to the posted boundary marker downstream of the diversion dam:

Game fish:

- (a) Open daily from 7:00 a.m. to 5:00 p.m.;
- (b) Closed daily from 5:00 p.m. to 7:00 a.m.;
- (c) Statewide minimum size and daily limits, except cutthroat and wild rainbow trout minimum size 14";
- (d) Anti-snagging rule in effect.

WSR 25-12-084
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 25-99—Filed June 2, 2025, 8:31 a.m., effective June 2, 2025, 8:31 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This emergency rule is needed to open Cascade River spring Chinook seven days per week and to set Skagit River sockeye seasons.

Citation of Rules Affected by this Order: Repealing WAC 220-312-04000K; and amending WAC 220-312-040.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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

Reasons for this Finding: This rule is necessary to open hatchery Chinook harvest opportunity in Cascade River daily and sockeye harvest opportunity in Skagit River.

Treaty fisheries in Cascade River have concluded, rendering weekly recreational closures to avoid gear conflicts unnecessary. Skagit River sockeye returns are forecasted to be sufficient for this in-river fishery. It is also consistent with North of Falcon salmon seasons agreed to with comanagers.

This rule also carries forward previously opened spring Chinook fisheries in the Skagit River in filing WSR 25-12-018. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: June 2, 2025.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-04000M Freshwater exceptions to statewide rules—Puget Sound. Effective immediately, through July 15, 2025, the following provisions of WAC 220-312-040 and WAC 220-220-160 regarding salmon

seasons for the Skagit River and Cascade River shall be as described in this section. All other provisions of WAC 220-312-040 and WAC 220-220-160 not addressed in this section, or unless otherwise amended, remain in effect:

- (1) Cascade River (Skagit County):
 - (a) From mouth to Rockport-Cascade Rd. Bridge: Salmon, effective immediately, through July 15:
 - (i) Daily limit 4 including no more than 2 adults. Release all salmon other than hatchery Chinook.
 - (ii) Night closure in effect.
 - (iii) Anti-snagging rule in effect.
 - (b) From Rockport-Cascade Rd. Bridge upstream 300 feet: immediately, through July 15, closed waters for all species.
- (2) Skagit River (Skagit Co.):
 - (a) From the Hwy. 536 (Memorial Hwy.) Bridge in Mt. Vernon to the Dalles Bridge in Concrete: Salmon, effective June 16 through July 15:
 - (i) Daily limit 4. Release all salmon other than sockeye.
 - (ii) Night closure in effect.
 - (iii) Anglers who possess a valid two-pole endorsement may fish with two lines.
 - (b) From Hwy. 530 Bridge at Rockport to Cascade River Rd. (Marblemount Bridge): Salmon, effective immediately, through July 15:
 - (i) Daily limit 4 including no more than 2 adults. Release all salmon other than hatchery Chinook.
 - (ii) Night closure in effect.
 - (iii) Anti-snagging rule in effect.

REPEALER

The following section of Washington Administrative Code is repealed, effective immediately:

WAC 220-312-04000K Freshwater exceptions to statewide rules—Puget Sound. (25-92)

WSR 25-12-085

EMERGENCY RULES

HEALTH CARE AUTHORITY

[Filed June 2, 2025, 8:43 a.m., effective June 3, 2025]

Effective Date of Rule: June 3, 2025.

Purpose: The health care authority (agency) is amending its rules to comply with federal regulations, specifically 42 C.F.R. § 435.608, the repeal of which eliminated the requirement to apply for other benefits as a condition of medicaid eligibility.

Citation of Rules Affected by this Order: Amending WAC 182-503-0100, 182-511-1250, 182-512-0650, 182-512-0700, and 182-513-1615.

Statutory Authority for Adoption: RCW 41.05.021 and 41.05.160.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Effective June 3, 2024, the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services, removed a federal rule, 42 C.F.R. § 435.608, thus eliminating the requirement to apply for other benefits as a condition of medicaid eligibility. States were given until June 3, 2025, to comply. Failure of state rules to comply with federal rules could result in the loss of federal funds. This emergency rule making is necessary while the agency completes the permanent rule-making process. The agency filed the proposed rules on May 22, 2025, under WSR 25-12-016 and will hold a public hearing on July 8, 2025.

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

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

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

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

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

Date Adopted: June 2, 2025.

Wendy Barcus
Rules Coordinator

RDS-6302.1

AMENDATORY SECTION (Amending WSR 14-06-068, filed 2/28/14, effective 3/31/14)

WAC 182-503-0100 Washington apple health—Rights and responsibilities. For the purposes of this chapter, "we" refers to the agency or its designee and "you" refers to the applicant for, or recipient of, health care coverage.

(1) If you are applying for or receiving health care coverage, you have the right to:

(a) Have your rights and responsibilities explained to you and given in writing;

(b) Be treated politely and fairly without regard to your race, color, political beliefs, national origin, religion, age, gender (including gender identity and sex stereotyping), sexual orientation, disability, honorably discharged veteran or military status, or birthplace;

(c) Ask for health care coverage using any method listed under WAC ((~~182-503-0010~~)) 182-503-0005 (if you ask us for a receipt or confirmation, we will provide one to you);

(d) Get help completing your application if you ask for it;

(e) Have an application processed promptly and no later than the timelines described in WAC 182-503-0060;

(f) Have at least 10 calendar days to give the agency or its designee information needed to determine eligibility and be given more time if asked for;

(g) Have personal information kept confidential; we may share information with other state and federal agencies for purposes of eligibility and enrollment in Washington apple health;

(h) Get written notice, in most cases, at least 10 calendar days before the agency or its designee denies, terminates, or changes coverage;

(i) Ask for an appeal if you disagree with a decision we make. You can also ask a supervisor or administrator to review our decision or action without affecting your right to a fair hearing;

(j) Ask for and get interpreter or translator services at no cost and without delay;

(k) Ask for voter registration assistance;

(l) Refuse to speak to an investigator if we audit your case. You do not have to let an investigator into your home. You may ask the investigator to come back at another time. Such a request will not affect your eligibility for health care coverage;

(m) Get equal access services under WAC 182-503-0120 if you are eligible;

(n) Ask for support enforcement services through the division of child support; and

(o) Refuse to cooperate with us in identifying, using, or collecting third-party benefits (such as medical support) if you fear, and can verify, that your cooperating with us could result in serious physical or emotional harm to you, your children, or a child in your care. Verification may include one of the following:

(i) A statement you sign, outlining your fears and concerns;

(ii) Civil or criminal court orders (such as domestic violence protection orders, restraining orders, and no-contact orders);

(iii) Medical, police, or court reports; or

(iv) Written statement from clergy, friends, relatives, neighbors, or co-workers.

(2) You are responsible to:

(a) Report changes in your household or family circumstances as required under WAC 182-504-0105 and 182-504-0110;

(b) Give us any information or proof needed to determine eligibility. If you have trouble getting proof, we help you get the proof or contact other persons or agencies for it;

(c) Assign the right to medical support as described in WAC ((~~182-505-0540~~)) 182-503-0540, unless you can submit verification

(which may include one of the items listed in subsection (1)(o) of this section) that your cooperating with us could result in serious physical or emotional harm to you, your children, or a child in your care;

(d) Complete renewals when asked;

(e) ~~((Apply for and make a reasonable effort to get potential income from other sources when available;~~

~~(f))~~ Give medical providers information needed to bill us for health care services; and

~~((g))~~ (f) Cooperate with quality assurance or post enrollment review staff when asked.

RDS-6303.1

AMENDATORY SECTION (Amending WSR 25-07-046, filed 3/12/25, effective 4/12/25)

WAC 182-511-1250 Apple health for workers with disabilities

(HWD)—Premium payments. This section describes how the medicaid agency calculates the premium amount a person must pay for apple health for workers with disabilities (HWD) coverage. This section also describes program requirements regarding the billing and payment of HWD premiums.

(1) When determining the HWD premium amount, the agency counts only the income of the person approved for the program. It does not count the income of another household member.

(2) When determining countable income used to calculate the HWD premium, the agency applies the following rules:

(a) Income is considered available and owned when it is:

(i) Received; and

(ii) Can be used to meet the person's needs for food, clothing, and shelter, except as described in WAC 182-512-0600(5) ~~((7))~~ and 182-512-0650 ~~((7 and 182-512-0700(1)))~~.

(b) Income is considered unavailable when it is:

(i) Described in 20 C.F.R. Sec. 416.1103.

(ii) Used to pay the fee described in WAC 182-512-0800(5).

(3) The HWD premium amount equals the lesser of the two following amounts:

(a) A total of the following (rounded down to the nearest whole dollar):

(i) Fifty percent of unearned income above the medically needy income level (MNIL) described in WAC 182-519-0050; plus

(ii) Five percent of total unearned income; plus

(iii) Two and one-half percent of earned income after first deducting \$65; or

(b) Seven and one-half percent of countable income described in subsection (2) of this section, including both earned and unearned income.

(4) When determining the premium amount, the agency will use the currently verified income amount until a change in income is reported and processed, unless good cause for delay in verifying changes exists.

(5) A change in the premium amount is effective the month after the change in income is reported and processed.

(6) For current and ongoing coverage, the agency will bill for HWD premiums during the month following the benefit month.

(7) For retroactive coverage, the agency will bill the HWD premiums during the month following the month in which coverage is requested and necessary information that establishes eligibility is received by the agency.

(8) If initial coverage for the HWD program is approved in a month that follows the month of application, the first monthly premium includes the costs for both the month of application and any following months that have passed during determination of eligibility.

(9) As described in WAC 182-511-1050 (3)(b), the agency will close HWD coverage if premiums are not paid in full for four consecutive months.

(10) The person must pay the monthly premium in full to avoid losing HWD coverage. If a person makes a partial payment, the payment does not count as a full payment toward the premium.

(11) Payments received are applied to premiums owed in the following order:

(a) If retroactive coverage is requested, the retroactive coverage month(s);

(b) Past due months, beginning with the most delinquent month;

(c) The current coverage month that has been invoiced; then

(d) Future coverage months.

(12) A person must pay a premium for any month that HWD coverage is provided. This includes months when a redetermination of coverage is made, and months when continued coverage that is requested, pending the outcome of an administrative hearing.

RDS-6304.1

AMENDATORY SECTION (Amending WSR 24-18-062, filed 8/28/24, effective 9/30/24)

WAC 182-512-0650 SSI-related medical—Available income. (1) Income is considered available to a person at the earliest of when it is:

(a) Received; or

(b) Credited to a person's account; or

(c) Set aside for the person's use; or

(d) Used or can be used to meet the person's needs for shelter.

(2) Anticipated nonrecurring lump sum payments are treated as income in the month received, with the exception of those listed in WAC 182-512-0700((+5+)) (4), and any remainder is considered a resource in the following month.

(3) Reoccurring income is considered available in the month of normal receipt, even if the financial institution posts it before or after the month of normal receipt.

(4) In-kind income received from anyone other than a legally responsible relative is considered available income only if it is earned income.

AMENDATORY SECTION (Amending WSR 19-13-010, filed 6/6/19, effective 7/7/19)

WAC 182-512-0700 SSI-related medical—Income eligibility. (1)

~~((In order to be eligible, a person is required to do everything necessary to obtain any income to which he or she is entitled including (but not limited to):~~

- ~~(a) Annuities;~~
- ~~(b) Pensions;~~
- ~~(c) Unemployment compensation;~~
- ~~(d) Retirement; and~~
- ~~(e) Disability benefits; even if their receipt makes the person~~

~~ineligible for agency services, unless the person can provide evidence showing good reason for not obtaining the benefits.~~

~~((2))~~) The agency does not count ~~((this))~~ income until the person begins to receive it. Income is budgeted prospectively for all Washington apple health ~~((WAH))~~ health care programs.

~~((3))~~) (2) Anticipated nonrecurring lump sum payments other than retroactive SSI/SSDI payments are considered income in the month received, subject to reporting requirements in WAC 182-504-0110. Any unspent portion is considered a resource the first of the following month.

~~((4))~~) (3) The agency follows income and resource methodologies of the supplemental security income (SSI) program defined in federal law when determining eligibility for ~~((WAH))~~ apple health SSI-related medical or medicare savings programs unless the agency adopts rules that are less restrictive than those of the SSI program.

~~((5))~~) (4) Exceptions to the SSI income methodology:

(a) Lump sum payments from a retroactive old age, survivors, and disability insurance (OASDI) benefit, when reduced by the amount of SSI received during the period covered by the payment, are not counted as income;

(b) Unspent retroactive lump sum money from SSI or OASDI is excluded as a resource for nine months following receipt of the lump sum; and

(c) Both the principal and interest portions of payments from a sales contract, that meet the definition in WAC 182-512-0350(10), are unearned income.

~~((6))~~) (5) To be eligible for ~~((WAH))~~ apple health categorically needy (CN) SSI-related health care coverage, a person's countable income cannot exceed the ~~((WAH))~~ apple health CN program standard described in:

(a) WAC 182-512-0010 for noninstitutional ~~((WAH))~~ apple health coverage unless living in an alternate living facility; or

(b) WAC 182-513-1205 for noninstitutional ~~((WAH))~~ apple health CN coverage while living in an alternate living facility; or

(c) WAC 182-513-1315 for institutional and waiver services coverage.

~~((7))~~) (6) To be eligible for SSI-related health care coverage provided under the ~~((WAH))~~ apple health medically needy (MN) program, a person must:

(a) Have countable income at or below the effective ~~((WAH))~~ apple health MN program standard as described in WAC 182-519-0050;

(b) Satisfy spenddown requirements described in WAC 182-519-0110;

(c) Meet the requirements for noninstitutional ((WAH)) apple health MN coverage while living in an alternate living facility (ALF). See WAC 182-513-1205; or

(d) Meet eligibility for institutional ((WAH)) apple health MN coverage described in WAC 182-513-1315.

RDS-6305.1

AMENDATORY SECTION (Amending WSR 23-11-007, filed 5/4/23, effective 6/4/23)

WAC 182-513-1615 Tailored supports for older adults (TSOA)—General eligibility. (1) The person receiving care must meet the financial eligibility criteria for tailored supports for older adults (TSOA).

(2) To be eligible for the TSOA program, the person receiving care must:

(a) Be age 55 or older;

(b) Be assessed as meeting nursing facility level of care under WAC 388-106-0355;

(c) Meet residency requirements under WAC 182-503-0520;

(d) Live at home and not in a residential or institutional setting;

(e) Have an eligible unpaid caregiver under WAC 388-106-1905, or meet the criteria under WAC 388-106-1910 if the person does not have an eligible unpaid caregiver;

(f) Meet citizenship or immigration status requirements under WAC 182-503-0535. To be eligible for TSOA, a person must be a:

(i) U.S. citizen under WAC 182-503-0535 (1) (c);

(ii) U.S. national under WAC 182-503-0535 (1) (d);

(iii) Qualifying American Indian born abroad under WAC 182-503-0535 (1) (f); or

(iv) Qualified alien under WAC 182-503-0535 (1) (b) and have either met or is exempt from the five-year bar requirement for medicaid.

(g) Provide a valid Social Security number under WAC 182-503-0515;

(h) Have countable resources within specific program limits under WAC 182-513-1640; and

(i) Meet income requirements under WAC 182-513-1635.

(3) TSOA applicants who receive coverage under Washington apple health programs are not eligible for TSOA, unless their enrollment is limited to the:

(a) Medically needy program under WAC 182-519-0100;

(b) Medicare savings programs under WAC 182-517-0300;

(c) Family planning program under WAC 182-505-0115;

(d) Family planning only programs under chapter 182-532 WAC; or

(e) Kidney disease program under chapter 182-540 WAC.

(4) A person who receives apple health coverage under a categorically needy (CN) or alternative benefit plan (ABP) program is not eligible for TSOA but may qualify for:

(a) Caregiver supports under medicaid alternative care (MAC) under WAC 182-513-1605; or

(b) Other long-term services and supports under chapter 182-513 or 182-515 WAC.

(5) The following rules do not apply to services provided under the TSOA benefit:

(a) Transfer of asset penalties under WAC 182-513-1363;

(b) Excess home equity under WAC 182-513-1350;

(c) Client financial responsibility under WAC 182-515-1509;

(d) Estate recovery under chapter 182-527 WAC;

(e) Disability requirements under WAC 182-512-0050; and

(f) (~~Requirement to do anything necessary to obtain income under WAC 182-512-0700(1); and~~

~~(g)~~) Assignment of rights and cooperation under WAC 182-503-0540.

WSR 25-12-087
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 25-103—Filed June 2, 2025, 4:25 p.m., effective June 3, 2025]

Effective Date of Rule: June 3, 2025.

Purpose: This emergency rule is needed to open Snake River salmon seasons targeting spring Chinook. The adult portion of the daily limit is two hatchery Chinook.

Citation of Rules Affected by this Order: Repealing WAC 220-312-05000F; and amending WAC 220-312-050.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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

Reasons for this Finding: The upriver spring Chinook salmon run has been upgraded, increasing the catch balance in the Snake River to 957 based on Washington department of fish and wildlife (WDFW) Commission Policy C-3630. The *U.S. v. Oregon* (2018-2027) management agreement provides Endangered Species Act (ESA) coverage for this fishery. Based on current harvest data, there is sufficient allocation to allow four more days of fishing with a daily limit, including two adult hatchery Chinook.

WDFW will monitor spring Chinook returns throughout the season and may close the fishery at any time due to harvest levels, ESA impacts, in-season run adjustments, or a combination thereof.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: June 2, 2025.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-05000G Freshwater exceptions to statewide rules—Eastside. Effective June 3 through June 6, 2025, the following provi-

sions of WAC 220-312-050, regarding salmon seasons in the Snake River shall be open as described in this section. All other provisions of WAC 220-312-050 remain in effect unless modified by emergency rule:

(1) **Snake River (Franklin/Walla Wall Counties): From Texas Rapids boat launch (located on the south side of the river upstream of the mouth of Tucannon River) to the fishing restriction boundary below Little Goose Dam and including the rock and concrete area between the juvenile bypass return pipe and little Goose Dam along the shoreline of the facility (including the walkway area locally known as "the Wall" in front of the juvenile collection facility):** Salmon:

- (a) Open June 3 and June 6, 2025
- (b) Daily limit 4, of which up to 2 adults may be retained. Release all salmon other than hatchery Chinook.
- (c) Night Closure.
- (d) Barbless hooks required.
- (e) Salmon may not be removed from the water unless retained as part of the daily limit.

(2) **Snake River (Franklin/Walla Wall Counties): From the South Bound Highway 12 Bridge near Pasco upstream about 7 miles to the fishing restriction boundary below Ice Harbor Dam:** Salmon:

- (a) Open June 4 and June 5, 2025
- (b) Daily limit 4, of which up to 2 adults may be retained. Release all salmon other than hatchery Chinook.
- (c) Night Closure.
- (d) Barbless hooks required.
- (e) Salmon may not be removed from the water unless retained as part of the daily limit.

Reviser's note: The spelling errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of Washington Administrative Code is repealed, effective June 3, 2025:

WAC 220-312-05000F Freshwater exceptions to statewide rules—Eastside. (25-96)

WSR 25-12-101
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 25-104—Filed June 4, 2025, 9:05 a.m., effective June 6, 2025]

Effective Date of Rule: June 6, 2025.

Purpose: This emergency rule is needed to close shrimp harvest in the Iceberg Point portion of Marine Area 7 South.

Citation of Rules Affected by this Order: Repealing WAC 220-330-07000D; and amending WAC 220-330-070.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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

Reasons for this Finding: This regulation is needed to ensure an orderly fishery, manage the fishery within court-ordered sharing requirements, and meet conservation objectives. Due to greater than anticipated effort and good catch rates, closing the Iceberg portion of Marine Area 7 South is necessary to keep recreational harvest of spot shrimp consistent with state/tribal management agreements. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: June 4, 2025.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

WAC 220-330-07000E Shrimp—Areas and seasons. Notwithstanding the provisions of WAC 220-330-070, effective June 6, 2025, until further notice, it is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Areas 4 (east of the Bonilla-Ta-toosh line), 5, 6, 7, 8-1, 8-2, 9, 10, 11, 12, 13 and the Discovery Bay Shrimp District, except as provided for in this section:

(1) Marine Areas 4 (east of the Bonilla-Tatoosh line) and 5: Open daily for all shrimp species from 1 hour before official sunrise to 1 hour after official sunset, until further notice.

(2) Marine Area 6 (excluding the Discovery Bay Shrimp District): Open for all shrimp species from 1 hour before official sunrise to 1 hour after official sunset June 6 through 7, June 20 through 21, and July 18 through 19.

(3) Marine Area 7 South: Only that portion of Marine Area 7 South that is east of a line projected due south from Point Colville on Lopez Island and west of a line projected due south from Cattle Point on San Juan Island is open for all shrimp species on June 6 through June 7 from 1 hour before official sunrise to 1 hour after official sunset; the remainder of Marine Area 7 South is closed.

(4) Marine Area 7 East: Open for all shrimp species from 1 hour before official sunrise to 1 hour after official sunset June 6 through 7 for all shrimp species.

(5) Marine Area 7 West: Open for all shrimp species from 1 hour before official sunrise to 1 hour after official sunset June 6 through 7, June 20 through 21, and July 18 through 19.

(6) Marine Areas 8-1 and 8-2:

(a) Open for all shrimp species June 6 from 9:00 a.m. through 1:00 p.m.

(b) Divers may take shrimp by hand or hand-held device from 7:00 p.m. until midnight on June 6 in Marine Area 8-2.

(7) Marine Area 9: Open daily through October 15 for shrimp species other than spot shrimp with a 150-foot maximum fishing depth restriction. During this time, it is unlawful to set or pull shrimp gear in waters greater than 150 feet deep. All spot shrimp caught must be immediately returned to the water unharmed.

(8) Marine Area 11: Open daily through October 15 for shrimp species other than spot shrimp with a 150-foot maximum fishing depth restriction. During this time, it is unlawful to set or pull shrimp gear in waters greater than 150 feet deep. All spot shrimp caught must be immediately returned to the water unharmed.

(9) Marine Area 12: Open for all shrimp species June 18, and July 2 from 9:00 a.m. through 1:00 p.m.

(10) Marine Area 13: Open daily through October 15 for shrimp species other than spot shrimp with a 200-foot maximum fishing depth restriction. During this time, it is unlawful to set or pull shrimp gear in waters greater than 200 feet deep. All spot shrimp caught must be immediately returned to the water unharmed.

REPEALER

The following section of Washington Administrative Code is repealed, effective June 6, 2025:

WAC 220-330-07000D Shrimp—Areas and seasons. (25-97)

WSR 25-12-102
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Home and Community Living Administration)

(Developmental Disabilities Community Services)

[Filed June 4, 2025, 9:07 a.m., effective June 4, 2025, 9:07 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The developmental disabilities community services (DDCS) is enacting these changes on an emergency basis to implement home and community-based services (HCBS) waivers as approved by the Centers for Medicare and Medicaid Services (CMS).

Primary waiver amendments:

- These amendments add: Waiver eligibility for children and youth age 20 and younger who are subject to a court dependency or a similar proceeding in a tribal court or are receiving extended foster care services from the department of children, youth, and families or from a tribe in Washington state; technical information about service plan collaboration; and teleservice delivery as a service delivery method for some services.
- These amendments adjust: Waiver enrollment limits; language about cross-agency collaboration; the service definition for transportation; provider qualifications for music therapists; and level-of-care and inter-rate reliability level of care evaluation processes.
- These amendments clarify: Teleservice language in all services where teleservice delivery is now available; and waiver service definitions and service limit language across all five waivers.

To read all other CMS-approved waiver amendments effective September 1, 2024, open a waiver under "Current Approved Waivers" on DDCS' home and community-based waivers website.

This is a subsequent emergency filing on these sections and is necessary to keep the rules in effect until DDCS completes the permanent rule-making process. DDCS is preparing the rules for external review. We have filed a CR-101 preproposal under WSR 24-18-103. This filing supersedes the emergency rule making filed as WSR 25-05-019.

Citation of Rules Affected by this Order: New WAC 388-842-0001, 388-842-0005, 388-842-0010, 388-842-0015, 388-842-0020, 388-842-0025, 388-842-0030, 388-842-0035, 388-842-0040, 388-842-0045, 388-842-0060, 388-842-0065, 388-842-0070, 388-842-0075, 388-842-0080, 388-842-0085, 388-842-0090, 388-842-0095, 388-842-0110, 388-842-0115, 388-842-0120, 388-842-0125, 388-842-0140, 388-842-0145, 388-842-0150, 388-842-0165, 388-842-0170, 388-842-0175, 388-842-0180, 388-842-0185, 388-842-0190, 388-842-0195, 388-842-0205, 388-842-0210, 388-842-0215, 388-842-0220, 388-842-0230, 388-842-0235, and 388-842-0250; repealing WAC 388-825-0571 and 388-845-2019; and amending WAC 388-825-020, 388-825-096, 388-825-120, 388-828-1020, 388-828-1340, 388-828-1540, 388-828-5120, 388-828-5140, 388-828-5160, 388-828-5180, 388-828-5920, 388-828-5940, 388-828-5980, 388-845-0001, 388-845-0030, 388-845-0045, 388-845-0055, 388-845-0060, 388-845-0100, 388-845-0110, 388-845-0111, 388-845-0760, 388-845-0955, 388-845-1162, 388-845-1515, 388-845-1607, 388-845-1620, 388-845-2000, 388-845-2010, 388-845-2200, 388-845-3015, and 388-845-3095.

Statutory Authority for Adoption: RCW 34.05.350, 71A.12.030, and 71A.12.380.

Other Authority: RCW 71A.12.380(1); 42 C.F.R. 441.301.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Enacting these rules on an emergency basis is necessary in order to implement HCBS waivers as approved by CMS. Aligning rules with approved waiver amendments provides assurances required under 42 C.F.R. 441.301. This fourth filing is necessary to allow for rules to stay effective while DDCS completes the permanent rule making for these rules. A public rule-making hearing was held on Tuesday, May 27, 2025.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 39, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 39, Amended 32, Repealed 2.

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

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 39, Amended 32, Repealed 2.

Date Adopted: June 3, 2025.

Katherine I. Vasquez
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 25-14 issue of the Register.

WSR 25-12-116
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Home and Community Living Administration)

(Developmental Disabilities Community Services)

[Filed June 4, 2025, 11:18 a.m., effective June 4, 2025, 11:18 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The developmental disabilities community services (DDCS) is enacting these changes on an emergency basis to implement changes to DDCS' home and community-based services (HCBS) waivers as approved by the Centers for Medicare and Medicaid Services (CMS).

This is the second emergency filing on these sections and is necessary to keep the rules in effect until DDCS completes the permanent rule-making process. The department of social and health services filed a CR-101 preproposal under WSR 25-05-034.

Citation of Rules Affected by this Order: Amending WAC 388-845-0113, 388-845-0210, 388-845-0215, 388-845-0220, 388-845-0225, 388-845-0230, 388-845-0820, 388-845-1150, 388-845-1870, 388-845-1880, 388-845-1890, 388-845-2005, 388-845-2205, and 388-845-2210.

Statutory Authority for Adoption: RCW 34.05.350.

Other Authority: RCW 71A.12.380(1); 42 C.F.R. 441.301.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Enacting these rules on an emergency basis is necessary in order to implement HCBS waivers as approved by CMS. Aligning rules with approved waiver amendments provides assurances required under 42 C.F.R. 441.301. This second filing is necessary to allow for rules to stay effective while DDCS completes the permanent rule making for these rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 14, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 14, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 14, Repealed 0.

Date Adopted: June 3, 2025.

Katherine I. Vasquez
Rules Coordinator

SHS-5073.2

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-0113 When may I receive waiver services through teleservice? (1) Teleservice is a remote service delivery method that uses a HIPAA-compliant technology system approved by DDA.

(2) The following services may be delivered through teleservice:

(a) Assistive technology;

(b) Community engagement;

(c) Individual supported employment;

~~((e))~~ (d) Individualized technical assistance;

(e) Life skills;

~~((d))~~ (f) Music therapy;

~~((e))~~ (g) Occupational therapy;

~~((f))~~ (h) Peer mentoring;

~~((g))~~ (i) Person-centered plan facilitation;

~~((h))~~ (j) Physical therapy;

~~((i) Positive behavior support and consultation until August 31, 2023;))~~

(k) Residential habilitation;

~~((j))~~ (l) Specialized evaluation and consultation;

~~((k) Specialized habilitation;))~~

~~((l))~~ (m) Speech, hearing, and language services;

~~((m) Supported employment;~~

~~(n) Supported parenting; and))~~

(n) Stabilization - crisis diversion bed;

(o) Stabilization - life skills;

(p) Stabilization - staff and family consultation;

~~((e))~~ (q) Staff and family consultation((-)); and

(r) Supported parenting.

(3) A waiver service may be delivered through teleservice if:

(a) The waiver participant chooses that service delivery method and acknowledges the teleservice agreement through signature on the person-centered service plan;

(b) DDA determines through the person-centered planning process that the waiver service can be adequately provided remotely based on the reason for the service request;

(c) There is no risk to the waiver participant's health or safety as a result of the waiver service being provided remotely; and

(d) The waiver participant's person-centered service plan indicates each waiver service that will be provided through teleservice.

(4) For each waiver service that occurs regularly over the course of the plan year and is being delivered remotely, the service must be delivered in-person at least one time per plan year.

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-0210 What services are available under the basic plus waiver? The following services are available under the basic plus waiver:

SERVICE	YEARLY LIMIT
AGGREGATE SERVICES:	Total costs must not exceed \$6,192 per year per participant
<u>Assistive technology</u>	
((Assistive technology)) Extermination of cimex lectularius (bedbugs)	
Community engagement	
Environmental adaptations	
<u>Life skills</u>	
Occupational therapy	
Physical therapy	
Remote support	
Skilled nursing	
Specialized equipment and supplies ((Specialized habilitation))	Limited to a single one-time authorization every five years and limited to funds available in the client's aggregate and emergency funding
Speech, hearing, and language services	
Staff and family consultation	Limits determined by DDA assessment and employment status
Transportation	
Wellness education	
Therapeutic adaptations	Limits determined by the person-centered service plan
EMPLOYMENT SERVICES:	
Individual technical assistance	
Supported employment	Limits determined by the person-centered service plan
Community inclusion	
STABILIZATION SERVICES:	Limits determined by the person-centered service plan
Crisis diversion bed ((Specialized habilitation)) <u>Life skills</u>	
Staff and family consultation	
Respite care	Limits determined by DDA assessment
Risk assessment	Limits determined by DDA

SERVICE	YEARLY LIMIT
Community engagement	\$6,000 per year for emergency assistance funding
Environmental adaptations	
Occupational therapy	
Physical therapy	
<u>Remote support</u>	
Specialized equipment and supplies	
Speech, hearing, and language services	
Skilled nursing	
Staff and family consultation	
Therapeutic adaptations	
Transportation	

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-0215 What services are available under the core waiver? (1) The following services are available under the core waiver:

SERVICE	YEARLY LIMIT
Assistive technology	Determined by the person-centered service plan
Extermination of cimex lectularius (bedbugs)	
Community engagement	
Community transition	
Environmental adaptations	
<u>Life skills</u>	
Occupational therapy	
Physical therapy	
Remote support	
Residential habilitation	
Risk assessment	
Skilled nursing	
Specialized equipment and supplies	
((Specialized habilitation))	
Speech, hearing, and language services	
Staff and family consultation	
Supported parenting	
Transportation	
Wellness education	

SERVICE	YEARLY LIMIT
EMPLOYMENT SERVICES: Individualized technical assistance Supported employment	Limits determined by DDA assessment and employment status
Community inclusion	Limits determined by the person-centered service plan
STABILIZATION SERVICES: Crisis diversion bed ((Specialized habilitation)) Life skills Staff and family consultation	Limits determined by the person-centered service plan
Respite care	Limits determined by DDA assessment

(2) A participant's core waiver services are subject to additional limits under this chapter.

(3) The total cost of a participant's core waiver services must not exceed the average cost of care at an intermediate care facility for individuals with intellectual disabilities (ICF/IID).

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-0220 What services are available under the community protection waiver? (1) The following services are available under the community protection waiver:

SERVICE	YEARLY LIMIT
Assistive technology Extermination of cimex lectularius (bedbugs) Community transition Environmental adaptations Occupational therapy Physical therapy ((Positive behavior support and consultation-)) Residential habilitation Risk assessment Skilled nursing Specialized equipment and supplies Specialized evaluation and consultation Speech, hearing, and language services Staff and family consultation	Determined by the person-centered service plan

SERVICE	YEARLY LIMIT
Transportation	
EMPLOYMENT SERVICES: Individual technical assistance Supported employment	Limits determined by DDA assessment and employment status
STABILIZATION SERVICES: Crisis diversion bed ((Specialized habilitation)) <u>Life skills</u> Staff and family consultation	Limits determined by the person-centered service plan

(2) A participant's community protection waiver services are subject to additional limits under this chapter.

(3) The total cost of a participant's community protection waiver services must not exceed the average cost of care at an intermediate care facility for individuals with intellectual disabilities (ICF/IID).

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-0225 What services are available under the children's intensive in-home behavioral support (CIIBS) waiver? (1) The following services are available under the children's intensive in-home behavioral support (CIIBS) waiver:

SERVICE	YEARLY LIMIT
Assistive technology Environmental adaptations <u>Life skills</u> Nurse delegation Specialized clothing Specialized equipment and supplies ((Specialized habilitation)) Staff and family consultation Transportation Vehicle modifications	\$15,000 per year for any combination of services
Respite care	Limits determined by the DDA assessment.
STABILIZATION SERVICES: Crisis diversion bed ((Specialized habilitation)) <u>Life skills</u> Staff and family consultation	Limits determined by the person-centered service plan
Risk assessment	Limits determined by DDA

SERVICE	YEARLY LIMIT
Environmental adaptations (Accessibility and repairs) ((Specialized habilitation)) <u>Life skills</u> Staff and family consultation Vehicle modifications	\$6,000 per year for emergency assistance funding
Equine therapy Music therapy Peer mentoring Person-centered plan facilitation	\$5,000 per year for any combination of services
Therapeutic adaptations	Limited to a single, one-time authorization not to exceed \$15,000 every five waiver years

(2) A participant's CIIBS waiver services are subject to additional limits under this chapter.

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-0230 What services are available under the individual and family services (IFS) waiver? (1) The following services are available under the individual and family services (IFS) waiver:

SERVICE	YEARLY LIMIT
Assistive technology Community engagement Environmental adaptations <u>Life skills</u> Nurse delegation Occupational therapy Peer mentoring Person-centered plan facilitation Physical therapy Remote support Respite care Skilled nursing Specialized clothing Specialized equipment and supplies	Total cost of waiver services must not exceed annual allocation determined by the person-centered service plan

SERVICE	YEARLY LIMIT
((Specialized habilitation)) Speech, hearing, and language services Staff and family consultation Supported parenting services Transportation Vehicle modifications Wellness education	
Therapeutic adaptations	Limited to a one-time authorization every five years and limited to funds available in the client's annual allocation
Risk assessment	Limits determined by the person-centered service plan. Costs are excluded from the annual allocation.
STABILIZATION SERVICES: Crisis diversion bed ((Specialized habilitation)) <u>Life skills</u> Staff and family consultation	Limits determined by the person-centered service plan. Costs are excluded from the annual allocation.

(2) Your IFS waiver services annual allocation is based upon the DDA assessment under chapter 388-828 WAC. The DDA assessment determines your service level and annual allocation based on your assessed need. Annual allocations are as follows:

- (a) Level 1 = \$1,560;
- (b) Level 2 = \$2,340;
- (c) Level 3 = \$3,120; or
- (d) Level 4 = \$4,680.

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-0820 Are there limits to your use of emergency assistance funding? All of the following limits apply to the emergency assistance funding you may receive.

(1) Prior approval by the DDA regional administrator or designee is required based on a reassessment of your person-centered service plan to determine the need for emergency assistance.

(2) Payment authorizations are reviewed every 30 days and must not exceed \$6,000 per 12 months based on the effective date of your current person-centered service plan.

(3) Emergency assistance funding is limited to the following aggregate services when on the basic plus waiver:

- (a) Community engagement;
- (b) Environmental adaptations;
- (c) Occupational therapy;

- (d) Physical therapy;
 - (e) Remote support;
 - (f) Skilled nursing;
 - (g) Specialized equipment and supplies;
 - (h) Speech, hearing, and language services;
 - (i) Staff and family consultation, which excludes individual and family counseling;
 - (j) Transportation; and
 - (k) Therapeutic adaptations.
- (4) Emergency assistance funding is limited to the following services when on the CIIBS waiver:
- (a) Environmental adaptations;
 - (b) (~~Specialized habilitation~~) Life skills;
 - (c) Staff and family consultation; and
 - (d) Vehicle modifications.
- (5) Emergency assistance funding may be used for interim services until:
- (a) The emergency situation has been resolved;
 - (b) You are transferred to alternative supports that meet your assessed needs; or
 - (c) You are transferred to an alternate waiver that provides the service you need.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

- WAC 388-845-1150 What are stabilization services?** (1) Stabilization services assist persons who are experiencing a crisis.
- (2) Stabilization services are available in the basic plus, core, children's intensive in-home behavior support (CIIBS), individual and family services (IFS), and community protection waivers.
- (3) A participant may be eligible for stabilization services if:
- (a) A behavioral health professional and DDA has determined the participant is at risk of institutionalization or hospitalization; and
 - (b) The participant needs short-term:
 - (i) (~~Specialized habilitation~~) Life skills;
 - (ii) Staff and family consultation; or
 - (iii) Crisis diversion beds.

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

- WAC 388-845-1870 What are (~~specialized habilitation~~) life skills services?** (1) (~~Specialized habilitation~~) Life skills services provide community-based and individualized support with the intent of reaching an identified habilitative goal in the person-centered service plan.
- (2) Service must assist a client to learn or maintain skills in categories of:
- (a) Self-empowerment;
 - (b) Safety awareness and self-advocacy;
 - (c) Interpersonal effectiveness and effective social communication;

- (d) Coping strategies for everyday life changes; and
- (e) Managing daily tasks and acquiring adaptive skills.

(3) (~~Specialized habilitation~~) Life skills services must promote inclusion in the community.

(4) (~~Specialized habilitation~~) Life skills services are available on the basic plus, IFS, core, and CIIBS waivers.

(5) (~~Specialized habilitation~~) Life skills services, when authorized as a stabilization service, is available on all five HCBS waivers.

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-1880 Who are qualified providers of (~~specialized habilitation~~) life skills services? To provide (~~specialized habilitation~~) life skills services, a provider must be contracted with DDA for this service, have one year of experience working with people with a developmental or intellectual disability, and be one of the following:

(1) A certified life skills coach;

(2) An individual with a bachelor's, master's, or doctoral degree in social work, sociology, psychology, education, child development, gerontology, nursing, or other related field; or

(3) An individual enrolled and supervised in a university internship program for social work, sociology, psychology, education, child development, gerontology, sociology, or nursing.

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-1890 Are there limits to the (~~specialized habilitation~~) life skills I may receive? The following limits apply to your receipt of (~~specialized habilitation~~) life skills:

(1) (~~Specialized habilitation~~) Life skills is limited to address a maximum of three goals at a time.

(2) (~~Specialized habilitation~~) Life skills support needs must be identified in your DDA assessment and (~~specialized habilitation~~) life skills must be documented in your person-centered service plan.

(3) (~~Specialized habilitation~~) Life skills must not exceed:

(a) \$6,192 within your total basic plus aggregate budget;

(b) Your IFS annual allocation in combination with other waiver services; or

(c) \$15,000 within your total CIIBS aggregate budget and \$6,000 emergency assistance funding when eligible per WAC 388-845-0800 and 388-845-0820.

(4) (~~Specialized habilitation~~) Life skills does not cover education, vocational, skills acquisition training through community first choice, behavioral health, ABA, skilled nursing, occupational therapy, physical therapy, or speech, language, and hearing services that are covered benefits through the medicaid state plan, including early and periodic screening, diagnosis, and treatment, and part B special education services.

(5) Life skills may be provided in a small group up to four if the clients have the same person-centered goal, and the group work addresses each client's current goal.

(6) (~~Specialized habilitation~~) Life skills must not be authorized for a client receiving residential habilitation, unless the client is receiving the service from a companion home provider.

(~~(6)~~) (7) Habilitation plans must be documented as formal plans as outlined in the provider's contract.

(~~(7) Specialized habilitation~~) (8) Life skills, not provided as a stabilization service, requires prior approval by the DDA regional administrator or designee.

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-2005 Who is a qualified provider of staff and family consultation? To provide staff and family consultation, a provider must be contracted with DDA and be one of the following licensed, registered, or certified professionals:

- (1) Audiologist;
- (2) Licensed practical nurse;
- (3) Marriage and family therapist;
- (4) Mental health counselor;
- (5) Occupational therapist;
- (6) Physical therapist;
- (7) Registered nurse;
- (8) Sex offender treatment provider;
- (9) Speech-language pathologist;
- (10) Social worker;
- (11) Psychologist;
- (12) Certified American Sign Language instructor;
- (13) Nutritionist;
- (14) Counselors registered or certified in accordance with chapter 18.19 RCW;
- (15) Certified dietician;
- (16) Recreation therapist registered in Washington and certified by the national council for therapeutic recreation;
- (17) Certified music therapist (for CIIBS only);
- (18) Psychiatrist;
- (19) Professional advocacy organization;
- (20) DDA-contracted (~~specialized habilitation~~) life skills provider; or
- (21) Teacher certified under chapter 181-79A WAC.

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-2205 Who is qualified to provide transportation services? The provider of transportation (~~services can be an individual or agency~~) must be an entity contracted with DDA (~~whose contract includes~~) to provide transportation (~~in the statement of work~~).

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-2210 Are there ((limitations)) limits to the transportation services you can receive? The following ((limitations)) limits apply to transportation services:

(1) Support needs for transportation services are limited to those identified in your DDA assessment and documented in your person-centered service plan.

~~(2) ((Transportation is limited to travel to and from a waiver service. When the waiver service is supported employment, transportation is limited to days when you receive employment support services.~~

~~(3) Transportation does not include the purchase of a bus pass.~~

~~(4))~~ Reimbursement for provider mileage requires prior authorization by DDA and is paid according to contract.

~~((5))~~ (3) This service does not cover the purchase or lease of vehicles.

~~((6))~~ (4) Reimbursement for provider travel time is ~~((not))~~ included ~~((in this service))~~ for nonmedical transportation from a transportation company only.

~~((7))~~ (5) Reimbursement to the provider is limited to transportation that occurs when you are with the provider.

~~((8))~~ (6) You are not eligible for transportation services if the cost and responsibility for transportation is already included in your provider's contract and payment.

~~((9))~~ (7) The dollar limitations for aggregate services in your basic plus waiver or the dollar amount of your annual allocation in the IFS waiver limit the amount of service you may receive.