

**WSR 13-05-004**  
**WITHDRAWAL OF PROPOSED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
 [Filed February 6, 2013, 2:37 p.m.]

The Washington department of fish and wildlife is withdrawing WAC 232-36-250 and 232-36-260, filed as part of WSR 12-20-069 on October 3, 2012. The department seeks to clarify its statutory authority during the 2013 legislative session with regard to this subject matter.

Lori Preuss  
 Rules Coordinator

**WSR 13-05-034**  
**WITHDRAWAL OF PROPOSED RULES**  
**BUILDING CODE COUNCIL**  
 (By the Code Reviser's Office)  
 [Filed February 12, 2013, 1:41 p.m.]

WAC 51-52-0303, 51-52-22004, and 51-52-22006, proposed by the building code council in WSR 12-16-083 appearing in issue 12-16 of the State Register, which was distributed on August 15, 2012, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
 Washington State Register

**WSR 13-05-035**  
**WITHDRAWAL OF PROPOSED RULES**  
**BUILDING CODE COUNCIL**  
 (By the Code Reviser's Office)  
 [Filed February 12, 2013, 1:42 p.m.]

WAC 51-54A-0403 and 51-54A-0407, proposed by the building code council in WSR 12-16-085 appearing in issue 12-16 of the State Register, which was distributed on August 15, 2012, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
 Washington State Register

**WSR 13-05-036**  
**WITHDRAWAL OF PROPOSED RULES**  
**BUILDING CODE COUNCIL**  
 (By the Code Reviser's Office)  
 [Filed February 12, 2013, 1:43 p.m.]

WAC 51-11C-40601, 51-11C-40602, 51-11C-406021, 51-11C-406022, 51-11C-406023, 51-11C-406024, 51-11C-406025, 51-11C-406026, 51-11C-40603, 51-11C-40604 and

51-11C-40605, proposed by the building code council in WSR 12-16-088 appearing in issue 12-16 of the State Register, which was distributed on August 15, 2012, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
 Washington State Register

**WSR 13-05-037**  
**WITHDRAWAL OF PROPOSED RULES**  
**BUILDING CODE COUNCIL**  
 (By the Code Reviser's Office)  
 [Filed February 12, 2013, 1:43 p.m.]

WAC 51-50-1021, proposed by the building code council in WSR 12-16-089 appearing in issue 12-16 of the State Register, which was distributed on August 15, 2012, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
 Washington State Register

**WSR 13-05-038**  
**WITHDRAWAL OF PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (By the Code Reviser's Office)  
 [Filed February 12, 2013, 1:44 p.m.]

WAC 388-825-061, proposed by the department of social health services in WSR 12-16-101 appearing in issue 12-16 of the State Register, which was distributed on August 15, 2012, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
 Washington State Register

**WSR 13-05-047**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Children's Administration)  
 [Filed February 13, 2013, 11:31 a.m.]

Original Notice.  
 Preproposal statement of inquiry was filed as WSR 12-05-113.

Title of Rule and Other Identifying Information: Revisions to chapter 388-61A WAC, Shelters for victims of domestic violence.

Hearing Location(s): Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html>), on March 26, 2013, at 10:00 a.m.

Date of Intended Adoption: Not earlier than March 27, 2013.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, e-mail DSHS RPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on March 26, 2013.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by March 12, 2013, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at jennisha.johnson@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: DSHS, children's administration (CA), division of quality management and accountability, is proposing revisions to chapter 388-61A WAC that will update the section on crib safety to be compliant with new rules adopted by the federal Consumer Product Safety Commission in December 2010, and to make clarifying edits to rules adopted in November 2010.

Reasons Supporting Proposal: Crib safety revisions to become compliant with new federal standards, and clarifying edits to rules adopted in November 2010.

Statutory Authority for Adoption: Chapter 70.123 RCW.

Statute Being Implemented: Chapter 70.123 RCW.

Rule is necessary because of federal law, Consumer Product Safety Commission, 16 C.F.R. Parts 1219.

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Susan Hannibal, 4045 Delridge Way S.W., Room 200, Seattle, WA 98106, (206) 923-4910.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Chapter 19.85 RCW, the Regulatory Fairness Act, requires that the economic impact of proposed regulations be analyzed in relation to small businesses. The statute defines small businesses as those businesses that employ fifty or fewer people and are independently owned and operated.

The proposed rules affect forty-three emergency domestic violence shelter agencies that DSHS/CA contracts with for client services. In a September 2012 cost-benefit survey distributed to these agencies, twenty of the forty-three domestic violence shelter contractors responded for a response rate of forty-seven percent. Large and small domestic violence shelter agencies were represented in the range of contractors responding to the survey. The number of individuals employed by the twenty survey respondents ranged from a low of six to a high of forty-two.

Preparation of a small business economic impact statement (SBEIS) is required when a proposed rule has the potential of placing a disproportionate economic impact on small businesses. The statute outlines information that must be included in an SBEIS. CA has analyzed the proposed rule amendments and concludes that they will not impose dispro-

portionate costs on small businesses. All the agencies affected by the proposed rules are small businesses employing fewer than fifty full-time equivalent employees. Consequently, there is no disproportionate impact on small businesses from the proposed rule amendments. The preparation of a comprehensive SBEIS is not required.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Susan Hannibal, DSHS/CA, c/o QA/Training Office, Seattle, WA 98106, phone (206) 923-4910, fax (206) 923-4899, e-mail [hsus300@dshs.wa.gov](mailto:hsus300@dshs.wa.gov).

February 12, 2013

Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 10-22-040, filed 10/27/10, effective 11/27/10)

**WAC 388-61A-0220 What definitions apply to this chapter? "Advocacy"** means that the client is involved with an advocate in individual or group sessions with a primary focus of safety planning, empowerment, and education of the client through reinforcement of the client's autonomy and self-determination. Advocacy also means speaking and acting for change or justice with, or on behalf of, another person or cause. Advocacy is survivor-centered and uses nonvictim blaming methods that include:

- Identifying barriers to, and strategies to enhance, safety, including safety planning.
- Clarifying and increasing awareness of the power and control associated with domestic violence and the options one may have to obtain resources while staying safe.
- Supporting independent decision-making based on the unique needs and circumstances of each individual.

**"Advocate"** means a trained staff person who works in a domestic violence agency and provides advocacy to clients.

**"Child care"** means the temporary care of a client's child or children by staff of the domestic violence agency at the agency's location or another location where the client is receiving confidential or individual services from the domestic violence agency or is participating in activities sponsored by the domestic violence agency, other than employment, and so long as the client remains on the premises.

**"Children/youth activities"** means activities other than children/youth advocacy, such as recreational and educational activities(~~(, and including child care as defined in this chapter)~~).

**"Children/youth advocacy"** means an age-appropriate intervention service that strives to assist children/youth to express feelings about their exposure to domestic violence. It is an educational, rather than a therapeutic intervention, and is focused on providing education about domestic violence, safety planning, and developing or enhancing problem-solving skills. Advocacy can be provided on an individual basis and in group settings.

**"Client"** means a victim of domestic violence who is accessing services at a domestic violence agency. Client can also be referred to as a survivor, service recipient, or resident.

**"Cohabitant"** means a person who is or was married, in a state registered domestic partnership, or cohabiting with

another person in an intimate or dating relationship at the present time or at some time in the past. Any person who has one or more children in common with another person, regardless of whether they have been married, were/are in a domestic partnership with each other, or have lived together at any time, must be treated as a cohabitant. Any person who is or was in a dating relationship with another person at the present or at some time in the past, regardless of whether they lived together at any time, must be treated as a cohabitant.

**"Community education"** refers to information that is provided in community settings about domestic violence and services related to victims of domestic violence. Community education activities include: Training, presentations, outreach to specific communities or geographic areas, community events, and media events.

**"Confidential communication"** means all information, oral, written or nonverbal, that is transmitted between a victim of domestic violence and an employee or supervised volunteer of a domestic violence agency in the course of their relationship and in confidence by means which, so far as the victim is aware, does not disclose the information to a third person.

**"Confidential information"** includes, but is not limited to, any information, advice, notes, reports, statistical data, memoranda, working papers, records or the like, made or given during the relationship between a victim of domestic violence and a domestic violence agency, however maintained. Confidential information includes the name, address, telephone number, social security number, date of birth, nine-digit postal (ZIP) code, physical appearance of, case file or history of, and other information that would personally identify a victim of domestic violence who seeks or has received services from a domestic violence agency.

**"Crisis hotline or helpline"** means a designated telephone line of the domestic violence agency that operates twenty-four hours a day, three hundred sixty-five days a year. A hotline/helpline provides crisis intervention, safety planning, information, and referral services.

**"Crisis intervention"** means services provided to an individual in crisis to stabilize an individual's emotions, clarify issues, and provide support and assistance to help explore options for resolution of the individual's immediate crisis and needs.

**"Department"** means the department of social and health services (DSHS).

**"Domestic violence"** is a pattern of assaultive and coercive behaviors that an adult or adolescent uses to maintain power and control over their intimate partner. Abusive tactics may include, but are not limited to the following: Physical abuse, sexual abuse, intimidating tactics, physical and/or psychological isolation of the victim, repeated attacks against the victim's competence, alternating use of indulgences, control of family funds and resources, stalking, and the use of children and systems to control the victim. The abuser's use of physical force against persons or property or the use of conduct that establishes credible threat of physical harm (i.e. terrorizing tactics) combined with other controlling tactics are key elements of domestic violence. The effect of the overall pattern of assaultive and coercive behavior is to increase the abuser's power and control in the relationship. It includes,

but is not limited to, the categorization of offenses defined in RCW 10.99.020(3) when committed by one cohabitant against another.

**"Domestic violence agency"** means an agency that provides shelter and advocacy for domestic violence clients in a safe and supportive environment.

**"Intimate partner violence"** focuses on the most common form of domestic violence, which is between adult or adolescent intimate partners or cohabitants, rather than on violence between nonintimate adult or adolescent household members.

**"Legal advocacy"** means personal support and assistance with victims of domestic violence to ensure their interests are represented and their rights upheld within the civil and criminal justice systems, including administrative hearings. It includes educating and assisting victims in navigating the justice systems; assisting victims in evaluating advantages and disadvantages of participating in the legal processes; facilitating victims' access and participation in the legal systems; and promoting victims' choices and rights to individuals within the legal systems.

**"Lodging unit"** means one or more rooms used for a victim of domestic violence including rooms used for sleeping or sitting.

**"Marginalized populations"** includes, but is not limited to, populations that have been historically underserved and oppressed in society because of ethnicity, race, culture or language diversity, age, sexual orientation, or disability.

**"Personally identifying information"** includes, but is not limited to, first and last name, home or other physical address, telephone number, Social Security number, date of birth, nine-digit postal (ZIP) code, physical appearance of, case file or history of, and other information that would personally identify a victim of domestic violence who seeks or has received services from a domestic violence agency, or such other information which, taken individually or together with other identifying information, could identify a particular individual.

**"Program"** means the DSHS domestic violence program.

**"Resident"** means a client of the domestic violence agency who is residing in a shelter as defined in this chapter.

**"Safe home"** means a shelter that has two or fewer lodging units and has a written working agreement with a domestic violence agency.

**"Safety plan"** is a process of thinking through with the victim how to increase safety for both the victim of domestic violence and any dependent children of the victim. Safety planning addresses both immediate and long term risks, barriers, or concerns regarding the victim and any dependent children. It is based on knowledge about the specific pattern of the domestic violence perpetrator's tactics and the protective factors of the victim and any dependent children. Safety planning can be done formally, informally, in writing or orally, or in any other conversational process between the victim and advocate.

**"Secretary"** means the DSHS secretary or the secretary's designee.

**"Shelter"** means a safe home or shelter home that provides temporary refuge and food and clothing offered on a

twenty-four hour, seven-day-per-week basis to victims of domestic violence and their dependent children. Domestic violence agencies may use hotels and motels for victims who need safe shelter, but the domestic violence agency must also have a shelter home and/or safe home(s) that meet the requirements of this chapter.

**"Shelter home"** means a shelter that has three or more lodging units and is either a component of, or has a written working agreement with, a domestic violence agency.

**"Staff"** means persons who are paid or who volunteer to provide services to clients and are a part of a domestic violence agency.

**"Support group"** means interactive group sessions of two or more victims of domestic violence that is facilitated by trained staff on a regular basis. Participants share experiences, offer mutual support, and receive information and education around a specific topic of common interest. Support groups validate the experiences of victims, explore options, build on strengths, and respect participants' rights to make their own decisions. A shelter or house meeting where, for example, chores are discussed, and there is no advocacy provided, is not a support group.

**"Victim"** means a cohabitant who has been subjected to domestic violence.

**"We, us and our"** refers to the department of social and health services and its employees.

**"You, I and your"** refers to the domestic violence agency.

AMENDATORY SECTION (Amending WSR 10-22-040, filed 10/27/10, effective 11/27/10)

**WAC 388-61A-0280 What are the requirements for the crisis hotline or helpline?** (1) You must provide a crisis hotline/helpline telephone number to access services of the domestic violence agency. The telephone number must ~~(be listed in the local telephone book, and identified as the crisis hotline/helpline telephone number of the domestic violence agency. The crisis hotline/helpline telephone number must also)~~ be widely distributed throughout the service area covered by the domestic violence agency and be identified as the crisis hotline/helpline of the agency.

(2) The crisis hotline/helpline service must comply with the following minimum requirements:

(a) It must operate twenty-four hours a day, three hundred sixty-five days a year.

(b) It must be a dedicated telephone line that serves as the crisis hotline or helpline.

(c) Staff that answer the hotline/helpline must be trained in, and familiar with, all referral and intake practices of the domestic violence agency.

(d) In most cases, callers to the hotline/helpline must be able to speak, within fifteen minutes, to a trained staff person from whom the caller can obtain services, including access to emergency shelter.

(e) Staff must have access to TTY or similar technology, and they must be trained on its use.

(f) Safety must be addressed in every call.

(3) You must have written procedures that address the following:

(a) How crisis hotline staff will meet the needs of non-English speaking and hearing impaired callers.

(b) Steps that must be taken when a caller requests emergency shelter.

(c) If you use an answering service, or any other similar system, how you will provide training to the staff of the answering service, and how you will monitor the services provided to your agency.

(4) If you use a call-forwarding system for your domestic violence agency's hotline/helpline, answering service, or any other similar system, you must guarantee that the caller's first contact is supportive.

(5) You may use an answering machine, voice mail, or similar recording device as a back-up means of responding to calls to your agency's crisis hotline/helpline. However, these devices cannot be used as your agency's primary method of answering crisis hotline/helpline calls. Messages left on your agency's answering machine, voice mail, or similar recording device must be returned within the time frame described in subsection (2)(d) of this section.

AMENDATORY SECTION (Amending WSR 10-22-040, filed 10/27/10, effective 11/27/10)

**WAC 388-61A-0390 What safety requirements are shelters required to meet?** You must keep your equipment and the physical structures in the shelter, including furniture and appliances, safe and clean for the clients you serve. You must:

(1) Maintain the shelter, premises, equipment, and supplies in a clean, safe and sanitary condition, free of hazards, and in good repair.

(2) Provide guard or handrails, as necessary, for stairways, porches and balconies.

(3) Maintain swimming pools, wading pools, bathtubs, hot tubs, spas, and bathing beaches in a safe manner and in such a way that does not present a health hazard, safety problem, or nuisance.

(4) Have a method for securing all windows, doors, and other building accesses to prevent the entry of intruders.

~~(5) ((Make sure all window screens can be secured to prevent children from falling from window openings.~~

~~(6))~~ Make sure that clients residing in shelter are able to immediately enter the shelter if they do not have the ability to independently access the facility with their own key, keycard, door code, or other device.

~~((7))~~ (6) Provide adequate lighting of exterior areas to ensure the safety of clients residing in shelter and staff during the night.

~~((8))~~ (7) Provide a way for staff to enter any area occupied by clients should there be an emergency.

~~((9))~~ (8) Secure all unused refrigerators and freezers accessible to children in such a way that prevents them from climbing in and becoming trapped.

AMENDATORY SECTION (Amending WSR 10-22-040, filed 10/27/10, effective 11/27/10)

**WAC 388-61A-0410 What are requirements for cribs or bassinets?** If the shelter provides cribs or bassinets, the shelter must comply with ~~(each of these requirements:~~

## WSR 13-05-053

## PROPOSED RULES

## DEPARTMENT OF AGRICULTURE

[Filed February 13, 2013, 2:44 p.m.]

~~(1) Cribs and bassinets must have a clean, firm mattress covered with waterproof material that is easily sanitized.~~

~~(2) Crib mattresses must fit snugly to prevent the infant from being caught between the mattress and crib side rails.~~

~~(3) Cribs must be assembled correctly, and not have any missing, loose, or broken hardware or slats. There must not be any missing, loose, broken or improperly installed screws, brackets or other hardware on the crib or mattress support.~~

~~(4) Soft objects and loose bedding, including bumper pads, cannot be used in cribs and bassinets.~~

~~(5) Cribs must be made of wood, metal, or approved plastic with secure latching devices.~~

~~(6) Cribs must have no more than two and three eighths inches of space between vertical slats so an infant's body cannot fit through the slats. There must not be any missing or cracked slats.~~

~~(7) Cribs must not have corner posts over one sixteenth inch high so a child's clothing cannot catch.~~

~~(8) Crib headboards and footboards must not have any cutouts that would result in a child's head getting trapped.~~

~~(9) For mesh-sided cribs and playpens:~~

~~(a) Mesh must not have any tears, holes or loose threads.~~

~~(b) Mesh must be securely attached to the top rail and floor plate.~~

~~(c) Top rail covers must not have any tears or holes)) crib safety standards issued by the United States Consumer Product Safety Commission.~~

AMENDATORY SECTION (Amending WSR 10-22-040, filed 10/27/10, effective 11/27/10)

**WAC 388-61A-0560 What first-aid supplies must I ((approve) provide)?** You must keep first-aid supplies on hand and accessible to clients residing in shelter for immediate use. First-aid supplies must include at a minimum the following: First-aid instruction booklet, band-aids, sterile gauze, adhesive tape, antibiotic ointment single use packets, antiseptic wipe single use packets, hydrocortisone ointment single use packets, roller bandage, thermometer (nonmercury/nonglass), and nonlatex gloves. In instances where an adult or child has ingested a potentially poisonous chemical or substance, you must call the Washington Poison Center for further instruction.

AMENDATORY SECTION (Amending WSR 10-22-040, filed 10/27/10, effective 11/27/10)

**WAC 388-61A-0650 What will happen if I am out of compliance with the minimum standards or my contract(s)?** (1) If we find that the domestic violence agency is out of compliance with the standards specified in this chapter or the terms of the DSHS contract, we will give you written notice of the deficiencies. You must correct the deficiencies according to a plan of correction we approve.

(2) We may suspend or revoke the funding of a domestic violence agency if it is out of compliance with this chapter or the DSHS contract.

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: Hops, chapter 16-532 WAC.

Hearing Location(s): Moxee City Hall, Community Room, 255 West Seattle Avenue, Moxee, WA 98936, (please use street parking), on April 2, 2013, at 11:00 a.m.

Date of Intended Adoption: June 26, 2013.

Submit Written Comments to: Kelly Frost, P.O. Box 42560, Olympia, WA 98504-2560, e-mail kfrost@agr.wa.gov, fax (360) 902-2092, by 5:00 p.m., April 5, 2013.

Assistance for Persons with Disabilities: Contact WSDA receptionist by March 15, 2013, TTY 1-800-833-6388 or (360) 902-1976.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 16-532-050 Assessment and collections, increases the assessment rate per "affected unit" from \$2.00 to \$2.75. The proposed increase will be decided through a referendum of affected hop producers.

Reasons Supporting Proposal: The hop commission board determined that an increase in the assessment rate is necessary for the board to remain solvent in light of declining crop production and will allow the commission to continue to carry out their mandated mission. These changes will implement the petition received from the hop commission in accordance with RCW 15.65.050.

Statutory Authority for Adoption: RCW 15.65.047 and [15.65].050, chapter 34.05 RCW.

Statute Being Implemented: Chapter 15.65 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Any rule proposal that results from this rule-making process will not be adopted unless the proposed rules are also approved in a referendum of affected hop producers pursuant to chapter 15.65 RCW.

Name of Proponent: Washington state hop commission, governmental.

Name of Agency Personnel Responsible for Drafting: Kelly Frost, P.O. Box 42560, Olympia, WA 98504, (360) 902-1802; Implementation and Enforcement: Ann George, P.O. Box 1207, Moxee, WA 98936, (509) 453-4749.

No small business economic impact statement has been prepared under chapter 19.85 RCW. In accordance with RCW 15.65.570, the adoption of the final amendments to chapter 16-532 WAC will be determined by a referendum vote of affected producers.

A cost-benefit analysis is not required under RCW 34.05.328. The department of agriculture and the Washing-

ton hop commission are not named agencies in RCW 34.05.328 (5)(a)(i).

February 13, 2013  
Dan Newhouse  
Director

AMENDATORY SECTION (Amending WSR 08-15-039, filed 7/10/08, effective 8/10/08)

**WAC 16-532-040 Assessments and collections. (1) Assessments.**

(a) The annual assessment on all varieties of hops shall be ~~((up to))~~ two dollars and ~~((fifty))~~ seventy-five cents per affected unit, as approved by referendum vote of affected producers ~~((, the results of which shall be retained on file in the board's administrative office)).~~

(b) For the purpose of collecting assessments the board may:

(i) Require handlers to collect producer assessments from producers whose production they handle, and remit the same to the board; or

(ii) Require the person subject to the assessment to give adequate assurance or security for its payment; or

(iii) Require the person subject to the assessment to remit assessments for any hops which are processed prior to the first sale; or

(iv) Require the person subject to the assessment to remit an inventory report for any hops which are not processed or sold prior to December 31 of the year in which they are produced.

(c) Subsequent to the first sale or processing, no affected units shall be transported, carried, shipped, sold, marketed, or otherwise handled or disposed of until every due and payable assessment herein provided for has been paid and the receipt issued. The foregoing shall include all affected units shipped or sold, both inside and outside the state.

(2) **Collections.** Any moneys collected or received by the board pursuant to the provisions of the order during or with respect to any season or year may be refunded on a pro rata basis at the close of such season or year or at the close of such longer period as the board determines to be reasonably adapted to effectuate the declared policies of this act and the purposes of such marketing agreement or order, to all persons from whom such moneys were collected or received or may be carried over into and used with respect to the next succeeding season, year or period whenever the board finds that the same will tend to effectuate such policies and purposes.

(3) **Penalties.** Any due and payable assessment herein levied in such specified amount as may be determined by the board pursuant to the provisions of the act and the order, shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the board when payment is called for by it. In the event any person fails to pay the board the full amount of such assessment or such other sum on or before the date due, the board may, and is hereby authorized to add to such unpaid assessment or sum an amount not exceeding ten percent of the same to defray the cost of enforcing the collecting of the same. In the event of failure of such person or persons to pay any such due and payable assessment or other such sum, the

board may bring a civil action against such person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent thereon, and such action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

**WSR 13-05-067**

**PROPOSED RULES**

**SEATTLE COMMUNITY COLLEGES**

[Filed February 15, 2013, 3:22 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-23-032.

Title of Rule and Other Identifying Information: WAC 132F-108-050 Brief adjudicative procedures; and chapter 132F-121 WAC, Student conduct code.

Hearing Location(s): Seattle Central Community College, MAC 180, on April 9, at 3:00-4:30.

Date of Intended Adoption: April 11.

Submit Written Comments to: Amanda Davis Simpenderfer, 1500 Harvard Avenue, Seattle, WA 98122, e-mail amanda.simpenderfer@seattlecolleges.edu, fax (206) 934-3894, by March 19, 2013.

Assistance for Persons with Disabilities: Contact Amanda.davis@seattlecolleges.edu, by March 8, 2013, (206) 934-3873.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Update the student conduct code to address bullying and appeal process.

Reasons Supporting Proposal: The Office of Civil Rights, Department of Education requires colleges to address bullying. The proposal also reflects changes in the administrative structure of some of the colleges.

Statutory Authority for Adoption: RCW 28B.50.140 (13).

Statute Being Implemented: RCW 28B.50.140(13).

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

Name of Proponent: Seattle Community Colleges, public.

Name of Agency Personnel Responsible for Drafting: Marci Myer, North Seattle Community College, (206) 934-3669.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These proposed rules are not predicted to impose any costs on businesses in an industry.

A cost-benefit analysis is not required under RCW 34.05.328. The Seattle Community Colleges are not required to provide a cost-benefit analysis under RCW 34.05.328 (5)(a).

February 14, 2013  
Jill Wakefield  
Chancellor

AMENDATORY SECTION (Amending WSR 03-16-015, filed 7/28/03, effective 8/28/03)

**WAC 132F-108-050 Brief adjudicative procedures.**

This rule is adopted in accordance with RCW 34.05.482 through 34.05.494, the provisions of which are hereby adopted. Brief adjudicative procedures shall be used, unless provided otherwise by another rule or determined otherwise in a particular case by the district chancellor, the affected campus president, or a designee of either, in regard to:

- (1) Parking violations.
- (2) Outstanding debts owed by students or employees.
- (3) Use of college facilities.
- (4) Residency determinations.
- (5) Use of library—Fines.
- (6) Challenges to contents of education records.
- (7) Loss of eligibility for participation in institution sponsored athletic events.

(8) Student conduct appeals involving minor disciplinary actions imposing probation or suspensions of ten instructional days or less and any conditions or terms placed on the student.

(9) Appeals of decision regarding mandatory tuition and fee waivers.

Brief adjudicative proceedings are informal hearings and shall be conducted in a manner which will bring about a prompt fair resolution of the matter.

AMENDATORY SECTION (Amending WSR 03-16-015, filed 7/28/03, effective 8/28/03)

**WAC 132F-121-010 Definitions and general provisions.** For purposes of this chapter:

(1)(a) Bullying is defined as the repeated use by one or more students of a written, verbal or electronic expression or a physical act or gesture or any combination thereof, directed at another student or staff that:

(i) Intentionally causes physical or emotional imminent harm to the student or damage to the student's property;

(ii) Places the student in reasonable fear of harm to herself or himself or of damage to the student's property;

(iii) Creates an unlawful hostile environment at school for the student;

(iv) Infringes on the rights of the student at school; or

(v) Is conduct that is sufficiently severe or pervasive to cause material disruption to the ability of a student to participate or benefit in the education program.

(b) Cyber-bullying is defined as bullying through the use of technology or any electronic communication which shall include, but not be limited to, any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo electronic, or photo optical system including, but not limited to, electronic mail, internet communications, instant messages or facsimile communications. Cyber-bullying shall also include the creation of a web page or blog in which the creator posted content or messages, if the creation or impersonation creates any of the conditions constituting bullying in the student conduct code. Cyber-bullying shall also include the distribution by electronic means of a communication to more than one person or the posting of material on

an electronic medium that may be accessed by one or more persons, if the distribution or posting creates any of the conditions constituting bullying in the student conduct code.

(2) The terms "college" and "campus" are used interchangeably, and each refers to any of the district's three colleges, North Seattle Community College, Seattle Central Community College, and South Seattle Community College. The Seattle Vocational Institute is considered to be part of Seattle Central Community College.

((2)) (3) "Day" means calendar day, unless specified otherwise, and deadlines shall be computed in accordance with WAC 10-08-080.

((3)) (4) "District" means the sixth state college district, the district administrative offices (Siegal Center), North Seattle Community College, Seattle Central Community College, South Seattle Community College, the Seattle Vocational Institute, and/or every other District VI educational facility, each separately and all together.

((4)) (5) "District community" includes, but is not limited to, the district itself and all enrolled students, employees, officers, and invitees of the district.

((5)) (6) "District property" includes all real property, buildings, and other facilities that are owned, leased, or controlled by the district or by the state for district purposes.

((6)) (7) "Vice-president for student services" means the person whom a college president has appointed to that position or has otherwise designated to perform the functions ascribed to that position in this chapter.

((7)) (8) An action or activity that may be authorized or taken by the district chancellor, a vice chancellor, a campus president, or a campus vice-president may also be authorized or taken by any other person whom that officer has specifically designated to perform that function on his/her behalf, but this officer retains responsibility for the function.

((8)) (9) After the adoption of these rules, if a statute or rule to which they refer is ~~((re-numbered))~~ renumbered or otherwise amended, these rules shall be interpreted to the fullest extent possible to incorporate such amendment while still giving effect to their original purposes.

((9)) (10) Service of any document, notice, or copy under this chapter shall be made (a) by personal delivery, (b) by mailing to the recipient's last known address, which service shall be regarded as complete upon deposit in the U.S. mail properly stamped and addressed, or (c) as otherwise authorized by law or rule.

(11) The term "student" includes all persons taking courses at the district, either full-time or part-time. Persons who withdraw after allegedly violating the student code, who are not officially enrolled for a particular term but who have a continuing relationship with the district, or who have been notified of their acceptance for admission are considered "students" as are persons who are living in district resident halls, although not enrolled at the district.

AMENDATORY SECTION (Amending WSR 03-16-015, filed 7/28/03, effective 8/28/03)

**WAC 132F-121-030 Student organizations.** (1) Student organizations may be established and recognized whether their aims are educational, cultural, recreational,

social, athletic, religious, political, or economic. Affiliation with an external organization shall not in and of itself disqualify a campus-based student organization from recognition. Membership in a student organization shall be open to any student who subscribes to the stated aims of the organization. To operate as such, a student organization must be recognized by the approved student government organization. The student organization shall abide by all governing federal and state laws and district and campus rules, policies and procedures.

(2) A college may require, as a condition of access to campus funds and/or facilities, demonstration or proof of the student enrollments of a student organization's members. However, any list of members compiled for such purposes shall not be publicly disclosed except in accordance with applicable law. A college may, in its discretion, permit others, such as students' spouses, to participate in a student organization's activities under appropriate conditions.

(3) Each year, before a student organization may be recognized or function as such, or may use services and activities funds, a college employee must ~~((agree))~~ be identified to serve as its advisor and his/her name must be ~~((provided to and))~~ approved by the vice-president for student services or designee. ~~((No campus employee may serve as the advisor for more than two student organizations at the same time.))~~

(4) Where funds are allocated to a student organization, financial accountability is required. Student organizations' funds shall be maintained at the college, in college accounts. The organizations shall keep detailed written records of their income and expenditures and shall assure that these can be reconciled with the campus budget and accounting system. Student organizations' financial records must be made available upon request to the student government organization and to any administrative officer designated by the college president.

(5) A college president may withdraw a student organization's recognition and funding for good cause. Such cause shall include, but not be limited to, (a) failure to comply with this rule or other district requirements or (b) hazing.

AMENDATORY SECTION (Amending WSR 03-16-015, filed 7/28/03, effective 8/28/03)

**WAC 132F-121-050 Student use of the district/college name.** (1) No individual student, student group, or student organization may act or make any representation in the name of the district or of any campus without specific authorization from the vice-president for student services or designee.

(2) No individual student, student group or student organization shall falsely indicate or represent that his, her, or its own position on any policy or issue is that of the district or of any campus.

AMENDATORY SECTION (Amending WSR 03-16-015, filed 7/28/03, effective 8/28/03)

**WAC 132F-121-060 Student complaints generally.**

(1) The procedures in this chapter are to be used for the processing and disposition of complaints by students (complainants) against college employees or other students, except to

the extent that a complaint is against a college employee and the processing is dictated otherwise by a collective bargaining agreement or other applicable process. These procedures are available to all students and are intended to protect the rights of both the complainant and the respondent.

(2) For the purposes of this chapter, a "complaint" is defined as a good faith ((claim;)) allegation based on personal experience or knowledge((- that the respondent employee or student (a) has violated a specific legal or district requirement or has otherwise acted without reasonable care (b) on district property or during an event or activity that the district conducts, participates in, or sponsors, (c) in a manner that had or has a significant detrimental effect on)) by a student or students that there has been a violation, misapplication, or misinterpretation of some service or rule as it applies to students in the institution by a staff or faculty member of the institution, resulting in loss or detriment to the complainant. However, an objection to disciplinary action under the student conduct code is only appealable under that code, and cannot constitute a complaint.

(3) Each college president shall appoint a complaints officer to handle student complaints. This position shall be filled by an employee whose position is below the level of vice-president. The district chancellor shall designate a complaints officer to handle complaints against Siegal Center employees. If the president or chancellor determines, upon request, that the complaints officer has a disqualifying personal interest in a particular matter, he/she may appoint a substitute complaints officer for that matter. Information on the identity and location of the complaints officer(s) and about this procedure shall be readily available within each college.

(4) The complaints officer shall be responsible for taking appropriate actions to try to resolve complaints. ~~((Information on the identity and location of the complaints officer(s) and about this procedure shall be readily available within each college.))~~

(5) A complaint may be ~~((initiated))~~ addressed under either the informal process or the formal process, as set forth below. Students are encouraged to begin with the informal process.

(6) No respondent or district employee shall take adverse action or otherwise retaliate against a student because that student initiated a good faith complaint or assisted another student with a complaint.

(7) If more than one type of complaint or more than one respondent is included in one complaint, the complaints officer may, upon request, provide for appropriate modification(s) of these procedures.

(8) If a respondent employee is unavailable, or otherwise fails or refuses to participate timely in a complaint proceeding, the respondent's supervisor may ~~((, upon request and in her/his discretion,))~~ act or designate another person to act in the complaint proceeding on that employee's behalf. However, no action by a substitute may subject the respondent employee to discipline.

AMENDATORY SECTION (Amending WSR 03-16-015, filed 7/28/03, effective 8/28/03)

**WAC 132F-121-070 Informal processing of complaints.** (1) This informal process is intended to facilitate prompt and amicable resolution of a complaint apart from the formal complaint process.

(2) A student who has a complaint is encouraged to discuss the matter directly with the respondent to attempt to resolve it.

(3) If the student complainant believes that discussion with an employee respondent will not achieve or has not achieved a satisfactory result, the ~~((complainant))~~ student may communicate about the matter with the respondent's supervisor ~~((, if any. If the complainant identifies the matter as a complaint under this procedure, the supervisor shall, within the earlier of five days following that communication or any deadline established in an applicable collective bargaining agreement, appropriately notify the respondent of the complaint. The supervisor also shall, within the earlier of fifteen days following that communication or any deadline established in an applicable agreement, meet or attempt to meet with the respondent and otherwise attempt to resolve the complaint))~~.

(4) Any participant in the informal process may request the complaint officer's assistance in obtaining a resolution.

(5) This informal process ~~((shall be deemed to be terminated if the complainant files a timely formal complaint related to the same matter))~~ must be completed in a timely manner.

AMENDATORY SECTION (Amending WSR 03-16-015, filed 7/28/03, effective 8/28/03)

**WAC 132F-121-080 Formal processing of complaints.** ~~((1) This formal process applies to student complaints that are made to the complaints officer in writing. The complaints officer may extend any deadline herein for good cause.~~

~~((2) To be considered under this formal process, a complaint must be filed with the complaints officer in writing within ninety days of when the complainant knew or reasonably should have known that he/she had cause for a complaint, except as otherwise provided in WAC 132F-121-090 for a grade complaint. The written complaint shall be designated as a complaint under these rules and shall fully specify the facts and other grounds on which it is based. The complainant should attach copies of relevant supporting documents when feasible.~~

~~((3) Upon receipt of the complaint, the complaints officer shall determine whether it qualifies as such. If the officer determines that it does not qualify as a complaint, she/he shall serve notice to that effect on the complainant within five days. The complainant may obtain review of that notice of complaint disqualification by filing a written request with the complaints officer under subsection (7) below.~~

~~((4) If the complaints officer determines that the complaint does qualify as such, that officer shall serve copies of the complaint and any supporting documentation on the respondent and the respondent's supervisor (if any) within five days. After service of such a copy of the complaint, the~~

~~respondent shall serve a written response on the complaints officer, and a copy thereof on the respondent's supervisor (if any), within fifteen days.~~

~~((5) Within five days of service of that response, or, absent a response, within five days of when one was due, the complaints officer shall serve on the complainant either the response or a statement that none has been received, together with notice of the complainant's rights under the following subsection.~~

~~((6) Within five days of this service, if the complainant finds that the response or nonresponse is unsatisfactory she/he may serve written notice of such dissatisfaction on the complaints officer. Within five days of service of such notice, the complaints officer shall schedule a conference and invite the complainant, the respondent, and the respondent's supervisor (if any). This conference shall be held within fifteen days of service of the complainant's notice, or as soon thereafter as feasible. During this conference the complaints officer shall try to facilitate resolution. The complaints officer shall produce a written statement summarizing this conference and serve copies on each of the invited attendees within ten days after the conference.~~

~~((7) Within five days after service of either a notice of complaint disqualification or a conference summary, the complainant may obtain review thereof by filing a written request for such review with the complaints officer. Within five days of receiving this request for review, the complaints officer shall forward it, together with the complaint and other relevant documents, either to the vice president of instruction (if the officer determines that the complaint is predominantly an instructional matter) or to the vice president for student services (if the officer determines that the complaint is predominantly noninstructional in nature). If the respondent is a Siegal Center employee, the complaints officer shall forward the matter to a vice chancellor.~~

~~((8) This reviewing administrator shall review the complaint and documentation, and may also interview knowledgeable persons as appropriate. The administrator should render a written decision within fifteen days after receiving the complaint and documents, or as soon thereafter as feasible. The administrator may accept, reject, or modify any of the previous action(s) in the matter, and/or take other action(s). This decision shall be in writing and shall be served on the complainant, respondent, and others deemed appropriate.~~

~~((9) This decision of the reviewing administrator shall be the final decision of the district on that complaint.))~~ (1) To be considered under the formal process, a complaint must be filed in writing with the campus complaints officer by the final day of the quarter following the quarter in which the problem occurred, except as otherwise provided in WAC 132F-121-090 for a grade complaint. For purposes of complaints, the quarter which follows spring quarter is fall quarter. The written document should fully specify the facts and other grounds on which the complaint is based, and should include copies of relevant supporting documents when feasible. The complaints officer may extend any deadline herein for good cause.

(2) If the complaints officer determines that the complaint does not qualify to be addressed through the formal

process, that officer must inform the student, explaining the reasons in writing within five working days. The student complainant may obtain review of that notice of complaint disqualification by filing a written request with the complaints officer under subsection (9) of this section.

(3) If the complaints officer determines that the complaint does qualify as such, that officer must serve copies of the complaint and the supporting documents on the individual named in the complaint (the respondent) and the respondent's supervisor, within five working days.

(4) The respondent, upon receiving notice of the formal complaint, shall provide a response in writing to the complaints officer, and to the respondent's supervisor, within ten working days.

(5) The complaints officer must forward the written response, or the information that no response was received, to the student complainant within five working days of receipt of the response, or five working days from when a response was due.

(6) If the student complainant finds that the response or lack thereof is unsatisfactory she/he has five working days in which to submit a written request for the complaints officer to schedule a conference with the respondent to discuss the matter.

(7) Upon receipt of such request, the complaints officer has five working days to schedule the conference which must be convened within ten working days of receipt of the students' request or as soon thereafter as feasible. This conference will include the student, the respondent, and his or her supervisor, and be moderated by the complaints officer.

(8) During this conference the complaints officer shall try to facilitate resolution. The complaints officer shall produce a written statement summarizing the conference and provide copies to all parties within ten working days of the conference.

(9) The student complainant may request a review of the outcome of the complaint conference (or of a complaint disqualification) by submitting a written request for administrative review to the complaints officer within five working days of receiving the conference summary.

(10) The complaints officer shall forward, within five working days, the request for administrative review, the complaint, supporting documents, and the conference summary either to the vice-president of instruction (if the officer determines that the complaint is predominantly an instructional matter), or to the vice-president for student services (if the officer determines that the complaint is predominantly non-instructional in nature).

(11) This administrator shall review the complaint and documentation, and may also interview knowledgeable persons as appropriate. The administrator should render a written decision within ten working days after receiving the complaint and documents, or as soon thereafter as feasible. The administrator may accept, reject, or modify any of the previous action(s) in the matter, and/or take other action(s). This decision shall be in writing and shall be served on the student complainant and others deemed appropriate.

(12) This decision of the reviewing administrator shall be the final decision of the district on that complaint.

AMENDATORY SECTION (Amending WSR 03-16-015, filed 7/28/03, effective 8/28/03)

**WAC 132F-121-090 Additional provisions for grade complaints.** (1) For student complaints regarding grades received for course work, this section shall apply in addition to the above-described informal and formal procedures.

(2) A student may formally grieve only the final grade received in a course, but that complaint may include any or all of the components of that final grade. For a grade complaint, the respondent(s) shall be, or include, the instructor who issued the grade.

(3) ~~(Instead of the deadline in WAC 132F-121-080,)~~ A formal complaint regarding a grade must be filed not later than the last day of the quarter which follows the quarter for which the disputed grade was received, except that a complaint regarding a spring quarter grade may be filed through the last day of the following fall quarter.

(4) In specifying the facts and other grounds on which it is based, the formal complaint shall specify the grade that is being challenged and should attach copies of relevant documents. The response on behalf of the respondent shall include, to the extent feasible, the applicable evaluation criteria, copies of the course syllabus and relevant grading records, and the faculty member's explanation for the grade.

(5) Ordinarily the evaluation of course mastery is exclusively within the province of the instructor of a particular course, and so a grade change may be initiated only by that instructor. However, if a formal grade complaint is ultimately reviewed by the vice-president of instruction, and she/he finds that the grade was issued for an improper reason or was arbitrary and capricious or otherwise unlawful, that vice-president may change the grade in the records of the college.

(6) Nothing in these rules shall be construed to limit the separate authority of the vice-president of instruction to change a grade when required by a judicial order or a legal settlement agreement entered into by the district, regardless of whether a complaint has been filed.

AMENDATORY SECTION (Amending WSR 03-16-015, filed 7/28/03, effective 8/28/03)

**WAC 132F-121-110 Student misconduct.** Misconduct for which the campuses may impose sanctions includes, but is not limited to, any of the following:

(1) Any act of course-related dishonesty, including but not limited to cheating or plagiarism.

(a) Cheating includes, but is not limited to, using, or attempting to use, any material, assistance, or source which has not been authorized by the instructor to satisfy any expectation or requirement in an instructional course, or obtaining, without authorization, test questions or answers or other academic material that belong to another.

(b) Plagiarism includes, but is not limited to, using another person's ideas, words, or other work in an instructional course without properly crediting that person.

(c) Academic dishonesty also includes, but is not limited to, submitting in an instructional course either information that is known to be false (while concealing that falsity) or work that is substantially the same as that previously submit-

ted in another course (without the current instructor's approval).

(2) Any other act of college-related dishonesty. Such acts include, but are not limited to:

(a) Forgery, alteration, or misuse of any district document, record, or instrument of identification;

(b) Tampering with an election conducted by or for district students; or

(c) Furnishing false information, or failing to furnish correct information, in response to the request or requirement of a district officer or employee.

(3) Obstruction or disruption of (a) any instruction, research, administration, disciplinary proceeding, or other district activity, whether occurring on or off district property, or (b) any other activity that is authorized to occur on district property, whether or not actually conducted by the district.

(4) Assault, physical abuse, verbal abuse, threat(s), intimidation, harassment, bullying, or other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of any student, any district officer or employee, or any other person who is on district property or is participating in a district activity.

(5) Attempted or actual damage to, or theft or misuse of, real or personal property or money of (a) the district or state, (b) any student or district officer, employee, or organization, or (c) any other person or organization lawfully present on district property, or possession of such property or money after it has been stolen.

(6) Failure to comply with the direction of a district officer or employee who is acting in the legitimate performance of his or her duties, or failure to properly identify oneself to such a person when requested to do so.

(7) Participation in any activity which unreasonably disrupts the operations of the district or infringes on the rights of another member of the district community, or leads or incites another person to engage in such an activity.

(8) Possession or use, without express authorization by the district chancellor or a campus president, of any explosive, incendiary device, dangerous chemical, weapon, or other device or substance which can be used to inflict bodily harm or to damage real or personal property.

(9) Hazing. Hazing includes, but is not limited to, any initiation into a student organization or any pastime or amusement engaged in with respect to such an organization that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm, to any student.

(10) Being observably under the influence of any alcoholic beverage, or otherwise using, possessing, consuming, or selling any alcoholic beverage, except as permitted by law and authorized by the chancellor or a college president.

(11) Being observably under the influence of any legend drug, narcotic drug or controlled substance as defined in chapters 69.41 and 69.50 RCW, or otherwise using, possessing, (~~consuming~~) delivering, or selling any such drug or substance, except (a) in accordance with a lawful prescription for that student by a licensed health care professional or (b) as permitted by law and authorized by the chancellor or a college president.

(12) Obstruction of the free flow of pedestrian or vehicular movement on district property or at a district activity.

(13) Conduct which is disorderly, lewd, or obscene.

(14) Breach of the peace, or aiding, abetting, or procuring a breach of the peace.

(15) Discriminatory action which harms or adversely affects any student or district employee because of her/his race, color, national origin, mental or physical disability, gender, sexual orientation, age, creed, or religion.

(16) Sexual harassment of a student or district employee. This includes, but is not limited to, engaging in unwelcome sexual advances, requests for sexual favors, (~~or other conduct of a sexual nature where such behavior offends or would offend a reasonable and prudent person~~) and other verbal, nonverbal, or physical conduct of a sexual nature that has the effect of denying or limiting a student's ability to participate or benefit from any of the college's programs.

(17) Other harassment of a student or district employee. This includes, but is not limited to, repeated and unwelcome following (stalking) or contacting of such a person or making a threat which places that person in reasonable fear of bodily harm.

(18) Smoking inside a campus building or in or on any other property where smoking is not authorized.

(19) Theft or other misuse of computer time or other electronic information resources of the district. Such misuse includes but is not limited to:

(a) Unauthorized use of such resources or opening of a file, message, or other item;

(b) Unauthorized duplication, transfer, or distribution of a computer program, file, message, or other item;

(c) Unauthorized use or distribution of someone else's password or other identification;

(d) Use of such time or resources to interfere with someone else's work;

(e) Use of such time or resources to send, display, or print an obscene or abusive message, text, or image;

(f) Use of such time or resources to interfere with normal operation of the district's computing system or other electronic information resources;

(g) Use of such time or resources in violation of applicable copyright or other law; (~~or~~)

(h) Adding to or otherwise altering the infrastructure of the district's electronic information resources without authorization; or

(i) Failure to comply with the district's electronic use policy.

(20) Unauthorized possession, duplication, or other use of a key, keycard, or other restricted means of access to district property, or unauthorized entry onto or into district property.

(21) Abuse or misuse of any of the procedures relating to student complaints or misconduct, including but not limited to:

(a) Failure to obey a subpoena;

(b) Falsification or misrepresentation of information;

(c) Disruption, or interference with the orderly conduct, of a proceeding;

(d) Interfering with someone else's proper participation in a proceeding;

(e) Destroying or altering potential evidence, or attempting to intimidate or otherwise improperly pressure a witness or potential witness;

(f) Attempting to influence the impartiality of, or harassing or intimidating, a student conduct committee member; or

(g) Failure to comply with any disciplinary sanction(s) imposed under this student conduct code.

(22) Operation of any motor vehicle on district property in an unsafe manner or in a manner which is reasonably perceived as threatening the health or safety of another person.

(23) Violation of any other district rule, requirement, or procedure, including but not limited to any that is posted in electronic form, the district's traffic and parking rules, or the requirements for carpool parking.

(24) Violation of any federal, state, or local law, rule, or regulation.

(25) Aiding, abetting, inciting, encouraging, or assisting another person to commit any of the foregoing acts of misconduct.

**AMENDATORY SECTION** (Amending WSR 03-16-015, filed 7/28/03, effective 8/28/03)

**WAC 132F-121-140 Initiation of discipline.** (1) The vice-president for student services or designee at each campus is responsible for investigating possible violations of this student conduct code at that campus and initiating any appropriate disciplinary actions. If that officer is a respondent in a complaint initiated by the subject student, the college president shall, upon request and when feasible, designate another person to fulfill any such disciplinary responsibilities relative to the complainant.

(2) Any member of the district community may make a complaint against a student whom she/he believes has violated this student conduct code. Such a complaint should ordinarily be filed in writing with the vice-president for student services. However, no such complaint is required in order for that vice-president to take action on any matter that comes to his/her attention.

**AMENDATORY SECTION** (Amending WSR 03-16-015, filed 7/28/03, effective 8/28/03)

**WAC 132F-121-150 Vice-president's review and action.** (1) After conducting such initial investigation of possible misconduct as she/he deems appropriate, the vice-president for student services or designee shall meet, or make a reasonable effort to meet, with the subject student. At that meeting, or if there is no meeting in a document served on the student, the vice-president shall describe the complaint and/or information that has been received and identify the rule violations that appear to have occurred. In order that any informality not mislead the student as to the seriousness of the matter, the vice-president shall also inform the student of the sanction(s) that may be imposed for the alleged misconduct. The vice-president shall give the student an opportunity to respond to the allegations before a disciplinary decision is made.

(2) After considering the information that has been obtained through investigation and/or from the student, the vice-president may take any of the following actions:

(a) Terminate the proceeding, exonerating the student;

(b) Give any appropriate counseling or advice and then terminate the proceeding;

(c) Impose disciplinary sanction(s), subject to any right of appeal as described herein; or

(d) Refer the matter to the student conduct committee for such action as it deems appropriate. Such referral shall be in writing, to the attention of the committee chair, with a copy served on the student.

(3) A "respondent" as referred to hereinafter is a student upon whom a disciplinary sanction has been imposed or whose case has been referred to the student conduct committee.

**AMENDATORY SECTION** (Amending WSR 03-16-015, filed 7/28/03, effective 8/28/03)

**WAC 132F-121-160 Disciplinary actions.** (1) Any of the following disciplinary sanctions may be imposed for violation of one or more specified provisions of this student conduct code:

(a) Warning: Oral notice to the student of the violation(s). There shall be no appeal from a warning.

(b) Reprimand: Written notice to the student of the violation(s). A reprimand indicates, and usually states, that other or further misconduct, especially any continuation or repetition of the misconduct in question, may or will result in more serious disciplinary action. There shall be no appeal from a reprimand.

(c) Probation: Placement of one or more conditions on the student's continued attendance, as specified in the written notice to the student. The time period of the probation will ordinarily be stated in the notice; if not stated at all, or if so stated, the probation shall be for an indefinite period, concluding only with the end of the student's enrollment.

(d) Suspension from activities: Disqualification of the student, for a stated or indefinite period of time, from participation in specified (or all) privileges, services, or activities that are provided or sponsored by the district.

(e) Suspension of enrollment: Termination, for a stated or indefinite period of time, of all rights as an enrolled student in the college and/or the district, subject to the student's right to seek reinstatement as provided in WAC 132F-121-240.

(f) Expulsion: Permanent termination of a student's enrollment, and right to enroll, at any college or other educational facility in the district.

(g) Grade change: Lowering of a student's grade in a course below that awarded by the instructor.

(2) The conditions or terms of probation or suspension may include, without limitation:

(a) Restriction of future contact or communication with designated persons;

(b) Restriction of the student's access to district property; and/or

(c) Payment for personal injury, property damage, or other expenses related to the violation((-);

(d) Requirement of a medical evaluation by a qualified professional to assess the student's ability to function in the academic environment. Upon completion of the medical evaluation, the student may be readmitted so long as the stu-

dent does not pose a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices or procedures, or by the provision of auxiliary aids or services. In determining whether students with disabilities (as defined by Section 504 of the Rehabilitation Act, Title II of the ADA, and chapter 49.60 RCW) pose such a direct threat, the vice-president of student services or designee will make an individualized assessment based on reasonable judgment that relies on current medical knowledge or on the best available evidence, to ascertain the nature, duration, and severity of the risk and the likelihood, imminence, and nature of future harmful conduct to others in the college community:

(e) Requirement of satisfactory completion of anger management therapy or other specified counseling.

Failure to comply with a condition or term of probation or suspension shall be cause for further disciplinary sanction.

(3) A respondent's record of past misconduct may be considered in determining the appropriate disciplinary action.

(4) A summary suspension (~~((and/or an emergency suspension))~~) under WAC 132F-121-250 may be combined with or added to another suspension or an expulsion.

(5) A suspension or expulsion may include a provision stating whether all or any part of the respondent's tuition and other fees will be refunded.

(6) A disciplinary sanction, except a warning, shall be imposed through written notice served on the respondent. Each notice of disciplinary action shall state:

(a) A reasonable description of the facts on which the action is based;

(b) The provision(s) of this student conduct code found to have been violated;

(c) The sanction(s) imposed; and

(d) The respondent's right to appeal, i.e., to request an adjudicative proceeding, under these rules (except for a reprimand).

A copy of these student conduct rules should be included with the notice.

AMENDATORY SECTION (Amending WSR 03-16-015, filed 7/28/03, effective 8/28/03)

**WAC 132F-121-170 Appeals and referrals generally.**

(1) Except as otherwise provided herein, a respondent who has received notice of disciplinary sanction(s) imposed by the vice-president for student services may appeal such sanction(s) by filing a written notice of appeal with that officer within twenty days. The notice of appeal may include any statement that the respondent wishes to make of the grounds for her/his appeal.

(2) If the vice-president has referred the matter to the student conduct committee for action, no appeal is required, but the student may file a written response with the vice-president within twenty days of service of that referral.

(3) Except for conduct matters referred for brief adjudicative proceedings, the vice-president shall promptly transmit any notice of appeal or response to referral, together with a copy of any notification of discipline, to the chair of the student conduct committee, described below. The vice-president should serve a copy of that transmittal on the respondent.

(4) Except through a summary suspension (~~((and/or emergency suspension))~~) under WAC 132F-121-250, a respondent's enrollment status and rights as an enrolled student shall not be altered, on the basis of a disciplinary sanction imposed by the vice-president, until (a) the appeal period has run without a proper appeal being filed or (b) if there is an appeal, either that appeal has been withdrawn or the final order has been entered.

(5) If a respondent files a timely appeal of a probation or suspension that includes restrictions on contacts, communications, or campus access, the vice-president will ordinarily modify those restrictions as necessary to facilitate the respondent's preparation for the hearing.

AMENDATORY SECTION (Amending WSR 03-16-015, filed 7/28/03, effective 8/28/03)

**WAC 132F-121-180 Student conduct committee. (1)**

A student conduct committee at each college will hear all disciplinary cases at that college which are referred to it by the vice-president for student services or appealed to it by a student. For purposes of WAC 132F-108-020 and any other requirements, the district trustees and chancellor and each college president designate (a) the committee provided for herein to serve as presiding officer to hear the described student disciplinary matters and (b) the committee chair both to handle and decide procedural matters (as provided herein) and to preside at the hearing.

(2) This committee shall be composed of the following three members:

(a) One administrator or exempt employee, appointed by the college president;

(b) One member of the faculty, appointed by the college president; and

(c) One student, appointed by the president of the recognized student government organization.

(3) Each appointment shall be accompanied by the appointment of two alternates. Each member and alternate shall serve for the academic year or until a replacement is appointed, whichever is longer. When a member is not available for a hearing, the committee chair shall designate an alternate to replace him/her for that hearing. If a member or alternate ceases to serve, a successor shall be promptly appointed. A member or alternate may be reappointed in any role.

(4) The administrator or exempt employee shall be the committee chair.

(5) ~~((No employee who reports to, or is subject to the authority of, the vice-president who handles student disciplinary matters may be a committee member, as further provided in RCW 34.05.458.))~~ A committee member is subject to disqualification for bias, prejudice, interest, or as further provided in RCW 34.05.425.

AMENDATORY SECTION (Amending WSR 03-16-015, filed 7/28/03, effective 8/28/03)

**WAC 132F-121-190 Student conduct committee hearings—In general. (1)**

A respondent student has a right to a prompt, fair, and impartial hearing before the student conduct committee on a referral for, or timely appeal of, a

disciplinary sanction, except as otherwise provided in these rules.

(2) Chapter 34.05 RCW and chapter 10-08 WAC govern committee proceedings and control in the event of any conflict with these rules. The district's chapter 132F-108 WAC also governs committee proceedings.

(3) The chair of the committee shall give not less than seven days advance written notice of the hearing to all parties, as further specified in RCW 34.05.434 and WAC 10-08-040 and 10-08-045. The chair may shorten this notice period if both parties agree, and also may continue the hearing to a later time for good cause.

(4) The committee chair may provide to the committee members in advance of the hearing copies of (a) the vice-president for student service's notification of imposition of discipline (or referral to the committee) and (b) the notice of appeal (or any response to referral) by the respondent. If doing so, however, the chair should remind the members that these "pleadings" are not evidence of any facts they may allege.

(5) The committee chair is authorized to conduct prehearing conferences and/or to make prehearing decisions, except as overridden by majority vote of the committee, concerning the extent and forms of any discovery, issuance of protective orders, and similar procedural matters.

(6) Upon request made at least five days before the hearing by either the respondent or the vice-president, the two of them shall exchange, no later than the third day prior to the hearing, lists of potential witnesses and copies of potential exhibits that they reasonably expect to present in their respective cases, except impeachment or rebuttal evidence. Failure to participate in good faith in such a requested exchange may be cause for exclusion from the hearing of any witness or exhibit not disclosed, absent a showing of good cause for such failure.

(7) The respondent and the vice-president may agree before the hearing to designate specific exhibits as admissible without objection and, if they do so, whether the committee chair may provide copies of these admissible exhibits to the committee members before the hearing.

(8) The vice-president shall provide reasonable assistance to the respondent, upon request, in obtaining relevant and admissible evidence that is within the college's control.

(9) Communications between committee members and other persons regarding any issue in the proceeding, other than procedural communications that are necessary to maintain an orderly process, are generally prohibited without notice and opportunity for all parties to participate, and any improper "ex parte" communication shall be placed on the record, as further provided in RCW 34.05.455.

(10) Each party may be accompanied at the hearing by a nonattorney assistant of his/her choice. A respondent may elect to be represented by an attorney, but will be deemed to have waived that right unless, at least four days before the hearing, written notice of the attorney's identity and participation is served on both the chair and the vice-president. If the respondent is represented by an attorney, the vice-president may also be represented by an attorney. If both the respondent and vice-president have counsel, the committee

will ordinarily be advised by a separate assistant attorney general.

(11) Minor disciplinary actions imposing probation or suspension of ten instructional days or less and any conditions or terms placed on the student may be conducted by a brief adjudicative proceeding in accordance with RCW 34.05.482 through 34.05.494.

AMENDATORY SECTION (Amending WSR 03-16-015, filed 7/28/03, effective 8/28/03)

**WAC 132F-121-250 Summary ((and emergency) suspensions.** ~~((1) As part of a suspension or expulsion, a summary suspension and/or an emergency suspension may be imposed in accordance with this section. All, or specified, rights as an enrolled student may be suspended.~~

~~(2) A summary suspension may be imposed when necessary to prevent or avoid immediate disruption, danger, or other harm to the educational process or to the health, safety, or welfare of any member(s) of the public, including the district community. The summary suspension may be ordered only after the respondent has been given oral or written notice of the charge(s) and, if he/she denies them, an explanation of the evidence and an opportunity to respond. The order shall be effective when served. A summary suspension may be ordered:~~

~~(a) For ten days or less, by the vice-president; and/or~~

~~(b) For any time period through the final determination of a respondent's appeal, by the student conduct committee, upon the written request of the vice-president. The vice-president shall serve a copy of this request on the respondent. Before entering its order, the committee shall hold an initial hearing, as it determines is appropriate.~~

~~(3) An emergency suspension may be ordered by the vice-president under RCW 34.05.479 when necessary to prevent or avoid immediate danger to the health, safety, or welfare of any member(s) of the public, including the district community:~~

~~(a) Before ordering an emergency suspension, the vice-president shall make reasonable effort to give the respondent oral or written notice of the charge(s) and, if the respondent denies such, an explanation of the evidence and an opportunity to respond.~~

~~(b) The vice-president may order the emergency suspension only to the extent, and only for the time period, necessary to prevent or avoid the immediate danger, and only in compliance with RCW 34.05.479. The vice-president shall serve the order on the respondent, or otherwise give him/her such notice as is practicable, and shall also serve a copy on the student conduct committee.~~

~~(c) After the emergency suspension order is served, the vice-president and the committee shall proceed as quickly as feasible to complete the appeal proceeding.)~~ (1) A summary suspension is a temporary exclusion from specified college premises or denial of access to all activities or privileges for which the student might otherwise be eligible, during which an investigation and/or formal disciplinary procedures are pending.

Suspension may be imposed, if the vice-president for student services or his/her designee(s) has cause to believe that any student:

(a) Has violated any provision of the code of conduct; and

(b) Presents an immediate danger to the health, safety or welfare of members of the college community; or

(c) If the student poses an ongoing threat of disruption of, or interference with, the operations of the college, that student may be summarily suspended.

(2) Notice. Any student who has been summarily suspended shall be served with written notice or verbal notice of the summary suspension. If such notice is made in writing, it shall be provided by certified mail and first class mail delivered to the student's last known address.

(3) The oral or written notice to the student shall include the reasons for summary suspension, duration of the summary suspension, and any possible additional disciplinary or corrective action that may be taken. The notification shall indicate that the student must appear before the vice-president of student services or designee for a summary suspension hearing at a time specified in the notice. If oral notice is given, written notice shall follow within two calendar days. In addition, the vice-president for student services or designee shall set a date for summary suspension hearing as soon as practicable.

(4) The student shall be given the opportunity to present written and/or oral evidence. The issue before the vice-president for student services or designee shall be whether probable cause exists to support and to continue the summary suspension.

(5) The vice-president for student services or designee shall issue a written order within two days of the informal hearing, including a brief statement of findings of fact, conclusions of law, and policy reasons for the decision to justify the determination of an immediate danger and the vice-president's decision to take the specific action.

(6) If a student who has been summarily suspended fails to appear for a summary suspension hearing, the vice-president for student services may order the suspension to remain in place pending the final disposition of the disciplinary process as provided in this section.

(7) The student may request a de novo review of the informal hearing decision before the student conduct committee. The review will be scheduled promptly. Either party may request the review to be consolidated with any other disciplinary proceeding arising from the same matter.

(8) Nothing herein shall prevent faculty members from taking summary action as may be reasonably necessary to maintain order in the classroom and/or prevent substantial disruption to the educational process. Such summary action in the form of removal from the classroom may not exceed one day per episode. Any such summary action may be appealed to the vice-president for student services for a brief adjudicative proceeding.

**WSR 13-05-069**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**

[Filed February 19, 2013, 8:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-24-025.

Title of Rule and Other Identifying Information: WAC 230-06-080 Report changes to application information and submit updated documents and information.

Hearing Location(s): Comfort Inn Conference Center, 1620 74th Avenue S.W., Tumwater, WA 98501, (360) 352-0691, on April 11 or 12, 2013, at 9:00 a.m. or 1:00 p.m. NOTE: Meeting dates and times are tentative. Visit our web site at [www.wsgc.wa.gov](http://www.wsgc.wa.gov) and select public meeting about ten days before the meeting to confirm meeting date/location/start time.

Date of Intended Adoption: April 11 or 12, 2013.

Submit Written Comments to: Susan Newer, P.O. Box 42400, Olympia, WA 98504-2400, e-mail [Susan.Newer@wsgc.wa.gov](mailto:Susan.Newer@wsgc.wa.gov), fax (360) 486-3625, by April 1, 2013.

Assistance for Persons with Disabilities: Contact Gail Grate by April 1, 2013, TTY (360) 486-3637 or (360) 486-3453.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Staff is requesting a rule change to clarify that licensees must report certain new and updated information to us within thirty days, such as changes in their articles of incorporation or bylaws, contracts that related to gambling activities, and cash contributions.

Reasons Supporting Proposal: The thirty day requirement was previously in our rules and was inadvertently removed during a rules simplification project (RSP) that was completed in 2008 to rewrite our rules in plain talk. Prior to the RSP, this rule was worded slightly different. The thirty day reporting requirement was specifically required for the items listed in subsection (2) of the rule. During RSP, the thirty day time frame was only included in subsection (1), which only pertains to items initially submitted with an application. Subsection (2) pertains to new or updated documents that must be reported to agency staff so they can be properly reviewed, approved and investigated if necessary (e.g., loans, contracts/agreements, business organizational documents, etc.). This change makes clear the types of documents and timeline the documents must be submitted to us.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Not applicable.

Name of Proponent: Washington state gambling commission, governmental.

Name of Agency Personnel Responsible for Drafting: Susan Newer, Lacey, (360) 486-3466; Implementation: Rick Day, Director, Lacey, (360) 486-3446; and Enforcement: Mark Harris, Assistant Director, Lacey, (360) 486-3579.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement has not been prepared pursuant to RCW 19.85.025, and/or the proposed rule change clarifies language of rules without changing the effect.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state gambling commission is

not an agency that is statutorily required to prepare a cost-benefit analysis under RCW 34.05.328.

February 19, 2013  
Susan Newer  
Rules Coordinator

AMENDATORY SECTION (Amending Order 601, filed 8/22/06, effective 1/1/08)

**WAC 230-06-080 Report changes to application information and submit updated documents and information.** (1) Licensees must notify us in writing if any information filed with the application changes in any way within thirty days of the change.

(2) Licensees must submit to us any new or updated documents and information within thirty days of the effective date of the document or information, including the following:

(a) Articles of incorporation or bylaws, or any other documents which set out the organizational structure and purposes; and

(b) All oral or written contracts and agreements which relate to gambling activities or alter the organizational structure of the licensee's organization or business activities in Washington; and

(c) All cash or asset contributions, draws from lines of credit, and loans (except those from recognized financial institutions) during any calendar year which by themselves or totaled together are more than ten thousand dollars. Cash or asset contributions do not include donations to licensed charitable or nonprofit organizations; and

(d) Internal Revenue Service tax deductible status of contributions for charitable and nonprofit organizations.

**WSR 13-05-076  
PROPOSED RULES  
OFFICE OF  
INSURANCE COMMISSIONER**

[Commissioner Matter No. R 2012-28—Filed February 19, 2013, 4:10 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-22-069.

Title of Rule and Other Identifying Information: Health plan carrier allocation account requirements.

Hearing Location(s): Training Room, T-120, 5000 Capitol Boulevard South, Tumwater, WA, on March 26, 2013, at 10:00 a.m.

Date of Intended Adoption: March 28, 2013.

Submit Written Comments to: Meg L. Jones, P.O. Box 40258, Olympia, WA 98504, e-mail rulescoordinator@oic.wa.gov, fax (360) 586-3109, by March 25, 2013.

Assistance for Persons with Disabilities: Contact Lorie Villaflores by March 24, 2013, TTY (360) 586-0241 or (360) 725-7087.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Section 1303 of the Affordable Care Act (Pub. Law 111-148, 2010, as amended) requires carriers to establish allocation accounts

that segregate subsidy funding for a plan's abortion benefit from other premium funds received from exchange enrollees. The section also requires inclusion of notice of the fund segregation in the summary of benefits and coverage explanation. Specifically, 1303 (b)(E)(i) places the obligation to ensure compliance with the segregation requirements on state insurance commissioners.

In order to participate in the exchange, carriers must be in good standing with the office of the insurance commissioner. Being in compliance with this accounting procedures requirement is one of the elements of good standing, and under the Affordable Care Act, confirmation of compliance is specifically delegated to the state insurance regulator. The proposed rule explains the commissioner's implementation of the Affordable Care Act's requirements in this regard.

Statutory Authority for Adoption: RCW 48.02.060.

Statute Being Implemented: Section 1303(b), Affordable Care Act, Pub. Law 111-148, 2010, as amended.

Rule is necessary because of federal law, Section 1303(b), Pub. Law 111-148, 2010 as amended.

Name of Proponent: Office of the insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Meg Jones, 302 Sid Snyder Boulevard South, Olympia, WA, (360) 725-7170; Implementation: Jim Odiorne, 5000 Capitol Way South, Tumwater, WA, (360) 725-7214; and Enforcement: Carol Sureau, 5000 Capitol Way South, Tumwater, WA, (360) 725-7050.

No small business economic impact statement has been prepared under chapter 19.85 RCW. None of the businesses affected meets the definition of small business.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Meg Jones, 302 Sid Snyder Boulevard, Olympia, WA 98504, phone (360) 725-7170, fax (360) 586-3109, e-mail rulescoordinator@oic.wa.gov.

February 19, 2013

Mike Kreidler

Insurance Commissioner

NEW SECTION

**WAC 284-07-540 Issuer segregation of premium accounting plan.** (1) For purposes of this section, "issuer" has the definition found in RCW 48.01.053.

(2) A health plan issuer, whether domestic, foreign or alien, must obtain the commissioner's prior written approval of its accounting practice plan for segregating premium allocated to a termination of pregnancy benefit. This requirement only applies to qualified issuers certified through the health benefit exchange, for qualified health plans issued on the exchange.

(a) The segregation plan must describe the accounting practices the issuer will use to ensure segregation of federal funds for premium and claims for nonexcepted termination of pregnancy benefits from other premium received from an enrollee who receives a premium tax benefit or cost-sharing subsidy pursuant to enrollment on the health benefit exchange. The segregation plan must allocate the two types of premium to separate accounts (allocation accounts). The

segregation plan must also ensure that claims for the nonexpected termination of pregnancy benefit are not paid from an allocation account into which federal funds are placed.

(b) The segregation plan must ensure strict separation of funds between the allocation accounts, and include at least one allocation account solely for the deposit of private premium dollars used to pay for abortion coverage, and a second allocation account to process premium dollars paid for all other covered benefits.

(c) This rule does not require an issuer to conduct two separate premium transactions with enrollees. For purposes of approval by the commissioner, the segregation of premium may occur solely as an accounting transaction.

(3) A health plan issuer must submit its plan to the commissioner in writing more than thirty days prior to its proposed effective date, and may not be used until thirty days after the commissioner has approved the plan in writing. For good cause, the commissioner may reduce either time period.

(4) A health plan issuer may not implement any changes or amendments to its segregated account accounting plan prior to receiving the commissioner's written approval.

(5) Instructions as to how and where an issuer must send its request for approval of its segregation of premium accounting plan may be found on the commissioner's web site at [www.insurance.wa.gov](http://www.insurance.wa.gov).

(6) A filing under this section must include the following information:

(a) The proposed effective date and the date of the first filed financial statement in which the proposed segregated account will be reported;

(b) A description of accounting systems for processing premium payments for products on the exchange that offer termination of pregnancy benefits, including:

(i) The financial accounting systems, including documentation and internal controls, to ensure the appropriate segregation of payments received for coverage of nonexpected termination of pregnancy benefits from those received for coverage of all other services, which may be supported by federal premium tax credits and cost-sharing reduction payments;

(ii) The financial accounting systems, including accounting documentation and internal controls, that ensure that all expenditures for nonexpected termination of pregnancy benefits are reimbursed from the appropriate allocation account; and

(iii) An explanation of how the issuer's systems, including accounting documentation and internal controls meet the requirements for segregation accounts under the law.

(7) After an accounting practice plan for segregating premium has been approved, an issuer must file with its annual statement filed with the commissioner on or before March 1st of each year:

(a) Certification that the issuer is certified as a qualified issuer through the exchange;

(b) An annual supplemental information schedule containing a reconciliation of all segregated account activity (beginning balance + receipts - disbursements = ending balance) for the year. The annual supplemental information schedule shall be electronically filed with the commissioner

in PDF format in compliance with the form and instructions contained on the commissioner's web site;

(c) The annual supplemental information schedule shall contain an affirmation of the issuer's CEO and CFO that the financial accounting systems, including accounting documentation and internal controls, of the segregated account covered by the annual supplemental information schedule meet the requirements for segregated accounts under the ACA;

(d) The annual audit of issuers conducted by independent certified public accountants, in addition to all other requirements of opinions, shall opine on whether the supplementary information contained in the annual supplemental information schedule is fairly stated, and, if the segregated accounts financial accounting systems, including documentation and internal controls, comply with the requirements of the ACA. The CPA report will be filed with the issuers annual audited financial statement filed with the commissioner;

(e) Stating the amount of premium segregated for each product offered on the exchange, calculated as if the coverage were included for the entire population of enrollees. The amount of premium must not be less than one dollar per enrollee, per month; and

(f) Stating the number of enrollees, by plan for the benefit year, for whom premium was segregated pursuant to this rule, P.L. 111-148 (111th Congress, 2010), at Section 1303(b)(2)(B) and (C), and 45 C.F.R. Sec. 156.280.

(8) The commissioner may periodically audit issuers and each product subject to which this regulation applies to verify compliance. The commissioner will retain working papers and periodic audit reports for a period of not less than three years, and may make the reports available to the state health benefit exchange or the U.S. Department of Health and Human Services upon request.

## WSR 13-05-077

### PROPOSED RULES

#### OFFICE OF

#### INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2013-01—Filed February 19, 2013, 4:12 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 13-02-095.

Title of Rule and Other Identifying Information: Geographic rating area designation.

Hearing Location(s): Training Room, T-120, 5000 Capitol Way South, Tumwater, WA, on March 26, 2013, at 11:00 a.m.

Date of Intended Adoption: March 28, 2013.

Submit Written Comments to: Meg L. Jones, P.O. Box 40258, Olympia, WA 98504, e-mail [rulescoordinator@oic.wa.gov](mailto:rulescoordinator@oic.wa.gov), fax (360) 586-3109, by March 25, 2013.

Assistance for Persons with Disabilities: Contact Lorie Villaflora by March 25, 2013, TTY (360) 586-0241 or (360) 725-7087.

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

rules establish the geographic rating areas that nongrandfathered individual and small group plans would be required to use in adjusting their premium rates with a geographic factor, for plans offered beginning January 1, 2014.

Reasons Supporting Proposal: If the state does not designate geographic rating areas, the United States Department of Health and Human Services (HHS) stated in 2012 proposed rules (proposed 45 C.F.R. 147.102 (b)(1)) that it intends to do so. After a review of cost variance and current practices by Washington domestic carriers, the commissioner determined that a determination of geographic rating areas, based on county and organized in comparison to an index rating county (King County) merited proposal as the state's designation of geographic rating areas. Carriers have advised the commissioner that one geographic area would negatively affect rates; this proposed rule making focuses on selecting the geographic rating areas for Washington.

Statutory Authority for Adoption: RCW 48.02.060, 48.44.050, 48.46.200, 48.110.150.

Statute Being Implemented: RCW 48.20.025, 48.20.-028, 48.21.045, 48.44.017, 48.44.023, 48.46.062, 48.46.066.

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

Name of Proponent: Office of the insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Meg Jones, 302 Sid Snyder Boulevard South, Olympia, WA 98504, (360) 725-7170; Implementation: Beth Berendt, 5000 Capitol Boulevard South, Olympia, WA 98504, (360) 725-7117; and Enforcement: Carol Sureau, 5000 Capitol Boulevard South, Olympia, WA 98504, (360) 725-7050.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The entities affected are not small businesses, per the definitions in chapter 19.85 RCW.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Meg Jones, 302 Sid Snyder Boulevard, Olympia, WA 98504, phone (360) 725-7170, fax (360) 586-3109, e-mail rulescoordinator@oic.wa.gov.

February 19, 2012

Mike Kreidler

Insurance Commissioner

#### NEW SECTION

**WAC 284-170-250 Geographic rating area factor development.** (1) For nongrandfathered individual or small group health plans offered, issued or renewed on or after January 1, 2014, if an issuer elects to adjust its premium rates based on geographic area, the issuer must use the geographic rating areas designated in WAC 284-170-252.

(2) The premium ratio for the highest cost geographic rating area, when compared to the lowest cost geographic rating area, must not be more than 1.15.

(a) King County is the index geographic rating area for purposes of calculating the premium ratio. The geographic rating area factor for the index area must be set at 1.00.

(b) A health-status related factor may not be used to establish a rating factor for a geographic rating area. Health factor means any of the following:

- (i) Health status of enrollees or the population in an area;
- (ii) Medical condition of enrollees or the population in an area, including both physical and mental illnesses;
- (iii) Claims experience;
- (iv) Health services utilization in the area;
- (v) Medical history of enrollees or the population in an area;
- (vi) Genetic information of enrollees or the population in an area;
- (vii) Disability status of enrollees or the population in an area;
- (viii) Other evidence of insurability applicable to the area.

(3) Assignment of a factor to a geographic rating area must be actuarially sound and based on provider reimbursement differences. An issuer must fully document the basis for the assigned rating factors in the actuarial memo submitted with a rate filing.

(4) The geographic rating area factors must be applied uniformly to individuals or small groups applying for or receiving coverage from the issuer.

(5) This section does not apply to stand alone dental plans offered on the Washington health benefit exchange.

#### NEW SECTION

**WAC 284-170-252 Geographic rating area designation.** (1) The following geographic rating areas are designated for Washington state for nongrandfathered individual and small group plans:

Area 1: Index geographic rating area: King County.

Area 2: Clallam, Cowlitz, Grays Harbor, Island, Jefferson, Mason, Lewis, Kitsap, Pacific, Pierce, San Juan, Skagit, Snohomish, Thurston, Wahkiakum, and Whatcom counties.

Area 3: Clark, Klickitat, and Skamania counties.

Area 4: Ferry, Lincoln, Pend Oreille, Spokane, and Stevens counties.

Area 5: Adams, Asotin, Benton, Chelan, Columbia, Douglas, Franklin, Garfield, Grant, Kittitas, Okanogan, Walla Walla, Whitman, and Yakima counties.

Area 6: Non-Washington rating area: The geographic rating areas for those enrollees residing in areas outside Washington state.

(2) The commissioner will review the geographic rating area designation in this section not more frequently than every three years, beginning January 31, 2016. The commissioner will publish changes in the geographic rating area designation within sixty days of the review date.

**WSR 13-05-079**

**PROPOSED RULES**

**PUGET SOUND**

**CLEAN AIR AGENCY**

[Filed February 19, 2013, 5:08 p.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: Amend Regulation I, Section 6.01 (Components of New Source Review Program).

Hearing Location(s): Puget Sound Clean Air Agency, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, on March 28, 2013, at 8:45 a.m.

Date of Intended Adoption: March 28, 2013.

Submit Written Comments to: Rob Switalski, Puget Sound Clean Air Agency, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, e-mail robs@pscleanair.org, fax (206) 343-7522, by March 27, 2013.

Assistance for Persons with Disabilities: Contact agency receptionist, (206) 689-4010, by March 21, 2013, TTY (800) 833-6388 or (800) 833-6385 (Braille).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amendments will update the agency's references to be consistent with the latest version of ecology's rules. There are no new provisions of those ecology regulations being included in this proposal. These proposed amendments are only intended to update the referenced effective dates of previous ecology rule provisions adopted. We have amended these regulations several times before, the most recent being in September 2011 in response to updated ecology regulations which became effective on April 1, 2011.

Reasons Supporting Proposal: The benefit of this proposal is to keep our regulations up-to-date and consistent with others in the state. As the agency has chosen to follow a hybrid model for the notice of construction program to include portions of ecology regulations incorporated by reference, it is important to keep those references current. There are no anticipated cost increases associated with this proposal.

Statutory Authority for Adoption: Chapter 70.94 RCW. Statute Being Implemented: RCW 70.94.141.

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

Name of Proponent: Puget Sound Clean Air Agency, governmental.

Name of Agency Personnel Responsible for Drafting: Steve Van Slyke, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, (206) 689-4052; Implementation and Enforcement: Laurie Halvorson, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, (206) 689-4030.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This agency is not subject to the small business economic impact provision of the Administrative Procedure Act, and the agency is not a school district.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to local air agencies, per RCW 70.94.141.

February 19, 2013  
Craig Kenworthy  
Executive Director

## AMENDATORY SECTION

### SECTION 6.01 COMPONENTS OF NEW SOURCE REVIEW PROGRAM

(a) In addition to the provisions of this regulation, the Agency adopts by reference and enforces the following provisions of the new source review program established by the Washington State Department of Ecology:

WAC 173-400-030	Definitions. (effective <u>12/29/12</u> ( <del>(4/01/11)</del> ))
WAC 173-400-081	Startup and shutdown. (effective 4/01/11)
WAC 173-400-110	New source review (NSR) for sources and portable sources. (effective <u>12/29/12</u> ( <del>(4/01/11)</del> )) (1)(c)(i), (1)(d) and (1)(e)
WAC 173-400-111	Processing notice of construction applications for sources, stationary sources and portable sources. (effective <u>12/29/12</u> ( <del>(4/01/11)</del> ))
WAC 173-400-112	Requirements for new sources in nonattainment areas. (effective <u>12/29/12</u> ( <del>(4/01/11)</del> ))
WAC 173-400-113	Requirements for new sources in attainment or unclassifiable areas. (effective <u>12/29/12</u> ( <del>(4/01/11)</del> ))
WAC 173-400-114	Requirements for replacement or substantial alteration of emission control technology at an existing stationary source. (effective <u>12/29/12</u> ( <del>(9/15/04)</del> ))
WAC 173-400-117	Special protection requirements for federal Class I areas. (effective <u>12/29/12</u> ( <del>(2/10/05)</del> ))
WAC 173-400-171	Public notice. (effective <u>12/29/12</u> ( <del>(04/01/11)</del> ))
WAC 173-400-200	Creditable stack height and dispersion techniques. (effective 2/10/05)
WAC 173-400-560	General order of approval. (effective <u>12/29/12</u> ( <del>(4/01/11)</del> ))
WAC 173-400-700	Review of major stationary sources of air pollution. (effective 4/01/11)
WAC 173-400-710	Definitions. (effective <u>12/29/12</u> ( <del>(6/08/07)</del> ))
WAC 173-400-720	Prevention of significant deterioration (PSD). (effective <u>12/29/12</u> ( <del>(09/10/11)</del> ))
WAC 173-400-730	Prevention of significant deterioration application processing procedures. (effective <u>12/29/12</u> ( <del>(4/01/11)</del> ))

WAC 173-400-740	PSD permitting public involvement requirements. (effective <u>12/29/12</u> ( <del>(2/10/05)</del> ))
WAC 173-400-750	Revisions to PSD permits. (effective <u>12/29/12</u> ( <del>(4/01/11)</del> ))
WAC 173-400-800	Major stationary source and major modification in a nonattainment area. (effective 4/01/11)
WAC 173-400-810	Major stationary source and major modification definitions. (effective <u>12/29/12</u> ( <del>(4/01/11)</del> ))
WAC 173-400-820	Determining if a new stationary source or modification to a stationary source is subject to these requirements. (effective <u>12/29/12</u> ( <del>(4/01/11)</del> ))
WAC 173-400-830	Permitting requirements. (effective <u>12/29/12</u> ( <del>(4/01/11)</del> ))
WAC 173-400-840	Emission offset requirements. (effective <u>12/29/12</u> ( <del>(4/01/11)</del> ))
WAC 173-400-850	Actual emissions plantwide applicability limitation (PAL). (effective <u>12/29/12</u> ( <del>(4/01/11)</del> ))
WAC 173-400-860	Public involvement procedures. (effective 4/01/11)
WAC 173-460-020	Definitions. (effective 6/20/09)
WAC 173-460-030	Applicability. (effective 6/20/09)
WAC 173-460-040 (2)-(3)	New source review. (effective 6/20/09)
WAC 173-460-050	Requirement to quantify emissions. (effective 6/20/09)
WAC 173-460-060(1)	Control technology requirements. (effective 6/20/09)
WAC 173-460-070	Ambient impact requirement. (effective 6/20/09)
WAC 173-460-071	Voluntary limits on emissions. (effective 6/20/09)
WAC 173-460-080 (2)-(4)	First tier review. (effective 6/20/09)
WAC 173-460-090	Second tier review. (effective 6/20/09)
WAC 173-460-100	Third tier review. (effective 6/20/09)
WAC 173-460-150	Table of ASIL, SQER and de minimis emission values. -excluding references to de minimis emission values (effective 6/20/09)

(b) The Washington State Department of Ecology is the permitting agency for the Prevention of Significant Deterioration (PSD) program under WAC 173-400-700 through WAC 173-400-750 (as delegated by agreement with the US Environmental Protection Agency, Region 10), and for pri-

mary aluminum smelters, kraft pulp mills, and sulfite pulp mills.

(c) The Washington State Department of Health is the permitting agency for radionuclides under chapter 246-247 WAC.

(d) The Energy Facility Site Evaluation Council (EFSEC) is the permitting agency for large natural gas and oil pipelines, electric power plants above 350 megawatts, new oil refineries or large expansions of existing facilities, and underground natural gas storage fields under chapter 463-78 WAC.

**WSR 13-05-080**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**RETIREMENT SYSTEMS**

[Filed February 20, 2013, 8:16 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-22-077.

Title of Rule and Other Identifying Information: Revising WAC 415-110-685 Am I eligible for membership and service credit as a classified substitute? and 415-112-140 Am I eligible for membership and service credit as a substitute teacher?; and repealing WAC 415-110-605 Do I qualify for retirement from Plan 3?, 415-112-501 Do I qualify for retirement from Plan 2?, and 415-112-502 Do I qualify for retirement from Plan 3?

Hearing Location(s): Department of Retirement Systems, 6835 Capitol Boulevard, Conference Room 115, Tumwater, Washington, on March 26, 2013, at 1:30 p.m.

Date of Intended Adoption: March 26, 2013.

Submit Written Comments to: Jilene Siegel, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, e-mail [jilenes@drs.wa.gov](mailto:jilenes@drs.wa.gov), fax (360) 753-5397, by March 26, 2013, 1:00 p.m.

Assistance for Persons with Disabilities: Contact Jilene Siegel by March 22, 2013, TTY (866) 377-8895 or (360) 586-5450.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Implements the provisions of 2ESB 6378 related to changing the retirement allowance reductions for members who begin membership in PERS, SERS or TRS on or after May 1, 2013, and subsequently retire [retire] after reaching age fifty-five and completing thirty or more years of service.

Reasons Supporting Proposal: These changes are necessary to clarify when membership begins for substitutes who establish membership by purchasing service credit on or after May 1, 2013.

Statutory Authority for Adoption: RCW 41.50.050(5).

Statute Being Implemented: RCW 41.32.765 and 41.35.420.

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

Name of Proponent: Department of retirement systems, governmental.

Name of Agency Personnel Responsible for Drafting: Jilene Siegel, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291; Implementation: Shawn Merchant, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7303; and Enforcement: Jennifer Dahl, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7219.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable. These rules do not impact small businesses and are not being submitted by the state board of education.

A cost-benefit analysis is not required under RCW 34.05.328. The department of retirement systems is not one of the departments named in RCW 34.05.328 requiring a cost-benefit analysis.

January 23, 2013  
Jilene Siegel  
Rules and  
Contracts Manager

AMENDATORY SECTION (Amending WSR 04-04-041, filed 1/29/04, effective 3/1/04)

**WAC 415-110-685 Am I eligible for membership and service credit as a classified substitute employee? ~~((1) You may establish or reestablish membership by purchasing service credit in SERS as a classified substitute if you meet eligibility criteria:~~**

**~~(a) SERS Plan 2:~~**

~~You may apply to the department for membership in Plan 2 if you work at least seventy hours for five or more months during a school year and:~~

~~(i) Were previously a member of SERS Plan 2 and withdrew; or~~

~~(ii) Are or were a member of PERS Plan 2.~~

**~~(b) SERS Plan 3:~~**

~~You may apply to the department for membership in Plan 3 if you work at least seventy hours for five or more months during a school year and:~~

~~(i) You have never been a member of SERS Plan 2;~~

~~(ii) You have never been a member of PERS Plan 2; or~~

~~(iii) You were a member of PERS Plan 2 who transferred to PERS Plan 3.~~

**~~(2) As an established member you may purchase any amount of service credit as a classified substitute:~~**

**~~SERS Plan 2 or 3:~~**

~~(a) You must purchase all of the service you rendered during the school year.~~

~~(b) You do not have a minimum amount of service you must have worked.~~

**~~(3) To apply, you must submit your application to the department at the end of the school year:~~**

~~To apply for membership and service credit as a classified substitute, you must submit the correct application form (Plan 2 or Plan 3) and your employer's quarterly reports to the department, if applicable, no earlier than August 31 of the school year for which you are applying for service credit.~~

**~~(4) You must make payments within six months of the end of the school year to avoid recovery interest charges.~~**

~~(a) You have six months following the end of the school year in which the service was provided to purchase the service credit by paying the appropriate member contributions in full to avoid interest charges.~~

~~(b) After the six month period, recovery interest shall be charged prospectively (March 1 forward) on the contributions due.~~

~~(i) SERS Plan 2 members: Interest is charged on both employer and member contributions.~~

~~(ii) SERS Plan 3 members: Interest is charged on employer contributions only.~~

~~(5) Defined terms used: Definitions for the following terms used in this section may be found in the sections listed:~~

~~(a) "Classified employee"—RCW 41.35.010(37).~~

~~(b) "Member"—RCW 41.35.010(5).~~

~~(c) "Service"—RCW 41.35.010(7).~~

~~(d) "Substitute employee"—RCW 41.35.010(38).)~~ (1) If

you have never been a member of the school employees' retirement system (SERS), you may establish membership in Plan 2 or Plan 3 if you worked as a classified substitute employee for seventy or more hours per month during at least five months within a single school year period of September 1st through August 31st. Your membership will begin when your first optional bill to purchase substitute teaching service credit is paid in full.

(2) If you have already established membership in SERS Plan 3, or if you have established membership in SERS Plan 2 and have not withdrawn your contributions, you may apply to the department for service credit as described in subsection (4) of this section, for any compensated employment as a classified substitute employee that occurs after your first month of established service credit. You may apply for service credit for compensated employment as a classified substitute employee that occurred prior to your first month of established service credit if it meets the requirements for membership as described in subsection (1) of this section.

(3) If you previously established membership in SERS Plan 2 and withdrew your contributions, you may reestablish your membership by purchasing service credit if you worked as a classified substitute employee for seventy or more hours per month during at least five months within a single school year period of September 1st through August 31st.

(4) To apply, you must submit a classified substitute's application for service credit.

(a) Applications must be submitted no earlier than September 1st following the end of the school year in which you worked.

(b) If you are establishing membership in SERS for the first time, you must also submit a member information form to indicate your selection of Plan 2 or Plan 3.

(c) If you are an established Plan 3 member, you must also submit a member information form to indicate your contribution rate and investment options.

(d) If you are purchasing service credit for the 2003-04 school year, you must also submit quarterly reports to DRS along with your application for service credit. Quarterly reports must show the exact hours worked and compensation earned each month, and must be signed by the employer.

(5) To receive classified substitute employee's service credit, you must pay the appropriate member contributions.

(a) Upon receipt of your application materials, the department will determine the amount of service credit you are eligible to purchase and will provide an optional bill for the amount due. Your service credit will be applied when the bill is paid in full.

(b) You have six months following the end of the school year in which you worked to pay the member contributions interest-free. Interest will begin to accrue on the first day of the seventh month following the end of the school year. The school year ends on August 31st for Plans 2 and 3.

(i) SERS Plan 2. If payment is received after the six month interest-free period, the amount due will include interest on both the member and employer contributions.

(ii) SERS Plan 3. If payment is received after the six month interest-free period, the amount due will include interest on the Plan 3 employer contributions.

(6) Defined terms used. Definitions for the following terms used in this section may be found in the sections listed.

(a) "Classified employee" - RCW 41.35.010(7).

(b) "Member" - RCW 41.35.010(20).

(c) "Service" - RCW 41.35.010(32).

(d) "Substitute employee" - RCW 41.35.010(38).

AMENDATORY SECTION (Amending WSR 04-21-080, filed 10/20/04, effective 11/20/04)

**WAC 415-112-140 Am I eligible for membership and service credit as a substitute teacher?** ~~((1) You may apply for membership and service credit in TRS as a substitute teacher if you meet eligibility criteria.~~

**(a) TRS Plan 1.**

(i) If you are a former Plan 1 member, you may apply to reestablish Plan 1 membership if you work ninety or more full-time days during a fiscal year as a teacher.

(ii) If you are a Plan 1 member, you may apply to the department for service credit in Plan 1 as a substitute teacher if you work a minimum of twenty full-time days during a fiscal year.

**(b) TRS Plan 2.**

(i) You may apply to the department for membership in Plan 2 if you:

(A) Work at least seventy hours for five or more months during an annual period September through August; or

(B) Worked at least ninety hours for two consecutive months during the period of September 1, 1990, through August 31, 1991.

(ii) If you have previously established membership in Plan 2 and have not withdrawn your contributions, you may apply to the department for service credit based on any compensated employment you earn as a substitute teacher.

**(c) TRS Plan 3.**

(i) You may apply to the department for membership in Plan 3 if you:

(A) Began employment after July 1, 1996; and

(B) Work at least seventy hours for five or more months during an annual period September through August.

(ii) If you have established membership in Plan 3, either by transferring from Plan 2 or establishing membership after July 1, 1996, you may apply to the department for service

credit based on any compensated employment you earn as a substitute teacher.

**~~(2) To apply, you must submit your employer's quarterly reports to the department at the end of a year.~~**

(a) To apply for membership and service credit as a substitute teacher, you must submit your employer's quarterly reports to the department no earlier than:

(i) June 30 of the year for which you are applying for Plan 1 service credit; or

(ii) August 31 of the year for which you are applying for Plan 2 or Plan 3 service credit.

(b) Your employer cannot report your service and earnings history as a substitute teacher to the department through the retirement system monthly reporting system unless you are also employed in a separate, eligible position with the same employer.

**~~(3) Defined terms used.~~** Definitions for the following terms used in this section may be found in the sections listed:

~~(a) "Member" - RCW 41.32.010.~~

~~(b) "Service" - RCW 41.32.010.~~

~~(c) "Substitute teacher" - RCW 41.32.010.~~

~~(d) "Teacher" - RCW 41.32.010.)~~ (1) If you have never

been a member of the teachers' retirement system (TRS), you may establish membership in Plan 2 or Plan 3 if you worked as a substitute teacher for seventy or more hours per month during at least five months within a single school year period of September 1st through August 31st. Your membership will begin when your first optional bill to purchase substitute teaching service credit is paid in full.

(2) If you have already established membership and have not withdrawn your contributions, you may be eligible to purchase service credit for working as a substitute teacher.

(a) TRS Plan 1. If you are a Plan 1 member, you may apply to the department for service credit as a substitute teacher for any school year during which you worked a minimum of twenty full-time days between July 1st and June 30th.

(b) TRS Plan 2 or Plan 3. If you are a Plan 2 or Plan 3 member, you may apply to the department for service credit as described in subsection (4) of this section, for any compensated employment as a substitute teacher that occurs after your first month of established service credit. You may apply for service credit for compensated employment as a substitute teacher that occurred prior to your first month of established service credit if it meets the requirements for membership as described in subsection (1) of this section.

(3) If you previously established membership and withdrew your contributions, you may purchase service credit as a substitute teacher if you meet the criteria in this subsection.

(a) TRS Plan 1. You may reestablish membership in TRS Plan 1 if you worked as a substitute teacher for the equivalent of ninety full-time days within a single school year period of July 1st through June 30th.

(b) TRS Plan 2. You may reestablish membership in TRS Plan 2 if you worked as a substitute teacher for seventy or more hours per month during at least five months within a single school year period of September 1st through August 31st.

(c) TRS Plan 3. If you are a Plan 3 member and withdrew your contributions, you may apply to the department for

service credit for any compensated employment as a substitute teacher that occurred after your first month of established service credit. You may apply for service credit for compensated employment as a substitute teacher that occurred prior to your first month of established service credit if it meets the requirements for membership as described in subsection (1) of this section.

(4) To apply, you must submit a substitute teacher's application for service credit.

(a) Applications must be submitted no earlier than the end of your plan's school year in which you worked. The school year ends on June 30th for Plan 1, and August 31st for Plans 2 and 3.

(b) If you are establishing membership in TRS for the first time, you must also submit a member information form to indicate your selection of Plan 2 or Plan 3.

(c) If you are an established Plan 3 member, you must also submit a member information form to indicate your contribution rate and investment options.

(d) If you are purchasing service credit for a period prior to the 2004-05 school year, or for work performed for a higher education employer or for the Washington state center for childhood deafness and hearing loss or the school for the blind, you must also submit quarterly reports to DRS along with your application for service credit. Quarterly reports must show the exact hours worked and compensation earned each month, and must be signed by the employer.

(5) To receive substitute teacher's service credit, you must pay the appropriate member contributions.

(a) Upon receipt of your application materials, the department will determine the amount of service credit you are eligible to purchase and will provide an optional bill for the amount due. Your service credit will be applied when the bill is paid in full.

(b) You have six months following the end of the school year in which you worked to pay the member contributions interest-free. Interest will begin to accrue on the first day of the seventh month following the end of the school year. The school year ends on June 30th for Plan 1, and August 31st for Plans 2 and 3.

(i) TRS Plan 1 or Plan 2. If payment is received after the six month interest-free period, the amount due will include interest on both the Plan 1 or Plan 2 member and employer contributions.

(ii) TRS Plan 3. If payment is received after the six month interest-free period, the amount due will include interest on the Plan 3 employer contributions.

(6) Defined terms used. Definitions for the following terms used in this section may be found in the sections listed.

(a) "Member" - RCW 41.32.010(25).

(b) "Service" - RCW 41.32.010(43).

(c) "Substitute teacher" - RCW 41.32.010(48).

REPEALER

The following sections of the Washington Administrative Code are repealed:

- |                 |  |
|-----------------|--|
| WAC 415-112-501 | Do I qualify for retirement from Plan 2? |
| WAC 415-112-502 | Do I qualify for retirement from Plan 3? |

REPEALER

The following section of the Washington Administrative Code is repealed:

- |                 |  |
|-----------------|--|
| WAC 415-110-605 | Do I qualify for retirement from Plan 3? |
|-----------------|--|