

Chapter 148-120 WAC

STUDENT CONDUCT CODE

<p>WAC</p> <p>148-120-010 148-120-015</p>	<p>Student responsibilities and duties. Student rights.</p> <p style="text-align: center;">CONDUCT RULES</p> <p>148-120-100 148-120-120</p> <p>Conduct violations. Misdemeanor and/or felony.</p> <p style="text-align: center;">DISCIPLINE</p> <p>148-120-200 148-120-205 148-120-210 148-120-250 148-120-260 148-120-313</p> <p>Policy. Limitations. Emergency removal from class or activity. Discipline procedures. Reentry meeting following suspension. Referral to and action by law enforcement and judicial authorities.</p> <p>148-120-314</p> <p>Averse interventions.</p> <p style="text-align: center;">EMERGENCY ACTIONS</p> <p>148-120-400 148-120-405</p> <p>Emergency expulsion—Limitations. Emergency expulsion—Notice of hearing—Waiver of hearing right.</p> <p>148-120-410</p> <p>Emergency expulsion—Prehearing and hearing process.</p> <p style="text-align: center;">DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER</p> <p>148-120-220</p> <p>Short-term suspension. [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.] Repealed by 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.</p> <p>148-120-225</p> <p>Short-term suspension—Notice and conference—Grievance procedure. [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.] Repealed by 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.</p> <p>148-120-230</p> <p>Long-term suspension. [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.] Repealed by 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.</p> <p>148-120-234</p> <p>Long-term suspension—Misconduct not a manifestation of disability—Notice. [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.] Repealed by 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.</p> <p>148-120-236</p> <p>Long-term suspension—Misconduct not a manifestation of disability—Hearing. [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.] Repealed by 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.</p> <p>148-120-300</p> <p>Disciplinary exclusion—Definitions. [Statutory Authority: RCW 72.40.011. 01-16-100, § 148-120-300, filed 7/27/01, effective 8/27/01.] Repealed by 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.</p>	<p>148-120-301</p> <p>Change of placement for disciplinary removals. [Statutory Authority: RCW 72.40.011. 01-16-100, § 148-120-301, filed 7/27/01, effective 8/27/01.] Repealed by 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.</p> <p>148-120-302</p> <p>Removals—Ten school days or less. [Statutory Authority: RCW 72.40.011. 01-16-100, § 148-120-302, filed 7/27/01, effective 8/27/01.] Repealed by 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.</p> <p>148-120-303</p> <p>Required services. [Statutory Authority: RCW 72.40.011. 01-16-100, § 148-120-303, filed 7/27/01, effective 8/27/01.] Repealed by 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.-0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.</p> <p>148-120-304</p> <p>Change of placement—Removals for weapons or drugs. [Statutory Authority: RCW 72.40.011. 01-16-100, § 148-120-304, filed 7/27/01, effective 8/27/01.] Repealed by 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.</p> <p>148-120-305</p> <p>Functional behavioral assessment and intervention plan. [Statutory Authority: RCW 72.40.011. 01-16-100, § 148-120-305, filed 7/27/01, effective 8/27/01.] Repealed by 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.</p> <p>148-120-306</p> <p>Dangerous behavior—Authority of hearing officer. [Statutory Authority: RCW 72.40.011. 01-16-100, § 148-120-306, filed 7/27/01, effective 8/27/01.] Repealed by 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.</p> <p>148-120-307</p> <p>Determination of interim alternative educational setting. [Statutory Authority: RCW 72.40.011. 01-16-100, § 148-120-307, filed 7/27/01, effective 8/27/01.] Repealed by 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.</p> <p>148-120-308</p> <p>Manifestation determination review requirements. [Statutory Authority: RCW 72.40.011. 01-16-100, § 148-120-308, filed 7/27/01, effective 8/27/01.] Repealed by 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.</p> <p>148-120-309</p> <p>Procedures for conducting a manifestation determination. [Statutory Authority: RCW 72.40.011. 01-16-100, § 148-120-309, filed 7/27/01, effective 8/27/01.] Repealed by 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.</p> <p>148-120-310</p> <p>Determination that behavior was not manifestation of disability. [Statutory Authority: RCW 72.40.011. 01-16-100, § 148-120-310, filed 7/27/01, effective 8/27/01.] Repealed by 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.</p> <p>148-120-311</p> <p>Expedited due process hearings. [Statutory Authority: RCW 72.40.011. 01-16-100, § 148-120-311, filed 7/27/01, effective 8/27/01.] Repealed by 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.</p> <p>148-120-312</p> <p>Placement during appeals. [Statutory Authority: RCW 72.40.011. 01-16-100, § 148-120-312, filed 7/27/01, effective 8/27/01.] Repealed by 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.-0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.</p> <p>148-120-415</p> <p>Appeals—Long-term suspension and expulsion. [Statutory Authority: RCW 72.40.023. 04-02-002, § 148-120-</p>
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415, filed 12/24/03, effective 1/24/04.] Repealed by 11-05-033, filed 2/8/11, effective 3/11/11. Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW.

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, altering

or 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 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 392-172A-05145(9), 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, carriage, exhibition, 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, or any device that looks like or is alleged to be a firearm or explosive device.

(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. Intimate 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) Harassment, intimidation or bullying based on actual or perceived race, color, religion, ancestry, national origin, gender, gender identity, disability, socio-economic status, physical appearance, or other distinguishing characteristic. For purposes of this rule, harassment, intimidation, and bullying includes any intentionally written message or image, including those that are electronically transmitted including, but not limited to, sexting, which constitutes any threat of or act of physical, verbal, or emotional abuse, or attacks on the property of another, which has the effect of materially interfering with a student's education; is so severe, pervasive, or persistent, and objectively offensive as to threaten an individual or limit the individual's ability to work, study or participate in the activities of WSD, creates an intimidating or threatening education or residential environment, or has the effect of materially disrupting the orderly operation of the school or residential program.

The term "sexting" as used in this rule means the sending, possession, displaying, or distribution of text messages and picture of an explicit sexual nature. Intentional acts refer to the individual's choice to engage in the act rather than the ultimate impact of the action(s).

Harassment, intimidation, and bullying may include, but is not limited to, taunts, sexting, slurs, rumors, jokes, innuendos, demeaning comments, drawings, cartoons, pranks, gestures, ostracism, extortion of money, physical attacks, threats or other written, oral, physical or electronically transmitted messages or images.

Harassment, intimidation, and bullying are often carried out through acts of misconduct, which are addressed and prohibited under other rules in this chapter.

This rule does not prohibit the civil, respectful expression of religious or political views, provided that the expression does not materially disrupt the education environment.

(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, during school-related functions, or on any school property. "Gang" has the meaning given the term under RCW 28A.600.455. Prohibited dress, appearance and activities includes, but is not limited to: Clothing, accessories, personal items, or body markings, which symbolizes gang membership as reported by law enforcement agencies.

(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 electronic communications, which may include, but is not limited to:

(a) Unauthorized copying of school-owned or licensed software, copyrighted material, 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, bullying, 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 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW. 11-05-033, § 148-120-100, filed 2/8/11, effective 3/11/11. 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.]

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,

[Ch. 148-120 WAC—p. 4]

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 superintendent of public instruction in WAC 392-400-235(4) as now or hereafter amended, is prohibited.

[Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW. 11-05-033, § 148-120-205, filed 2/8/11, effective 3/11/11. 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 148-120-250 Discipline procedures. Disciplinary procedures for students at WSD who are eligible for special education shall follow the requirements in WAC 392-172A-05140 through 392-172A-05175, which are adopted by

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reference. Students at WSD are subject to rules and procedures governing discipline for all students in public schools in chapter 392-400 WAC. WSD shall determine on a case-by-case basis whether and to what extent the rules and procedures in chapter 392-400 WAC may apply.

[Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW. 11-05-033, § 148-120-250, filed 2/8/11, effective 3/11/11.]

WAC 148-120-260 Reentry meeting following suspension. After completing a period of suspension, the student shall be required to meet with an administrator and/or designated staff person upon return to school. Parents or guardians of students who have not reached the age of majority may accompany the student. The student should be prepared to acknowledge the behavior that led to suspension and commit to a plan to abide by the student conduct code, meet specific behavior expectations, and avoid repeated misconduct.

[Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW. 11-05-033, § 148-120-260, filed 2/8/11, effective 3/11/11.]

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 392-172A-03129 through 392-172A-03135 are adopted by reference.

[Statutory Authority: RCW 72.40.0191, 42 U.S.C. §§ 1400 et seq. and chapter 28A.155 RCW. 11-05-033, § 148-120-314, filed 2/8/11, effective 3/11/11. 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

(2/8/11)

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 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

[Ch. 148-120 WAC—p. 5]

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.]