

# Title 72 WAC

## WASHINGTON STATE SCHOOL FOR THE BLIND

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### Chapter 72-100 WAC ORGANIZATION

#### WAC

72-100-001 Description of organization.

**WAC 72-100-001 Description of organization.** (1) The Washington state school for the blind is a state agency established and organized under the authority of chapter 72.40 RCW. The primary purpose of the school is to educate and train visually impaired children.

(2) The school operates under the direction and control of the superintendent. A board of trustees serves as an advisory board to the superintendent and to the legislature and performs various other functions as provided in chapter 72.42 RCW. The school for the blind is comprised of three components: Education; residential life; and support services. The school principal directs the education component. The director of residential life oversees the residential life component. Support services are provided by consolidated services under an interagency agreement between the Washington state school for the blind and the Washington state school for the deaf. Medical services and outreach programs are under the direction of the superintendent. A detailed organizational chart is available at the administrative office of the school.

(3) The administrative office of the school is located at 2214 East 13th Street, Vancouver, Washington 98661. Any person may obtain additional information and make submissions and requests at the administrative office.

[Statutory Authority: RCW 72.40.022, 90-16-003, § 72-100-001, filed 7/19/90, effective 8/19/90.]

### Chapter 72-108 WAC PRACTICE AND PROCEDURE

#### WAC

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72-108-100

Brief adjudicative procedure.

**WAC 72-108-010 Adoption of model rules of procedure.** The model rules of procedure adopted by the chief administrative law judge pursuant to RCW 34.05.250, as now or hereafter amended, are hereby adopted for use at the school, with the following exception: WAC 10-08-190 Adjudicative proceedings—Cameras—Recording devices. See WAC 72-108-090 which determines the use of cameras and recording devices at adjudicative proceedings. Those rules may be found in chapter 10-08 WAC. Other procedural rules adopted in this title are supplementary to the model rules of procedure. In the case of a conflict between the model rules of procedure and procedural rules adopted in this title, the procedural rules adopted by the school shall govern.

[Statutory Authority: RCW 72.40.022, 34.05.220 (1)(a) and 34.05.250, 90-16-004, § 72-108-010, filed 7/19/90, effective 8/19/90.]

**WAC 72-108-020 Appointment of presiding officers.** Unless the hearing is assigned to the office of administrative hearings, the superintendent or the superintendent's designee shall designate a presiding officer for an adjudicative proceeding. The presiding officer shall be an administrative law judge, a member in good standing of the Washington State Bar Association, a panel of individuals, the superintendent or his or her designee, or any combination of the above. Where more than one individual is designated to be the presiding officer, one person shall be designated by the superintendent or the superintendent's designee to make decisions concerning discovery, closure, means of recording adjudicative proceedings, and similar matters.

[Statutory Authority: RCW 72.40.022, 34.05.220 (1)(a) and 34.05.250, 90-16-004, § 72-108-020, filed 7/19/90, effective 8/19/90.]

**WAC 72-108-030 Method of recording.** Proceedings shall be recorded by a method determined by the presiding officer, among those available pursuant to the model rules of procedure in WAC 10-08-170.

[Statutory Authority: RCW 72.40.022, 34.05.220 (1)(a) and 34.05.250, 90-16-004, § 72-108-030, filed 7/19/90, effective 8/19/90.]

**WAC 72-108-040 Application for adjudicative proceeding.** An application for adjudicative proceeding shall be in writing. Application forms are available at the following address:

Washington State School for the Blind  
2214 East 13th Street, S-27  
Vancouver, Washington 98661

Written application for an adjudicative proceeding should be submitted to the above address within twenty days of the agency action giving rise to the application, unless provided for otherwise by statute or rule.

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[Statutory Authority: RCW 72.40.022, 34.05.220 (1)(a) and 34.05.250. 90-16-004, § 72-108-040, filed 7/19/90, effective 8/19/90.]

**WAC 72-108-060 Discovery.** Discovery in adjudicative proceedings may be permitted at the discretion of the presiding officer. In permitting discovery, the presiding officer shall make reference to the civil rules of procedure. The presiding officer shall have the power to control the frequency and nature of discovery permitted, and to order discovery conferences to discuss discovery issues.

[Statutory Authority: RCW 72.40.022, 34.05.220 (1)(a) and 34.05.250. 90-16-004, § 72-108-060, filed 7/19/90, effective 8/19/90.]

**WAC 72-108-070 Confidentiality of formal adjudicative proceedings.** In formal adjudicative proceedings, the presiding officer shall have the power to close all or part of the hearing to public observation. The presiding officer shall have the power to impose reasonable conditions upon observation of the proceeding and regulate the use of photographic and recording equipment to preserve confidentiality.

[Statutory Authority: RCW 72.40.022, 34.05.220 (1)(a) and 34.05.250. 90-16-004, § 72-108-070, filed 7/19/90, effective 8/19/90.]

**WAC 72-108-080 Procedure for closing parts of the hearings.** A party may apply for a protective order to close part of a hearing. The party making the request should state the reasons for making the application to the presiding officer. If the other party opposes the request, a written response to the request shall be made within ten days of the request to the presiding officer. The presiding officer shall determine which, if any, parts of the proceeding shall be closed, and state the reasons therefor in writing within twenty days of receiving the request.

[Statutory Authority: RCW 72.40.022, 34.05.220 (1)(a) and 34.05.250. 90-16-004, § 72-108-080, filed 7/19/90, effective 8/19/90.]

**WAC 72-108-090 Recording devices.** No cameras or recording devices shall be allowed in those parts of proceedings which the presiding officer has determined shall be closed pursuant to WAC 72-108-070, except for the method of official recording selected by the school.

[Statutory Authority: RCW 72.40.022, 34.05.220 (1)(a) and 34.05.250. 90-16-004, § 72-108-090, filed 7/19/90, effective 8/19/90.]

**WAC 72-108-100 Brief adjudicative procedure.** This rule is adopted in accordance with RCW 34.05.482 through 34.05.494, the provisions of which are hereby adopted. Brief adjudicative procedures shall be used in all matters related to:

- (1) Student conduct or disciplinary proceedings pursuant to WAC 72-120-225;
- (2) Amendment of education records pursuant to WAC 72-280-030; and
- (3) Residency determinations made pursuant to WAC 72-130-040.

[Statutory Authority: RCW 72.40.022, 34.05.220 (1)(a) and 34.05.250. 90-16-004, § 72-108-100, filed 7/19/90, effective 8/19/90.]

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## Chapter 72-120 WAC STUDENT CONDUCT CODE

### WAC

72-120-010 Student responsibilities and duties.  
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### CONDUCT RULES

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### DISCIPLINARY PROCESS AND PROCEDURES

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72-120-236 Long-term suspension—Misconduct unrelated to handicapping condition(s)—Hearing.

### WAC 72-120-010 Student responsibilities and duties.

The mission of the Washington state school for the blind is to provide specialized educational services to visually impaired students which will assist those students to develop skills, competencies and attitudes that are fundamental to the development of responsible, contributing citizens. Admission to the Washington state school for the blind carries with it the obligation of responsibility for the welfare of the school. In order to advance the mission of the school, it shall be the responsibility and duty of each student to pursue his/her course of studies, respect the rights of others, comply with written rules adopted herein, and submit to reasonable disciplinary action for violation(s) of such rules. This chapter is intended to assure that disciplinary action is imposed for just cause and in a fair and reasonable manner.

[Statutory Authority: RCW 72.40.022. 90-16-005, § 72-120-010, filed 7/19/90, effective 8/19/90.]

**WAC 72-120-015 Student rights.** (1) Each student is guaranteed the following rights, within the limitations of statutory law and school policy which are deemed necessary to achieve the school's educational goals:

(a) Students possess the right to a learning environment which is free from unlawful discrimination, inappropriate and disrespectful conduct, and sexual harassment.

(b) Students possess the rights, guaranteed under the Constitution, to freedom of expression, free inquiry, and peaceable assembly upon and within school facilities that are generally open and available to the public.

(c) Students possess the rights, guaranteed under the Constitution, to the free exercise of religion and to have their school free from sectarian control or influence, subject to reasonable limitations upon the time, place, and manner of exercising such right.

(d) Students possess the constitutional right to be secure in their persons, quarters, papers, and effects against unreasonable searches and seizures, subject to limitations set forth in RCW 28A.67.300, 28A.67.310, 28A.67.320, and 28A.67.330.

(e) Students shall have the right to be free from unlawful interference in their pursuit of an education while enrolled at the Washington state school for the blind.

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(f) Students shall not be deprived of the right to an equal educational opportunity in whole or in part by the Washington state school for the blind without due process including:

(i) Notice to the accused of the nature of the charges and the proposed disciplinary action; and

(ii) The opportunity to request a hearing as set forth in this chapter.

(2) The foregoing enumeration of rights shall not be construed to deny or disparage other rights guaranteed in the Constitution and the laws of the state of Washington.

(3) The school shall publish and make available to all students and parents, on an annual basis, written rules which state with reasonable clarity the types of misconduct for which disciplinary action may be imposed.

[Statutory Authority: RCW 72.40.022, 90-16-005, § 72-120-015, filed 7/19/90, effective 8/19/90.]

### CONDUCT RULES

**WAC 72-120-100 Conduct violations.** A student who, either as actor, aider, abettor, or accomplice as defined in RCW 9A.08.020, violates any provision of this chapter shall be subject to the disciplinary actions herein adopted.

The following offenses are prohibited:

(1) Physical abuse. Actual, attempted, or threatened physical abuse of any person or conduct which threatens or endangers the health and safety of any person or which intentionally causes a reasonable apprehension of harm to any person.

(2) Destroying or damaging property. Destroying, defacing, or damaging school property or the property of others on school premises or at school-sponsored activities.

(3) Sexual harassment. Engaging in unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature where such behavior offends the recipient, causes discomfort or humiliation, or interferes with job or school performance.

(4) Disruption. Disorderly or abusive behavior which interferes with the rights of others, school, or school-sponsored activities; obstructing the free movement of people or vehicles; inciting others to engage in prohibited conduct; or threatening disruption.

(5) Disturbing the peace. Creating noise in such a way as to interfere with school functions.

(6) Insubordination. Refusal or failure to follow instructions and proper orders of school officials, while on school premises or at school-sponsored activities, thereby infringing upon the rights and privileges of others, and/or refusal to desist from prohibited conduct.

(7) False alarms. Falsely setting off, improper use or disabling of any safety equipment, alarm, exit sign, or other device.

(8) False information. Filing a formal complaint which falsely accuses another with violation of this chapter, falsifying information to school officials, or forging or tendering any forged instrument to the school.

(9) Theft. Actual or attempted theft of property or services belonging to the school, any student, school employee or school visitor, including knowing possession of stolen property.

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(10) Conversion. Unauthorized use of school equipment or services.

(11) Academic dishonesty. All forms of cheating, plagiarism and fabrication, including submitting any work product that the student misrepresents as his/her work product for the purpose of fulfilling any assignment or task required as part of the student's course of studies.

(12) Unlawful entry and trespassing. Entering and/or remaining in any administrative or other employee office or any locked or otherwise closed school facility, in any manner, at any time, without permission.

(13) Smoking. The Washington state school for the blind supports the goal of the governor's nonsmoking policy and the policy of the public schools mandating a total ban on the use of all tobacco products by September 1, 1991. Students are not allowed to smoke or use tobacco products on school premises or during school-sponsored activities.

(14) Alcohol. Use, possession, distribution of, or visible intoxication from alcoholic beverages is prohibited on school property or at school-sponsored activities.

(15) Drugs and controlled substances. Use, possession, distribution, or being visibly under the influence of any narcotic or controlled substance as defined in the Uniform Controlled Substances Act, chapter 69.50 RCW, as amended, except when the use or possession of a drug is specifically prescribed as medication by an authorized medical doctor or dentist.

(16) Weapons and dangerous chemicals. Unauthorized use, possession or storage of any weapon, explosives, dangerous chemicals, substances or instruments, which may be used to inflict bodily harm on another or damage upon school property or personal property.

(17) Other conduct. Any other conduct or action, the terms and violations of which are published annually in the student/parent handbook, in which the school can demonstrate a clear and distinct interest and which substantially threatens the educational process or other legitimate function of the school or the health or safety of any member of the school community is prohibited.

[Statutory Authority: RCW 72.40.022, 90-16-005, § 72-120-100, filed 7/19/90, effective 8/19/90.]

### DISCIPLINARY PROCESS AND PROCEDURES

**WAC 72-120-200 Policy.** The Washington state school for the blind has established standards of conduct for students and the disciplinary process to protect members of the school community, maintain and advance its educational mission, and provide for the orderly conduct of the school's activities. Disciplinary procedures used by the school are considered part of its educational process. In every case of misconduct, the nature and circumstances of the violation will be considered and appropriate disciplinary actions will be administered on a less restrictive alternative basis, including but not limited to time out, detention, behavior contracts, restriction of privileges, reprimand, restitution, or suspension.

[Statutory Authority: RCW 72.40.022, 90-16-005, § 72-120-200, filed 7/19/90, effective 8/19/90.]

**WAC 72-120-205 Limitations.** (1) No form of disciplinary action shall be enforced in such a manner as to prevent a student from accomplishing specific academic grade, subject, or graduation requirement: *Provided*, That a student's academic grade or credit in a particular subject or course may be adversely affected as a result of excessive tardiness or absences.

(2) Corporal punishment as defined by the board of education in WAC 180-40-235 and the unreasonable use of force on children described in RCW 9A.16.100 as now or hereafter amended, is prohibited.

[Statutory Authority: RCW 72.40.022. 90-16-005, § 72-120-205, filed 7/19/90, effective 8/19/90.]

**WAC 72-120-210 Emergency removal from class or activity.** (1) Notwithstanding any other provision of this chapter, a student may be removed immediately from a class, subject, or activity by a certificated teacher or an administrator and sent to the principal or a designated school authority: *Provided*, That the teacher or administrator has good and sufficient reason to believe that the student's presence poses an immediate and continuing danger to the student, other students, or school personnel, or an immediate and continuing threat of substantial disruption of the class, subject, activity, or educational process of the school. The removal from classes, subjects, or activities shall continue only until:

(a) The danger or threat ceases; or

(b) The principal or designated school authority acts to impose disciplinary action pursuant to this chapter.

(2) The principal or school authority shall meet with the student as soon as reasonably possible following the student's removal and take appropriate disciplinary action. In no case shall the student's opportunity for such meeting be delayed beyond the commencement of the next school day. Prior to or at the time any such student is returned to the class(es), subject(s), or activity(ies), the principal or school authority shall notify the teacher or administrator who removed the student therefrom of the action which has been taken.

[Statutory Authority: RCW 72.40.022. 90-16-005, § 72-120-210, filed 7/19/90, effective 8/19/90.]

**WAC 72-120-220 Short-term suspension.** (1) As used in this chapter "short-term suspension" shall mean a denial of attendance at any class or admission to or entry upon school property for up to and not exceeding ten consecutive school days.

(2) Unless otherwise prohibited, short-term suspensions may be imposed upon a student for violation(s) of rules adopted in WAC 72-120-100.

(3) A student may be suspended for a short term after another less restrictive form of disciplinary action, reasonably calculated to modify his or her conduct, has been imposed as a consequence of misconduct of the same nature: *Provided*, That the school may resort to immediate short-term suspension in cases involving exceptional misconduct. For the purposes of this section, "exceptional misconduct" means misconduct, other than absenteeism, of such frequent occurrence, notwithstanding prior attempts by the school to control such misconduct through the use of other forms of disciplin-

ary action, and/or so serious in nature as to warrant immediate resort to short-term suspension.

(4) Any student subject to short-term suspension shall be provided the opportunity upon return to make up assignments and tests missed by reason of the suspension if such assignments or tests have a substantial effect upon the semester grade.

[Statutory Authority: RCW 72.40.022. 90-16-005, § 72-120-220, filed 7/19/90, effective 8/19/90.]

**WAC 72-120-225 Short-term suspension—Notice and conference—Grievance procedure.** (1) Prior to the short-term suspension of any student pursuant to WAC 72-120-220, a conference shall be conducted with the student as follows:

(a) An oral or written notice of the alleged misconduct and violation(s) of school rules shall be provided to the student;

(b) An oral or written explanation of the evidence in support of the allegation(s) shall be provided to the student;

(c) An oral or written explanation of the disciplinary action which may be imposed shall be provided to the student; and

(d) The student shall have the opportunity to present his/her explanation.

(2) In the event a suspension is to exceed one calendar day the parent(s) or guardian(s) of the student shall be notified of the reason for the student's suspension and the duration of the suspension orally and/or by letter deposited in the United States mail as soon as reasonably possible. The notice shall also inform the parent or guardian of the right to a brief adjudicative proceeding and that the suspension may possibly be reduced as a result of such proceeding.

(3) Any student, parent, or guardian aggrieved by the imposition of a short-term suspension pursuant to WAC 72-120-220, shall have the right to a brief adjudicative proceeding in accordance with WAC 72-108-100. The school personnel member whose action is being grieved shall be notified of the initiation of a brief adjudicative proceeding as soon as reasonably possible. During the brief adjudicative proceeding the parties shall be entitled to question school personnel involved in the matter. The disciplinary action may continue notwithstanding the implementation of the grievance procedure set forth in this section.

[Statutory Authority: RCW 72.40.022. 90-16-005, § 72-120-225, filed 7/19/90, effective 8/19/90.]

**WAC 72-120-230 Long-term suspension.** (1) As used in this chapter "long-term suspension" shall mean a denial of attendance at any class or admission to or entry upon school property in excess of ten consecutive school days.

(2) Unless otherwise prohibited, long-term suspensions may be imposed on a student for violation(s) of rules adopted in WAC 72-120-100.

(3) When a student engages in conduct that would warrant long-term suspension, the student, parent(s) or guardian(s) shall be notified immediately (within twenty-four hours) of the nature and circumstances of the misconduct, the disciplinary action proposed, and the time and location of any

individualized education program (IEP) team meeting review.

(4) If long-term suspension is recommended, the school shall convene a meeting to review the student's individualized education program (IEP) pursuant to WAC 72-171-210. The IEP team shall determine whether the misconduct is a manifestation of or is substantially related to the student's handicapping condition(s).

(5) If the IEP team concludes that the misconduct is not a manifestation of the student's handicapping condition(s), the student may be disciplined under the procedures set forth in WAC 72-120-234 through 72-120-236.

(6) If the IEP team concludes that the misconduct is a manifestation of the student's handicapping condition(s), suspension for more than ten days shall not be imposed unless:

(a) The school and parent(s) or guardian(s) agree otherwise; or

(b) The IEP team recommends a change of placement.

(7) A student involved in the complaint shall remain at the school during the pendency of any administrative or judicial proceeding, unless:

(a) The student's misconduct poses an immediate threat to the safety of others or where maintaining the student in his/her current placement at the school has a substantial likelihood of resulting in injury either to the student or to others; or

(b) The school, student, and parent(s) agree otherwise.

(8) A party may request a hearing pursuant to WAC 72-171-600, on any matter described in this section.

(9) Nothing in this section shall be construed to limit the superintendent's ability to seek injunctive relief in appropriate cases from a court of competent jurisdiction.

[Statutory Authority: RCW 72.40.022. 90-16-005, § 72-120-230, filed 7/19/90, effective 8/19/90.]

**WAC 72-120-234 Long-term suspension—Misconduct unrelated to handicapping condition(s)—Notice.** (1) A student may be suspended for a long term after another less restrictive form of disciplinary action, reasonably calculated to modify his or her conduct, has been imposed as a consequence of misconduct of the same nature: *Provided*, That the school may resort to immediate long-term suspension in cases involving exceptional misconduct. For the purposes of this section, "exceptional misconduct" means misconduct, other than absenteeism, of such frequent occurrence, notwithstanding prior attempt by the school to control such misconduct through the use of other forms of disciplinary action, and/or so serious in nature as to warrant immediate resort to long-term suspension.

(2) Prior to the long-term suspension of any student for misconduct unrelated to his/her handicapping condition(s):

(a) A conference shall be conducted with the student according to the procedures in WAC 72-120-225(1);

(b) Written notice of an opportunity for a hearing shall be delivered in person or by certified mail to the student and parent(s) or guardian(s). The notice shall:

(i) Be provided in the predominant language of a student and/or a parent(s) or guardian(s) who predominantly speak a language other than English, to the extent feasible;

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(ii) Specify the alleged misconduct and the rule(s) alleged to have been violated;

(iii) Set forth the disciplinary action proposed;

(iv) Set forth the right of the student and/or his or her parent(s) or guardian(s) to a hearing for the purpose of contesting the allegation(s);

(v) State that a written request for a hearing must be received by the school employee designated, or by his or her office within twenty days after receipt of the notice of opportunity for a hearing; and

(vi) State that if such a request is not received within the prescribed period of time, then the right to a hearing may be deemed to have been waived and the proposed long-term suspension may be imposed.

[Statutory Authority: RCW 72.40.022. 90-16-005, § 72-120-234, filed 7/19/90, effective 8/19/90.]

**WAC 72-120-236 Long-term suspension—Misconduct unrelated to handicapping condition(s)—Hearing.**

(1) If a request for a hearing is received pursuant to WAC 72-120-234 within the required time period, the superintendent or his or her designee shall schedule a hearing to commence within seven school days after the date upon which the request for a hearing was received according to the requirements in chapter 10-08 WAC adopted in WAC 72-108-010.

(2) The hearing shall be an adjudicative proceeding governed by the Administrative Procedure Act, chapter 34.05 RCW and chapter 72-108 WAC.

(3) During the pendency of any administrative or judicial proceeding involving suspension under this section, unless the school and the parent(s) of the student (or the eligible student as defined in WAC 72-171-010(1)) agree otherwise, the student shall remain in the educational placement he or she was in when the request for hearing was made.

[Statutory Authority: RCW 72.40.022. 90-16-005, § 72-120-236, filed 7/19/90, effective 8/19/90.]

**Chapter 72-130 WAC  
NONRESIDENT TUITION**

**WAC**

72-130-010	Purpose.
72-130-020	Definitions.
72-130-030	Admission of nonresident students.
72-130-035	Contents of admission agreements.
72-130-040	Challenges to residency determinations.
72-130-050	Nonresident tuition.

**WAC 72-130-010 Purpose.** The purpose of this chapter is to implement RCW 72.40.050 by establishing a reasonable and uniform tuition charge for nonresident students whose attendance at the Washington state school for the blind is deemed appropriate by the school superintendent.

[Statutory Authority: RCW 72.40.022. 90-16-006, § 72-130-010, filed 7/19/90, effective 8/19/90.]

**WAC 72-130-020 Definitions.** As used in this chapter, the term:

(1) "Residence" shall mean the physical location of a student's principal abode—i.e., the home, house, apartment, facility, structure, etc., within which the student lives the

majority of the time. The mailing address of the student—e.g., the parents' address or post office box—may be different than the student's principal abode. The lack of a mailing address does not preclude residency under this section.

(2) "Nonresident student" shall mean a student, otherwise eligible for enrollment, who is between the ages of three and twenty-one, and whose residence is located outside the state of Washington.

[Statutory Authority: RCW 72.40.022. 90-16-006, § 72-130-020, filed 7/19/90, effective 8/19/90.]

#### **WAC 72-130-030 Admission of nonresident students.**

(1) The school shall consider requests for the admission of nonresident students on the basis of the order in which such requests are made and without preference; provided however, that a conclusive preference in favor of admitting resident students shall be maintained.

(2) A nonresident student may be admitted only pursuant to a written agreement between the school superintendent and the student's parent(s) or guardian(s) (or, the nonresident student if such student is eighteen years or older).

[Statutory Authority: RCW 72.40.022. 90-16-006, § 72-130-030, filed 7/19/90, effective 8/19/90.]

#### **WAC 72-130-035 Contents of admission agreements.**

Agreements required by WAC 72-130-030 shall set forth:

(1) The name, age, and grade level of attendance of the nonresident student;

(2) The duration of the agreement;

(3) A finding that the nonresident student satisfies the admissions criteria set forth in WAC 72-171-150; and

(4) Such other terms and conditions as the parties deem advisable and as are consistent with this chapter.

[Statutory Authority: RCW 72.40.022. 90-16-006, § 72-130-035, filed 7/19/90, effective 8/19/90.]

**WAC 72-130-040 Challenges to residency determinations.** (1) A parent, guardian, or adult student who wishes to challenge a residency determination shall utilize the brief adjudicative procedures set forth in RCW 34.05.482 through 34.05.494, as adopted in WAC 72-108-100.

(2) Requests for brief adjudicative procedures shall be written, signed, and directed to the superintendent within twenty days from the date that the original determination was rendered.

[Statutory Authority: RCW 72.40.022. 90-16-006, § 72-130-040, filed 7/19/90, effective 8/19/90.]

**WAC 72-130-050 Nonresident tuition.** (1) Uniform rate. The tuition for nonresident students who are enrolled pursuant to the provisions of this chapter shall be assessed at a uniform rate, consistent with the annual per capita cost of maintaining and educating a student.

(2) Tuition reduction. Any such tuition charge, however, may be ratably reduced in the event the nonresident student is enrolled part time and/or for less than a full school year.

(3) Annual adjustments. Nonresident tuition and fees shall be adjusted annually to reflect the actual per capita cost of education.

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(4) Billing. Tuition for nonresident students shall be assessed on a quarterly basis. Quarterly payments shall be due in full prior to the first day of the quarter in which the nonresident student seeks to enroll.

[Statutory Authority: RCW 72.40.022. 90-16-006, § 72-130-050, filed 7/19/90, effective 8/19/90.]

## **Chapter 72-140 WAC USE OF SCHOOL FACILITIES**

### **WAC**

72-140-010	Policy on public use of school facilities.
72-140-020	Application for use of school facilities.
72-140-030	Allocation of space.
72-140-040	Basis of fee assessment.
72-140-050	General policies limiting use.
72-140-060	Specific limitations on use.
72-140-070	Supervision.
72-140-080	Prohibited conduct at school facilities.

**WAC 72-140-010 Policy on public use of school facilities.** Because the Washington state school for the blind is an educational institution provided and maintained by the people of the state, its campus, buildings, properties, and facilities shall be reserved at all times for those activities which are either directly related to its educational mission or are justified on the basis of their contributions to the cultural, social, or economic development of the state and its visually impaired citizens. The school is not obligated to make its public facilities available to the community for private purposes.

[Statutory Authority: RCW 72.40.022. 90-16-007, § 72-140-010, filed 7/19/90, effective 8/19/90.]

**WAC 72-140-020 Application for use of school facilities.** (1) Applications for use of school facilities should be made on the Facilities Request Form, available from the administrative office of the school, 2214 East 13th Street, Vancouver, Washington 98661.

(2) Reasonable conditions may be imposed upon the applicant to regulate the timeliness of the request, to determine the appropriateness of intended use of the space assigned, and to ensure proper maintenance of the facilities. A detailed listing of such conditions is available from the school's administrative office.

(3) The school may restrict an individual's or a group's use of school facilities if that person or group has, in the past, physically abused school facilities. Charges may be imposed for damage or for any unusual costs related to the use of facilities.

[Statutory Authority: RCW 72.40.022. 90-16-007, § 72-140-020, filed 7/19/90, effective 8/19/90.]

**WAC 72-140-030 Allocation of space.** Allocation of space shall be made in accordance with school regulations and on the basis of time, space, priority of request, and the demonstrated needs of the applicant. When allocating the use of school facilities, top priority will always be given to activities directly related to the school's mission. No arrangement shall be made that may interfere with, or operate to the detriment of, the school's own educational, research, residential, or public service programs.

[Statutory Authority: RCW 72.40.022. 90-16-007, § 72-140-030, filed 7/19/90, effective 8/19/90.]

**WAC 72-140-040 Basis of fee assessment.** (1) The school has established a three-tiered fee schedule for the use of school facilities. The schedule reflects the school's cost of operation and its evaluation of the intended purpose of the use. Groups closely affiliated with the school's mission, such as other state agencies or groups specifically promoting the education of the visually impaired, may be allowed access to school facilities free of charge. However, a small rental fee may be imposed if special operating costs are necessarily incurred. Other community groups will be charged according to the schedule. A current copy of the fee schedule is available from the school's administrative office.

(2) The school neither intends nor desires to compete with private enterprise in making its facilities available to the public. The school encourages the community to patronize local businesses whose privately operated facilities are well qualified to meet community needs.

[Statutory Authority: RCW 72.40.022. 90-16-007, § 72-140-040, filed 7/19/90, effective 8/19/90.]

**WAC 72-140-050 General policies limiting use.** (1) School facilities may not be used for purposes of political campaigning by or for candidates who have filed for public office except for student-sponsored activities or forums.

(2) Religious groups shall not, under any circumstances, use the facilities as a permanent meeting place. Use shall be intermittent only.

(3) The school reserves the right to prohibit the use of school facilities by groups which restrict membership or participation in a manner inconsistent with the school's commitment to nondiscrimination as set forth in its written policies and commitments.

(4) Activities of a political or commercial nature will not be approved if they involve the use of promotional signs or posters on buildings, trees, walls, or bulletin boards, or the distribution of samples outside the rooms or facilities to which access has been granted.

(5) These general policies shall apply to recognized student groups using school facilities.

[Statutory Authority: RCW 72.40.022. 90-16-007, § 72-140-050, filed 7/19/90, effective 8/19/90.]

**WAC 72-140-060 Specific limitations on use.** (1) The permissible use of facilities is limited to the purpose stated in the application and approved by the superintendent.

(2) Only that portion of the building listed and approved on the application shall be available for use by the organization.

(3) The facility shall be vacated by the time listed on the facility usage form.

(4) The user group shall abide by these and all other limitations established by the superintendent and set forth in the superintendent's policy on use of school facilities. A copy of such policy is available at the administrative office of the school.

[Statutory Authority: RCW 72.40.022. 90-16-007, § 72-140-060, filed 7/19/90, effective 8/19/90.]

(1999 Ed.)

**WAC 72-140-070 Supervision.** (1) Adult supervisors of student organizations using school facilities shall remain with their groups during usage, and shall ensure compliance with school regulations governing the use of facilities.

(2) A designated school employee or representative will be on site during usage, and will be compensated by the using organization when the event occurs outside of normal scheduled coverage.

[Statutory Authority: RCW 72.40.022. 90-16-007, § 72-140-070, filed 7/19/90, effective 8/19/90.]

**WAC 72-140-080 Prohibited conduct at school facilities.** (1) State law relative to public institutions governs the use or possession of intoxicants on campus or at school functions. The use or possession of unlawful drugs or narcotics, not medically prescribed, on school property or at school functions, is prohibited. Students obviously under the influence of intoxicants, unlawful drugs, or narcotics while in school facilities shall be subject to disciplinary action.

(2) The use of tobacco is restricted in accordance with published policy.

(3) Destruction of property is also prohibited by state law in reference to public institutions.

(4) No person or group may use or enter onto school facilities having in their possession firearms or other weapons, even if licensed to do so, except duly appointed and commissioned law enforcement officers.

[Statutory Authority: RCW 72.40.022. 90-16-007, § 72-140-080, filed 7/19/90, effective 8/19/90.]

**Chapter 72-171 WAC  
SPECIAL EDUCATION PROGRAMS**

**WAC**

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**WAC 72-171-001 Purposes.** The purposes of this chapter are:

(1) To implement chapter 72.40 RCW in a manner that is compatible with chapter 28A.13 RCW and in compliance with the Education for All Handicapped Children Act, 20 U.S.C. Sec. 1401 et seq.;

(2) To assure that all handicapped children have an opportunity for a free appropriate public education which emphasizes special education and related services designed to meet their unique needs;

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

(4) To assess and assure the effectiveness of efforts to educate the handicapped students.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417, 90-16-008, § 72-171-001, filed 7/19/90, effective 8/19/90.]

## DEFINITIONS OF GENERAL APPLICATION

**WAC 72-171-010 Definitions.** As used in this chapter:

(1) "Eligible student" means a student or handicapped student not otherwise incompetent, who has reached eighteen years of age.

(2) "Handicapped student" and "student" (depending upon the context in which the term is used) means:

(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 72-171-015 or 72-171-016 and to be in need of special education and related services: *Provided*, That a student enrolled at the Washington state school for the blind may continue past the age of twenty-one at the superintendent's discretion; 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 72-171-015 or 72-171-016 in the judgment of the school superintendent or his or her designee, or the parent(s), or the eligible student; or

(c) 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."

(3) "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 72-171-650, who represents a nonadult student. The term does not include the state if the child is a dependent of the state.

(4) "School" means Washington state school for the blind.

(5) "Assessment" means procedures used in accordance with WAC 72-171-110 through 72-171-130 to determine whether a student is visually handicapped or deaf-blind and/or 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.

The purposes of assessment are to:

(a) Measure the student's present level of educational performance to identify the student's unique needs, abilities, and limitations;

(b) Draw conclusions regarding the significance of the findings as related to the student's instructional program;

(c) Provide appropriate personnel with information for determining appropriate placement and developing the individualized education program in accordance with WAC 72-171-240; and

(d) Assure appropriate identification of the handicapping condition.

(6) "Current assessment" means:

(a) Intellectual assessment data shall be considered current if obtained during a one calendar year period prior to the formal assessment or if obtained during the formal assessment period.

(b) Academic assessment data, including perceptual assessment data, shall be considered "current" if obtained during a ninety calendar day period prior to formal assessment or if obtained during the formal assessment period.

(c) Psychological and social assessment data shall be considered "current" if obtained during a thirty calendar day period prior to formal assessment or if obtained during the formal assessment period.

(d) Adaptive behavior assessment data, including vocational and career assessment data, shall be considered "current" if obtained during a ninety calendar day period prior to formal assessment or if obtained during the formal assessment period.

(e) Speech/language (communication skills) assessment data shall be considered "current" if obtained during a ninety calendar day period prior to formal assessment or if obtained during the formal assessment period.

(f) Vision screening and audiological assessment data shall be considered "current" if obtained during a one calendar year period prior to formal assessment or if obtained during the formal assessment period.

(g) Medical assessment data shall be considered "current" if obtained during a one hundred eighty calendar day period prior to formal assessment or if obtained during the formal assessment period.

(7) "Reassessment" means procedures used in accordance with WAC 72-171-110 through 72-171-130 to determine the student's eligibility for and need for continuing special education and related services pursuant to WAC 72-171-430(2).

(8) "Consent" means that:

(a) The parent (or eligible 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, including being informed of existing assessment data to be used within the definitions of current assessment;

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

(9) "Special education" has the meaning given that term by WAC 392-171-315.

(10) "Related services" has the meaning given that term by WAC 392-171-320.

(11) "Superintendent" means the superintendent of the Washington state school for the blind.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-008, § 72-171-010, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-015 Definition and eligibility criteria for visually handicapped.** WAC 392-171-446 shall be applicable to all students provided for by this chapter.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-008, § 72-171-015, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-016 Definition and eligibility criteria for deaf-blind.** WAC 392-171-451 shall be applicable to all students provided for by this chapter.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-008, § 72-171-016, filed 7/19/90, effective 8/19/90.]

## ASSESSMENT AND PLACEMENT

**WAC 72-171-100 Initial assessment.** (1) Prior to any action taken with respect to the initial placement of a student at the Washington state school for the blind, a full and individual assessment of the student's educational needs shall be conducted.

(2) A student may be admitted for the purpose of assessment.

(3) The school shall fully assess the student and arrive at a decision pursuant to WAC 72-171-130 within (a) thirty school days after written consent for assessment has been provided by the parent(s) or eligible student, or (b) such other time period as may be agreed to by the parent(s), eligible student, and school.

(4) If temporary (not to exceed thirty school days) special education programming is necessary for diagnostic reasons during the assessment period, the school shall obtain written permission for such diagnostic placement from the parent(s).

(5) The school shall request that the parent(s) sign consent form(s) for the mutual exchange of pertinent information where such information is available between the school, other agencies, and/or professionals.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-008, § 72-171-100, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-110 General areas of assessment.** The assessment of a student shall be in all areas related to the suspected disability. The assessment procedures outlined in this chapter are to be considered minimal, required procedures. Where concerns are indicated as judged by the multidisciplinary

team, additional or more in-depth assessment in each of the following areas shall be conducted.

(1) Scholastic assessment. This area may include assessment of the intellectual, language and communication, academic and cognitive development of the student, and any other scholastic area as deemed appropriate by the multidisciplinary team.

(2) Physical assessment. This area may include a review of the general health status of the student, vision screening and complete audiological examination, oral-peripheral examination, evaluation of musculo-skeletal, neurological, and developmental modalities, and any other physical area as deemed necessary by the multidisciplinary team.

(3) Adjustment assessment. This area may include assessment of the social skills and emotional status of the student, career and vocational assessment, and assessment of adaptive behaviors (e.g., self-help, interpersonal communication, survival skills, and practical application of academic skills).

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-008, § 72-171-110, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-120 General assessment safeguards—Personnel, materials, and procedures.** Every student who is assessed or reassessed shall be assessed according to the procedures established in this chapter.

(1) The initial assessment of a student shall be made by a multidisciplinary team (i.e., a group of professionals) including at least one special education teacher and at least one person qualified to conduct individual diagnostic assessment in the area of suspected disability. In a reassessment of a student, the multidisciplinary team also shall include a representative from each service area involved in the student's individualized education program and such other professional service providers as recommended by any professional involved in the reassessment. 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 a student's eligibility and/or 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 or educationally discriminatory.

(4) All tests and other evaluation materials shall have been validated for the specific purpose for which they are used and shall accurately reflect whatever factors the tests purport to measure. If properly validated tests are unavailable, the professional judgment of each member of the multidisciplinary team may determine eligibility for special education based on other evidence of the existence of a specific handicap and need. This professional judgment shall be documented in a written narrative.

(5) All tests and other evaluation materials shall be administered by qualified personnel in conformance with the instructions of their producer. Tests designed to measure intellectual functioning shall be administered and interpreted

by a qualified psychologist: *Provided*, That cognitive tests for developmentally delayed students other than an intelligence quotient test shall be administered by a qualified psychologist or by professionals with other titles who have considerable training and experience in individual psychological or psychoeducational assessment.

(6) Assessment materials, procedures, or instruments shall be provided and administered in a student's native language or mode of communication, unless it is clearly not feasible to do so. Tests shall be selected and administered so as to ensure that the test results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors the test purports to measure).

(7) In interpreting assessment data and in making placement recommendations, the assessment team shall:

(a) Collect and review information from a variety of sources, including but not limited to all available existing academic, medical, and other records pertinent to the suspected handicapping condition(s) of the student, aptitude and achievement tests, teacher recommendations or recommendations of related service providers, physical condition, social or cultural background, and adaptive behavior;

(b) Ensure that information obtained from all of these sources is documented and carefully considered.

(8) Assessment data shall be summarized in writing, dated, and signed by each person conducting an assessment. Information used to support the assessment, but which is not incorporated into the file, (e.g., review of health record), shall be referenced as to date of record, location, and source person. 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, including a description of the specific factors which are interfering with the student's educational performance and the special education and related services needed to assist the student in benefiting from his or her educational placement.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417, 90-16-008, § 72-171-120, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-130 Summary analysis of assessment data.** (1) The leader of the student's assessment team shall review and analyze the summaries of assessment data provided for in WAC 72-171-120(8) and any other available data in each of the areas assessed. The conclusions, recommendations, and the facts and/or reasons resulting in the placement decision pursuant to WAC 72-171-150 shall:

(a) Describe the discrepancy which exists between the student's actual performance and his or her expected performance;

(b) Identify the disability, if any, that qualifies the student as a handicapped student;

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

(d) Reconcile any inconsistent or contradictory information and/or opinions evidenced in the assessment data, if any, supporting conclusion(s) with appropriate data;

(e) Relate the apparent significance, as appropriate, of such factors as test measurement error or cultural, environ-

mental, economic, and behavioral factors to the assessment results.

Where specific test results obtained in any assessment do not appear to the multidisciplinary team to accurately reflect a student's expected performance the multidisciplinary team shall apply professional judgment to determine eligibility for special education and related services. In such event, the multidisciplinary team shall document in a written narrative the basis for such determination, the instruments used, and the data used for a determination of eligibility;

(f) Make recommendations to the individualized education program committee regarding placement, special education and related services needed, needs for specialized materials or equipment, learning modalities, and student management strategies (e.g., reinforcement schedules, etc.), as determined by the multidisciplinary team to be significant to the student's program;

(g) Provide any necessary professional judgment(s) and the facts or reasons in support of the judgment(s).

(2) The summary analysis shall be signed and dated by the multidisciplinary team.

(3) Each multidisciplinary team member shall certify in writing whether the summary analysis 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) and the reasons therefor.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417, 90-16-008, § 72-171-130, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-140 Independent educational assessment.** (1)(a) The parent(s) of a student (or an eligible student) assessed or any student reassessed has the right to obtain an independent educational assessment, subject to subsections (3) and (4) of this section.

(b) The school shall provide to parent(s) (or eligible student), 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 responsible for the education of the student in question; and

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

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

(a) The parent(s) (or eligible student) shall provide a written notice to the superintendent which:

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

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

(b) The school shall have the prior opportunity to initiate mediation or an adjudicative proceeding pursuant to WAC 72-171-600 et seq., to show that its assessment is appropriate: *Provided*, That the school shall provide the parent(s) (or eli-

gible student) written notice of the election to initiate mediation or an adjudicative proceeding no later than the tenth day after the date of receipt of the parent's (or eligible student's) written notice of disagreement;

(c) If the final decision is that the school assessment is appropriate, the parent (or eligible student) still has the right to an independent educational assessment, but not at public expense; and

(d) If the school elects not to initiate an adjudicative proceeding or is not upheld by the final decision, the independent assessment requested by the parent (or eligible student) shall be provided at public expense in accordance with the same criteria which the school uses when it initiates an assessment including, but not limited to, the location of the assessment and the qualifications of the examiner.

(3) If the parent (or eligible student) obtains an independent educational assessment at private expense, the results of the assessment:

(a) Shall be considered by the school 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 the adjudicative proceeding regarding that student.

(4) If the administrative law judge requests an independent educational assessment as part of the adjudicative proceeding, such assessment shall be at public expense.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417, 90-16-008, § 72-171-140, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-150 Admission and placement.** In accordance with the least restrictive environment mandate of Public Law 94-142: A student may be admitted and enrolled at the Washington state school for the blind when:

(1) The school district of that student's residence refers the student or agrees that the student can be served at the Washington state school for the blind;

(2) The student's parents request that their child be served through the educational program available at the Washington state school for the blind;

(3) Assessment pursuant to the procedures in this chapter has been completed and vision loss or impairment is documented;

(4) Upon completion of assessment pursuant to this chapter, the multidisciplinary team described in WAC 72-171-120(1), the parents and a representative of the school district of the student's residence shall meet and consider the following to determine the most appropriate placement for the student:

(a) The summaries of assessment data pursuant to WAC 72-171-130;

(b) The nature and extent of the specific special education and related services needed by the student, if any;

(c) Any inconsistent or contradictory information and/or opinions evidenced in the assessment data, if any;

(d) The availability and identity of current educational programs appropriate to the student's needs; and

(e) The parent(s)' and school district's commitment to work in cooperation to meet the student's needs; and

(1999 Ed.)

(5) The multidisciplinary team described in WAC 72-171-120(1) recommends placement at the Washington state school for the blind.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417, 90-16-008, § 72-171-150, filed 7/19/90, effective 8/19/90.]

## INDIVIDUALIZED EDUCATION PROGRAMS

**WAC 72-171-200 Definition.** As used in this chapter, the term "individualized education program" (IEP) means a written statement for a handicapped student that is developed and implemented in accordance with 20 U.S.C. Sec. 1401(19).

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417, 90-16-008, § 72-171-200, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-210 Meetings.** (1) The school shall hold a meeting for the purpose of developing a student's individualized education program within thirty calendar days of the determination that the student is in need of special education and related services currently available at the school.

(2) Meetings consistent with this section shall be held by the school at least once a year for the purpose of reviewing and revising as necessary each student's IEP.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417, 90-16-008, § 72-171-210, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-220 Participants in IEP meetings.** (1) Each IEP meeting shall include the following participants:

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

(b) The student's teacher;

(c) One or both parents, subject to WAC 72-171-230;

(d) The student, if appropriate or the eligible student; and

(e) Other individuals at the discretion of the school, parent(s), or eligible student. Either the teacher or school representative should be qualified in the area of the student's disability.

(2) IEP meetings involving a student who has been assessed for the first time shall include the following participant in addition to those enumerated as follows: A member of the student's assessment team who is knowledgeable about the assessment procedures used and is familiar with the results of the evaluation.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417, 90-16-008, § 72-171-220, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-230 Parent participation.** (1) The school shall take steps to ensure (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 ensure his or her participation; and

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

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

(3) If a parent cannot attend, the school shall use other methods to ensure participation, including individual or conference telephone calls.

(4) A meeting may be conducted (in the case of a non-adult student) without a parent in attendance if the school is unable to convince the parents they should attend. In such a case the school 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 parent(s) 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.

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

(6) The school shall document the parent(s)' and other IEP participants' presence at the IEP meeting.

(7) The school shall provide the parent a copy of the IEP upon request.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417, 90-16-008, § 72-171-230, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-240 Content of the IEP.** The individualized education program shall be developed on the basis of assessment analysis and parent input, where it is provided, and shall include:

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

(2) A statement of specific annual goals including short-term instructional objectives which are stated in terms that provide for measurement of progress, expected levels of performance, and the schedules for their accomplishments;

(3) A statement of the specific special education and related services needed by the student, and the extent to which the student will be able to participate in the regular educational program, including physical education;

(4) The IEP developed for a handicapped student whose chronological age is fourteen or above shall also include career development and/or vocational education goals and short-term instructional objectives, where appropriate: *Provided*, That if the career development and/or vocational education is specially designed instruction, goals and short-term instructional objectives shall be included;

(5) The projected dates for the initiation of services and the anticipated duration of the services, including the number of school days, and the number of hours per day; and

(6) 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.

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 72.40.022 and 20 U.S.C. §§1401, 1412-1417, 90-16-008, § 72-171-240, filed 7/19/90, effective 8/19/90.]

## ANNUAL REVIEW OR PLACEMENT AND STUDENT PROGRESS-REASSESSMENT

**WAC 72-171-400 Annual review of placement and student progress—Program evaluation.** (1) The placement of each student shall be evaluated and redetermined annually at a meeting conducted pursuant to WAC 72-171-210.

(2) Evaluation of the program for each student shall be based upon his or her progress toward the accomplishment of the goals and objectives set forth in the student's IEP. Specific methods of evaluating and demonstrating program results shall be determined in accordance with the school's policies and procedures and the student's IEP.

(3) The program's performance measurement shall be recorded and reported at all stages of implementation, and the results of the evaluation shall be reported to parent(s) (or the eligible student).

(4) Program evaluations shall serve two purposes:

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

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

(5) The school shall continually develop alternatives to improve methods and results that are based upon the evaluation of a student's achievement.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417, 90-16-008, § 72-171-400, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-410 Reassessment.** (1) Each student shall be reassessed in accordance with the procedures specified in WAC 72-171-110 through 72-171-130:

(a) At a minimum, once every three years unless conditions warrant earlier reassessment; or

(b) Upon the request of the parents, an eligible student, teacher, or IEP team.

(2) If reassessment is the result of the three-year reassessment requirement, the multidisciplinary team, based on the professional judgment of the members, to a reasonable degree of professional certainty, shall determine and document the following:

(a) Whether the student is appropriately classified;

(b) Whether the student meets the continuing eligibility criteria of WAC 392-171-325(3) or 392-171-331. The basis for this determination shall be documented in a written narrative including any relevant data or assessment process used;

(c) Whether the current program is appropriate to the student's unique needs, abilities, and limitations;

(d) Whether assessment procedures should be replicated or conducted by members of the multidisciplinary team or other professionals not represented on the multidisciplinary team to provide reasonable professional certainty that the reassessment results are accurate. In making such determination, members of the multidisciplinary team shall be governed by the generally recognized professional practice standards of their respective disciplines. Members of the multidisciplinary team shall defer to the professional judgment of

a team member who requests the replication or conduction of a particular assessment procedure.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417, 90-16-008, § 72-171-410, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-420 Reassessment purposes.** The purposes of reassessment are to determine:

- (1) Whether the student is appropriately classified as visually handicapped or deaf-blind;
- (2) Whether the program designed for the student is appropriate to meet his or her unique needs, abilities, and limitations; and
- (3) Whether the student meets the continuing eligibility requirement of WAC 392-171-325(3) or 392-171-331.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417, 90-16-008, § 72-171-420, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-430 Reassessment notice.** (1) The school shall provide written notice to parent(s) (or an eligible student) ten calendar days prior to conducting reassessment. Such notice shall include:

- (a) Procedural safeguard requirements provided in WAC 72-171-510;
- (b) The reasons for reassessment i.e., required three-year reassessment or reassessment upon request. If the reassessment is upon request, the notice shall include the source of and reasons for such request;
- (c) A statement that the student's records will be reviewed as a part of the reassessment and that the parent(s) (or eligible student) have the right to submit to the multidisciplinary team any information they deem important to the reassessment;
- (d) A statement that the multidisciplinary team will determine the need, if any, for replication of previous assessment procedures and the need, if any, for additional assessment procedures; and
- (e) A list of the disciplines to be represented on the multidisciplinary team as required by WAC 72-171-120.

(2) Following completion of the reassessment, the superintendent or his or her designee shall record the determinations set forth in WAC 72-171-420. In accordance with WAC 72-171-500, the parent(s) (or the eligible student) shall be notified of the school's decision within ten calendar days following completion of reassessment. If the program is found to be inappropriate, an individualized education program meeting shall be convened in accordance with WAC 72-171-200 through 72-171-240 and the multidisciplinary team shall document in a written narrative the basis for such determination, including any relevant data or assessment procedures utilized.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417, 90-16-008, § 72-171-430, filed 7/19/90, effective 8/19/90.]

## NOTICE REQUIREMENTS

**WAC 72-171-500 When notice must be given.** Written notice in accordance with WAC 72-171-510 shall be given to the parent(s) (or the eligible student) a reasonable time before the school:

(1999 Ed.)

(1) Proposes to initiate or change the identification, evaluation, 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, evaluation, 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 72.40.022 and 20 U.S.C. §§1401, 1412-1417, 90-16-008, § 72-171-500, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-510 Contents of the notice.** (1) The notice required by WAC 72-171-500 shall include:

(a) A full explanation of all of the procedural safeguards available to the parent(s) (or eligible student) under this chapter;

(b) A description of the action proposed or refused by the school, and explanation of why the school proposes or refuses to take the action, and a description of any options the school considered and the reasons why those options were rejected;

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

(d) A description of any other factors which are relevant to the school'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 eligible student) or other mode of communication used by the parent (or eligible student), unless it is clearly not feasible to do so.

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

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

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

(c) There is written evidence that the requirements in (a) and (b) of this subsection have been met.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417, 90-16-008, § 72-171-510, filed 7/19/90, effective 8/19/90.]

## HEARINGS

**WAC 72-171-600 Right to initiate.** (1) A parent, eligible student, or the superintendent (or his or her designee) may initiate a hearing on any of the matters described in WAC 72-171-500 (1) and (2). The hearing is an adjudicative proceeding governed by Public Law 94-142 and the Administrative Procedure Act, chapter 34.05 RCW. The hearing shall be conducted by an administrative law judge with the office of administrative hearings.

(2) A request by parents or an eligible student for a hearing pursuant to this section shall:

(a) Be in writing;

(b) Be mailed or provided directly to the superintendent of the Washington state school for the blind with copies of the request mailed or provided directly to the following, at the time the request is made:

(i) Office of Superintendent of Public Instruction, Office of Legal Services, Old Capitol Building, Olympia, Washington 98504;

(ii) Office of Administrative Hearings, Room 606, Securities Building, 1904 Third Avenue, Seattle, Washington 98101; and

(iii) Superintendent of the school district of the student's residence;

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

(3) A request by the school for a hearing pursuant to this section shall:

(a) Be in writing;

(b) Be mailed or provided directly to the Office of Administrative Hearings, Room 606, Securities Building, 1904 Third Avenue, Seattle, Washington 98101, with copies of the request and attachments mailed or provided directly to the following, at the time the request is made:

(i) The student's parent(s) or the eligible student;

(ii) Office of Superintendent of Public Instruction, Office of Legal Services, Old Capitol Building, Olympia, Washington 98504; and

(iii) The superintendent of the school district of the student's resident [residence];

(c) Have attached to such request (and all copies) a copy of the notice to parent(s) or eligible student required by WAC 72-171-500. If the hearing request is in response to a request for an independent educational assessment pursuant to WAC 72-171-140, the school's request for hearing shall also have attached a copy of the written notice to the superintendent required by WAC 72-171-140(2).

(4) A notice of hearing requested by a student's parent(s) (or eligible student) or by the school pursuant to this section shall be served by the office of administrative hearings as set forth in WAC 10-08-040. In addition to the information specified in RCW 34.05.434 the notice shall include:

(a) The issue(s) to be addressed at the hearing to the extent the issue(s) has/have been identified at the time of the notice;

(b) The rights, procedures, and other matters set forth in WAC 72-171-610 through 72-171-640; and

(c) The right of the parent(s) or eligible student to seek an independent assessment at public expense pursuant to WAC 72-171-140.

(5) The hearing shall be conducted in accordance with the provisions of chapter 10-08 WAC unless modified by this chapter.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417, 90-16-008, § 72-171-600, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-610 Hearing rights.** (1) Any party to a hearing initiated pursuant to WAC 72-171-600 has the right to:

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

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

(c) Present evidence, including the opinion(s) of qualified experts, confront, cross-examine, and compel the attendance of 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 at a cost no greater than actual fees for recording and transcription; and

(f) Obtain written findings of fact, conclusions of law, and decisions (which shall be transmitted, after deleting any personally identifiable information, to the state advisory council on the education of handicapped children as set forth in WAC 392-171-305).

(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 eligible students) who are a party to a hearing have the right to open the hearing to the public.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417, 90-16-008, § 72-171-610, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-620 Timeline for decision.** (1) A final decision in the hearing will be made not later than forty-five days after the date of receipt of a request for hearing: *Provided*, That the presiding officer may grant specific extensions of time beyond the period set forth in this section at the request of either party.

(2) A copy of the decision consisting of the findings of fact, conclusions of law, and decisions shall be mailed or provided directly to each of the parties and to the superintendent of public instruction by the presiding officer together with a certification of the date of mailing and the parties to whom it was mailed.

(3) In addition to the requirements set forth in RCW 34.05.461 and WAC 10-08-210, the decision of the presiding officer shall be drafted in a manner which avoids the revelation of personally identifiable information that is unnecessary to reaching and understanding the decision reached. The surnames of students and their parents shall be indicated by use of their last initial and shall not be spelled out.

(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.

(5) A decision made in a hearing conducted under this chapter is final unless a petition for review is filed under WAC 72-171-630.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417, 90-16-008, § 72-171-620, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-630 Petition for review.** (1) Any party aggrieved by the decision in the hearing may petition for review.

(2) The petition for review shall be filed with the office of administrative hearings within twenty days of the date of service of the decision. Copies of the petition shall be served upon all other parties or their representatives at the time the petition is filed.

(3) The petition for review shall specify the portions of the decision in the hearing to which exception is taken and

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shall refer to the evidence of the record which is relied upon to support the petition.

(4) Any party may file a reply to a petition for review. The reply shall be filed within ten days of the date of service of the petition and copies of the reply shall be served upon all other parties or representatives at the time the reply is filed.

(5) In addition to the requirements set forth in RCW 34.05.464, the reviewing officer shall:

(a) Ensure that the procedures at the hearing were consistent with the requirements of due process;

(b) Seek additional evidence if necessary. If a hearing is held to receive additional evidence, the rights in WAC 72-171-610 apply; and

(c) Make an independent decision within thirty days after the receipt of the petition for review, including all matters set forth in WAC 72-171-620 (2) and (3).

(6) The decision made by the reviewing officer is final unless modified or overturned by a court of law.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417, 90-16-008, § 72-171-630, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-640 Student's status during proceedings.** (1) During the pendency of any administrative or judicial proceeding regarding a complaint initiated pursuant to WAC 72-171-600, unless the school and the parent(s) of the student (or the eligible 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 eligible 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 72.40.022 and 20 U.S.C. §§1401, 1412-1417, 90-16-008, § 72-171-640, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-650 Surrogate parents.** (1) The school shall ensure that the rights of the nonadult student are protected when:

(a) No parent (as defined in WAC 72-171-010(3)) can be identified;

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

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

(2) Duty of school. The duty of the school 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. The school shall ensure 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:

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(a) A person assigned as a surrogate may not be an employee of the school 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 and/or other agency solely because he or she is paid by the school 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 72.40.022, 90-23-055, § 72-171-650, filed 11/19/90, effective 12/20/90.]

## MISCELLANEOUS PROGRAM REQUIREMENTS

**WAC 72-171-700 Administration of medication.** (1) Medication may be administered to a student by school 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 eligible 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.

[Statutory Authority: RCW 72.40.022, 90-23-054, § 72-171-700, filed 11/19/90, effective 12/20/90.]

## Chapter 72-276 WAC PUBLIC RECORDS

### WAC

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**WAC 72-276-010 Purpose.** The purpose of this chapter is to ensure that the school complies with the public records provisions of RCW 42.17.250 through 42.17.340.

[Statutory Authority: RCW 72.40.022 and 42.17.250, 90-16-009, § 72-276-010, filed 7/19/90, effective 8/19/90.]

**WAC 72-276-020 Definitions.** (1) Public records. "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of

physical form or characteristics: *Provided, however,* That the personal and other records cited in RCW 42.17.310 are exempt from definition of public record.

(2) Writing. "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds or symbols, combination thereof and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, disks, drums, and other documents.

(3) Washington state school for the blind. "Washington state school for the blind" is an agency organized by statute pursuant to RCW 72.40.010. Washington state school for the blind shall hereafter be referred to as the "school." Where appropriate, the term "school" also refers to staff and employees of the school.

[Statutory Authority: RCW 72.40.022 and 42.17.250. 90-16-009, § 72-276-020, filed 7/19/90, effective 8/19/90.]

**WAC 72-276-030 Description of central organization of Washington state school for the blind.** (1) Washington state school for the blind is a state agency established and organized under the authority of chapter 72.40 RCW for the purpose of implementing the educational goals established by the legislature in RCW 72.40.010. The administrative office of the school is located in Vancouver, Washington. The Vancouver campus comprises the central headquarters for all operations of the school.

(2) The school operates under the supervision and control of the superintendent of the state school for the blind, appointed by the governor. The superintendent takes such actions and promulgates such rules, regulations, and policies in harmony with the rules and regulations established by the office of superintendent of public instruction and the United States Department of Education, as are necessary to the administration and operation of the school.

(3) A board of trustees serves as an advisory board to the superintendent and to the legislature. The board consists of a member from each of the states' congressional districts and ex officio members representing specific interests and constituents of the school. The responsibilities and functions of the board are provided in chapter 72.41 RCW.

(4) The school is comprised of three components. The education component is under the direction of the school principal. The residential life component is under the supervision of the director of residential life. The support services component is provided by consolidated services under an interagency agreement between the Washington state school for the blind and the Washington state school for the deaf. Medical services and outreach programs are under the direction of the superintendent. A detailed description of the administrative organization of the school is available at the administrative office of the school.

[Statutory Authority: RCW 72.40.022 and 42.17.250. 90-16-009, § 72-276-030, filed 7/19/90, effective 8/19/90.]

**WAC 72-276-040 Operations and procedures.** Formal decision-making procedures are established by the superintendent through rules promulgated in accordance with the

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requirements of chapter 34.05 RCW, the Administrative Procedure Act (APA).

[Statutory Authority: RCW 72.40.022 and 42.17.250. 90-16-009, § 72-276-040, filed 7/19/90, effective 8/19/90.]

**WAC 72-276-050 Public records available.** All public records of the school, as defined in this chapter, are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW 42.17.310.

[Statutory Authority: RCW 72.40.022 and 42.17.250. 90-16-009, § 72-276-050, filed 7/19/90, effective 8/19/90.]

**WAC 72-276-060 Public records officer.** The school's public records shall be in the charge of the public records officer designated by the superintendent of the school. The person so designated shall be located in the school administrative office. The public records officer shall be responsible for the following: Implementation of the school's rules and regulations regarding release of public records, coordinating the school employees in this regard, and generally ensuring compliance by school employees with the public records disclosure requirements in chapter 42.17 RCW.

[Statutory Authority: RCW 72.40.022 and 42.17.250. 90-16-009, § 72-276-060, filed 7/19/90, effective 8/19/90.]

**WAC 72-276-070 Office hours.** Public records shall be available for inspection and copying during the customary office hours of the school. For purposes of this chapter, the customary office hours shall be from 8:00 a.m. to noon and from 1:00 p.m. to 5:00 p.m., excluding legal holidays and holidays established by the school calendar.

[Statutory Authority: RCW 72.40.022 and 42.17.250. 90-16-009, § 72-276-070, filed 7/19/90, effective 8/19/90.]

**WAC 72-276-080 Requests for public records.** In accordance with the requirements of RCW 42.17.290 that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records are only obtainable by members of the public when those members of the public comply with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the school which shall be available at the school administrative office. The form shall be presented to the public records officer or, if the public records officer is not available, to any member of the school staff at the school administrative office during customary hours. The request shall include the following information:

- (a) The name of the person requesting the record;
- (b) The time of day and calendar date on which the request was made;
- (c) The nature of the request;
- (d) If the matter requested is referenced within the current index maintained by the public records officer, a reference to the requested record as it is described in such current index; and

(e) If the requested matter is not identifiable by reference to the current index, an appropriate description of the record requested.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer, or person to whom the request is made, to assist the member of the public in succinctly identifying the public record requested.

[Statutory Authority: RCW 72.40.022 and 42.17.250. 90-16-009, § 72-276-080, filed 7/19/90, effective 8/19/90.]

**WAC 72-276-090 Copying.** No fee shall be charged for the inspection of public records. The school may impose a reasonable charge for providing copies of public records and for the use by any person of agency equipment to copy public records; such charges shall not exceed the amount necessary to reimburse the school for its actual costs incident to such copying. No person shall be released a record so copied until and unless the person requesting the copied public record had tendered payment for such copying to the appropriate school official. All charges must be paid by money order, cashier's check, or cash in advance.

[Statutory Authority: RCW 72.40.022 and 42.17.250. 90-16-009, § 72-276-090, filed 7/19/90, effective 8/19/90.]

**WAC 72-276-100 Determination regarding exempt records.** (1) The school reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 72-276-080 is exempt pursuant to the provisions set forth in RCW 42.17.310 and 42.17.315. Such determination may be made in consultation with the public records officer, the school superintendent, or an assistant attorney general assigned to the school.

(2) Pursuant to RCW 42.17.260, the school reserves the right to delete identifying details when it makes available or publishes any public record when there is reason to believe that disclosure of such details would be an unreasonable invasion of personal privacy; provided, however, in each case, the justification for deletion shall be explained fully in writing.

(3) Response to requests for a public record must be made promptly. For the purposes of this section, a prompt response occurs if the person requesting the public record is notified within two business days as to whether his request for a public record will be honored.

(4) All denials of request for public records must be accompanied by a written statement, signed by the public records officer or his/her designee, specifying the reason for the denial, a statement of the specific exemption authorizing the withholding of the record, and a brief explanation of how the exemption applies to the public record withheld.

[Statutory Authority: RCW 72.40.022 and 42.17.250. 90-16-009, § 72-276-100, filed 7/19/90, effective 8/19/90.]

**WAC 72-276-110 Review of denials of public records requests.** (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement which constituted or accompanied the denial.

(2) The written request by a person demanding prompt review of a decision denying a public record shall be submitted to the superintendent, or his or her designee.

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(3) Within two business days after receiving the written request by a person petitioning for a prompt review of a decision denying public record, the superintendent, or his or her designee, shall complete such review.

(4) During the course of the review, the superintendent or his or her designee, shall consider the obligations of the school fully to comply with the intent of chapter 42.17 RCW insofar as it requires providing full public access to official records, but shall also consider both the exemptions provided in RCW 42.17.310 through 42.17.315, and the provisions of the statute which require the school to protect public records from damage or disorganization, prevent excessive interference with essential functions of the agency, and prevent any unreasonable invasion of personal privacy by deleting identifying details.

[Statutory Authority: RCW 72.40.022 and 42.17.250. 90-16-009, § 72-276-110, filed 7/19/90, effective 8/19/90.]

**WAC 72-276-120 Protection of public records.** Requests for public records shall be made at the administrative office of the school in Vancouver, Washington. Public records and a facility for their inspection will be provided by the public records officer. Such records shall not be removed from the place designated. Copies of such records may be arranged according to the provisions of WAC 72-276-090.

[Statutory Authority: RCW 72.40.022 and 42.17.250. 90-16-009, § 72-276-120, filed 7/19/90, effective 8/19/90.]

**WAC 72-276-130 Records index.** (1) The school has available for the use of all persons a current index which provides identifying information as to the following records issued, adopted, or promulgated by the school after January 1, 1973:

- (a) Final opinions, including concurring and dissenting opinions, as well as orders made in the adjudication of cases;
- (b) Those statements of policy and interpretations of policy, statute, and the Constitution which have been adopted by the agency;
- (c) Administrative staff manuals and instructions to staff that affect a member of the public;
- (d) Planning policies and goals, and interim and final planning decisions;
- (e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports or surveys, whether conducted by public employees or others; and

(f) Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory, or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party.

(2) The current index maintained by the school shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection.

[Statutory Authority: RCW 72.40.022 and 42.17.250. 90-16-009, § 72-276-130, filed 7/19/90, effective 8/19/90.]

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WAC 72-276-140 Adoption of form. The school hereby adopts for use by all persons requesting inspection and/or copying or copies of its records the following form:

REQUEST FOR PUBLIC RECORD TO WASHINGTON STATE SCHOOL FOR THE BLIND

(a) Name (please print) Signature
Name or Organization, if applicable
Mailing Address of Applicant Phone Number
(b) Date Request Made Time of Day Request Made:
(c) Nature of Request
(d) Identification Reference on Current Index (Please Describe)
(e) Description of Record, or Matter, Requested if not Identifiable by Reference to the Washington State School for the Blind
Request: APPROVED DENIED Date...
By Name Title
Reasons for Denial:
Referred to. Date
By Name Title

[Statutory Authority: RCW 72.40.022 and 42.17.250. 90-16-009, § 72-276-140, filed 7/19/90, effective 8/19/90.]

Chapter 72-280 WAC

FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974

WAC
72-280-010 Confidentiality of student records.
72-280-011 Definitions.
72-280-015 Notice.
72-280-020 Education records—Parents' (or eligible students') right to inspect.
72-280-025 Education records—Access procedures.
72-280-030 Education records—Amendment.
72-280-040 Disclosure of personally identifiable information from education records.
72-280-050 Safeguards.
72-280-055 Record of access.
72-280-060 Destruction of information.
72-280-070 Directory information.

WAC 72-280-010 Confidentiality of student records. In compliance with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. Sec. 1232(g), and the Education of the Handicapped Act, 20 U.S.C. Secs. 1400 through 1420, this policy has been created:

- (1) To ensure that information contained in student education records is treated in a responsible manner with due regard for the personal nature of such information;
(2) To ensure the accuracy of information contained in student education records by providing parents (or eligible students) with the opportunity to inspect the records; and
(3) To ensure the continued confidentiality of such records by establishing procedures governing the release of information contained therein.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-010, § 72-280-010, filed 7/19/90, effective 8/19/90.]

WAC 72-280-011 Definitions. As used in this chapter:

(1) "Directory information" means information contained in an education record of a student which would not generally be considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended.

(2) "Disclosure" means to permit access to or the release, transfer, or other communication of education records, or the personally identifiable information contained in those records, to any party, by any means, including oral, written, or electronic means.

(3) "Education records" means those records, files, documents, and other materials that are:

- (a) Maintained by the school; and
(b) Directly related to a student.

The term "education records" does not include:

(i) Records of instructional, supervisory, and administrative personnel and educational personnel ancillary to those persons that are kept in the sole possession of the maker of the record, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;

(ii) Records of the school security department that are kept apart from education records, maintained solely for law enforcement purposes, and are not available to persons other than law enforcement officials of the same jurisdiction;

(iii) In the case of persons who are employed by but do not attend the school, records made and maintained in the normal course of business which relate exclusively to such person in that person's capacity as an employee and 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 who is employed as a result of his or her status as a student;

(iv) Records on a student who is eighteen years of age or older that are created and maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional or paraprofessional capacity, and which are not accessible or revealed to any other person except a temporary substitute for the maker of the record.

sional capacity, or assisting in that capacity and that are created, maintained, or used only in connection with the treatment of the student; and are not available to anyone other than persons providing such treatment; provided, however, that such records can be personally reviewed by a physician or other appropriate professional of the student's choice;

(v) Records that contain only information relating to an individual after he or she is no longer a student at the school.

(4) "Eligible student" means a student who has reached eighteen years of age. When a student becomes an "eligible student," the rights accorded to, and the consent required of, parents under this chapter, transfer from the parents to the student.

(5) "Parent" means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian.

(6) "Party" means an individual, agency, institution, or organization.

(7) "Personally identifiable information" includes, but is not limited to the student's name; the name of the student's parent or other family member; the address of the student or student's family; a personal identifier, such as the student's Social Security number or student number; a list of personal characteristics that would make the student's identity easily traceable; or other information that would make the student's identity easily traceable.

(8) "Student" means any individual who is or has been in attendance at the school and regarding whom the school maintains education records.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-010, § 72-280-011, filed 7/19/90, effective 8/19/90.]

**WAC 72-280-015 Notice.** The school shall provide parents of student (or eligible students) currently in attendance with annual notice of their rights under this chapter. The notice shall inform parents (or eligible students) of their right to:

- (1) Inspect and review the student's education records;
- (2) Request amendment of the student's education records to ensure that they are not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights;
- (3) Consent to disclosure of personally identifiable information contained in the student's education records;
- (4) Obtain a copy of the school's policy on access to and disclosure of education records; and
- (5) File with the United States Department of Education a complaint concerning alleged failures to comply with the requirements of the Family Educational Rights and Privacy Act.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-010, § 72-280-015, filed 7/19/90, effective 8/19/90.]

**WAC 72-280-020 Education records—Parents' (or eligible students') right to inspect.** (1) A parent, eligible student, or representative of the parent has the right to inspect and review the education records of the student.

(2) Where the education record or data includes information on more than one student, the parent(s) of those students

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(or the eligible students) shall have the right to inspect and review only the information relating to their child (or themselves) or to be informed of that specific information.

(3) The parent (or eligible student) has the right to obtain copies of the student's education records. Charges for the copies shall not exceed the cost normally charged by the school. However, if the fee effectively prevents the parent (or eligible student) from exercising the right to inspect and review the student's education records, the school may provide such copies free of charge.

(4) The school may presume that a parent has authority to inspect and review records relating to his/her child unless the school has been advised that the parent does not have the authority under applicable state law governing such matters as guardianship, separation, and dissolution.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-010, § 72-280-020, filed 7/19/90, effective 8/19/90.]

**WAC 72-280-025 Education records—Access procedures.** (1) A list of the types and locations of education records collected, maintained, or used by the school may be obtained by the parent at the superintendent's office.

(2) A request by a parent (or eligible student) for review of information should be made in writing to the individual or office having custody of the record.

(3) The custodian of the record shall respond to reasonable requests for inspection, explanation, and interpretation of education records within forty-five days from the date the request was received and before any meeting regarding an individualized education program or hearing relating to the identification, evaluation, or placement of the student. If the records custodian is unable to comply with a request within the above stated period, he or she shall inform the parent (or eligible student) of that fact and the reasons in writing.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-010, § 72-280-025, filed 7/19/90, effective 8/19/90.]

**WAC 72-280-030 Education records—Amendment.**

(1)(a) A parent (or eligible student) who believes that information contained in the education record is inaccurate, misleading, or violates the privacy or other rights of the student, may request the school to amend the information.

(b) The right to challenge, under this chapter, shall not be used to contest grades which are correctly recorded.

(2) The school shall decide whether to amend the record as requested within a reasonable time after receipt of the request.

(3) If the school decides not to amend the record as requested, it shall inform the parent (or eligible student) of the decision and of the right to a brief adjudicative proceeding under WAC 72-108-100.

(4) The school shall, on request, provide an opportunity for a brief adjudicative proceeding to challenge information in the education record on the grounds provided for in subsection (1) of this section.

(5) For the purpose of this chapter:

(a) The decision of the brief adjudicative proceeding must be based solely on the evidence presented at the brief

adjudicative proceeding and must include a summary of the evidence and the reasons for the decision.

(b) The parent (or eligible student) may, at their own expense, be assisted or represented by one or more individuals of his or her choice, including an attorney. Where the parent (or eligible student) is represented by an attorney, the school may be represented by an assistant attorney general.

(6) If, as a result of the brief adjudicative proceeding, the school 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 eligible student) in writing.

(7) If, as a result of the brief adjudicative proceeding, the school 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 (or eligible 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 school, (or both).

(8) Any explanation placed in the records of the student under this section must:

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

(b) Be included with any disclosure of the record or contested portion to which the explanation relates.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-010, § 72-280-030, filed 7/19/90, effective 8/19/90.]

**WAC 72-280-040 Disclosure of personally identifiable information from education records.** (1) The school shall not permit access to or the release of education records or personally identifiable information contained there (other than "directory information") without the written consent of the parent (or eligible student) to any party other than the following:

(a) School officials, including teachers, when the information is required for a legitimate educational interest within the performance of their responsibilities to the school, with the understanding that its use will be strictly limited to the performance of those responsibilities;

(b) Officials of another school, school system, or institution of postsecondary education who have requested the records and in which the student seeks or intends to enroll, upon condition that:

(i) The parent (or eligible student) be notified of the transfer (unless the disclosure is initiated by the parent or eligible student);

(ii) The parent (or eligible student), upon request, receive a copy of the record that was disclosed; and

(iii) The parent (or eligible student), upon request, receive an opportunity for a brief adjudicative proceeding to challenge the content of the record;

(c) Federal and state officials requiring access to education records in connection with the audit and evaluation of a federal or state-supported education program, or in connection with the enforcement of or compliance with federal or state legal requirements which relate to such programs. In

such cases the information required shall be protected by the federal or state official in a manner which will not permit the personal identification of students and their parents to other than those officials and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, or enforcement of legal requirements;

(d) Organizations conducting studies for, or on behalf of the school, for purposes of developing, validating or administering predictive tests, administering student aid programs, and improving instruction: *Provided*, That the study is conducted in such a manner that does not permit the personal identification of parents and students by persons other than representatives of such organizations, and such information is destroyed when no longer needed for the purposes for which it was provided;

(e) Accrediting organizations in order to carry out their accrediting functions;

(f) Any person or entity designated by judicial order or lawfully issued subpoena: *Provided*, That the school makes a reasonable effort to notify the parent (or eligible student) of the order or subpoena in advance of compliance. Any school employee receiving a subpoena or judicial order for education records should immediately notify the attorney general;

(g) Those individuals or agencies to which a release of information without consent is permitted by the rules that implement the Family Educational Rights and Privacy Act of 1974, 34 C.F.R. Secs. 99.31 through 99.37.

(2) Where the consent of a parent (or eligible student) is obtained for the release of education records, it shall be in writing, signed and dated by the person giving such consent, and shall include:

(a) A specification of the records to be released;

(b) The reasons for such release; and

(c) The names of the parties to whom such records will be released.

(3) When a disclosure is made under subsection (2) of this section, if a parent (or eligible student) so requests, the school shall provide him or her with a copy of the records disclosed.

(4) Personally identifiable education records released to third parties, with or without parent (or eligible student) consent, shall be accompanied by a written statement indicating that the information cannot be subsequently released in a personally identifiable form to any other party without the prior consent of the parent (or eligible student).

(5) Unless otherwise prohibited by law, information from education records may be released to appropriate persons in connection with an emergency if knowledge of such information is necessary to protect the health or safety of a student or other person(s).

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-010, § 72-280-040, filed 7/19/90, effective 8/19/90.]

**WAC 72-280-050 Safeguards.** (1) The school shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

(2) A school official shall insure the confidentiality of any personally identifiable information.

(3) The school shall maintain, for public inspection, a current listing of the names and positions of those employees within the school who may have access to personally identifiable information.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-010, § 72-280-050, filed 7/19/90, effective 8/19/90.]

**WAC 72-280-055 Record of access.** (1) The school shall maintain a record of each request for access to and each disclosure of personally identifiable information from the education records of each student.

(2) The school shall maintain the record with the education records of the student as long as the records are maintained.

(3) For each request or disclosure the record must include:

- (a) The name of the party;
- (b) The date access was given; and
- (c) The legitimate interest or purpose for which the party is authorized to use the records.

(4) If the party receiving personally identifiable information makes further disclosures of the information on behalf of the school, the record must include:

- (a) The names of additional parties to which the receiving party may disclose the information; and
- (b) The legitimate interests under WAC 72-280-040 which each of the additional parties has in requesting or obtaining the information.

(5) Subsection (1) of this section does not apply if the request was from, or the disclosure was to:

- (a) The parent or eligible student;
- (b) A school official under WAC 72-280-040 (1)(a);
- (c) A party with written consent from the parent or eligible student; or
- (d) A party seeking directory information.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-010, § 72-280-055, filed 7/19/90, effective 8/19/90.]

**WAC 72-280-060 Destruction of information.** (1) Student education records may be destroyed in accordance with state laws and regulations: *Provided*, That the school shall not destroy any education records if there is an outstanding request to inspect and review the records under this chapter.

(2)(a) The school shall inform parents (or eligible students) when personally identifiable information is no longer needed to provide educational services to the student.

(b) At the request of a parent (or eligible student), the school shall destroy personally identifiable information. However, the school may maintain a permanent record of the student's name, address, phone number, grades, attendance record, classes attended, grade level completed, and year of completion without time limitation.

(3) For the purpose of this section, "destruction" means physical destruction or removal of personal identifiers.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-010, § 72-280-060, filed 7/19/90, effective 8/19/90.]

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**WAC 72-280-070 Directory information.** (1) The school shall provide public notice to parents of students in attendance and eligible students in attendance at the school of:

(a) The types of personally identifiable information that the school has designated as directory information;

(b) A parent's or eligible student's right to refuse to let the school designate any or all of those types of information about the student as directory information; and

(c) The period of time within which a parent or eligible student has to notify the school in writing that he or she does not want any or all of those types of information about the student designated as directory information.

(2) The school shall not disclose directory information pertaining to a student in attendance at the school without prior written consent from the parents of such student or such eligible student.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-010, § 72-280-070, filed 7/19/90, effective 8/19/90.]

## Chapter 72-325 WAC

### STATE ENVIRONMENTAL POLICY ACT RULES

#### WAC

72-325-010

Implementation of State Environmental Policy Act.

**WAC 72-325-010 Implementation of State Environmental Policy Act.** (1) It shall be the policy of Washington state school for the blind that all actions taken by the school shall comply with the provisions of chapter 43.21C RCW (State Environmental Policy Act) and chapter 197-11 WAC as presently enacted or hereafter amended.

(2) The superintendent, or his or her designee, shall be responsible for administering and implementing this policy.

[Statutory Authority: RCW 72.40.022. 90-16-011, § 72-325-010, filed 7/19/90, effective 8/19/90.]