

Title 148 WAC

DEAF, WASHINGTON STATE SCHOOL FOR THE

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Chapter 148-100 WAC

ORGANIZATION

WAC

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WAC 148-100-001 Description of organization. (1)

The Washington state school for the deaf is a state agency established and organized under the authority of chapter 72.40 RCW. The school provides special education and related services to deaf and hearing impaired students pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. secs. 1400 et seq.; and as administered and generally supervised by the superintendent of public instruction under chapter 28A.155 RCW.

(2) The school operates under the direction and control of the superintendent and the board of trustees. The school is governed by a nine-member board of trustees, appointed by the governor, which is responsible for performing needed oversight services to the governor and legislature in the development of programs for the hearing impaired and in the operation of the school. The superintendent is the principal administrative officer of the school and shall be responsible for supervision and management of the school and its programs as well as other duties which are prescribed by section 3, chapter 209, Laws of 2002.

(3) The administrative office of the school is located at 611 Grand Blvd., Vancouver, Washington 98661. Any person may obtain additional information and make submissions and requests at the administrative office. Additional information concerning organization and educational programs may also be obtained from the school's webpage at <http://www.wsd.wa.gov>.

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[Statutory Authority: RCW 72.42.041, 02-22-059, § 148-100-001, filed 11/1/02, effective 12/2/02. Statutory Authority: RCW 72.40.022 and 34.05.-220 (1)(b), 90-16-012, § 148-100-001, filed 7/19/90, effective 8/19/90.]

BYLAWS

WAC 148-100-010 Time and place of board meetings. The board of trustees customarily holds a regular meeting each month pursuant to a schedule established yearly by the board and such special meetings as may be requested by the chair of the board or by a majority of the members of the board and announced in accordance with RCW 42.30.080. A regular meeting may be canceled by action of the board or the board chair.

Meetings of the board shall be at the Washington School for the Deaf, 611 Grand Blvd., Vancouver, Washington 98661, or at such other location as the board may determine.

All regular and special meetings are open to the general public; however, the chair may call an executive session when permitted by law at which members of the general public shall not be present unless invited.

No official business may be conducted by the board of trustees except during a regular or special meeting. No individual member of the board may act on behalf of the board unless specifically instructed by action of the board.

[Statutory Authority: RCW 72.42.031, 05-10-008, § 148-100-010, filed 4/25/05, effective 5/26/05. Statutory Authority: RCW 72.42.041, 02-22-059, § 148-100-010, filed 11/1/02, effective 12/2/02.]

WAC 148-100-020 Meetings—Board agenda—Communication. (1)

Anyone, other than a board member or a representative of the superintendent's office wishing an item placed on the agenda of a board meeting, must have a written request to the board secretary, superintendent's office, no later than twelve o'clock noon twelve business days before the next scheduled meeting of the board. The secretary will relate the request to the chair of the board as soon as feasible. The chair will determine whether the item is to be placed on the agenda. The chair or designee will notify the individual initiating the request as to whether or not the item will be placed on the agenda.

(2) All materials to be considered by the board must be submitted in sufficient quantities to provide each member of the board and the secretary with appropriate copies. To allow the board to have the benefit of background information and research, the superintendent shall be given an opportunity, whenever possible, to review and evaluate all materials prepared for consideration by the board prior to submission to the board. The superintendent shall also have the opportunity to make recommendations prior to a decision by the board on the matter.

(3) Proposed new policies and/or changes in policy will be presented first to the board of trustees as a report. Board action will usually be taken at a subsequent meeting. If expe-

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dient action on the matter would clearly be beneficial to the school, the board may consider taking action at the time the policy is first presented to the board.

(4)(a) Each regular meeting of the board shall provide members of the public an opportunity to address the board on any item of business. Groups and individuals are to submit their statements in writing to the board secretary, superintendent's office, whenever possible no less than two weeks prior to the time of the meeting. The board encourages groups to designate a spokesperson to address the board on their behalf.

(b) The chair of the board reserves the right to determine time limits on statements and presentations.

(c) The intent of the board shall be to provide equal time for opposing presentations. The chair also maintains the right to regulate the subject matter of that which may be presented or discussed at the open meeting including, but not limited to, matters which are the subject of current or pending grievances or adjudicative or disciplinary proceedings. Matters for consideration, discussion, and/or debate will be limited to the extent allowed by the Open Public Meetings Act, chapter 42.30 RCW.

[Statutory Authority: RCW 72.42.041. 02-22-059, § 148-100-020, filed 11/1/02, effective 12/2/02.]

WAC 148-100-030 Officers of the board. (1) At the first regular meeting of the board each fiscal year, the board shall elect from its membership, a chair and vice-chair to serve for the ensuing year. In addition, the superintendent of the Washington school for the deaf shall serve as secretary to the board of trustees. The secretary may, at his or her discretion, appoint the executive assistant to the superintendent to act as recording secretary for all regular and special meetings of the board.

(2) The chair shall preside at each regular or special meeting of the board, sign all legal and official documents recording action of the board, and review the agenda prepared for each meeting of the board. The chair shall, while presiding at official meetings, have full right of discussion and vote.

(3) The vice-chair shall act as chair of the board in the absence of the chair.

(4) In case of the absence of the chair and vice-chair from any meeting of the board of trustees or in case of the inability of both of the two to act, the board of trustees shall elect for the meeting a chair pro tempore, and may authorize such chair pro tempore to perform the duties and acts authorized or required by said chair or vice-chair to be performed, as long as the inability of these said officers to act may continue.

(5) The secretary of the board shall, in addition to any duties imposed by law or the governor, keep the official seal of the board, maintain all records of meetings and other official action of the board.

(6) The secretary shall also be responsible for board correspondence, compiling the agenda of meetings, and distributing the minutes of the meetings and related reports.

(7) The secretary, or his or her designee, must attend all regular and special meetings of the board, and official minutes must be kept of all such meetings except in executive sessions.

[Statutory Authority: RCW 72.42.041. 02-22-059, § 148-100-030, filed 11/1/02, effective 12/2/02.]

WAC 148-100-040 Records of board action. All business transacted in official board meeting shall be recorded in minutes and filed for reference. Records are kept in the office of the secretary of the board.

[Statutory Authority: RCW 72.42.041. 02-22-059, § 148-100-040, filed 11/1/02, effective 12/2/02.]

WAC 148-100-050 Revision of bylaws. (1) The board of trustees may adopt bylaws to govern its operations. A record of these bylaws shall be maintained in the office of the president.

(2) Bylaws of the board may be revised by majority vote of the board, provided such changes are proposed at least one meeting prior to the meeting at which the vote is taken. Bylaws may be revised by unanimous vote of the board at the same meeting at which the revision is originally proposed.

[Statutory Authority: RCW 72.42.041. 02-22-059, § 148-100-050, filed 11/1/02, effective 12/2/02.]

RULES COORDINATOR

WAC 148-100-200 Rules coordinator. The rules coordinator for the Washington school for the deaf as designated by the board of trustees is:

Superintendent
Washington School for the Deaf
611 Grand Blvd.
Vancouver, Washington 98661

[Statutory Authority: RCW 72.42.041. 02-22-059, § 148-100-200, filed 11/1/02, effective 12/2/02.]

Chapter 148-108 WAC PRACTICE AND PROCEDURE

WAC

148-108-010	Adoption of model rules of procedure.
148-108-020	Appointment of presiding officers.
148-108-030	Method of recording.
148-108-040	Application for adjudicative proceeding.
148-108-060	Discovery.
148-108-070	Confidentiality of formal adjudicative proceedings.
148-108-080	Procedure for closing parts of the hearings.
148-108-090	Recording devices.
148-108-100	Brief adjudicative procedure.

WAC 148-108-010 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 148-108-090 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. 90-16-013, § 148-108-010, filed 7/19/90, effective 8/19/90.]

WAC 148-108-020 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. 90-16-013, § 148-108-020, filed 7/19/90, effective 8/19/90.]

WAC 148-108-030 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. 90-16-013, § 148-108-030, filed 7/19/90, effective 8/19/90.]

WAC 148-108-040 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 Deaf
611 Grand Boulevard, S-26
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.

[Statutory Authority: RCW 72.40.022, 34.05.220 (1)(a) and 34.05.250. 90-16-013, § 148-108-040, filed 7/19/90, effective 8/19/90.]

WAC 148-108-060 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. 90-16-013, § 148-108-060, filed 7/19/90, effective 8/19/90.]

WAC 148-108-070 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. 90-16-013, § 148-108-070, filed 7/19/90, effective 8/19/90.]

WAC 148-108-080 Procedure for closing parts of the hearings. A party may apply for a protective order to close

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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 proceedings 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. 90-16-013, § 148-108-080, filed 7/19/90, effective 8/19/90.]

WAC 148-108-090 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 148-108-070, 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. 90-16-013, § 148-108-090, filed 7/19/90, effective 8/19/90.]

WAC 148-108-100 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 chapter 148-120 WAC;
- (2) Amendment of education records pursuant to WAC 148-280-030; and
- (3) Residency determinations made pursuant to WAC 148-130-040.

[Statutory Authority: RCW 72.40.022, 34.05.220 (1)(a) and 34.05.250. 90-16-013, § 148-108-100, filed 7/19/90, effective 8/19/90.]

Chapter 148-120 WAC STUDENT CONDUCT CODE

WAC	
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148-120-410	Emergency expulsion—Prehearing and hearing process.
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WAC 148-120-010 Student responsibilities and duties. Washington school for the deaf is dedicated to offering its students an opportunity for the best education for deaf and hearing impaired students in the state of Washington. Concomitant to the rights and privileges guaranteed by federal and state law to students are duties and responsibilities which guarantee the rights of all students, including respect for the rights of others, compliance with written rules adopted herein and set forth in student handbooks, and submission to reasonable disciplinary action for violation(s) for 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. 94-13-058, § 148-120-010, filed 6/8/94, effective 7/9/94.]

WAC 148-120-015 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 peaceful 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.600.210 through 28A.600.240 as now or hereafter amended.

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

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

(i) Notice to the accused student 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. 94-13-058, § 148-120-015, filed 6/8/94, effective 7/9/94.]

CONDUCT RULES

WAC 148-120-100 Conduct violations. A student who, either as actor, aider, abettor, or accomplice, violates any provision of this chapter shall be subject to the disciplinary actions herein adopted. A student may be an accomplice, or found to have aided and abetted in the commission of a violation of the student conduct code if he or she knowingly associates with the wrongful purpose, undertaking or activity; encourages, promotes, or counsels another student in the commission of an offense, or participates in it as in something he or she desires to bring about, and seeks by his or her action to make it succeed.

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 or communication of a sexual nature when:

(a) Submission to the conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining an education;

(b) Submission to or rejection of that conduct or communication by a person is used as a factor in decisions affecting that person's education;

(c) That conduct or communication has the purpose or effect of substantially or unreasonably interfering with a person's education; or creating an intimidating, hostile, or offensive educational environment.

Sexual harassment may include, but is not limited to: Unwelcome verbal harassment or abuse; unwelcome pressure for sexual activity; unwelcome, sexually motivated or inappropriate patting, pinching, or physical contact; unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt threats concerning a person's educational status; or unwelcome behavior, verbal, signed, or written words or symbols directed at a person because of gender.

(4) Disruption. Disorderly, intimidating 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) Insubordination. Refusal or failure to follow instructions and proper orders of school officials, while on school property, during transportation to and from school, or at school-sponsored activities, thereby infringing upon the

rights and privileges of others, and/or refusal to desist from prohibited conduct.

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

(7) 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.

(8) 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.

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

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

(11) 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.

(12) Smoking. Students are not allowed to smoke or use tobacco products on school [property] [premises] or during school-sponsored activities.

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

(14) Drugs and controlled substances. Use, possession, distribution, or being visibly under the influence of any controlled substance [or illegal drug] as defined in WAC 148-120-300, except when the use or possession of a drug is specifically prescribed as medication by an authorized medical doctor or dentist; possession of drug paraphernalia.

(15) Weapons, lasers, and dangerous chemicals. Unauthorized use, possession or storage of any weapon, laser, explosives, ammunition, dangerous chemicals, substances or instruments, which is capable of causing bodily harm on another or damage upon school property or personal property.

(16) Sexual violence. Sexual violence is a physical act of aggression or force or the threat thereof which involves the touching of another's intimate parts. Intimate parts include the primary genital area, groin, inner thighs, buttocks or breast, as well as the clothing covering these areas. Sexual violence may include, but is not limited to:

(a) Touching, patting, grabbing or pinching another person's intimate parts, whether that person is of the same or the opposite sex;

(b) Coercing, forcing, attempting to coerce or force the touching of anyone's intimate parts;

(c) Coercing, forcing, attempting to coerce or force sexual intercourse or a sexual act on another;

(d) Threatening to force or coerce sexual acts, including the touching of intimate parts or intercourse, on another; or

(e) Threatening of forcing exposure of intimate apparel or body parts by removal of clothing.

(17) Sexual activity and displays of affection. Sexual activity involves touching of another's intimate parts. Inti-

mate parts include the primary genital area, groin, inner thighs, buttocks or breast, as well as the clothing covering these areas. Even if consensual or mutually agreed to, sexual activity is prohibited. Excessive displays of affection are not appropriate in school or at any school-related function. Prohibited conduct includes, but is not limited to: Any physical expression of affection that is intimate or sexual in nature, passionate or prolonged kissing, sexual touching, or fondling.

(18) Pornography. Possession, distribution, display, creation or production of sexually explicit or erotic material. Sexually explicit material includes material defined in RCW 9.68.130. Erotic material includes material defined in RCW 9.68.050.

(19) Malicious harassment. Harassment consists of verbal or physical conduct relating to a person's actual or perceived national origin, disability, race, sexual orientation, or religion, which has the purpose or effect of creating an intimidating, hostile or offensive academic, residential or work environment, or the purpose or effect of substantially or unreasonably interfering with a person's academic or work performance, or otherwise adversely affects a person's academic or work opportunities. Harassment may include: Name calling, gestures, bullying, mimicking, mocking, derogatory jokes, remarks or rumors, unwelcome touching of a person or clothing, offensive or graphic posters, book covers, notes or cartoons, graffiti, display or circulation of written materials or pictures, or any other malicious or insensitive conduct of a severe or pervasive nature directed at the characteristics of a person's national origin, customs, culture, disability, race, sexual orientation, or religion.

(20) Unauthorized absence. Absconding from supervision; leaving or running away from the campus, a residential facility, a school building, school activity or school-related function, or school-provided transportation without permission.

(21) Gang activity. Claiming membership in, association with, affiliation with, or participation in a gang or gang-related activities at school or during school-related functions. A gang is a self-formed association of peers having the following characteristics: A gang name and recognizable symbols, identifiable leadership, a geographic territory, a regular or recurrent meeting pattern, may be identified by law enforcement as a gang, and collective actions to engage in serious criminal, or violent behavior. The type of dress, apparel, activities, acts, behavior, or manner of grooming displayed, reflected, or participated in by a student shall not:

(a) Lead school officials to reasonably believe that such behavior, apparel, activities, acts, or other attributes are gang-related, and would disrupt or interfere with the school environment or activity, and/or educational objectives;

(b) Present a safety hazard to self, students, or staff;

(c) Create an atmosphere in which a student, or other person's well-being is hindered by undue pressure, behavior, intimidation, overt gesture, or threat of violence; or

(d) Imply gang membership or affiliation by written communication, marks, drawings, painting, design, emblem upon any school or personal property, or one's person.

(22) Extortion. Obtaining or attempting to obtain by threat or bribery, money, property or services (including sexual favors) of another. Threats include direct as well as indirect communication.

(23) Hazing. Conspiring to engage in or participating in any method of initiation into a student organization or group, or any pastime or amusement engaged in with respect to such an organization or group that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm, to any student. This does not include customary athletic events or other similar contests or competitions.

(24) Misuse of computers, electronic data or communications.

(a) Unauthorized copying of school-owned or licensed software or another computer user's data for personal or external use.

(b) Modifying or damaging, attempting to modify or damage, computer equipment, software, data bases, files needed in another person's school work, or communications lines;

(c) Disrupting or attempting to disrupt computer operations;

(d) Invading the privacy of another person by using electronic means to obtain confidential information, even if access to such information is inadvertently allowed;

(e) Abusing or harassing another person through electronic means;

(f) Using the school's computing facilities in the commission of a crime or a violation of the student conduct code;

(g) Using computer services without authorization;

(h) Allowing another person to use one's computer identity/account or using another person's computer identity/account. This includes, but is not limited to, logging on to the account, accessing programs, and reading or altering computer records without authorization.

(25) 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 72.40.011. 01-20-032, § 148-120-100, filed 9/26/01, effective 10/27/01. Statutory Authority: RCW 72.40.022. 94-13-058, § 148-120-100, filed 6/8/94, effective 7/9/94.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 148-120-120 Misdemeanor and/or felony. Any student who commits any other act on school property or at a school-sponsored event which is punishable as a misdemeanor or felony under the laws of the state of Washington and which act is not a violation of any other provision of the student conduct code, shall be subject to disciplinary action.

When a student has been apprehended for the violation of law, the school will not request or agree to special consideration for the student because of his/her status as a student. The school will cooperate, however, with law enforcement and other agencies on any student rehabilitation program.

[Statutory Authority: RCW 72.40.022. 94-13-058, § 148-120-120, filed 6/8/94, effective 7/9/94.]

DISCIPLINE

WAC 148-120-200 Policy. The Washington school for the deaf 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. School policy and rules of conduct shall be applicable to all students in any program or activity conducted by the Washington school for the deaf. 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, suspension or expulsion.

[Statutory Authority: RCW 72.40.011. 01-16-100, § 148-120-200, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022. 94-13-058, § 148-120-200, filed 6/8/94, effective 7/9/94.]

WAC 148-120-205 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 as now or hereafter amended, is prohibited.

[Statutory Authority: RCW 72.40.022. 94-13-058, § 148-120-205, filed 6/8/94, effective 7/9/94.]

WAC 148-120-210 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 his/her designee: 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 his/her designee acts to impose disciplinary action pursuant to this chapter.

(2) The principal or his/her designee 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 his/her designee shall notify the teacher or administrator who removed the student therefrom of the action which has been taken.

[Statutory Authority: RCW 72.40.022. 94-13-058, § 148-120-210, filed 6/8/94, effective 7/9/94.]

WAC 148-120-220 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) Short-term suspension may be imposed upon a student for violation(s) of student conduct code rules.

(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 notwithstanding the fact that prior alternative corrective action or discipline has not been imposed. For the purposes of this section, "exceptional misconduct" means misconduct, other than absenteeism, (a) of such frequent occurrence, notwithstanding prior attempts by the school to control such misconduct through the use of other forms of disciplinary action, as to warrant immediate resort to short-term suspension, and/or (b) so serious in nature and/or in terms of the disruptive effect upon the operation of the school, 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 academic standing.

[Statutory Authority: RCW 72.40.011. 01-16-100, § 148-120-220, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022. 94-13-058, § 148-120-220, filed 6/8/94, effective 7/9/94.]

WAC 148-120-225 Short-term suspension—Notice and conference—Grievance procedure. (1) Prior to the short-term suspension of any student pursuant to WAC 148-120-220, a conference shall be conducted with the student as follows:

(a) Notice of the alleged misconduct and violation(s) of school rules shall be provided to the student in writing or the mode of communication of the student;

(b) An explanation of the evidence in support of the allegation(s) shall be provided to the student in writing or the mode of communication of the student;

(c) An explanation of the corrective action or discipline which may be imposed shall be provided to the student in writing or the mode of communication of 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 an informal conference pursuant to subsection (3) of this section and that the suspension may possibly be reduced as a result of such conference.

(3) Any student, parent, or guardian aggrieved by the imposition of a short-term suspension shall have the right to an informal conference with the principal or his or her designee for the purpose of resolving the grievance. During the

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conference, the student, parent, or guardian shall be subject to questioning by the principal or his or her designee and shall be entitled to question school personnel involved in the matter being grieved. If the grievance is not resolved, the student, parent, or guardian, upon two school business days' prior notice, shall have the right to present a written and/or oral grievance to the superintendent who shall notify the student, parent, or guardian of his or her response to the grievance within ten school business days after receipt of the written or oral grievance. The disciplinary action may continue notwithstanding the implementation of the grievance procedure set forth in this section.

[Statutory Authority: RCW 72.40.011. 01-16-100, § 148-120-225, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022. 94-13-058, § 148-120-225, filed 6/8/94, effective 7/9/94.]

WAC 148-120-230 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) Long-term suspensions may be imposed on a student for violation(s) of student conduct code rules.

(3) When a student engages in conduct that would warrant long-term suspension, the requirements and procedures for disciplinary exclusion, found in WAC 148-120-300 through 148-120-313 shall be followed.

[Statutory Authority: RCW 72.40.011. 01-16-100, § 148-120-230, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022. 94-13-058, § 148-120-230, filed 6/8/94, effective 7/9/94.]

WAC 148-120-234 Long-term suspension—Misconduct not a manifestation of disability—Notice. (1) Following a determination that behavior which warrants a long-term suspension was not a manifestation of the student's disability, 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 notwithstanding the fact that prior alternative corrective action or discipline has not been imposed. For the purposes of this section, "exceptional misconduct" means misconduct, other than absenteeism, (a) of such frequent occurrence, notwithstanding prior attempts by the school to control such misconduct through the use of other forms of disciplinary action, as to warrant immediate resort to long-term suspension, and/or (b) so serious in nature and/or in terms of the disruptive effect upon the operation of the school, as to warrant immediate resort to long-term suspension.

(2) Prior to the long-term suspension of any student for misconduct which was not a manifestation of the student's disability, 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:

(a) 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;

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

(c) Set forth the disciplinary action proposed;

(d) 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).

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

(f) 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. A schedule of school business days should be included with the notice.

(3) If a request for a hearing is not received within the required three school business day period, the school may deem the student and his or her parent(s) or guardian(s) to have waived the right to a hearing and the proposed long-term suspension may be imposed.

[Statutory Authority: RCW 72.40.011. 01-16-100, § 148-120-234, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022. 94-13-058, § 148-120-234, filed 6/8/94, effective 7/9/94.]

WAC 148-120-236 Long-term suspension—Misconduct not a manifestation of disability—Hearing. (1) If a request for a hearing is received pursuant to WAC 148-120-234 within the required time period, the school shall schedule a hearing to commence within seven school days after the date upon which the request for a hearing was received.

(2) The hearing shall be a brief adjudicative proceeding in accordance with WAC 148-108-100. The hearing process described in WAC 180-40-270, applicable to long-term suspensions involving students without disabilities, should apply as guidelines for the conduct of the brief adjudicative proceeding.

(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 148-171-010(1)) agree otherwise, the student shall remain in the educational placement he or she was in when the request for hearing was made: Provided, That 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 72.40.011. 01-16-100, § 148-120-236, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022. 94-13-058, § 148-120-236, filed 6/8/94, effective 7/9/94.]

DISCIPLINARY EXCLUSION

WAC 148-120-300 Disciplinary exclusion—Definitions. The following definitions apply to this section only:

(1) "Controlled substance" means a drug or other substance identified under Schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. Sec. 812(c)).

(2) "Illegal drug" means a controlled substance, but does not include, a substance that is legally possessed or used under the supervision of a licensed health care professional or that is legally possessed or used under any other authority under the Controlled Substances Act or under any other provision of federal law.

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(3) "Weapon" has the meaning given the term "dangerous weapon" under section 930 (g)(2) of Title 18 U.S.C.: "Dangerous weapon" means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than two and one-half inches in length.

(4) "Substantial evidence" means beyond a preponderance of the evidence.

[Statutory Authority: RCW 72.40.011. 01-16-100, § 148-120-300, filed 7/27/01, effective 8/27/01.]

WAC 148-120-301 Change of placement for disciplinary removals. For purposes of removals of a student from the student's current educational placement under this section, a change of placement occurs if:

(1) The removal is for more than ten consecutive school days; or

(2) The student is subjected to a series of removals that constitute a pattern because they cumulate to more than ten school days in a school year, and because of factors such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another.

[Statutory Authority: RCW 72.40.011. 01-16-100, § 148-120-301, filed 7/27/01, effective 8/27/01.]

WAC 148-120-302 Removals—Ten school days or less. School personnel may order the removal of a student from the student's current placement for not more than ten consecutive school days for any violation of school rules, including the student conduct code, and additional removals of not more than ten consecutive school days in that same school year for separate incidents of misconduct as long as those removals do not constitute a change of placement under WAC 148-120-202.

[Statutory Authority: RCW 72.40.011. 01-16-100, § 148-120-302, filed 7/27/01, effective 8/27/01.]

WAC 148-120-303 Required services. (1) In the case of a student who has been removed from his or her current placement for more than ten cumulative school days in the same school year, the school, for the remainder of the removals, shall provide services to the extent necessary to enable the student to appropriately progress in the general curriculum and advance toward achieving the goals set out in the student's individualized education program.

(2) When there is no change of placement, school personnel, in consultation with the student's special education teacher, determine the extent to which services are necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the student's IEP.

[Statutory Authority: RCW 72.40.011. 01-16-100, § 148-120-303, filed 7/27/01, effective 8/27/01.]

WAC 148-120-304 Change of placement—Removals for weapons or drugs. School personnel may order a change in placement of a student to an appropriate interim alternative

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educational setting for not more than forty-five calendar days, if the student:

(1) Possesses a weapon, or carries a weapon to school or to a school function under the jurisdiction of the school for the deaf; or

(2) Knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function under the jurisdiction of the school for the deaf.

[Statutory Authority: RCW 72.40.011. 01-16-100, § 148-120-304, filed 7/27/01, effective 8/27/01.]

WAC 148-120-305 Functional behavioral assessment and intervention plan. Within ten business days after first removing a student for more than ten consecutive school days in a school year or placing the student in an interim alternative educational setting, the following actions shall be taken by the school:

(1) If the school did not conduct a functional behavioral assessment and implement a behavioral intervention plan for the student before the behavior that resulted in the removal occurred, an individualized education program meeting will be convened to develop an assessment plan.

(2) If the student already has a behavioral intervention plan, the individualized education program team shall meet to review the plan and its implementation to determine whether modifications are necessary.

(3) As soon as practicable after developing the assessment plan described in subsection (1) of this section, and completing the assessments required by the plan, an IEP meeting will be convened to develop appropriate behavioral interventions to address the behavior that resulted in removal and to implement those interventions.

(4) If a student has a behavioral intervention plan and has been removed from the current educational placement for more than ten cumulative school days in a school year, and is subsequently subjected to a removal that does not constitute a change of placement under WAC 148-120-301, the IEP team may review the behavioral intervention plan and its implementation to determine if modifications are necessary.

(5) If one or more of the IEP team members believe that modifications to an existing behavioral intervention plan are needed, the team shall meet to modify the plan and its implementation, to the extent the team determines necessary.

[Statutory Authority: RCW 72.40.011. 01-16-100, § 148-120-305, filed 7/27/01, effective 8/27/01.]

WAC 148-120-306 Dangerous behavior—Authority of hearing officer. A hearing officer, described in WAC 392-172-352 (adopted by reference in WAC 148-171-601), may order a change in the placement of a student to an appropriate interim alternative educational setting for not more than forty-five days if the hearing officer, in an expedited due process hearing:

(1) Determines that the school has demonstrated by substantial evidence that maintaining the current placement of the student is substantially likely to result in injury to the student or to others;

(2)(a) Considers the appropriateness of the student's current placement;

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(b) Including, when necessary, the requirements and limitations imposed by RCW 72.40.040(4), 72.40.050(2), 72.40.250(2), and 72.40.270;

(3) Considers whether the school has made reasonable efforts to minimize the risk of harm in the student's current placement, including the use of supplementary aids and services; and

(4) Determines that the interim alternative educational setting that is proposed by school personnel who have consulted with the student's special education teacher meets the requirements of WAC 148-120-307.

[Statutory Authority: RCW 72.40.011. 01-16-100, § 148-120-306, filed 7/27/01, effective 8/27/01.]

WAC 148-120-307 Determination of interim alternative educational setting. The individualized education program team shall determine an interim alternative educational setting. Any interim alternative educational setting in which a student is placed under WAC 148-120-304 and 148-120-306 shall:

(1) Be selected so as to enable the student to continue to progress in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the student's current individualized education program, that will enable the student to meet the goals set out in that individualized education program; and

(2) Include services and modifications designed to address and prevent the recurrence of the behavior described in WAC 148-120-304 or 148-120-306.

[Statutory Authority: RCW 72.40.011. 01-16-100, § 148-120-307, filed 7/27/01, effective 8/27/01.]

WAC 148-120-308 Manifestation determination review requirements. If school personnel or a hearing officer contemplates action that involves removing a student for behavior described in WAC 148-120-304 or behavior that is substantially likely to result in injury to the student or to others, or other behavior that violates any rule or code of conduct which results in a change of placement under WAC 148-120-301, the school shall:

(1) Not later than the date on which the decision to take action is made, notify the parents of the school's decision and provide the procedural safeguards notice described under WAC 392-172-307; and

(2) Immediately, if possible, but in no case later than ten school days after the date on which the decision to remove the student is made, conduct a review of the relationship between the student's disability and the behavior subject to the disciplinary action.

[Statutory Authority: RCW 72.40.011. 01-16-100, § 148-120-308, filed 7/27/01, effective 8/27/01.]

WAC 148-120-309 Procedures for conducting a manifestation determination. The individualized education program team and other qualified personnel in a meeting shall conduct a manifestation determination review. In carrying out the review, the team may determine that the behavior of the student was not a manifestation of the student's disability only if the team:

(1) First considers, in terms of the behavior subject to disciplinary action, all relevant information, including:

(a) Evaluation and diagnostic results, including the results of other relevant information supplied by the parents of the student;

(b) Observations of the student; and

(c) The student's individualized education program and placement.

(2) Then determines that:

(a) In relationship to the behavior subject to disciplinary action, the student's individualized education program and placement were appropriate and the special education services, supplementary aids and services, and behavior intervention strategies were provided consistent with the student's individualized education program and placement;

(b) The student's disability did not impair the ability of the student to understand the impact and consequences of the behavior subject to disciplinary action; and

(c) The student's disability did not impair the ability of the student to control the behavior subject to disciplinary action.

(3) If the team determines that any of the above standards in this section were not met, the behavior must be considered a manifestation of the student's disability.

(4) The manifestation determination review described in this section may be conducted at the same individualized education program meeting that is convened to address a functional behavioral assessment and behavioral intervention plan.

(5) If the review identifies deficiencies in the student's IEP or placement or in their implementation, the school will take immediate steps to remedy those deficiencies.

[Statutory Authority: RCW 72.40.011. 01-16-100, § 148-120-309, filed 7/27/01, effective 8/27/01.]

WAC 148-120-310 Determination that behavior was not manifestation of disability. (1) If the results of the manifestation determination review indicate that the behavior of the student was not a manifestation of the student's disability, the student may be subject to the same disciplinary measures applicable to students without disabilities, including long-term suspensions and expulsions, except that a free appropriate public education shall continue to be made available to those students consistent with 34 CFR Sec. 300.121(d).

(2) The student's IEP team determines the extent to which services are necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the student's IEP if the student is removed because of behavior that has been determined not to be a manifestation of the student's disability.

(3) If a parent requests a hearing to challenge the determination that the behavior of the student was not a manifestation of the student's disability, then the student shall remain in the current educational placement or interim alternative educational setting consistent with WAC 148-120-312, whichever applies.

[Statutory Authority: RCW 72.40.011. 01-16-100, § 148-120-310, filed 7/27/01, effective 8/27/01.]

WAC 148-120-311 Expedited due process hearings.

(1) "Expedited due process hearing" means a hearing that is conducted by a due process hearing officer, in accordance with WAC 148-171-601 (impartial due process hearing rights) and this section, and may be requested in any of the following situations:

(a) The parent disagrees with a determination that the student's behavior was not a manifestation of the student's disability.

(b) The parent disagrees with the school's decision regarding the student's disciplinary change of placement under WAC 148-120-304.

(c) The school maintains that it is dangerous for the student to return to the current placement (placement prior to removal to the interim alternative educational setting) after the expiration of the student's placement in an interim alternative educational setting or to be in the current placement (placement prior to removal to the interim alternative educational setting) during the pendency of the due process proceedings.

(2) Pursuant to WAC 392-172-350 (adopted by reference in WAC 148-171-601) the office of superintendent of public instruction shall arrange for an expedited hearing in any case described in subsection (1) of this section if requested by the parent.

(3) In reviewing a decision with respect to the manifestation determination, the hearing officer shall determine whether the school has demonstrated that the student's behavior was not a manifestation of the student's disability consistent with the requirements of WAC 148-120-309.

(4) In reviewing a decision to place the student in an interim alternative educational setting, the hearing officer shall apply the standards under WAC 148-120-306.

(5) An expedited due process hearing shall:

(a) Result in a written decision being mailed to the parties within forty-five days of the office of superintendent of public instruction's receipt of the request for the hearing without exceptions or extensions. The timeline established in this subsection shall be the same for hearings requested by parents or the school;

(b) Meet the requirements of WAC 392-172-354 (adopted by reference in WAC 148-171-601) except that the time periods identified for the disclosure of records and evaluations for purposes of expedited due process hearings are not less than two business days prior to the hearing; and

(c) Be conducted by a due process hearing officer who satisfies the impartiality requirements of WAC 392-172-352 (adopted by reference in WAC 148-171-601).

(6) The decisions on expedited due process hearings are appealable under the state's due process appeal procedures (see WAC 148-171-601 and 392-172-360).

[Statutory Authority: RCW 72.40.011. 01-16-100, § 148-120-311, filed 7/27/01, effective 8/27/01.]

WAC 148-120-312 Placement during appeals. (1) If a parent requests a hearing regarding a disciplinary action described in WAC 148-120-304 or 148-120-306 to challenge the interim alternative educational setting or the manifestation determination, the student must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the forty-five day

time period provided for, whichever occurs first, unless the parent and the school agree otherwise.

(2) If a student is placed in an interim alternative educational setting pursuant to this section and school personnel propose to change the student's placement after expiration of the interim alternative placement, during the pendency of any proceeding to challenge the proposed change in placement, the student must remain in the current placement (the student's placement prior to the interim alternative educational setting), except as provided for below.

(3) In determining whether the student may be placed in the alternative educational setting or in another appropriate placement ordered by the hearing officer, the hearing officer shall apply the standards under WAC 148-120-211.

(4) A placement ordered pursuant to this section may not be longer than forty-five days.

(5) The procedure in this section may be repeated as necessary.

[Statutory Authority: RCW 72.40.011. 01-16-100, § 148-120-312, filed 7/27/01, effective 8/27/01.]

WAC 148-120-313 Referral to and action by law enforcement and judicial authorities. (1) Nothing in Part B of the Individuals with Disabilities Education Act, or this chapter prohibits the Washington school for the deaf from reporting a crime committed by a student to appropriate authorities, or prevents state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by a student.

(2) When reporting a crime committed by a student, the school shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to whom it reports the crime.

(3) When reporting a crime under this section, the school may transmit copies of the student's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act.

[Statutory Authority: RCW 72.40.011. 01-16-100, § 148-120-313, filed 7/27/01, effective 8/27/01.]

WAC 148-120-314 Aversive interventions. WAC 392-172-388 through 392-172-396 are adopted by reference.

[Statutory Authority: RCW 72.40.011. 01-16-100, § 148-120-314, filed 7/27/01, effective 8/27/01.]

EMERGENCY ACTIONS

WAC 148-120-400 Emergency expulsion—Limitations. Notwithstanding any other provision of this chapter, a student may be expelled immediately by the superintendent or a designee of the superintendent in emergency situations: Provided, That the superintendent or designee 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 educational process. An emergency expulsion shall continue until rescinded by the superintendent or his or her designee, or until modified or reversed pursuant to the hearing provisions set forth in WAC

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148-120-410 or the appeal provisions set forth in WAC 148-120-415.

[Statutory Authority: RCW 72.40.023. 04-02-002, § 148-120-400, filed 12/24/03, effective 1/24/04.]

WAC 148-120-405 Emergency expulsion—Notice of hearing—Waiver of hearing right. (1) The student and his or her parent(s) or guardian(s) shall be notified of the emergency expulsion of the student and of their opportunity for a hearing either (a) by hand delivering written notice to the student's parent(s) or guardian(s) within twenty-four hours of the expulsion and documenting delivery by obtaining his or her signature acknowledging receipt or the written certification of the person making the delivery, or (b) by certified letter(s) deposited in the United States mail, within twenty-four hours of the expulsion: Provided, That if the emergency expulsion is based upon a failure to comply with the state immunization law (see chapter 180-38 WAC), the notice must be received by the student's parent(s) or guardian(s) prior to the emergency expulsion of the student regardless of the method of delivery. In addition, if the notice is by certified letter, reasonable attempts shall be made to notify the student and his or her parent(s) or guardian(s) by telephone or in person as soon as reasonably possible. Such written and oral notice shall:

(a) 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,

(b) Specify the alleged reason(s) for the emergency expulsion,

(c) Set forth the corrective action or punishment taken and proposed,

(d) 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) as soon as reasonably possible, and

(e) Set forth the facts that:

(i) A written (or "oral" if provided for by school policy) request for a hearing must be received by the school employee designated, or by his or her office, on or before the expiration of the tenth school business day after receipt of the notice of opportunity for a hearing, and

(ii) 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 emergency expulsion may be continued as deemed necessary by the school without any further opportunity for the student or his or her parent(s) or guardian(s) to contest the matter. A schedule of "school business days" potentially applicable to the exercise of such hearing right should be included with the notice.

(2) The student and/or his or her parent(s) or guardian(s) shall reply to the notice of opportunity for a hearing and request a hearing within ten school business days after the date of receipt of the notice. A request for a hearing shall be provided to the school employee specified in the notice of opportunity for a hearing, or to his or her office. A request for a hearing shall be accepted if in writing and may be accepted orally if expressly provided for and allowed by rule of the school.

(3) If a request for a hearing is not received within the required ten school business day period, the school may deem the student and his or her parent(s) or guardian(s) to have

waived the right to a hearing and the emergency expulsion may be continued as deemed necessary by the school district.

[Statutory Authority: RCW 72.40.023. 04-02-002, § 148-120-405, filed 12/24/03, effective 1/24/04.]

WAC 148-120-410 Emergency expulsion—Prehearing and hearing process. (1) If a request for a hearing within the required ten school business days is received pursuant to WAC 148-120-405, the school shall immediately schedule and give notice of a hearing to commence as soon as reasonably possible and in no case later than the third school business day after receipt of the request for hearing.

(2) The student and his or her parent(s) or guardian(s) shall have the right to:

(a) Inspect in advance of the hearing any documentary and other physical evidence which the school district intends to introduce at the hearing,

(b) Be represented by legal counsel,

(c) Question and confront witnesses, unless a school witness does not appear and the nonappearance of the witness is excused by the person(s) hearing the case based upon evidence of good reason for doing so submitted by the school. The evidence submitted by the school must at a minimum establish either:

(i) That the school made a reasonable effort to produce the witness and is unable to do so; or,

(ii) That it is not advisable for the student to appear due to an expectation and fear on the part of the responsible school official(s) or the student of retaliation against the student if he or she appears as a witness,

(d) Present his or her explanation of the alleged misconduct, and

(e) Make such relevant showings by way of witnesses and the introduction of documentary and other physical evidence as he or she desires.

(3) The designee(s) of the school assigned to present the school's case and/or the assistant attorney general shall have the right to inspect in advance of the hearing any documentary and other physical evidence that the student and his or her parent(s) or guardian(s) intend to introduce at the hearing.

(4) The person(s) hearing the case shall not be a witness and the guilt or innocence of the student shall be determined solely on the basis of the evidence presented at the hearing.

(5) Either a tape-recorded or verbatim record of the hearing shall be made.

(6) Within one school business day after the date upon which the hearing concludes, a decision as to whether or not the expulsion shall be continued shall be rendered, and the student's legal counsel or, if none, the student and his or her parent(s) or guardian(s) shall be notified thereof by depositing a certified letter in the United States mail. The decision shall set forth the findings of fact, the conclusions (including a conclusion as to whether or not the emergency situation giving rise to the emergency expulsion continues), and whether or not the emergency expulsion shall be continued or a lesser form of corrective action or punishment is to be imposed.

(7) An emergency expulsion may be continued following the hearing on the basis that the emergency situation continues and/or as corrective action or punishment for the

action(s) giving rise to the emergency expulsion in the first instance.

[Statutory Authority: RCW 72.40.023. 04-02-002, § 148-120-410, filed 12/24/03, effective 1/24/04.]

WAC 148-120-415 Appeals—Long-term suspension and expulsion. Appeals from decisions rendered pursuant to WAC 148-120-236 and 148-120-410 which impose either a long-term suspension or an expulsion upon a student shall be governed as follows:

(1) Appeals may be heard and decided by a disciplinary appeal council established by the Board. The disciplinary appeal council shall be appointed by the school board of trustees for fixed terms and shall consist of not less than three persons.

(2) If an appeal is not taken to the disciplinary appeal council within the required three school business day period, the suspension or expulsion decided upon may be imposed as of the calendar day following expiration of the three school business day period.

(3) If a timely appeal is taken to the disciplinary appeal council, the suspension or expulsion may be imposed during the appeal period subject to the following conditions and limitations:

(a) A long-term suspension or nonemergency expulsion may be imposed during the appeal period for no more than ten consecutive school days or until the appeal is decided, whichever is the shortest period;

(b) An emergency expulsion may be continued during the appeal period for so long as the student continues to pose an immediate and continuing danger to the student, other students, or school personnel or an immediate and continuing threat of substantial disruption of the educational process of the student's school;

(c) Any days that a student is temporarily suspended or expelled before the appeal is decided shall be applied to the term of the student's suspension or expulsion and shall not limit or extend the term of the student's suspension or expulsion; and

(d) Any student subjected to a temporary suspension who returns to school before the appeal is decided shall be provided the opportunity upon his or her return to make up assignments and tests missed by reason of the suspension if:

(i) Such assignments or tests have a substantial effect upon the student's semester or trimester grade or grades; or

(ii) Failure to complete such assignments or tests would preclude the student from receiving credit for the course or courses.

(4) An appeal from any decision of the disciplinary appeal council to impose or to affirm the imposition of a long-term suspension or an expulsion shall be to the courts. Whether or not the decision of the disciplinary appeal council shall be postponed pending an appeal to superior court shall be discretionary with the school board or disciplinary appeal council except as ordered otherwise by a court.

[Statutory Authority: RCW 72.40.023. 04-02-002, § 148-120-415, filed 12/24/03, effective 1/24/04.]

Chapter 148-130 WAC
NONRESIDENT TUITION

WAC

148-130-010	Purpose.
148-130-020	Definitions.
148-130-030	Admission of nonresident students.
148-130-035	Contents of admission agreements.
148-130-040	Challenges to residency determinations.
148-130-050	Nonresident tuition.

WAC 148-130-010 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 deaf is deemed appropriate by the school superintendent.

[Statutory Authority: RCW 72.40.022. 90-16-014, § 148-130-010, filed 7/19/90, effective 8/19/90.]

WAC 148-130-020 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. 90-16-014, § 148-130-020, filed 7/19/90, effective 8/19/90.]

WAC 148-130-030 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. 90-16-014, § 148-130-030, filed 7/19/90, effective 8/19/90.]

WAC 148-130-035 Contents of admission agreements. Agreements required by WAC 148-130-030 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 148-171-150; 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. 90-16-014, § 148-130-035, filed 7/19/90, effective 8/19/90.]

WAC 148-130-040 Challenges to residency determinations. (1) A parent, guardian, or adult student who wishes (2009 Ed.)

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 148-108-100.

(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. 90-16-014, § 148-130-040, filed 7/19/90, effective 8/19/90.]

WAC 148-130-050 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.

(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. 90-16-014, § 148-130-050, filed 7/19/90, effective 8/19/90.]

Chapter 148-140 WAC
USE OF SCHOOL FACILITIES

WAC

148-140-010	Policy on public use of school facilities.
148-140-020	Application for use of school facilities.
148-140-030	Allocation of space.
148-140-040	Basis of fee assessment.
148-140-050	General policies limiting use.
148-140-060	Specific limitations on use.
148-140-070	Supervision.
148-140-080	Prohibited conduct at school facilities.

WAC 148-140-010 Policy on public use of school facilities. Because the Washington state school for the deaf 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 hearing 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. 90-16-015, § 148-140-010, filed 7/19/90, effective 8/19/90.]

WAC 148-140-020 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, 611 Grand Boulevard, Vancouver, Washington 98661.

(2) Reasonable conditions may be imposed upon the applicant to regulate the timeliness of the request, to deter-

mine 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. 90-16-015, § 148-140-020, filed 7/19/90, effective 8/19/90.]

WAC 148-140-030 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. 90-16-015, § 148-140-030, filed 7/19/90, effective 8/19/90.]

WAC 148-140-040 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 hearing 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. 90-16-015, § 148-140-040, filed 7/19/90, effective 8/19/90.]

WAC 148-140-050 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

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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. 90-16-015, § 148-140-050, filed 7/19/90, effective 8/19/90.]

WAC 148-140-060 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. 90-16-015, § 148-140-060, filed 7/19/90, effective 8/19/90.]

WAC 148-140-070 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. 90-16-015, § 148-140-070, filed 7/19/90, effective 8/19/90.]

WAC 148-140-080 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. 90-16-015, § 148-140-080, filed 7/19/90, effective 8/19/90.]

Chapter 148-171 WAC SPECIAL EDUCATION PROGRAMS

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

148-171-130 Summary analysis of assessment data. [Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-016, § 148-171-130, filed 7/19/90, effective 8/19/90.] Repealed by 01-16-101, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022.

148-171-200 Definition. [Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-016, § 148-171-200, filed 7/19/90, effective 8/19/90.] Repealed by 01-16-101, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022.

148-171-400 Annual review of placement and student progress—Program evaluation. [Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-016, § 148-171-400, filed 7/19/90, effective 8/19/90.] Repealed by 01-16-101, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022.

148-171-420 Reassessment purposes. [Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-016, § 148-171-420, filed 7/19/90, effective 8/19/90.] Repealed by 01-16-101, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022.

148-171-430 Reassessment notice. [Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-016, § 148-171-430, filed 7/19/90, effective 8/19/90.] Repealed by 01-16-101, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022.

148-171-600 Right to initiate. [Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-016, § 148-171-600, filed 7/19/90, effective 8/19/90.] Repealed by 01-16-101, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022.

148-171-610 Hearing rights. [Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-016, § 148-171-610, filed 7/19/90, effective 8/19/90.] Repealed by 01-16-101, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022.

148-171-620 Timeline for decision. [Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-016, § 148-171-620, filed 7/19/90, effective 8/19/90.] Repealed by 01-16-101, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022.

148-171-630 Petition for review. [Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-016, § 148-171-630, filed 7/19/90, effective 8/19/90.] Repealed by 01-16-101, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022.

148-171-640 Student's status during proceedings. [Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-016, § 148-171-640, filed 7/19/90, effective 8/19/90.] Repealed by 01-16-101, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022.

148-171-700 Administration of medication. [Statutory Authority: RCW 72.40.022. 90-23-053, § 148-171-700, filed 11/19/90, effective 12/20/90.] Repealed by 01-16-101, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022.

WAC 148-171-001 Purposes. The purposes of this chapter are:

(1) To implement chapter 72.40 RCW in a manner that is compatible with chapter 28A.155 RCW and in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.; and

(2) To meet the obligations of additional federal and state civil rights laws (e.g., 29 U.S.C. Sec. 794, 42 U.S.C. Sec. 12132, RCW 49.60.030) that apply to students who have a disability regardless of the student's eligibility for special education and related services.

[Statutory Authority: RCW 72.40.022. 01-16-101, § 148-171-001, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-016, § 148-171-001, filed 7/19/90, effective 8/19/90.]

DEFINITIONS OF GENERAL APPLICATION

WAC 148-171-010 Definitions. The definitions set forth in WAC 392-172-035, 392-172-040, 392-172-045, 392-172-055, 392-172-065, 392-172-070, 392-172-073, and 392-172-075 are hereby incorporated by reference into this chapter and should be referred to if necessary. The Washington school for the deaf, a "public agency" as defined in WAC 392-172-035 (6)(c), is a "state operated program."

[Statutory Authority: RCW 72.40.022. 01-16-101, § 148-171-010, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-016, § 148-171-010, filed 7/19/90, effective 8/19/90.]

WAC 148-171-015 Definition and eligibility criteria for deafness and hearing impairment. The definitions and eligibility criteria in WAC 392-172-138 and 392-172-140 are adopted by reference.

[Statutory Authority: RCW 72.40.022. 01-16-101, § 148-171-015, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-016, § 148-171-015, filed 7/19/90, effective 8/19/90.]

ASSESSMENT AND PLACEMENT

WAC 148-171-100 Initial assessment. (1) Prior to any action taken with respect to the initial placement of a student at the Washington state school for the deaf, 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 148-171-130 within (a) thirty

school days after written consent for assessment has been provided by the parent(s) or adult student, or (b) such other time period as may be agreed to by the parent(s), adult 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. 90-16-016, § 148-171-100, filed 7/19/90, effective 8/19/90.]

WAC 148-171-110 General areas of evaluation. WAC 392-172-106 is adopted by reference.

[Statutory Authority: RCW 72.40.022. 01-16-101, § 148-171-110, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-016, § 148-171-110, filed 7/19/90, effective 8/19/90.]

WAC 148-171-120 Evaluation procedures. The evaluation or reevaluation of any student shall be performed using the procedures established in chapter 392-172 WAC except as specifically provided otherwise in this chapter.

Evaluations may include assessments to identify students who present a moderate or high risk of sexually aggressive behavior or who may be vulnerable to victimization by such students, as required by RCW 72.40.270. Evaluations will be conducted by a group of qualified professionals selected by the Washington school for the deaf who are knowledgeable about the student, the suspected area of disability, and in cases where assessment is required by RCW 72.40.270, sexual abuse and assault.

[Statutory Authority: RCW 72.40.022. 01-16-101, § 148-171-120, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-016, § 148-171-120, filed 7/19/90, effective 8/19/90.]

WAC 148-171-131 Evaluation report and documentation of determination of eligibility. WAC 392-172-10905 is adopted by reference.

[Statutory Authority: RCW 72.40.022. 01-16-101, § 148-171-131, filed 7/27/01, effective 8/27/01.]

WAC 148-171-140 Independent educational evaluation. WAC 392-172-150 is adopted by reference.

[Statutory Authority: RCW 72.40.022. 01-16-101, § 148-171-140, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-016, § 148-171-140, filed 7/19/90, effective 8/19/90.]

WAC 148-171-150 Admission and placement—Annual review. (1) Upon a referral for admission and placement from a parent, legal guardian, emancipated minor, adult student, or local educational agency (LEA), a Washington school for the deaf admissions team will assess the appropriateness of placement of a deaf or hard-of-hearing student residing in the state of Washington as provided for under this chapter.

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(2) Applications for placement shall be in writing and shall include the reason for referral. Reasons for referral to the school for the deaf may include, but are not limited to: Specific services not readily available in the local school district for deaf or hard-of-hearing students, need for more intensive language development, assistive listening devices, greater array of auditory support services, social skill development, leisure time skill development, and organization skill development.

(3) The LEA will be notified if the referral is from a parent and the student's records will be requested. The following records must be received prior to review by the school's admissions team: Complete application materials, most recent IEP, most recent three-year summary assessment or evaluation, psychological records, transcripts (for high school students), all records subject to disclosure under RCW 28A.225.330, including, but not limited to: History of disciplinary actions, criminal or violent behavior, or other behavior that indicates the student could be a threat to the safety of educational staff or other students.

(4) The admissions team shall review the records and if the information is complete, determine whether to proceed with or terminate the application.

(5) Placement of a student at the school for the deaf shall be determined at a meeting conducted pursuant to WAC 148-171-210.

(6) The determination of the appropriate placement for a student shall be based upon:

(a) The student's individualized education program (IEP);

(b) The least restrictive environment requirements of WAC 392-172-172;

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

(d) A consideration of any potential harmful effect on the student or on the quality of services which he or she needs; and

(e) The status of the student as an adjudicated sex offender.

(7) The decision on the educational placement shall be made by a group of persons, including the parents, the LEA, and other persons knowledgeable about the student, the evaluation data, and the placement options.

(8) Pursuant to RCW 72.40.040(4) and 72.40.050(2), admission and retention at the Washington school for the deaf may be denied for a student who is an adjudicated sex offender.

(9) The educational placement of each student shall be determined at least annually at a meeting conducted pursuant to WAC 148-171-210.

[Statutory Authority: RCW 72.40.022. 01-16-101, § 148-171-150, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-016, § 148-171-150, filed 7/19/90, effective 8/19/90.]

INDIVIDUALIZED EDUCATION PROGRAMS

WAC 148-171-210 IEP meetings. WAC 392-172-156 is adopted by reference.

(2009 Ed.)

[Statutory Authority: RCW 72.40.022. 01-16-101, § 148-171-210, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§ 1401, 1412-1417. 90-16-016, § 148-171-210, filed 7/19/90, effective 8/19/90.]

WAC 148-171-220 Participants in IEP meetings. WAC 392-172-153 is adopted by reference.

Involvement and participation of the LEA at meetings in which a decision is to be made relating to the educational placement of the student is considered essential for meaningful discussion to occur. A representative of the student's LEA will be invited to meetings involving an IEP, transition services, or placement. The LEA representative should be an individual who is knowledgeable about the availability of resources of the LEA, authorized to allocate resources, or develop collaborative requests for funding to establish programs to meet a student's extraordinary program needs. If the LEA representative is unable to attend the meeting, Washington school for the deaf staff shall keep the LEA representative informed of the proceedings and obtain information that will assist in the provision of services.

[Statutory Authority: RCW 72.40.022. 01-16-101, § 148-171-220, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§ 1401, 1412-1417. 90-16-016, § 148-171-220, filed 7/19/90, effective 8/19/90.]

WAC 148-171-230 Parent participation and involvement. WAC 392-172-15700 and 392-172-15705 are adopted by reference.

Inclusion of an LEA representative in meetings with the parent(s) will be encouraged and appropriate notice to the parent(s) will be provided.

[Statutory Authority: RCW 72.40.022. 01-16-101, § 148-171-230, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§ 1401, 1412-1417. 90-16-016, § 148-171-230, filed 7/19/90, effective 8/19/90.]

WAC 148-171-240 Individualized education program. WAC 392-172-160 is adopted by reference.

[Statutory Authority: RCW 72.40.022. 01-16-101, § 148-171-240, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§ 1401, 1412-1417. 90-16-016, § 148-171-240, filed 7/19/90, effective 8/19/90.]

WAC 148-171-242 Individualized education program—Implementation. WAC 392-172-158 is adopted by reference.

[Statutory Authority: RCW 72.40.022. 01-16-101, § 148-171-242, filed 7/27/01, effective 8/27/01.]

WAC 148-171-244 Individualized education program—Development, review, revision—Consideration of special factors. WAC 392-172-159 is adopted by reference.

[Statutory Authority: RCW 72.40.022. 01-16-101, § 148-171-244, filed 7/27/01, effective 8/27/01.]

ANNUAL REVIEW OF PLACEMENT AND STUDENT PROGRESS—REASSESSMENT

WAC 148-171-410 Reevaluation. WAC 392-172-182 through 392-172-190 are adopted by reference.

(2009 Ed.)

The student's LEA should continue to be involved in the planning for any student who is enrolled at the Washington school for the deaf; therefore, the group of individuals referred to in the reevaluation procedures adopted by reference should include a representative of the LEA.

[Statutory Authority: RCW 72.40.022. 01-16-101, § 148-171-410, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§ 1401, 1412-1417. 90-16-016, § 148-171-410, filed 7/19/90, effective 8/19/90.]

PROCEDURAL SAFEGUARDS

WAC 148-171-500 When prior notice must be given. WAC 392-172-302 is adopted by reference. Where the adopted rule refers to WAC 392-172-306, refer to WAC 148-171-510.

[Statutory Authority: RCW 72.40.022. 01-16-101, § 148-171-500, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§ 1401, 1412-1417. 90-16-016, § 148-171-500, filed 7/19/90, effective 8/19/90.]

WAC 148-171-510 Contents of prior written notice. WAC 392-172-306 is adopted by reference. Where the adopted rule refers to WAC 392-172-302, refer to WAC 148-171-500.

[Statutory Authority: RCW 72.40.022. 01-16-101, § 148-171-510, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§ 1401, 1412-1417. 90-16-016, § 148-171-510, filed 7/19/90, effective 8/19/90.]

WAC 148-171-512 Parent consent. WAC 392-172-304 is adopted by reference. Where the adopted rule refers to WAC 392-172-185 (reevaluation), refer to WAC 148-171-120.

[Statutory Authority: RCW 72.40.022. 01-16-101, § 148-171-512, filed 7/27/01, effective 8/27/01.]

WAC 148-171-514 Transfer of parental rights at age of majority. WAC 392-172-309 is adopted by reference.

[Statutory Authority: RCW 72.40.022. 01-16-101, § 148-171-514, filed 7/27/01, effective 8/27/01.]

WAC 148-171-550 Mediation. In order to ensure that mediation is available to resolve disagreements concerning the identification, evaluation, educational placement of the student or provision of FAPE to the student, and disputes involving any matter where a hearing is requested under this chapter, WAC 392-172-310 through 392-172-317 are adopted and incorporated by reference.

[Statutory Authority: RCW 72.40.022. 01-16-101, § 148-171-550, filed 7/27/01, effective 8/27/01.]

DUE PROCESS PROCEDURES

WAC 148-171-601 Due process rights and procedures. (1) Hearing rights and procedures shall be consistent with the requirements applicable to public agencies in WAC 392-172-350 through 392-172-364, which are adopted by reference.

(2) A parent, adult student, or the superintendent (or designee) may initiate a hearing in any of the matters and for the purposes stated in WAC 392-172-350(1).

(3) Where the adopted rule refers to WAC 392-172-150 (independent educational evaluation), refer to WAC 148-171-140.

[Statutory Authority: RCW 72.40.022. 01-16-101, § 148-171-601, filed 7/27/01, effective 8/27/01.]

WAC 148-171-605 Request for hearing, notice by parent. In addition to the information required in WAC 392-172-350(2), the parent, adult student, or the attorney representing the student must provide notice (which must remain confidential) to the Washington school for the deaf in a request for a hearing to the office of the superintendent of public instruction. The notice must include:

- (1) The name of the student;
- (2) The address of the residence of the student;
- (3) The name of the school the student is attending;
- (4) A description of the nature of the problem of the student relating to the proposed initiation or change, including facts relating to the problem; and
- (5) A proposed resolution of the problem to the extent known and available to the parents at the time.

[Statutory Authority: RCW 72.40.022. 01-16-101, § 148-171-605, filed 7/27/01, effective 8/27/01.]

WAC 148-171-650 Surrogate parents. WAC 392-172-308 is adopted by reference. The definition of "parent" in WAC 392-172-035(5) is adopted by reference in WAC 148-171-010.

[Statutory Authority: RCW 72.40.022. 01-16-101, § 148-171-650, filed 7/27/01, effective 8/27/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-016, § 148-171-650, filed 7/19/90, effective 8/19/90.]

Chapter 148-276 WAC PUBLIC RECORDS

WAC

148-276-010	Purpose.
148-276-020	Definitions.
148-276-030	Description of central organization of Washington state school for the deaf.
148-276-040	Operations and procedures.
148-276-050	Public records available.
148-276-060	Public records officer.
148-276-070	Office hours.
148-276-080	Requests for public records.
148-276-090	Copying.
148-276-100	Determination regarding exempt records.
148-276-110	Review of denials of public records requests.
148-276-120	Protection of public records.
148-276-130	Records index.
148-276-140	Adoption of form.

WAC 148-276-010 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. 90-16-017, § 148-276-010, filed 7/19/90, effective 8/19/90.]

WAC 148-276-020 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 deaf. "Washington state school for the deaf" is an agency organized by statute pursuant to RCW 72.40.010. Washington state school for the deaf 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. 90-16-017, § 148-276-020, filed 7/19/90, effective 8/19/90.]

WAC 148-276-030 Description of central organization of Washington state school for the deaf. (1) Washington state school for the deaf 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 deaf, 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 state's 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 72.42 RCW.

(4) Elementary and high school education is under the direction of a principal or separate principals as student population increases and educational needs demand. Academic support services, including but not limited to outreach, nursing, and audiology are under the supervision of the director of academic support services. The director of media manages the learning resource center. Residential services are under the direction of the director of student life. Consolidated services, serving both the Washington state school for the blind and the Washington state school for the deaf, are administered by personnel located at the school for the deaf. Consolidated services include: The commissary, business, and personnel offices, the maintenance department, and custodial and food services.

[Statutory Authority: RCW 72.40.022 and 42.17.250. 90-16-017, § 148-276-030, filed 7/19/90, effective 8/19/90.]

WAC 148-276-040 Operations and procedures. Formal decision-making procedures are established by the superintendent through rules promulgated in accordance with the

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

[Statutory Authority: RCW 72.40.022 and 42.17.250. 90-16-017, § 148-276-040, filed 7/19/90, effective 8/19/90.]

WAC 148-276-050 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. 90-16-017, § 148-276-050, filed 7/19/90, effective 8/19/90.]

WAC 148-276-060 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. 90-16-017, § 148-276-060, filed 7/19/90, effective 8/19/90.]

WAC 148-276-070 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. 90-16-017, § 148-276-070, filed 7/19/90, effective 8/19/90.]

WAC 148-276-080 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

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(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. 90-16-017, § 148-276-080, filed 7/19/90, effective 8/19/90.]

WAC 148-276-090 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. 90-16-017, § 148-276-090, filed 7/19/90, effective 8/19/90.]

WAC 148-276-100 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 148-276-080 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. 90-16-017, § 148-276-100, filed 7/19/90, effective 8/19/90.]

WAC 148-276-110 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

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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.

(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. 90-16-017, § 148-276-110, filed 7/19/90, effective 8/19/90.]

WAC 148-276-120 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 148-276-090.

[Statutory Authority: RCW 72.40.022 and 42.17.250. 90-16-017, § 148-276-120, filed 7/19/90, effective 8/19/90.]

WAC 148-276-130 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. 90-16-017, § 148-276-130, filed 7/19/90, effective 8/19/90.]

WAC 148-276-140 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 DEAF

(a)
Name (please print) Signature
Name of 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 Deaf
.....

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. 90-16-017, § 148-276-140, filed 7/19/90, effective 8/19/90.]

**Chapter 148-280 WAC
FAMILY EDUCATIONAL RIGHTS AND PRIVACY
ACT OF 1974**

WAC

148-280-010	Confidentiality of student records.
148-280-011	Definitions.
148-280-015	Notice.
148-280-020	Education records—Access rights.
148-280-025	Education records—Access procedures.
148-280-030	Education records—Amendment.
148-280-040	Disclosure of personally identifiable information from education records.
148-280-055	Record of access.
148-280-060	Destruction of information.

**DISPOSITION OF SECTIONS FORMERLY
CODIFIED IN THIS CHAPTER**

148-280-050	Safeguards. [Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-018, § 148-280-050, filed 7/19/90, effective 8/19/90.] Repealed by 03-20-014, filed 9/22/03, effective 10/23/03. Statutory Authority: RCW 72.40.011.
148-280-070	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). 90-16-018, § 148-280-070, filed 7/19/90, effective 8/19/90.] Repealed by 03-20-014, filed 9/22/03, effective 10/23/03. Statutory Authority: RCW 72.40.011.

WAC 148-280-010 Confidentiality of student records. The Washington school for the deaf implements policy contained in this chapter in compliance with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. Sec. 1232(g) (FERPA), and the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1412 (a)(8). These laws establish that the education records of students attending or having attended the school are confidential and can be released only with written permission of the parent (or adult student). The primary rights of parents and adult students under FERPA are:

- (1) To inspect and review education records;
- (2) To request amendment of education records; and
- (3) To have some control over the disclosure of information from education records.

[Statutory Authority: RCW 72.40.011. 03-20-014, § 148-280-010, filed 9/22/03, effective 10/23/03. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-018, § 148-280-010, filed 7/19/90, effective 8/19/90.]

WAC 148-280-011 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, photograph, address, telephone listing, date and place of birth, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, diplomas, honors, and awards received, and previous school 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 school staff 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 created and maintained by school security or the law enforcement unit of the school;

(iii) 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 which are not available for any other purpose: Provided, That this exception 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

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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; and

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

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

(5) "Legitimate educational interest" means the necessity to review educational records in order to fulfill professional responsibility, perform a function related to a student's education or discipline, or maintain safety and security.

(6) "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.

(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) "School official" includes a person employed by the school as a teacher, administrator, supervisor, counselor, support staff member (including health or medical staff and law enforcement unit personnel), a person serving on the school board of trustees, a person with whom the school has contracted to perform a special task (such as an attorney, auditor, medical consultant, or therapist), or a parent or student serving on an official committee or assisting another school official in performing his or her tasks.

[Statutory Authority: RCW 72.40.011. 03-20-014, § 148-280-011, filed 9/22/03, effective 10/23/03. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-018, § 148-280-011, filed 7/19/90, effective 8/19/90.]

WAC 148-280-015 Notice. The school shall provide parents and adult students with annual notice of their rights as defined by FERPA by publication in the parent/student handbook.

[Statutory Authority: RCW 72.40.011. 03-20-014, § 148-280-015, filed 9/22/03, effective 10/23/03. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-018, § 148-280-015, filed 7/19/90, effective 8/19/90.]

WAC 148-280-020 Education records—Access rights. (1) A parent, adult 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 (or the adult 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 adult 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 adult 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 there is a court order, parenting plan, or legally binding document relating to such matters as dissolution, separation, guardianship, or custody that specifically revokes these rights.

(5) The parent (or adult student) has the right to a response from the school to reasonable requests for explanations and interpretations of the records.

[Statutory Authority: RCW 72.40.011, 03-20-014, § 148-280-020, filed 9/22/03, effective 10/23/03. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-018, § 148-280-020, filed 7/19/90, effective 8/19/90.]

WAC 148-280-025 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 (or adult student) at the superintendent's office.

(2) A request by a parent (or adult student) to inspect and review education records should be made in writing to the supervising administrator K-12 (i.e., building principal).

(3) The supervising administrator K-12 or his/her designee 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 supervising administrator K-12 is unable to comply with a request within the above stated period, he or she shall inform the parent (or adult student) of that fact and the reasons in writing.

[Statutory Authority: RCW 72.40.011, 03-20-014, § 148-280-025, filed 9/22/03, effective 10/23/03. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-018, § 148-280-025, filed 7/19/90, effective 8/19/90.]

WAC 148-280-030 Education records—Amendment.

(1)(a) A parent (or adult 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) A parent (or adult student) shall not be permitted under this chapter to challenge the validity of grades which are accurately 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 to deny the request, it shall inform the parent (or adult student) of the decision and of the right to a hearing. The hearing shall be a brief adjudicative proceeding.

(4) The school will conduct a hearing within a reasonable time after it has received the request for a hearing.

(a) Notice of the date, time and place shall be provided reasonably in advance of the hearing.

(b) The hearing will be conducted by a hearing officer who is a disinterested party. This hearing officer may be a school official. The parent (or adult student) shall be afforded a full and fair opportunity to present evidence relevant to the issues raised in the original request to amend an education record. The parent (or adult student) may, at their own expense, be assisted at the hearing by one or more individuals, including an attorney.

(c) The hearing officer will prepare a written decision based solely on the evidence presented at the hearing. The decision will include a summary of the evidence presented and the reasons for the decision.

(5) If, as a result of the hearing, 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 adult student) in writing.

(6) If, as a result of the hearing, 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 adult student) of the right to place in the record a statement commenting on the challenged information and/or a statement of the parent's (or adult student's) reasons for disagreeing with the decision of the school.

(7) 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 72.40.011, 03-20-014, § 148-280-030, filed 9/22/03, effective 10/23/03. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-018, § 148-280-030, filed 7/19/90, effective 8/19/90.]

WAC 148-280-040 Disclosure of personally identifiable information from education records.

(1) The school shall not disclose information from education records (other than "directory information") without the written consent of the parent (or adult student) except that records may be disclosed without consent when disclosure is to:

(a) School officials who have a legitimate educational interest in the records;

(b) Officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll. Pursuant to RCW 28A.225.330, records disclosed under this subsection will include disciplinary action, violent behavior or behavior listed in RCW 13.04.155, attendance, immunization records, and academic performance. The school shall provide the parent (or adult student), upon request, with a copy of the records disclosed and an opportunity for a hearing 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;

(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 shall make a reasonable effort to notify the parent (or adult student) in advance of compliance, unless such notification and disclosure is specifically prohibited by an order of the court or other issuing agency or the order has been issued *ex parte*.

(i) If the school initiates legal action against a parent or student, the school may disclose to the court, without a court order or subpoena, the education records of the student that are relevant and necessary for the school to proceed with the legal action.

(ii) If a parent or student initiates legal action against the school, the school may disclose to the court, without a court order or subpoena, the student's education records that are relevant and necessary for the school's defense;

(g) State and local officials or authorities if specifically required by state law adopted before November 19, 1974, or if reporting or disclosure concerns the juvenile justice system and the system's ability to effectively serve the student prior to adjudication;

(h) Appropriate persons in connection with a health or safety emergency if knowledge of such information is necessary to protect the health or safety of a student or other individuals;

(i) Teachers and school officials in other schools and school districts, and teachers, security personnel and other personnel at the Washington school for the deaf who have a legitimate educational interest in the behavior of the student when the information concerns disciplinary action taken against the student for behavior that posed a significant risk to safety or well-being of that student, other students, or other members of the school community, or a history of violent behavior or behaviors listed in RCW 13.04.155. "Disciplinary action" means the investigation, adjudication or imposition of sanctions by the school for an infraction or violation of the student conduct code.

(2) Where the consent of a parent (or adult 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 adult 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 adult student) con-

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sent, 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 adult student).

(5) "Directory information" may be disclosed without the parent's (or adult student's) prior written consent, unless the parent (or adult student) notifies the school in writing within ten days of enrollment and thereafter by the tenth day of the academic year that he or she does not want any or all of the student's information to be designated as directory information.

[Statutory Authority: RCW 72.40.011, 03-20-014, § 148-280-040, filed 9/22/03, effective 10/23/03. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-018, § 148-280-040, filed 7/19/90, effective 8/19/90.]

WAC 148-280-055 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 who had requested or received information;

(b) The date access was given; and

(c) The legitimate interest or purpose the party has in requesting or obtaining the information.

(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 148-280-040 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 adult student;

(b) A designated school official with a legitimate educational interest under WAC 148-280-040 (1)(a);

(c) A party with written consent from the parent or adult student;

(d) A party seeking directory information; or

(e) A party seeking or receiving records as directed by a federal grand jury or other law enforcement subpoena and the issuing court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed.

[Statutory Authority: RCW 72.40.011, 03-20-014, § 148-280-055, filed 9/22/03, effective 10/23/03. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-018, § 148-280-055, filed 7/19/90, effective 8/19/90.]

WAC 148-280-060 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 outstand-

ing request to inspect and review the records under this chapter.

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

(b) At the request of a parent (or adult 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" shall mean physical destruction or removal of personal identifiers.

[Statutory Authority: RCW 72.40.011, 03-20-014, § 148-280-060, filed 9/22/03, effective 10/23/03. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-018, § 148-280-060, filed 7/19/90, effective 8/19/90.]

Chapter 148-325 WAC

STATE ENVIRONMENTAL POLICY ACT RULES

WAC

148-325-010 Implementation of State Environmental Policy Act.

WAC 148-325-010 Implementation of State Environmental Policy Act. (1) It shall be the policy of Washington state school for the deaf 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, 90-16-020, § 148-325-010, filed 7/19/90, effective 8/19/90.]