

Where an intervenor takes a position in support of the position of one of the original parties, the intervenor's evidence shall follow that of the supported party. If the intervention is not in support of either original party, the hearing officer shall designate the order of presentation of evidence by that intervenor.

(2) Modification of procedure: The order of presentation prescribed above shall be followed, except where the hearing officer may otherwise direct. In hearings of several proceedings upon a consolidated record, the hearing officer shall designate who shall open or close. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-220, filed 12/14/78.]

WAC 391-70-245 Inspection of conditions. In addition to any other evidence, the commission may take official notice of the results of its own inspection of the conditions involved. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-245, filed 12/14/78.]

WAC 391-70-260 Briefs. Briefs may be filed in any proceeding before the commission by any interested party, and shall be filed by any party to the proceeding upon the request of the commission. The commission may require the filing of all briefs within such time as may be reasonable, before or after any hearing, or may direct that oral argument be made at the close of the hearing in lieu of briefs. The original and three copies of each brief shall be filed with the commission and copies thereof shall be served on all other parties to the proceeding. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-260, filed 12/14/78.]

WAC 391-70-300 Compliance with orders--Notification to commission. When an order has been issued by the commission, any party named therein who is required by such order to do or refrain from doing any act or thing may be required to notify the commission on or before the date specified in such order for compliance as to what actions have been taken to comply with the order. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-300, filed 12/14/78.]

Title 392 WAC

PUBLIC INSTRUCTION, SUPERINTENDENT OF

Chapters

- 392-32 State plans adopted pursuant to federal laws.
- 392-40 Certificates of educational competence.
- 392-109 State board of education--Election of members.
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- 392-125 Finance--Educational service district budgeting.
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- 392-195 In-service training program.

Chapter 392-32 WAC

STATE PLANS ADOPTED PURSUANT TO FEDERAL LAWS

The state plans and amendments thereto filed in the reviser's office pursuant to chapter 34.04 RCW were omitted from the Washington Administrative Code pursuant to the authority of RCW 34.04.050(3). Such state plans have been repealed by Order 3-79, filed June 7, 1979. See Disposition Table below.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

State Plan for the Adult Basic Education Program, FY-1968. Under the provisions of Public Law 89-750, Title III, Adult Education Act of 1966. 6/5/69. Repealed by 79-07-006 (Order 3-79), filed 6/7/79. Statutory Authority: RCW 28A.03.030(1) and (3).

Title III National Defense Education Act, P.L. 85-864 (State Plans for Strengthening Instruction in Science, Mathematics, Modern Foreign Languages, etc.) - 8/3/67, 5/18/66, 1/27/66, 4/28/65, 8/3/64, 3/31/64, 11/18/63, 10/2/62, 8/28/62, 10/25/60, and 3/22/60. Repealed by 79-07-006 (Order 3-79), filed 6/7/79. Statutory Authority: RCW 28A.03.030(1) and (3).

State Plan for Operation of Title III, Elementary and Secondary Education Act of 1965 (Public Law 89-10, as amended by Public Law 89-247). 5/23/69; Order 43, 11/17/71. Repealed by 79-07-006 (Order 3-79), filed 6/7/79. Statutory Authority: RCW 28A.03.030(1) and (3).

State Plan for Operation of Title III, Elementary and Secondary Education Act of 1965 (Public Law 89-10 as amended by Public Law 90-247). 8/22/68. Repealed by 79-07-006 (Order 3-79), filed 6/7/79. Statutory Authority: RCW 28A.03.030(1) and (3).

Title V & VA National Defense Education Act, P.L. 85-864, Guidance, Counseling, and Testing - 2/23/67, 1/25/67, 8/5/64, 10/2/62, 8/28/62, and 10/25/60. Repealed by 79-07-006 (Order 3-79), filed 6/7/79. Statutory Authority: RCW 28A.03.030(1) and (3).

Washington State Plan for Migrant Education, P.L. 89-10, Title I, as amended by P.L. 89-750 (fiscal year 1971). Filed 9/11/70. Repealed by 79-07-006 (Order 3-79), filed 6/7/79. Statutory Authority: RCW 28A.03.030(1) and (3).

Amendment to Washington State Plan for Migrant Education, P.L. 89-10, Title I, as amended by P.L. 89-750 (fiscal year 1971) to reflect budget changes because of federal appropriations being increased. Filed 12/1/70. For fiscal year 1972. Order 40, filed 10/15/71 and Order 44, filed 2/23/72. Repealed by 79-07-006 (Order 3-79), filed 6/7/79. Statutory Authority: RCW 28A.03.030(1) and (3).

Title I Elementary and Secondary Education Act, P.L. 89-10 and/or as amended by P.L. 89-750, Educational Programs for Migratory Children - Order 19, filed 9/24/69, 1/10/69, 8/22/68, 3/19/68,

11/1/67, and 4/11/67. Repealed by 79-07-006 (Order 3-79), filed 6/7/79. Statutory Authority: RCW 28A.03.030(1) and (3).

Title II Elementary and Secondary Education Act, P.L. 89-10 (School Library Resources, Textbooks and other Instructional Materials for Pupils and Teachers); 2/5/69, 4/10/68, 3/12/68, 8/3/67, 4/4/67, and 11/12/65. Repealed by 79-07-006 (Order 3-79), filed 6/7/79. Statutory Authority: RCW 28A.03.030(1) and (3).

State Plan for Title III of the Elementary and Secondary Education Act of 1965 in which Federal funding is being requested for the Fiscal Year ending June 30, 1971. Filed 9/10/70. Repealed by 79-07-006 (Order 3-79), filed 6/7/79. Statutory Authority: RCW 28A.03.030(1) and (3).

State Plan for Attracting and Qualifying Teachers to Meet Critical Teacher Shortages Under Part B (2) of the Education Professions Development Act (Public Law 90-35) (Title V, Higher Education Act of 1965, Public Law 89-329 as amended by P.L. 90-35). 10/29/68. Repealed by 79-07-006 (Order 3-79), filed 6/7/79. Statutory Authority: RCW 28A.03.030(1) and (3).

Title VI Elementary & Secondary Education Act, P.L. 89-10 as amended by P.L. 89-750 (State Plan for Education of Handicapped Children) - 11/17/67, 8/3/67, and 4/4/67. Repealed by 79-07-006 (Order 3-79), filed 6/7/79. Statutory Authority: RCW 28A.03.030(1) and (3).

Title VI A Amendments to State Plan for the Operation of Title VI A, Elementary and Secondary Education Act (Public Law 89-10, as amended). 6/27/67. Repealed by 79-07-006 (Order 3-79), filed 6/7/79. Statutory Authority: RCW 28A.03.030(1) and (3).

Interim State Plan, Title VI (Part B) of the Education of the Handicapped Act (P.L. 91-230) for fiscal year 1971 - 7/1/70. Repealed by 79-07-006 (Order 3-79), filed 6/7/79. Statutory Authority: RCW 28A.03.030(1) and (3).

State Plan for the Preparation of Professional Personnel in the Education of Handicapped Children [Public Law 85-926, as amended]. Emergency 12/20/68, 2/25/69. Repealed by 79-07-006 (Order 3-79), filed 6/7/79. Statutory Authority: RCW 28A.03.030(1) and (3).

Civil Rights Act of 1964, P.L. 88-352 (Re: School Board Grant Program on School Desegregation Problems under Title IV, Section 405 Civil Rights Act of 1964) - 1/16/68 - Adoption of State Plan. Repealed by 79-07-006 (Order 3-79), filed 6/7/79. Statutory Authority: RCW 28A.03.030(1) and (3).

Title II B Economic Opportunity Act of 1964, P.L. 88-452 - 7/28/65 - State Plan. Repealed by 79-07-006 (Order 3-79), filed 6/7/79. Statutory Authority: RCW 28A.03.030(1) and (3).

Vocational Rehabilitation Plans - 1/27/66. Repealed by 79-07-006 (Order 3-79), filed 6/7/79. Statutory Authority: RCW 28A.03.030(1) and (3).

Federal School Lunch, Surplus Commodity and Special Milk Programs 2/10/67, 9/9/66, 7/14/65, 6/17/63, 2/20/63, 1/28/63, 1/31/61, 9/25/60, 9/14/60, and 3/22/60. Repealed by 79-07-006 (Order 3-79), filed 6/7/79. Statutory Authority: RCW 28A.03.030(1) and (3).

Chapter 392-40 WAC

CERTIFICATES OF EDUCATIONAL COMPETENCE

WAC

392-40-005 Repealed.
392-40-010 Repealed.
392-40-990 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

392-40-005 Purpose of rules. [Rules (part), filed 1/20/66.] Repealed by 79-07-004 (Order 2-79), filed 6/7/79. Statutory Authority: RCW 28A.03.030(1) and (3).

392-40-010 The rules. [Rules (part), filed 1/20/66.] Repealed by 79-07-004 (Order 2-79), filed 6/7/79. Statutory Authority: RCW 28A.03.030(1) and (3).

392-40-990 Appendix—Instructions for the administration of the program for the certificate of educational competence. [Instructions for the administration of program (codified as WAC 392-40-990), filed 1/20/66.] Repealed by 79-07-004 (Order 2-79), filed 6/7/79. Statutory Authority: RCW 28A.03.030(1) and (3).

WAC 392-40-005 Repealed. See Disposition Table at beginning of this chapter.

WAC 392-40-010 Repealed. See Disposition Table at beginning of this chapter.

WAC 392-40-990 Repealed. See Disposition Table at beginning of this chapter.

Chapter 392-109 WAC

STATE BOARD OF EDUCATION--ELECTION OF MEMBERS

WAC

392-109-006 Eligibility—Declaration of candidacy.
392-109-010 Biographical data—Limitation.
392-109-026 Voting.

WAC 392-109-006 Eligibility--Declaration of candidacy. (1) A person is eligible to be a candidate for membership on the state board of education if he or she is a resident of the congressional district for which the candidate files.

(2) A person who desires to file for candidacy shall do so by completing: (a) A declaration of candidacy and affidavit on a form prepared and provided by the superintendent of public instruction; and (b) the biographical material pursuant to WAC 392-109-010: *Provided*, That a declarant may elect not to submit biographical data.

(3) The filing period is from September 1 to September 16. Any declaration of candidacy which is not received or postmarked later than midnight September 16 shall not be accepted by the superintendent of public instruction and such a declarant shall not be a candidate. [Statutory Authority: RCW 28A.04.020. 78-08-033 (Order 2-78), § 392-109-006, filed 7/18/78.]

WAC 392-109-010 Biographical data--Limitation. Pursuant to RCW 28A.04.050, the superintendent of public instruction shall provide a biographical data form which each candidate may complete. Such form shall not exceed two letter size (8 1/2 x 11 inches) typewritten pages in length pursuant to RCW 28A.04.050. Biographical data must be camera ready and will be reproduced as submitted by the candidate and distributed with the ballots to all eligible voters. [Statutory Authority: RCW 28A.04.020. 78-08-033 (Order 2-78), § 392-109-010, filed 7/18/78; Order 7-75, § 392-109-010, filed 12/22/75. Formerly WAC 392-99-020.]

WAC 392-109-026 Voting. (1) The election shall be conducted by the superintendent of public instruction

in accordance with the requirements of RCW 28A.04.060.

(2) In addition to the timelines and procedures contained in statute, the following shall apply:

(a) The superintendent of public instruction or his or her designee shall compile a list of those who are eligible to vote;

(b) Ballots shall be mailed to each eligible voter with two return envelopes;

(i) The outer and larger envelope shall be labeled "official ballot," and it shall be preaddressed with the superintendent of public instruction as the addressee. In addition, the outer envelope shall have provision for a return address, including voter's name, address, school district name and number, and congressional district name and number;

(ii) The inner and smaller envelope shall be unlabeled and unmarked.

(c) After the voter marks the ballot, the ballot shall be placed in the smaller, unlabeled envelope and the envelope shall be sealed. The voter shall not mark the inner envelope in any manner. The smaller envelope containing the ballot shall be placed in the larger, "official ballot" envelope, which shall be sealed. The voter shall place his name, in a legible manner, in the space provided on the "official ballot" envelope. The ballot shall then be mailed to the superintendent of public instruction.

(d) As the official ballot envelopes are received by the superintendent of public instruction or his or her designee, a preliminary determination shall be made as to the eligibility of the voter pursuant to RCW 28A.04.050, and a record shall be made on the list of eligible voters that the voter has voted. In no event shall the list indicate in any manner how an eligible voter has cast his or her vote. Official ballot envelopes not submitted according to RCW 28A.04.060 and this chapter shall be set aside for a final review and acceptance or rejection by the election board. Those official ballot envelopes which are accepted by the election board shall be opened, and the sealed inner envelopes containing the ballots shall be removed from the outer envelopes and placed aside, still sealed. These envelopes containing the ballots shall then be opened and the votes tallied by the election board. All ballots shall be counted on a day chosen by the superintendent of public instruction or his or her designee but not later than October 25th. The election board shall not count any ballot which:

(i) Is contained in other than the official ballot envelope; or

(ii) Is in an official ballot envelope which is mailed without the voter's name provided in the space designated in the upper left hand corner of the official ballot envelope; and/or

(iii) Is mailed and postmarked after midnight on the statutory deadline. [Statutory Authority: RCW 28A.04.020, 78-08-033 (Order 2-78), § 392-109-026, filed 7/18/78, 7/21/78.]

Chapter 392-121 WAC FINANCE—GENERAL APPORTIONMENT

WAC

392-121-010 Definitions.

WAC 392-121-010 Definitions. As used in this chapter, the term: (1) "Full-time equivalent student" shall mean each individual student who is enrolled as of the fourth school day of the fiscal year (September 1 through August 31) following commencement of the annual basic education program and/or as of the first school day of any of the subsequent eight months (exclusive of an intermission at noon, but inclusive of normal class change passing time):

(a) Pre-school handicapped: 20 hours each week, or four hours (240 minutes) each scheduled school day;

(b) Kindergarten (full-day): 20 hours each week, or four hours (240 minutes) for 90 scheduled school days;

(c) Kindergarten (half-day): 10 hours each week, or two hours (120 minutes) each scheduled school day;

(d) Primary (grades 1 through 3): 20 hours each week, or four hours (240 minutes) each scheduled school day;

(e) Elementary (grades 4 through 6): 25 hours each week, or five hours (300 minutes) each scheduled school day;

(f) Secondary (grades 7 through 12): 25 hours each week, or five hours (300 minutes) each scheduled school day.

(2) "Kindergarten" shall mean an instructional program conducted for students four to six years of age.

(3) "Nonresident student" shall mean any student other than a resident student whose residence is within the state of Washington.

(4) "Part-time student" shall mean a student who is enrolled pursuant to chapter 392-181 WAC (part-time attendance and ancillary services) for less time than the minimum time required for a full-time equivalent student.

(5) "Pre-school handicapped student" shall mean a handicapped student who is enrolled in a pre-first grade level educational program operated by or in behalf of the school district of enrollment. [Statutory Authority: RCW 84.52.0531, 79-01-007 (Order 12-78), § 392-121-010, filed 12/8/78; Order 7-75, § 392-121-010, filed 12/22/75. Formerly WAC 392-29-130 (part).]

Chapter 392-123 WAC FINANCE—SCHOOL DISTRICT BUDGETING

WAC

392-123-165 Contractual liability extending beyond end of fiscal period.

WAC 392-123-165 Contractual liability extending beyond end of fiscal period. The board of directors of any school district may enter into contracts for their respective districts for periods not exceeding five years in duration with public and private persons, organizations, and entities for the following purposes:

(1) To rent or lease building space, portable buildings, security systems, computers, and other equipment; and

(2) To have maintained and repaired security systems, computers and other equipment.

The budget for each fund of each school district shall contain a schedule which identifies that portion of each contractual liability incurred pursuant to RCW 28A.58-.131 which extends beyond the fiscal period being budgeted. Said schedule shall list for each such contractual liability a brief description, the accounting code, the beginning and ending dates, the total dollar amount, and the estimated dollar amount extending beyond the end of the fiscal period being budgeted. [Statutory Authority: RCW 28A.65.465 and 28A.58.131. 78-08-035 (Order 4-78), § 392-123-165, filed 7/18/78.]

Chapter 392-125 WAC

FINANCE--EDUCATIONAL SERVICE DISTRICT BUDGETING

WAC

392-125-005	Purposes.
392-125-015	Budgets required.
392-125-035	Budget content.
392-125-036	Core services funding formula.
392-125-080	Contractual liability extending beyond end of fiscal period.

WAC 392-125-005 Purposes. The purposes of this chapter are to implement RCW 28A.21.135 through 28A.21.310 and establish budgeting procedures governing educational service districts. [Statutory Authority: RCW 28A.21.135 et seq. 79-07-005 (Order 1-79), § 392-125-005, filed 6/7/79; Order 8-76, § 392-125-005, filed 7/23/76; Order 7-75, § 392-125-005, filed 12/22/75. Formerly WAC 392-31-010.]

WAC 392-125-015 Budgets required. Each educational service district shall prepare a complete budget for each fiscal year of operation. An incomplete budget shall be considered null and void and shall not be an appropriation. The fiscal year for educational service districts commences on July 1st of one year and extends through June 30th of the following year. The annual budget shall be prepared on forms provided by the superintendent of public instruction which will reflect the approved core funding formula pursuant to WAC 392-125-036, and shall receive all necessary approvals, and shall be filed with the proper officials in order to constitute an official budget and appropriation for the subject fiscal year. The superintendent may require a second or revised budget at any time the financial situation is deemed to warrant a revised budget. [Statutory Authority: RCW 28A.21.135 et seq. 79-07-005 (Order 1-79), § 392-125-015, filed 6/7/79; Order 8-76, § 392-125-015, filed 7/23/76; Order 7-75, § 392-125-015, filed 12/22/75. Formerly WAC 392-31-030.]

WAC 392-125-035 Budget content. (1) The budget prepared by an educational service district shall set forth the complete financial program and consider all activities of the district for the ensuing fiscal year in detailed

expenditures by program and the sources of revenue from which it is to be financed.

(2) The revenue section of a budget shall set forth the estimated receipts from all sources for the ensuing fiscal year, the estimated receipts for the fiscal year current at the time of the budget preparation, the actual receipts for the last completed fiscal year, and the probable net cash and investments available for ensuing fiscal year disbursements at the close of the said current fiscal year. The estimated receipts from all sources for the ensuing fiscal year shall not include any revenue which cannot reasonably be anticipated to be received in cash during that fiscal year.

(3) The expenditure section of the budget shall set forth budgeted expenditures for the ensuing fiscal year, budgeted expenditures for the current fiscal year, and the expenditures for the last completed fiscal year. Expenditures shall be broken out by program, activity, and object of expenditure. Each salary shall be set out separately, together with the title or position, in a salary exhibit. The salary exhibit shall be divided into two major groupings with subtotals which agree with the object of expenditure detail in the budget. The two groupings are professional and classified.

(4) All pertinent items on the budget form shall be completed correctly before the budget is presented for hearing, review, and approval. Information pertaining to budget development which is not available at the time of budget preparation shall be estimated using the most current and reliable information available. All budgets shall be prepared on the modified accrual basis. Accruals of expenditures for the beginning of the fiscal year and estimates of ending accrued expenditures shall be displayed in the budget document with the difference between these amounts being an adjustment to expenditures to calculate disbursements.

(5) In accordance with RCW 28A.21.090(7) and 28A.21.310, copies of all lease and rental agreements for real property and of all agreements extending beyond a fiscal year which an educational service district has entered into shall be attached to the budget document: *Provided*, That all agreements regarding the acquisition or alienation of real property shall be submitted to the state board of education for prior approval. [Statutory Authority: RCW 28A.21.135 et seq. 79-07-005 (Order 1-79), § 392-125-035, filed 6/7/79; Order 8-76, § 392-125-035, filed 7/23/76; Order 7-75, § 392-125-035, filed 12/22/75. Formerly WAC 392-31-070.]

WAC 392-125-036 Core services funding formula.

(1) The superintendent of public instruction shall biennially review and adopt the core services funding formula for educational service districts based upon RCW 28A.21.136, 28A.21.137 and the considerations set forth in this section.

(2) The core services funding formula shall be established to identify basic, uniform services to be provided to school districts and to the superintendent of public instruction by educational service districts.

(3) The core funding formula provides for the equalization of services by educational service districts based

on geographical features, number and size of districts served, and facility requirements.

(4) All educational service districts shall be allocated the following positions without regard to size:

- (a) Superintendent;
- (b) Executive secretary;
- (c) Receptionist;
- (d) Internal accountant;
- (e) Grants manager;
- (f) Secretary; and
- (g) Certification clerk.

(5) All other positions in addition to those specified in subsection (4) of this section, both professional and clerical, shall be allocated on the basis of workload, e.g., total number of school districts, number of second-class school districts, number of on-line computer reports required. These positions shall be allocated to the educational service districts in the following manner:

(a) To provide fiscal office support to school districts most in need, allocations shall be based on the number of second-class school districts served.

(b) In the case of terminal operators, allocation shall be on a workload basis associated with the amount of hours required to process state reports.

(c) The allocation of assistant superintendent positions shall be based on the number of second-class school districts served.

(d) The level of curriculum and instruction services provided by educational service districts shall be based on the number of school districts served, regardless of district enrollment.

(6) Travel expenses shall be based on a mileage factor calculated for each educational service district. The factor shall be calculated by measuring the distance between each school district headquarters and the respective educational service district headquarters and obtaining the total mileage for the educational service district. The total mileage shall be multiplied by the number of professional staff allocated to the respective educational service district. The product shall then be multiplied by a standard dollar amount to be determined by the superintendent of public instruction after consultation with the Educational Service District Superintendents' Association.

(7) The expenses of board members shall be provided for in the formula by allocating a dollar amount to be determined by the superintendent of public instruction after consultation with the Educational Service District Superintendents' Association for each educational service district board member.

(8) Maintenance and operation expenditures shall be provided in the formula by allocating a dollar amount to be determined by the superintendent of public instruction after consultation with the Educational Service District Superintendents' Association for each core staff position.

(9) The annual housing costs for each educational service district shall be agreed upon by the educational service district superintendents and approved by the superintendent of public instruction or his or her designee.

(10) Total compensation of core positions shall be allocated in accordance with the state biennial appropriations act.

(11) Unique situations may dictate exceptions to the formula which shall be recommended by the Educational Service District Superintendents' Association and approved by the superintendent of public instruction or his or her designee.

(12) The elements set forth in subsections (1) through (11) of this section shall:

(a) Serve as bases for preparing biennial budget requests to the regular sessions of the Washington state legislature; and

(b) Be considered in the approval or disapproval of the annual budgets of the educational service districts by the superintendent of public instruction. [Statutory Authority: RCW 28A.21.135 et seq. 79-07-005 (Order 1-79), § 392-125-036, filed 6/7/79.]

WAC 392-125-080 Contractual liability extending beyond end of fiscal period. The board of any educational district may enter into contracts for their respective districts for periods not exceeding five years in duration with public and private persons, organizations, and entities for the following purposes:

(1) To rent or lease building space, portable buildings, security systems, computers, and other equipment; and

(2) To have maintained and repaired security systems, computers and other equipment.

The budget of each educational service district shall contain a schedule which identifies that portion of each contractual liability incurred pursuant to RCW 28A.21.310 which extends beyond the fiscal period. Said schedule shall list for each such contractual liability a brief description, the accounting code, the beginning and ending dates, the total dollar amount, and the estimated amount extending beyond the end of the fiscal period being budgeted. [Statutory Authority: RCW 28A.21.135, 28A.21.310 and 28A.65.465. 78-08-036 (Order 5-78), § 392-125-080, filed 7/18/78.]

Chapter 392-137 WAC

FINANCE--NONRESIDENT ATTENDANCE

WAC

392-137-020 Nonresident students under the age of twenty-one—
Mutual agreement between resident and nonresident districts required.

WAC 392-137-020 Nonresident students under the age of twenty-one--Mutual agreement between resident and nonresident districts required. (1) A nonresident student who is under the age of twenty-one may be admitted by a nonresident district only pursuant to an agreement between the student's resident district and the nonresident district or pursuant to an order of the superintendent of public instruction pursuant to RCW 28A.58.242 and chapter 392-183 WAC. In the event the student is considered to be a resident of more than one district pursuant to the definition of "resident student" set forth in WAC 392-137-010(2), the agreement shall

be between the nonresident district and the district in which the student was last enrolled and is considered to be a resident.

(2) A student's attendance shall be credited in all cases to the school district of enrollment unless:

(a) The superintendent of public instruction is notified by order of the board of directors of a student's resident district provided for in subsection (1) that the student is attending a nonresident district without authorization pursuant to an agreement or order of the superintendent releasing the student, and

(b) it is established that neither such an agreement nor order of the superintendent exists.

(3) In the event it is so established that a student is enrolled in a nonresident district without authorization, equalization apportionment and other state payments in connection with the student's enrollment shall be discontinued until:

(a) The student enrolls in a resident district,

(b) an agreement required by subsection (1) is entered into, or

(c) the superintendent orders the release of the student. [Statutory Authority: RCW 28A.03.030(1) and (3), 28A.58.240 and 28A.58.242, 78-08-034 (Order 3-78), § 392-137-020, filed 7/18/78; Order 7-75, § 392-137-020, filed 12/22/75. Formerly WAC 392-15-815.]

Chapter 392-139 WAC

FINANCE--MAINTENANCE AND OPERATION LEVY LIMITS

WAC

392-139-005	Purpose.
392-139-010	Establishment of the maximum dollar amount of school district levies.
392-139-015	Definitions.
392-139-020	Schedule I—Calculation of basic levy limitation for calendar year 19...
392-139-025	Schedule II—Calculation of additional levy authority (exceeding basic levy limitation for 19... calendar year).
392-139-030	Schedule III—Prior year 100% formula funding.
392-139-035	Schedule IV—Estimated current year basic education funding.
392-139-040	Schedule V—Small school factors.
392-139-045	Schedule VI—Small high school factors.

WAC 392-139-005 Purpose. The purpose of WAC 392-139-010 through 392-139-045 is to establish the exclusive means for fixing the maximum dollar amount which may be levied and collected in behalf of any school district in a given tax year for maintenance and operation purposes pursuant to RCW 84.52.053 and 84.52.0531. [Statutory Authority: RCW 84.52.0531, 79-01-006 (Order 13-78), § 392-139-005, filed 12/8/78.]

WAC 392-139-010 Establishment of the maximum dollar amount of school district levies. (1) Notwithstanding such larger dollar amount as may be approved by the electorate of a school district pursuant to RCW 84.52.053, the maximum dollar amount which may be levied and collected by or for any school district for maintenance and operation support in a given tax year

or in a given school year, as the case may be, shall be established annually as follows:

(a) Only figures and data gathered and approved by the superintendent of public instruction, or his or her designee, shall be used.

(b) Approved current information and data shall be applied to Schedules I, II, III, IV, V and VI of the Form F-780 as set forth in WAC 392-139-020 through 392-139-045 in order to compute the permissible dollar amount that may be levied by or for a school district.

(c) The official maximum dollar amount for a given tax year shall be the amount computed by the superintendent of public instruction, or his or her designee, as of the September immediately preceding the tax year of collection.

(d) Notice of the amount for each school district arrived at pursuant to this section shall be provided to each affected school district and county assessor and auditor prior to October 1 of each year.

(2) The superintendent of public instruction, or his or her designee, shall annually provide all districts with the appropriate calculation procedures for the purposes of this section. [Statutory Authority: RCW 84.52.0531, 79-01-006 (Order 13-78), § 392-139-010, filed 12/8/78.]

WAC 392-139-015 Definitions. As used in WAC 392-139-020 through 392-139-045 the term:

(1) "Accounts 1000, 1030, 1040 and 3170" shall mean accounts as designated in F-195 (school district annual budget) approved by the superintendent of public instruction: Account 1000—total local property tax revenue; Account 1030—local property taxes collected from excess levies; Account 1040—joint district local property taxes collected from excess levies; and Account 3170—timber excise tax Fund A.

(2) "County assessor's report" shall mean the report completed by county assessors each year depicting the basic assessed valuation, regular levy senior citizen exemption, one hundred percent timber roll, special levy senior citizen exemption, and total assessed valuation data for individual school districts. County assessors provide these data annually to the superintendent of public instruction via Report 1038S. The data are used to determine the prior year's calendar year collection of the timber roll tax in the Form F-780, Schedule I.

(3) "County treasurer's statement" shall mean the financial statement for September through August issued to the school districts by the county treasurers in August. Current data concerning the general fund consisting of beginning and ending cash balances, investment income and expenditure, warrants outstanding, revenues credited to the various accounts and the current balance of the general fund shall be the data source used to determine the prior year's levy and timber tax collections for calculating a school district's additional levy authority (Form F-780, Schedule II).

(4) "F-195" (the budget for fiscal year 19...-...) shall mean the annual school district budget document officially adopted by each school district pursuant to chapter 28A.65 RCW for each year's operations. The

data contained in the budget pertaining to estimated funds constituting the amount of guaranteed revenues from various state and local sources, estimated full-time equivalent students enrolled in grades K-12 and secondary vocational education programs, reported separately, and special levy revenues to be collected during the budget year are used to calculate the additional levy authority, estimated current year basic education funding, and staff unit calculations for small schools in the Form F-780, Schedules II, IV and VI.

(5) "R-1789" (actual and recognized apportionment, budget and levy planning salary data for certificated personnel) shall mean those salary data reported by school districts as of October first of each year to the superintendent of public instruction in the certificated personnel report (Form S-275), and displayed as average district salaries recognized for special levy purposes as required by RCW 84.52.053. These salary data shall be used to calculate the basic levy limitation and additional levy authority, Schedules III and IV, Form F-780, for each school district. These data are reported for a three-year period in Report 1789 by the superintendent of public instruction.

(6) "R-1790" (actual and recognized apportionment, budget and levy planning salary data for classified personnel) shall mean data of the same description and use as in subsection (5) of this section except for classified personnel as reported by school districts as of November first in the classified personnel report (Form S-277). The three-year average salary data is contained in Report 1790 by the superintendent of public instruction.

(7) "R-1191" (estimated funding required to guarantee ----- percent of formula support for 19--- school year (Account 3010)) shall mean the final number of basic education and formula derived certificated and classified staff units, the computed compensation entitlement amounts for such staff, the basic education allocation provided for each average annual full-time equivalent student, the computed amount of state-funded support and any final adjustments made for the current school year for each school district. These data are used to calculate the basic levy limitation amount for calendar year collections (SPI Form F-780, Schedule I) and for calculating the additional levy authority amount (SPI Form F-780, Schedule II) for calendar year collections. These data are contained in the August Report 1191 prepared annually by the superintendent of public instruction.

(8) "R-1191E" (full-time enrollments used to calculate staff units) shall mean the number of basic certificated, formula certificated and formula classified staff units computed on the basis of the number of students enrolled in a school district, as reported by the district, converted to full-time equivalent students (FTE). The enrollment data are reported for each of the following grade levels: Kindergarten, grades 1-6, 7-8, and 9-12, excluding secondary vocational students. Vocational

FTE students are reported separately for private and public schools. The staff unit calculations provide for the number of certificated units allowed due to a significant decrease in student enrollment as provided in the biennial appropriations acts. These data are contained in the August Report 1191E prepared by the superintendent of public instruction. These data are used for various calculations in Form F-780, Schedules II, III and VI.

(9) "Spring tax collection percentage" shall mean the percentage of the total maintenance and operation levy of a district for the tax year represented by the spring tax collection. This data is derived from county treasurer's reports and set forth in a special report prepared by the superintendent of public instruction each year. The data are used in calculating the current year's additional levy authority amount, Schedule II, Form F-780, for each local school district.

(10) "Fall collection percentage" shall mean the percentage of the total maintenance an operation levy of a district for the tax year estimated to be collected by the fall tax collection. This percentage shall be determined by subtracting the "spring tax collection percentage" from one hundred percent of the total tax levy. The data are used in calculating the current year's additional levy authority amount, Schedule II, Form F-780, for each local school district. [Statutory Authority: RCW 84.52-.0531. 79-01-006 (Order 13-78), § 392-139-015, filed 12/8/78.]

WAC 392-139-020 Schedule I--Calculation of basic levy limitation for calendar year 19... Schedule I and the sources of figures or data shall be as follows:

F-780 (19--)

SCHEDULE I

CALCULATION FOR BASIC LEVY LIMITATION FOR CALENDAR YEAR 19..

- A. Estimated Basic Education Funding Prior Year (III.D.1.) \$-----(A)
- B. Estimated Basic Education Funding Prior Year Improved by 10% (I.A. x 1.10) \$-----(B)
- C. Total Guaranteed Support Prior Year (Report 1191, August 19..) \$----- (C)
- D. Calendar Year 19.. Basic Excess Levy Limitation (I.B. - I.C.) \$----- (D)

[Statutory Authority: RCW 84.52.0531. 79-01-006 (Order 13-78), § 392-139-020, filed 12/8/78.]

WAC 392-139-025 Schedule II--Calculation of additional levy authority (exceeding basic levy limitation for 19.. calendar year). Schedule II and the sources of figures or data shall be as follows:

F-780 (19__)

SCHEDULE II
CALCULATION OF ADDITIONAL LEVY
AUTHORITY
(EXCEEDING BASIC LEVY LIMITATION FOR
19__ CALENDAR YEAR)

- A. Levy Collections Prior Year
 (Co. Treas. Stmt. for Aug. 31, 19__,
 Accts. 1000 + 3170) \$----- (A)
- B. Guaranteed Support Prior Year
 (I.C.) \$----- (B)
- C. Compensation Improvement (Cal. Yr. 1979
 Calculation Only)
 (Report 1191, August 1978, line C.5.) \$----- (C)
- ¹D. Compensation Improvement, Prog. 21 (Cal.
 Yr. 1979 Calculation Only) (Basic Ed. Self-
 Contained Teachers Only)
 (To be Calculated Using District Ratios) \$----- (D)
- E. Total Estimated Basic Education Funds Prior
 Year
 (II.A. + II.B. + II.C. + II.D.) \$----- (E)
- F. Average Annual FTE Pupils Prior Year
 (Report 1191E, August 19__) ----- (F)
- G. Revenue/FTE Pupil Prior Year
 (II.E. ÷ II.F.) \$----- (G)
- H. Revenue/FTE Pupil Prior Year Improved by
 4%
 (II.G. x 1.04) \$----- (H)
- J. Estimated FTE Pupils Current Year
 (Current Year F-195) ----- (J)
- K. Total Estimated Basic Education Funds
 Needed Curr. Yr.
 (II.H. x II.J.) \$----- (K)
- L. Estimated Available Basic Education Funds
 Curr. Yr.:
 - 1. Estimated Basic Education Apportion-
 ment Curr. Yr.
 (IV.D.1.) \$----- (L.1.)
 - ²2. a. Estimated Fall 19__ Levy Receipts (Accts. 1030 &
 1040) \$----- x ----- % =
 (Current Year F-195) \$----- (L.2a)
 - b. Estimated Fall 19__ Timber Excise Tax Receipts
 (Acct. 3170) \$-----
 (Current Year F-195) \$----- (L.2b)
 - 3. a. Estimated Spring 19__ Levy (Accts.
 1030 & 1040) \$----- x
 ----- % =
 (I.F. & Spring Tax Coll. %) \$----- (L.3a)
 - b. Estimated Spring 19__ Timber Excise Tax Receipts
 (Acct. 3170)
 (I.E.) \$----- (L.3b)
- M. Total Estimated Available Basic Education
 Funds Curr. Yr.
 (II.L.1. + 2.a. + 2.b. + 3.a. + 3.b.) \$----- (M)
- ³N. Additional Spring 19__ Levy Collections
 (II.K. - II.M.) \$----- (N)

P. Additional Levy Authority Cal. Yr. 19__
 \$----- ÷ ----- %
 (II.N. ÷ Spring Tax Coll. %) \$----- (P)

- ¹ The basic education teachers in Program 21 are those required to serve the enrollments in the self-contained classrooms at the district's regular pupil/classroom teacher ratio. Such teachers *must not* be calculated to be included in both II.C. and II.D.
 - ² If no levy for 19__ collection, enter "0" for 2.a. and 2.b. If levy was authorized for 19__, use the property tax levy amount and the tax collection percentage, Report ----- Timber tax districts should verify with their educational service district fiscal officers and county treasurers as to the appropriate percentages to use for their distribution of the Timber Excise Tax for both years of concern, either 50% or 75% for spring collections, and either 50% or 25% for fall collections.
 - ³ If "0" or negative, no additional levy authority is provided.
- [Statutory Authority: RCW 84.52.0531. 79-01-006 (Order 13-78), § 392-139-025, filed 12/8/78.]

WAC 392-139-030 Schedule III--Prior year 100% formula funding. Schedule III and the sources of figures and data shall be as follows:

F-780 (19__)

SCHEDULE III
PRIOR YEAR 100% FORMULA FUNDING¹

- A. **Certificated Units:**
 - 1. Prior Year Average Annual Enrollment,
 K-12 FTE
 (Report 1191E, August 19__) ----- (A.1.)
 - 2. Basic Certificated Units (III.A.1. ÷ 20) ----- (A.2.)
 - 3. Prior Year Average Annual K-12 Net
 FTE Pupils
 (III.A.1. - Prior Year Voc. Sec. FTE
 Pupils (Report 1191E, August 19__)) ----- (A.3.)
 - 4. K-12 Certs. (Excl. Voc. Sec. Certs.)
 (III.A.3. ÷ 20) ----- (A.4.)
 - 5. Voc. Sec. Certs.
 (Prior Year Voc. Sec. FTE Pupils
 ÷ 16.67 (Report 1191E, August 19__)) ----- (A.5.)
 - 6. Enr. Decline Pupils
 (Second Prior Year FTE Pupils
 (Report 1191E, August 19__) - III.A.1.) ----- (A.6.)
 - ²7. Enrollment Decline Certs.
 (III.A.6. ÷ 40) ----- (A.7.)
 - 8. Total Basic Education Certs.
 (III.A.4. + A.5. + A.7.) ----- (A.8.)
 - 9. Formula Cert. Compensation Entitlement
 (III.A.8. x -----
 (Report 1789, Col. 3.) x 1.____³) \$----- (A.9.)
- B. **Classified Units:**
 - 1. Prior Year Formula Classified Units
 (III.A.2. ÷ 3.) ----- (B.1.)
 - 2. Prior Year Formula Classified Comp. Entitlement
 (III.B.1. x -----
 (Report 1790, Col. 3.) x 1.____³) \$----- (B.2.)

C. Nonemployee-Related Costs:

- 1. Prior Year Nonemployee-Related Costs Entitlement
(III.A.2. x \$ _____) \$ _____(C.1.)

D. Total Prior Year New Formula Entitlement:

- 1. Total Prior Year 100% Formula Funding
(III.A.9. + B.2. + C.1.) \$ _____(D.1.)

¹ Districts judged by the state board of education to be remote and necessary or with plants so judged, or those operating high schools with enrollments less than 300 FTE, see Schedules V and VI for instructions.

² Use III.A.7. only if III.A.6. is greater than 300, or greater than 4% of second prior year FTE pupils.

³ A factor used to convert salary to compensation to be provided annually by the superintendent of public instruction.

[Statutory Authority: RCW 84.52.0531. 79-01-006 (Order 13-78), § 392-139-030, filed 12/8/78.]

WAC 392-139-035 Schedule IV--Estimated current year basic education funding. Schedule IV and the sources of figures and data shall be as follows:

F-780 (19__)

SCHEDULE IV

ESTIMATED CURRENT YEAR BASIC EDUCATION FUNDING¹

A. Certificated Staff Units:

- 1. Current Year Est. Base Enrollment, K-12 FTE
(Current Year F-195) _____(A.1.)
- 2. Basic Certificated Units
(IV.A.1. ÷ _____) _____(A.2.)
- 3. Estimated Current Year K-12 Net FTE Pupils
(IV.A.1. - Est. Voc. FTE Pupils Current Year F-195) _____(A.3.)
- 4. K-12 Certs. (Excl. Voc. Sec.)
(IV.A.3. ÷ _____) _____(A.4.)
- 5. Estimated Voc. Sec. Certs.
(Est. Current Year Voc. FTE Pupils F-195 ÷ _____) _____(A.5.)
- ²6. Enrollment Decline Certs.
(III.A.1. - IV.A.1.) ÷ _____) _____(A.6.)
- 7. Total Current Year Formula Certs.
(IV.A.4. + A.5. + A.6.) _____(A.7.)
- 8. Est. Current Year Formula Cert. Comp. Entitlement
(IV.A.7. x _____
(Report 1789, Col. 5.) x 1. _____³) _____(A.8.)

B. Classified Units:

- 1. Current Year Formula Classified Units
(IV.A.2. ÷ 3.) _____(B.1.)
- 2. Est. Current Yr. Formula Class. Comp. Entitlement
(IV.B.1. x _____
(Report 1790, Col. 5.) x 1. _____³) _____(B.2.)

C. Nonemployee-Related Costs:

- 1. Est. Current Year Nonemployee-Related Costs
(IV.A.2. x \$ _____) \$ _____(C.1.)

D. Total Est. Current Year Formula Entitlement:

- 1. Total Est. Current Year Formula Entitlement
(IV.A.8. + B.2. + C.1.) \$ _____(D.1.)

¹ Districts judged by the state board of education to be remote and necessary or with plants so judged, or those operating high schools with enrollments less than 300 FTE, see Schedules V and VI for instructions.

² Use IV.A.6. only if enrollment decline is greater than 300, or greater than 4% of prior year FTE pupils.

³ A factor used to convert salary to compensation to be provided annually by the superintendent of public instruction.

[Statutory Authority: RCW 84.52.0531. 79-01-006 (Order 13-78), § 392-139-035, filed 12/8/78.]

WAC 392-139-040 Schedule V--Small school factors. Schedule V and the sources of figures and data shall be as follows:

F-780 (19__)

SCHEDULE V

SMALL SCHOOL FACTORS

For remote and necessary (R&N) school plants within a district as judged by the state board of education, the following procedures must be followed:

- A. 1. Prior Year District Regular Enr., Cert. Unit Allotment
(III.A.1. - R&N Enroll. ÷ 20) _____(A.1.)
- 2. R&N Cert. Unit Allotment
(K-6 FTE pupils 1-60 = 3 cert. units. Above 60 FTE pupils, at a ratio of 1 cert. unit per 20 FTE pupils. For grades 7-8 FTE pupils 1-20 = 1 cert. unit. Above 20 FTE pupils, at a ratio of 1 cert. unit per 20 FTE pupils.) _____(A.2.)
- 3. District Basic Cert. Units
Enter on III.A.2.
(V.A.1. + A.2.) _____(A.3.)
- B. 1. Est. Current Yr. Dist. Regular Enr., Cert. Unit Allot.
(IV.A.1. - R&N Enroll. ÷ _____) _____(B.1.)
- 2. Est. R&N Cert. Unit Allotment
(K-6 FTE pupils 1-60 = _____ cert. units. Above 60 FTE pupils, at a ratio of 1 cert. unit per _____ FTE pupils. For grades 7-8 FTE pupils 1-20 = _____ cert. unit. Above 20 FTE pupils, at a ratio of 1 cert. unit per _____ FTE pupils.) _____(B.2.)
- 3. District Basic Cert. Units
Enter on IV.A.2.
(V.B.1. + B.2.) _____(B.3.)

For remote and necessary school districts as judged by the state board of education, the following procedures must be followed:

- C. Prior Year Basic Cert. Units
Enter on III.A.2.
(K-6 FTE pupils 1-60 = 3 cert. units.

Above 60 FTE pupils, at a ratio of 1 cert. unit per 20 FTE pupils. For grades 7-8 FTE pupils, 1-20 = 1 cert. unit. Above 20 FTE pupils, at a ratio of 1 cert. unit per 20 FTE pupils.) -----(C)

D. Current Year Basic Cert. Units
Enter on IV.A.2.
 (K-6 FTE pupils 1-60 = ----- cert. units. Above 60 FTE pupils, at a ratio of 1 cert. unit per ----- pupils. For grades 7-8, not more than 20 FTE pupils, ----- cert. units. Above 20 FTE pupils, at a ratio of 1 cert. unit per ----- pupils.) -----(D)

[Statutory Authority: RCW 84.52.0531. 79-01-006 (Order 13-78), § 392-139-040, filed 12/8/78.]

WAC 392-139-045 Schedule VI--Small high school factors. Schedule VI and the source of figures and data shall be as follows:

F-780 (19--)

SCHEDULE VI

SMALL HIGH SCHOOL FACTORS

For small school districts operating high schools with enrollments of not more than 300 FTE pupils, the following procedures must be used:

- A. 1. Prior Year K-8 Allotment Basic Cert. Units
 (K-8 District Enr. ÷ 20, (Report 1191E, August 19--)) -----(A.1.)
- 2. Prior Year Small High School Cert. Units
 (9-12 FTE pupils 1-60 = 9.5 cert. units. From 61 to 300 FTE pupils, at a ratio of 1 cert. unit per 43.5 FTE pupils.) -----(A.2.)
- 3. Basic Cert. Units *Enter on III.A.2.*
 (VI.A.1. + A.2.) -----(A.3.)
- B. 1. K-12 Certs. (Excl. Voc. Sec.) Prior Year K-12 Certs. minus Voc. Sec. Cert. Units @ 20:1
Enter on III.A.4.
 (VI.A.3. - (Voc. Sec. Enr. ÷ 20)) -----(B.1.)
- C. 1. Current Year Est. K-8 Allotment Basic Cert. Units
 (K-8 District Enrollment ÷ -----, (Current Year F-195)) -----(C.1.)
- 2. Current Year Est. Small High School Cert. Units
 (9-12 FTE pupils 1-60 = ----- cert. units. From 61 to 300 FTE pupils, at a ratio of ----- cert. unit per 43.5 FTE pupils.) -----(C.2.)
- 3. Basic Cert. Units *Enter on IV.A.2.*
 (VI.C.1. + C.2.) -----(C.3.)
- D. 1. K-12 Certs. (Excl. Voc. Sec.) Current Year K-12 Certs. minus Voc. Sec. Cert. Units @ -----:1
Enter on IV.A.4.
 (VI.C.3. - (Voc. Sec. Enr. ÷ -----)) -----(D.1.)

[Statutory Authority: RCW 84.52.0531. 79-01-006 (Order 13-78), § 392-139-045, filed 12/8/78.]

Chapter 392-143 WAC

TRANSPORTATION--SPECIFICATIONS FOR SCHOOL BUSES

WAC

- 392-143-005 Purposes.
- 392-143-010 Definitions.
- 392-143-045 Repealed.
- 392-143-070 All vehicles other than school buses used to transport students.
- 392-143-075 Amendment and waiver process.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 392-143-045 Appeal for exception school bus. [Order 19-76, § 392-143-045, filed 12/31/76; Order 7-75, § 392-143-045, filed 12/22/75. Formerly WAC 392-21-145.] Repealed by 79-12-005 (Order 9-79), filed 11/9/79. Statutory Authority: RCW 46.61.380.

WAC 392-143-005 Purposes. The purposes of this chapter are to implement RCW 46.61.380 and establish the specifications governing the design and marking of all school buses owned and operated by any school district and all school buses which are privately owned and operated under contract or otherwise with any school district in the state for the transportation of common school children (students). The provisions of this chapter, including the school bus specifications provided for in WAC 392-143-015 and 392-143-020, shall be incorporated by express reference into all school district contracts for the transportation of common school students in privately owned and operated school buses. [Statutory Authority: RCW 46.61.380. 79-12-005 (Order 9-79), § 392-143-005, filed 11/9/79; Order 7-75, § 392-143-005, filed 12/22/75. Formerly WAC 392-21-100.]

WAC 392-143-010 Definitions. As used in this chapter and subject to the Specifications for School Buses, as now or hereafter established by the superintendent of public instruction, the term: (1) "School bus" shall mean every vehicle with a seating capacity of eleven or more persons used regularly to transport children to and from school or in connection with school activities: *Provided*, That the term school bus shall not include buses operated by common carriers in urban transportation of students.

(2) "Type I school bus" shall mean any school bus manufactured as 96 inches in width and which provides at least 72 inches of headroom.

(3) "Type II school bus" shall mean any school bus having less width and/or height than required for a Type I school bus: *Provided*, That a Type II school bus shall contain not more than six rows of seats on the left side and five rows of seats on the right side of the school bus each placed with standard seat spacing.

(4) "Conversion school bus" shall mean any vehicle originally manufactured for service other than use as a school bus which has been converted to use as a school bus: *Provided*, That a conversion school bus shall contain not more than five rows of two plus two seating with standard seat spacing.

(5) "School bus to transport exceptional children" shall mean any Type I, Type II, or conversion school bus as defined in this section which has been modified to transport handicapped students. [Statutory Authority: RCW 46.61.380. 79-12-005 (Order 9-79), § 392-143-010, filed 11/9/79; Order 8-77, § 392-143-010, filed 10/11/77, effective 11/11/77; Order 19-76, § 392-143-010, filed 12/31/76; Order 7-75, § 392-143-010, filed 12/22/75. Formerly WAC 392-21-110.]

WAC 392-143-045 Repealed. See Disposition Table at beginning of this chapter.

WAC 392-143-070 All vehicles other than school buses used to transport students. All other vehicles ten persons or less shall not be required to meet school bus specifications, but if used regularly to transport children to and from school or in connection with school activities, must carry the approved first aid kit, fire extinguisher and highway warning kit for school buses and must meet the semiannual safety inspection requirements, conducted by the Washington state patrol, for vehicle condition.

Students, while being transported in any vehicle used in to and from school transportation and school activities, shall share the same compartment and be provided the same general safety and comfort as the driver. [Statutory Authority: RCW 46.61.380. 79-12-005 (Order 9-79), § 392-143-070, filed 11/9/79; Order 8-77, § 392-143-070, filed 10/11/77, effective 11/11/77.]

WAC 392-143-075 Amendment and waiver process. Requests for amendments and permanent or temporary waivers of the School Bus Specifications and Modes of Operation published by the superintendent of public instruction must be submitted in writing to the assistant superintendent for financial services, who shall then advise the superintendent of public instruction who shall make the final determination. Such requests for amendments and waivers shall contain the following:

- (1) A list of all requested deviations;
 - (2) The rationale for the requested deviations;
 - (3) The type and passenger capacity of the vehicle.
- Such requests shall first be brought before an ad hoc technical advisory committee provided for in RCW 46.61.380 which shall advise the assistant superintendent for financial services. This ad hoc technical advisory committee shall consist of a designee of the superintendent of public instruction, a designee of the chief of the Washington state patrol and a representative from the state highway commission. It shall also be a function of this ad hoc technical advisory committee to provide assistance with the periodic changes in chapter 392-143 WAC and chapter 392-145 WAC when requested to do so by the assistant superintendent for financial services. [Statutory Authority: RCW 46.61.380. 79-12-005 (Order 9-79), § 392-143-075, filed 11/9/79; Order 8-77, § 392-143-075, filed 10/11/77, effective 11/11/77.]

Chapter 392-145 WAC TRANSPORTATION--OPERATION RULES

WAC

- 392-145-010 Seating and seatbelt requirements.
392-145-030 Additional rules for school bus drivers.

WAC 392-145-010 Seating and seatbelt requirements. (1) No school bus shall be operated unless each passenger aboard has been provided with a safe seat of sufficient size to accommodate each such passenger: *Provided*, That this requirement may be waived by the superintendent of public instruction pursuant to a petition filed by a school district. Said petition shall (a) set forth the justification or necessity for allowance of standees, (b) a description of the nature and length of the routes in connection with which a waiver is requested, (c) the number of passengers which will be required to stand, and (d) a plan adopted by the board of directors of the school district for provision of sufficient seating and the elimination of standees which includes the time schedule and means of accomplishing the same.

(2) There shall be no auxiliary seating accommodations such as temporary or folding jump seats in any school bus.

(3) Drivers of school buses shall be required to wear seat and/or lap belts whenever the vehicle is in motion.

(4) Passengers in school buses equipped with lap belts shall be required to wear them whenever the bus is in motion. [Statutory Authority: RCW 46.61.380. 79-12-006 (Order 10-79), § 392-145-010, filed 11/9/79; Order 5-76, § 392-145-010, filed 4/16/76; Order 7-75, § 392-145-010, filed 12/22/75. Formerly WAC 392-22-005.]

WAC 392-145-030 Additional rules for school bus drivers. (1) All school buses shall stop at all railroad crossings except:

(a) Where traffic is controlled by a police officer or duly authorized flagman;

(b) Where traffic is regulated by a traffic control signal;

(c) Where traffic is protected by crossing gates or an alternately flashing light signal intended to give warning of the approach of a railroad train;

(d) Where an official traffic control device gives notice that the stopping requirements do not apply.

(2) The driver shall open the door to listen for approaching trains and shall not proceed until the door is closed, visibility is clear, and the bus can proceed with safety. Drivers shall not change gears while the bus is crossing a railroad track.

(3) No bus shall stop on a curve or a hill where visibility is not at least 800 feet. If it is impossible to secure a distance of at least 800 feet for a bus stop, the school authorities and state patrol shall be advised and the stop shall be changed or proper signs installed. Exception: within areas of posted speed limits of 35 miles per hour or less, visibility of 300 feet is permissible.

(4) All changes in the direction of a school bus shall be indicated by the use of electrical directional signals

on the bus. A right directional signal shall be used to indicate that the bus is going to pull off the roadway.

(5) No school bus shall pull over to the left-hand side of the road to load or unload.

(6) The stop sign on the left side of a school bus shall not be used to indicate that the bus is going to stop. The stop sign and red flashing lamps shall be displayed at all times a school bus is receiving or discharging passengers except:

(a) When passengers do not have to cross a highway and the bus is stopped completely off the traveled portion of the roadway, or

(b) When a school bus is stopped at an intersection or place where traffic is controlled by a traffic officer or official traffic signal, or

(c) When a school bus is stopped upon school grounds for the purpose of receiving or discharging passengers, and passengers are not required to cross the roadway.

(7) School bus drivers shall proceed with caution when passing or meeting a school bus but are not required to come to a stop unless the school bus stop sign and red flashing lights of the other bus are displayed.

(8) In order to lessen the potential for collisions, school bus drivers may use 4-way hazard warning lights within 500 feet prior to stopping for a railroad crossing or where a special hazard exists such as dense traffic conditions, adverse weather conditions, or where the necessary school bus speed is substantially below the posted speed limit. This procedure may be used only on buses equipped with amber 4-way hazard warning lights on the front and rear of the school bus. [Statutory Authority: RCW 46.61.380. 79-12-006 (Order 10-79), § 392-145-030, filed 11/9/79; Order 19-76, § 392-145-030, filed 12/31/76; Order 7-75, § 392-145-030, filed 12/22/75. Formerly WAC 392-22-010 (part) and 392-22-100 (part).]

Chapter 392-147 WAC

TRANSPORTATION--SAFE WALKWAYS TO AND FROM SCHOOL

WAC

392-147-010 through 392-147-035 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

Chapter 392-147

TRANSPORTATION--SAFE WALKWAYS TO AND FROM SCHOOL

- 392-147-010 Reimbursement by the state. [Order 7-75, § 392-147-010, filed 12/22/75. Formerly WAC 392-26-010.] Repealed by 79-12-003 (Order 7-79), filed 11/9/79. Statutory Authority: RCW 28A.24.080.
- 392-147-015 Prior approval by county transportation commission required. [Order 7-75, § 392-147-015, filed 12/22/75. Formerly WAC 392-26-020.] Repealed by 79-12-003 (Order 7-79), filed 11/9/79. Statutory Authority: RCW 28A.24.080.
- 392-147-020 Report of transportation commission. [Order 7-75, § 392-147-020, filed 12/22/75. Formerly WAC 392-26-030.] Repealed by 79-12-003 (Order 7-79), filed 11/9/79. Statutory Authority: RCW 28A.24.080.

- 392-147-025 Form T-20 required. [Order 7-75, § 392-147-025, filed 12/22/75. Formerly WAC 392-26-040 (part).] Repealed by 79-12-003 (Order 7-79), filed 11/9/79. Statutory Authority: RCW 28A.24.080.
- 392-147-030 Form T-20. [Order 7-75, § 392-147-030, filed 12/22/75. Formerly WAC 392-26-040 (part).] Repealed by 79-12-003 (Order 7-79), filed 11/9/79. Statutory Authority: RCW 28A.24.080.
- 392-147-035 Application for state reimbursement for safe walkway construction. [Order 7-75, § 392-147-035, filed 12/22/75. Formerly WAC 392-26-050.] Repealed by 79-12-003 (Order 7-79), filed 11/9/79. Statutory Authority: RCW 28A.24.080.

WAC 392-147-010 through 392-147-035 Repealed.
See Disposition Table at beginning of this chapter.

Chapter 392-164 WAC

GRANTS MANAGEMENT--ELEMENTARY AND SECONDARY EDUCATION ACT--TITLE I PROGRAM, MIGRANT

WAC

392-164-015 Definitions.

WAC 392-164-015 Definitions. The following definitions shall apply to terms used in the goal statement:

(1) "Agricultural activity" means:

(a) Any activity related to crop production (including preparing soil, storing, curing, canning or freezing of crops);

(b) Any activity related to the production and processing of milk, poultry, and livestock (for human consumption); and

(c) Any operation involved in forest nurseries and fish farms. The term does not include cutting, transporting, and sawing of timber.

(2) "Fishing activity" means any activity directly related to the catching and processing of fish and shellfish either for initial distribution through commercial market channels or as a primary means of personal subsistence.

(3) "Migratory agricultural workers" refers to those persons who have moved from one school district in a state to another in the same state or to one in another state for the purpose of finding temporary or seasonal employment in one or more agricultural activities as defined above.

(4) "Former migratory child" refers to a child who, with the concurrence of his parents, is deemed to be a migratory child on the basis that he has been an interstate or intrastate migratory child as defined in this section but has ceased to migrate within the last five years and currently resides in an area where interstate and intrastate migratory children will be served.

(5) "Interstate migratory child" refers to a child who has moved with a parent or guardian within the past year across the state boundaries in order that a parent, guardian, or member of his/her immediate family might secure temporary or seasonal employment in an agricultural activity.

(6) "Intrastate migratory child" refers to a child who resides in a state full time and who has moved with a parent or guardian within the past year across school

district boundaries within that state in order that a parent, guardian, or member of his/her immediate family might secure temporary or seasonal employment in an agricultural activity.

(7) "Project" refers to those services, activities, personnel, and materials provided to migratory children in a particular area by a state educational agency either directly or indirectly through a particular local educational agency or other agency as a legally approved contract.

(8) "Academic instruction" is defined as reading, oral language, language arts, mathematics, and other areas of basic skills instruction. [Statutory Authority: RCW 28A.03.030(1) and (3), 28A.02.100 and P.L. 89-750. 78-08-037 (Order 6-78), § 392-164-015, filed 7/18/78; Order 7-75, § 392-164-015, filed 12/22/75. Formerly WAC 392-96-015.]

Chapter 392-171 WAC EDUCATION FOR ALL HANDICAPPED CHILDREN

WAC

392-171-005 Repealed.
392-171-010 Repealed.
392-171-015 Repealed.
392-171-020 Repealed.
392-171-025 Repealed.
392-171-030 Repealed.
392-171-035 Repealed.
392-171-040 Repealed.
392-171-045 Repealed.
392-171-050 Repealed.
392-171-055 Repealed.
392-171-060 Repealed.
392-171-065 Repealed.
392-171-070 Repealed.
392-171-075 Repealed.
392-171-080 Repealed.
392-171-090 Repealed.
392-171-095 Repealed.
392-171-097 Repealed.
392-171-100 Repealed.
392-171-105 Repealed.
392-171-110 Repealed.
392-171-113 Repealed.
392-171-115 Repealed.
392-171-125 Repealed.
392-171-130 Repealed.
392-171-135 Repealed.
392-171-137 Repealed.
392-171-140 Repealed.
392-171-145 Repealed.
392-171-150 Repealed.
392-171-155 Repealed.
392-171-160 Repealed.
392-171-165 Repealed.
392-171-170 Repealed.
392-171-175 Repealed.
392-171-180 Repealed.
392-171-185 Repealed.
392-171-190 Repealed.
392-171-195 Repealed.
392-171-200 Repealed.
392-171-203 Repealed.
392-171-205 Repealed.
392-171-210 Repealed.
392-171-220 Repealed.
392-171-225 Repealed.

392-171-235 Repealed.
392-171-240 Repealed.
392-171-245 Repealed.
392-171-250 Repealed.
392-171-255 Repealed.
392-171-260 Repealed.
392-171-265 Repealed.
392-171-270 Repealed.
392-171-275 Repealed.
392-171-280 Repealed.
392-171-285 Repealed.

PURPOSES

392-171-300 Purposes.

STATE ADVISORY COUNCIL

392-171-305 Advisory council.

DEFINITIONS OF GENERAL APPLICATION

392-171-310 Definitions of "assessment," "adult student," "consent," "handicapped student," "parent," and "school district."
392-171-315 Definition of "special education."
392-171-320 Definition of "related services."

ELIGIBILITY CRITERIA FOR HANDICAPPED STUDENTS

392-171-325 Students' rights to special education programs.
392-171-330 Behavioral disability—Definition—Eligibility criteria.
392-171-335 Communication disorders—Definition—Eligibility criteria.
392-171-340 Gross motor and orthopedically handicapped—Definition—Eligibility criteria.
392-171-345 Health impaired—Definition—Eligibility criteria.
392-171-350 Specific learning disability—Definition.
392-171-355 Specific learning disability—Eligibility criteria.
392-171-356 Specific learning disability—Exceptions to general eligibility criteria.
392-171-360 Mental retardation—Mildly retarded—Definition—Eligibility criteria.
392-171-365 Mental retardation—Moderately retarded—Definition—Eligibility criteria.
392-171-370 Mental retardation—Severely and profoundly retarded—Definition—Eligibility criteria.
392-171-375 Mental retardation—I.Q. eligibility range variation.
392-171-380 Multiple handicapped—Definition—Eligibility criteria.
392-171-385 Neurological impairment—Definition—Eligibility criteria.
392-171-390 Sensory handicapped—Definition—Eligibility criteria.

ASSESSMENTS

392-171-395 Student as focus of concern—Preassessment procedures—Timeline.
392-171-400 General areas of assessment.
392-171-405 General assessment personnel, materials and report requirements.
392-171-410 Learning/language disabled students—Additional assessment team members—Classroom observation.
392-171-415 Learning/language disabled students—Written report of assessment team.
392-171-420 Speech impaired students—Assessment.
392-171-425 Medical evaluation.
392-171-430 Analysis of assessment data.
392-171-435 Independent educational assessment.

INDIVIDUALIZED EDUCATION PROGRAMS

392-171-440 Meetings.
392-171-445 Individualized education program.

PLACEMENTS

392-171-450 Initial educational placement—Notice—Consent.
392-171-455 Least restrictive environment.
392-171-460 Placement options—Selection—Required considerations.
392-171-465 Regular education program option.
392-171-470 Resource program option.
392-171-475 Self-contained program options.
392-171-480 Other program placement options.

- ANNUAL REVIEW OF PLACEMENTS—PERIODIC REASSESSMENT**
- 392-171-485 Annual placement evaluation—Periodic reassessments—Program improvement.
- NOTICE REQUIREMENTS—GENERAL**
- 392-171-490 When notice must be given.
- 392-171-495 Contents of notice.
- HEARINGS—GENERAL**
- 392-171-500 Right to initiate—Purposes.
- 392-171-505 Hearing officers—Selection and expenses of—Parent assistance.
- 392-171-510 Hearing rights.
- 392-171-515 Timeline for hearing officer's decision—Time and place of hearing.
- 392-171-520 Final decision—Appeal.
- APPEALS**
- 392-171-525 Appeals to the superintendent of public instruction.
- 392-171-530 Timeline for reviewing officer's decision—Time and place of hearings—Final decision.
- PLACEMENT OF STUDENT DURING ADMINISTRATIVE/JUDICIAL PROCEEDINGS**
- 392-171-535 Student's status during hearing and state or judicial review processes.
- SURROGATE PARENTS**
- 392-171-540 Surrogate parents.
- RECORDS**
- 392-171-545 Definition of "education records" as used in records rules.
- 392-171-550 Definitions used in records rules—"Destruction"—"Native language"—And "Participating agency."
- 392-171-555 Access rights.
- 392-171-560 Record or access.
- 392-171-565 Records on more than one student.
- 392-171-570 List of types and locations of information.
- 392-171-575 Fees.
- 392-171-580 Amendment of records at the request of a parent or adult student.
- 392-171-585 Hearing procedures regarding records.
- 392-171-590 Consent.
- 392-171-595 Safeguards.
- 392-171-600 Destruction of information.
- CONTRACTUAL SERVICES**
- 392-171-605 Contractual services.
- 392-171-610 Approval of nonpublic school agencies.
- 392-171-615 School district responsibility when contracting for placement in a nonpublic school agency.
- 392-171-620 Out-of-state agencies.
- PRIVATE SCHOOL STUDENTS**
- 392-171-625 Definition—"Private school handicapped student(s)."
- 392-171-630 School district responsibility for private school handicapped students.
- 392-171-635 Determination of needs, numbers of students and types of services.
- 392-171-640 Service arrangements.
- 392-171-645 Personnel in private schools and agencies.
- 392-171-650 Equipment—Construction.
- 392-171-655 Prohibition of segregation.
- 392-171-660 Funds and property not to benefit private schools.
- 392-171-665 Existing level of instruction.
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- 392-171-670 Annual applications—Contents.
- 392-171-675 Denial of applications—Opportunity for hearing.
- 392-171-680 Monitoring.
- MISCELLANEOUS PROGRAM REQUIREMENTS**
- 392-171-685 Staff qualifications.
- 392-171-690 Transportation.
- 392-171-695 Facilities.
- 392-171-700 Comparable facilities.
- 392-171-705 Program length.
- 392-171-710 Administration of medication.
- AUDITS—WITHHOLDING AND RECOVERY OF FUNDS**
- 392-171-715 Definition of "unlawfully received or expended funds."
- 392-171-720 Audits.
- 392-171-725 Fund withholding.
- 392-171-730 Recovery of funds.
- 392-171-735 Fund withholdings to enforce parent appeal decisions.
- CITIZEN COMPLAINT PROCESS**
- 392-171-740 Right to register and process complaints.
- 392-171-745 Designation of responsible school district employee.
- 392-171-750 School district investigation of and response to complaints.
- 392-171-755 Appeal to the superintendent of public instruction.
- 392-171-760 Actions in response to notices of appeal.
- DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER**
- 392-171-005 Purposes. [Order 11-76, § 392-171-005, filed 11/1/76; Order 7-75, § 392-171-005, filed 12/22/75. Formerly WAC 392-45-005.] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-010 Special education advisory council. [Order 11-76, § 392-171-010, filed 11/1/76; Order 7-75, § 392-171-010, filed 12/22/75. Formerly WAC 392-45-015.] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-015 Special education advisory council authority. [Order 11-76, § 392-171-015, filed 11/1/76; Order 7-75, § 392-171-015, filed 12/22/75. Formerly WAC 392-45-020.] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-020 Common school age—Child eligibility. [Order 9-77, § 392-171-020, filed 10/11/77, effective 11/11/77; Order 11-76, § 392-171-020, filed 11/1/76; Order 7-75, § 392-171-020, filed 12/22/75. Formerly WAC 392-45-030.] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-025 Procedures for functionally defining handicapping conditions. [Order 11-76, § 392-171-025, filed 11/1/76; Order 7-75, § 392-171-025, filed 12/22/75. Formerly WAC 392-45-035 (part).] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-030 Flow chart for procedures for functionally defining handicapping conditions. [Order 11-76, § 392-171-030, filed 11/1/76; Order 7-75, § 392-171-030, filed 12/22/75. Formerly WAC 392-45-035 (part).] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-035 Child as focus of concern. [Order 11-76, § 392-171-035, filed 11/1/76; Order 7-75, § 392-171-035, filed 12/22/75. Formerly WAC 392-45-040.] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-040 Referral procedure. [Order 11-76, § 392-171-040, filed 11/1/76; Order 7-75, § 392-171-040, filed 12/22/75. Formerly WAC 392-45-045.] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-045 Parent decision. [Order 11-76, § 392-171-045, filed 11/1/76; Order 7-75, § 392-171-045, filed 12/22/75. Formerly WAC 392-45-050.] Repealed

- by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-050 Decision to terminate. [Order 11-76, § 392-171-050, filed 11/1/76; Order 7-75, § 392-171-050, filed 12/22/75. Formerly WAC 392-45-055.] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-055 Assessment procedures. [Order 11-76, § 392-171-055, filed 11/1/76; Order 7-75, § 392-171-055, filed 12/22/75. Formerly WAC 392-45-060.] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-060 Collection of descriptions of child performance. [Order 11-76, § 392-171-060, filed 11/1/76; Order 7-75, § 392-171-060, filed 12/22/75. Formerly WAC 392-45-065.] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-065 Assessment or needed consultation by professional resources not employed by school district. [Order 11-76, § 392-171-065, filed 11/1/76; Order 7-75, § 392-171-065, filed 12/22/75. Formerly WAC 392-45-070.] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-070 Assessment. [Order 11-76, § 392-171-070, filed 11/1/76; Order 7-75, § 392-171-070, filed 12/22/75. Formerly WAC 392-45-075.] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-075 Assessment personnel. [Order 11-76, § 392-171-075, filed 11/1/76; Order 7-75, § 392-171-075, filed 12/22/75. Formerly WAC 392-45-080.] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-080 Analysis of assessment data. [Order 11-76, § 392-171-080, filed 11/1/76; Order 7-75, § 392-171-080, filed 12/22/75. Formerly WAC 392-45-085.] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-090 Goals. [Order 11-76, § 392-171-090, filed 11/1/76; Order 7-75, § 392-171-090, filed 12/22/75. Formerly WAC 392-45-095.] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-095 Placement options. [Order 11-76, § 392-171-095, filed 11/1/76; Order 7-75, § 392-171-095, filed 12/22/75. Formerly WAC 392-45-100 (part).] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-097 Materials and equipment. [Order 11-76, § 392-171-097, filed 11/1/76.] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-100 Regular classroom placement options. [Order 11-76, § 392-171-100, filed 11/1/76; Order 7-75, § 392-171-100, filed 12/22/75. Formerly WAC 392-45-100 (part).] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-105 Self-contained placement options. [Order 11-76, § 392-171-105, filed 11/1/76; Order 7-75, § 392-171-105, filed 12/22/75. Formerly WAC 392-45-100 (part).] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-110 Other placement options. [Order 11-76, § 392-171-110, filed 11/1/76; Order 7-75, § 392-171-110, filed 12/22/75. Formerly WAC 392-45-100 (part).] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-113 Decision that child will not be placed. [Order 11-76, § 392-171-113, filed 11/1/76.] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-115 Program criteria necessary for eligibility. [Order 11-76, § 392-171-115, filed 11/1/76; Order 7-75, § 392-171-115, filed 12/22/75. Formerly WAC 392-45-105.] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-125 Definition of and eligibility criteria for mental retardation—Mildly retarded. [Order 11-76, § 392-171-125, filed 11/1/76; Order 7-75, § 392-171-125, filed 12/22/75. Formerly WAC 392-45-110 (part).] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-130 Definition of and eligibility criteria for mental retardation—Moderately retarded. [Order 11-76, § 392-171-130, filed 11/1/76; Order 7-75, § 392-171-130, filed 12/22/75. Formerly WAC 392-45-110 (part).] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-135 Definition of and eligibility criteria for mental retardation—Severely and profoundly retarded. [Order 11-76, § 392-171-135, filed 11/1/76; Order 7-75, § 392-171-135, filed 12/22/75. Formerly WAC 392-45-110 (part).] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-137 IQ eligibility range variation. [Order 11-76, § 392-171-137, filed 11/1/76.] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-140 Definition of and eligibility criteria for sensory handicapped. [Order 11-76, § 392-171-140, filed 11/1/76; Order 7-75, § 392-171-140, filed 12/22/75. Formerly WAC 392-45-110 (part).] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-145 Definition of and eligibility criteria for gross motor and orthopedically handicapped. [Order 11-76, § 392-171-145, filed 11/1/76; Order 7-75, § 392-171-145, filed 12/22/75. Formerly WAC 392-45-110 (part).] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-150 Definition of and eligibility criteria for behavioral disability. [Order 11-76, § 392-171-150, filed 11/1/76; Order 7-75, § 392-171-150, filed 12/22/75. Formerly WAC 392-45-110 (part).] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-155 Definition of and eligibility criteria for neurological impairment. [Order 11-76, § 392-171-155, filed 11/1/76; Order 7-75, § 392-171-155, filed 12/22/75. Formerly WAC 392-45-110 (part).] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-160 Definition of learning/language disability. [Order 11-76, § 392-171-160, filed 11/1/76; Order 7-75, § 392-171-160, filed 12/22/75. Formerly WAC 392-45-110 (part).] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-165 Eligibility criteria for learning/language disability. [Order 11-76, § 392-171-165, filed 11/1/76; Order 7-75, § 392-171-165, filed 12/22/75. Formerly WAC 392-45-110 (part).] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).

- 392-171-170 Definition of and eligibility criteria for health impaired. [Order 11-76, § 392-171-170, filed 11/1/76; Order 7-75, § 392-171-170, filed 12/22/75. Formerly WAC 392-45-110 (part).] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-175 Definition of and eligibility criteria for multiple handicapped. [Order 11-76, § 392-171-175, filed 11/1/76; Order 7-75, § 392-171-175, filed 12/22/75. Formerly WAC 392-45-110 (part).] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-180 Definition of and eligibility criteria for communication disorders. [Order 11-76, § 392-171-180, filed 11/1/76; Order 7-75, § 392-171-180, filed 12/22/75. Formerly WAC 392-45-110 (part).] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-185 School district decision. [Order 11-76, § 392-171-185, filed 11/1/76; Order 7-75, § 392-171-185, filed 12/22/75. Formerly WAC 392-45-115.] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-190 Parent decision. [Order 11-76, § 392-171-190, filed 11/1/76; Order 7-75, § 392-171-190, filed 12/22/75. Formerly WAC 392-45-120.] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-195 Objectives relating to instructional programs (short term). [Order 11-76, § 392-171-195, filed 11/1/76; Order 7-75, § 392-171-195, filed 12/22/75. Formerly WAC 392-45-125.] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-200 Evaluation and program improvement. [Order 11-76, § 392-171-200, filed 11/1/76; Order 7-75, § 392-171-200, filed 12/22/75. Formerly WAC 392-45-130.] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-203 Administration of medication. [Order 11-76, § 392-171-203, filed 11/1/76.] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-205 Contractual services. [Order 11-76, § 392-171-205, filed 11/1/76; Order 7-75, § 392-171-205, filed 12/22/75. Formerly WAC 392-45-135.] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-210 Approval of agencies and individuals for contractual arrangements. [Order 11-76, § 392-171-210, filed 11/1/76; Order 7-75, § 392-171-210, filed 12/22/75. Formerly WAC 392-45-140.] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-220 Responsibilities of school districts. [Order 11-76, § 392-171-220, filed 11/1/76; Order 7-75, § 392-171-220, filed 12/22/75. Formerly WAC 392-45-150.] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-225 Compliance with federal, state and local law. [Order 11-76, § 392-171-225, filed 11/1/76; Order 7-75, § 392-171-225, filed 12/22/75. Formerly WAC 392-45-155.] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-235 Coordination of services. [Order 11-76, § 392-171-235, filed 11/1/76; Order 7-75, § 392-171-235, filed 12/22/75. Formerly WAC 392-45-165.] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-240 Written contracts. [Order 11-76, § 392-171-240, filed 11/1/76; Order 7-75, § 392-171-240, filed 12/22/75. Formerly WAC 392-45-170.] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-245 Special placement and parent appeal concerning contractual arrangements. [Order 11-76, § 392-171-245, filed 11/1/76; Order 7-75, § 392-171-245, filed 12/22/75. Formerly WAC 392-45-175.] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-250 Interdistrict arrangements. [Order 11-76, § 392-171-250, filed 11/1/76; Order 7-75, § 392-171-250, filed 12/22/75. Formerly WAC 392-45-180.] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-255 Appeals to school boards—Time periods—Court appointed representatives. [Order 11-76, § 392-171-255, filed 11/1/76; Order 7-75, § 392-171-255, filed 12/22/75. Formerly WAC 392-45-185 (part).] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-260 Appeals and sanction procedures—Procedure at the hearing. [Order 11-76, § 392-171-260, filed 11/1/76; Order 7-75, § 392-171-260, filed 12/22/75. Formerly WAC 392-45-185 (part).] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-265 Appeal from board's decision to superintendent of public instruction—Time periods. [Order 11-76, § 392-171-265, filed 11/1/76; Order 7-75, § 392-171-265, filed 12/22/75. Formerly WAC 392-45-185 (part).] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-270 Appeals and sanction procedure—Child's continued attendance. [Order 11-76, § 392-171-270, filed 11/1/76; Order 7-75, § 392-171-270, filed 12/22/75. Formerly WAC 392-45-185 (part).] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-275 Sanctions upon noncomplying school districts. [Order 11-76, § 392-171-275, filed 11/1/76; Order 7-75, § 392-171-275, filed 12/22/75. Formerly WAC 392-45-185 (part).] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-280 Transportation. [Order 11-76, § 392-171-280, filed 11/1/76; Order 7-75, § 392-171-280, filed 12/22/75. Formerly WAC 392-45-190.] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).
- 392-171-285 Facilities. [Order 11-76, § 392-171-285, filed 11/1/76; Order 7-75, § 392-171-285, filed 12/22/75. Formerly WAC 392-45-195.] Repealed by 78-11-074 (Order 11-78), filed 10/31/78. Statutory Authority: RCW 28A.13.010 and 28A.13.070(7).

WAC 392-171-005 Repealed. See Disposition Table at beginning of this chapter.

WAC 392-171-010 Repealed. See Disposition Table at beginning of this chapter.

WAC 392-171-220 Repealed. See Disposition Table at beginning of this chapter.

WAC 392-171-225 Repealed. See Disposition Table at beginning of this chapter.

WAC 392-171-235 Repealed. See Disposition Table at beginning of this chapter.

WAC 392-171-240 Repealed. See Disposition Table at beginning of this chapter.

WAC 392-171-245 Repealed. See Disposition Table at beginning of this chapter.

WAC 392-171-250 Repealed. See Disposition Table at beginning of this chapter.

WAC 392-171-255 Repealed. See Disposition Table at beginning of this chapter.

WAC 392-171-260 Repealed. See Disposition Table at beginning of this chapter.

WAC 392-171-265 Repealed. See Disposition Table at beginning of this chapter.

WAC 392-171-270 Repealed. See Disposition Table at beginning of this chapter.

WAC 392-171-275 Repealed. See Disposition Table at beginning of this chapter.

WAC 392-171-280 Repealed. See Disposition Table at beginning of this chapter.

WAC 392-171-285 Repealed. See Disposition Table at beginning of this chapter.

PURPOSES

WAC 392-171-300 Purposes. The purposes of this chapter are:

(1) To implement chapter 28A.13 RCW in a manner that is compatible also with the federal Education for All Handicapped Children Act, 20 United States Code (USC) section 1401 et seq. (P.L. 94-142);

(2) To assure that all handicapped students as defined in this chapter have an opportunity for a free and appropriate education at public expense (i.e., free special education and related services) to meet their unique needs;

(3) To assure that the rights of handicapped students and their parents are protected;

(4) To assist school districts and others to provide for the education of all handicapped students; and

(5) To assess and assure the effectiveness of efforts to educate handicapped students. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-300, filed 10/31/78.]

STATE ADVISORY COUNCIL

WAC 392-171-305 Advisory council. (1) Council established—The special education state advisory council is hereby established in order to help facilitate the provision of special education and related services to meet every handicapped student's unique needs, abilities, and limitations.

(2) Membership—The membership of the council shall include at least one representative of each of the following groups or entities:

- (a) Handicapped individuals;
- (b) Teachers of handicapped students;
- (c) Parents of handicapped students;
- (d) Local administrators of special education programs;
- (e) Support services personnel;
- (f) Superintendents;
- (g) Principals;
- (h) Nonpublic schools serving handicapped students;
- (i) School directors;
- (j) Institutions of higher education;
- (k) Department of social and health services;
- (l) The medical profession; and
- (m) Other individuals or groups as may hereafter be designated and approved by the superintendent of public instruction.

(3) Functions—The council's purposes are:

(a) To advise the superintendent of public instruction and make recommendations on all matters related to special education and specifically advise the superintendent of unmet needs within the state in the education of handicapped students;

(b) Comment publicly on the state's annual program plan, state rules regarding the education of handicapped students, and the procedures for distribution of funds; and

(c) Assist the state in developing and reporting such information and evaluations as may assist the federal government.

(4) Organization—The council shall conduct its affairs in accordance with bylaws approved by the superintendent of public instruction. To assure that maximum information and recommendations are provided to the superintendent of public instruction, the state advisory council shall have the authority to recommend the design of its organization and to appoint subcommittees from its membership for carrying out council responsibilities. Ad hoc subcommittees with membership other than council members may be appointed: *Provided*, That the superintendent of public instruction or his or her designee has given prior approval for such appointments. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-305, filed 10/31/78.]

DEFINITIONS OF GENERAL APPLICATION

WAC 392-171-310 Definitions of "assessment," "adult student," "consent," "handicapped student," "parent," and "school district." As used in this chapter:

(1) "Assessment" means procedures used in accordance with WAC 392-171-400 through 392-171-430 and 392-171-485(2) to determine whether a student is handicapped and the nature and extent of the special education and related services that the student needs. The term means procedures used selectively with an individual student and does not include basic tests administered to or procedures used with all students in a school, grade, or class.

(2) "Adult student" means a handicapped student or a student who is eighteen, nineteen, or twenty years of age and who has not been judged incompetent by a court of law or otherwise judged by a court of law as being incapable of assuming and exercising the rights, duties and responsibilities otherwise granted to and imposed upon parents by this chapter (a student shall assume and be entitled to exercise all rights, duties and responsibilities otherwise granted to or imposed upon parents by this chapter upon attaining the age of eighteen and shall retain and be entitled to exercise the same until he or she has been judged incompetent or otherwise incapable of exercising the same by a court of law).

(3) "Consent" means that:

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

(b) The parent (or the adult student) understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) which will be released and to whom; and

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

(4) "Handicapped student" and "student" (depending upon the context in which the terms are used) mean:

(a) A person under the age of twenty-one who has been determined pursuant to this chapter to have one or more of the disabilities set forth in WAC 392-171-330 through 392-171-390; or

(b) A person under the age of twenty-one who has become a focus of concern and who may have one or more of the disabilities set forth in WAC 392-171-330 through 392-171-390 in the judgment of the school district superintendent or his or her designee, or the parent(s), or the adult student; or

(c) Both of the foregoing categories of persons—notwithstanding the fact the person(s) may not be enrolled in or attending school in the normal sense of the term "student."

(5) "Parent" means a natural parent, a legal guardian, an adult person acting as a parent, or a surrogate parent who has been appointed in accordance with WAC 392-171-540, who represents a nonadult student. The term does not include the state if the child is a ward of the state.

(6) "School district" means:

(a) Each public school district in the state;

(b) Each educational service district that provides special education or related services to one or more handicapped students; and

(c) Each public or private person, organization or entity that provides special education or related services to one or more handicapped students in behalf of a public school district—even though a public school district, such an educational service district, or such a public or private person, organization, or entity does not receive federal funds made available for the purposes of the Education for All Handicapped Children Act. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-310, filed 10/31/78.]

WAC 392-171-315 Definition of "special education." As used in this chapter "special education" means specially designed instruction, at no cost to the parent or the student, to meet the unique needs, abilities, and limitations of a handicapped student, including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions. The term includes speech pathology, physical and occupational therapy, orientation and mobility instruction, itinerant vision and hearing instruction, audiology, or any other related service, if, and to the extent, the foregoing services consist of specially designed instruction, at no cost to the parents or the student, to meet the unique needs of a handicapped student. The term also includes career development and vocational education if either consists of specially designed instruction, at no cost to the parents or the student, to meet the unique needs of a handicapped student.

The terms in the definition of "special education" are defined as follows:

(1) "At no cost" means that all specially designed instruction is provided without charge, but does not preclude incidental fees which are normally charged to nonhandicapped students or their parents as a part of the regular education program.

(2) "Physical education" means the development of:

(a) Physical and motor fitness;

(b) Fundamental motor skills and patterns; and

(c) Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports).

The term includes special physical education, adapted physical education, movement education, and motor development.

(3) "Career development" means a program of instruction infused into a student's basic education program which consists principally of occupational preparation. "Occupational preparation" means a continuum of instruction, from preschool through secondary, that evolves from awareness stages through exploratory and preparatory activities which lead to experiences such as instruction in a vocational-technical institute, a sheltered workshop, a community college, or a community placement.

(4) "Specially designed instruction" means organized and planned teaching and/or training activities provided

by certificated and/or licensed special education personnel, including therapists, designed to facilitate progress toward specific written objectives and which occurs repeatedly over a given period of time during regularly scheduled sessions. The term does not include diagnostic or assessment activities, related services per se, consultative services, or materials preparation.

(5) "Vocational education" means organized educational programs which are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-315, filed 10/31/78.]

WAC 392-171-320 Definition of "related services."

As used in this chapter "related services" means transportation and such developmental, corrective, and other supportive services as are required to assist a handicapped student to benefit from special education, and includes speech pathology and audiology, psychological services, physical and occupational therapy, recreation, early identification and assessment of disabilities in students, counseling services, medical services for diagnostic or assessment purposes, and orientation and mobility services. The term also includes school health services, social work services in schools, and parent counseling and training.

The terms used in the definition of "related services" are defined as follows:

(1) "Audiology" includes:

(a) Identification of students with hearing loss;
(b) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;

(c) Provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation;

(d) Creation and administration of programs for prevention of hearing loss;

(e) Counseling and guidance of students, parents, and teachers regarding hearing loss; and

(f) Determination of the student's need for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.

(2) "Counseling services" means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.

(3) "Early identification" means the implementation of a formal plan for identifying a disability as early as possible in a student's life.

(4) "Medical services" means services provided by a licensed physician to determine a student's medically related handicapping condition which results in the student's need for special education and related services.

(5) "Occupational therapy" includes:

(a) Improving, developing, or restoring functions impaired or lost through illness, injury, or deprivation;

(b) Improving ability to perform tasks for independent functioning when functions are impaired or lost; and

(c) Preventing, through early intervention, initial or further impairment or loss of function.

(6) "Orientation and mobility services" means the organization, planning, and direct provision of training/instruction in orientation and mobility for visually handicapped students and includes related consultation with parents, teachers, and other concerned persons.

(7) "Parent counseling and training" means assisting parents in understanding the special needs, abilities, and limitations of their child or ward and providing parents with information about child/student development.

(8) "Physical therapy" means services provided by a qualified physical therapist.

(9) "Psychological services" includes:

(a) Administering psychological and educational tests, and other assessment procedures;

(b) Interpreting assessment results;

(c) Obtaining, integrating, and interpreting information about child/student behavior and conditions relating to learning;

(d) Consulting with other staff members in planning school programs to meet the special needs of students as indicated by psychological tests, interviews, and behavioral evaluations; and

(e) Planning and managing a program of psychological services, including psychological counseling for students and parents.

(10) "Recreation" includes:

(a) Assessment of leisure function;

(b) Therapeutic recreation services;

(c) Recreation programs in school and community agencies; and

(d) Leisure education.

(11) "School health services" means services provided by a qualified school nurse or other qualified person.

(12) "Social work services in schools" include:

(a) Preparing a social or developmental history on a handicapped student;

(b) Group and individual counseling with the student and family;

(c) Working with those problems in a student's living situation (home, school, and community) that affect the student's adjustment in school; and

(d) Mobilizing school and community resources to enable the student to receive maximum benefit from his or her educational program.

(13) "Speech pathology" includes:

(a) Identification of students with speech or language disorders;

(b) Diagnosis and appraisal of specific speech or language disorders;

(c) Referral for medical or other professional attention necessary for the habilitation of speech or language disorders;

(d) Provision of speech and language services for the habilitation or prevention of communicative disorders; and

(e) Counseling and guidance of parents, students, and teachers regarding speech and language disorders.

(14) "Transportation" includes:

- (a) Travel to and from school and between schools;
- (b) Travel in and around school buildings; and
- (c) Specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a handicapped student. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-320, filed 10/31/78.]

ELIGIBILITY CRITERIA FOR HANDICAPPED STUDENTS

WAC 392-171-325 Students' rights to special education programs. (1) Each school district shall provide every handicapped student of common school age a free and appropriate educational program consisting of special education and related services. Common school age is age five to age twenty-one.

(2) School districts may provide special education and related services to handicapped students in the three and/or four age groups without being obligated to extend preschool programs to nonhandicapped children. However, if a school district provides an education to any nonhandicapped child in the three or the four age group, the district shall make special education and related services available pursuant to this chapter to all its handicapped students of the same age.

(3) School districts may provide special education and related services to handicapped students in the zero to one, one, and two year old age groups without being obligated to provide a preschool program for nonhandicapped children: *Provided*, That the handicapped student has one or more of the following conditions:

- (a) Multiple handicap;
- (b) Gross motor impairment;
- (c) Sensory impairment; or
- (d) Moderate or severe mental retardation.

However, if a school district provides an education to any nonhandicapped child in the zero to one, one, or two year old age groups, it shall make special education and related services available pursuant to this chapter to all its handicapped students in the above four categories of the same age.

(4) Any student made a focus of concern or who is reassessed after November 1, 1976, shall qualify pursuant to the disability definitions and criteria set forth in this chapter in order to receive state or federal excess cost funding. A handicapped student shall remain eligible for special education and related services until the student has met normal high school graduation requirements established by the school district pursuant to rules of the state board of education, or the student has reached age twenty-one, or until the student is no longer in need of special education services as judged by the student's multidisciplinary team based upon a reassessment of the student, whichever occurs first.

(5) Any student whose eligibility was determined pursuant to the eligibility requirements of this chapter as they existed prior to November 1, 1976, shall continue to be eligible until September 1, 1978, subject to reassessment pursuant to the eligibility requirements of this

chapter as now or hereafter amended. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-325, filed 10/31/78.]

WAC 392-171-330 Behavioral disability--Definition--Eligibility criteria. A behaviorally disabled student is one who demonstrates an observable, generalized behavioral pattern which markedly interferes with the normal educational processes of the student to such a degree that standard alternatives within the regular program have shown to be ineffective.

Eligibility criteria: To be eligible for special education services, the assessment process shall include:

(1) A statement of behavioral disability by a licensed or certificated psychologist or psychiatrist. Such statement shall include a description of the specific behavior(s) which interfere(s) with the normal educational processes of the student.

(2) An educational plan specifying social and academic goals based on the specific behavior(s) listed in the assessment.

(3) A statement of the standard alternatives that have been attempted in the regular school program and that have proven to be ineffective.

Students with common disciplinary and/or developmental problems and students whose major problems are served in another disability category do not qualify as behaviorally disabled. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-330, filed 10/31/78.]

WAC 392-171-335 Communication disorders--Definition--Eligibility criteria. A student with a communication disorder shall be one of the following:

(1) A student with a voice handicap who has an excess or deficiency in pitch, intensity, or quality;

(2) A student who has a deficiency in fluency which may or may not be accompanied by facial grimaces and/or excessive extraneous movements;

(3) A student with an articulation handicap who has a deficiency in his or her ability to say sounds in conversational speech which is not consistent with his or her chronological and/or mental age; or

(4) A student with a language handicap who has a deficiency which is not consistent with his or her chronological and/or mental age in one or all of the following areas:

(a) A deficiency in encoding (expression) skills to communicate information;

(b) A deficiency in decoding (reception) skills to gain information through visual or auditory channels; or

(c) A deficiency in organizing information.

Eligibility criteria: The decision of a communication disorders specialist shall be documented, based on diagnostic findings, and consistent with this section. In voice disorders involving hoarseness, a physician's diagnosis shall also be obtained. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-335, filed 10/31/78.]

WAC 392-171-340 Gross motor and orthopedically handicapped--Definition--Eligibility criteria. Gross motor and orthopedically handicapped students are those students who lack normal function due to abnormalities of the muscles, joints or bones, or due to abnormal functioning of such systems secondary to or due to neurological or other conditions as certified by a physician.

Eligibility criteria: Any student who is unable to attend regular classes with safety and profit because of the nature of his or her handicap is eligible for enrollment in a special education program upon the recommendation of a physician and with the approval of the school district's director of special education. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-340, filed 10/31/78.]

WAC 392-171-345 Health impaired--Definition--Eligibility criteria. Health impaired students are those who have chronic defects or disease due to such factors as infection, injury, metabolic disorder, growth or nutrition, neoplasm, or congenital malformation. Health impaired students include students with acquired or congenital heart disease, other disorders of the cardio-respiratory system, or disorders of the central nervous system.

Eligibility criteria: A physician's statement indicating the need for special education consideration is required. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-345, filed 10/31/78.]

WAC 392-171-350 Specific learning disability--Definition. Specific learning disability is a disorder in one or more of the basic psychological processes involved in understanding or using spoken or written language resulting from perceptual-motor handicaps. Such disorder may include problems in visual and auditory perception and integration which may manifest itself in an impaired ability to think, speak or communicate clearly, read with comprehension, write legibly and with meaning, spell accurately, and to perform mathematical calculations, including those involving reading. The presence of a specific learning disability is indicated by near average, average, or above average intellectual ability, but nonetheless the student demonstrates significant performance deficits in one or more of the following academic achievement areas:

- (1) Oral expression;
- (2) Listening comprehension;
- (3) Written expression;
- (4) Basic reading skill;
- (5) Reading comprehension;
- (6) Mathematics calculations; and
- (7) Mathematics reasoning;

Provided, That such a performance deficit cannot be explained by visual or hearing problems, motor handicaps, mental retardation, a behavioral disability, or an environmental, cultural, or economic disadvantage.

A specific learning disability includes conditions described as perceptual handicap, minimal brain dysfunction, dyslexia, and developmental aphasia: *Provided,*

That the student meets the eligibility criteria set forth in WAC 392-171-355 and 392-171-356. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 79-12-008 (Order 12-79), § 392-171-350, filed 11/9/79, effective 1/1/80; 78-11-074 (Order 11-78), § 392-171-350, filed 10/31/78.]

WAC 392-171-355 Specific learning disability--Eligibility criteria. Assessment procedures and eligibility standards: All students considered for initial or continued placement in special education as specific learning disabled shall be assessed by a multidisciplinary team and shall be deemed eligible for placement in a special education program in accordance with the following procedures and criteria:

(1) A current assessment of intellectual functioning shall be obtained from a standardized individual test designed to measure intellectual functioning, individually administered and interpreted by a qualified psychologist and attested to as to validity. The measured level of intellectual functioning must be near normal or above; and

(2) A current assessment of level of academic achievement shall be measured by standardized test(s) appropriate to age level and administered individually. The student's Chronological Age/Grade (CAG) performance in one or more of the academic achievement areas provided for in the definition shall be adjusted for expectations due to variance in intellectual functioning. The expected performance adjusted for intellectual functioning shall then be compared to the results of the actual achievement measures, the results of which must yield:

(a) A functioning level of two-thirds or below of expected performance; and

(b) A functioning level below chronological age/grade. Those students unable to score within test norms on standardized academic achievement measures shall be assessed using individually administered standardized school readiness tests, professionally recognized developmental scales, and

(3) A current assessment of perceptual, perceptual-motor or language functioning shall be obtained, the results of which show a deficit of greater than or equal to 1 1/2 standard deviations below the mean or a functioning level of 2/3 or below Chronological Age/Grade Performance in one or more of the following:

(a) Visual processing:

- (i) discrimination; or
- (ii) closure; or
- (iii) memory; or
- (iv) sequencing; or
- (v) association; or
- (vi) integration.

(b) Auditory processing:

- (i) discrimination; or
- (ii) closure; or
- (iii) memory; or
- (iv) sequencing; or
- (v) association; or
- (vi) integration.

(c) Haptic processing:

- (i) kinesthetic; or
- (ii) tactile.
- (d) Sensory integration/association:
 - (i) visual-motor; or
 - (ii) visual-auditory (vocal); or
 - (iii) auditory-motor; or
 - (iv) receptive language; or
 - (v) expressive language.

For students whose chronological age placement is seventh grade or above, neither the visual nor auditory deficit is required as a condition to the eligibility; and

(4) A current psychological assessment which considers and describes the student's social and emotional behaviors and which provides any implications for educational planning shall be obtained. This assessment shall be of sufficient scope to rule out severe behavioral disability, environmental, cultural background, or economic disadvantage as an explanation for educational delay; and

(5) A current vision and hearing screening report shall be obtained; and

(6) A written record of observation and measurement of the student's academic performance and classroom behavior in the regular classroom shall be made by a member of the assessment team other than the regular classroom teacher pursuant to WAC 392-171-410.

(7) The results of the intellectual, achievement and perceptual/language measures along with the psychological assessment and the vision and hearing screening and classroom observation shall be reviewed by the multidisciplinary team. The multidisciplinary team shall prepare a written report of the results of the assessment pursuant to WAC 392-171-415. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 79-12-008 (Order 12-79), § 392-171-355, filed 11/9/79, effective 1/1/80; 78-11-074 (Order 11-78), § 392-171-355, filed 10/31/78.]

WAC 392-171-356 Specific learning disability--Exceptions to general eligibility criteria. Where the results of the intellectual, academic, or perceptual/language measures provided for in WAC 392-171-355 do not document a specific learning disability, the multidisciplinary team, when it is deemed advisable by the team, may deviate from the criteria set forth in WAC 392-171-355 within the standard error of measurement of the selected assessment instrument(s) and determine the appropriateness of placement in a special education program: *Provided*, That once the required assessment procedures are concluded, the assessment team shall prepare a written report which identifies the degree to which the assessment findings deviate from the criteria, describes the student's specific learning disability as evidenced by the assessment findings and any implications for educational planning. The written report shall also address all requirements stated in WAC 392-171-415, and be signed by the school district superintendent or his/her designee. Students placed under these conditions shall be reassessed annually to determine their need for special education and related

services. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 79-12-008 (Order 12-79), § 392-171-356, filed 11/9/79, effective 1/1/80.]

WAC 392-171-360 Mental retardation--Mildly retarded--Definition--Eligibility criteria. Mildly retarded students are those who demonstrate general subaverage functioning and whose growth of performance indicates a need for a special education program designed to meet their individual needs.

Eligibility criteria: Eligibility requirements for the mildly retarded shall include the following criteria and screening for other handicapping condition(s):

(1) I.Q. range from approximately fifty-one through seventy-five as interpreted by a qualified psychologist; and

(2) Any two of the following conditions:

(a) Academic behavior equal to one-half or less of expected grade level;

(b) Demonstrated ability to learn basic academic skills and to become socially and economically independent at adult level;

(c) Social and adaptive behavior equal to one-half to three-fourths chronological age; or

(d) Expressive and receptive language development equal to two-thirds or less of chronological age. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-360, filed 10/31/78.]

WAC 392-171-365 Mental retardation--Moderately retarded--Definition--Eligibility criteria. Moderately retarded students are those who demonstrate subaverage intellectual and social functioning to such an extent that they are ineligible for classes for mildly mentally retarded.

Eligibility criteria: Eligibility requirements for the moderately mentally retarded shall include the following criteria and screening for other handicapping condition(s):

(1) I.Q. range from approximately thirty to fifty as interpreted by a qualified psychologist; and

(2) Any one of the following:

(a) Academic development at a rate of one-third to one-half of chronological age;

(b) Student will not be totally dependent, require nursing care throughout his or her life, or require close supervision; or

(c) Growth of performance indicating ability to learn self-care skills. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-365, filed 10/31/78.]

WAC 392-171-370 Mental retardation--Severely and profoundly retarded--Definition--Eligibility criteria. Severely and profoundly retarded students are those who because of profound subaverage intellectual and social development are ineligible for programs for the moderately mentally retarded.

Eligibility criteria: Eligibility requirements for the severely mentally retarded shall consist of the following

criteria and screening for other handicapping condition(s):

(1) I.Q. range approximately thirty or below as interpreted by a qualified psychologist; and

(2) Any one of the following:

(a) Minimal ability to acquire basic academic and self-help skills; or

(b) Student will require close supervision throughout his or her life. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-370, filed 10/31/78.]

WAC 392-171-375 Mental retardation--I.Q. eligibility range variation. The I.Q. eligibility ranges specified in WAC 392-171-360, 392-171-365, and 392-171-370 may vary by one-half standard deviation if a qualified psychologist documents in writing (with the approval of the school district special education director as provided for in WAC 392-171-430) the reasons for placement in a particular special education program: *Provided*, That any student placed in a special education program for *mildly* retarded students whose I.Q. score is above seventy-five must meet at least three of the four conditions specified in WAC 392-171-360(2): *Provided further*, That special care shall be taken to account for the cultural biases, if any, of the measurement instruments. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-375, filed 10/31/78.]

WAC 392-171-380 Multiple handicapped--Definition--Eligibility criteria. A student shall be considered multiple handicapped when two or more handicapping conditions are present, each of which is so severe as to warrant a special program were that handicapping condition to appear in isolation.

Eligibility criteria: Students shall qualify as multiple handicapped only when the resultant overall deficit is profound and when the following conditions are identified and documented:

(1) Mental retardation; and

(2) One or more the following:

(a) Gross motor and orthopedically impaired;

(b) Hearing impaired; or

(c) Blind.

In addition to the above, appropriate professional diagnosis and documentation of the severity of each handicapping condition is required.

Multiple handicapped students are not eligible for placement in a resource program because the severity of the deficits of multiple handicapped students precludes their placement in a resource program. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-380, filed 10/31/78.]

WAC 392-171-385 Neurological impairment--Definition--Eligibility criteria. Neurologically impaired students are those who have an observable impairment of the central nervous system as indicated by a neurological and psychological assessment which establishes

an educationally significant deficit in various combinations of the following areas:

(1) Motor;

(2) Sensory-motor;

(3) Perceptual;

(4) Cognitive; and

(5) Behavior.

These deficits shall not be secondary to general mental retardation, general motor handicaps, sensory impairment, or serious behavioral disability.

Eligibility criteria: A student must be diagnosed as neurologically impaired. For the purpose of this section, "educationally significant deficit" means an academic deficiency of two or more years. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-385, filed 10/31/78.]

WAC 392-171-390 Sensory handicapped--Definition--Eligibility criteria. Sensory handicapped students are as follows:

(1) Hearing impaired (accepted term covering both deaf and hard of hearing students). Definition: A student shall be judged educationally hearing impaired if he or she is in need of supportive services because of a hearing loss.

Eligibility criteria: The student has a determined organic hearing loss in excess of 30 db. better ear average in the speech range (500, 1000, 2000 Hz), unaided, and is in need of the support services.

(2) Partially sighted. Definition: A partially sighted student is one with eye difficulties which are not sufficiently amenable to correction or treatment to enable the student to advantageously use supplies and equipment provided for the student with normal vision.

Eligibility criteria: A student is eligible when his or her visual acuity is between 20/70 and 20/200 in the better eye after correction or upon the recommendation of a qualified optometrist or ophthalmologist.

(3) Blind. Definition: A blind student is one whose vision after correction is less than 20/200 in the better eye.

Eligibility criteria: A student whose vision is less than 20/200 or who has the recommendation of an optometrist or ophthalmologist is eligible for classes for the blind. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-390, filed 10/31/78.]

ASSESSMENTS

WAC 392-171-395 Student as focus of concern--Preassessment procedures--Timeline. (1) A student shall become a focus of concern when the student is brought to the attention of a school district superintendent or his or her designee because of a suspected handicapping condition(s). Such concern for a student may be originated by or transmitted through any source, including: Parents, medical personnel, school district personnel, community agencies, civil authorities, authorized screening procedures, and other identified, interested persons.

(2) When the possibility of a student's need for special education and related services has been brought to the attention of the school district superintendent or his or her designee, the superintendent or his or her designee shall act on the referral by promptly:

(a) Recording the circumstance by date, origin, and reason for concern; and

(b) Providing the student's parent(s) (or the adult student) written notice that the student has been referred because of a suspected handicapping condition and that within fifteen school days the district will determine whether or not there is good reason to believe that the student is a candidate for assessment.

(3) The superintendent or his or her designee shall, within fifteen school days after the date of referral, review the referral, collect and examine existing school, medical and other records in the possession of the school district and make a determination that there is or is not good reason to believe that the student is a candidate for assessment. This decision shall be in writing and shall set forth the date and the name of the person making the decision. The superintendent or his or her designee shall, within ten school days after the date of such decision, direct a written notice to the student's parent(s) (or the adult student) that complies with the notice requirements of WAC 392-171-495.

(4) In the event the decision is that there is good reason to believe that the student is a candidate for assessment, the student shall be fully assessed within:

(a) Thirty school days after the date written consent for an assessment has been provided by the parent(s) (or the adult student); or

(b) Thirty school days after the date the refusal of the parent(s) (or the adult student) to grant consent has been overridden pursuant to a hearing (or appeal) in accordance with WAC 392-171-500 et seq.; or

(c) Such other time period as may be agreed to by the parent(s) (or the adult student) and school authorities. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-395, filed 10/31/78.]

WAC 392-171-400 General areas of assessment. The assessment of a student (except one with a suspected speech impairment) shall be in all areas related to the suspected disability including, but not limited to, the following categories:

(1) Scholastic. This area shall include assessment of the intellectual, language and communication, academic and self-help skill status of the student.

(2) Physical. This area shall include a review of the general health status of the student with particular attention to the visual, hearing, musculo-skeletal, neurological, and developmental modalities.

(3) Adjustment. This area shall include assessment of the social skills and emotional status of the student. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-400, filed 10/31/78.]

WAC 392-171-405 General assessment personnel, materials and report requirements. (1) The assessment of a student (except one with a suspected speech impairment) shall be made by a multidisciplinary team or group of professionals including at least one teacher or other specialist with knowledge in the area of the suspected disability. Each member of the team shall be licensed, registered, credentialed, or certificated according to his or her professional standards in accordance with state statutes and rules.

(2) No single test instrument or single procedure shall be the sole criterion for determining the appropriate educational program for a student.

(3) Assessment materials, procedures, and instruments used for the purpose of assessment and placement shall be selected and administered so as not to be racially or culturally discriminatory. All tests and other evaluation materials shall have been validated for the specific purpose for which they are used, shall be administered by trained personnel in conformance with the instructions of their producer, and shall accurately reflect whatever factors the tests purport to measure.

(4) Assessment materials, procedures or instruments shall be provided and administered in a student's primary language or mode of communication, unless it is clearly not feasible to do so.

(5) Assessment data shall be summarized in writing, dated, and signed by the multidisciplinary team leader. Information used to support the assessment, but which is not incorporated into the file, shall be noted (e.g., review of health record, number of identified problems, etc.). The summaries shall specify the procedures and instruments used, the results obtained, and the apparent significance of findings as related to the student's instructional program. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-405, filed 10/31/78.]

WAC 392-171-410 Learning/language disabled students--Additional assessment team members--Classroom observation. (1) In addition to the requirements of WAC 392-171-400 and 392-171-405, in assessing a student suspected of having a learning/language disability each school district shall include on the multidisciplinary assessment team:

(a) The student's regular teacher; or

(b) If the student does not have a regular teacher, a regular classroom teacher qualified to teach a student of his or her age; or

(c) For a student of less than school age, an individual trained in early childhood education designated by the school district; and

(d) At least one person qualified to conduct individual diagnostic examinations of students, such as a school psychologist, communication disorder specialist, or remedial reading teacher.

(2) At least one team member other than the student's regular teacher shall observe the student's academic performance in the regular classroom setting.

(3) In the case of a student of less than school age or a student who is not enrolled in school, a team member

shall observe the student in an environment appropriate for a student of that age. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-410, filed 10/31/78.]

WAC 392-171-415 Learning/language disabled students—Written report of assessment team. In the case of a student suspected of having a learning/language disability, the assessment team shall prepare a written report of the results of the assessment, as follows:

(1) The report shall include a statement of:

(a) Whether the student has a learning/language disability;

(b) The basis for making the determination;

(c) The relevant behavior noted during the observation of the student;

(d) The relationship of that behavior to the student's academic functioning;

(e) The educationally relevant medical findings, if any; and

(f) The determination of the team concerning the effects of environmental, cultural, or economic disadvantage.

(2) Each team member shall certify in writing whether the report reflects his or her conclusion. If it does not reflect his or her conclusion, the team member must submit a separate statement presenting his or her conclusion(s). [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-415, filed 10/31/78.]

WAC 392-171-420 Speech impaired students—Assessment. Students who are suspected of having a speech impairment as their primary handicap shall be assessed by a qualified speech-language professional who shall use procedures appropriate for the diagnosis and appraisal of speech-language disorders. The student shall be referred for additional assessment needs for appropriate placement. The assessment results required in this section shall be summarized as provided in WAC 392-171-405(5). [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-420, filed 10/31/78.]

WAC 392-171-425 Medical evaluation. (1) A medical evaluation is required when:

(a) A student under consideration as a possible handicapped student is suspected of having a health problem that may affect his or her education program; or

(b) A medical evaluation is necessary to determine whether or not a student has a handicapping condition.

(2) Medical evaluations at the expense or otherwise in behalf of a school district shall be obtained only:

(a) At the direction of or with the prior approval of the school district superintendent or his or her designee (except in the case of an independent assessment pursuant to WAC 392-171-435);

(b) In accordance with criteria established by the school district including, but not limited to, the location of the evaluation and the qualifications of the medical examiner;

(c) When the student's parent(s) (or the adult student) agrees in advance to the type of examination and the choice of medical examiner;

(d) When, except in the case of an adult student, the student's parent(s) is present at the time of the examination or has agreed that his or her presence is not required; and

(e) When the student's personal physician (if any) has been informed in advance of the proposed examination. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-425, filed 10/31/78.]

WAC 392-171-430 Analysis of assessment data. (1) The leader of a student's assessment team designated by the school district superintendent or his or her designee shall analyze the summary of assessment data provided for in WAC 392-171-405(5) and summarize his or her conclusions, recommendations, and the facts and/or reasons therefor, in writing. Such assessment results shall:

(a) Identify the disability condition(s), if any, that qualifies the student as a handicapped student; and

(b) Set forth the nature and extent of the special education and related services that the student needs, if any.

(2) The summary of assessment results shall be of sufficient scope and detail to also document:

(a) The test results and other facts necessary to a determination of the student's qualification or lack of qualification as a handicapped student; and

(b) Any necessary professional judgment(s) and the facts or reasons in support of the judgment(s).

(3) The summary of assessment results shall be signed and dated by both the team leader and the school district's special education director: *Provided*, That in large school districts in which the acquisition of the director's signature would be unfeasible in all cases, a designee of the director may sign such summaries with the prior permission of the superintendent of public instruction or his or her designee. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-430, filed 10/31/78.]

WAC 392-171-435 Independent educational assessment. (1) General.

(a) The parent(s) of a student (or the adult student) has the right to obtain an independent educational assessment, subject to subsections (3) through (5) of this section.

(b) Each school district shall provide to parents, (or adult students) on request, information about where an independent educational assessment may be obtained.

(c) For the purposes of this section:

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

(ii) "Public expense" means that the school district either pays for the full cost of the assessment or assures that the assessment is otherwise provided at no cost to the parent (or to the adult student).

(2) Parent/adult student right to assessment at public expense. A parent (or the adult student) has the right to an independent educational assessment at public expense if the parent (or the adult student) disagrees with the assessment results obtained by the school district, as follows:

(a) The parent(s) (or the adult student) shall provide a written notice to the school district superintendent or special education director which:

(i) Specifies the portion(s) of the assessment results with which the parent(s) (or the adult student) disagrees; and

(ii) Requests an independent educational assessment at public expense;

(b) The school district shall have the prior opportunity to initiate and conduct a hearing (and appeal) pursuant to WAC 392-171-500 et seq. to show that its assessment is appropriate: *Provided*, That the school district shall provide the parent(s) (or the adult student) written notice of the election to initiate a hearing no later than the tenth day after the date of receipt of the parent's (or adult student's) notice of disagreement;

(c) If the final decision pursuant to WAC 392-171-500 et seq. is that the school district's assessment is appropriate, the parent (or adult student) still has the right to an independent educational assessment, but not at public expense; and

(d) If the district elects not to hold a hearing or is not upheld by the final decision, the parent's (or adult student's) request for an independent assessment shall be provided at public expense in accordance with the same criteria which the district uses when it initiates an assessment including, but not limited to, the location of the assessment and the qualifications of the examiner.

(3) Parent/adult student initiated assessment. If the parent (or adult student) obtains an independent educational assessment at private expense, the results of the assessment:

(a) Shall be considered by the school district in any decision made with respect to the provision of special education and related services to the student; and

(b) May be presented as evidence at such hearings regarding that student as may be conducted pursuant to WAC 392-171-500 et seq.

(4) Requests for assessment by hearing officers. If a hearing officer requests an independent educational assessment as part of a hearing, the cost of the assessment shall be at public expense. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-435, filed 10/31/78.]

INDIVIDUALIZED EDUCATION PROGRAMS

WAC 392-171-440 Meetings. (1) A meeting shall be held within thirty calendar days after the date upon which a student's assessment is completed for the purpose of developing the student's individualized education program. The school district shall initiate and conduct the meeting and shall include the following participants:

(a) A representative of the school district other than the student's teacher who is qualified to provide or supervise special education programs;

(b) The student's regular classroom teacher or special education teacher or therapist: *Provided*, That either the representative of the school district or the teacher or therapist is qualified in the area of the student's suspected disability;

(c) One or both of the parents (in the case of a non-adult student), subject to subsections (2) through (5) of this section;

(d) The student if he or she is an adult student (and in the case of nonadult students, the student, if appropriate);

(e) A member of the student's assessment team; and

(f) Other individuals at the discretion of the district or the parent or the adult student.

(2) Each school district shall take steps to assure (in the case of nonadult students) that one or both parents of the handicapped student are present at each meeting or are afforded the opportunity to participate, including:

(a) Notifying the parent(s) of the meeting early enough to assure his or her participation; and

(b) Scheduling the meeting at a mutually agreed upon place and time.

(3) The notice to the parent(s) shall include the purpose, time, location of the meeting and who will be in attendance.

(4) If a parent cannot attend, the district shall use other methods to assure participation, including individual or conference telephone calls.

(5) A meeting may be conducted (in the case of a nonadult student) without a parent in attendance if the school district is unable to convince the parents they should attend. In such a case the school district shall make a record of its attempts to arrange a mutually agreed upon time and place. The record shall contain such information as:

(a) Detailed records of telephone calls made or attempted and the results of those calls;

(b) Copies of correspondence sent to the parents and any responses received; and

(c) Detailed records of visits made to the parent's home or place of employment and the results of those visits.

(6) The school district shall take whatever action is necessary to assure that the parent (or adult student) understands the proceedings at a meeting, including arranging for an interpreter for parents (or adult students) who are deaf or whose native language is other than English.

(7) Meetings consistent with this section shall be conducted by the school district at least once a year for the purpose of reviewing and revising as necessary each student's individualized education program. Meetings may be held more frequently. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-440, filed 10/31/78.]

WAC 392-171-445 Individualized education program. (1) Each handicapped student's individualized education program shall include:

(a) A statement of the student's present levels of educational performance;

(b) A statement of annual goals, including short-term instructional objectives;

(c) A statement of the specific special education and related services to be provided to the student, and the extent to which the student will be able to participate in the regular educational program;

(d) The projected dates for the initiation of services and the anticipated duration of the services; and

(e) Appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the short-term instructional objectives are being met.

(2) The school district shall provide the parent (or the adult student) a copy of the individualized education program.

(3) Nothing in this chapter may be construed as promising or guaranteeing that a handicapped student will in fact achieve the growth projected in his or her annual goals and short-term objectives. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-445, filed 10/31/78.]

PLACEMENTS

WAC 392-171-450 Initial educational placement—Notice—Consent. (1) Each school district shall provide written notice of a student's proposed, initial special education placement, or of the district's inability or refusal to make a special education placement, within ten days after the initial meeting provided for in WAC 392-171-440. The notice shall comply with the notice requirements of WAC 392-171-495.

(2) The written consent of the parent(s) (or adult student) shall be requested if special education placement is proposed.

(3) The student's proposed special education placement shall commence when either:

(a) Written consent has been given by the parent(s) (or the adult student); or

(b) The refusal of a student's parent(s) (or adult student) to grant consent has been overridden by the school district pursuant to a hearing (or appeal) conducted in accordance with WAC 392-171-500 et seq. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-450, filed 10/31/78.]

WAC 392-171-455 Least restrictive environment. The placement and provision of services to each handicapped student shall be in his or her least restrictive environment as follows:

(1) Educational Setting—Each handicapped student shall be placed:

(a) In the regular educational environment with non-handicapped students to the maximum extent appropriate to his or her needs, unless it can be demonstrated by

the school district that the nature or severity of the student's disability is such that his or her education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily; and

(b) In the school which he or she would attend if not handicapped, unless his or her individualized education program requires some other arrangement. If some other arrangement is required, the student shall be placed in the appropriate educational program that is as close to the student's home as is reasonably possible.

(2) Nonacademic Settings—Each handicapped student shall be provided nonacademic and extracurricular services and activities conducted by the school district (e.g., meals, recess, recreation, athletics, counseling, transportation, student club activities, etc.) with non-handicapped students to the maximum extent appropriate to the needs of the student. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-455, filed 10/31/78.]

WAC 392-171-460 Placement options—Selection—Required considerations. (1) The placement of each handicapped student shall be determined annually.

(2) Placement options shall include the regular classroom program, resource programs, self-contained programs, and others as set forth in WAC 392-171-465 through 392-171-480.

(3) The selection of the appropriate placement option or options for each handicapped student shall be based upon:

(a) The student's individualized education program;

(b) The least restrictive environment requirements of WAC 392-171-455;

(c) The option or combination of options that provides a reasonably high probability of assisting the student to attain his or her annual goals; and

(d) A consideration of any potential harmful effect on the student or on the quality of services which he or she needs. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-460, filed 10/31/78.]

WAC 392-171-465 Regular education program option. (1) A handicapped student shall remain in the regular classroom program if the goals which have been established for the student can be obtained satisfactorily through the combined effort of regular education, special education, and related services.

(2) Related services and special materials provided for any handicapped student in the regular program shall include, but not be limited to, the services of the following specialists:

(a) School psychologists;

(b) Communication disorder specialists;

(c) Occupational therapists;

(d) Physical therapists;

(e) Nurses;

(f) Social workers;

(g) Itinerant teachers and specialists; and

(h) Any combination of the aforementioned program support personnel who can assist the student to reach his

or her goals. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-465, filed 10/31/78.]

WAC 392-171-470 Resource program option. (1) The resource program is a placement option only for handicapped students who require specialized instruction in addition to their regular classroom program. Eligible students shall receive a minimum of two hours and not more than ten hours per week of specialized instruction within a resource program. The student to teacher ratio (excluding itinerant teachers) for state and federal excess cost funding purposes shall be 35 to 1.

(2) Prior approval of the superintendent of public instruction or his or her designee shall be obtained before a district serves resource program eligible students by an itinerant teacher.

(3) A student may be placed in a special education resource program for up to thirty days, after which time state and federal excess cost funding shall cease unless the student has been fully assessed and determined to be eligible for special education services and resource room placement. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-470, filed 10/31/78.]

WAC 392-171-475 Self-contained program options. Self-contained educational placement options shall include, but not be limited to, the following:

(1) An educational placement that provides specialized instruction by a classroom teacher only for handicapped students who require three or more hours per day of special instruction, or, if the school day is less than three hours, all of the instructional time in that placement. Students in self-contained classes may receive any and all related services. Student-teacher ratios (excluding itinerant teachers) for state and federal excess cost funding purposes are as follows:

- (a) Mental retardation:
 - (i) mildly retarded—13 to 1;
 - (ii) moderately retarded—10 to 1; and
 - (iii) severely and profoundly retarded—8 to 1;
- (b) Sensory handicapped:
 - (i) hearing impaired (deaf and hard of hearing)—6 to 1;
 - (ii) partially sighted—12 to 1; and
 - (iii) blind—6 to 1;
- (c) Gross motor and orthopedically impaired—8 to 1;
- (d) Behaviorally disabled—10 to 1;
- (e) Neurologically impaired—8 to 1;
- (f) Learning/language disability—15 to 1;
- (g) Health impaired (funding is dependent upon special program approval);
 - (h) Multiple handicapped—6 to 1; and
 - (i) Communication disorders (funding is dependent upon special program approval).

(2) Self-contained and resource program combinations may be established exclusively for handicapped students with the prior approval of the superintendent of public instruction or his or her designee. Handicapped students who require from two to ten hours of special

educational instruction per week shall be counted as resource room students for funding purposes. Handicapped students who require three or more hours of instruction per day shall be counted as self-contained. Under no conditions shall a district count a student under both resource and self-contained. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-475, filed 10/31/78.]

WAC 392-171-480 Other program placement options. Other program placement options shall include, but not be limited to, the following:

(1) Home/hospital instruction—Home or hospital instruction shall be provided to both handicapped students and other students who are unable to attend school for an estimated period of four weeks or more because of physical disability or noncommunicable illness. As conditions to such services, the parent(s) of a student (or the adult student) shall request the services and provide a written statement from the student's physician that states the student will not be able to attend school for an estimated period of at least four weeks. A student who qualifies pursuant to this subsection shall be deemed "handicapped" for the purpose of special instructional services and funding notwithstanding the fact the student may not otherwise qualify as a handicapped student pursuant to the disability definitions and criteria set forth in this chapter. A school district shall not pay the cost of the required physician's statement in the case of a student who does not otherwise qualify as a handicapped student pursuant to this chapter.

(2) Other contractual services (see contractual services sections WAC 392-171-605 through 392-171-620) may be established for state and federal excess cost funding purposes with the prior approval of the superintendent of public instruction or his or her designee.

(3) Institution. Students with problems so profound that twenty-four hour residential care is needed may be referred to the state department of social and health services for possible admittance.

(4) Other placement options as approved in advance by the superintendent of public instruction or his or her designee for state and federal excess cost funding purposes. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-480, filed 10/31/78.]

ANNUAL REVIEW OF PLACEMENTS— PERIODIC REASSESSMENT

WAC 392-171-485 Annual placement evaluation—Periodic reassessments—Program improvement. (1) Annual placement review—The educational placement of each handicapped student shall be evaluated and re-determined annually.

(2) Reassessment—Each handicapped student shall be reassessed in compliance with this chapter at least once every three years, or more frequently if conditions warrant or if the student's parent(s) or teacher initiates a referral pursuant to WAC 392-171-395.

(3) Program evaluation—Each school district shall establish a simple and reliable system of evaluating the program established for each handicapped student. Program evaluations shall be based upon a handicapped student's progress toward the accomplishment of the goals and objectives set forth in the student's individualized education program and/or upon the teacher/manager efforts to facilitate change. Specific methods of evaluating and displaying program results shall be determined in accordance with the district's policies and procedures and the student's individualized education program.

(4) The program evaluation system shall assure that the performance measurement is recorded and reported at both in-process and final-result stages, and the results of the evaluation shall be reported to the parent(s) (or the adult student) consistent with policies and procedures of the school district.

(5) Program evaluations shall serve two purposes:

(a) To compare a student's measured performance with established objectives; and

(b) To attempt to identify causal factors that account for significant differences between actual and predicted performance.

(6) Each school district shall develop, in its own format, alternatives designed to improve methods and results that are based upon the performance evaluation of the student. Evaluation of progress shall be continuing and completed at least annually in order to allow assessment personnel to adjust aims, programs, etc., if the objectives are not met. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-485, filed 10/31/78.]

NOTICE REQUIREMENTS—GENERAL

WAC 392-171-490 When notice must be given. Written notice in accordance with WAC 392-171-495 shall be given by a school district to the parent(s) of a student (or to the adult student) a reasonable time before the school district:

(1) Proposes to initiate or change the identification, assessment, or educational placement of the student or the provision of special education and related services to the student pursuant to this chapter; or

(2) Refuses to initiate or change the identification, assessment, or educational placement of the student or the provision of special education and related services to the student pursuant to this chapter. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-490, filed 10/31/78.]

WAC 392-171-495 Contents of notice. (1) The notice required by WAC 392-171-490 shall include:

(a) A full explanation of all of the procedural safeguards available to the parent (or the adult student) that are set forth in this chapter;

(b) A description of the action proposed or refused by the school district, an explanation of why the district proposes or refuses to take the action, and a description

of any options the district considered and the reasons why those options were rejected;

(c) A description of each assessment procedure, test, record, or report the district used as a basis for the proposal or refusal; and

(d) A description of any other factors which are relevant to the district's proposal or refusal.

(2) The notice shall be:

(a) Written in language understandable to the general public; and

(b) Provided in the native language of the parent (or adult student) or other mode of communication used by the parent (or adult student), unless it is clearly not feasible to do so.

(3) If the native language or other mode of communication of the parent (or adult student) is not a written language, the district shall take steps to assure that:

(a) The notice is translated orally or by other means to the parent (or adult student) in his or her native language or other mode of communication;

(b) The parent (or adult student) understands the content of the notice; and

(c) There is written evidence that the requirements in subparagraphs (a) and (b) of this subsection have been met. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-495, filed 10/31/78.]

HEARINGS—GENERAL

WAC 392-171-500 Right to initiate—Purposes. (1) Hearings conducted in accordance with WAC 392-171-500 through 392-171-515 may be initiated in the following cases for the purposes stated:

(a) The parent(s) of a student (or an adult student) or a school district may initiate a hearing to challenge or to show (as the case may be) the appropriateness of a proposal by the school district to initiate or change:

(i) The identification of the student;

(ii) The assessment of the student;

(iii) The educational placement of the student; or

(iv) The provision of special education and related services to the student pursuant to this chapter;

(b) The parent(s) of a student (or an adult student) or a school district may initiate a hearing to challenge or to show (as the case may be) the appropriateness of the school district's refusal of the parent(s) (or adult student's) request to initiate or change:

(i) The identification of the student;

(ii) The assessment of the student;

(iii) The educational placement of the student; or

(iv) The provision of special education and related services to the student pursuant to this chapter;

(c) A school district may initiate a hearing to show that its assessment of a student is appropriate if the student's parent(s) (or adult student) disagrees with the assessment results.

(2) A request by a student's parent(s) (or adult student) for a hearing pursuant to this section shall:

(a) Be in writing (or it may be oral if expressly permitted by a rule of the school district);

(b) Be mailed or provided directly to the superintendent of the school district; and

(c) Explain the complaint of the parent(s) (or adult student) in general or specific terms.

(3) A notice of a hearing requested by a child's parent(s) (or adult student) or initiated by a school district pursuant to this section shall be provided by the hearing officer and shall include, but not necessarily be limited to:

(a) The date, time, and place of the hearing;

(b) The issues to be addressed at the hearing to the extent the issues have been identified at the time of the notice;

(c) The rights, procedures, and other matters set forth in WAC 392-171-505 through 392-171-535; and

(d) The right of the parent(s) (or adult student) to seek an independent assessment at public expense pursuant to WAC 392-171-435. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-500, filed 10/31/78.]

WAC 392-171-505 Hearing officers--Selection and expenses of--Parent assistance. (1) If a hearing is initiated pursuant to WAC 392-171-500:

(a) The hearing shall be conducted by and at the expense of the student's resident school district.

(b) The school district shall inform the parent(s) (or adult student) of any free or low-cost legal and other relevant services available in the area if:

(i) The parent (or adult student) requests the information; or

(ii) The school district or the parent (or adult student) initiates a hearing;

(c) The hearing shall be conducted by a qualified person selected and appointed by the school district who:

(i) Is not an employee of a school district which is involved in the education or care of the student; and

(ii) Does not have a personal or professional interest which would conflict with his or her objectivity in the hearing;

(2) A person who otherwise qualifies to conduct a hearing pursuant to this section is not an "employee" of the school district solely because he or she is paid by the district to serve as a hearing officer.

(3) The parent(s) (or adult student) shall have the right to file a written objection to the hearing officer(s) selected by the district if the parent(s) (or adult student) believe that the hearing officer may be biased. All such objections shall state the belief and the reasons or facts that give rise to the belief. The hearing officer objected to shall rule on the objection after hearing such arguments as the parties wish to make, unless such hearing officer has already chosen to disqualify himself or herself upon receipt of the objection. All such objections, arguments and their disposition shall be made a permanent part of the hearing record.

(4) Each school district and the superintendent of public instruction or his or her designee shall keep a list of potential hearing officers or groups or organizations from which hearing officers may be obtained. The list shall include a statement of the qualifications of each

person specified. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-505, filed 10/31/78.]

WAC 392-171-510 Hearing rights. (1) Any party to a hearing initiated pursuant to WAC 392-171-500 has the right to:

(a) Be accompanied and advised by persons with special knowledge or training with respect to the problems of handicapped students;

(b) Be advised and/or represented by an attorney;

(c) Present evidence, including the opinion(s) of qualified experts, and confront and cross-examine witnesses;

(d) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five days before the hearing;

(e) Obtain a written or electronic verbatim record of the hearing; and

(f) Obtain written findings of fact, conclusions of law and judgments. (The school district shall delete any personally identifiable information and transmit such findings, conclusions and judgments to the superintendent of public instruction for submission to the state advisory council.)

(2) Parents who are a party to a hearing have the right to have the child who is the subject of the hearing present.

(3) Parents (or adult students) who are a party to a hearing have the right to open the hearing to the public.

(4) All parties to a hearing shall, upon request, exercise such authority and influence as they have to compel the attendance of witnesses requested by another party. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-510, filed 10/31/78.]

WAC 392-171-515 Timeline for hearing officer's decision--Time and place of hearing. (1) Not later than forty-five days after the date of receipt of a request for a hearing pursuant to WAC 392-171-500:

(a) A final decision shall be reached based upon a preponderance of the evidence; and

(b) A copy of the decision consisting of the hearing officer's findings of fact, conclusions of law, and judgment shall be mailed or provided directly to each of the parties.

(2) The date of mailing or providing a decision to the parties shall be certified to on the first page of the decision by the person(s) who mails or provides the decision to the parties.

(3) A hearing officer may grant specific extensions of time beyond the period set forth in this section at the request of either party.

(4) Each hearing involving oral arguments shall be conducted at a time and place which is reasonably convenient to the parent(s) and student involved. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-515, filed 10/31/78.]

WAC 392-171-520 Final decision--Appeal. A decision made in a hearing initiated pursuant to WAC 392-

171-500 is final, unless a party to the hearing appeals the decision in accordance with WAC 392-171-525. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-520, filed 10/31/78.]

APPEALS

WAC 392-171-525 Appeals to the superintendent of public instruction. (1) Any party aggrieved by the findings and decision in a hearing initiated pursuant to WAC 392-171-500 may appeal to the superintendent of public instruction: *Provided*, That written notice of such appeal is received by the superintendent of public instruction no later than the thirtieth day after the date upon which the decision was mailed or provided directly to the appealing party. If the thirtieth day falls on a Saturday, Sunday, or state holiday, the time for receipt of notice shall be extended through the next state working day.

(2) All notices of appeal pursuant to this section shall:

(a) Be written;

(b) Specify the party seeking the review;

(c) Specify:

(i) The alleged error(s) in the findings of fact, conclusions of law, and judgment; and

(ii) Any alleged violations of the party's procedural due process rights during the hearing;

(d) Specify the relief requested; and

(e) Be provided to the other party (as well as to the superintendent of public instruction).

(3) A party shall be deemed to have waived any objection to any finding of fact, conclusion of law, or judgment or portion of a judgment which the party does not specifically allege to be in error pursuant to subsection (2) of this section.

(4) The school district shall certify and provide the superintendent of public instruction with the entire original hearing record including a verbatim written transcript of the oral hearing proceedings within fifteen days after the date of receipt of notification that an appeal has been made to the superintendent of public instruction.

(5) If an appeal is made in accordance with this section, the superintendent of public instruction and/or his or her designee shall conduct an impartial review of the hearing.

(6) The superintendent of public instruction and/or his or her designee shall:

(a) Examine the entire hearing record;

(b) Determine whether or not the procedures at the hearing were consistent with the requirements of due process;

(c) Seek additional evidence if necessary by remanding the matter to the school district or by other means (Note: If a hearing is held to receive additional evidence, the rights set forth in WAC 392-171-510 shall apply.);

(d) Afford the parties an opportunity for written and/or oral argument if deemed advisable and subject to request(s) for an extension of time as set forth in WAC

392-171-530(2) (Note: Briefs should conform to the requirements for appellate briefs set forth in RAP 10.3, to the extent it is reasonably within the ability of the party.);

(e) Make an independent decision based upon the preponderance of the evidence; and

(f) Notify the parties of the findings and the decision in writing.

(7) The decision made by the superintendent of public instruction and/or his or her designee is final, unless a party brings a civil action pursuant to 20 United States Code (USC) section 1415. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-525, filed 10/31/78.]

WAC 392-171-530 Timeline for reviewing officer's decision--Time and place of hearings--Final decision.

(1) Not later than thirty days after the date of receipt of a notice of appeal pursuant to WAC 392-171-525:

(a) A final decision shall be reached on the matters designated in the notice of appeal; and

(b) A copy of the decision shall be mailed to each of the parties.

(2) The superintendent of public instruction or his or her designee may grant specific extensions of the time period set forth in this section at the request of either party. No requests by a party for an opportunity to submit briefs or present oral argument shall be considered unless accompanied by a request for an extension of time. No such requests shall be granted unless the request for an extension of time extends at least to the thirtieth day after the date the last brief of the parties is to be submitted or the date of oral argument, whichever is later.

(3) Each hearing conducted upon remand to the school district, or otherwise conducted during the review process, shall be conducted at a time and place which is reasonably convenient to the parent(s) of the student (or adult student) involved.

(4) The decision of the superintendent of public instruction or his or her designee shall be final unless modified or overturned by a court of law. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-530, filed 10/31/78.]

PLACEMENT OF STUDENT DURING ADMINISTRATIVE/JUDICIAL PROCEEDINGS

WAC 392-171-535 Student's status during hearing and state or judicial review processes. (1) During the pendency of any administrative or judicial proceeding regarding a complaint initiated pursuant to WAC 392-171-500, unless the school district and the parent(s) of the student (or the adult student) agree otherwise, the student involved in the complaint shall remain in the educational placement he or she was in at the time the complaint was made.

(2) The student, with the consent of the parent(s) (or the adult student), shall be placed in the regular school program until the completion of all such proceedings if

the complaint involves an application for initial admission to the school. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-535, filed 10/31/78.]

SURROGATE PARENTS

WAC 392-171-540 Surrogate parents. (1) General. Each school district providing a special education program to a nonadult handicapped student shall assure that the rights of the nonadult student are protected when:

(a) No parent (as defined in WAC 392-171-310(5)) can be identified;

(b) The school district, after reasonable efforts, cannot discover the whereabouts of a parent; or

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

(2) Duty of school district. The duty of a school district under this section includes the assignment of a person to act as a surrogate for the parents. This duty includes the establishment of a method:

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

(b) For assigning a surrogate parent to the student.

(3) Criteria for selection of surrogates. Each school district shall assure that a person selected as a surrogate:

(a) Has no interest that conflicts with the interests of the student he or she represents; and

(b) Has knowledge and skills that assure adequate representation of the student.

(4) Nonemployee requirement—Compensation:

(a) A person assigned as a surrogate may not be an employee of a school district and/or other agency which is involved in the education or care of the student; and

(b) A person who otherwise qualifies as a surrogate parent pursuant to this section is not an "employee" of the school district and/or other agency solely because he or she is paid by the school district and/or agency to serve as a surrogate parent.

(5) Responsibilities. A surrogate parent may represent the student in all matters relating to:

(a) The identification, assessment, and educational placement of the student; and

(b) The provision of free special education and related services to the student. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-540, filed 10/31/78.]

RECORDS

WAC 392-171-545 Definition of "education records" as used in records rules. (1) For the purpose of WAC 392-171-555 through 392-171-600 governing handicapped student records, the term "education records" shall mean those records that:

(a) Are directly related to a student; and

(b) Are maintained by a school district or by a party acting for the school district.

(2) The term "education records" does not include:

(a) Records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which:

(i) Are in the sole possession of the maker thereof; and

(ii) Are not accessible or revealed to any other individual except a substitute. For the purpose of this definition, a "substitute" means an individual who performs on a temporary basis the duties of the individual who made the record and does not refer to an individual who permanently succeeds the maker of the record in his or her position;

(b) Records of a law enforcement unit of a school district which are:

(i) Maintained apart from the records described in subsection (1) of this section;

(ii) Maintained solely for law enforcement purposes; and

(iii) Not disclosed to individuals other than law enforcement officials of the same jurisdiction: *Provided*, That education records maintained by the school district are not disclosed to the personnel of the law enforcement unit;

(c) Records relating to an individual who is employed by a school district which:

(i) Are made and maintained in the normal course of business;

(ii) Relate exclusively to the individual in that individual's capacity as an employee; and

(iii) Are not available for use for any other purpose: *Provided*, That this exception from the definition of "education records" does not apply to records relating to an individual in attendance at the school district who is employed as a result of his or her status as a student;

(d) Records relating to an adult student which are:

(i) Created or maintained by a physician, psychiatrist, psychologist, or other recognized professional acting in his or her professional or paraprofessional capacity;

(ii) Created, maintained, or used only in connection with the provision of treatment to the student; and

(iii) Not disclosed to anyone other than individuals providing the treatment: *Provided*, That the records can be personally reviewed by a physician or other appropriate professional of the student's choice. For the purpose of this definition, "treatment" does not include remedial educational activities or activities which are part of the program of instruction at the school district;

(e) Records of a school district which contain only information relating to a person after that person was no longer a student at the school district. An example would be information collected by a school district pertaining to the accomplishments of its alumni. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-545, filed 10/31/78.]

WAC 392-171-550 Definitions used in records rules—"Destruction"—"Native language"—And "Participating agency." For the purpose of WAC 392-171-555 through 392-171-600 governing handicapped student records:

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

(2) "Native language" has the meaning given that term by section 703(a)(2) of the Bilingual Education Act, which provides essentially as follows:

The term "native language," when used with reference to a person of limited English-speaking ability, means the language normally used by that person, or in the case of a nonadult student, the language normally used by the parents of the student.

(3) "Participating agency" means any agency or institution which collects, maintains, or uses personally identifiable information or from which information is obtained pursuant to this chapter. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-550, filed 10/31/78.]

WAC 392-171-555 Access rights. (1) Each school district shall permit parents of handicapped students (or adult students) to inspect and review during school business hours any education records relating to their children or ward (or the adult student) which are collected, maintained, or used by the district under this chapter. The district shall comply with a request promptly and before any meeting regarding an individualized education program or hearing relating to the identification, evaluation, or placement of the student.

(2) The right to inspect and review education records under this section includes:

(a) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records;

(b) The right to request that the school district provide copies of the records containing the information if failure to provide those exercising the right to inspect and review the records; and

(c) The right to have a representative of the parent (or adult student) inspect and review records.

(3) A school district may presume that a parent has authority to inspect and review records relating to his or her child or ward unless the district has been advised that the parent does not have the authority under applicable state law governing such matters as guardianship, separation, and divorce. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-555, filed 10/31/78.]

WAC 392-171-560 Record or access. Each participating agency shall keep a record of parties obtaining access to education records collected, maintained, or used under this chapter (except access by parents, adult students, and authorized employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-560, filed 10/31/78.]

WAC 392-171-565 Records on more than one student. If any education record includes information on more than one student, the parent(s) of those students (and/or adult students) shall have the right to inspect and review only the information relating to their child or ward (or themselves) or to be informed of that specific information. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-565, filed 10/31/78.]

WAC 392-171-570 List of types and locations of information. Each participating agency shall provide parents (and adult students) on request a list of the types and locations of education records collected, maintained, or used by the agency. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-570, filed 10/31/78.]

WAC 392-171-575 Fees. (1) A participating education agency may charge a fee for copies of records which are made for parents (or adult students) under this chapter if the fee does not effectively prevent the parents (or adult students) from exercising their right to inspect and review those records.

(2) A participating agency may not charge a fee to search for or to retrieve information under this chapter. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-575, filed 10/31/78.]

WAC 392-171-580 Amendment of records at the request of a parent or adult student. (1) A parent of a handicapped student (or an adult student) who believes that information in education records collected, maintained, or used under this chapter is inaccurate or misleading or violates the privacy or other rights of the student may request the participating agency which maintains the information to amend the information.

(2) The agency shall decide whether to amend the information in accordance with the request within a reasonable period of time after receipt of the request.

(3) If the agency decides to refuse to amend the information in accordance with the request it shall inform the parent (or adult student) of the refusal and advise the parent (or adult student) of the right to a hearing pursuant to WAC 392-171-585.

(4) The participating agency, on request, shall provide the parent (or adult student) an opportunity for a hearing to challenge information in education records to insure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student.

(5) If, as a result of the hearing, the participating agency decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall amend the information accordingly and so inform the parent (or adult student) in writing.

(6) If, as a result of the hearing, the participating agency decides that the information is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, it shall inform the parent(s)

(or adult student) of the right to place in the records it maintains on the student a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.

(7) Any explanation placed in the records of the student pursuant to this section shall:

(a) Be maintained by the participating agency as part of the records of the student as long as the record or contested portion is maintained by the participating agency; and

(b) Also be disclosed to any party to whom the records of the student (or the contested portion thereof) are disclosed. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-580, filed 10/31/78.]

WAC 392-171-585 Hearing procedures regarding records. A hearing initiated pursuant to WAC 392-171-580 to challenge information in education records shall be conducted according to procedures which include at least the following elements:

(1) The hearing shall be held within a reasonable period of time after the participating agency has received the request;

(2) The parent (or adult student) shall be given notice of the date, place, and time reasonably in advance of the hearing;

(3) The hearing may be conducted by any party, including an official of the participating agency, who does not have a direct interest in the outcome of the hearing;

(4) The parent (or adult student) shall be afforded a full and fair opportunity to present evidence relevant to the issues raised pursuant to WAC 392-171-580 and may be assisted or represented by individuals of his or her choice at his or her own expense, including an attorney;

(5) The participating agency shall provide a written decision to the parent (or adult student) within a reasonable period of time after the conclusion of the hearing; and

(6) The decision of the participating agency shall:

(a) Be based solely upon the evidence presented at the hearing; and

(b) Include a summary of the evidence and the reasons for the decision. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-585, filed 10/31/78.]

WAC 392-171-590 Consent. (1) Consent of a parent (or adult student) shall be obtained before personally identifiable information is:

(a) Disclosed to anyone other than officials of participating agencies collecting or using the information under this chapter subject to subsection (2) of this section; or

(b) Used for any purpose other than meeting a requirement imposed by this chapter.

(2) No school district shall release information from education records to participating agencies without the consent of a parent (or adult student) except in those cases in which a release of information without consent is permitted by the rules that implement the federal

Family Educational Rights and Privacy Act (the "Buckley Amendment")—45 Code of Federal Regulations (CFR) sections 99.1 et seq. See 45 CFR 99.31 (when prior consent not required), 45 CFR 99.34 (disclosure to state and federal officials) and 45 CFR 99.36 (directory information). [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-590, filed 10/31/78.]

WAC 392-171-595 Safeguards. (1) Each participating agency shall protect the confidentiality of personally identifiable information at the collection, storage, disclosure, and destruction stages.

(2) One official at each participating agency shall be designated as the individual responsible for assuring the confidentiality of any personally identifiable information.

(3) All persons collecting or using personally identifiable information shall receive training or instruction regarding:

(a) The policies and procedures on protection of the confidentiality of personally identifiable information set forth in the state's annual program plan; and

(b) 45 CFR 99.1 et seq. (the "Buckley Amendment" rules).

(4) Each participating agency shall maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-595, filed 10/31/78.]

WAC 392-171-600 Destruction of information. Each school district shall inform parents (and adult students) when personally identifiable information collected, maintained, or used pursuant to this chapter is no longer needed to provide educational services to the student. The information shall thereafter be destroyed at the request of the parent(s) (or adult student). However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed and year completed may be maintained without time limitation. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-600, filed 10/31/78.]

CONTRACTUAL SERVICES

WAC 392-171-605 Contractual services. (1) School districts, severally or jointly, with the prior approval of the superintendent of public instruction or his or her designee, shall be authorized to:

(a) Contract with nonpublic school agencies for special education and related services for handicapped students; and

(b) Enter into interdistrict agreements with another school district(s) pursuant to RCW 28A.58.075, 28A.58.245, 28A.58.250, and chapter 392-135 WAC.

(2) If a handicapped student has special education and related services available in his or her public school district of residence and the child is placed in another public school district or in a state residential school or in a private school or facility other than pursuant to a contractual arrangement between the student's district of (initial) residence and the entity of placement, the district of (initial) residence shall not be required to pay for the student's education or otherwise be responsible for the education of the student, except to the extent the student may qualify for services as a private school student pursuant to WAC 392-171-625 et seq. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-605, filed 10/31/78.]

WAC 392-171-610 Approval of nonpublic school agencies. A school district shall not either place a student in a nonpublic school agency or award a contract to a nonpublic school agency until the nonpublic school agency has been approved by the state board of education. Approval of such agencies shall be made in accordance with the following procedures:

(1) The school district shall establish that it cannot provide an appropriate education for the handicapped student within the district or another school district;

(2) The school district shall establish that all requirements imposed by this chapter for contracting with a nonpublic school agency can be met and shall forward the nonpublic school agency's application to the superintendent of public instruction or his or her designee;

(3) The superintendent of public instruction or his or her designee shall recommend approval or disapproval of the agency to the state board of education; and

(4) The superintendent of public instruction or his or her designee shall notify the requesting school district and nonpublic school agency of approval or disapproval. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-610, filed 10/31/78.]

WAC 392-171-615 School district responsibility when contracting for placement in a nonpublic school agency. Any school district contracting with an approved nonpublic school agency for special education or related services in behalf of a handicapped student shall:

(1) Initiate and conduct a meeting with appropriate personnel and the student's parent(s) for the purpose of developing the student's individualized education program. The district shall assure that a representative of the nonpublic school agency attends the meeting or in some other way assure participation by the nonpublic school agency. Meetings to review or revise the student's individualized education program after the student has been placed shall be initiated and conducted by the nonpublic school agency at the discretion of the school district. The district shall assure that both the parent(s) (or the adult student) and the nonpublic school agency are represented in any decision concerning the student's individualized education program and agree to proposed

changes in the program before those changes are implemented. The responsibility for compliance with this section lies with the school district.

(2) Develop a written contract which shall include, but not necessarily be limited to, the following elements:

- (a) Names of the parties involved;
- (b) The name of the handicapped student(s) for whom the contract is drawn;
- (c) Location and setting;
- (d) Description of program administration and supervision;
- (e) Designation of coordinator of the services to be provided by the school district and the contractor;
- (f) Assurance of compliance with staff licensing/certification requirements;
- (g) Periodic student report requirements;
- (h) Annual program monitoring procedures and requirements;
- (i) Starting date and duration of contract;
- (j) Program day and description of student's program;
- (k) Charges and reimbursement—billing and payment procedures;
- (l) Total contract cost;
- (m) Contract review;
- (n) Disposition of materials and equipment upon termination;
- (o) School district's responsibility for compliance with due process, individualized education program, and yearly review and determination of placement requirements;
- (p) Contractor's policies and procedures covering:
 - (i) care of student(s) in emergencies;
 - (ii) fire drills;
 - (iii) personnel policies;
 - (iv) staff duties; and
 - (v) board of directors' duties and functions;
- (q) Other contractual elements that may be necessary to assure compliance with state and federal rules and clearly define each party's role and functions; and
- (r) Signatures of authorized school and contractor officials. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-615, filed 10/31/78.]

WAC 392-171-620 Out-of-state agencies. In the event the school district within which a handicapped student resides is unable to contract with another district, or a nonpublic school agency, or an appropriate state agency, the parent (or adult student) and district may jointly petition the superintendent of public instruction or his or her designee for state and federal excess cost funds to provide an educational program with an agency in another state or Canada.

Contractual arrangements for an out-of-state educational program shall be approved by the superintendent of public instruction or his or her designee prior to the student's placement in that program. The school district shall be responsible for:

(1) Determining that no appropriate in-state placement option is available and for making the decision that the student should be placed in an out-of-state program;

(2) Determining that the out-of-state educational program is appropriately licensed or approved by that state's authorities and that placement will result in an appropriate education for the student; and

(3) Contracting with the out-of-state agency pursuant to the requirements of WAC 392-171-605 through 392-171-615. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-620, filed 10/31/78.]

PRIVATE SCHOOL STUDENTS

WAC 392-171-625 Definition--"Private school handicapped student(s)." For the purpose of WAC 392-171-630 through 392-171-665 "private school handicapped student(s)" means handicapped students enrolled in private schools or agencies but not as the result of a contractual arrangement between a public school district and the private school or agency. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-625, filed 10/31/78.]

WAC 392-171-630 School district responsibility for private school handicapped students. Subject to the provisions of WAC 392-171-635 through 392-171-665:

(1) Each school district shall provide special education and related services designed to meet the needs of private school handicapped students who reside in the school district.

(2) Each school district shall provide private school handicapped students with genuine opportunities to participate in special education and related services consistent with the number of those students and their needs. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-630, filed 10/31/78.]

WAC 392-171-635 Determination of needs, numbers of students and types of services. The needs of private school handicapped students, the number who will participate, and the types of special education and related services which the school district will provide them shall be determined after consultation with persons knowledgeable of the needs of these students on a basis comparable to that used in providing for the participation under this chapter of handicapped students enrolled in public schools. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-635, filed 10/31/78.]

WAC 392-171-640 Service arrangements. (1) Special education and related services to private school handicapped students may be provided through such arrangements as dual enrollment pursuant to chapter 392-181 WAC, educational radio and television, and the provision of mobile educational services and equipment.

(2) No services, material, or equipment of any nature shall be provided to or on the site of any private school or agency subject to sectarian (i.e., religious) control or influence.

(3) Handicapped students enrolled in any private school or agency subject to sectarian control or influence shall be provided services in a manner that:

(a) Maintains a physical and administrative separation between the private and the public school programs; and

(b) Does not benefit the private school at public expense, e.g., pursuant to dual enrollment or shared time arrangements in accordance with chapter 392-181 WAC. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-640, filed 10/31/78.]

WAC 392-171-645 Personnel in private schools and agencies. (1) School district personnel may be made available to nonsectarian private schools and agencies only to the extent necessary to provide services required by the handicapped student for whose needs those services were designed and only when those services are not normally provided by the nonsectarian private school or agency.

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

(3) Services to private school handicapped students shall not include the payment of salaries of teachers or other employees of private schools or agencies, except for services performed outside regular hours of the school day and under public supervision and control. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-645, filed 10/31/78.]

WAC 392-171-650 Equipment--Construction. (1) Equipment used in the care of students with handicapping conditions in a private school or agency may be placed on nonsectarian private school or agency premises for a limited time, but title to and administrative control over all equipment must be retained and exercised by the school district.

(2) Records shall be kept of equipment and an accounting made of the equipment which shall assure that the equipment is used solely for the purposes of the program.

(3) The equipment shall be removed from the private school or agency if necessary to avoid its being used for other purposes or if it is no longer needed for the purposes of the program or project.

(4) Funds shall not be used to construct facilities for private schools or agencies. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-650, filed 10/31/78.]

WAC 392-171-655 Prohibition of segregation. Programs or projects carried out in public facilities, and involving joint participation by handicapped students otherwise enrolled in private schools or agencies and handicapped students enrolled in public schools, shall not include classes that are separated on the basis of

school enrollment or the religious affiliations of the students. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-655, filed 10/31/78.]

WAC 392-171-660 Funds and property not to benefit private schools. Public funds provided and property derived from those finds [funds] shall not inure to the benefit of any private school or agency. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-660, filed 10/31/78.]

WAC 392-171-665 Existing level of instruction. Provisions for serving private school handicapped students shall not include the financing of the existing level of instruction in a private school or agency. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-665, filed 10/31/78.]

ANNUAL SCHOOL DISTRICT APPLICATION/REQUIREMENTS—STATE MONITORING

WAC 392-171-670 Annual applications—Contents. As a condition to the receipt and expenditure of state and federal excess cost funds, a school district shall annually submit an application to the superintendent of public instruction or his or her designee on or before such date is announced and conduct its special education and related services program in compliance therewith. The applications shall be made pursuant to forms developed and distributed by the superintendent or his or her designee. Application forms shall include, but not necessarily be limited to, the following assurance(s) and types of information:

(1) An assurance that:

(a) The school district is in compliance with the provisions of this chapter (including, but not limited to, the comparable facilities requirements of WAC 392-171-700) and the rules implementing P.L. 94-142 (45 CFR 121a.1 et seq.) that may supplement this chapter;

(b) That the district shall remain in compliance with this chapter and any such supplemental rules for the entire school year; and

(c) That the funds applied for shall be expended in compliance with the application, this chapter, and any such supplemental federal rules;

(2) The information and assurances required by 45 CFR 121a.220 through 45 CFR 121a.240 and any other pertinent federal rules;

(3) A description of the organizational structure of the district's special education program including, but not limited to, a description of assigned management responsibilities;

(4) A description of the district's special education program instructional staff by number, types, and their qualifications in accordance with WAC 392-171-685;

(5) A description of the district's procedures for locating, identifying, and assessing handicapped students;

(6) A description of the number and types of handicapped students within the district that require special education and related services;

(7) A description of the district's plans and procedures for providing special education and related services to handicapped students which the district is unable to serve directly;

(8) A description of the basis and procedures for excluding handicapped students from the district's special education program;

(9) A description of the continuum of alternative educational placements made available to handicapped students; and

(10) A description of the career development and vocational education programs made available to handicapped students. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-670, filed 10/31/78.]

WAC 392-171-675 Denial of applications—Opportunity for hearing. (1) In the event the superintendent of public instruction or his or her designee proposes to deny, in whole or part, the application of a district for state or federal excess cost funds, the district shall be provided notice pursuant to RCW 34.04.090 of:

(a) Intent to deny the application of the district; and

(b) The district's opportunity for a hearing before the superintendent of public instruction or his or her designee prior to a denial of the application.

(2) The district's application may be denied, in whole or part, in the event the district fails to request a hearing or the hearing decision upholds the proposed basis for denial. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-675, filed 10/31/78.]

WAC 392-171-680 Monitoring. The superintendent of public instruction or his or her designee shall annually monitor selected school districts. The purposes of monitoring shall be to:

(1) Determine the degree of compliance with this chapter by school districts; and

(2) Provide technical advice and assistance to the districts to assist them to improve their special education programs and avoid or remedy instances of noncompliance. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-680, filed 10/31/78.]

MISCELLANEOUS PROGRAM REQUIREMENTS

WAC 392-171-685 Staff qualifications. All employees of a school district funded in whole or part with state or federal excess cost funds shall be qualified, as follows:

(1) All employees shall hold such credentials, certificates or permits as are now or hereafter required by the state board of education for the particular position of employment and shall meet such supplemental standards as may be established by the school district of employment. Supplemental standards established by a district

may exceed, but not be less than, those established by this section.

(2) In addition to the requirement of subsection (1) of this section, all teachers shall possess "substantial professional training" and/or "successful prior experience" and support personnel shall meet standards established under the educational staff associate rules of the state board of education, as now or hereafter amended.

(a) "Successful prior professional experience" as used in this section shall mean at least three full school years of employment as a professional staff member in an approved special education program within the five year period immediately preceding the school year of employment in a position supported in whole or part by excess cost apportionment funds.

(b) "Substantial professional training" as used in this section shall mean and be evidenced by either an appropriate special education endorsement or recommended placement upon the teaching certificate of an employee issued by the superintendent of public instruction or completion of teacher education program designed to prepare teachers of students with handicapping conditions offered by an institution approved by the state board of education for teacher certification purposes.

(3) Classified staff shall present evidence of either formal and/or adequate in-service training or successful experience in working with handicapped students.

(4) The assignment of personnel shall be consistent with training and experience appropriate to the age level (preschool, elementary, secondary) and type of program in which teaching will be performed. District reorganization, reductions in force, and reassignments shall be made in a manner consistent with the requirements of this section.

(5) The superintendent of public instruction or his or her designee may grant an exception to compliance with any of the staff qualifications imposed by this section which are above and beyond certification requirements imposed by the state board of education, only upon the request of a school district and the provision of satisfactory assurances by the district that noncompliance:

(a) Is unavoidable;

(b) Will be temporary and not extend beyond the school year for which the exception is requested; and

(c) Will not likely result in a significant reduction in the quality of the district's special education program.

(6) Notwithstanding any staff qualification requirement of this section to the contrary, employees of a school district which possess credentials as required by the state board of education and who were employed during and serving as of termination of the 1974-75 school year in the special education program of the district shall be deemed qualified for purposes of state program approval so long as they continue in such employment with that particular district. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-685, filed 10/31/78.]

WAC 392-171-690 Transportation. (1) Methods. Transportation options for handicapped students shall

include the following categories and shall be exercised in the following sequence:

(a) A scheduled school bus;

(b) Contracted transportation, including public transportation; and

(c) Other arrangements, including that provided by parents.

Board and room cost may be provided whenever the above stated transportation options are not feasible because of the need(s) of a handicapped student or because of the unavailability of adequate means of transportation, in accordance with rules of the superintendent of public instruction.

(2) Welfare of the student. The transportation of a handicapped student shall be in accordance with rules of the superintendent of public instruction governing transportation by public school districts.

(3) Bus aides. Funds to support bus aides may be provided subject to program approval by the superintendent of public instruction or his or her designee.

Training and supervision of bus aides and drivers shall be the responsibility of the school district superintendent or his or her designee.

(4) Special equipment. Special equipment may include lifts, wheel chair holders, restrainers, and two-way radios. All such special equipment shall comply with specifications as now or hereafter contained in the specifications for school buses as now or hereafter established by the superintendent of public instruction.

An inventory of all such special equipment shall be maintained by each educational service district to assure full and continued use of special equipment within the educational service district or among other educational service districts.

(5) Transportation time on bus. Wherever reasonably possible, no student should be required to ride more than sixty minutes one way.

(6) Discipline of handicapped students during transportation. The discipline of a handicapped student during his or her transportation shall be the responsibility of the transporting district. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-690, filed 10/31/78.]

WAC 392-171-695 Facilities. Construction of special facilities or the remodeling of present facilities in order to meet the special education and related services needs of any handicapped student shall be provided in accordance with rules of the superintendent of public instruction and the state board of education which govern the construction and/or financing of school district facilities. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-695, filed 10/31/78.]

WAC 392-171-700 Comparable facilities. If a school district, in compliance with this chapter, operates a facility that is identifiable as being for handicapped students, the district shall assure that the facility and the services and activities provided therein are comparable

in quality to the district's facilities, services, and activities for nonhandicapped students. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-700, filed 10/31/78.]

WAC 392-171-705 Program length. The length of the education program for handicapped students shall be the same as the length of the education program for nonhandicapped students in terms of both the number of school days in the regular school year and the average number of hours per school day. If a handicapped student cannot attend school a full school day, the reason shall be documented in his or her education or medical records. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-705, filed 10/31/78.]

WAC 392-171-710 Administration of medication. (1) Medication may be administered to a handicapped student by school district personnel subject to the state professional licensing laws and the following conditions:

(a) The medication shall be administered pursuant to a written order and written instruction from the student's physician; and

(b) The medication shall be supplied by the student's parent(s) (or the adult student).

(2) The orders and instructions shall be current, obtained at least yearly, and reviewed and updated whenever there is a significant change in the student's school activity program, in accordance with policies adopted by the school district. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-710, filed 10/31/78.]

AUDITS—WITHHOLDING AND RECOVERY OF FUNDS

WAC 392-171-715 Definition of "unlawfully received or expended funds." For the purpose of WAC 392-171-720 through 392-171-735, "unlawfully received or expended funds" shall mean any state or federal excess cost funds received and held or expended by a school district in a manner or for a purpose that is in violation of any provision of:

(1) State statute or rule, including this chapter; or

(2) Any federal rule or condition to funding that may now or hereafter supplement this chapter. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-715, filed 10/31/78.]

WAC 392-171-720 Audits. (1) The superintendent of public instruction or his or her designee shall conduct fiscal/program audits of school district special education programs. The purposes of such audits shall be:

(a) To determine compliance or noncompliance with:

(i) a school district's application(s) for state and federal excess cost funds;

(ii) the provisions of this chapter; and

(iii) any supplemental federal conditions to funding as may now or hereafter exist.

(b) To establish a factual basis for:

(i) the recovery of unlawfully received or expended funds; or

(ii) the initiation of fund withholding proceedings;

(2) Preliminary audit report—Following an audit, a preliminary written audit report shall be submitted to the school district for review and comment. The preliminary audit report shall include, but not be limited to:

(a) Findings of noncompliance, if any; and

(b) Recommendations for remediation of any such instance(s) of noncompliance.

(3) The school district shall have fifteen days after the date of its receipt of the preliminary audit report to provide the superintendent of public instruction or his or her designee a written reply setting forth any supplemental arguments and/or facts that may serve as a basis for alteration of the preliminary finding(s) of noncompliance.

(4) Final audit report—A final written audit report shall be provided to the school district after review of the supplemental arguments and/or facts submitted by the district. The final audit report shall include, but not necessarily be limited to:

(a) Findings of noncompliance, if any; and

(b) Recommendations for remediation of any such instance(s) of noncompliance.

(5) The school district shall have fifteen days after the date of its receipt of the final audit report to provide the superintendent of public instruction or his or her designee a written plan which sets forth the measures the district shall take and time period(s) within which the district shall act in order to remedy the instance(s) of noncompliance.

(6) The superintendent of public instruction or his or her designee shall either approve the plan as submitted or request the school district to make such modifications as are considered necessary. Once an approvable plan has been submitted the district shall be provided written notice of:

(a) Approval;

(b) The performance expected of the district; and

(c) The schedule for periodic review or audit of the district's progress toward remediation of the instance(s) of noncompliance. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-720, filed 10/31/78.]

WAC 392-171-725 Fund withholding. (1) In the event a school district fails to submit an approvable remediation plan pursuant to WAC 392-171-720 or fails to comply with a remediation plan approved pursuant to WAC 392-171-720, the superintendent or his or her designee shall provide the school district notice pursuant to RCW 34.04.090 of:

(a) Intent to withhold a specified amount of state and/or federal excess cost funds; and

(b) The district's opportunity for a hearing before the superintendent of public instruction or his or her designee prior to commencement of the withholding.

(2) Funds may be withheld in whole or part in the event the district fails to request a hearing or the hearing decision upholds the final audit in whole or part.

[Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-725, filed 10/31/78.]

WAC 392-171-730 Recovery of funds. (1) If a preliminary audit conducted pursuant to WAC 392-171-720 indicates that a district has unlawfully received and/or expended either state or federal excess cost funds, the superintendent of public instruction or his or her designee shall provide the school district with an opportunity for an informal conference prior to the final audit report.

(2) If the final audit report sets forth one or more instances of unlawful receipt or expenditure of either state or federal excess cost funds, the superintendent of public instruction or his or her designee shall take such action as he or she deems necessary to recover the funds including, but not limited to, a reduction in future allocations of any amount of any state funds and/or any amount of federal excess cost funds to the district.

(3) No right to a hearing in connection with the recovery of funds unlawfully received and/or expended is granted by this chapter. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-730, filed 10/31/78.]

WAC 392-171-735 Fund withholdings to enforce parent appeal decisions. The superintendent of public instruction or his or her designee may withhold any amount of state funds and/or any amount of federal excess cost funds as he or she deems necessary to enforce a decision made on appeal pursuant to WAC 392-171-525 and 392-171-530 without any necessity of a further hearing on the matter. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-735, filed 10/31/78.]

CITIZEN COMPLAINT PROCESS

WAC 392-171-740 Right to register and process complaints. (1) Any person, entity, or organization may register and process complaints alleging one or more violations of this chapter as provided for in WAC 392-171-740(2) through 392-171-760.

(2) Complaints shall:

- (a) Be written;
- (b) Be signed by the complaining party;
- (c) Set forth the specific acts, conditions, or circumstance alleged to be in violation of this chapter; and
- (d) Be directed to the superintendent of the school district alleged to be in violation. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-740, filed 10/31/78.]

WAC 392-171-745 Designation of responsible school district employee. The superintendent of each school district shall designate at least one employee for monitoring and coordinating the district's compliance with this chapter. The employee designated pursuant to this section shall also be charged with the responsibility

for investigating any complaint(s) communicated to the school district pursuant to WAC 392-171-740. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-745, filed 10/31/78.]

WAC 392-171-750 School district investigation of and response to complaints. (1) Upon receipt of a complaint pursuant to WAC 392-171-740, the employee(s) designated pursuant to WAC 392-171-745 or his or her designee shall investigate the allegation(s) set forth.

(2) Upon completion of the investigation, the designated employee(s) shall provide the district superintendent with a written report of the complaint and the results of the investigation. The district superintendent or his or her designee shall respond in writing to the complaining party as expeditiously as possible but in no event later than thirty calendar days after the date of receipt of such complaint by the school district.

(3) The response of the school district superintendent or his or her designee shall clearly state either:

(a) That the school district denies the allegations contained in the complaint; or

(b) The nature of such reasonable corrective measures deemed necessary to eliminate any such act, condition, or circumstance within the school district: *Provided*, That any such corrective measures deemed necessary shall be instituted as expeditiously as possible but in no event later than thirty calendar days following the date of the response to the complaining party. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-750, filed 10/31/78.]

WAC 392-171-755 Appeal to the superintendent of public instruction. (1) In the event a complainant remains aggrieved with the decision of a school district superintendent or his or her designee provided pursuant to WAC 392-171-750, the complainant may appeal the decision to the superintendent of public instruction: *Provided*, That a parent (or adult student) with a complaint which constitutes a basis, in whole or part, for initiation of a hearing pursuant to WAC 392-171-500 shall exercise his or her hearing rights in lieu of an appeal to the superintendent of public instruction pursuant to this section.

(2) A written notice of appeal must be received by the superintendent of public instruction on or before the thirtieth day after the date the complainant received the written response of the school district superintendent pursuant to WAC 392-171-750. The notice shall set forth:

(a) A statement of the portion(s) of the school district superintendent's decision which is appealed from; and

(b) The relief or remedy requested by the complainant/appellant. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-755, filed 10/31/78.]

WAC 392-171-760 Actions in response to notices of appeal. (1) The superintendent of public instruction or his or her designee shall act expeditiously to investigate

the allegation(s) in a notice of appeal that is deemed to be of substance.

(2) If the investigation reveals that there is merit to the allegation(s), the superintendent or his or her designee will provide for negotiations, or technical advice and assistance, or other remedial action in an attempt to achieve compliance with this chapter.

(3) If compliance is not achieved pursuant to subsection (2) of this section, the superintendent of public instruction or his or her designee will initiate fund withholding in compliance with the notice requirements of WAC 392-171-725, or initiate fund recovery, or initiate any other sanction deemed appropriate. [Statutory Authority: RCW 28A.13.010 and 28A.13.070(7). 78-11-074 (Order 11-78), § 392-171-760, filed 10/31/78.]

Chapter 392-185 WAC
CERTIFIED EDUCATIONAL CLINICS--
DISTRIBUTION OF STATE FUNDS

WAC

- 392-185-005 Purpose.
- 392-185-010 Definitions.
- 392-185-020 Application for funding.
- 392-185-030 Reimbursement eligibility—Contracts.
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- 392-185-050 Instruction—Fees.
- 392-185-060 Fees—Payment and procedures.
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- 392-185-090 Enrollment and absences.
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- 392-185-130 Fund reallocation.
- 392-185-140 Return to regular school program.
- 392-185-150 Eligibility to take the general educational development (GED) tests.

WAC 392-185-005 Purpose. The purpose of this chapter is to establish the regulations and procedures necessary to distribute funds to certified educational clinics as provided in chapter 28A.97 RCW as enacted or hereafter amended and section 95(2), chapter 339, Laws of 1977 ex. sess. [Statutory Authority: RCW 28A.97.050 and 1977 ex.s. c 339 § 95 (uncodified). 78-03-008 (Order 1-78), § 392-185-005, filed 2/6/78, effective 3/9/78.]

WAC 392-185-010 Definitions. The following definitions shall apply to terms used in this chapter:

(1) The terms, "educational clinic," "basic academic skills," "a clinical-client centered basis," "individual diagnostic procedures," "general educational development tests," "educational gains," and "employment orientation," as defined in WAC 180-95-010 as adopted or hereafter amended shall apply to the provisions of this chapter.

(2) An "eligible common school dropout" shall mean a person who (a) has not completed high school; (b) has reached his or her thirteenth birthday and not attained his or her twentieth birthday; (c) does not show proficiency beyond the high school level in a test approved by the superintendent of public instruction which has been

given as a part of the initial diagnostic procedure; and (d) has dropped out of a common school for at least one month and written verification is received from a school official of the common school last attended stating that such person is no longer in attendance at such school unless (i) the board of directors or its designee submits a written request that such person be admitted, or (ii) the person has been expelled or suspended pursuant to chapter 180-40 WAC. The fact that any person may be subject to the compulsory attendance law, chapter 28A-.27 RCW, shall not affect his or her qualifications as an eligible common school dropout under this chapter.

In addition, to qualify as an "eligible common school dropout" a child must have on file with the appropriate certified educational clinic a written waiver allowing the superintendent of public instruction to examine his or her records at the certified educational clinic at any time and for purposes consistent with the intent of this chapter and chapter 180-95 WAC.

(3) "Class size" is defined to be that number of students assigned to a single certificated teacher during the period of time for which reimbursement is requested regardless of whether or not the students are working on similar courses, subjects, or activities. [Statutory Authority: RCW 28A.97.050. 79-12-004 (Order 8-79), § 392-185-010, filed 11/9/79. Statutory Authority: RCW 28A.97.050 and 1977 ex.s. c 339 § 95 (uncodified). 78-03-008 (Order 1-78), § 392-185-010, filed 2/6/78, effective 3/9/78.]

WAC 392-185-020 Application for funding. Any certified educational clinic shall be eligible to apply for state reimbursement for costs pursuant to WAC 392-185-040 and 392-185-050 incurred in diagnostic screening of and/or instructional activities provided to eligible common school dropouts. Such applications shall be prepared in accordance with guidelines provided by the superintendent of public instruction. Neither certification of an educational clinic nor completion of required application materials shall guarantee receipt of funds. [Statutory Authority: RCW 28A.97.050 and 1977 ex.s. c 339 § 95 (uncodified). 78-03-008 (Order 1-78), § 392-185-020, filed 2/6/78, effective 3/9/78.]

WAC 392-185-030 Reimbursement eligibility--Contracts. The superintendent of public instruction shall provide reimbursement pursuant to contractual agreements with certified clinics. Contracts may be awarded by the superintendent of public instruction to private educational institutions which (1) are certified as educational clinics by the state board of education pursuant to chapter 180-95 WAC, (2) are nonsectarian, (3) are financially sound pursuant to WAC 180-95-020(8), (4) are capable of fulfilling their educational commitment and (5) demonstrate past superior performance. Superior performance shall be based upon consideration of individual educational gains achieved by students, the backgrounds of those students, and the cost effectiveness of the clinic's program, as follows:

(a) Educational gains shall be evaluated by considering:

(1) measured increases in academic achievement as determined by instruments approved by the superintendent of public instruction, and

(2) the student's subsequent participation in constructive activities, such as enrollment in a common or private school, employment, attendance at an institution of higher or vocational education, or military service.

(b) In evaluating educational gains, consideration shall be given to those factors in each student's background which might tend to reduce the cost effectiveness of those educational gains.

(c) In determining cost effectiveness of any educational clinic, the cost of services provided to students shall be computed by taking into consideration the reasonable value of all sources of support which are used in whole or in part, directly or indirectly, to provide services to students, including payments made under this chapter, and for nonprofit clinics, tax exemptions and any other costs to taxpayers at any level of government which result from such nonprofit status. [Statutory Authority: RCW 28A.97.050 and 1977 ex.s. c 339 § 95 (uncodified). 78-03-008 (Order 1-78), § 392-185-030, filed 2/6/78, effective 3/9/78.]

WAC 392-185-040 Initial diagnostic procedure--Fees and records. (1) For each initial diagnosis completed for an eligible student applicant, a certified educational clinic, consistent with the terms of its contract with the superintendent of public instruction, shall be entitled to a fee of not more than fifty dollars per eligible student: *Provided*, That the administration of any general education development test shall not be a part of such initial diagnostic procedures.

(2) A written record of the initial diagnostic process for each student served shall be available. This record shall include, but not be limited to: (a) a transcript of the student's previous academic history when available; (b) a description of the assessment processes used to determine ability, achievement, interest and aptitudes; (c) a summary of all diagnostic findings; and (d) a listing of the specific instructional objectives and program placement recommendations.

(3) The records of each student shall be signed and dated by the qualified person(s) conducting the diagnosis and making program recommendations.

(4) The records shall be completed prior to student admission to educational clinic classes for which state reimbursement for costs is sought under this chapter. [Statutory Authority: RCW 28A.97.050, 79-12-004 (Order 8-79), § 392-185-040, filed 11/9/79. Statutory Authority: RCW 28A.97.050 and 1977 ex.s. c 339 § 95 (uncodified). 78-03-008 (Order 1-78), § 392-185-040, filed 2/6/78, effective 3/9/78.]

WAC 392-185-050 Instruction--Fees. The fees paid for each 60 minute hour of instruction shall be as follows:

(1) sixteen dollars per hour per enrollee if the class size is no greater than one; or

(2) ten dollars per hour per enrollee if the class size is at least two and no greater than five; or

(3) five dollars per hour per enrollee if the class size is at least six. Revisions in such fees proposed by an educational clinic shall be allowed pursuant to WAC 392-185-070. [Statutory Authority: RCW 28A.97.050 and 1977 ex.s. c 339 § 95 (uncodified). 78-03-008 (Order 1-78), § 392-185-050, filed 2/6/78, effective 3/9/78.]

WAC 392-185-060 Fees--Payment and procedures. Consistent with the provisions of chapter 28A.97 RCW as enacted or hereafter amended, fee reimbursements made to certified educational clinics shall be made in accordance with the following:

(1) There shall be no reimbursement prior to the actual delivery of services.

(2) Payments related to diagnostic procedures and course activities shall be made from available funds first to those clinics which demonstrate superior performance in the judgment of the superintendent of public instruction in accordance with WAC 392-185-030.

(3) No certified educational clinic shall be entitled to receive payment for any student's course work undertaken prior to the completion of the initial diagnostic procedure.

(4) Upon submission of vouchers, the superintendent of public instruction shall reimburse certified educational clinics under contract for services provided to identified, eligible common school dropouts on the basis of records of diagnostic and instructional services rendered.

(5) Vouchers shall include the following:

(a) a roster of names of students;

(b) diagnostic fees; and

(c) fees for instruction based upon class sizes, subject areas and other pertinent data to allow for computation of reimbursement: *Provided*, That in the event of changes in class size, vouchers shall reflect appropriate changes and documentation shall appear in the records of the educational clinic: *Provided further*, That this information is submitted on voucher claim forms as provided by the superintendent of public instruction in accordance with written instructions.

(6) After a student has been in attendance in an educational clinic on 75 instructional days, for all or a portion of each such day, no further reimbursement fees shall be paid by the superintendent of public instruction for that student until the educational clinic submits a report explaining the student's educational difficulties, establishing a specific learning program for the student and estimating the additional time required to achieve the educational objectives established at the time the student entered the program. An educational clinic may petition for such additional time prior to the seventy-fifth instructional day, but not sooner than the sixtieth instructional day. The superintendent of public instruction or his or her designee shall promptly review the report and continue reimbursement fees for not more than 60 days of additional instruction if the instructional plan appears reasonably likely to succeed. [Statutory Authority: RCW 28A.97.050 and 1977 ex.s. c 339 § 95 (uncodified). 78-03-008 (Order 1-78), § 392-185-060, filed 2/6/78, effective 3/9/78.]

WAC 392-185-070 Fee revisions. A certified educational clinic may submit a written request for fee revision to the superintendent of public instruction. A proposed fee revision must be accompanied by documentation supporting the need for the fee revision, including documentation of increased employee costs, increased non-employee related costs, and must include or be supplemented by such other information as the superintendent of public instruction may request.

The superintendent of public instruction may allow fee revisions if he or she finds that the proposed fee revision is reasonable. The superintendent of public instruction shall notify the clinic of approval or disapproval of such request within 30 days of receipt of the request: *Provided*, That no revision of fees shall be allowed during a contract period which shall not exceed one year from date of execution. [Statutory Authority: RCW 28A.97.050 and 1977 ex.s. c 339 § 95 (uncodified). 78-03-008 (Order 1-78), § 392-185-070, filed 2/6/78, effective 3/9/78.]

WAC 392-185-080 Fee revision--Appeal procedure. A decision of the superintendent of public instruction to deny a request for fee revision may be appealed by a certified educational clinic to the state board of education. The notification of appeal must be filed with the secretary of the state board of education within 15 days following the date of the superintendent's decision. The appeal will be conducted pursuant to WAC 180-95-060. [Statutory Authority: RCW 28A.97.050 and 1977 ex.s. c 339 § 95 (uncodified). 78-03-008 (Order 1-78), § 392-185-080, filed 2/6/78, effective 3/9/78.]

WAC 392-185-090 Enrollment and absences. Student records shall include entry and withdrawal dates. No reimbursement shall be made for students who are absent: *Provided*, That students may be reenrolled at any time. [Statutory Authority: RCW 28A.97.050. 79-12-004 (Order 8-79), § 392-185-090, filed 11/9/79. Statutory Authority: RCW 28A.97.050 and 1977 ex.s. c 339 § 95 (uncodified). 78-03-008 (Order 1-78), § 392-185-090, filed 2/6/78, effective 3/9/78.]

WAC 392-185-100 Tuition--Limitations. No certified educational clinic shall make any charge to any student or his or her parent, guardian, or custodian for whom a fee is being received under the provisions of chapter 28A.97 RCW and this chapter. [Statutory Authority: RCW 28A.97.050 and 1977 ex.s. c 339 § 95 (uncodified). 78-03-008 (Order 1-78), § 392-185-100, filed 2/6/78, effective 3/9/78.]

WAC 392-185-110 On-site monitoring. The instructional program activities and procedures and records of students for whom fees are paid shall be monitored on-site on a schedule established by the superintendent of public instruction. [Statutory Authority: RCW 28A.97.050 and 1977 ex.s. c 339 § 95 (uncodified). 78-03-008 (Order 1-78), § 392-185-110, filed 2/6/78, effective 3/9/78.]

WAC 392-185-120 State audit review. Any certified educational clinic under contract with the superintendent of public instruction pursuant to chapter 28A.97 RCW and this chapter shall permit, without prior notice, a review of its records by the state auditor and/or the superintendent of public instruction during normal business hours. [Statutory Authority: RCW 28A.97.050 and 1977 ex.s. c 339 § 95 (uncodified). 78-03-008 (Order 1-78), § 392-185-120, filed 2/6/78, effective 3/9/78.]

WAC 392-185-130 Fund reallocation. Any fund balances remaining in a contract which is not fully performed shall revert to the original fund for reallocation by the superintendent of public instruction. [Statutory Authority: RCW 28A.97.050 and 1977 ex.s. c 339 § 95 (uncodified). 78-03-008 (Order 1-78), § 392-185-130, filed 2/6/78, effective 3/9/78.]

WAC 392-185-140 Return to regular school program. Upon recommendation of a certified educational clinic, a common school dropout shall be permitted to reenter the common school program at the grade level agreed upon following consultation between the certified educational clinic and appropriate common school authorities: *Provided*, That such individual shall be placed with the class he or she would have been in had he or she not dropped out and will be permitted to graduate with that class, if his or her ability allows, notwithstanding any loss of credits prior to reentry, and if such student earns credits at the normal rate subsequent to reentry. Documentation of educational achievement while the student is enrolled in a certified educational clinic is the responsibility of that clinic. The final student placement decision shall be the responsibility of the receiving school authority. No student who has attended a certified educational clinic shall be eligible to receive a diploma issued by an accredited high school unless that student has attended such high school during the last full term prior to graduation. [Statutory Authority: RCW 28A.97.050 and 1977 ex.s. c 339 § 95 (uncodified). 78-03-008 (Order 1-78), § 392-185-140, filed 2/6/78, effective 3/9/78.]

WAC 392-185-150 Eligibility to take the general educational development (GED) tests. Any student of a certified educational clinic, upon completion of an individual student program, shall be eligible to take the General Educational Development (GED) Tests at an authorized testing center as defined in WAC 180-95-010(5). [Statutory Authority: RCW 28A.97.050 and 1977 ex.s. c 339 § 95 (uncodified). 78-03-008 (Order 1-78), § 392-185-150, filed 2/6/78, effective 3/9/78.]

Chapter 392-195 WAC IN-SERVICE TRAINING PROGRAM

WAC	
392-195-005	Purpose.
392-195-010	Definitions.
392-195-015	Application for funding.

392-195-020 Allocation of funds.
392-195-025 Program reports.

WAC 392-195-005 Purpose. The purpose of this chapter is to provide for the allocation of funds for in-service training programs pursuant to the In-Service Training Act of 1977, chapter 28A.71 RCW. [Statutory Authority: RCW 28A.71.210. 78-09-115 (Order 78-7), § 392-195-005, filed 9/6/78.]

WAC 392-195-010 Definitions. As used in this chapter:

(1) "Applicants" shall mean common school districts and educational service districts.

(2) "In-service training" shall mean a cooperatively planned program of training for job-related activities designed to increase the competencies of common school certificated and classified employees in the performance of their assigned responsibilities.

(3) "Needs assessment" shall mean a systematic study of the educational needs of the community, staff and students to be served.

(4) "Funds" shall mean those funds appropriated by the legislature and available for the conduct and evaluation of in-service training programs. [Statutory Authority: RCW 28A.71.210. 78-09-115 (Order 78-7), § 392-195-010, filed 9/6/78.]

WAC 392-195-015 Application for funding. Applicants shall request funds from the superintendent of public instruction in accordance with the provisions set forth below:

(1) Applicants shall conduct a needs assessment.

(2) The board of an applicant shall appoint an advisory in-service training task force of members comprised of representatives from administrators, building principals, teachers, classified and support personnel employed by the applicant, an institution of higher education and the general public in such numbers as shall be established by the applicant board of directors.

(3) The applicant shall establish written goals and objectives, identify training activities relevant thereto and design evaluation procedures and criteria which assess the degree and level of attainment of the goals and objectives.

(4) The task force shall review applications submitted pursuant to this chapter and suggest changes, if any, in direction, focus, or evaluation methods. No application will be accepted which is not approved by a majority vote of the task force.

(5) Nonpublic school personnel may be invited to participate in continuing professional development activities by the applicant.

(6) Funds shall supplement, not supplant, the existing staff development and in-service activities of an applicant. [Statutory Authority: RCW 28A.71.210. 79-12-007 (Order 11-79), § 392-195-015, filed 11/9/79; 78-09-115 (Order 78-7), § 392-195-015, filed 9/6/78.]

WAC 392-195-020 Allocation of funds. The superintendent of public instruction or his or her designee

shall evaluate each application approved by the applicant's task force and award funds to those programs which he or she deems to be in the best interest of the public school system. Consideration shall be given to:

(1) The potential of the proposed training activities for accomplishing the stated objectives;

(2) The extent to which the objectives are clearly defined and stated; and

(3) The appropriateness of the evaluation design. [Statutory Authority: RCW 28A.71.210. 78-09-115 (Order 78-7), § 392-195-020, filed 9/6/78.]

WAC 392-195-025 Program reports. Grantees shall report the results of their programs to the superintendent of public instruction. A financial report that sets forth the objects of expenditure, such as released time, contractual services, materials and supplies and travel shall also be submitted to the superintendent of public instruction. [Statutory Authority: RCW 28A.71.210. 78-09-115 (Order 78-7), § 392-195-025, filed 9/6/78.]

Title 402 WAC

RADIATION CONTROL AGENCY

Chapters

402-19	Requirements of general applicability to licensing of radioactive material.
402-20	Licensing of radiation sources.
402-21	General licenses.
402-22	Specific licenses.
402-52	Uranium and/or thorium mill operation and stabilization of mill tailing piles.
402-70	Schedule of fees.

Chapter 402-19 WAC

REQUIREMENTS OF GENERAL APPLICABILITY TO LICENSING OF RADIOACTIVE MATERIAL

WAC

402-19-010	Purpose and scope.
402-19-190	Exemptions.
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402-19-240	Prelicensing inspection.
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402-19-370	Fees.
402-19-400	Transfer of material.
402-19-500	Preparation of radioactive material for transport.
402-19-550	Schedule B, exempt quantities of radioactive materials.
402-19-580	Schedule C, exempt concentrations.

WAC 402-19-010 Purpose and scope. (1) This chapter prescribes rules governing licensing of radioactive material. No person shall receive, possess, use, transfer, own or acquire radioactive material except as authorized in a specific or general license issued pursuant to chapters 402-21 or 402-22 WAC or as otherwise provided in this chapter.