



RULE-MAKING ORDER

SR-103E (May 2009)
(Implements RCW 34.05.360)

Agency: Washington State Center for Childhood Deafness and Hearing Loss

Emergency Rule Only

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: To implement newly revised admission policy and procedure for the Washington State School for the Deaf. The School will be repealing chapter 148-171 WAC, which contain the rules for special education programs, including WAC 148-171-100 – Initial assessment. New rules for the provision of special education which follow the requirements of the Office of the Superintendent of Public Instruction in chapter 28A.155 RCW and chapter 392-172A WAC, will be included in new chapter 148-172 WAC. This rule describes the admission and retention process, explains how safety risk factors are addressed, and the purpose and scope of diagnostic placement which occurs as part of the admission process.

Citation of existing rules affected by this order: WAC 148-172-100.

- Repealed: WAC 147-171-100.
- Amended:
- Suspended:

Statutory authority for adoption: RCW 72.40.0191

Other authority : RCW 72.40.040

EMERGENCY RULE

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.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.
- That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal years 2009, 2010, or 2011, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this finding: In July 2009, management and supervision over the Washington State School for the Deaf was transferred to the Washington State Center for Childhood Deafness and Hearing Loss. The School for the Deaf is currently applying the revised admission policy and procedure, which includes a limited 45-school day diagnostic placement for the purpose of evaluation, to admission applications. An interlocutory decision which ordered the School as a stay-put placement following a diagnostic placement found that the School's process did not unequivocally inform the parent that an agreed diagnostic placement would not constitute a potential stay-put placement. The new rule informs parents and school districts that acceptance for evaluation purposes in a 45-school day diagnostic placement will not constitute a change in educational placement or a potential stay-put placement before a student is enrolled at the School for the Deaf and an IEP is developed.

Date adopted: October 1, 2010

NAME (TYPE OR PRINT)
Rick Hauan

SIGNATURE

TITLE
Director, Washington State Center for Childhood Deafness and Hearing Loss

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON

8

TIME 10:03 AM

DATE 10-21-073

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
-----	-------	---------	-------	----------	-------

The number of sections adopted in the agency's own initiative:

New	<u>1</u>	Amended	_____	Repealed	<u>1</u>
-----	----------	---------	-------	----------	----------

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>1</u>	Amended	_____	Repealed	<u>1</u>
-----	----------	---------	-------	----------	----------

The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

NEW SECTION

WAC 148-172-100 Admission and initial evaluation. (1) A parent, guardian, local education agency (LEA) or school district may refer a student for admission to the Washington state school for the deaf (WSD). Students who are eighteen years old or are deemed to have reached the age of majority, consistent with RCW 26.28.010 through 26.28.020, and who are eligible for special education may self-refer for admission.

(2) An application packet for new students may be obtained by contacting the office of the superintendent at (360) 696-6525 x0401 V/TTY, or through the link on the school's web site at <http://www.wsd.wa.gov/about/admissions.aspx>. Applications for admission shall include the reason(s) for referral.

(3) WSD will assess the appropriateness of admission by first considering the student for evaluation in a diagnostic placement. A diagnostic placement allows school personnel to obtain necessary information about the student's needs and to evaluate how the student will fare in a placement at WSD. The diagnostic placement is limited to forty-five school days. A visit by the parent(s)/guardian(s) and student to WSD is required before a diagnostic placement is initiated.

(4) WSD will request the following records from the student's current school district. All requested records must be received before the admissions team will consider and make a decision on the application for a diagnostic placement:

- (a) All completed forms and material in the application packet;
- (b) Student's most recent individualized education program (IEP);
- (c) Student's most recent triennial evaluation report;
- (d) All psychological records;

- (e) High school transcripts or academic records and report cards;
- (f) Records of all behavioral information, including history of criminal or violent behavior; past, current or pending disciplinary history; and other behavior that indicates the student could be a threat to the safety of staff and students; and information that would be required under RCW 28A.225.330. Any falsification of or withholding of information will result in the termination of the application process, the evaluation, or continued placement; and
- (g) Needs Assessment Inventory Interview (NAII) and Safety Risk Matrix completed by the parent(s).

If access to necessary information requires parental or student consent for the exchange of information with a third party, all such written consents must be attached to the completed application.

- (5) If a student is deemed to pose a safety risk after review of the records submitted during the admissions process, the admissions team and/or the superintendent may:
 - (a) Deny the application for diagnostic placement; or
 - (b) Develop a safety plan designed to mitigate perceived safety risk(s).

If the safety plan can be implemented within existing resources at WSD, the admissions team may accept the student for diagnostic placement. If all elements of the safety plan cannot be accomplished within existing resources at Washington school for the deaf, the application shall be denied unless additional resources which are needed to ensure the safety of the student, staff and other students can be provided through an interagency agreement with the LEA or other agency.

(6) (a) Upon approval of the application for diagnostic placement, the admissions team will establish the beginning date of the diagnostic placement.

(b) The LEA or school district is responsible for ensuring that the student's IEP and evaluations remain current and valid through the end of the diagnostic placement.

(c) The admissions team will review the student's current IEP from the LEA or school district to ascertain whether any modifications should be considered or made for the purposes of the diagnostic placement. All modifications must be approved by the parent. Modifications to a student's educational program for the purposes of a diagnostic placement shall not constitute a change in placement for purposes of the Individuals with Disabilities in Education Act or stay-put under WAC 392-172A-05125.

(d) The admissions team will provide prior written notification to the parent, LEA or school district that the diagnostic placement shall not exceed forty-five school days and shall not become the student's stay-put or current educational placement should the parent(s) or school district contest the decision on the student's educational placement at the conclusion of the diagnostic placement.

(7) Residential program services may be available to a student during a diagnostic placement: *PROVIDED That:*

(a) The student is accepted into the academic program for diagnostic purposes;

(b) The residential program has space available and can provide the needed services;

(c) A one-way commute by school bus is greater than sixty minutes; and

(d) The student is able to finger-feed, chew and swallow most foods, indicated need for help when self-soiled or wet, and assist in self-dressing and bathing.

(8) Prior to the end of the diagnostic placement timeline, the admissions team will meet to determine whether the student may be enrolled at WSD. If enrollment is recommended, one of the following options will occur:

(a) The student's evaluation and IEP from the school district is reviewed and adopted following Office of the Superintendent of Public Instruction (OSPI) transfer procedures;

(b) The student's evaluation from the school district is reviewed and accepted following OSPI transfer procedures, and a new IEP is developed; or

(c) WSD will conduct a reevaluation and develop a new IEP.

(9) Partnerships and interagency agreements with LEAs and school districts may be developed to support a student's educational placement at the school for the deaf when a lack of existing resources is a reason for denying enrollment. WSD does not constitute a potential stay-put placement for students who have been denied enrollment but may be receiving services at WSD pursuant to an inter-agency agreement.

(10) Pursuant to RCW 72.40.040, WSD shall not admit and may not retain any student who is an adjudicated sex offender, classified level III pursuant to RCW 13.40.217 or 72.09.354. It is the policy of the school to deny admission to any student who has sexually abused, assaulted or victimized any student who is currently enrolled at WSD.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 148-171-100 Initial assessment.