WSR 14-23-027 PROPOSED RULES STUDENT ACHIEVEMENT COUNCIL

[Filed November 12, 2014, 8:12 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-05-002.

Title of Rule and Other Identifying Information: Chapter 250-61 WAC, Degree-Granting Institutions Act rules.

Hearing Location(s): Washington Student Achievement Council, 917 Lakeridge Way S.W., Olympia, WA 98502, on December 23, 2014, at 10:00 a.m. - noon.

Date of Intended Adoption: December 30, 2014.

Submit Written Comments to: Michael J. Ball, Associate Director, P.O. Box 43430, Olympia, WA 98504-3430, e-mail michaelb@wsac.wa.gov, fax (360) 704-6239, by December 22, 2014.

Assistance for Persons with Disabilities: Contact Kristin Ritter by December 16, 2014, (360) 753-7810, or kristinr@wsac.wa.gov.

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

- Reflect the accurate name of the agency in the rules.
- Changes in the rules to reflect reciprocity agreements created between Washington and other states regarding the authorization of degree-granting institutions.

Reasons Supporting Proposal:

- To comply with a provision in HB 1736, which changed RCW 28B.85.020 providing for the ability to enter into interstate reciprocity agreements with other states, multistate entities or degree-granting institutions within the state.
- Broad-based support from Washington degreegranting institutions.

Statutory Authority for Adoption: RCW 28B.76.120 and 28B.85.020.

Statute Being Implemented: RCW 28B.85.020 (1)(c) and (d).

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

Name of Proponent: Washington student achievement council, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Michael J. Ball, 917 Lakeridge Way S.W., Olympia, WA 98502, (360) 753-7866.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The primary impact will be on existing in-state and out-of-state degree-granting institutions.

A cost-benefit analysis is not required under RCW 34.05.328. There are no costs associated with implementations of the revised rules.

November 12, 2014 Michael J. Ball Associate Director AMENDATORY SECTION (Amending WSR 09-02-008, filed 12/29/08, effective 1/29/09)

WAC 250-61-010 Purpose. The Degree-Granting Institutions Act, chapter 28B.85 RCW requires that degree-granting institutions operating in Washington obtain authorization from the ((higher education coordinating board)) Washington student achievement council, unless specifically exempted from the authorization requirement by the act. This chapter is declared by the ((board)) council as a supplement to the act in order to establish necessary regulations for the authorization of degree-granting institutions.

The purpose of the act is to ensure fair business practices and adequate quality among degree-granting institutions operating in the state of Washington and to protect citizens against substandard, fraudulent, and deceptive practices.

<u>AMENDATORY SECTION</u> (Amending WSR 09-20-033, filed 9/30/09, effective 10/31/09)

WAC 250-61-020 Applicability. A degree-granting institution shall not operate, conduct business, grant or offer to grant any academic courses or degree programs unless the institution has obtained authorization from the ((board)) council, been granted a waiver of the requirements of authorization, or been determined by the ((board)) council to be exempt.

The act applies to:

- (1) Institutions granting or offering to grant degree programs and/or academic credit courses either at or from a location within the state; and
- (2) Institutions maintaining or advertising a Washington location, mailing address, or telecommunications number for any purpose or any function of a degree-granting institution other than contact with the institution's former students; and
- (3) Institutions specifically targeting Washington citizens with promotion of their degree programs and/or academic credit courses.

The act does not apply to degree programs and academic credit courses offered exclusively from outside the state through individual and private interstate communication.

AMENDATORY SECTION (Amending WSR 09-02-008, filed 12/29/08, effective 1/29/09)

WAC 250-61-030 Delegation and ((board)) council supervision. Unless otherwise indicated, the ((board)) council delegates authority for administering the act and these rules to the executive director.

Actions taken pursuant to these rules by the executive director or designee shall be subject to supervision by the ((board)) council.

Such actions shall be reported periodically to the ((board)) council for its review.

<u>AMENDATORY SECTION</u> (Amending WSR 09-02-008, filed 12/29/08, effective 1/29/09)

WAC 250-61-040 Duties of executive director. In addition to other administrative responsibilities vested in the executive director of the ((higher education coordinating

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- board)) Washington student achievement council under the act and this chapter, the executive director shall carry out the following administrative responsibilities:
- (1) Process authorization applications, fee payments, bonds or security deposits, to include the denial and issuance of authorization, signed by the executive director or designee.
- (2) Cause the payment of any unsatisfied final judgment against an authorized institution, from the resources available through the institution's surety bond or other security deposit.
- (3) Upon written notice from an authorized institution, release the surety on the institution's bond or return the institution's security deposit, as prescribed in RCW 28B.85.070.
- (4) In the event of impaired liability of the security, notify the institution of suspension until the security liability in the required amount, unimpaired by unsatisfied judgment claims, shall have been furnished.
- (5) To the extent that there is a payment, release the security to the extent of the payment.
- (6) Establish and maintain all records called for under the provisions of the act and this chapter.
- (7) Maintain a current inventory of degree-granting institutions authorized or exempted under this chapter, including student complaints against such institutions.

<u>AMENDATORY SECTION</u> (Amending WSR 12-09-037, filed 4/11/12, effective 5/12/12)

- WAC 250-61-050 Definitions. The definitions set forth in this section are intended to supplement the definitions in chapter 28B.85 RCW and shall apply throughout this chapter.
- (1) "Act" means the Degree-Granting Institutions Act, chapter 28B.85 RCW.
- (2) "((Board)) Council" means the Washington ((higher education coordinating board)) student achievement council.
- (3) "Executive director" means the executive director of the ((board)) council or the executive director's designee.
- (4) "Accrediting association" means a national or regional accrediting association that is recognized by the ((board)) council and the Secretary of the U.S. Department of Education.
- (5) "Degree-granting institution" means an entity that offers educational credentials, instruction, or services prerequisite to or indicative of a degree.
- (6) "College" means an institution which offers two-year and/or four-year programs culminating with associate and/or baccalaureate degrees. In some instances, a college may also offer first professional degree programs and/or graduate programs culminating with master's degrees.
- (7) "University" means a multiunit institution with varied educational roles including instruction, promotion of scholarship, preservation and discovery of knowledge, research and public service. Such institutions provide a wide range of undergraduate and graduate studies, programs in professional fields, and may also provide programs leading to a doctorate.
- (8) "Private vocational school" means a nonpublic entity that offers postsecondary programs designed to prepare individuals with the skills and training required for employment in a specific trade, occupation, or profession related to the educational program.

- (9) "Seminary" means an institution which offers one or more professional programs to candidates for the ministry, rabbinate, or priesthood.
- (10) "Degree" means any designation, appellation, letters, or words including but not limited to "associate," "bachelor," "master," "doctor," or "fellow" which signify or imply satisfactory completion of the requirements of an academic program of study at the postsecondary level.
- (11) "Associate degree" means a lower division undergraduate degree that requires no fewer than 60 semester hours or 90 quarter hours.
- (12) "Bachelor's degree" or "baccalaureate degree" means an undergraduate degree that requires no fewer than 120 semester hours or 180 quarter hours.
- (13) "Master's degree" means a graduate degree that requires no fewer than 24 semester hours or 36 quarter hours beyond the baccalaureate degree.
- (14) "Doctor's degree" or "doctorate" means a postgraduate degree that requires no fewer than 60 semester hours or 90 quarter hours beyond the baccalaureate degree.
- (15) "False academic credential" means a document that signifies or implies satisfactory completion of the requirements of an academic program of study beyond the secondary level issued by a person or entity that:
- (a) Is not accredited by a ((board-recognized)) councilrecognized accrediting association or does not have the international equivalent to such accreditation; or
 - (b) Is not authorized by the ((board)) council; or
- (c) Has not been exempted or granted a waiver from the requirements of authorization by the ((board)) council.

Additionally, it can mean a credential falsely claimed to have been earned from an institution accredited by a ((board-recognized)) council-recognized accrediting association; authorized by the ((board)) council; or that has been exempted or granted a waiver by the ((board)) council.

- (16) "Program of study" means any course or grouping of courses prerequisite to or indicative of a degree.
- (17) "Resident-based instruction" means a course or series of courses or degree programs which are taught by faculty at a specific location where students physically attend the course or program.
- (18) "Distance learning" means a form of educational instruction other than classroom instruction, to include, but not limited to, correspondence, video-conferencing, television, internet transmission, or other electronic communication
- (19) "Credit" means the unit by which an institution measures its course work. The number of credit assigned to a course is generally defined by the number of hours per week in class and preparation and the number of weeks in a term. One credit is usually assigned for three hours of student work per week or its equivalent. The three hours of student work per week is usually comprised of a combination of one hour of lecture and two of homework or three hours of laboratory. Semester and quarter credits are the most common systems of measuring course work. A semester credit is generally based on at least a fifteen week calendar or 45 hours of student work. A quarter credit is generally based on at least a ten week calendar or 30 hours of student work.

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- (20) "Faculty" means personnel who are appointed by the institution for purposes of teaching, research, mentoring, advisory roles and/or other activities relating to the development and delivery of the instructional programs of the institution
- (21) "To operate" means but is not limited to the following:
- (a) Offering courses for academic credit at any Washington location or via distance learning from a Washington location
- (b) Granting or offering to grant degrees in Washington for credit obtained within or outside the state.
- (c) Maintaining or advertising a Washington location, mailing address, or telecommunications number ((or internet server)) for any purpose or any other function of a degree-granting institution, other than contact with the institution's former students for any legitimate purpose related to their having attended.
- (d) Advertising, promoting, publicizing, soliciting or recruiting for the institution or its offerings that is targeted specifically at Washington citizens, excluding multi-institutional college fairs.
- (22) "Suspend" means that, due to deficiencies, the ((board)) council interrupts for a stated time the institution's authority to recruit and enroll new students, but it may continue serving currently enrolled students for the remainder of the term. Authorization or exemption may be reinstated, provided the deficiencies have been resolved to the satisfaction of the ((board)) council.
- (23) "Withdraw" means that, due to significant deficiencies or failure to meet the criteria of authorization or exemption, the ((board)) council has withdrawn the authorization or exemption granted to an institution. Upon withdrawal, the institution must cease all degree-granting operations immediately.
- (24) "Accredited institution" means an institution that has been accredited by an accrediting association recognized by the ((board)) council and the Secretary of the U.S. Department of Education.
 - (25) "Additional program" means a degree program that:
- (a) Differs in title and curriculum from any currently authorized program; or
- (b) Is comprised of a curriculum that is twenty-five percent or more different in content than any currently authorized program.
- (26) "Additional site" means a site at which the institution will provide both administrative services as well as educational instruction.
- (27) State authorization reciprocity agreement (SARA) means an agreement among member states, districts and territories that establishes comparable standards for interstate offering of postsecondary distance education courses and programs. SARA is overseen by a national council and is administered by four regional education compacts.

AMENDATORY SECTION (Amending WSR 12-09-037, filed 4/11/12, effective 5/12/12)

WAC 250-61-060 Exemption criteria. No exemption from the requirements for degree authorization is considered

to be permanent. The exemption granted is dependent upon the institution's maintenance of the conditions under which the exemption was granted.

The provisions of this chapter do not apply to:

- (1) Honorary credentials clearly designated as such on the front side of the diploma or certificate and awarded by institutions offering other educational credentials in compliance with state law.
- (2) Any public college, public university, public community college, or public technical college or institute operating as part of the public higher education system of this state.
- (3) Institutions that have received institutional accreditation from an association recognized by the ((board)) council and the Secretary of the U.S. Department of Education, Provided:
- (a) The institution has been continuously offering degree program(s) in Washington for fifteen years or more; and
- (b) The institution was established originally within the state of Washington and has operated as the same organization continuously from that date until the present. An institution is considered to have operated as the same organization continuously if it has no significant alteration of primary location, ownership, or incorporation and no closure involving cessation of substantially all organized instructional and administrative activity; and
- (c) The institution has been accredited as a degree-granting institution for ten years or more by an accrediting association recognized by the ((board)) council and the Secretary of the U.S. Department of Education, and maintains such accreditation status; and
- (d) The institution maintains eligibility to participate in Title IV financial aid programs.
- (4) A branch campus, extension center, or off-campus facility operating within the state of Washington, which is affiliated with an institution domiciled outside this state, Provided:
- (a) It has continuously offered degree programs in Washington for fifteen years or more; and
- (b) It has held separate institutional accreditation as a free-standing institution for ten years or more by an accrediting association recognized by the ((board)) council and the Secretary of the U.S. Department of Education, and maintains such accreditation status; and
- (c) It maintains eligibility to participate in Title IV financial aid programs.
- (5) Institutions offering instruction on a federal enclave solely to federal employees and their dependents. If the institution offers or advertises instruction for other persons, the institution shall be subject to authorization.
- (6) Institutions recognized by the Washington state legislature as an accredited Washington degree-granting institution, provided the institution maintains all conditions specified in the legislation as part of the recognition.
 - (7) Tribally controlled Native American colleges.
- (8) Institutions which offer program(s) of study whose sole stated objective is training in the religious beliefs of the controlling religious organization and/or preparation of students for occupations that are primarily church-related, Provided:

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- (a) The institution's mission reflects its religious nature; and
- (b) The institution's degree program(s) in title and abbreviation, curriculum content, and objectives reflect the strictly religious nature of the institution; and
- (c) The institution's program(s) require a prescribed program of study, which must be successfully completed prior to the granting of a degree; and
- (d) The institution's program(s) of study are represented in an accurate manner in institutional catalogs, web sites, and other official published materials; and
- (e) The institution does not claim or publicize accreditation from an accrediting association that is not recognized by the ((board)) council and the Secretary of the U.S. Department of Education.
- (9) In the case of institutions which offer both religious and secular programs, the secular programs shall be subject to the requirements of chapter 28B.85 RCW.
- (10) Institutions not otherwise exempt which offer only workshops and seminars and institutions offering only creditbearing workshops or seminars lasting no longer than three calendar days.

AMENDATORY SECTION (Amending WSR 09-02-008, filed 12/29/08, effective 1/29/09)

- WAC 250-61-063 Exemption requirements. In order to apply for and maintain an exemption from the requirements for degree authorization, an institution must comply with the following:
- (1) The chief academic officer of the institution shall contact ((board)) council staff and arrange for a preliminary conference to discuss the exemption criteria and procedures pertaining to the request for exemption.
- (2) Any institution granted exemption from the requirements for degree authorization may be subject to periodic review by the ((board)) council to ensure that all criteria for the exemption continue to be met. The institution is to provide all information requested by the ((board)) council to assist in making this determination.
- (3) The institution shall inform the ((board)) council immediately of any proposed changes within the institution and/or its offerings that may affect the exemption granted.
- (4) The executive director may suspend or withdraw the exemption granted to an institution that fails to maintain the conditions under which the exemption was granted; engages in false advertising; or allows misleading representations to be made on its behalf. Suspension shall allow the institution a prescribed period of time to address the issues that may have brought the suspension. Withdrawal shall require the institution to cease all degree-granting activities immediately.
- (5) In the case of religious exemption, a religious institution shall be required to place the following statement in a prominent position within any catalog, general bulletins, web sites, and course schedules: "The Washington ((Higher Education Coordinating Board)) student achievement council has determined that (name of institution) qualifies for religious exempt status from the Degree-Granting Institutions Act for the following programs: (List). The ((HECB)) council makes no evaluation of the administration, faculty, business prac-

tices, financial condition or quality of the offerings by this institution. Any person desiring information about the requirements of the act or the applicability of those requirements to the institution may contact the ((HECB)) council at P.O. Box 43430, Olympia, WA 98504-3430."

<u>AMENDATORY SECTION</u> (Amending WSR 09-02-008, filed 12/29/08, effective 1/29/09)

WAC 250-61-065 Waiver of requirements. The executive director or the director's designee may waive or modify the authorization requirements contained in this chapter for a particular institution if the executive director or the director's designee finds that such waiver or modification will not frustrate the purposes of this chapter; and (1) that literal application of this chapter creates a manifestly unreasonable hardship on the institution; or (2) is an institution based out-ofstate that provides distance learning courses and/or programs to Washington state residents under a state authorization reciprocity agreement entered into by the Washington student achievement council. No waiver granted under this chapter is permanent. The ((board)) council will periodically review institutions granted waivers and continue the waiver only if the conditions under which the waiver was initially granted remain in effect.

AMENDATORY SECTION (Amending WSR 09-02-008, filed 12/29/08, effective 1/29/09)

WAC 250-61-070 Applicability to private vocational schools. Degree-granting private vocational schools' programs shall be regulated pursuant to the terms of an interagency agreement between the ((higher education coordinating board)) Washington student achievement council and the work force training and education coordinating board. As stipulated in the interagency agreement, degree programs shall be regulated by the ((higher education coordinating board)) Washington student achievement council and nondegree programs shall be regulated by the work force training and education coordinating board. Copies of the agreement are available from either agency upon request.

<u>AMENDATORY SECTION</u> (Amending WSR 09-02-008, filed 12/29/08, effective 1/29/09)

WAC 250-61-080 Authorization standards. These standards form the basis for the review of an institution by the ((board)) council staff and guide the decisions of the executive director and the ((board)) council. To receive authorization, the institution shall meet all of the specific requirements of this chapter.

<u>AMENDATORY SECTION</u> (Amending WSR 12-09-037, filed 4/11/12, effective 5/12/12)

WAC 250-61-085 Accreditation requirements. An institution operating in Washington shall:

(1) Be accredited by an accrediting association recognized by the ((board)) council and the Secretary of the U.S. Department of Education; or

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- (2) Have applied for accreditation to an accrediting association recognized by the ((board)) council and the Secretary of the U.S. Department of Education and such application is pending before the accrediting association; or
- (3) Have been granted a temporary waiver by the ((board)) council of the requirement for accreditation based upon submission of a plan for accreditation as outlined in the initial authorization application; or
- (4) Have been granted an exemption by the ((board)) council of the requirement for accreditation based upon the following condition: The school has filed, and kept current with appropriate amendments, at the ((higher education coordinating board)) Washington student achievement council an affidavit by each president of two separate accredited colleges or universities accredited by an accrediting association recognized by the ((board)) council and the Secretary of the U.S. Department of Education stating that the majority of course credits offered by the unaccredited institution are generally acceptable or transferable to the accredited college or university which each president represents.

AMENDATORY SECTION (Amending WSR 12-09-037, filed 4/11/12, effective 5/12/12)

- WAC 250-61-100 Academic requirements. (1) Educational programs. Each program shall require the completion of a prescribed program of study leading to the attainment of competence in an interdisciplinary area or specific field of study. Programs shall generally meet the guidelines or standards of an accrediting association recognized by the ((board)) council and the Secretary of the U.S. Department of Education that accredits similar programs of study.
 - (a) Associate degrees:
- (i) An associate degree shall require at least ninety quarter credits or sixty semester credits.
- (A) An associate degree intended for occupational preparation shall require, as a minimum, general education requirements that comprise a recognizable body of instruction in three program-related areas:
 - (I) Communications;
 - (II) Computation; and
 - (III) Human relations.
- (B) The general education requirements of all other associate degrees shall be consistent with the current guidelines of the Washington inter-college relations commission.
- (ii) The following associate degree designations shall be acceptable:
- (A) The associate of arts (A.A.), and associate of science (A.S.) for programs which emphasize the liberal arts and sciences. These programs generally satisfy the general education requirements for a baccalaureate degree and are transfer oriented.
- (B) The associate in applied technology (A.A.T.), associate in applied science (A.A.S.), associate of occupational science (A.O.S.) and other such applied or technology-related degree designations for programs which emphasize preparation for occupations at the technical level. These programs generally do not satisfy the general education requirements for a baccalaureate degree and are not transfer-oriented.

- (b) Baccalaureate degrees: A baccalaureate degree shall require at least one hundred eighty quarter credits or one hundred twenty semester credits. The degree shall require a distinct major and, as a minimum, twenty-five percent of the program shall be in general education curricula.
 - (c) Master's degrees:
- (i) A master's degree program shall require at least thirtysix quarter credits or twenty-four semester credits, specialization in an academic or professional area, and a demonstration of mastery.
- (ii) The following master's degree designations shall be acceptable:
- (A) The master of arts (M.A.) and master of science (M.S.) for programs which advance study and exploration in the discipline. The majority of credit for M.A. and M.S. degrees shall be at the graduate level in the major field.
- (B) The master of business administration (M.B.A.), master of fine arts (M.F.A.), master of education (M.Ed.), etc. for programs which emphasize professional preparation.
 - (d) Doctoral degrees:
- (i) Doctoral degree programs shall provide a broad range of advanced course offerings, faculty in ancillary and supporting fields, access to adequate laboratory and research facilities, and a wide range of current reference materials in the subject field. A doctoral degree shall require at least three full academic years of specialized postbaccalaureate study. To obtain a doctoral degree a student shall be required to demonstrate, through comprehensive examination, the ability to perform research at the level of the professional scholar or perform the work of a professional that involves the highest levels of knowledge and expertise.
- (ii) The following doctoral degree designations shall be acceptable:
- (A) The doctor of philosophy (Ph.D.) degree for programs which are oriented toward original research and require a dissertation.
- (B) A professional doctoral degree (J.D., Ed.D., etc.) for programs which emphasize technical knowledge and professional competence and require either a research thesis or a project involving the solution of a substantial problem of professional interest.
- (e) Distance learning program(s) of study must be comparable in content, faculty, and resources to those offered in residence, and include regular student-faculty interaction by computer, telephone, mail, or face-to-face meetings.
 - (f) Noncollegiate learning.
- (i) Undergraduate credit for noncollegiate learning may be awarded when validated through a portfolio or similar procedure. The institution shall maintain copies of examinations, portfolios, and evaluations used in this process. Noncollegiate learning credit shall constitute no more than twenty-five percent of an undergraduate degree program.
- (ii) Credit awarded for noncollegiate learning at the graduate level must be consistent with the minimum standards as published by the ((sehool's)) institution's accrediting association.
 - (2) Faculty.
- (a) Faculty shall be professionally prepared and graduates of accredited institutions and, as a group, the institutions from which they earned their degrees shall be diverse.

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- (b) Faculty shall be sufficient in number and kind and in the proportion of full-time and part-time positions to sustain rigorous courses, programs, and services.
- (c) Faculty teaching academic courses at the undergraduate degree level shall have a master's degree in the assigned or related program area from an accredited institution. Faculty assigned to teach in vocational-technical subjects shall have educational credentials and experience compatible with their teaching assignment. Faculty assigned to teach general education courses within any undergraduate program shall have a master's degree in a related area from an accredited institution
- (d) Faculty teaching at the master's degree level in programs which emphasize advanced study and exploration in a discipline shall have an earned doctorate in a related field from an accredited institution and experience in directing independent study and research. Faculty teaching in master's programs which emphasize professional preparation shall have, as a minimum, a master's degree from an accredited institution and documented achievement in a related field.
- (e) Faculty teaching at the doctoral level shall have an earned doctorate in a related field from an accredited institution and experience in teaching and directing independent study and research.
- (3) Admissions. Admission requirements shall be based on the institution's objectives and consistently applied to each program of study. Through preenrollment assessments, testing and advising, the institution shall determine the readiness and ability of each student to succeed in his/her degree program. Institutions shall use only those tests reviewed and approved by the U.S. Department of Education.

High school graduation or the equivalent shall be required for undergraduate admission. A baccalaureate degree or the equivalent shall be required for admission into graduate programs. Special undergraduate admission may be granted, based on the applicant's general educational development.

- (4) Enrollment contract. If an enrollment contract is utilized, the institution shall discuss all terms and provisions of the contract with the student prior to the student's execution of the contract. The contract shall contain an acknowledgment section directly above the student's signature blank for the student to acknowledge that the institution discussed all terms and provisions of the contract with the student and that the student understands all financial obligations and responsibilities.
- (5) Evaluation. The institution shall provide evidence that it has procedures for continuing evaluation and improvement of educational programs, quality of instruction, and overall operations of the institution.
- (a) Student, alumni, and employer evaluations of the effectiveness of the curricula shall be considered in these evaluations.
- (b) The institution's chief academic officer or designee shall periodically evaluate all areas of the institution to determine their effectiveness in fulfilling institutional objectives and meeting the standards set forth in these regulations or implied in the statute. The results of those evaluations shall be submitted to ((board)) council staff upon request.

AMENDATORY SECTION (Amending WSR 09-02-008, filed 12/29/08, effective 1/29/09)

- WAC 250-61-110 Student services and instructional resources requirements. (1) Student services. The institution shall provide adequate services for students in addition to formal instruction. These services shall normally include admissions, advising and guidance, financial assistance, student records, and disability accommodation.
- (a) Advising and guidance services shall be readily available to students to assist them in program planning, course selection, and other academic activities.
- (b) Financial aid administration and distribution, if provided, shall be performed according to institutional, state, and federal policies.
- (c) Student records shall be maintained in accordance with the guidelines established by the U.S. Department of Education.
- (d) Students with disabilities shall have access to, and reasonable accommodations in, all programs for which they are qualified consistent with the provisions of the Americans with Disabilities Act.
- (e) Placement services and employment opportunities, if provided, shall be accurately described.
 - (2) Facilities for site-based instruction.
- (a) The institution shall have adequate space, facilities and equipment, instructional materials, and staff to support quality education and services.
- (b) The institution shall comply with all applicable ordinances, laws, codes, and regulations concerning the safety, health, and access of all persons on its premises.
- (3) Disability accommodations. The institution shall provide reasonable accommodations for students and employees with disabilities. The institution shall inform students and employees of local, state, and federal laws regarding discrimination against people with disabilities.
- (4) Library. The institution shall provide adequate and accessible library resources and facilities to support the educational needs of students and faculty. If the institution, educational site, or academic center does not maintain its own library on site, it must demonstrate that it can provide sufficient library resources to meet the needs of the program(s) through a written agreement with another institution or organization, or through other mechanisms.
 - (5) Financial resources.
- (a) The institution shall have adequate financial resources necessary to sustain its purpose and commitment to students.
- (b) In the case of an institution seeking initial authorization, it shall have sufficient financial resources to sustain itself for one full academic year without the assistance of revenue from tuition and fees.
 - (6) Financial records.
- (a) The institution shall maintain financial records in conformity to generally accepted accounting principles.
- (b) The institution shall be audited annually by an independent certified public accountant according to generally accepted auditing standards.
- (c) Such records shall be made available to the ((board)) council upon request.

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(7) Recruitment and publications. All publications relating to the institution, including advertisements, catalogs, and other communications shall be accurate and not misleading. Any catalog and/or web site that is made available to students describing the educational services offered shall include the statement of authorization as provided by the ((board)) council upon the granting of authorization.

Authorized institutions shall not advertise or publicize that they are approved, recommended, accredited, or otherwise endorsed by the ((board)) council. Such institutions may only state that they are authorized by the ((board)) council.

- (8) Transcripts and academic credentials. The institution shall provide accurate and appropriate transcripts of credit for enrolled students and diplomas for graduates.
- (a) For each student, the institution shall maintain and make available a transcript that specifies the name of the institution, the name of the student, all courses completed, and an explanation of the institution's evaluation system. Each course entry shall include a title, the number of credits awarded, and a grade or written evaluation. The transcript shall distinguish credits awarded by transfer, for prior learning experience, and credit by examination.
- (b) The institution shall not be required to make copies of transcripts available unless all tuition and fees and other expenses owed by the student to the institution have been paid.
- (c) In addition to transcripts, the institution shall maintain records to document the performance and progress of each student, including, but not limited to: Financial transactions, admissions records, and records of interruption for unsatisfactory progress or conduct. Transcripts shall be kept permanently after a student has discontinued enrollment. All other records and accounts shall be kept for a minimum of six years after a student has discontinued enrollment.

AMENDATORY SECTION (Amending WSR 12-09-037, filed 4/11/12, effective 5/12/12)

- WAC 250-61-120 Catalog requirements. (1) An institution granted authorization shall publish a catalog supplemented as necessary by other published materials, providing sufficient information for students to obtain an adequate understanding of the institution, its programs, policies and procedures. Institutional catalogs shall be published at least once every two years and be provided to students at the time of their enrollment. Electronic catalogs must be archived and students must have access to the archived information.
- (2) An institution granted authorization shall print a statement in a prominent position in the catalog and on its web site that reads: "(Name of institution) is authorized by the Washington ((higher education coordinating board (HECB))) student achievement council (the council) and meets the requirements and minimum educational standards established for degree-granting institutions under the Degree-Granting Institutions Act. This authorization is subject to periodic review and authorizes (name of institution) to offer specific degree programs. The ((HECB)) council may be contacted for a list of currently authorized programs. Authorization by the ((HECB)) council does not carry with it an endorsement by the ((board)) council of the institution or its

programs. Any person desiring information about the requirements of the act or the applicability of those requirements to the institution may contact the ((HECB)) council at P.O. Box 43430, Olympia, WA 98504-3430."

(3) The catalog shall include elements as required by the ((board)) council in application materials such that a prospective student may become reasonably informed about the institution, its offerings, policies and procedures.

AMENDATORY SECTION (Amending WSR 09-02-008, filed 12/29/08, effective 1/29/09)

- WAC 250-61-140 Security requirements. The institution is required to have on file with the ((board)) council an original surety bond or other security acceptable to the ((board)) council in lieu of the bond.
- (1) For institutions seeking initial authorization, the surety bond or security amount for the initial period of authorization shall be twenty-five thousand dollars.
- (2) For institutions seeking renewal authorization, the surety bond or security amount shall be ten percent of the preceding fiscal year's total tuition and fee revenue received for educational services in Washington, but not less than twenty-five thousand dollars nor more than two hundred fifty thousand dollars. For private vocational schools that offer nondegree programs as well as degree programs, the amount required shall be based only on the degree program portion of its revenue from tuition and fees.
- (3) Release of surety bonds and other securities shall be made in compliance with chapter 28B.85 RCW.

AMENDATORY SECTION (Amending WSR 09-02-008, filed 12/29/08, effective 1/29/09)

WAC 250-61-160 Discontinuance or closure requirements. (1) In the event an institution chooses to discontinue a program and/or site currently available to Washington residents, but maintain other operations, it shall notify the ((board)) council well in advance of any such proposed action and provide information to the ((board)) council pertaining to accommodations to be made for any currently enrolled students to ensure they are provided the opportunity to complete their studies.

- (2) In the event an institution proposes to discontinue all its operation, the chief administrative officer of the institution shall:
- (a) Notify the executive director immediately by certified mail; and
- (b) Furnish enrolled students with a written notice explaining the reasons for closure and what procedures they are to follow to secure refunds and their official records, and what arrangements have been made for providing continuing instruction at other institutions; and
- (c) The institution shall make all reasonable efforts to ensure that current students are provided with alternative opportunities to complete their studies; and
- (d) Provide for the permanent maintenance of official records in a manner acceptable to the executive director.

In the event it appears to the executive director that the official records of an institution discontinuing its operation are in danger of being destroyed, secreted, mislaid, or other-

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wise made unavailable to the students and the ((board)) council, the executive director may seek a court order to take possession of the records and provide for their permanent maintenance.

AMENDATORY SECTION (Amending WSR 12-09-037, filed 4/11/12, effective 5/12/12)

WAC 250-61-170 Application requirements. (1) Initial application.

- (a) Institutions seeking initial standard authorization shall contact the ((board)) council staff to arrange for a preliminary conference to discuss the authorization criteria, application procedures and the review process.
- (b) An institution shall submit a fully completed application packet using forms provided by ((board)) council staff. The application packet will not be considered complete until all required elements have been received by the ((board)) council.
- (c) For standard authorization, an initial application fee in the amount of five thousand dollars is to be submitted along with the application packet. The check is to be made payable to the Washington ((state treasurer)) student achievement council.
- (d) For field placement authorization, an initial application fee in the amount of two thousand dollars is to be submitted along with the application packet. The check is to be made payable to the Washington ((state treasurer)) student achievement council.
 - (2) Renewal application.
- (a) Authorized institutions must submit an application for renewal of authorization on a biennial basis when requested by ((board)) council staff.
- (b) No later than the due date provided by the ((board)) council, an institution seeking renewal must submit a fully completed renewal application packet using the forms provided by ((board)) council staff. Failure to provide all requested materials by the due date may result in temporary suspension of the institution's authorization.
- (c) For standard authorization, a renewal application fee in the amount of two thousand five hundred dollars is to be submitted along with the application packet. The check is to be made payable to the Washington ((state treasurer)) student achievement council.
- (d) For field placement authorization, a renewal application fee in the amount of one thousand dollars is to be submitted along with the application packet. The check is to be made payable to the Washington ((state treasurer)) student achievement council.
 - (3) Additional program(s).
- (a) If an institution proposes to offer additional program(s) of study during the current authorization period, the institution shall submit a new program application well in advance of the proposed offering.
- (b) An additional program application fee in the amount of one thousand dollars per program is to be submitted along with the application packet. The check is to be made payable to the Washington student achievement council.
- (c) The program(s) of study may not be offered, advertised or promoted prior to the granting of authorization.

- (4) Additional site(s).
- (a) If an institution proposes to offer programs at a new site in Washington, the institution shall submit a new site application well in advance of the proposed start of operations at that site.
- (b) An additional site application fee in the amount of five hundred dollars per site is to be submitted along with the application packet. The check is to be made payable to the Washington student achievement council.
- (c) The site may not be utilized, advertised or promoted prior to the granting of authorization.
- (5) Change of ownership or control. A significant change of ownership or control of an institution shall nullify any previous authorization. The chief administrator, representing the new owner(s), shall notify the ((board)) council as soon as the change is known. If the chief administrator asserts in a written statement that all conditions set forth in the act and these rules are being met or will be met before offering instruction, the executive director may issue a temporary certificate of authorization for a maximum of one hundred eighty days. The new ownership shall complete an application for initial authorization and submit the application to the ((board)) council no later than sixty days prior to the expiration of the temporary certificate of authorization.

AMENDATORY SECTION (Amending WSR 12-09-037, filed 4/11/12, effective 5/12/12)

WAC 250-61-180 Application review procedures. (1) Staff analysis. Following receipt of a fully completed application, ((board)) council staff shall review and analyze the material submitted.

- (2) Additional documentation and site visit. If ((board)) council staff determines it is necessary to verify or supplement the information provided in the application, the staff may require additional written documentation and/or arrange for a site visit. The expense for any site visits shall be paid by the institution applying for authorization.
- (3) External consultants. At the discretion of the executive director, the expertise of other higher education experts may be used to assist in the evaluation of the documentation submitted. The cost for the services of the evaluation expert(s) shall be paid by the institution applying for authorization. The fee for such services is five hundred dollars per program per consultant, to be submitted by the institution upon request by the ((board)) council during the review process. The check is to be made payable to the ((higher education coordinating board)) Washington student achievement council.
- (4) Comment period. Upon completion of a preliminary review, the ((board)) council shall post a notification of the request for authorization on its web site for a set period of time. Any persons having knowledge as to why the institution or its program(s) may not meet the requirements for degree authorization may provide comment to the ((board)) council on the proposal.
- (5) Staff recommendations. After the final review has been completed, ((board)) council staff shall summarize its findings and develop a recommendation to the executive

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director regarding the application. This recommendation will take one of the following forms:

- (a) That the institution be granted authorization, subject to biennial reporting and maintenance of the conditions under which authorization has been granted.
- (b) That the institution be granted conditional authorization, subject to additional conditions as established by the ((board)) council, and maintenance of the conditions under which authorization has been granted.
 - (c) That the institution be denied authorization.
- (6) Notification. Following the executive director's decision to authorize or deny the institution's request, a letter signifying the action shall be sent from the executive director to the chief administrative officer of the institution.
- (a) The letter of authorization will serve as official authorization for the institution to operate in Washington for the specific programs and locations designated in the letter.
- (b) An institution denied authorization shall be provided with an explanation as to how the institution and/or its programs failed to meet the criteria for authorization. Any institution denied standard authorization that wishes to reapply within one year of the denial date may submit a new fully completed initial application packet and pay a reapplication fee of four thousand dollars. Any institution denied field placement authorization that wishes to reapply within one year of the denial date may submit a new fully completed initial application packet and pay a reapplication fee of one thousand dollars. The check is to be made payable to the Washington ((state treasurer)) student achievement council.

AMENDATORY SECTION (Amending WSR 09-02-008, filed 12/29/08, effective 1/29/09)

- WAC 250-61-190 Complaints. A student with a complaint against an authorized institution concerning loss of tuition and/or fees due to unfair or deceptive business practices by the institution shall make a reasonable effort to resolve the complaint directly with the institution. If a mutually satisfactory solution cannot be reached, the following procedure shall be pursued:
- (1) Upon receipt of a written complaint that an institution has failed or is failing to comply with the provisions of the act or this chapter, and documentation that the student has made a reasonable effort to resolve the complaint directly with the institution, the executive director shall notify the institution by mail of the nature of the complaint and shall conduct an investigation.
- (2) If preliminary findings indicate that a violation(s) may have occurred or are occurring, the executive director shall attempt, through mediation and conciliation, to effect compliance and bring about a settlement.
- (3) If no agreement is reached, the executive director shall file a formal complaint with the ((board)) council and notify the institution of the conduct which warrants the complaint. Final resolution of the complaint shall be subject to hearing procedures provided for in this chapter and the institution may be subject to a summary suspension of its authorization, pending further proceedings for suspension, withdrawal or other actions deemed proper after the hearing.

- (4) Any complaints must be filed within one year after the student's last recorded date of attendance in order to be considered by the ((board)) council. Only the student or the student's legal guardian may file a complaint on behalf of the student.
- (5) Complaints may also be filed with the ((board)) council by an authorized staff member of the ((board)) council or by the attorney general.

AMENDATORY SECTION (Amending WSR 09-02-008, filed 12/29/08, effective 1/29/09)

- WAC 250-61-200 Suspension or withdrawal of authorization. (1) The executive director may suspend or withdraw an institution's authorization if it finds that:
- (a) Any statement contained in the application for authorization is untrue; or
- (b) The institution has failed to maintain the standards for authorization as detailed in the act and this chapter; or
- (c) Advertising or representations made on behalf of, and sanctioned by, the institution is deceptive or misleading; or
- (d) The institution has violated any provision of this chapter.
- (2) The executive director may suspend the institution's authorization for a period of time if, in the executive director's judgment, the deficiencies can be corrected within the given time period. Upon suspension, the institution must immediately cease the recruitment and/or enrollment of new students. The institution may continue serving currently enrolled students for the remainder of the term. Authorization may be reinstated after any deficiencies have been resolved to the satisfaction of the ((board)) council.
- (3) Authorization shall be withdrawn only after the institution has been informed in writing of its deficiencies and been given reasonable time to meet the required standards. Upon withdrawal, the institution must immediately cease all degree-granting operations. To seek reinstatement of authorization, the institution must apply for initial authorization.
- (4) The executive director's and ((board's)) council's actions are subject to due process hearing procedures of the Washington Administrative Procedure Act.

AMENDATORY SECTION (Amending WSR 09-20-033, filed 9/30/09, effective 10/31/09)

- **WAC 250-61-210 Hearing process.** (1) A party subject to the following actions may request a hearing:
- (a) A denial of exemption from the Degree-Granting Institutions Act;
- (b) A denial of authorization under the Degree-Granting Institutions Act;
- (c) A cease and desist order issued under chapter 28B.85 RCW; or
- (d) Other final action as defined in chapter 34.05 RCW, by the executive director that adversely affects the institution or student and which is contrary to the intent and purpose of the Degree-Granting Institutions Act or this chapter.
- (2) A party must submit a request for a hearing to the executive director at the ((board)) council office no later than thirty days following receipt of the notice of final agency

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action. In the written request, the party must identify the final action in dispute and state that a hearing is requested.

- (3) Any hearing called for under the act shall be conducted in accordance with the Washington Administrative Procedure Act, chapter 34.05 RCW, as follows:
- (a) The presiding officer, who shall be the executive director or the hearing officer designated by the executive director, shall conduct the hearing under the provisions of chapter 34.05 RCW and shall enter an initial order under RCW 34.05.461 (2) through (9).
- (b) The ((board)) council shall review the initial order under RCW 34.05.464 and either enter a final order or remand the matter for further proceedings under RCW 34.05.464(7).
- (c) If the challenged agency action is upheld, the party that initiated the hearing process shall pay the costs of the administrative hearing within sixty days following final disposition of the matter.
- (d) Any further review of final action must be taken in accordance with RCW 34.05.510 et seq.

WSR 14-23-047 PROPOSED RULES FOREST PRACTICES BOARD

[Filed November 14, 2014, 9:49 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-11-103.

Title of Rule and Other Identifying Information: The rule proposal, unstable slopes information in forest practices applications (FPA), amends WAC 222-10-030 and 222-20-010

Hearing Location(s): Natural Resources Building, 1111 Washington Street S.E., Room 172, Olympia, WA, on January 7, 2015, at 4:00 p.m.

Date of Intended Adoption: February 10, 2015.

Submit Written Comments to: Patricia Anderson, Department of Natural Resources (DNR), P.O. Box 47012, Olympia, WA 98504-7012, e-mail forest.practicesboard@dnr.wa.gov, fax (360) 902-1428, by January 8, 2015.

Assistance for Persons with Disabilities: Contact forest practices division at (360) 902-1400, by December 31, 2015 [2014], TTY (360) 902-1125.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose is to inform prospective applicants that DNR will require specific geologic information prepared by a qualified expert, if DNR needs it to appropriately classify FPAs per WAC 222-16-050. This applies to FPAs that include proposals where potentially unstable slopes or landforms are on or around the area of an FPA

Reasons Supporting Proposal: The board is considering adding this clarification to chapter 222-20 WAC, Applications and notifications, to ensure applicants understand that DNR may require geologic information prepared by a qualified expert if the information initially provided in an FPA is not enough information for DNR to determine the appropriate classification of the FPA.

Statutory Authority for Adoption: RCW 76.09.040. Statute Being Implemented: RCW 76.09.060(1).

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

Name of Proponent: Forest practices board, governmental.

Name of Agency Personnel Responsible for Drafting: Marc Engel, 1111 Washington Street S.E., Olympia, (360) 902-1390; Implementation: Donelle Mahan, 1111 Washington Street S.E., Olympia, (360) 902-1405; and Enforcement: Chris Hanlon-Meyer, 1111 Washington Street S.E., Olympia, (360) 902-1398.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule proposal is not expected to impose additional costs on businesses.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Gretchen Robinson, 1111 Washington Street S.E., Olympia, WA 98504-4012, phone (360) 902-1705, fax (360) 902-1428, e-mail gretchen.robinson@dnr.wa.gov.

November 13, 2014 Aaron Everett Chair

<u>AMENDATORY SECTION</u> (Amending WSR 11-12-009, filed 5/20/11, effective 6/20/11)

- WAC 222-10-030 *SEPA policies for potentially unstable slopes and landforms. In addition to SEPA policies established elsewhere in this chapter, the following policies apply to forest practices described in WAC 222-16-050 (1)(d) relating to construction or harvest on potentially unstable slopes or landforms.
- (1) In order to determine whether such forest practices are likely to have a probable significant adverse impact, and therefore require an environmental impact statement, the applicant must submit the following additional information, prepared by a qualified expert as defined in subsection (5) of this section. The qualified expert must describe the potentially unstable landforms in and around the application site and analyze:
- (a) The likelihood that the proposed forest practices will cause movement on the potentially unstable slopes or landforms, or contribute to further movement of a potentially unstable slope or landform;
- (b) The likelihood of delivery of sediment or debris to any public resources, or in a manner that would threaten public safety; and
- (c) Any possible mitigation for the identified hazards and risks.
- (2) The department's threshold determination will include an evaluation of whether the proposed forest practices:
- (a) Are likely to increase the probability of a mass movement on or near the site;
- (b) Would deliver sediment or debris to a public resource or would deliver sediment or debris in a manner that would threaten public safety; and
- (c) Such movement and delivery are likely to cause significant adverse impacts.

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If the department determines that (a), (b) and (c) of this subsection are likely to occur, then the forest practice is likely to have a probable significant adverse impact.

- (3) The department will evaluate the proposal, using appropriate expertise and in consultation with other affected agencies and Indian tribes.
- (4) Specific mitigation measures or conditions must be designed to avoid accelerating rates and magnitudes of mass wasting that could deliver sediment or debris to a public resource or could deliver sediment or debris in a manner that would threaten public safety.
- (5) Qualified expert for the purposes of this section ((and for)), reanalysis of watershed analysis mass wasting prescriptions under WAC 222-22-030, and preparation of requested geologic information under WAC 222-20-010(9), means a person licensed under chapter 18.220 RCW as either an engineering geologist or as a hydrogeologist (if the site warrants hydrologist expertise), with at least three years of field experience in the evaluation of relevant problems in forested lands.

AMENDATORY SECTION (Amending WSR 13-01-007, filed 12/6/12, effective 1/6/13)

- WAC 222-20-010 Applications and notifications—Policy. (1) No Class II, III or IV forest practices shall be commenced or continued unless the department has received a notification for Class II forest practices, or approved an application for Class III or IV forest practices pursuant to the act. Where the time limit for the department to act on the application has expired, and none of the conditions in WAC 222-20-020(1) exist, the operation may commence. (NOTE: OTHER LAWS AND RULES AND/OR PERMIT REQUIREMENTS MAY APPLY. SEE CHAPTER 222-50 WAC.)
- (2) **The department shall** prescribe the form and contents of ((the)) notifications and applications((, which)). The department shall specify ((what)) the information ((is needed)) required for a notification, and the information required for the department to approve or disapprove ((the)) an application.
- (3) Except as provided in subsection (4) of this section, applications and notifications shall be signed by the landowner, the timber owner, and the operator((, or the operator and accompanied by a consent form signed by the timber owner and the landowner. A consent form may be another document if it is signed by the landowner(s) and it contains a statement acknowledging that he/she is familiar with the Forest Practices Act, including the provisions dealing with conversion to another use (RCW 76.09.060(3)))).
- (4) In lieu of a landowner's signature, where the timber rights have been transferred by deed to a perpetual owner who is different from the forest landowner, the owner of perpetual timber rights may sign a forest practices application or notification for operations not converting to another use and the statement of intent not to convert for a set period of time. The holder of perpetual timber rights shall serve the signed forest practices application or notification and the signed statement of intent on the forest landowner. The forest practices application shall not be considered complete until the holder of perpetual timber rights has submitted evidence acceptable to the department that such service has occurred.

- (5) Where an application for a conversion is not signed by the landowner ((or accompanied by a consent form, as outlined in subsection (3) of this section)), the department shall not approve the application. Applications and notifications for the development or maintenance of utility rights of way shall not be considered to be conversions.
- (6) **Transfer of the** approved application or notification to a new landowner, timber owner or operator requires written notice by the former landowner or timber owner to the department and should include the original application or notification number. This written notice shall be in a form acceptable to the department and shall contain an affirmation signed by the new landowner, timber owner, or operator, as applicable, that he/she agrees to be bound by all conditions on the approved application or notification. In the case of a transfer of an application previously approved without the landowner's signature, the new timber owner or operator must submit a bond securing compliance with the requirements of the forest practices rules as determined necessary by the department. If an application or notification indicates that the landowner or timber owner is also the operator, or an operator signed the application, no notice need be given regarding any change in subcontractors or similar independent contractors working under the supervision of the operator of record.
- (7) The landowner or timber owner must provide notice of hiring or change of operator to the department within forty-eight hours of the change. The department shall promptly notify the landowner if the operator is subject to a notice of intent to disapprove under WAC 222-46-070. Once notified, the landowner will not permit the operator, who is subject to a notice of intent to disapprove, to conduct the forest practices specified in the application or notification, or any other forest practices until such notice of intent to disapprove is removed by the department.
- (8) Applications and notifications, if complete, will be considered officially received on the date and time shown on any registered or certified mail receipt, or the written receipt given at the time of personal delivery, or at the time of receipt by general mail delivery. The department will immediately provide a dated receipt to the applicant. Applications or notifications that are not complete, or are inaccurate will not be considered officially received until the applicant furnishes the necessary information to complete the application.
- (a) A review statement from the U.S. Forest Service that evaluates compliance of the forest practices with the Columbia River Gorge National Scenic Area Act (CRGNSA) special management area guidelines is necessary information for an application or notification within the CRGNSA special management area. The review statement requirement shall be waived if the applicant can demonstrate the U.S. Forest Service received a complete plan application and failed to act within forty-five days.
- (b) A complete environmental checklist (WAC 197-11-315) is necessary information for all Class IV applications.
- (c) A local governmental entity clearing and/or grading permit is necessary information for all Class IV applications on lands that will be converted to a use other than commercial timber operations if the local governmental entity has jurisdiction and has an ordinance requiring such permit.

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- (d) A checklist road maintenance and abandonment plan is necessary information for all small forest landowners' applications or notifications for timber harvest (including salvage), unless exempt under WAC 222-24-0511, or unless the application is a small forest landowner long-term application which requires a roads assessment.
- (((8) An operator's name, if known, must be included on any forest practices application or notification. The landowner or timber owner must provide notice of hiring or change of operator to the department within forty-eight hours. The department shall promptly notify the landowner if the operator is subject to a notice of intent to disapprove under WAC 222-46-070. Once notified, the landowner will not permit the operator, who is subject to a notice of intent to disapprove, to conduct the forest practices specified in the application or notification, or any other forest practices until such notice of intent to disapprove is removed by the department.))
- (9) Where potentially unstable slopes or landforms are on or around the area of an application, the department may require the landowner to provide additional geologic information prepared by a qualified expert in order to classify the application appropriately. The information shall include an explanation of how the qualified expert evaluated the proposed harvest or construction activities with respect to the potentially unstable slopes or landforms. This information is for classification purposes only.
 - (a) "Qualified expert" is defined in WAC 222-10-030.
- (b) "Potentially unstable slopes or landforms" are those listed in WAC 222-16-050 (1)(d)(i)(A) through (E).
- (10) **Financial assurances** may be required by the department prior to the approval of any future forest practices application or notification to an operator or landowner under the provisions of WAC 222-46-090.

WSR 14-23-063 PROPOSED RULES DEPARTMENT OF LABOR AND INDUSTRIES

[Filed November 18, 2014, 8:48 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-19-087.

Title of Rule and Other Identifying Information: Chapter 296-14 WAC, Industrial insurance—Pension tables, pension discount rate and mortality tables, new WAC 296-14-8810.

Hearing Location(s): Department of Labor and Industries (L&I), 7273 Linderson Way S.W., Auditorium, Tumwater, WA 98501, on December 23, 2014, at 2 p.m.

Date of Intended Adoption: January 6, 2015.

Submit Written Comments to: Suzy Campbell, P.O. Box 44208, Olympia, WA 98504-4208, e-mail suzanne.campbell @lni.wa.gov, fax (360) 902-4960, by 5 p.m. on December 24, 2014.

Assistance for Persons with Disabilities: Contact Sharon Avery by December 16, 2014, at sharon.avery@lni.wa.gov or (360) 902-4252.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The current mortality tables used to determine the funding needs for injured workers who are totally permanently disabled and for survivors of fatally injured workers are over thirty years old. The department conducted a study of pensioned injured workers and their spouses in our system from 2001 to 2012 together with 2000 U.S. Census data. The study revealed the pension tables no longer reflect the current experience of pension beneficiaries funded by the pension reserve fund. These tables need to be updated for life expectancy and gender.

The pension discount rate is the interest rate used to account for the time value of money when evaluating the present value of future pension payments. The current pension discount rate of 6.5 percent is too high given market rates of long-term Treasury bonds, which are considered by the actuaries for establishing discount rates. The department has worked with the workers' compensation advisory committee (WCAC) to develop a plan that would reduce the pension discount rate from the current 6.5 percent to 6.4 percent and continue to adjust annually, through 2022, until it reaches 4.5 percent.

The department plans to update the mortality tables and reduce the pension discount rate.

Statutory Authority for Adoption: RCW 51.04.020, 51.44.070(1), 51.44.080.

Statute Being Implemented: RCW 51.44.070.

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

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Suzy Campbell, Tumwater, Washington, (360) 902-5003; Implementation: Sandi Haerling, Tumwater, Washington, (360) 902-5006; and Enforcement: Vickie Kennedy, Tumwater, Washington, (360) 902-4997.

No small business economic impact statement has been prepared under chapter 19.85 RCW. L&I is exempt from preparing a small business economic impact statement under RCW 19.85.025(3) referencing RCW 34.05.310 (4)(f) since the purpose of this rule making is to set or adjust fees pursuant to legislative standards.

A cost-benefit analysis is not required under RCW 34.05.328. L&I is exempt from preparing a cost-benefit analysis under RCW 34.05.328 (5)(b)(vi) since the purpose of this rule making is to set or adjust fees pursuant to legislative standards.

November 18, 2014 Joel Sacks Director

NEW SECTION

WAC 296-14-8810 Pension tables, pension discount rate and mortality tables. (1) The department uses actuarially determined pension tables for calculating pension annuity values, required pension reserves, and actuarial adjustments to monthly benefit amounts.

- (a) The department's actuaries calculate the pension tables based on:
 - (i) Mortality tables from nationally recognized sources;

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- (ii) The department's experience with rates of mortality, disability, and remarriage for annuity recipients; and
 - (iii) A pension discount rate of 6.4 percent.
- (b) The department's actuaries periodically investigate whether updates to the mortality tables relied on or the department's experience with rates of mortality, disability, and remarriage by its annuity recipients warrant updating the department's pension tables.
- (2) To obtain a copy of any of the department's pension tables, contact the department of labor and industries actuarial services.

WSR 14-23-070 WITHDRAWL OF PROPOSED RULES HEALTH CARE AUTHORITY

(By the Code Reviser's Office) [Filed November 18, 2014, 10:30 a.m.]

WAC 182-505-0225, proposed by the health care authority in WSR 14-10-057, appearing in issue 14-10 of the Washington State Register, which was distributed on May 21, 2014, is withdrawn by the office of the code reviser 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 14-23-071 WITHDRAWL OF PROPOSED RULES HEALTH CARE AUTHORITY

(By the Code Reviser's Office) [Filed November 18, 2014, 10:31 a.m.]

WAC 182-546-5550, proposed by the health care authority in WSR 14-10-079, appearing in issue 14-10 of the Washington State Register, which was distributed on May 21, 2014, is withdrawn by the office of the code reviser 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 14-23-074 PROPOSED RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Operations Support and Services Division) (Background Check Central Unit) [Filed November 18, 2014, 11:44 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-13-065.

Title of Rule and Other Identifying Information: The operations support and services division, background check central unit, is coordinating with children's administration to repeal the following sections of chapter 388-06 WAC, Background checks: WAC 388-06-0010, 388-06-0020, 388-06-0100, 388-06-0110, 388-06-0120, 388-06-0130, 388-06-0140, 388-06-0150, 388-06-0160, 388-06-0170, 388-06-0180, 388-06-0190, 388-06-0200, 388-06-0210, 388-06-0220, 388-06-0230, 388-06-0240, 388-06-0250, and 388-06-0260.

Hearing Location(s): Office Building 2, DSHS Head-quarters, 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 December 23, 2014, at 10:00 a.m.

Date of Intended Adoption: Not earlier than December 24, 2014.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, e-mail DSHSRPAU RulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., December 23, 2014.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, TTY (360) 664-6178, or (360) 664-6092, or e-mail Kildaja@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this coordinated rule making is to move children's administration background check requirements from chapter 388-06 WAC, WAC 388-06-0010 through 388-06-0260, to chapter 388-06A WAC. Under a separate CR-102, children's administration will create chapter 388-06A WAC and permanently adopt children's administration background check rules.

Reasons Supporting Proposal: This rule making is intended to resolve confusion and misapplication of program-specific background check requirements that exist because children's administration programmatic background check requirements are contained in the rule chapter for department-wide background check requirements.

Statutory Authority for Adoption: RCW 43.43.832.

Statute Being Implemented: RCW 74.15.030, 43.43.832, 43.43.837.

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

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting: Cindy LaRose-Eatwell, FSA, Background Check Central Unit, (360) 902-8072; Implementation and Enforcement: Chris Parvin, Children's Administration, (360) 902-0770.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rule revisions are part of a coordinated rule making with children's administration. These revisions remove children's administration background check requirements from chapter 388-06 WAC, WAC 388-06-0020 through 388-06-0260. Under a separate CR-102, children's administration will move their programspecific background check requirements to chapter 388-06A WAC. Children's administration has determined that the rules are adopted without material change and are consistent with RCW 43.43.832. If the rule is not adopted, it would be out of

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compliance with state law. There is no cost to small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. These rule revisions are part of a coordinated rule making with children's administration. These revisions remove children's administration background check requirements from chapter 388-06 WAC, WAC 388-06-0020 through 388-06-0260. Under a separate CR-102, children's administration will move their program-specific background check requirements to chapter 388-06A WAC. Children's administration has determined a cost-benefit analysis is not required under RCW 34.05.328 (5)(b)(iii). Rules are adopted by reference without material change to ensure the WAC is consistent with RCW 43.43.832. The rule content is dictated by statute.

November 17, 2014 Katherine I. Vasquez Rules Coordinator

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-06-0010	What is the purpose of this chapter?
WAC 388-06-0020	What definitions apply to WAC 388-06-0100 through 388-06-0260 of this chapter?
WAC 388-06-0100	Why are background checks done?
WAC 388-06-0110	Who must have background checks?
WAC 388-06-0120	Who is not affected by this chapter?
WAC 388-06-0130	Does the background check process apply to new and renewal licenses, certification, contracts, and authorizations to have unsupervised access to children?
WAC 388-06-0140	What happens if I don't comply with the background check requirement?
WAC 388-06-0150	What does the background check cover?
WAC 388-06-0160	Who pays for the background check?
WAC 388-06-0170	Will a criminal conviction permanently prohibit me from being licensed, contracted, or authorized to have unsupervised access to children or to individuals with developmental disability?
WAC 388-06-0180	Are there other criminal convictions that will prohibit me from working with children or individuals with a developmental disability?
WAC 388-06-0190	If I have a conviction, may I ever have unsupervised access to children?

WAC 388-06-0200	Will I be disqualified if there are pending criminal charges on my background check?
WAC 388-06-0210	Will you license, contract, or authorize me to have unsupervised access to children if my conviction has been expunged, or vacated from my record or I have been pardoned for a crime?
WAC 388-06-0220	How will I know if I have not been disqualified by the background check?
WAC 388-06-0230	How will I know if I have been disqualified by the background check?
WAC 388-06-0240	What may I do if I disagree with the department's decision to deny me a license, certification, contract, or authorization based on the results of the background check?
WAC 388-06-0250	Is the background check information released to my employer or prospective employer?
WAC 388-06-0260	May I receive a copy of my criminal background check results?

WSR 14-23-075 PROPOSED RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Children's Administration) [Filed November 18, 2014, 11:48 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-13-065

Title of Rule and Other Identifying Information: Children's administration background checks, new chapter 388-06A WAC.

Hearing Location(s): Office Building 2, DSHS Head-quarters, 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 December 23, 2014, at 10:00 a.m.

Date of Intended Adoption: Not earlier than December 24, 2014.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, e-mail DSHSRPAU RulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., December 23, 2014.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, by December 9, 2014, TTY (360) 664-6178, or (360) 664-6092, or e-mail Kildaja@dshs. wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The children's administration (CA) and background check central unit are

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making coordinated rule making to rescind the background check WACs related to CA in chapter 388-06 WAC and to establish a new chapter 388-06A WAC. Both will have the same effective date. These changes reflect the changes made in SSB 6095 that were passed in the 2014 legislation, and will align with existing state laws. Emergency rules are currently in place for WAC 388-06-0170, 388-06-0180, and 388-06-0200 until the rules are final.

Reasons Supporting Proposal: These changes will help CA staff identify the background check requirements more easily and ensure consistency.

Statutory Authority for Adoption: RCW 43.43.832, 74.13.700.

Statute Being Implemented: Chapter 88, Laws of 2014 (SSB 6095).

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

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Chris Parvin, DSHS Headquarters, 1115 Washington, Olympia, WA 98504, (360) 902-0770

No small business economic impact statement has been prepared under chapter 19.85 RCW. Rules are adopted without material change and ensure the WAC is consistent with RCW 43.43.832. If the rule is not adopted, it would be out of compliance with state law. There is no cost to small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required under RCW 34.05.328 (5)(b)(iii). Rules are adopted by reference without material change to ensure the WAC is consistent with RCW 43.43.832. The rule content is dictated by statute.

November 13, 2014 Katherine I. Vasquez Rules Coordinator

NEW SECTION

WAC 388-06A-0010 What is the purpose of this chapter? This chapter establishes rules for background checks conducted by children's administration (CA) at the department of social and health services (DSHS). The department does background checks on individuals who are licensed, certified, contracted, or authorized to care for or have unsupervised access to children. Background checks are conducted to find and evaluate any history of criminal convictions or civil adjudication proceedings, including those involving abuse, abandonment, financial exploitation, or neglect of a child or vulnerable adult.

NEW SECTION

WAC 388-06A-0020 What definitions apply to WAC 388-06A-0100 through 388-06A-0260 of this chapter? The following definitions apply to WAC 388-06A-0100 through 388-06A-0260 of this chapter:

"Authorized" or "authorization" means not disqualified by the department to have unsupervised access to chil-

dren. This includes persons who are certified, contracted, allowed to receive payments from department funded programs, or volunteer.

"CA" means children's administration, department of social and health services. Children's administration is the cluster of programs within DSHS responsible for the provision of licensing of foster homes, group facilities/programs and child-placing agencies, child protective services, child welfare services, and other services to children and their families

"Certification" means:

- (1) Department approval of a person, home, or facility that does not legally need to be licensed, but wishes to have evidence that they met the minimum licensing requirements.
- (2) Department licensing of a child-placing agency to certify and supervise foster home and group care programs.
 - "Children" means a person who is one of the following:
 - (1) Under eighteen years old;
- (2) Up to twenty-one years of age and pursuing a high school or equivalency course of study (GED/HSEC), or vocational program;
- (3) Up to twenty-one years of age and participating in the extended foster care program;
- (4) Up to twenty-one years of age and under the custody of the Washington state juvenile rehabilitation administration.

"Civil adjudication proceeding" is a judicial or administrative adjudicative proceeding that results in a finding of, or upholds an agency finding of, domestic violence, abuse, sexual abuse, neglect, abandonment, violation of a professional licensing standard regarding a child or vulnerable adult, or exploitation or financial exploitation of a child or vulnerable adult under any provision of law, including but not limited to chapter 13.34, 26.44 or 74.34 RCW, or rules adopted under chapters 18.51 and 74.42 RCW. "Civil adjudication proceeding" also includes judicial or administrative findings that become final due to the failure of the alleged perpetrator to timely exercise a legal right to administratively challenge such findings.

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

"DLR" means the division of licensed resources within children's administration. DLR licenses and monitors foster homes, child placing agencies and licensed group care facilities.

"I" and "you" refers to anyone who has unsupervised access to children in a home, facility, or program. This includes, but is not limited to, persons seeking employment, a volunteer opportunity, an internship, a contract, certification, or a license for a home or facility.

"Licensor" means either:

- (1) A DLR employee who recommends approvals for, or monitors licenses or certifications for facilities and agencies established under this chapter; or
- (2) An employee of a child-placing agency who certifies or monitors foster homes supervised by the child-placing agency.

"Unsupervised" means will not or may not be in the presence of:

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- (1) The licensee, another employee or volunteer from the same business or organization as the applicant who has not been disqualified by the background check; or
- (2) Another individual who has been previously approved by children's administration.

"We" refers to the department, including licensors and social workers.

"WSP" refers to the Washington state patrol.

NEW SECTION

WAC 388-06A-0100 Why are background checks done? The children's administration does background checks to help safeguard the health, safety and well-being of children in out of home care. By doing background checks, the department reduces the risk of harm to children from individuals that have been convicted of certain crimes. The department's regulations require the evaluation of your background to determine your character, suitability and competence before you are issued a license, contract, certificate, or authorized to have unsupervised access to children.

NEW SECTION

- WAC 388-06A-0110 Who must have background checks? (1) Per RCW 74.15.030, the department requires background checks on all providers who may have unsupervised access to children. This includes licensed, certified or contracted providers, their current or prospective employees and prospective adoptive parents as defined in RCW 26.33.-020.
- (2) Per RCW 74.15.030, the department also requires background checks on other individuals who may have unsupervised access to children in department licensed or contracted homes, or facilities which provide care. The department requires background checks on the following people:
- (a) A volunteer or intern with regular or unsupervised access to children;
- (b) Any person who regularly has unsupervised access to a child. However, a background check is not required when a caregiver approves the unsupervised access for a normal childhood activity that lasts less than seventy-two hours, per RCW 74.13.710;
- (c) A relative other than a parent who may be caring for a child; and
- (d) A person who is at least sixteen years old and resides in a foster, relative, or other suitable person's home and is not a foster child.
- (3) Per RCW 13.34.138, prior to returning a dependent child home the department requires a background check on all adults residing in the home.

NEW SECTION

WAC 388-06A-0120 Who is not affected by this chapter? This chapter does not apply to schools, hospitals, or other facilities where the primary focus is not custodial.

NEW SECTION

WAC 388-06A-0130 Does the background check process apply to new and renewal licenses, certification, contracts, and authorizations to have unsupervised access to children? For children's administration, these regulations apply to all applications for new and renewal licenses, contracts, certifications, and authorizations to have unsupervised access to children that are processed by the children's administration after the effective date of this chapter.

NEW SECTION

WAC 388-06A-0140 What happens if I don't comply with the background check requirement? The department will deny, suspend or revoke your license, contract, certification, or disqualify you to care for children if you or someone on the premises of your home or facility having unsupervised access does not comply with the department's requirement for a background check.

NEW SECTION

WAC 388-06A-0150 What does the background check cover? (1) The department must review criminal convictions and pending charges based on identifying information provided by you. The background check may include but is not limited to the following information sources:

- (a) Washington state patrol.
- (b) Washington courts.
- (c) Department of corrections.
- (d) Department of health.
- (e) Civil adjudication proceedings.
- (f) Applicant's self-disclosure.
- (g) Out-of-state law enforcement and court records.
- (2) Background checks conducted for children's administration also include:
- (a) A review of child protective services case files information or other applicable information system.
- (b) Administrative hearing decisions related to any DSHS license that has been revoked, suspended, or denied.
- (3) In addition to the requirements in subsections (1) through (2) of this section, background checks conducted by children's administration for placement of a child in out-of-home care, including foster homes, group care facilities, adoptive homes, relative placements, and placement with other suitable persons under chapter 13.34 RCW, include the following for each person over eighteen years of age residing in the home:
- (a) Child abuse and neglect registries in each state a person has lived in, in the five years prior to conducting the background check.
- (b) Washington state patrol (WSP) and Federal Bureau of Investigation (FBI) fingerprint-based background checks regardless of how long you have resided in Washington.
- (4) Except as required in WAC 388-06A-0150 (4)(b), children's administration will conduct a fingerprint-based background check on any individual who has resided in the state less than three consecutive years before application.

Proposed [16]

NEW SECTION

- WAC 388-06A-0160 Who pays for the background check? (1) Children's administration (CA) pays the DSHS general administrative costs for background checks for foster home applicants, CA relative and other suitable caregivers, and CA adoptive home applicants.
- (2) Children's administration pays the WSP and FBI fingerprint processing fees for foster home applicants, CA relative and other suitable caregivers, CA adoptive home applicants, and other adults associated with the home requiring background clearances under chapter 13.34 RCW.
- (3) Children's administration does not pay WSP and FBI fingerprint processing fees or expenses for employees, contractors, or volunteers associated with facilities other than foster homes, adoptive homes proposed by the children's administration, or relative or other suitable caregiver homes.

NEW SECTION

WAC 388-06A-0170 Will a criminal conviction permanently prohibit me from being licensed, contracted, certified, or authorized to have unsupervised access to children? (1) There are convictions for certain crimes that will permanently prohibit you from being licensed, contracted, certified or authorized to have unsupervised access to children. Those felony convictions are as follows:

- (a) Child abuse and/or neglect;
- (b) Spousal abuse;
- (c) A crime against a child (including child pornography);
- (d) A crime involving violence (including rape, sexual assault, or homicide but not including other physical assault or battery); or
- (e) Any federal or out-of-state conviction for an offense that under the laws of this state would disqualify you from having unsupervised access to children in any home or facility.
- (2) If you are convicted of one of the crimes listed in WAC 388-06A-0170 (1)(a) through (e) you will not be able to:
 - (a) Receive a license to provide care to children;
 - (b) Be approved for adoption of a child;
 - (c) Be a contractor:
- (d) Be employed by a licensed agency or contractor, if you will have unsupervised access to children;
- (e) Volunteer or participate as an intern in a home or facility that offers care to children; or
- (f) Provide any type of care to children, if the care is funded by the state.

NEW SECTION

WAC 388-06A-0180 Are there other criminal convictions that will prohibit me from being licensed, contracted, certified, or authorized to have unsupervised access to children or from working with children? The department must disqualify you from licensing, contracting, certification, or from having unsupervised access to children if it has been less than five years from a conviction for the following crimes:

- (1) Any felony physical assault or battery offense not included in WAC 388-06A-0170;
- (2) Any felony violation of the following drug-related crimes:
- (a) The Imitation Controlled Substances Act (for substances that are falsely represented as controlled substances (see chapter 69.52 RCW);
- (b) The Legend Drug Act (prescription drugs, see chapter 69.41 RCW);
- (c) The Precursor Drug Act (substances used in making controlled substances, see chapter 69.43 RCW);
- (d) The Uniform Controlled Substances Act (illegal drugs or substances, see chapter 69.50 RCW); or
- (e) Unlawfully manufacturing, delivering or possessing a controlled substance with intent to deliver, or unlawfully using a building for drug purposes.
- (5) Any federal or out-of-state conviction for an offense that under the laws of Washington state would disqualify you for no less than five years from having unsupervised access to children.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 388-06A-0190 If I have a conviction, may I ever have unsupervised access to children? (1) In two situations, DSHS may find a person with convictions able to have unsupervised access to children:

- (a) If the conviction for any crime listed in WAC 388-06A-0180 occurred more than five years ago; or
- (b) If the conviction was for a crime other than those listed in WAC 388-06A-0170 or 388-06A-0180.
- (2) In both of these situations, DSHS must review your background to determine your character, suitability, and competence to have unsupervised access to children. In this review, DSHS must consider the following factors:
- (a) The amount of time that has passed since you were convicted:
- (b) The seriousness of the crime that led to the conviction;
- (c) The number and types of other convictions in your background;
 - (d) Your age at the time of conviction;
- (e) Documentation indicating you has successfully completed all court-ordered programs and restitution;
 - (f) Your behavior since the conviction; and
- (g) The vulnerability of those that would be under your care.

NEW SECTION

WAC 388-06A-0200 Will I be disqualified if there are pending criminal charges on my background check?

(1) The department will not license, contract, certify, or authorize a person to have unsupervised access to children who have a criminal charge pending for a disqualifying crime described in the adoption and safe families act of 1997, or a

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criminal charge pending for a disqualifying crime that relates directly to child safety, permanence, or well-being.

(2) You may reapply for a license, contract, certification, or approval to have unsupervised access to children by providing proof to the department that the charge against you has been dropped or that you were acquitted.

NEW SECTION

WAC 388-06A-0210 Will you license, contract or authorize me to have unsupervised access to children if my conviction has been expunged, vacated from my record, or I have been pardoned for a crime? If you receive a pardon or a court of law acts to expunge or vacate a conviction on your record, the crime will not be considered a conviction for the purposes of licensing, contracting, certification, or authorization for unsupervised access to children.

NEW SECTION

WAC 388-06A-0220 How will I know the status of the background check? (1) If you have been approved by the background check:

- (a) The department will notify you, and your prospective employer, or your supervisor, if you have requested a contract or approval for unsupervised access to children.
- (b) The department will not directly notify you, and will instead continue the process for approving your application if you have requested a license or certification to care for children
- (2) If you have been disqualified by the background check:
- (a) The department will notify you in writing and include any laws and rules that require disqualification;
- (b) The department will also notify the care provider, the prospective employer, or the licensor; and
- (c) You will not receive a license, contract, certification, or be authorized to have unsupervised access to children.

NEW SECTION

WAC 388-06A-0230 What may I do if I disagree with the department's decision to deny me a license, certification, contract, or authorization based on the results of the background check? (1) If you are seeking a license, or employment with a home or facility licensed by the children's administration, you may request an administrative hearing to dispute a denial of authorization for unsupervised access to children (chapter 34.05 RCW). You cannot contest the conviction or negative action in the administrative hearing.

- (2) Prospective volunteers or interns, contractors or their employees, or those seeking certification do not have the right to appeal the department's decision to deny authorization for unsupervised access to children.
- (3) The employer or prospective employer cannot contest the department's decision on your behalf.
- (4) The administrative hearing will take place before an administrative law judge employed by the office of administrative hearings (chapter 34.05 RCW).

NEW SECTION

WAC 388-06A-0240 Is the background check information released to my employer or prospective employer? (1) Children's administration will share with employers or approved care providers only that:

- (a) You are disqualified; or
- (b) You have not been disqualified by the background check.
- (2) The department will follow laws related to the release of criminal history records (chapters 10.97 and 43.43 RCW) and public disclosure (chapter 42.17 RCW) when releasing any information.

NEW SECTION

WAC 388-06A-0250 May I request a copy of my criminal background check results? (1) The department will provide you a copy of your criminal background check results if you:

- (a) Make the request in writing to the department; and
- (b) Offer proof of identity, such as picture identification.
- (2) A copy of your WSP criminal background check results may also be obtained from the Washington state patrol (chapter 10.97 RCW).

WSR 14-23-076 PROPOSED RULES PROFESSIONAL EDUCATOR STANDARDS BOARD

[Filed November 18, 2014, 11:51 a.m.]

Continuance of WSR 14-20-014.

Preproposal statement of inquiry was filed as WSR 14-16-108.

Title of Rule and Other Identifying Information: Adds a new section to chapter 181-78A WAC requiring preparation programs to assure passage of the WEST B prior to admission and WEST E prior to student teaching per chapters 181-01 and 181-02 WAC.

Hearing Location(s): Radisson Hotel, SeaTac Airport, 18118 International Boulevard, Seattle, WA 98188, on January 15, 2015, at 8:30.

Date of Intended Adoption: January 15, 2015.

Submit Written Comments to: David Brenna, 600 Washington Street, Room 400, Olympia, WA 98504, e-mail david.brenna@k12.wa.us, fax (360) 586-4548, by January 8, 2015.

Assistance for Persons with Disabilities: Contact David Brenna by January 8, 2015, (360) 725-6238.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Requires preparation programs to assure and document that teacher candidates have successfully completed the requirements for the WEST B per chapter 181-01 WAC prior to entering a program. Requires preparation programs to assure and document that teacher candidates have successfully completed the requirements for WEST E per chapter 181-02 WAC.

Proposed [18]

Reasons Supporting Proposal: Addresses candidates needing to complete assessments in a timely manner.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: David Brenna, P.O. Box 42736 [47236], Olympia, WA 98504, (360) 725-6238.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed amendment does not have an impact on small business and therefore does not meet the requirements for a statement under RCW 19.85.030 (1) or (2).

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting David Brenna, 600 Washington Street, Olympia, WA 98504, phone (360) 725-6238, fax (360) 586-4548, e-mail david.brenna@k12.wa.us.

November 18, 2014 David Brenna Senior Policy Analyst

NEW SECTION

WAC 181-78A-300 Program requirements for teacher candidates. (1) Approved programs for teachers shall assure that all candidates entering the program shall have successfully completed the WEST B or its alternative or exemptions per chapter 181-01 WAC. The candidate must take and pass the WEST B, or provide evidence of meeting an alternative or exception at the time of admissions. The program shall collect and hold evidence of this requirement.

- (2) Approved programs, when placing a teacher candidate in the student teaching role with a school district, shall assure that the candidate has successfully passed at least one WEST E or equivalent content assessment test per chapter 181-02 WAC. The program shall collect and hold evidence of this requirement.
- (3) This section shall be in effect beginning in the 2015-16 school year.

WSR 14-23-086 PROPOSED RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Economic Services Administration) [Filed November 19, 2014, 9:54 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-09-115.

Title of Rule and Other Identifying Information: The department is proposing to create new WAC 388-310-2200 WorkFirst—WorkFirst incentives; and amend WAC 388-310-0500 WorkFirst—Individual responsibility plan and 388-484-0005 There is a five-year (sixty month) time limit for TANF, SFA and GA-S cash assistance.

Hearing Location(s): Office Building 2, DSHS Head-quarters, 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 December 23, 2014, at 10:00 a.m.

Date of Intended Adoption: Not earlier than December 24, 2014.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, e-mail DSHSRPAU RulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., December 23, 2014.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, TTY (360) 664-6178, or (360) 664-6092, or e-mail Kildaja@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The community services division, economic services administration is proposing to create new WAC 388-310-2200 WorkFirst—Work First incentives; and amend WAC 388-310-0500 WorkFirst—Individual responsibility plan and 388-484-0005 There is a five-year (sixty month) time limit for TANF, SFA and GA-S cash assistance, in order to provide WorkFirst incentive payments to families who are participating in activities outlined in their individual responsibility plan.

Reasons Supporting Proposal: The proposed amendments are necessary to implement the WorkFirst program changes outlined in the agency detail, rec sums for the supplemental budget (ESSB 6002) that passed the legislature on March 13, 2014.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090 and chapters 74.08A and 74.12 RCW.

Statute Being Implemented: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090 and chapters 74.08A and 74.12 RCW.

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

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Sandy Jsames, CSD Policy, DSHS, 712 Pear Street S.E., Olympia, WA 98501, (360) 725-4648.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule does not have an economic impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. This amendment is exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in part, "[t]his section does not apply to ... rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

November 13, 2014 Katherine I. Vasquez Rules Coordinator

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AMENDATORY SECTION (Amending WSR 09-14-019, filed 6/22/09, effective 7/23/09)

WAC 388-310-0500 WorkFirst—Individual responsibility plan. (1) What is the purpose of my individual responsibility plan?

The purpose of your individual responsibility plan is to give you a written statement that describes:

- (a) What your responsibilities are; and
- (b) Which WorkFirst activities you are required to participate in; and
- (c) What services you will receive so you are able to participate.

(2) What is included in my individual responsibility plan?

Your individual responsibility plan includes the following:

- (a) What WorkFirst activities you must do and the participation requirements for those activities including the amount of time you will spend doing the activities, a start and end date for each activity and the requirement to participate fully.
- (b) Any other specific requirements that are tied to the WorkFirst work activity. For example, you might be required to learn English as part of your work experience activity or to provide proof of your employment hours.
- (c) What services we will provide to help you participate in the activity. For example, you may require support services (such as help with paying for transportation) or help with paying childcare.
- (d) Notice of when you have a qualifying individual responsibility plan, as described in WAC 388-310-2200 and might be able to earn a WorkFirst incentive if you participate as required.
- (e) Your statement that you recognize the need to become and remain employed as quickly as possible.

(3) How is my individual responsibility plan developed?

You and your case manager will work together and use information gathered from your comprehensive evaluation (see WAC 388-310-0700) when available to develop your individual responsibility plan and decide what activities will be included in it. Then, your case manager will assign you to specific WorkFirst activities that will help you find employment.

(4) What happens after my individual responsibility plan is completed?

Once your individual responsibility plan is completed:

- (a) You will sign and get a copy of your individual responsibility plan.
- (b) You and your case manager will review your plan as necessary over the coming months to make sure your plan continues to meet your employment needs. You will sign and get a copy of your individual responsibility plan every time it is reviewed and changed.

(5) What should I do if I cannot go to a required WorkFirst appointment or activity because of a temporary situation outside of my control?

If you cannot participate because of a temporary situation outside of your control, you must call the telephone number shown on your individual responsibility plan on the same day you were to report when possible to explain your situation, or as soon as possible thereafter. You will be given an excused absence. Some examples of excused absences include:

- (a) You, your children or other family members are ill;
- (b) Your transportation or child care arrangements break down and you cannot make new arrangements in time to comply;
 - (c) A significant person in your life died; or
 - (d) A family violence situation arose or worsened.

(6) What happens if I don't call in on the same day I am unable to attend to get an excused absence?

If you do not call in on the same day you are unable to attend when possible, or as soon as possible thereafter, to get an excused absence, it will be considered an unexcused absence.

If you exceed the number of unexcused absences allowed on your individual responsibility plan, without good cause, your case manager will begin the sanction process. (See WAC 388-310-1600 for more details.)

NEW SECTION

WAC 388-310-2200 WorkFirst – WorkFirst Incentives (1) What is a WorkFirst incentive?

The WorkFirst incentive is a monthly cash reward that TANF/SFA recipients may be able to earn by successfully participating in their individual responsibility plan activities. The WorkFirst incentive is not intended to meet your ongoing basic needs or participation-related expenses. The incentive is not part of your TANF/SFA cash assistance grant. Incentives are available only when they are funded in the state budget.

(2) When can I start getting WorkFirst incentives?

Starting with participation in April 2015, your family can earn a fifty-five dollar WorkFirst incentive payment for months when an adult in your assistance unit has qualifying participation. Your assistance unit can only earn one incentive payment per month. For two-parent families, we will issue the payment if at least one parent earned the incentive payment. We will issue the payment based on the assistance unit you were in during the month that you earned the incentive.

(3) How do I earn an incentive for a month of Work-First participation?

To earn an incentive for a month of WorkFirst participation, you must meet the all of the following conditions:

- (a) You have a qualifying individual responsibility plan for that month.
- (b) You participate for all of the hours in your individual responsibility plan. For example, if your individual responsibility plan requires you to participate thirty-five hours per week, you must participate for the thirty-five hours each week to get the incentive.
- (c) You bring in, or have your provider send in, proof of your participation, when required, by the seventh of the month following the month you participated. You will receive written notice of what proof is required and when it is due from DSHS or the people who provide your assigned WorkFirst services or activities.

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- (d) You verify your employment hours at least once every six months, starting when you get a job and then at every eligibility review. The verification is due by the seventh of the month following the month you started employment or had your eligibility review.
- (e) You have no more than two absences that you have not made up by the end of the month. However, we will not track absences or apply this condition for subsidized or unsubsidized employment.

(4) For WorkFirst incentives, how will you decide how many absences I have each month?

For WorkFirst incentives, we will look at whether you missed an appointment or activity that is scheduled for a specific time, place and date to determine how many absences you have each month.

- (a) If you have an appointment or activity that is scheduled for a specific place, time and date, and you don't show up, or you show up late, that will count as one absence. For example, during the month of June, you are scheduled to do four hours of work experience at the local food bank every day, from 8:00 a.m. to noon, Monday through Friday. In this example:
- (i) If you didn't show up at the food bank to do your work experience until 10:00 a.m. on a Monday, it would be one two-hour absence.
- (ii) If you made up the two hours of the work experience that you missed by June 30, we would not count this as an absence.
- (b) If you have activities where you can choose the time and place to do them, and don't complete all of your required hours by the end of the week, up to every eight hours that you miss will count as one absence. For example, during October, you must do thirty-five hours of job search a week, but can decide who you contact, which days you do the job search and how many hours of job search you do each day. In this example:
- (i) If you only did twenty of your thirty-five hours of job search for a week, it would be one eight-hour absence and one seven-hour absence.
- (ii) If you made up the fifteen hours of job search that you did not do by October 31, we would not count this as an absence

(5) What is a qualifying individual responsibility plan?

- (a) A qualifying individual responsibility plan is a plan that requires participation of at least twenty hours of Work-First participation per week. Your individual responsibility plan will indicate whether it is a qualifying plan.
- (b) For WorkFirst incentives, WorkFirst participation does not include the time you spend:
 - (i) Looking for child care or housing on your own; or,
- (ii) Staying home to take care of your, your child's or your adult relative's medical condition; or,
 - (iii) Pursuing SSI for yourself or your child.

(6) How do you determine whether I earned an incentive for a month of WorkFirst participation?

Each month, we will review proof of your participation and absences for the previous month to see if you earned an incentive.

- (a) Once we have proof of your employment hours, we will count them without getting new proof every month. For example, we may use a copy of your paystub that lists how many hours you worked or a statement from your employer as proof of your employment hours.
- (b) For your other individual responsibility plan activities, we will wait until we have proof from all of the people who provide your assigned WorkFirst services or activities before we make a decision.

(7) How will I know whether I earned an incentive for a month of WorkFirst participation?

Once we have the proof of your participation and absences, you will get an approval or denial letter for each month that you had an opportunity to earn an incentive.

(8) How will you issue my WorkFirst incentives?

Incentive payments are made in one of three ways, on your electronic benefits transfer (EBT) card, as a direct deposit to your bank account or as a warrant. When possible, you will get your WorkFirst incentive the same way you get your cash grant. If you get your incentive payment on your EBT card, the same restrictions on use of the EBT card and cash obtained from that card apply to the incentive payment.

(9) Can I get a WorkFirst incentive after I exit TANF/SFA?

You can get the incentives you earned for a month of WorkFirst participation while you were on TANF/SFA after you exit TANF/SFA.

AMENDATORY SECTION (Amending WSR 12-05-039, filed 2/10/12, effective 3/12/12)

WAC 388-484-0005 There is a five-year (sixty-month) time limit for TANF, SFA and GA-S cash assistance. (1) What is the sixty-month time limit?

- (a) You can receive cash assistance for temporary assistance for needy families (TANF), state family assistance (SFA), and general assistance for pregnant women (GA-S) for a lifetime limit of sixty months. The time limit applies to cash assistance provided by any combination of these programs, and whether or not it was received in consecutive months.
- (b) If you receive cash assistance for part of the month, it counts as a whole month against the time limit.
- (c) If you have received cash assistance from another state on or after August 1, 1997, and it was paid for with federal TANF funds, those months will count against your time limit.
- (d) The time limit does not apply to diversion cash assistance, <u>WorkFirst incentive payments</u>, support services, food assistance or medicaid.

(2) When did the sixty-month time limit go into effect?

The sixty-month time limit applies to cash assistance received on or after August 1, 1997 for TANF and SFA. Although the GA-S program no longer exists, the time limit applies to GA-S cash assistance received from May 1, 1999 through July 31, 1999.

(3) Does the time limit apply to me?

(a) The sixty-month time limit applies to you for any month in which you are an ineligible parent or a parent or

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other relative as defined in WAC 388-454-0010, or a minor parent emancipated through court order or marriage.

(b) An ineligible parent is a natural, adoptive or step parent as defined in WAC 388-454-0010 who receives a TANF/SFA grant for his or her child but is ineligible to receive TANF/SFA assistance.

(4) Do any exceptions to the time limits apply to me?

The department does not count months of assistance towards the sixty-month time limit if you are:

- (a) An adult caretaker, other than an ineligible parent, as described in WAC 388-454-0005 through 388-454-0010, who is not a member of the assistance unit and you are receiving cash assistance on behalf of a child;
- (b) An unemancipated pregnant or parenting minor living in a department approved living arrangement as defined by WAC 388-486-0005; or
- (c) An adult and you are living in Indian country, as defined under 18 U.S.C. 1151, or an Alaskan native village and you are receiving TANF, SFA, or GA-S cash assistance during a period when at least fifty percent of the adults living in Indian country or in the village were not employed. See WAC 388-484-0010.

(5) What happens if an ineligible parent in the home or a member of my assistance unit has received sixty months of TANF, SFA, and GA-S cash benefits?

Once any adult or emancipated minor in the assistance unit has received sixty months of cash assistance, or an ineligible parent in the home has received sixty months of cash assistance for themselves or their child, the entire assistance unit becomes ineligible for TANF or SFA cash assistance, unless they qualify for a hardship extension and are eligible for an extended period of cash assistance called a TANF/SFA time limit extension under WAC 388-484-0006.

(6) What can I do if I disagree with how the department has counted my months of cash assistance?

- (a) If you disagree with how we counted your months of cash assistance, you may ask for a hearing within ninety days of the date we sent you a letter telling you how many months we are counting.
- (b) You will get continued benefits (the amount you were getting before the change) if:
- (i) You have used all sixty months of benefits according to our records; and
- (ii) You ask for a hearing within the ten-day notice period, as described in chapter 388-458 WAC.
- (c) If you get continued benefits and the administrative law judge (ALJ) agrees with our decision, you may have to pay back the continued benefits after the hearing, as described in chapter 388-410 WAC.

(7) Does the department ever change the number of months that count against my time limit?

We change the number of months we count in the following situations:

(a) You repay an overpayment for a month where you received benefits but were not eligible for any of the benefits you received. We subtract one month for each month that you completely repay. If you were eligible for some of the benefits you received, we still count that month against your time limit.

- (b) We did not close your grant on time when the division of child support (DCS) collected money for you that was over your grant amount two months in a row, as described in WAC 388-422-0030.
- (c) An ALJ decides at an administrative hearing that we should change the number of months we count.
- (d) You start getting worker's compensation payments from the department of labor and industries (L&I) and your L&I benefits have been reduced by the payments we made to you
- (e) You participated in the excess real property (ERP) program in order to get assistance and we collected the funds when your property sold.
- (f) Another state gave us incorrect information about the number of months you got cash assistance from them.

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