

- § 392-137-045, filed 12/22/75. Formerly WAC 392-15-840, 392-15-850.] Repealed by WSR 90-19-068 (Order 26), filed 9/17/90, effective 10/18/90. Statutory Authority: RCW 28A.22.230 [28A.225.230] and 34.05.220(4).
- 392-137-050 Agreements and policies deemed approved—Retention and filing of. [Order 7-75, § 392-137-050, filed 12/22/75. Formerly WAC 392-15-855.] Repealed by WSR 80-05-037 (Order 80-8), filed 4/15/80. Statutory Authority: RCW 28A.58.240 and 28A.58.242.
- 392-137-051 Right of appeal. [Statutory Authority: RCW 34.05.220 [(1)](a). WSR 89-23-001 (Order 15), § 392-137-051, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.58.240 and 28A.58.242. WSR 80-05-037 (Order 80-8), § 392-137-051, filed 4/15/80.] Repealed by WSR 90-19-068 (Order 26), filed 9/17/90, effective 10/18/90. Statutory Authority: RCW 28A.22.230 [28A.225.230] and 34.05.220(4).
- 392-137-055 Appeal notice. [Statutory Authority: RCW 34.05.220 [(1)](a). WSR 89-23-001 (Order 15), § 392-137-055, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.58.242. WSR 83-17-067 (Order 83-11), § 392-137-055, filed 8/18/83. Statutory Authority: RCW 28A.58.240. WSR 82-19-049 (Order 82-14), § 392-137-055, filed 9/14/82. Statutory Authority: RCW 28A.58.-240 and 28A.58.242. WSR 80-05-037 (Order 80-8), § 392-137-055, filed 4/15/80.] Repealed by WSR 90-19-068 (Order 26), filed 9/17/90, effective 10/18/90. Statutory Authority: RCW 28A.22.230 [28A.225.230] and 34.05.220(4).
- 392-137-060 Hearing. [Statutory Authority: RCW 34.05.220 [(1)](a). WSR 89-23-001 (Order 15), § 392-137-060, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.03.500. WSR 87-10-014 (Order 87-6), § 392-137-060, filed 4/28/87. Statutory Authority: RCW 28A.58.-242. WSR 83-17-067 (Order 83-11), § 392-137-060, filed 8/18/83. Statutory Authority: RCW 28A.58.240. WSR 82-19-049 (Order 82-14), § 392-137-060, filed 9/14/82. Statutory Authority: RCW 28A.58.240 and 28A.58.242. WSR 81-15-090 (Order 81-5), § 392-137-060, filed 7/22/81. WSR 80-05-037 (Order 80-8), § 392-137-060, filed 4/15/80.] Repealed by WSR 90-19-068 (Order 26), filed 9/17/90, effective 10/18/90. Statutory Authority: RCW 28A.22.230 [28A.225.230] and 34.05.-220(4).
- 392-137-065 Grounds for order of release. [Statutory Authority: RCW 34.05.220 [(1)](a). WSR 89-23-001 (Order 15), § 392-137-065, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.58.242. WSR 83-17-067 (Order 83-11), § 392-137-065, filed 8/18/83. Statutory Authority: RCW 28A.58.240 and 28A.58.242. WSR 80-05-037 (Order 80-8), § 392-137-065, filed 4/15/80.] Repealed by WSR 90-19-068 (Order 26), filed 9/17/90, effective 10/18/90. Statutory Authority: RCW 28A.22.230 [28A.225.230] and 34.05.220(4).
- 392-137-070 Per se special hardship or detrimental hardships. [Statutory Authority: RCW 34.05.220 [(1)](a). WSR 89-23-001 (Order 15), § 392-137-070, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.58.242. WSR 83-17-067 (Order 83-11), § 392-137-070, filed 8/18/83.] Repealed by WSR 90-19-068 (Order 26), filed 9/17/90, effective 10/18/90. Statutory Authority: RCW 28A.22.230 [28A.225.230] and 34.05.220(4).
- 392-137-220 Annual transfer fee. [Statutory Authority: RCW 28A.22.230 [28A.225.230] and 34.05.220(4). WSR 90-19-068 (Order 26), § 392-137-220, filed 9/17/90, effective 10/18/90.] Repealed by WSR 97-20-003 (Order 97-04), filed 9/17/97, effective 10/18/97. Statutory Authority: RCW 28A.150.290.

Reviser's note: With the filing of Order 7-75 by the superintendent of public instruction on December 22, 1975, part of chapter 392-15 WAC, entitled "Interdistrict cooperation," has been superseded by chapter 392-137 WAC. See Title 392 WAC digest for disposition of chapters and reference notes.

WAC 392-137-100 Authority. The authority for this chapter is RCW 28A.225.230 which authorizes the superintendent of public instruction to review through formal adjudication school district decisions to not release resident students and to not accept nonresident students. This authority is buttressed by RCW 34.05.220(4) which authorizes the state

agency charged with the adjudication of individual cases, in this case the superintendent of public instruction, to adopt rules formalizing the general principles applicable to deciding such cases.

[Statutory Authority: RCW 28A.22.230 [28A.225.230] and 34.05.220(4). WSR 90-19-068 (Order 26), § 392-137-100, filed 9/17/90, effective 10/18/90.]

WAC 392-137-105 Purpose. The purpose of this chapter is to formalize the principles applicable to adjudication of cases related to nonresident school attendance.

[Statutory Authority: RCW 28A.22.230 [28A.225.230] and 34.05.220(4). WSR 90-19-068 (Order 26), § 392-137-105, filed 9/17/90, effective 10/18/90.]

WAC 392-137-110 Nonresident attendance exempt from adjudication. The following nonresident attendance arrangements and entitlements are exempt from the adjudication provisions of this chapter:

(1) Interdistrict cooperation programs conducted in accordance with RCW 28A.335.160 or 28A.225.250 and chapter 392-135 WAC.

(2) Programs temporarily conducted in behalf of another district in accordance with RCW 28A.225.200

(3) Reciprocity programs with continuous out-of-state school districts conducted pursuant to RCW 28A.225.260.

(4) The attendance of students from other districts who, by operation of law, have a statutory entitlement to attend school in a nonresident district—to wit the following:

(a) Children who reside within certain federal lands or Indian reservations as provided in RCW 28A.225.170.

(b) Children who reside in school districts which do not provide the grade in which the student is eligible to enroll as provided in RCW 28A.225.210.

(c) Children who are defined to be at risk pursuant to RCW 28A.175.090.

[Statutory Authority: RCW 28A.22.230 [28A.225.230] and 34.05.220(4). WSR 90-19-068 (Order 26), § 392-137-110, filed 9/17/90, effective 10/18/90.]

WAC 392-137-115 Student residence—Definition.

As used in this chapter, the term "student residence" means the physical location of a student's principal abode—i.e., the home, house, apartment, facility, structure, or location, etc.—where the student lives the majority of the time. The following shall be considered in applying this section:

(1) The mailing address of the student—e.g., parent's address or post office box—may be different than the student's principal abode.

(2) The student's principal abode may be different than the principal abode of the student's parent(s).

(3) The lack of a mailing address for a student does not preclude residency under this section.

(4) If students are expected to reside at address for twenty consecutive days or more.

[Statutory Authority: RCW 28A.150.290(1). WSR 10-15-041, § 392-137-115, filed 7/13/10, effective 8/13/10. Statutory Authority: RCW 28A.22.230 [28A.225.230] and 34.05.220(4). WSR 90-19-068 (Order 26), § 392-137-115, filed 9/17/90, effective 10/18/90.]

WAC 392-137-120 Resident district—Definition. As used in this chapter, the term "resident district" means the district in which the student's residence is located.

[Statutory Authority: RCW 28A.22.230 [28A.225.230] and 34.05.220(4). WSR 90-19-068 (Order 26), § 392-137-120, filed 9/17/90, effective 10/18/90.]

WAC 392-137-125 Nonresident district—Definition. As used in this chapter, the term "nonresident district" means the district in which the student is enrolled or is seeking entrance and in which the student's residence is not located.

[Statutory Authority: RCW 28A.22.230 [28A.225.230] and 34.05.220(4). WSR 90-19-068 (Order 26), § 392-137-125, filed 9/17/90, effective 10/18/90.]

WAC 392-137-130 Release of students to nonresident districts. A resident district shall release a student to a nonresident district if the student meets each of the following conditions:

- (1) The nonresident district agrees to accept the student.
- (2) The student demonstrates a ground for release as specified in WAC 392-137-135, 392-137-140, or 392-137-145.
- (3) The resident district has not denied the release for desegregation reasons as specified in WAC 392-137-150.

[Statutory Authority: RCW 28A.22.230 [28A.225.230] and 34.05.220(4). WSR 90-19-068 (Order 26), § 392-137-130, filed 9/17/90, effective 10/18/90.]

WAC 392-137-135 Affecting condition—Ground for release. A district shall release a student if a financial, educational, safety, or health condition affecting the student would likely be reasonably improved as a result of the transfer. The following shall be considered in applying this section:

(1) The term "condition affecting the student" means a financial, educational, safety, or health benefit which can not be met or achieved by attendance in the student's resident district.

(2) The term "would likely be reasonably improved" means it is probable, in the judgment of a reasonable person, that the nature and effect of the benefit to be received will be real and meaningful.

[Statutory Authority: RCW 28A.22.230 [28A.225.230] and 34.05.220(4). WSR 90-19-068 (Order 26), § 392-137-135, filed 9/17/90, effective 10/18/90.]

WAC 392-137-140 Accessibility to work or child care—Ground for release. A district shall release a student if attendance in the nonresident district is more accessible to the parent's place of work or to the location of child care. The following shall be considered in applying this section:

(1) The term "parent" means one or more adults with custodial responsibility for the child.

(2) The term "more accessible" means a difference to an extent which is more than de minimis.

(3) The term "child care" means any form of adult supervision for a child who is in need of such adult supervision.

[Statutory Authority: RCW 28A.22.230 [28A.225.230] and 34.05.220(4). WSR 90-19-068 (Order 26), § 392-137-140, filed 9/17/90, effective 10/18/90.]

(11/3/14)

WAC 392-137-145 Special condition—Ground for release. A district shall release a student if there is a special hardship or detrimental condition. The following shall be considered in applying this section:

(1) The term "special" means a circumstance or factor which is generally not applicable to other students or families.

(2) The terms "hardship" and "detrimental condition" apply to any circumstance or factor harmfully affecting the student or student's immediate family and is not restricted to a financial, educational, safety, or health condition.

(3) The following are judged by the superintendent of public instruction to constitute a special hardship or detrimental condition, the proof of which is a per se hardship or condition for the order of a release:

(a) A student who was enrolled the previous school year in a nonresident district who is scheduled to complete in the same nonresident district during the next school year the highest grade offered in the resident district.

(b) A student who has completed two or more school years in a nonresident district without a release but with the knowledge of such nonresident attendance by the superintendent or any member of the board of directors of the resident district.

[Statutory Authority: RCW 28A.22.230 [28A.225.230] and 34.05.220(4). WSR 90-19-068 (Order 26), § 392-137-145, filed 9/17/90, effective 10/18/90.]

WAC 392-137-150 Desegregation—Ground for denial of release. A district may deny a release if the release would adversely affect the district's existing desegregation plan.

[Statutory Authority: RCW 28A.22.230 [28A.225.230] and 34.05.220(4). WSR 90-19-068 (Order 26), § 392-137-150, filed 9/17/90, effective 10/18/90.]

WAC 392-137-155 Appeal to SPI—Denial of release. The decision of a resident school district to not release a resident student may be appealed to the superintendent of public instruction. The right of appeal is subject to each of the following conditions:

(1) The appeal is filed by the student's parent or a custodial adult or by the student if the student is eighteen years of age or older.

(2) The resident district has denied the release or has failed to consider the request for the release. The following shall apply:

(a) For the purpose of this subsection, a denial is established by one of the following:

(i) A copy of the minutes of the board of directors of the resident district which establishes that the board has denied a request to release the resident student.

(ii) A written statement by the superintendent of the resident district that the board has taken action denying the release.

(b) For the purpose of this subsection a refusal to consider a request for a release is established by:

(i) Copy of correspondence addressed to the superintendent of the resident district requesting a release and which sets forth the grounds for the release.

(ii) An affidavit by the appellant indicating the resident district board of directors has failed to act on the request and that at least forty-five calendar days has transpired since the request for the release was mailed or delivered to the superintendent of the resident district.

(3) The nonresident district has agreed to accept the student. For the purpose of this subsection an acceptance is established by one of the following:

(a) A copy of minutes of the board of directors of the nonresident district that establishes that the nonresident student has been accepted.

(b) A written statement by the superintendent of the district that the nonresident student has been accepted.

(c) Any documentation that the nonresident district has a policy of accepting one or more of the following categories of nonresident students:

(i) All nonresident students.

(ii) All nonresident students who are released by the resident school district.

(iii) All nonresident students who are released by order of the superintendent of public instruction or by the court.

[Statutory Authority: RCW 28A.22.230 [28A.225.230] and 34.05.220(4). WSR 90-19-068 (Order 26), § 392-137-155, filed 9/17/90, effective 10/18/90.]

WAC 392-137-160 Admission by nonresident district—Released students. A nonresident district may admit all nonresident students who are released by a resident district, the superintendent of public instruction, or a court of law. The provisions of RCW 28A.225.240 shall apply for apportionment and other purposes.

[Statutory Authority: RCW 28A.150.290. WSR 97-20-003 (Order 97-04), § 392-137-160, filed 9/17/97, effective 10/18/97. Statutory Authority: RCW 28A.22.230 [28A.225.230] and 34.05.220(4). WSR 90-19-068 (Order 26), § 392-137-160, filed 9/17/90, effective 10/18/90.]

WAC 392-137-190 Appeal notice—Denial of release or admission. Requests for an appeal shall be addressed to the superintendent of public instruction and shall contain the following:

(1) The name, age, grade level, and residence address, if any, of the student.

(2) The name, mailing address, if any, and the legal relationship of the person, if any, filing the notice of appeal on behalf of the student.

(3) In the case of denial of release, documentation indicating the conditions of WAC 392-137-155 have been met and a copy of all documents or other written evidence submitted to the resident district which indicates the grounds for the requested release.

(4) In the case of denial of admission, documentation that the nonresident district has failed to comply with the standards and procedures specified in WAC 392-137-205.

[Statutory Authority: RCW 28A.22.230 [28A.225.230] and 34.05.220(4). WSR 90-19-068 (Order 26), § 392-137-190, filed 9/17/90, effective 10/18/90.]

WAC 392-137-195 Filing of notices of appeal. There is no prescribed method for transmitting appeals to the superintendent of public instruction but receipt of such written appeals by the superintendent of public instruction is a condi-

tion precedent to jurisdiction. The material may be hand-delivered or mailed to the following address:

Legal Services
Office of the Superintendent of
Public Instruction
P.O. Box 47200
Olympia, Washington 98504-7200

[Statutory Authority: RCW 28A.150.290. WSR 97-20-003 (Order 97-04), § 392-137-195, filed 9/17/97, effective 10/18/97. Statutory Authority: RCW 28A.22.230 [28A.225.230] and 34.05.220(4). WSR 90-19-068 (Order 26), § 392-137-195, filed 9/17/90, effective 10/18/90.]

WAC 392-137-200 Appeal to SPI—Denial of application by nonresident district. RCW 28A.225.230 requires the superintendent of public instruction to hear and adjudicate appeals from denials by nonresident school districts to accept a nonresident student if the nonresident district fails to comply with the standards and procedures prescribed in section 203, chapter 9, Laws of 1990 1st ex. sess. The grounds for such an appeal are noted in WAC 392-137-205.

[Statutory Authority: RCW 28A.22.230 [28A.225.230] and 34.05.220(4). WSR 90-19-068 (Order 26), § 392-137-200, filed 9/17/90, effective 10/18/90.]

WAC 392-137-205 Noncompliance with standards and procedures—Ground for admission. A nonresident student who is denied admission to a nonresident district shall be ordered admitted by the superintendent of public instruction if the district does not comply with the standards and procedures specified in section 203, chapter 9, Laws of 1990 1st ex. sess.—to wit the following:

(1) "All districts accepting applications from nonresident students for admission to the district's schools shall consider equally all applications received. Each school district shall adopt a policy establishing rational, fair, and equitable standards for acceptance and rejection of applications by June 30, 1990." The following shall be considered in applying this subsection:

(a) Applications from nonresident students for the purpose of this section do not include students who are attending the district pursuant to arrangements or entitlements noted in WAC 392-137-110.

(b) The requirement to consider all applications equally does not preclude the establishment of a priority system that is fair and equitable under equal protection standards.

(c) The failure of a district to have adopted an admission policy at the time of the student's denial of admission, not the June 30, 1990 deadline, will govern an order to admit for failure to adopt any policy regarding admission.

(2) "The district shall provide to applicants written notification of the approval or denial of the application in a timely manner. If the application is rejected, the notification shall include the reason or reasons for denial and the right to appeal under RCW 28A.225.230(3)." The following shall be considered in applying this subsection:

(a) All applications must be acted upon by accepting or denying the application within forty-five calendar days of receipt by the nonresident district or the application will be deemed to have been denied for purposes of this section.

(b) The district must make reasonable effort to deliver the written notification of denial to the applicant.

[Statutory Authority: RCW 28A.22.230 [28A.225.230] and 34.05.220(4). WSR 90-19-068 (Order 26), § 392-137-205, filed 9/17/90, effective 10/18/90.]

WAC 392-137-225 Length of release. All releases of resident students, whether granted by the resident district or ordered by the superintendent of public instruction, shall state the length of the release or the condition subsequent which would cause the release to be terminated. The termination of a release, for the purpose of this chapter, shall be adjudicated as per the provisions regarding a request for a release.

[Statutory Authority: RCW 28A.22.230 [28A.225.230] and 34.05.220(4). WSR 90-19-068 (Order 26), § 392-137-225, filed 9/17/90, effective 10/18/90.]

WAC 392-137-230 Length of acceptance. (1) All acceptances of nonresident students, whether granted by the nonresident district or ordered by the superintendent of public instruction, shall state the length of the acceptance or the condition subsequent which would cause the acceptance to be terminated. The termination of an acceptance, for the purpose of this chapter, shall be adjudicated as per the provisions regarding a denial of acceptance.

(2) School districts enrolling nonresident students are subject to all school district duties and liabilities pertaining to such students until the end of the transfer, including ensuring the student's compulsory attendance pursuant to chapter 28A.225 RCW. If the transfer is rescinded before the end date according to conditions listed in the nonresident school district policy, the resident school district reassumes responsibility for the student upon the date they are notified of the rescindment.

(3) School districts enrolling a nonresident student must inform the resident school district if the student drops out of the school or is otherwise no longer enrolled.

[Statutory Authority: RCW 28A.225.230. WSR 14-22-080, § 392-137-230, filed 11/3/14, effective 12/4/14. Statutory Authority: RCW 28A.22.230 [28A.225.230] and 34.05.220(4). WSR 90-19-068 (Order 26), § 392-137-230, filed 9/17/90, effective 10/18/90.]

WAC 392-137-235 Residency of handicapped children—Special condition. Notwithstanding the definitions of resident and nonresident district pursuant to this chapter, in the event a student who is eligible for special education pursuant to chapter 392-172A WAC transfers pursuant to this chapter from a resident school district to a nonresident district, the nonresident district shall be deemed the resident district for the purposes of chapter 392-172A WAC and shall be required to perform all legal duties as otherwise required by the resident district, including the transportation of the transferring handicapped student if so required as a related service.

[Statutory Authority: RCW 28A.150.290. WSR 09-06-040, § 392-137-235, filed 2/25/09, effective 3/28/09. Statutory Authority: RCW 28A.22.230 [28A.225.230] and 34.05.220(4). WSR 90-19-068 (Order 26), § 392-137-235, filed 9/17/90, effective 10/18/90.]

WAC 392-137-240 Transportation of students—Funding—Cooperative agreements. Chapter 28A.160 RCW, School transportation authorizes state funding for transportation of students transported from outside of district boundaries and furthermore authorizes cooperative arrange-

ments among districts regarding the transportation of students from one district to another.

[Statutory Authority: RCW 28A.22.230 [28A.225.230] and 34.05.220(4). WSR 90-19-068 (Order 26), § 392-137-240, filed 9/17/90, effective 10/18/90.]

WAC 392-137-245 Hearings. The hearings provided for in this chapter shall be conducted in compliance with chapter 392-101 WAC.

[Statutory Authority: RCW 28A.22.230 [28A.225.230] and 34.05.220(4). WSR 90-19-068 (Order 26), § 392-137-245, filed 9/17/90, effective 10/18/90.]