

**WSR 09-01-043**  
**EXPEDITED RULES**  
**STATE BOARD FOR COMMUNITY**  
**AND TECHNICAL COLLEGES**

[Filed December 10, 2008, 10:02 a.m.]

Title of Rule and Other Identifying Information: Chapter 131-36 WAC, Institutional financial aid fund.

**NOTICE**

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO DelRae Oderman, State Board for Community and Technical Colleges, P.O. Box 42495, Olympia, WA 98504-2495, AND RECEIVED BY February 24, 2009.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:

- Change the definition of "needy student" to cite RCW 28B.92.030(3). The current definition cites language from a previous version of the statute.
- Change the word "and" to "or" in the list of how funds shall be used. This language is cited directly from statute.
- Change the number of credit hours from "six or more" to "at least three" to match language cited from the statute.
- Correct the citation for the definition of a "uniform methodology" to WAC 131-36-050(2).

Reasons Supporting Proposal: Adopting these changes will make the WAC consistent with the RCW eliminating confusion.

Statutory Authority for Adoption: RCW 28B.15.820.

Statute Being Implemented: Same.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: State board for community and technical colleges, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Cynthia Torres-Jimenez, 1300 Quince Street S.E., Olympia, WA 98504-2495, (360) 704-4305.

December 10, 2008  
 DelRae Oderman  
 Executive Assistant  
 Agency Rules Coordinator

AMENDATORY SECTION (Amending WSR 98-15-012, filed 7/2/98, effective 8/2/98)

**WAC 131-36-050 Definitions.** For the purposes of chapter 131-36 WAC, the following definitions shall apply:

(1) "Fund" shall mean the institutional financial aid fund established by RCW 28B.15.820.

(2) "Current federal methodology" shall mean the method of determining financial need as prescribed by the United States Department of Education.

(3) "NELA" shall mean Northwestern Education Loan Association, a private student loan guaranteeing association authorized to guarantee educational loans in Washington granted pursuant to 20 U.S. Code Section 1071.

(4) "Operational" shall mean that the institution has been approved as a lender and is eligible to provide loans guaranteed by NELA.

(5) "Needy student" (~~shall mean any post-high school student who demonstrates the financial inability to meet the cost of attending college using current federal methodology (RCW 28B.10.802))~~ is defined in RCW 28B.92.030(3).

(6) "Other institutional financial aid" shall be defined as locally administered, need-based institutional employment, tuition and fee scholarships, or grants.

AMENDATORY SECTION (Amending WSR 98-15-012, filed 7/2/98, effective 8/2/98)

**WAC 131-36-055 Use of fund.** Moneys in this fund shall be used for student financial aid:

- (1) Long-term loans;
- (2) Short-term loans; ~~(and)~~ or
- (3) Locally administered need-based grants, tuition scholarships and institutional employment programs for needy, resident students. The moneys in this fund shall not be used for college operating expenses.

AMENDATORY SECTION (Amending WSR 98-15-012, filed 7/2/98, effective 8/2/98)

**WAC 131-36-100 Eligibility.** (1) Long-term loans and other institutional financial aid to needy students shall be made only to students who qualify as residents under RCW 28B.15.012 and 28B.15.013 and are enrolled for ~~(six or more)~~ at least three credit hours of instruction or the equivalent.

(2) Priorities for use of other institutional financial aid shall be given to:

- (a) Needy students who have accumulated excessive educational loan burdens;
- (b) Needy single parents for educational expenses, including child care and transportation; and
- (c) Other eligible needy students.

(3) Short-term loans may be made to any student enrolled in the institution.

(4) For long-term and short-term loans, institutions must have ample evidence that students have the capability of repaying the loan within the time frame specified by the institution.

(5) No individual shall be eligible for long-term loans, short-term loans or other institutional financial aid for needy students if currently in default or delinquent in the payment on any educational loan or who owes a repayment on any federal or state grant.

AMENDATORY SECTION (Amending WSR 98-15-012, filed 7/2/98, effective 8/2/98)

**WAC 131-36-150 Limitation on amount.** (1) No long-term or short-term loan shall be made from the fund that exceeds either the demonstrated financial need of an eligible student or the maximum allowed under the federal guaranteed need-based loan program.

(2) All long-term loans granted from the fund for periods in excess of one academic quarter shall be disbursed in quarterly installments through proration of the total loan amount.

(3) For purposes of this section, demonstrated financial need shall be the amount determined by application of uniform methodology as defined by WAC 131-36-050((~~3~~)) (2).

**WSR 09-01-090**

**EXPEDITED RULES**

**SUPERINTENDENT OF  
PUBLIC INSTRUCTION**

[Filed December 16, 2008, 10:41 a.m.]

Title of Rule and Other Identifying Information: WAC 392-137-235 Residency of handicapped children—Special condition.

**NOTICE**

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Rules Coordinator, Legal Services, Office of Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200, AND RECEIVED BY February 23, 2009.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The special education WAC chapter referred to in this WAC has been revised from chapter 392-171 to 392-172A WAC. This updates that reference.

Reasons Supporting Proposal: Referenced chapter 392-171 WAC has changed.

Statutory Authority for Adoption: RCW 28A.150.290.

Statute Being Implemented: RCW 28A.150.290.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Superintendent of public instruction, governmental.

Name of Agency Personnel Responsible for Drafting: Mitch Thompson, 600 South Washington Street, Olympia, (360) 725-6306; Implementation: Calvin W. Brodie, 600 South Washington Street, Olympia, (360) 725-6301; and

Enforcement: Jennifer Priddy, 600 South Washington Street, Olympia, (360) 725-6292.

November 25, 2008  
Dr. Terry Bergeson  
Superintendent of  
Public Instruction

AMENDATORY SECTION (Amending Order 26, 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 ((~~392-171~~)) 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 ((~~392-171~~)) 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.

**WSR 09-01-091**

**EXPEDITED RULES**

**SUPERINTENDENT OF  
PUBLIC INSTRUCTION**

[Filed December 16, 2008, 10:41 a.m.]

Title of Rule and Other Identifying Information: Chapter 392-122 WAC, entire chapter.

**NOTICE**

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Rules Coordinator, Legal Services, Office of Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200, AND RECEIVED BY February 23, 2009.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To change outdated references throughout the chapter and remove WAC related to traffic safety education.

Reasons Supporting Proposal: This includes deleting a WAC references where the WAC was repealed and revising several WACs where changes took place to some of the WACs used as references and this chapter wasn't updated at the time of the changes. The state no longer funds traffic safety education so the WAC is being deleted pertaining to it.

Statutory Authority for Adoption: RCW 28A.150.290.

Statute Being Implemented: RCW 28A.150.290.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Superintendent of public instruction, governmental.

Name of Agency Personnel Responsible for Drafting: Mitch Thompson, 600 South Washington Street, Olympia, (360) 725-6306; Implementation: Calvin W. Brodie, 600 South Washington Street, Olympia, (360) 725-6301; and Enforcement: Jennifer Priddy, 600 South Washington Street, Olympia, (360) 725-6292.

December 16, 2008  
Dr. Terry Bergeson  
Superintendent of  
Public Instruction

AMENDATORY SECTION (Amending WSR 96-03-002, filed 1/3/96, effective 2/3/96)

**WAC 392-122-135 State special education program—Eligible special education students.** Eligible special education students are those students:

- (1) For the 1994-95 school year as defined in:
  - (a) WAC 392-171-381 (developmentally disabled preschool students);
  - (b) WAC 392-171-386 (seriously behaviorally disabled students);
  - (c) WAC 392-171-391 (communication disordered students);
  - (d) WAC 392-171-396 (orthopedically impaired students);
  - (e) WAC 392-171-401 (health impaired students);
  - (f) WAC 392-171-406 (specific learning disabled students);
  - (g) WAC 392-171-421 (mentally retarded students);
  - (h) WAC 392-171-431 (multidisability students);
  - (i) WAC 392-171-436 (deaf students);
  - (j) WAC 392-171-441 (hard of hearing students);
  - (k) WAC 392-171-446 (visually impaired students); and
  - (l) WAC 392-171-451 (deaf-blind students); and
- (2) For the 1995-96 school year and thereafter:
  - (a) Meeting the definition of enrolled student in WAC 392-121-106, enrolled in a course of study pursuant to WAC 392-121-107 and who qualify and are receiving special education services pursuant to chapter 392-172A WAC; or
  - (b) Who are under six years of age, qualify as developmentally delayed pursuant to WAC ((392-172-114)) 392-172A-01035 and are receiving special education services pursuant to chapter 392-172A WAC; or
  - (c) Who are under six years of age, qualify as communication disordered pursuant to WAC ((392-172-120)) 392-172A-01035 and are receiving special education services pursuant to chapter 392-172A WAC.

AMENDATORY SECTION (Amending WSR 96-03-002, filed 1/3/96, effective 2/3/96)

**WAC 392-122-140 State special education program—Home and/or hospital care.** State special education program moneys shall be allocated to school districts for students eligible under WAC ((392-172-218)) 392-172A-02100

temporarily requiring home and/or hospital care at the maximum rate provided annually by the superintendent of public instruction for the purpose of distributing home and/or hospital care allocations.

AMENDATORY SECTION (Amending WSR 05-15-126, filed 7/18/05, effective 8/18/05)

**WAC 392-122-145 State special education program—Home and/or hospital care—Extended absences.** Students eligible under WAC ((392-172-218)) 392-172A-02100 temporarily requiring home and/or hospital care shall be counted as enrolled students pursuant to WAC 392-121-106 as follows:

(1) Students not deemed eligible special education students pursuant to WAC 392-122-135 whose absence from the regular attendance continues through two consecutive monthly enrollment report days shall be dropped from the rolls and shall not be counted as an enrolled student on the next monthly enrollment report day unless attendance has resumed. Such students shall only be eligible for home and/or hospital care allocations until attendance in the regular program is resumed.

(2) Students deemed eligible special education students pursuant to WAC 392-122-135 shall be reported as enrolled students for the duration of the home and/or hospital care.

AMENDATORY SECTION (Amending WSR 96-03-002, filed 1/3/96, effective 2/3/96)

**WAC 392-122-166 State special education program allocation.** The board of directors of a school district may request the superintendent of public instruction to pay a portion of the district's special education allocation to another school district or an educational service district. The request must be submitted on Form ((+324)) 1295 and must state the dollar amount of the transfer. The board can modify the dollar amount of the transfer by submitting another Form ((+324)) 1295 to the superintendent of public instruction. Unless the form requesting a transfer states a timeline for making the transfer, the superintendent of public instruction shall execute the transfer pursuant to the provisions of WAC 392-121-400.

AMENDATORY SECTION (Amending Order 98-09, filed 10/20/98, effective 11/20/98)

**WAC 392-122-235 State institutional education program—Determination of average state institutional program certificated instructional staff salary for the purpose of apportionment.** The determination of average institutional education program certificated instructional staff salary used in the institutional education allocation formula for the purposes of apportionment shall be the same as specified in WAC 392-121-299(=); provided, that the words "state institutional education program" shall be substituted for "basic education" throughout that section.

AMENDATORY SECTION (Amending Order 2, filed 1/23/91, effective 2/23/91)

**WAC 392-122-600 State learning assistance program—Applicable code provisions.** The following sections of this chapter are applicable to the distribution of state moneys for the state learning assistance program:

- (1) WAC 392-122-600 through 392-122-610;
- (2) WAC 392-122-900(~~—Provided, That allowable expenditures including indirect expenditures shall be determined pursuant to WAC 392-162-095~~); and
- (3) WAC 392-122-905 through 392-122-910.

AMENDATORY SECTION (Amending Order 84-36, filed 10/2/84)

**WAC 392-122-705 Formula for the distribution of state moneys for the state transitional bilingual program.**

(1) As used in this section the term "eligible student" shall mean those students defined under WAC 392-160-005(~~(e)~~) (3) and 392-150-015.

(2) A district's entitlement for state moneys for the state transitional bilingual program shall be calculated as follows:

(a) Multiplying the number of eligible students by the per pupil allocation established in the State Appropriation Act for the state transitional bilingual program.

(b) The result of the calculation provided in (a) of this subsection is the district's entitlement subject to WAC 392-122-710 and its provision for enrollment adjustment.

AMENDATORY SECTION (Amending WSR 96-03-002, filed 1/3/96, effective 2/3/96)

**WAC 392-122-710 Distribution of state moneys for the transitional bilingual program.** The superintendent of public instruction shall apportion to districts for the state transitional bilingual program the amount calculated per district in WAC 392-122-705 according to the apportionment schedule provided in RCW 28A.510.250. Monthly payments to districts shall be adjusted during the year to reflect changes in the district's reported eligible students as reported on the P223, monthly report of school district enrollment form. For the purpose of transitional bilingual allocations, the district's eight-month average annual headcount enrollment of eligible students as defined in WAC 392-160-005 (~~(e)~~) (3) and 392-160-015 shall be the average of such enrollment for the first school day of the second reporting month and the subsequent seven months.

AMENDATORY SECTION (Amending WSR 96-03-002, filed 1/3/96, effective 2/3/96)

**WAC 392-122-805 Formula for distribution of state moneys for the state highly capable students education program.** (1) As used in this section, the term "average annual full-time equivalent students" or AAFTE shall be defined as that term defined in WAC 392-121-133.

(2) A district's entitlement for state moneys for the state highly capable students education program shall be calculated as follows:

(a) Multiplying the AAFTE of the reporting district (~~by one and one-half percent;~~

~~(b) Multiplying the number of students obtained in the above calculation~~) by the per pupil allocation established in the State Operating Appropriations Act in effect at the time the apportionment is due; and

~~((e))~~ (b) The product is the district's entitlement subject to WAC 392-122-810 and its provision for enrollment adjustment.

AMENDATORY SECTION (Amending WSR 02-04-023, filed 1/24/02, effective 1/24/02)

**WAC 392-122-900 General provision—Indirect cost limitations, carryover limitations and recoveries.** Categorical apportionment moneys shall be expended for allowable categorical program costs. Indirect cost charges to categorical programs are limited as provided in this section. Categorical moneys may be carried over from one school district fiscal year to another only as provided in this section.

(1) The superintendent of public instruction shall recover categorical program allocations made pursuant to this chapter if not expended by the school district during the school year for allowable program costs.

(2) For the 2000-01 school year and thereafter, "allowable program costs" means direct program expenditures (~~(minus abatements, if applicable,)~~) plus allowable indirect program charges.

(a) Direct program expenditures are expenditures directly traceable to the program for the school year reported consistent with the *Accounting Manual for Public School Districts in the State of Washington* and instructions provided by the superintendent of public instruction including the *Administrative Budgeting, and Financial Reporting Handbook*.

(b) For the purposes of this section, special education program expenditures shall be reduced (abated) by revenues to account 7121 special education revenues from other districts.

(c) For special education, highly capable, and transitional bilingual, (~~and traffic safety programs,~~) allowable indirect program charges equal direct program expenditures times the percentage calculated from the school district's annual financial statements (Report F-196) for two school years prior as follows:

(i) Divide direct expenditures for program 97 district-wide support by;

(ii) Total general fund direct expenditures for all programs minus direct expenditures for program 97 districtwide support; and

(iii) Round to three decimal places.

(d) For the learning assistance program, allowable indirect program charges equal the direct program expenditures times the federal restricted indirect rate calculated by the superintendent of public instruction.

(e) For the institutional education program, allowable indirect program charges equal the state institutional education program allocation times the percentage allocated for indirect costs pursuant to the biennial operating appropriations act and the state funding formula.

(3) Commencing with the 1994-95 school year allocation, a school district may carry over from one school district fiscal year to the next up to ten percent of the state learning assistance program allocation. Carryover moneys shall be expended solely for allowable learning assistance program costs.

(4) Commencing with the 1997-98 school year allocation, a district may carry over from one school fiscal year to the next up to ten percent of state special education program allocation. Carryover moneys shall be expended solely for allowable state special education program costs.

(5) Commencing with the 1998-99 school year allocation, a district may carry over from one school district fiscal year to the next up to ten percent of the state institutional education program allocation. Carryover moneys shall be expended solely for allowable state institutional education program costs.

(6) The amount recovered pursuant to this section for special education, highly capable, bilingual, and learning assistance(~~(, and traffic safety)~~) programs shall be determined as follows:

(a) Sum the state allocation for the categorical program for the school year and any carryover from the prior school year if applicable;

(b) Determine the district's allowable program costs for the school year pursuant to this section;

(c) If the result of (a) of this subsection exceeds the result of (b) of this subsection, the difference less any allowable carryover shall be recovered.

(7) The amount recovered pursuant to this section for the institutional education program shall be determined as follows:

(a) Sum the state allocation for the institutional education program for the school year excluding any amount provided for indirect costs, and any carryover from the prior school year if applicable;

(b) Determine the district's direct expenditures for the institutional education program as reported on Report F-196 or such other document filed pursuant to instructions provided by the superintendent of public instruction;

(c) If the amount of (a) of this subsection exceeds the amount of (b) of this subsection, the difference less any allowable carryover shall be recovered.

(8) This section applies to categorical program allocations to school districts, educational service districts and, in the case of institutional education programs, entities contracting to provide an institutional education program funded under this chapter.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 392-122-265	State institutional education program—Institutional program traffic safety allocation.
WAC 392-122-300	Traffic safety education—Applicable provisions.

WAC 392-122-301	Traffic safety education—Definition—Completing student.
WAC 392-122-302	Traffic safety education—Definition—Low-income student.
WAC 392-122-303	Traffic safety education—Low-income eligibility—Documentation and confidentiality.
WAC 392-122-304	Traffic safety education—Definition—Low-income tuition assistance.
WAC 392-122-320	Traffic safety education—Apportionment of state moneys.
WAC 392-122-321	Traffic safety education—School district reporting.
WAC 392-122-322	Traffic safety education—Recovery of moneys.

**WSR 09-01-092**  
**EXPEDITED RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**  
 [Filed December 16, 2008, 10:41 a.m.]

Title of Rule and Other Identifying Information: WAC 392-121, entire chapter.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Rules Coordinator, Legal Services, Office of Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200, AND RECEIVED BY February 23, 2009.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To change outdated references throughout the chapter.

Reasons Supporting Proposal: This includes deleting an RCW reference where the RCW was repealed and revising several WACs where changes took place to some of the WACs used as references and this chapter wasn't updated at the time of the changes.

Statutory Authority for Adoption: RCW 28A.150.290.  
 Statute Being Implemented: RCW 28A.150.290.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Superintendent of public instruction, governmental.

Name of Agency Personnel Responsible for Drafting: Mitch Thompson, 600 South Washington Street, Olympia, (360) 725-6306; Implementation: Calvin W. Brodie, 600 South Washington Street, Olympia, (360) 725-6301; and Enforcement: Jennifer Priddy, 600 South Washington Street, Olympia, (360) 725-6292.

Dr. Terry Bergeson  
Superintendent of  
Public Instruction

AMENDATORY SECTION (Amending WSR 07-23-008, filed 11/8/07, effective 12/9/07)

**WAC 392-121-107 Definition—Course of study.** As used in this chapter, "course of study" means those activities for which students enrolled pursuant to chapters 180-16, 180-51, 392-169, 392-134, and 392-410 WAC may be counted as enrolled students for the purpose of full-time equivalent student enrollment counts.

(1) Course of study includes:

(a) Instruction - teaching/learning experiences conducted by school district staff as directed by the administration and the board of directors of the school district, inclusive of intermissions for class changes, recess and teacher/parent-guardian conferences that are planned and scheduled by the district for the purpose of discussing students' educational needs or progress, and exclusive of time for meals.

(b) Alternative learning experience - alternative learning experience provided by the school district in conformance with WAC 392-121-182.

(c) Instruction provided by a contractor - instruction provided by a contractor in conformance with WAC 392-121-188.

(d) National guard - participation in a national guard high school career training program for which credit is being given toward either required or elective high school credits pursuant to RCW ((~~28A.305.170~~) 28A.300.165 and WAC 392-410-320. Such participation may be counted as a course of study only by the school district which the individual last attended.

(e) Ancillary service - any cocurricular service or activity, any health care service or activity, and any other services or activities, for or in which enrolled students are served by appropriate school district staff. The term shall include, but not be limited to, counseling, psychological services, testing, remedial instruction, speech and hearing therapy, health care services, and if such service is provided by the district, certificated contact time pursuant to RCW 28A.225.010 (4)(a) with students who are in a home-based instruction program. The term shall exclude all extracurricular activities and all other courses of study defined in this section. In conformance with WAC 392-134-025, school districts report the actual number of student contact hours of ancillary service for part-time, private school, and home-based students to the superintendent of public instruction.

(f) Work based learning - training provided pursuant to WAC 392-410-315 and reported as provided in WAC 392-121-124.

(g) Running start - attendance at an institution of higher education pursuant to RCW 28A.600.300 through 28A.600-400, chapter 392-169 WAC.

(h) Transition school - participation in the University of Washington's transition school and early entrance program pursuant to RCW 28A.185.040, and chapter 392-120 WAC. Such participation shall be reported by the University of Washington and shall not be reported by a school district.

(i) Technical college direct funding - enrollment at a technical college pursuant to RCW 28A.150.275 and WAC 392-121-187. Such participation shall be reported by the technical college and shall not be reported by a school district unless the technical college and the school district agree to have the school district report such enrollment.

(2) Course of study does not include:

(a) Home-based instruction pursuant to RCW 28A.225-010(4): Education programs provided by a parent which do not meet the requirements of WAC 392-121-182 cannot be claimed for state funding;

(b) Private school instruction pursuant to chapter 28A.195 RCW;

(c) Adult education as defined in RCW 28B.50.030(12);

(d) Instruction provided to students who do not reside in Washington state (RCW 28A.225.260);

(e) Enrollment in state institutions, i.e., state operated group homes, county juvenile detention centers, state institutions for juvenile delinquents, and state residential habilitation centers;

(f) Instruction preparing a student for the general education development (GED) test if such instruction generates state or federal moneys for adult education;

(g) Enrollment in education centers except as provided under contract with a school district pursuant to RCW 28A.150.305 and WAC 392-121-188;

(h) Enrollment in the Washington state school for the deaf and the Washington state school for the blind;

(i) Extracurricular activities including but not limited to before and after school activities such as classes, sports and other activities offered outside the regular curriculum or for which credit is not earned; or

(j) Attendance at universities, colleges, community colleges, or technical colleges of students not earning high school credit.

AMENDATORY SECTION (Amending WSR 07-23-008, filed 11/8/07, effective 12/9/07)

**WAC 392-121-108 Definition—Enrollment exclusions.** A person who qualifies for any of the exclusions set forth in this section shall not be counted as an enrolled student pursuant to WAC 392-121-106.

(1) Absences - except as provided in (a) and (b) of this subsection, a student whose consecutive days of absence from school exceed twenty school days shall not be counted as an enrolled student until attendance is resumed.

(a) If there is a written agreement between the appropriate school official and a student's parent or guardian pursuant

to RCW 28A.225.010 that the student's temporary absence is not deemed to cause a serious adverse effect upon the student's educational progress, the absent student may be counted as an enrolled student for up to two monthly enrollment count dates as specified in WAC 392-121-122.

(b) A student receiving home and/or hospital service pursuant to WAC ((392-172-248)) 392-172A-02100 shall be counted as an enrolled student as provided in WAC 392-122-145.

(2) Dropouts - a student for whom the school district has received notification of dropping out of school by the student or the student's parent or guardian shall not be counted as an enrolled student until attendance is resumed.

(3) Transfers - a student who has transferred to another public or private school and for whom the school district has received notification of transfer from the school to which the student has transferred, from the student, or from the student's parent or guardian shall not be counted as an enrolled student unless the student reenrolls in the school district.

(4) Suspensions - a student who has been suspended from school pursuant to WAC 392-400-260, when the conditions of the suspension will cause the student to lose academic grades or credit, shall not be counted as an enrolled student until attendance is resumed.

(5) Expulsions - a student who has been expelled from all school subjects or classes by the school district pursuant to WAC 392-400-275 or 392-400-290 shall not be counted as an enrolled student; a student who has been partially expelled, such as from a single school subject or class, by the school district pursuant to WAC 392-400-275 or 392-400-290 may be considered a part-time enrolled student.

(6) Graduates - a student who has met the high school graduation requirements of chapter 180-51 WAC by the beginning of the school year.

AMENDATORY SECTION (Amending Order 97-06, filed 10/27/97, effective 11/27/97)

**WAC 392-121-137 Full-time equivalent enrollment of students with a disability.** In determining the full-time equivalent enrollment of students reported as students with a disability pursuant to chapter 392-172A WAC, the following rules apply:

(1) If the student is enrolled exclusively in an ungraded special education program, the student's grade level shall be based on the typical grade level of students of the same age (e.g., a student who is six years old at the beginning of the school year shall be counted as a first grader).

(2) If the student is enrolled in a grade level below the typical grade level of students of the same age, the school district shall have the option of counting the student in the grade enrolled or the typical grade level of students of the same age.

(3) A student with a disability who is five years old at the beginning of the school year may be counted as a kindergarten student only if the student is enrolled full time (twenty hours or more per week), or is enrolled in a kindergarten program and is provided special education services in addition to the kindergarten program.

AMENDATORY SECTION (Amending WSR 05-13-154, filed 6/21/05, effective 7/22/05)

**WAC 392-121-182 Alternative learning experience requirements.** (1) An alternative learning experience may be counted as a course of study. A school district alternative learning experience may make use of digital and/or on-line curricula, and may be delivered over the internet or using other electronic means. A school district alternative learning experience may also include significant participation by students, parents, and families in the design and implementation of a student's learning experience. This section provides an alternative method of determining full-time equivalent enrollment and claiming state funding for public school learning experiences that are:

(a) Individual courses of study for students who meet the definition for enrollment specified by WAC 392-121-106. Students may enroll part-time in alternative learning experiences. Such enrollment shall be subject to the provisions of RCW 28A.150.350 and chapter 392-134 WAC;

(b) Supervised, monitored, assessed, and evaluated by school staff. As used in this section, "school staff" means certificated instructional staff of the school district according to the provisions of chapter ((180-82)) 181-82 WAC, or a contractor pursuant to WAC 392-121-188;

(c) Provided in accordance with a written alternative learning experience plan that is implemented pursuant to the school district board's policy for alternative learning experiences; and

(d) Provided in whole or part, outside the regular classroom setting, including those learning experiences provided digitally via the internet or other electronic means.

This section sets forth the standards, procedures, and requirements for state funded alternative learning experiences. This section is not intended to prevent or limit alternative education programs provided by a school district with federal or local resources.

An alternative learning experience may be counted as a course of study pursuant to WAC 392-121-107 if the following requirements are met:

(2) **School district board policies for alternative learning experiences:** The board of directors of a school district claiming state funding for alternative learning experiences shall adopt and annually review written policies for each alternative learning experience program and program provider that:

(a) Require a written plan for each student participating in an alternative learning experience that meets the minimum criteria pursuant to subsection (4) of this section;

(b) Require that the overall ratio of certificated instructional staff to full-time equivalent students enrolled in alternative learning experience programs and courses, including those that rely primarily on digital curriculum, be identified and approved by the school district board of directors in a public meeting;

(c) Describe how student performance will be supervised, monitored, assessed, evaluated, and recorded by school staff. Such description shall include methods for periodic grade reporting, if different from existing school district policy;

(d) Require each student enrolled in an alternative learning experience to have direct personal contact with school staff at least weekly, until the student completes the course objectives or the requirements of the learning plan. Direct personal contact shall be for the purposes of instruction, review of assignments, testing, reporting of student progress, or other learning activities. Direct personal contact means a face-to-face meeting with the student and, where appropriate, the student's parent or guardian. In establishing policies for alternative learning experience programs and program providers, the school district board of directors may determine that direct personal contact can be accomplished through the use of telephone, e-mail, instant messaging, interactive video communication, or other means of digital communication, instead of a face-to-face meeting, if in the judgment of the board such contact methods do not compromise educational quality, student health and safety, or the fiscal integrity of the district;

(e) Require that each student's educational progress be reviewed at least monthly and that the results of each review be communicated to the student and if the student is in grades K-8, the student's parent or guardian;

(f) At the discretion of the school district board, the policy may describe responsibilities of the student's parent(s) or guardian including, but not limited to:

(i) Approval of the written alternative learning experience plan;

(ii) Responsibility for the parent(s) or guardian to provide or implement a portion of the student's alternative learning experience under the supervision of school staff, if the parent(s) or guardian agrees; and

(iii) Requirements to meet with school staff for purposes of evaluating the student's performance and/or receiving instructions on assisting with the student's alternative learning experience. The school district board may also prescribe requirements for appointing a person to provide or supervise a portion of the student's alternative learning experience in the event the student's parent(s) or guardian will not or cannot be a participant in the student's alternative learning experience;

(g) Designate one or more school district official(s) responsible for approving specific alternative learning experience programs or courses, monitoring compliance with this section, and reporting at least annually to the school district board of directors on the program. This annual report shall include at least the following:

(i) Documentation of alternative learning experience student headcount and full-time equivalent enrollment claimed for basic education funding;

(ii) A description of how certificated and classified staff are assigned program management and instructional responsibilities that maximize student learning, including the ratio of certificated instructional staff to full-time equivalent students;

(iii) A description of how a written student learning plan pursuant to subsection (4) of this section, is developed, and student performance supervised and evaluated, by certificated staff;

(iv) A description of how the program supports the district's overall goals and objectives for student academic achievement; and

(v) Results of any self-evaluations conducted pursuant to subsection (7) of this section;

(h) Satisfy the (~~state board of education's~~) office of superintendent of public instruction's requirements for courses of study and equivalencies (chapter (~~180-50~~) 392-410 WAC);

(i) For alternative learning experience courses offering credit, or for alternative learning experience programs issuing a high school diploma, satisfy the state board of education's high school graduation requirements (chapter 180-51 WAC); and

(j) Identify what, if any, expenditures which are directly related to the written student learning plan and are paid by participants of an alternative learning experience may be subject to reimbursement by the district.

**(3) Alternative learning experience implementation standards:**

(a) Alternative learning experiences shall be accessible to all students, including those with disabilities. Alternative learning experiences for special education students shall be provided in accordance with chapter 392-172A WAC.

(b) It is the responsibility of the school district or school district contractor to ensure that students have all curricula, course content, instructional materials, and other learning resources essential to successfully complete the requirements of the written student learning plan. Curricula, course content, instructional materials, and other learning resources for alternative learning experiences shall at minimum be consistent in quality with those available to the district's overall student population. Instructional materials shall be provided in accordance with RCW 28A.320.230.

(c) Work-based learning as a component of an alternative learning experience course of study shall be subject to the provisions of WAC (~~180-50-315~~) 392-410-315 and 392-121-124.

(d) Contracting for alternative learning experiences shall be subject to the provisions of WAC 392-121-188 and RCW 28A.150.305.

(e) A school district that provides one or more alternative learning experiences to a student shall provide the parent(s) or guardian of the student, prior to the student's enrollment, with a description of the difference between home-based instruction pursuant to chapter 28A.200 RCW and the enrollment option selected by the student. The parent or guardian shall sign documentation attesting to his or her understanding of the difference and the documentation shall be retained by the district and made available for audit.

(f) The school district shall institute reliable methods to verify a student is doing his or her own work. The methods may include proctored examinations or projects, including the use of web cams or other technologies. "Proctored" means directly monitored by an adult authorized by the school district.

(g) State funded public schools or public school programs whose primary purpose is to provide alternative learning experiences using digital or on-line means shall be



accredited through the state accreditation program or through the regional accreditation program.

(4) **Written student learning plan:** Each student enrolled in an alternative learning experience course of study shall have a written student learning plan designed to meet the student's individual educational needs. The written student learning plan may be developed in partnership with the student, the student's parents, and other interested parties, with recognition that school staff has the primary responsibility and accountability for the plan, including supervision and monitoring, and evaluation and assessment of the student's progress. The written student learning plan shall include, but not be limited to, the following elements:

(a) A beginning and ending date for the learning experience;

(b) An estimate of the average number of hours per week that the student will engage in learning activities to meet the requirements of the student learning plan. This estimate may be used in reporting enrollment in compliance with subsection (5) of this section and must be based upon the criteria in subsection (6) of this section;

(c) A description of how weekly contact requirements will be fulfilled;

(d) A description of the specific learning goals and performance objectives of the alternative learning experience. This requirement may be met through the use of course syllabi or other similarly detailed descriptions of learning requirements. The description shall clearly identify the requirements a student must meet to successfully complete the course or program;

(e) Identification of instructional materials essential to successful completion of the learning plan; and

(f) A description of the timelines and methods for evaluating student progress toward the learning goals and performance objectives specified in the learning plan.

The written student learning plan shall identify whether the alternative learning experience meets one or more of the state essential academic learning requirements or any other academic goals, objectives, and learning requirements defined by the school district. For a high school alternative learning experience, the plan shall specify whether the experience meets state and district graduation requirements.

(5) **Enrollment reporting:** Effective the 2005–06 school year, the full-time equivalency of students enrolled in alternative learning experience programs shall be determined as follows:

(a) Using the definition of full-time equivalent student in WAC 392-121-122 and the number of hours the student is expected to engage in learning activities as follows:

(i) On the first enrollment count date on or after the start date specified in the written student learning plan, the estimated average weekly hours of learning activity described in the written student learning plan;

(ii) On subsequent monthly count dates, if the student's progress review pursuant to subsection (6) of this section indicates satisfactory progress, the student's full-time equivalent shall be based on the estimated average weekly hours of learning activity identified in the student learning plan;

(iii) If the student's progress review indicates a lack of satisfactory progress, the student's full-time equivalent shall

be based on the estimated average weekly hours of learning activity described in the student learning plan, and the actual number of hours the student engages in learning activity pursuant to the written student learning plan shall be documented during the ensuing month. Documented hours shall encompass only time spent on those learning activities intended to accomplish the learning goals and performance objectives identified in the written student learning plan, shall meet the following criteria and shall be verified by district staff:

(A) Those hours of classroom instruction provided by school staff;

(B) Those hours of work based learning calculated in accordance with WAC 392-121-107 (1)(f);

(C) Those hours of learning activity other than those specified in (a)(iii)(A), (B) and (D) of this subsection that are conducted and supervised by the student's parent(s) or guardian, or other person as designated by the written plan; and

(D) Those hours that the student participates in learning activities other than those specified in (a)(iii)(A), (B) and (C) of this subsection. If the student is in grades K–8, such learning activity shall be supervised by the student's parent(s) or guardian or other person designated by the written student learning plan;

(iv) On subsequent monthly count dates, if the student's progress review indicates a lack of satisfactory progress, the student's full-time equivalent shall be based on the actual average weekly hours of learning activity documented during the prior month;

(v) Enrollment of part-time students shall be subject to the provisions of RCW 28A.150.350, and shall generate the pro rata share of full-time funding.

(b) The enrollment count shall exclude students meeting the definition of enrollment exclusions in WAC 392-121-108 or students who have not had direct personal contact with school staff for twenty consecutive school days. Any such student shall not be counted as an enrolled student until the student has met with appropriate school staff and resumed participation in their alternative learning experience or participated in another course of study as defined in WAC 392-121-107;

(c) School districts providing alternative learning experiences to nonresident students shall document the district of the student's physical residence, and shall establish procedures that address, at a minimum, the coordination of student counting for state funding so that no student is counted for more than one full-time equivalent in the aggregate.

(6) **Accountability for student performance:**

(a) At minimum, students enrolled in alternative learning experiences shall have their educational performance evaluated according to the following process and schedule:

(i) Each student's educational progress shall be reviewed at least once per month. The progress review shall be based on the learning goals and performance objectives defined in the written student learning plan.

(ii) The progress review shall be conducted by school staff and shall include direct personal contact with the student. If allowed by district policy, direct personal contact may include the use of telephone, e-mail, instant messaging, interactive video communication, or other means of digital

communication. The results of the review shall be communicated to the student and, where possible, the student's parent(s) or guardian.

(iii) Based on the progress review, school staff shall determine and document whether the student is making satisfactory progress in completing the learning activities and reaching the learning goals and performance objectives defined in the written plan.

(iv) If the student fails to make satisfactory progress for no more than two consecutive evaluation periods or if the student fails to follow the written student learning plan, an intervention plan designed to improve student progress shall be developed and implemented. This intervention plan shall be developed by school staff in conjunction with the student and, for students in grades K–8, the student's parent(s) or guardian.

(v) If, after no more than three subsequent evaluation periods, the student still is not making satisfactory progress, a plan designed to more appropriately meet the student's educational need shall be developed and implemented by school staff in conjunction with the student and, for students in grades K-8, the student's parent(s) or guardian.

(b) The educational progress of students enrolled in alternative learning experiences shall be assessed at least annually, using, for full-time students, the state assessment for the student's grade level and using any other annual assessments required by the school district. Part-time students shall also be assessed at least annually. However, part-time students who are either receiving home-based instruction under chapter 28A.200 RCW or who are enrolled in an approved private school under chapter 28A.195 RCW are not required to participate in the assessments required under chapter 28A.655 RCW.

(c) Students enrolled full-time in nonresident alternative learning experience schools, programs, or courses shall have the opportunity to participate in any required annual state assessments at the district of residence, subject to that district's planned testing schedule. It is the responsibility of the enrolling district to facilitate all necessary coordination with the district of residence and with the student and, where appropriate, the student's parent(s) or guardian to fulfill this requirement. Such coordination may include arranging for appropriate assessment booklets, student notification of assessment administration schedules, arrangements for forwarding of completed assessment booklets to the enrolling district for submission for scoring and reporting, and other steps as may be necessary. Assessment results for students assessed according to these provisions shall be included in the enrolling district's accountability measurements, and not in the district of residence's accountability measurements.

(7) **Program evaluation:** School districts offering alternative learning experiences shall engage in periodic self-evaluation of these learning experiences in a manner designed to objectively measure their effectiveness, including the impact of the experiences on student learning and achievement. Self-evaluation shall follow a continuous improvement model, and may be implemented as part of the school district's school improvement planning efforts.

(8) **Annual reporting:** Each school district offering alternative learning experiences shall report annually to the

superintendent of public instruction on the types of programs and course offerings subject to this section, including student headcount and full-time equivalent enrollment claimed for basic education funding. The report shall identify the ratio of certificated instructional staff to full-time equivalent students enrolled in alternative learning experience courses or programs. The report shall separately identify alternative learning experience enrollment of students provided under contract pursuant to RCW 28A.150.305 and WAC 392-121-188.

(9) **Documentation:** In accordance with required records retention schedules, a school district claiming state funding for alternative learning experiences shall maintain the following written documentation available for audit:

(a) School board policy for alternative learning experiences pursuant to this section;

(b) Annual reports to the school district board of directors as required by subsection (2)(g) of this section;

(c) Annual reports to the superintendent of public instruction as required by subsection (8) of this section;

(d) The written student learning plans required by subsection (4) of this section, including documentation of required weekly direct personal contact;

(e) Student progress reviews, evaluations, and assessments required by subsection (6) of this section;

(f) Student enrollment detail substantiating full-time equivalent enrollment reported to the state, including estimated total hours of participation in educational activities, and any actual documentation of hours of learning for those students failing to make satisfactory progress; and

(g) Signed parent enrollment disclosure documents required by subsection (3)(e) of this section.

**AMENDATORY SECTION** (Amending WSR 94-17-096, filed 8/17/94, effective 9/17/94)

**WAC 392-121-187 Technical college direct-funded enrollment.** Enrollment in a technical college pursuant to an interlocal agreement with a school district as provided in RCW 28B.50.533 may be counted as course of study generating state moneys payable directly to the technical college as provided in this section.

(1) The technical college shall submit a written request to the superintendent of public instruction and for each school district whose students are to be claimed by the college shall provide a copy of the interlocal agreement signed by the school district superintendent and the technical college president or authorized officials of the school district and college.

(2) The technical college shall report enrolled students monthly (October through June) to the superintendent of public instruction pursuant to this chapter and instructions provided by the superintendent. A separate report shall be submitted for each school district whose students are reported. Reports of students eligible for state basic education support shall show the total number of students served and total non-vocational and vocational FTE students on the monthly count date. Reports shall also show the name of each student, hours of enrollment per week on the monthly count date, and the nonvocational and vocational full-time equivalent reported for the student on the count date. Technical colleges claiming

direct state handicapped funding under the interlocal agreement shall also report the number of enrolled handicapped students by handicapping category on the count dates of October through May pursuant to WAC 392-122-160 and chapter ((392-174)) 392-172A WAC.

(3) The technical college shall report monthly to each school district whose students are served pursuant to this section. The report shall include at a minimum the data reported to the superintendent of public instruction pursuant to subsection (2) of this section.

(4) The technical college shall report only students who:

(a) Were under twenty-one years of age at the beginning of the school year;

(b) Are enrolled tuition-free;

(c) Are enrolled in a school district with which the technical college has a signed interlocal agreement on file with the superintendent of public instruction pursuant to subsection (1) of this section;

(d) Are enrolled in the school district for the purpose of earning a high school diploma or certificate; and

(e) Have actually participated in instructional activity at the technical college during the current school year.

(5) Enrollments claimed for state basic education funding by the technical college:

(a) Shall be for courses for which the student is earning high school graduation credit through the school district or the technical college; and

(b) Shall not include:

(i) Enrollment which is claimed by the school district for state funding; or

(ii) Enrollment which generates state or federal moneys for higher education, adult education, or job training for the technical college.

(6) Full-time equivalent students reported by the technical college for state basic education funding shall be determined pursuant to WAC 392-121-106 through 392-121-183 except that the enrollment count dates shall be for the months of October through June. If a student is enrolled in courses provided by the school district as well as courses provided by the technical college, the combined full-time equivalents reported by the school district and the technical college are limited by WAC 392-121-136.

(7) The superintendent of public instruction shall make quarterly payments to the technical college as follows:

(a) Basic education allocations shall be determined pursuant to chapter 392-121 WAC based on average enrollments reported by the technical college for each school district times the average allocation per full-time equivalent high school student of the school district. Provided, That allocations for students enrolled in school districts with no more than two high schools with enrollments of less than three hundred annual average full-time equivalent students shall be at the incremental rate generated by students in excess of sixty annual average full-time equivalent students. Allocations for nonvocational and vocational full-time equivalent enrollments shall be calculated separately.

(b) Handicapped allocations shall be determined pursuant to WAC 392-122-100 through 392-122-165 based on average handicapped enrollments and the school district's

average allocation per handicapped student in each handicapping category.

(c) Quarterly payments shall provide the following percentages of the annual allocation:

December	30%
March	30%
June	20%
August	20%

AMENDATORY SECTION (Amending WSR 07-23-024, filed 11/9/07, effective 12/10/07)

**WAC 392-121-188 Instruction provided under contract.** School districts have general authority to contract for the services of individuals to provide instruction, subject to applicable state and federal laws and local collective bargaining agreements. School districts also have authority to enter into interdistrict cooperative agreements for instructional services with other school districts under RCW 28A.225.250. However, when a school district contracts with an entity other than a school district and that entity employs staff to provide basic education instruction claimed by the school district for state basic education funding, the requirements of this section also apply. Instruction provided by such an entity (hereafter called the contractor) may be counted as a course of study and claimed by the school district for state funding if the following requirements are met:

(1) The school district board of directors in accordance with RCW 28A.320.015 adopts a resolution that concludes it is in the best interest of the students to expand the options available by providing an appropriate basic education program pursuant to the contract and sets forth the rationale in support of the conclusion;

(2) The school district retains full responsibility for compliance with all state and federal laws;

(3) The contractor complies with all relevant state and federal laws that are applicable to the school district;

(4) The contractor provides instruction free of sectarian or religious influence or control.

(5) The contractor serves the students at no cost to the student for tuition and fees and enrollment is voluntary and no student or person is unlawfully excluded from participation on the grounds of race, creed, color, national origin, sex, marital status, or presence of any sensory, mental, or physical handicap;

(6) Each student is enrolled in the school district reporting the enrollment and each high school student is working toward course credits which satisfy high school graduation requirements;

(7) If the contractor is a state higher education institution, a state funded education center, or any other state funded entity, the contractor is not claiming enrollment of the student or receiving direct state support for the contracted instruction reported pursuant to this section.

(8) The curriculum is approved by the district;

(9) The contractor provides enrollment reports to the school district that comply with this chapter;

(10) The contractor maintains and has available for audit or review by the school district, state, or federal authorities

documentation of enrollment, hours of instructional activity participated in by the students, personnel data, and financial data including all revenues and expenditures pertaining to the contract with the school district;

(11) If a contractor other than an institution of higher education at any time during the school year serves more than twenty-five students which equals more than one quarter of one percent (.0025) of the district's annual average full-time equivalent enrollment claimed for basic education funding the school district reports the certificated instructional employees of the contractor funded with any state moneys or federal moneys that flow through the school district as required by the SPI annual personnel reporting system for calculation of state funding, staff ratios and statistics;

(12) If the contract is with an entity other than an institution of higher education, for the students served pursuant to the contract, the contractor maintains a ratio of full-time equivalent certificated instructional staff serving the annual average full-time equivalent students reported for basic education funding pursuant to this section which is at least equal to the district's basic education funding ratio for the grade level of the students being reported for basic education funding pursuant to this section;

(13) The school district and contractor execute a written contract which is consistent with this section, and which sets forth the duties of the contractor in detail sufficient to hold the contractor accountable to the school district;

(14) The school district and contractor establish a process for periodic on-site monitoring by the school district for compliance with this section and other terms of the contract between the school district and contractor;

(15) Contracts for services for students with disabilities shall comply with WAC ((392-172-220)) 392-172A-04085 and ((392-172-222)) 392-172A-04090;

(16) Full-time equivalent enrollment reported for students served under a contract with a higher education institution shall be based on the number of hours of instruction meeting the criteria in WAC 392-121-107 (1)(a) provided by staff of the higher education institution under the contract. This section does not apply to running start enrollment, which is governed by chapter 392-169 WAC or at-risk programs meeting the standards of subsection (18) of this section; and

(17) When a school district contracts for an alternative learning experience program and the contractor exercises primary responsibility for the student's written learning plan, the program shall be for academically at-risk students and shall comply with RCW 28A.150.305. Enrollment in these programs shall be reported pursuant to WAC 392-121-182.

(18) Full-time equivalent enrollment reported for students served under contract with a community or technical college as defined in RCW 28B.50.030 shall be based on the credits generated by the student consistent with WAC 392-169-025 if the program meets the following standards:

(a) The student is earning credits applicable to a high school diploma.

(b) The program is focused on serving credit deficient students.

(c) The student population served is considered at-risk and meet the following criteria:

- (i) The students have already dropped out of high school; or
- (ii) The students have not demonstrated success in the traditional high school environment.

**AMENDATORY SECTION** (Amending WSR 08-03-086, filed 1/16/08, effective 2/16/08)

**WAC 392-121-264 Definition—Certificated years of experience.** Regardless of the experience factors used by a school district for the purposes of its salary schedule(s), as used in this chapter, the term "certificated years of experience" means the number of years of accumulated full-time and part-time professional education employment prior to the current reporting school year in the state of Washington, out-of-state, and a foreign country. School districts shall report all certificated years of experience including those beyond the experience limit of the school district's salary schedule.

(1) Professional education employment shall be limited to the following:

(a) Employment in public or private preschools or elementary and secondary schools in positions which require certification where:

(i) Schools include the Centrum education program, the Pacific Science Center education program, and educational centers authorized under chapter 28A.205 RCW;

(ii) Certification means the concurrent public professional education licensing requirements established in the state, province, country, or other governmental unit in which employment occurred and which, for the state of Washington, refers to the certificates authorized by WAC 181-79A-140 and temporary permits authorized by WAC 181-79A-128;

(b) Employment in public or private vocational-technical schools, technical colleges, community/junior colleges, colleges, and universities in positions comparable to those which require certification in Washington school districts;

(c) Employment in a governmental educational agency with regional administrative responsibilities for preschool, elementary, and/or secondary education including but not limited to an educational service district, office of ((the)) superintendent of public instruction, or United States department of education in any professional position including but not limited to C.P.A., architect, business manager, or physician;

(d) Experience in the following areas:

(i) Military, Peace Corps, or Vista service which interrupted professional education employment included in (a), (b), or (c) of this subsection; and

(ii) Sabbatical leave.

(e) For nondegreed vocational/career and technical education instructors, up to a maximum of six years of management experience as defined in WAC 181-77-003(6) acquired after the instructor meets the minimum vocational/career and technical education certification requirements of three years (six thousand hours) established in WAC 181-77-041 (1)(a)(i), regardless of when the initial certificate is issued and regardless of type of vocational/career and technical education certificate held. If a degree is obtained while employed in the state of Washington as a nondegreed vocational/career

and technical education instructor, the eligible years of management experience pursuant to this subsection reported on Report S-275 prior to the awarding of the degree shall continue to be reported but shall not increase.

(f) Beginning in the 2007-08 school year, for occupational therapists, physical therapists, nurses, speech-language pathologists, audiologists, counselors, psychologists, and social workers regulated under Title 18 RCW, years of experience may include employment as occupational therapists, physical therapists, nurses, speech-language pathologists, audiologists, counselors, psychologists, and social workers, that does not otherwise meet the requirements of (a) through (e) of this subsection, subject to the following conditions and limitations:

(i) Experience included under this subsection shall be limited to a maximum of two years.

(ii) The calculation of years of experience shall be that one year of experience in a school or other nonschool position counts as one year of experience for the purposes of this subsection, per subsection (2)(a) of this section.

(iii) Employment as occupational therapists shall be limited to the following:

(A) In positions requiring licensure as an occupational therapist under Title 18 RCW, or comparable out-of-state employment; and

(B) While holding a valid occupational therapist license, or other comparable occupational therapist credential.

(iv) Employment as physical therapists shall be limited to the following:

(A) In positions requiring licensure as a physical therapist under Title 18 RCW, or comparable out-of-state employment; and

(B) While holding a valid physical therapist license, or other comparable physical therapist credential.

(v) Employment as nurses shall be limited to the following:

(A) In positions requiring licensure as a registered nurse under Title 18 RCW, or comparable out-of-state employment; and

(B) While holding a valid registered nurse license, or other comparable registered nurse credential.

(vi) Employment as speech-language pathologists or audiologists shall be limited to the following:

(A) In positions requiring the same or similar duties and responsibilities as are performed by speech-language pathologists or audiologists regulated under Title 18 RCW; and

(B) After completion of the minimum requirements for conditional certification as a school speech-language pathologist or audiologist established in WAC 181-79A-231(1)(c)(iv).

(vii) Employment as counselors shall be limited to the following:

(A) In positions requiring the same or similar duties and responsibilities as are performed by counselors regulated under Title 18 RCW; and

(B) After completion of the minimum requirements for emergency certification as a school counselor established in WAC 181-79A-231(3).

(viii) Employment as psychologists shall be limited to the following:

(A) In positions requiring the same or similar duties and responsibilities as are performed by psychologists regulated under Title 18 RCW; and

(B) After completion of the minimum requirements for emergency certification as a school psychologist established in WAC 181-79A-231(3).

(ix) Employment as social workers shall be limited to the following:

(A) In positions requiring the same or similar duties and responsibilities as are performed by social workers regulated under Title 18 RCW; and

(B) After completion of the minimum requirements for emergency certification as a school social worker established in WAC 181-79A-231(3).

(x) Certificated years of experience as occupational therapists, physical therapists, nurses, speech-language pathologists, audiologists, counselors, psychologists, and social workers, determined pursuant to this subsection and reported on Report S-275, by teachers and other certificated staff who are no longer employed as occupational therapists, physical therapists, nurses, speech-language pathologists, audiologists, counselors, psychologists, and social workers, shall continue to be reported but shall not increase.

(2) Years of full-time and part-time professional education employment prior to the current reporting school year are accumulated as follows:

(a) For each professional education employment which is not employment as a casual substitute pursuant to subsection (1)(a) of this section;

(i) Determine the total number of hours, or other unit of measure, per year for an employee working full-time with each employer;

(ii) Determine the number of hours, or other unit of measure, per year with each employer, including paid leave and excluding unpaid leave;

(iii) Calculate the quotient of the hours, or other unit of measure, determined in (a)(ii) of this subsection divided by the hours, or other unit of measure, in (a)(i) of this subsection rounded to two decimal places for each year.

(b) For professional education employment as a casual substitute pursuant to subsection (1)(a) of this section:

(i) Determine the total number of full-time equivalent substitute days per year;

(ii) Calculate the quotient of full-time equivalent days determined in (b)(i) of this subsection divided by 180 rounded to two decimal places for each year.

(c) No more than 1.0 year may be accumulated in any traditional nine-month academic year or any twelve-month period.

(i) Accumulate, for each year, professional education employment calculated in (a)(iii) and (b)(ii) of this subsection.

(ii) Determine the smaller of the result in (c)(i) of this subsection or 1.00 for each year.

(d) Determine certificated years of experience as the accumulation of all years of professional education employment calculated in (c)(ii) of this subsection and report such years rounded to one decimal place.

AMENDATORY SECTION (Amending Order 18, filed 7/19/90, effective 8/19/90)

**WAC 392-121-415 Basic education allocation—Deductible revenues.** In addition to those funds appropriated by the legislature for basic education allocation purposes, the following locally available general fund revenues shall be included in the computation of the total annual basic education allocation of each school district pursuant to RCW 28A.150.250 and 28A.150.260 and shall be deducted from payments made pursuant to WAC 392-121-400:

(1) Proceeds from the sale, rental or lease of stone, minerals, timber, forest products, other crops and matter, and improvements from or on tax title real property managed by a county pursuant to chapter 36.35 RCW ((36.35.040));

(2) Proceeds from state forests pursuant to RCW ((76.12.030)) 79.22.040 and ((76.12.120)) 79.22.050;

(3) Federal in lieu of tax payments made pursuant to RCW 84.72.020; and

(4) Proceeds from the sale of lumber, timber, and timber products on military reservations or facilities in accordance with U.S.C. §2665, Title 10, and P.L. 97-99.

(5) Local in lieu of tax payments including but not limited to payments made pursuant to RCW 35.82.210, 35.83.040, and ((79.66.100)) 79.19.110.

Otherwise deductible revenues from any of the foregoing sources received by a school district due solely to the district's levy of a capital projects fund or debt service fund excess tax levy shall constitute nongeneral fund revenues and shall not be deducted in the computation of the district's annual basic education allocation for that school year.

AMENDATORY SECTION (Amending Order 28, filed 9/13/90, effective 10/14/90)

**WAC 392-121-440 Emergency advance payments—Determination of amount.** The superintendent of public instruction shall calculate the emergency advance on the school district's basic education allocation as the ((lessor)) lesser of:

(1) The amount set forth in the school district's resolution;

(2) An amount not to exceed ten percent of the total amount to become due and apportionable to the district from September 1 through August 31 of the school year.

(3) The highest negative monthly cash and investment balance of the general fund between the date of the resolution and May 31st of the school year less any redirection of a school district's basic education allocation to the capital projects fund, debt service fund, or both.

### WSR 09-01-150

#### EXPEDITED RULES

#### OFFICE OF INSURANCE COMMISSIONER

[Insurance Commissioner Matter No R 2008-29—Filed December 22, 2008, 9:14 a.m.]

Title of Rule and Other Identifying Information:  
Audited financial statement reporting.

#### NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Kacy Scott, Insurance Commissioner, P.O. Box 40258, Olympia, WA 98504-0258, e-mail KacyS@oic.wa.gov, AND RECEIVED BY February 24, 2009.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules amend the audited financial statement regulations (WAC 284-07-110 and 284-07-150) to incorporate an amendment of the National Association of Insurance Commissioners' Accreditation Standards. The amendment will: (1) Prohibit the commissioner from recognizing a person or firm as a qualified independent certified public accountant if the person or firm has entered into an indemnification agreement with respect to the audit and (2) permit the agreement between an insurer and its qualified independent certified accountant to include an arbitration and/or mediation provision.

Reasons Supporting Proposal: Insurers must file audited financial statements for each calendar year with the commissioner by June of the following year. Effective December 31, 2008, an NAIC accreditation standard related to the audited financial statements filed with the commissioner becomes effective. The new standard applies to CY 2008 statements filed by June, 2009. The standard prohibits the engagement agreements between an individual or firm and an insurer from requiring the insurer to indemnify the individual or firm in relation to the audit. If an engagement agreement contains an indemnification provision as described, the commissioner is prohibited from recognizing the individual or firm preparing the audited financial statement as a qualified independent certified public accountant. To retain its NAIC accreditation the office of insurance commissioner must have these regulations in place; the regulated entities must be aware of the requirement immediately to ensure their engagement agreements qualify the certified public accountants as independent. In addition, the rule permits these engagement agreements to provide for mediation or arbitration as a dispute resolution tool.

Statutory Authority for Adoption: RCW 48.02.060, 48.05.250, 48.44.095, 48.46.080, 48.46.200, 48.125.090.

Statute Being Implemented: RCW 48.05.250, 48.44.095, 48.46.080, 48.46.200, 48.125.090.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Jim Tompkins, P.O. Box 40258, Olympia, WA 98504-0258, (360) 725-7036; Implementation: Dennis Julnes, P.O. Box 40259, Olympia, WA 98504-0259, (360) 725-7209; and

Enforcement: Jim Odiorne, P.O. Box 40259, Olympia, WA 98504-0259, (360) 725-7214.

December 22, 2008  
Mike Kreidler  
Insurance Commissioner

AMENDATORY SECTION (Amending Matter No. R 2002-07, filed 10/23/02, effective 11/23/02)

**WAC 284-07-110 Definitions.** For the purposes of this regulation the following definitions shall apply:

(1) "Audited financial report" means and includes those items specified in WAC 284-07-130.

(2) "Accountant" and "independent certified public accountant" mean an independent certified public accountant or accounting firm in good standing with the American Institute of Certified Public Accountants and in all states in which they are licensed to practice; for Canadian and British companies, the terms mean a "Canadian-chartered or British-chartered accountant."

(3) "Indemnification" means an agreement of indemnity or a release of liability where the intent or effect is to shift or limit in any manner the potential liability of the person or firm for failure to adhere to applicable auditing or professional standards, whether or not resulting in part from knowing of other misrepresentations made by the insurer or its representatives.

(4) "Insurer" has the same meaning as set forth in RCW 48.01.050. It also includes health care service contractors registered under chapter 48.44 RCW, health maintenance organizations registered under chapter 48.46 RCW, and fraternal benefit societies registered under chapter 48.36A RCW.

~~((4))~~ (5) "NAIC" means National Association of Insurance Commissioners.

~~((5))~~ (6) "Policy holder" shall also mean subscriber.

AMENDATORY SECTION (Amending Order R 92-10, filed 9/9/92, effective 10/10/92)

**WAC 284-07-150 Qualifications of independent certified public accountant.** (1) The commissioner shall not recognize any person or firm as a qualified independent certified public accountant ~~((that))~~ if the person or firm:

(a) Is not in good standing with the American Institute of Certified Public Accountants (AICPA) and in all states in which the accountant is licensed to practice, or, for a Canadian or British company, that is not a chartered accountant; or

(b) Has either directly or indirectly entered into an agreement of indemnity or release from liability (collectively referred to as an indemnification) with respect to the audit of the insurer.

(2) Except as otherwise provided herein, an independent certified public accountant shall be recognized as qualified as long as he or she conforms to the standards of his or her profession, as contained in the Code of Professional Ethics of the American Institute of Certified Public Accountants and the code of professional conduct of the state of Washington board of public accountancy, or similar applicable code.

(3) A qualified independent certified public accountant may enter into any agreement with an insurer to have disputes relating to an audit resolved by mediation or arbitration. However, in the event of a delinquency proceeding commenced against the insurer under chapters 48.31 and 48.99 RCW, the mediation or arbitration provisions shall operate at the option of the statutory successor.

(4) No partner or other person responsible for rendering a report may act in that capacity for more than seven consecutive years. Following any period of service such person shall be disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for a period of two years. An insurer may make application to the commissioner for relief from the above rotation requirement on the basis of unusual circumstances. The commissioner may consider the following factors in determining if the relief should be granted:

(a) Number of partners, expertise of the partners, or the number of insurance clients in the currently registered firm;

(b) Premium volume of the insurer; and

(c) Number of jurisdictions in which the insurer transacts business.

The requirements of this subsection shall become effective two years after the enactment of this regulation.

~~((4))~~ (5) The commissioner shall not recognize as a qualified independent certified public accountant, nor accept any annual audited financial report, prepared in whole or in part by, any natural person who:

(a) Has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. Sections 1961-1968, or any dishonest conduct or practices under federal or state law;

(b) Has been found to have violated the insurance laws of this state with respect to any previous reports submitted under this rule; or

(c) Has demonstrated a pattern or practice of failing to detect or disclose material information in previous reports filed under the provisions of this rule.

~~((5))~~ (6) The commissioner as provided in RCW 48.02.060 may hold a hearing to determine whether a certified public accountant is qualified and, considering the evidence presented, may rule that the accountant is not qualified for purposes of expressing his or her opinion on the financial statements in the annual audited financial report made pursuant to this regulation and require the insurer to replace the accountant with another whose relationship with the insurer is qualified within the meaning of this regulation.