

Chapter 392-341 WAC

STATE ASSISTANCE IN PROVIDING SCHOOL PLANT FACILITIES—PRELIMINARY PROVISIONS

(Formerly chapter 180-25 WAC)

WAC

392-341-005	Authority.
392-341-010	Purpose.
392-341-012	Waiver of rules to facilitate alternative public works contracting procedures.
392-341-015	Definition—School facilities.
392-341-020	District application—Study and survey.
392-341-025	State study and survey—Content.
392-341-030	State study and survey—Local involvement.
392-341-035	State study and survey—Superintendent of public instruction.
392-341-037	Out of date state study and survey.
392-341-040	State study and survey—Superintendent of public instruction approval or denial.
392-341-043	Superintendent of public instruction commitment at project approval.
392-341-045	Approval criteria for state funding assistance.
392-341-055	Conditions applicable to district's authority to proceed.
392-341-060	Eligibility for state funding assistance for new construction—Definition—Contiguous school district.
392-341-065	Eligibility for state funding assistance for new construction—Definition—Negotiate in good faith.
392-341-070	Eligibility for state funding assistance for new construction—Survey of suitable school facilities in contiguous school districts that are unused or underutilized.
392-341-075	Eligibility for state funding assistance for new construction—Contents of survey.
392-341-080	Eligibility for state funding assistance for new construction—Application to superintendent of public instruction—Necessary documentation.
392-341-085	Eligibility for state funding assistance for new construction—Review of survey of available and suitable school plant facilities in contiguous school districts.
392-341-090	Eligibility for state funding assistance for new construction—Approval by the superintendent of public instruction of applicant's school district certification.
392-341-200	Forms.

WAC 392-341-005 Authority. This chapter is adopted pursuant to RCW 28A.525.020 which authorizes the superintendent of public instruction to prescribe rules and regulations governing the administration, control, terms, conditions, and disbursements of state funding assistance to school districts to assist them in providing school facilities. In accordance with RCW 28A.525.200, the only provisions of chapter 28A.525 RCW currently applicable to state funding assistance for school facilities are RCW 28A.525.030, 28A.525.-040, 28A.525.050, 28A.525.162 through 28A.525.178.

[Statutory Authority: RCW 28A.525.020. WSR 10-09-008, § 392-341-005, filed 4/8/10, effective 5/9/10; WSR 06-16-032, amended and recodified as § 392-341-005, filed 7/25/06, effective 8/25/06; WSR 98-19-139, § 180-25-005, filed 9/23/98, effective 10/24/98. Statutory Authority: 1990 c 33. WSR 90-17-009, § 180-25-005, filed 8/6/90, effective 9/6/90. Statutory Authority: RCW 28A.47.830. WSR 83-21-064 (Order 9-83), § 180-25-005, filed 10/17/83.]

(4/8/10)

WAC 392-341-010 Purpose. The purpose of this chapter is to set forth provisions applicable to a district's official application for state funding assistance, including conditions preceding, in the construction of school facilities.

[Statutory Authority: RCW 28A.525.020. WSR 10-09-008, § 392-341-010, filed 4/8/10, effective 5/9/10; WSR 06-16-032, recodified as § 392-341-010, filed 7/25/06, effective 8/25/06. Statutory Authority: RCW 28A.47.830. WSR 85-24-047 (Order 24-85), § 180-25-010, filed 11/27/85; WSR 83-21-064 (Order 9-83), § 180-25-010, filed 10/17/83.]

WAC 392-341-012 Waiver of rules to facilitate alternative public works contracting procedures. (1) Subject to factual determinations by the superintendent of public instruction, the provisions of chapters 392-341 through 392-347 WAC which supplement statutory requirements are hereby deemed waived to the extent any provision would prevent or delay the implementation of alternative public works contracting procedures pursuant to chapter 39.10 RCW.

(2) At the request of school district officials, the superintendent of public instruction or her/his designee shall factually determine on a case-by-case basis which provisions would prevent or delay the implementation of alternative public works contracting procedures, and advise officials in writing of the extent to which one or more provisions of chapters 392-341 through 392-347 WAC are hereby deemed to have been waived.

[Statutory Authority: RCW 28A.525.020. WSR 06-16-032, amended and recodified as § 392-341-012, filed 7/25/06, effective 8/25/06; WSR 01-08-040, § 180-25-012, filed 3/30/01, effective 4/30/01.]

WAC 392-341-015 Definition—School facilities. As used in this chapter, and in chapters 392-342 through 392-347 WAC, the term "school facilities" means school plant facilities, school plant projects, school buildings, common school facilities and the grounds as those terms are utilized in chapter 28A.525 RCW. Any structure not placed on a permanent foundation shall be excluded from this definition.

[Statutory Authority: RCW 28A.525.020. WSR 06-16-032, amended and recodified as § 392-341-015, filed 7/25/06, effective 8/25/06. Statutory Authority: 1990 c 33. WSR 90-17-009, § 180-25-015, filed 8/6/90, effective 9/6/90. Statutory Authority: RCW 28A.47.830. WSR 83-21-064 (Order 9-83), § 180-25-015, filed 10/17/83.]

WAC 392-341-020 District application—Study and survey. Prior to the superintendent of public instruction consideration of state funding assistance in providing school facilities, the board of directors of a school district shall file with the superintendent of public instruction an application for each school facility project, whether new construction or modernization of an existing facility, and shall request the

[Ch. 392-341 WAC p. 1]

superintendent of public instruction to study and survey existing and proposed school facilities within the district.

[Statutory Authority: RCW 28A.525.020. WSR 10-09-008, § 392-341-020, filed 4/8/10, effective 5/9/10; WSR 06-16-032, amended and recodified as § 392-341-020, filed 7/25/06, effective 8/25/06. Statutory Authority: RCW 28A.47.830. WSR 83-21-064 (Order 9-83), § 180-25-020, filed 10/17/83.]

WAC 392-341-025 State study and survey—Content.

The study and survey to be conducted by the superintendent of public instruction with the cooperation of the local school district shall include the following:

(1) An inventory and area analysis of existing school facilities within the district, a description of the types and kinds of systems and subsystems used in those facilities and their physical condition;

(2) A long-range (i.e., minimum of six years) educational and facilities plan setting forth the projected facility needs and priorities of the district based on the educational plan;

(3) Demographic data including population projections and projected economic growth and development;

(4) The ability of such district to provide capital funds by local effort;

(5) The existence of a school housing emergency;

(6) The need to improve racial balance and/or to avoid creation or aggravation of racial imbalance;

(7) The type and extent of new and/or additions to existing school facilities required and the urgency of need for such facilities;

(8) A cost/benefit analysis on the need to modernize and/or replace existing school facilities in order to meet current educational needs and the current state building code;

(9) The need and the estimated capital cost to restore, to design specifications, the major systems and subsystems in the facilities that have deteriorated due to deferred maintenance.

(10) A determination of the district's time line for completion of the school facilities project;

(11) An inventory of accessible unused or underutilized school facilities in neighboring school districts and the physical condition of such school facilities;

(12) The need for adjustments of school attendance areas among or within such districts; and

(13) Such other matters as the superintendent of public instruction deems pertinent to decision making in the allocation of funds for school facilities. Cooperation by the applicant school district in conducting the study and survey is a requisite for the superintendent of public instruction to complete the study and survey and to establish the eligibility of the district for state funding assistance in school facility construction.

[Statutory Authority: RCW 28A.525.020. WSR 10-09-008, § 392-341-025, filed 4/8/10, effective 5/9/10; WSR 06-16-032, amended and recodified as § 392-341-025, filed 7/25/06, effective 8/25/06; WSR 98-19-139, § 180-25-025, filed 9/23/98, effective 10/24/98. Statutory Authority: [RCW 28A.525.020.] WSR 91-12-058, § 180-25-025, filed 6/5/91, effective 7/6/91. Statutory Authority: RCW 28A.47.803, 28A.47.060, 28A.47.802 and 28A.47.105. WSR 90-04-031, § 180-25-025, filed 1/30/90, effective 3/2/90. Statutory Authority: RCW 28A.47.830. WSR 85-24-047 (Order 24-85), § 180-25-025, filed 11/27/85; WSR 83-21-064 (Order 9-83), § 180-25-025, filed 10/17/83.]

WAC 392-341-030 State study and survey—Local involvement. When in the judgment of the superintendent of public instruction information is not readily available to complete the state study and survey or the superintendent of public instruction determines that an existing study and survey, although completed within the previous six years, is out of date, the superintendent of public instruction shall approve a district's request for a state planning grant to offset all or a portion of the cost of acquiring such information unless it is determined that there is no possibility that the district will be eligible for state funding assistance within the next seventy-two months. The state planning grant shall be based on a minimum flat amount for each enrollment category plus a variable allocation based on the district's estimated gross square footage of existing school facilities and in accordance with the following schedule:

Headcount Enrollment Categories

Enrollment of 1 to 500—Minimum state planning grant plus square footage allocation

Enrollment of 501 to 3,000—Minimum state planning grant plus square footage allocation

Enrollment of 3,001 to 10,000—Minimum state planning grant plus square footage allocation

Enrollment of above 10,000—Minimum state planning grant plus square footage allocation

The dollar amount for the minimum grants and the square footage allocations for these categories shall be established annually by the superintendent of public instruction.

[Statutory Authority: RCW 28A.525.020. WSR 10-09-008, § 392-341-030, filed 4/8/10, effective 5/9/10; WSR 06-16-032, amended and recodified as § 392-341-030, filed 7/25/06, effective 8/25/06. Statutory Authority: RCW 28A.525.020 and 1992 c 233 § 24(8). WSR 92-16-058, § 180-25-030, filed 8/3/92, effective 9/3/92. Statutory Authority: RCW 28A.47.830. WSR 85-24-047 (Order 24-85), § 180-25-030, filed 11/27/85; WSR 83-21-064 (Order 9-83), § 180-25-030, filed 10/17/83.]

WAC 392-341-035 State study and survey—Superintendent of public instruction. The state study and survey, together with recommendations prepared by the superintendent of public instruction, if any, shall be transmitted to the board of directors of the affected school district(s) for written comment by such district or districts. Once the superintendent of public instruction has received the written comments of the district(s) affected, including a request for one or more project approvals pursuant to WAC 392-341-040, the state study and survey and the preliminary recommendations of the superintendent of public instruction, together with any written comments by the school district board of directors, shall undergo a final review by the superintendent of public instruction prior to action pursuant to WAC 392-341-040.

[Statutory Authority: RCW 28A.525.020. WSR 06-16-032, amended and recodified as § 392-341-035, filed 7/25/06, effective 8/25/06. Statutory Authority: RCW 28A.47.830. WSR 85-24-047 (Order 24-85), § 180-25-035, filed 11/27/85; WSR 83-21-064 (Order 9-83), § 180-25-035, filed 10/17/83.]

WAC 392-341-037 Out of date state study and survey. The superintendent of public instruction, commencing June 7, 2006, shall not grant approval of state funding assistance pursuant to WAC 392-341-040 to a district without

consideration of a state study and survey conducted within the preceding six years that addresses such project.

[Statutory Authority: RCW 28A.525.020. WSR 10-09-008, § 392-341-037, filed 4/8/10, effective 5/9/10; WSR 06-16-032, amended and recodified as § 392-341-037, filed 7/25/06, effective 8/25/06. Statutory Authority: RCW 28A.47.830. WSR 85-24-047 (Order 24-85), § 180-25-037, filed 11/27/85.]

WAC 392-341-040 State study and survey—Superintendent of public instruction approval or denial. Upon receipt of a request for one or more project approvals and after review of the state study and survey, together with recommendations and comments, the superintendent of public instruction shall in accordance with WAC 392-341-045 take one of the following actions:

(1) Deny approval of state funding assistance for the construction and/or modernization of school facilities; or

(2) Grant approval of state funding assistance for the construction and/or modernization of school facilities by authorizing the maximum area allocation eligible for state funding assistance for each school plant project approved and for which the superintendent of public instruction shall issue an appropriate SPI form and state any conditions that may or may not be applicable including whether eligibility was approved or denied for additional state funding assistance pursuant to WAC 392-343-115 for one or more approved school plant projects or whether such decision for any approved school plant project has been deferred due to insufficient factual information for a determination or due to a request by the district to present the necessary factual information to the superintendent of public instruction. Upon receipt of the superintendent of public instruction approval, the school district is authorized to prepare educational specifications pursuant to chapter 392-342 WAC. Project approval shall become null and void one year from the date of the superintendent of public instruction action unless the district:

(a) Obtains capital funds to provide the local share required for state funding assistance;

(b) Completes the educational specifications pursuant to chapter 392-342 WAC; and

(c) Selects a site pursuant to chapter 392-342 WAC.

[Statutory Authority: RCW 28A.525.020. WSR 10-09-008, § 392-341-040, filed 4/8/10, effective 5/9/10; WSR 06-16-032, amended and recodified as § 392-341-040, filed 7/25/06, effective 8/25/06; WSR 98-19-139, § 180-25-040, filed 9/23/98, effective 10/24/98. Statutory Authority: RCW 28A.47.830. WSR 85-24-047 (Order 24-85), § 180-25-040, filed 11/27/85; WSR 85-09-059 (Order 7-85), § 180-25-040, filed 4/17/85; WSR 83-21-064 (Order 9-83), § 180-25-040, filed 10/17/83.]

WAC 392-341-043 Superintendent of public instruction commitment at project approval. The superintendent of public instruction project approval pursuant to WAC 392-341-040 defines the type of project and the maximum allowable square footage in which the state conditionally agrees to participate. There is no commitment whatsoever by the superintendent of public instruction or the state to any project or to any amount of state funding assistance. The superintendent of public instruction reserves the right to amend and/or repeal any rule(s) respecting state funding assistance in school building construction. Such rule changes may be made regardless of the negative and/or positive impact of such changes upon the eligibility of any project for state funding

(4/8/10)

assistance and/or the extent of eligibility of any project for state funding assistance.

[Statutory Authority: RCW 28A.525.020. WSR 10-09-008, § 392-341-043, filed 4/8/10, effective 5/9/10; WSR 06-16-032, amended and recodified as § 392-341-043, filed 7/25/06, effective 8/25/06. Statutory Authority: RCW 28A.47.830. WSR 86-04-065 (Order 1-86), § 180-25-043, filed 2/4/86.]

WAC 392-341-045 Approval criteria for state funding assistance. The superintendent of public instruction shall conditionally agree to state funding assistance for a school facility or facilities for a school district that demonstrates the following:

(1) The existence of unhoused students which for the purpose of this section shall mean current or projected enrolled students who are in excess of the capacity calculated for existing facilities within the district pursuant to chapter 392-343 WAC: Provided, That current or projected enrolled students shall not be designated as unhoused for a high school district of application which has a student enrollment of four hundred or less in grades nine through twelve, if the students involved or affected can be served without undue inconvenience in a neighboring school, or schools of larger size and the neighboring school district has indicated a willingness to serve, and has the capacity to house the applying district high school students; and

(2) The ability of the district to obtain capital funds to provide the local share required for state funding assistance: Provided, That the existence of unhoused students provision of subsection (1) of this section shall not be required for approval of the following school facilities projects: Interdistrict cooperative centers authorized by chapter 392-345 WAC, interdistrict transportation cooperatives authorized by chapter 392-346 WAC, and modernization and new construction authorized by chapter 392-347 WAC.

[Statutory Authority: RCW 28A.525.020. WSR 10-09-008, § 392-341-045, filed 4/8/10, effective 5/9/10; WSR 06-16-032, amended and recodified as § 392-341-045, filed 7/25/06, effective 8/25/06; WSR 98-19-139, § 180-25-045, filed 9/23/98, effective 10/24/98. Statutory Authority: RCW 28A.47.830. WSR 85-09-059 (Order 7-85), § 180-25-045, filed 4/17/85; WSR 83-21-064 (Order 9-83), § 180-25-045, filed 10/17/83.]

WAC 392-341-055 Conditions applicable to district's authority to proceed. The authorization by the superintendent of public instruction pursuant to WAC 392-341-040 for the district to proceed for particular school facilities is subject to the conditions of WAC 392-344-107. Therefore, districts receiving approval by the superintendent of public instruction pursuant to WAC 392-341-040 are on notice that until approval is granted pursuant to WAC 392-344-107 (i.e., the issuance of an appropriate SPI form by the superintendent of public instruction) the particular school facilities do not have secured funding status.

[Statutory Authority: RCW 28A.525.020. WSR 06-16-032, amended and recodified as § 392-341-055, filed 7/25/06, effective 8/25/06; WSR 98-19-139, § 180-25-055, filed 9/23/98, effective 10/24/98. Statutory Authority: RCW 28A.47.830. WSR 85-24-047 (Order 24-85), § 180-25-055, filed 11/27/85; WSR 85-09-059 (Order 7-85), § 180-25-055, filed 4/17/85.]

WAC 392-341-060 Eligibility for state funding assistance for new construction—Definition—Contiguous school district. As used in this chapter the term "contiguous

[Ch. 392-341 WAC p. 3]

school district" means a school district sharing a common boundary with another school district.

[Statutory Authority: RCW 28A.525.020. WSR 10-09-008, § 392-341-060, filed 4/8/10, effective 5/9/10; WSR 06-16-032, recodified as § 392-341-060, filed 7/25/06, effective 8/25/06. Statutory Authority: RCW 28A.47.803, 28A.47.060, 28A.47.802 and 28A.47.105. WSR 90-01-075, § 180-25-060, filed 12/19/89, effective 12/19/89.]

WAC 392-341-065 Eligibility for state funding assistance for new construction—Definition—Negotiate in good faith. As used in this chapter the term "negotiate in good faith" means approach a school district with an available and suitable school facility with the intent to enter into an agreement to lease the facility.

[Statutory Authority: RCW 28A.525.020. WSR 10-09-008, § 392-341-065, filed 4/8/10, effective 5/9/10; WSR 06-16-032, recodified as § 392-341-065, filed 7/25/06, effective 8/25/06. Statutory Authority: RCW 28A.47.803, 28A.47.060, 28A.47.802 and 28A.47.105. WSR 90-01-075, § 180-25-065, filed 12/19/89, effective 12/19/89.]

WAC 392-341-070 Eligibility for state funding assistance for new construction—Survey of suitable school facilities in contiguous school districts that are unused or underutilized. A school district applying for state funding assistance for new construction shall conduct a documented survey of suitable school facilities in contiguous school districts that are unused or underutilized.

[Statutory Authority: RCW 28A.525.020. WSR 10-09-008, § 392-341-070, filed 4/8/10, effective 5/9/10; WSR 06-16-032, recodified as § 392-341-070, filed 7/25/06, effective 8/25/06; WSR 98-19-139, § 180-25-070, filed 9/23/98, effective 10/24/98. Statutory Authority: RCW 28A.47.803, 28A.47.060, 28A.47.802 and 28A.47.105. WSR 90-01-075, § 180-25-070, filed 12/19/89, effective 12/19/89.]

WAC 392-341-075 Eligibility for state funding assistance for new construction—Contents of survey. The survey required in WAC 392-341-070 shall include at a minimum:

- (1) A listing of contiguous school districts.
- (2) Name and title of each person contacted regarding availability of facilities.
- (3) A listing of available facilities including location.

[Statutory Authority: RCW 28A.525.020. WSR 10-09-008, § 392-341-075, filed 4/8/10, effective 5/9/10; WSR 06-16-032, amended and recodified as § 392-341-075, filed 7/25/06, effective 8/25/06. Statutory Authority: RCW 28A.47.803, 28A.47.060, 28A.47.802 and 28A.47.105. WSR 90-01-075, § 180-25-075, filed 12/19/89, effective 12/19/89.]

WAC 392-341-080 Eligibility for state funding assistance for new construction—Application to superintendent of public instruction—Necessary documentation. As part of the application submitted to the superintendent of public instruction, the district applying for state funding assistance for new construction shall include:

- (1) A copy of the survey conducted pursuant to WAC 392-341-070.
- (2) A board resolution certifying one of the following:
 - (a) No suitable space is available in any contiguous district;
 - (b) Space is available in a contiguous district but the facilities do not meet needs of the applicant district. The applicant district shall provide substantial evidence to support the unsuitability of the available facility;

[Ch. 392-341 WAC p. 4]

(c) Space is available in a contiguous district but good faith negotiations did not lead to an agreement between the applicant district and the district containing the available facility. The applicant district shall provide substantial evidence to support the lack of lease agreement including a history of the negotiations and proposed offers by each district.

(3) Other information deemed pertinent by the applicant district.

[Statutory Authority: RCW 28A.525.020. WSR 10-09-008, § 392-341-080, filed 4/8/10, effective 5/9/10; WSR 06-16-032, amended and recodified as § 392-341-080, filed 7/25/06, effective 8/25/06. Statutory Authority: RCW 28A.47.803, 28A.47.060, 28A.47.802 and 28A.47.105. WSR 90-01-075, § 180-25-080, filed 12/19/89, effective 12/19/89.]

WAC 392-341-085 Eligibility for state funding assistance for new construction—Review of survey of available and suitable school plant facilities in contiguous school districts. The superintendent of public instruction shall review and approve the applicant school boards certification and supporting documentation submitted pursuant to WAC 392-341-080, if the certification is complete, technically accurate, and complies with all applicable rules and regulations. Until this certification and supporting documentation is approved by the superintendent of public instruction, the school district's application for state funding assistance will not be given further consideration.

[Statutory Authority: RCW 28A.525.020. WSR 10-09-008, § 392-341-085, filed 4/8/10, effective 5/9/10; WSR 06-16-032, amended and recodified as § 392-341-085, filed 7/25/06, effective 8/25/06. Statutory Authority: RCW 28A.47.803, 28A.47.060, 28A.47.802 and 28A.47.105. WSR 90-01-075, § 180-25-085, filed 12/19/89, effective 12/19/89.]

WAC 392-341-090 Eligibility for state funding assistance for new construction—Approval by the superintendent of public instruction of applicant's school district certification. The superintendent of public instruction shall approve an applicant school district's certification of the unavailability of suitable school plant facilities in contiguous school districts if it is established to the superintendent of public instruction's satisfaction that vacant, available, and suitable school plant facilities neither exist nor are scheduled to exist within the foreseeable future in a contiguous school district.

[Statutory Authority: RCW 28A.525.020. WSR 10-09-008, § 392-341-090, filed 4/8/10, effective 5/9/10; WSR 06-16-032, amended and recodified as § 392-341-090, filed 7/25/06, effective 8/25/06. Statutory Authority: RCW 28A.47.803, 28A.47.060, 28A.47.802 and 28A.47.105. WSR 90-01-075, § 180-25-090, filed 12/19/89, effective 12/19/89.]

WAC 392-341-200 Forms. Forms applicable to provisions of this chapter for school facilities shall be as follows:

- (1) Applications for a state study and survey by a district pursuant to WAC 392-341-020 shall be designated as SPI Form D-1.
- (2) State planning grants to districts pursuant to WAC 392-341-030 shall be awarded to such districts through SPI Form D-2.
- (3) Applications for approval of a school project by a district pursuant to WAC 392-341-040 shall be designated as SPI Form D-3.

(4/8/10)

(4) Project approval for districts pursuant to WAC 392-341-040 shall be awarded to such district through SPI Form D-4.

[Statutory Authority: RCW 28A.525.020. WSR 10-09-008, § 392-341-200, filed 4/8/10, effective 5/9/10; WSR 06-16-032, amended and recodified as § 392-341-200, filed 7/25/06, effective 8/25/06. Statutory Authority: RCW 28A.47.830. WSR 85-24-047 (Order 24-85), § 180-25-200, filed 11/27/85.]