

WSR 24-17-031
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed August 12, 2024, 1:01 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-12-038.

Title of Rule and Other Identifying Information: WAC 392-121-436
Emergency advance payments—School district application, 392-121-438
Emergency advance payments—Approval criteria, and 392-121-443 Emer-
gency advance payments—Repayment of advances.

Hearing Location(s): On October 15, 2024, at 11:30 a.m., virtual
public hearing via Zoom (call-in option also available). Participation
link available on the office of superintendent of public instruction
(OSPI) rules web page [Ospi.k12.wa.us/policy-funding/ospi-rulemaking-
activity](https://ospi.k12.wa.us/policy-funding/ospi-rulemaking-activity). For participation questions, please email
sirena.wu@k12.wa.us.

Date of Intended Adoption: October 17, 2024.

Submit Written Comments to: T.J. Kelly, OSPI, P.O. Box 47200,
Olympia, WA 98504, email Thomas.kelly@k12.wa.us, beginning September
18, 2024, 8:00 a.m., by October 15, 2024, 5:00 p.m.

Assistance for Persons with Disabilities: Contact Sirena Wu, OSPI
Rules Coordinator, phone 360-480-9317, TTY 360-664-3631, email
sirena.wu@k12.wa.us, by October 8, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including
Any Changes in Existing Rules: OSPI is proposing rule making to extend
the apportionment advance request and payout periods for school dis-
tricts and charter schools, and to establish requirements for repay-
ment assurance and apportionment advance repayment schedules for funds
received. As a result of enrollment decline, expiring access to feder-
al COVID[-19] relief, unanticipated rise in uncontrollable costs, and
other unforeseen events, many districts have experienced unprecedented
financial difficulties. Extending the apportionment request, payout,
and repayment periods would allow districts to access funds that are
essential for the continuity of operations, maintenance, and other ed-
ucation services.

Reasons Supporting Proposal: School districts have experienced
unprecedented financial difficulties due to enrollment decline, expir-
ing access to federal COVID[-19] relief, unanticipated rise in uncon-
trollable costs, and other unforeseen events. By extending the appor-
tionment advance request and payout periods, school districts and
charter schools would be able to access funds that are necessary for
the continuity of operations, maintenance, and other education serv-
ices.

Statutory Authority for Adoption: RCW 28A.150.290, 28A.710.220,
28A.510.250.

Rule is not necessitated by federal law, federal or state court
decision.

Name of Agency Personnel Responsible for Drafting and Implementa-
tion: T.J. Kelly, OSPI, 600 South Washington Street, Olympia, WA; En-
forcement: OSPI, 600 South Washington Street, Olympia, WA.

A school district fiscal impact statement is not required under
RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328.

This rule proposal, or portions of the proposal, is exempt from
requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4).

Is exempt under RCW RCW 19.85.030.

Explanation of exemptions: No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed amendment does not have an impact on small business and therefore does not meet the requirements for a statement under RCW 19.85.030 (1) or (2).

Scope of exemption for rule proposal:

Is fully exempt.

August 12, 2024

Chris P. S. Reykdal

State Superintendent of Public Instruction

OTS-5363.1

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

WAC 392-121-436 Emergency advance payments—School district application. The board of directors of a school district or a charter school board may apply for any emergency advance on the school district's or charter school's basic education allocation. The application shall take the form of a resolution adopted by the board setting forth the following:

- (1) The nature of the unforeseen condition requiring the advance;
- (2) The amount requested to be advanced;
- (3) The net cash and investment balance of the general fund as of the date of the resolution;
- (4) A forecast of the general fund receipts, disbursements, and net cash and investment balance for each month remaining in the fiscal year; ~~((and))~~
- (5) A disclosure of any existing or planned general fund revenue anticipation notes ~~((-))~~;
- (6) A disclosure of any existing or planned general fund loan to or from another fund of the school district or charter school; and
- (7) A written acknowledgment that funds advanced will be repaid in accordance with WAC 392-121-443, subject to approval by the superintendent of public instruction.

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

WAC 392-121-438 Emergency advance payments—Approval criteria. The superintendent of public instruction shall approve requests for an emergency advance if the following conditions are met:

- (1) The unforeseen condition causing the need for the emergency advance could not have been anticipated by a reasonably prudent person.
- (2) It is probable that if the emergency advance is not made that the school district or charter school will be on:

- (a) An interest-bearing, warrant-issuing basis within two months following the receipt of the resolution; and
- (b) Warrant interest for at least three months from September through June.
- (3) The school district or charter school shall not have:
 - (a) Cash investments of the general fund during the months it estimates that it would pay warrant interest except for the emergency advance; or
 - (b) Inter-fund loans from the general fund to any other funds during the months it estimates that it would pay warrant interest; or
 - (c) Any existing or anticipated general fund revenue anticipated notes.

Applications and payouts for apportionment advances can be processed only during the months of October through July. Advance requests for the months of May and June shall not be approved if the superintendent of public instruction determines that the school district or charter school would be short paid at the end of the fiscal year due to lack of appropriation of funds after considering transfer authority.

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

WAC 392-121-443 Emergency advance payments—Repayment of advances. Repayments of advances will be accomplished by a reduction in the school district's or charter school's apportionment payments (~~(en)~~). Under RCW 28A.510.250, all apportionment advances must be repaid during the apportionment year in which the funds are advanced. The repayment requirements are defined as follows:

- (1) For advances received before June, at least 50 percent of the amount advanced must be repaid in or before June (~~(in)~~) of the current school year, with the remaining balance repaid no later than August of the current school year.
- (2) For advances received in June, at least 50 percent of the amount advanced must be repaid in July of the current school year, with the remaining balance paid in August of the current school year.
- (3) For advances received in July, the full balance must be repaid in August of the current school year.
- (4) In no instance can an apportionment advance be repaid and re-approved in the subsequent month.