

# Chapter 72-171 WAC

## SPECIAL EDUCATION PROGRAMS

<p><b>WAC</b> 72-171-001</p>	<p>Purposes.</p> <p><b>DEFINITIONS OF GENERAL APPLICATION</b></p> <p>72-171-010 Definitions. 72-171-015 Definition and eligibility criteria for visually handicapped. 72-171-016 Definition and eligibility criteria for deaf-blind.</p> <p><b>ASSESSMENT AND PLACEMENT</b></p> <p>72-171-110 General areas of evaluation. 72-171-120 Evaluation procedures. 72-171-131 Evaluation report and documentation of determination of eligibility. 72-171-140 Independent educational evaluation. 72-171-150 Admission and placement—Annual review.</p> <p><b>INDIVIDUALIZED EDUCATION PROGRAMS</b></p> <p>72-171-210 IEP meetings. 72-171-220 Participants in IEP meetings. 72-171-230 Parent participation and involvement. 72-171-240 Individualized education program. 72-171-242 Individualized education program—Implementation. 72-171-244 Individualized education program—Development, review, revision—Consideration of special factors.</p> <p><b>ANNUAL REVIEW OR PLACEMENT AND STUDENT PROGRESS-REASSESSMENT</b></p> <p>72-171-410 Reevaluation.</p> <p><b>PROCEDURAL SAFEGUARDS</b></p> <p>72-171-500 When prior notice must be given. 72-171-510 Contents of prior written notice. 72-171-512 Parent consent. 72-171-514 Transfer of parental rights at age of majority. 72-171-550 Mediation.</p> <p><b>DUE PROCESS PROCEDURES</b></p> <p>72-171-601 Due process rights and procedures. 72-171-605 Request for hearing, notice by parent. 72-171-650 Surrogate parents.</p> <p><b>MISCELLANEOUS PROGRAM REQUIREMENTS</b></p> <p>72-171-710 Aversive interventions.</p> <p><b>DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER</b></p> <p>72-171-100 Initial assessment. [Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. WSR 90-16-008, § 72-171-100, filed 7/19/90, effective 8/19/90.] Repealed by WSR 01-16-022, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022.</p> <p>72-171-130 Summary analysis of assessment data. [Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. WSR 90-16-008, § 72-171-130, filed 7/19/90, effective 8/19/90.] Repealed by WSR 01-16-022, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022.</p> <p>72-171-200 Definition. [Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. WSR 90-16-008, § 72-171-200, filed 7/19/90, effective 8/19/90.] Repealed by WSR 01-16-022, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022.</p> <p>72-171-400 Annual review of placement and student progress—Program evaluation. [Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. WSR 90-16-008, § 72-171-400, filed 7/19/90, effective 8/19/90.] Repealed by WSR 01-16-022, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022.</p>	<p>72-171-420</p> <p>72-171-430</p> <p>72-171-600</p> <p>72-171-610</p> <p>72-171-620</p> <p>72-171-630</p> <p>72-171-640</p> <p>72-171-700</p>	<p>Reassessment purposes. [Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. WSR 90-16-008, § 72-171-420, filed 7/19/90, effective 8/19/90.] Repealed by WSR 01-16-022, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022.</p> <p>Reassessment notice. [Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. WSR 90-16-008, § 72-171-430, filed 7/19/90, effective 8/19/90.] Repealed by WSR 01-16-022, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022.</p> <p>Right to initiate. [Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. WSR 90-16-008, § 72-171-600, filed 7/19/90, effective 8/19/90.] Repealed by WSR 01-16-022, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022.</p> <p>Hearing rights. [Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. WSR 90-16-008, § 72-171-610, filed 7/19/90, effective 8/19/90.] Repealed by WSR 01-16-022, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022.</p> <p>Timeline for decision. [Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. WSR 90-16-008, § 72-171-620, filed 7/19/90, effective 8/19/90.] Repealed by WSR 01-16-022, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022.</p> <p>Petition for review. [Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. WSR 90-16-008, § 72-171-630, filed 7/19/90, effective 8/19/90.] Repealed by WSR 01-16-022, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022.</p> <p>Student's status during proceedings. [Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. WSR 90-16-008, § 72-171-640, filed 7/19/90, effective 8/19/90.] Repealed by WSR 01-16-022, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022.</p> <p>Administration of medication. [Statutory Authority: RCW 72.40.022. WSR 90-23-054, § 72-171-700, filed 11/19/90, effective 12/20/90.] Repealed by WSR 01-16-022, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022.</p>
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**WAC 72-171-001 Purposes.** The purposes of this chapter are:

- (1) To implement chapter 72.40 RCW in a manner that is compatible with chapter 28A.155 RCW and in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.;
- (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. WSR 01-16-022, § 72-171-001, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. WSR 90-16-008, § 72-171-001, filed 7/19/90, effective 8/19/90.]

### DEFINITIONS OF GENERAL APPLICATION

**WAC 72-171-010 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 state

school for the blind, a "public agency" as defined in WAC 392-172-035 (6)(c), is a "state-operated program."

[Statutory Authority: RCW 72.40.022, WSR 01-16-022, § 72-171-010, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. WSR 90-16-008, § 72-171-010, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-015 Definition and eligibility criteria for visually handicapped.** The definition and eligibility criteria in WAC 392-172-142 are adopted by reference.

[Statutory Authority: RCW 72.40.022, WSR 01-16-022, § 72-171-015, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. WSR 90-16-008, § 72-171-015, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-016 Definition and eligibility criteria for deaf-blind.** The definition and eligibility criteria in WAC 392-172-144 are adopted by reference.

[Statutory Authority: RCW 72.40.022, WSR 01-16-022, § 72-171-016, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. WSR 90-16-008, § 72-171-016, filed 7/19/90, effective 8/19/90.]

## ASSESSMENT AND PLACEMENT

**WAC 72-171-110 General areas of evaluation.** WAC 392-172-106 is adopted by reference.

[Statutory Authority: RCW 72.40.022, WSR 01-16-022, § 72-171-110, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. WSR 90-16-008, § 72-171-110, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-120 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 blind 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, WSR 01-16-022, § 72-171-120, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. WSR 90-16-008, § 72-171-120, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-131 Evaluation report and documentation of determination of eligibility.** WAC 392-172-10905 is adopted by reference.

[Statutory Authority: RCW 72.40.022, WSR 01-16-022, § 72-171-131, filed 7/20/01, effective 8/20/01.]

**WAC 72-171-140 Independent educational evaluation.** WAC 392-172-150 is adopted by reference.

[Statutory Authority: RCW 72.40.022, WSR 01-16-022, § 72-171-140, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. WSR 90-16-008, § 72-171-140, filed 7/19/90, effective 8/19/90.]

[Ch. 72-171 WAC p. 2]

**WAC 72-171-150 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 state school for the blind admissions team will assess the appropriateness of placement of a visually impaired student residing in the state of Washington as provided for under this chapter.

(2) Applications for placement shall be in writing and shall include the reason for referral. Reasons for referral to the state school for the blind may include, but are not limited to: Vision specific services not readily available in the local school district, need for more intensive vision specific services, adaptive aids and appliances, greater array of vision 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 state school for the blind shall be determined at a meeting conducted pursuant to WAC 72-171-210.

(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 classified as risk Level II or III in the state of Washington or the equivalent under the laws of the state in which the student resides.

(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 state school for the blind 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 72-171-210.

(7/20/01)

[Statutory Authority: RCW 72.40.022. WSR 01-16-022, § 72-171-150, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. WSR 90-16-008, § 72-171-150, filed 7/19/90, effective 8/19/90.]

### INDIVIDUALIZED EDUCATION PROGRAMS

**WAC 72-171-210 IEP meetings.** WAC 392-172-156 is adopted by reference.

[Statutory Authority: RCW 72.40.022. WSR 01-16-022, § 72-171-210, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. WSR 90-16-008, § 72-171-210, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-220 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 the extraordinary program needs. If the LEA representative is unable to attend the meeting, Washington state school for the blind staff shall keep the representative informed of the meeting and obtain information that will assist in the provision of services.

[Statutory Authority: RCW 72.40.022. WSR 01-16-022, § 72-171-220, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. WSR 90-16-008, § 72-171-220, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-230 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. WSR 01-16-022, § 72-171-230, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. WSR 90-16-008, § 72-171-230, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-240 Individualized education program.** WAC 392-172-160 is adopted by reference.

[Statutory Authority: RCW 72.40.022. WSR 01-16-022, § 72-171-240, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. WSR 90-16-008, § 72-171-240, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-242 Individualized education program—Implementation.** WAC 392-172-158 is adopted by reference.

[Statutory Authority: RCW 72.40.022. WSR 01-16-022, § 72-171-242, filed 7/20/01, effective 8/20/01.]

**WAC 72-171-244 Individualized education program—Development, review, revision—Consideration of special factors.** WAC 392-172-159 is adopted by reference.

(7/20/01)

[Statutory Authority: RCW 72.40.022. WSR 01-16-022, § 72-171-244, filed 7/20/01, effective 8/20/01.]

### ANNUAL REVIEW OR PLACEMENT AND STUDENT PROGRESS-REASSESSMENT

**WAC 72-171-410 Reevaluation.** WAC 392-172-182 through 392-172-190 are adopted by reference.

The student's LEA should continue to be involved in the planning for any student who is enrolled at the Washington state school for the blind, 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. WSR 01-16-022, § 72-171-410, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. WSR 90-16-008, § 72-171-410, filed 7/19/90, effective 8/19/90.]

### PROCEDURAL SAFEGUARDS

**WAC 72-171-500 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 72-171-510.

[Statutory Authority: RCW 72.40.022. WSR 01-16-022, § 72-171-500, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. WSR 90-16-008, § 72-171-500, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-510 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 72-171-500.

[Statutory Authority: RCW 72.40.022. WSR 01-16-022, § 72-171-510, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. WSR 90-16-008, § 72-171-510, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-512 Parent consent.** WAC 392-172-304 is adopted by reference. Where the adopted rule refers to WAC 392-172-185 (reevaluation), refer to WAC 72-171-120.

[Statutory Authority: RCW 72.40.022. WSR 01-16-022, § 72-171-512, filed 7/20/01, effective 8/20/01.]

**WAC 72-171-514 Transfer of parental rights at age of majority.** WAC 392-172-309 is adopted by reference.

[Statutory Authority: RCW 72.40.022. WSR 01-16-022, § 72-171-514, filed 7/20/01, effective 8/20/01.]

**WAC 72-171-550 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. WSR 01-16-022, § 72-171-550, filed 7/20/01, effective 8/20/01.]

**DUE PROCESS PROCEDURES****WAC 72-171-601 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 72-171-140.

[Statutory Authority: RCW 72.40.022. WSR 01-16-022, § 72-171-601, filed 7/20/01, effective 8/20/01.]

**WAC 72-171-605 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 state school for the blind 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. WSR 01-16-022, § 72-171-605, filed 7/20/01, effective 8/20/01.]

**WAC 72-171-650 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 72-171-010.

[Statutory Authority: RCW 72.40.022. WSR 01-16-022, § 72-171-650, filed 7/20/01, effective 8/20/01; WSR 90-23-055, § 72-171-650, filed 11/19/90, effective 12/20/90.]

**MISCELLANEOUS PROGRAM REQUIREMENTS**

**WAC 72-171-710 Aversive interventions.** WAC 392-172-388 through 392-172-396 are adopted by reference.

[Statutory Authority: RCW 72.40.022. WSR 01-16-022, § 72-171-710, filed 7/20/01, effective 8/20/01.]