

WSR 16-04-020
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed January 22, 2016, 11:27 a.m., effective February 22, 2016]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of the proposed WAC is to add the community first choice (CFC) program to the array of programs and services offered by the department. New WAC 388-106-0270 through 388-106-0295 define CFC services, including the scope, limitations, qualified providers, and eligibility.

In addition, WAC 388-106-0047 clarifies the department's ability to terminate services if the plan of care is not approved in writing and WAC 388-106-0050 amends and clarifies the department's assessment and home visit requirements.

Citation of Existing Rules Affected by this Order: Amending WAC 388-106-0015, 388-106-0020, 388-106-0033, 388-106-0045, 388-106-0047, 388-106-0050, 388-106-0055, 388-106-0070, and 388-106-0120.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520, 74.39A.400.

Other Authority: 42 C.F.R. § 441.500-590.

Adopted under notice filed as WSR 15-23-052 on November 12, 2015.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-106-0047(3), changed the language of "two months" to "sixty days."

WAC 388-106-0015(3), added adult family homes.

WAC 388-106-0020(5), language was changed to "Services to any person who has not been authorized by the department to receive them."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 13, Amended 9, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 13, Amended 9, Repealed 0.

Date Adopted: January 20, 2016.

Katherine I. Vasquez
 Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 16-05 issue of the Register.

WSR 16-04-021
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Financial Services Administration)

[Filed January 22, 2016, 12:15 p.m., effective February 22, 2016]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is amending chapter 388-03 WAC to clarify the beginning date of acceptable interpreter continuing education credits (CEC) in WAC 388-03-160, and to correct the typographical error "proessional" to "professional" in WAC 388-03-114(2).

Citation of Existing Rules Affected by this Order: Amending WAC 388-03-160 and 388-03-114(2).

Statutory Authority for Adoption: RCW 74.04.025, Title VI of the Civil Rights Act of 1964, RCW 74.08.090, 45 C.F.R. Section 80.3 (b)(2).

Other Authority: *Reyes vs. Thompson Consent Order*.

Adopted under notice filed as WSR 15-23-007 on November 5, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: January 21, 2016.

Katherine I. Vasquez
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-07-008, filed 3/6/15, effective 4/6/15)

WAC 388-03-160 How do I maintain my certification or authorization status? (1) If you have been certified or authorized as a department bilingual employee or LAPL, your status does not expire as long as you remain in a designated bilingual position within the position cluster for which you were certified/authorized. Otherwise:

(a) If you moved out of a designated bilingual position and do not use your bilingual skills for four consecutive years or longer, you need to retest for the position cluster you are reentering; or

(b) If you are moving into a new designated bilingual position within a new position cluster, you need to meet the test requirements for the position cluster you are entering.

(2) If you have been certified or authorized as an interpreter or translator and are not a department employee, you can maintain your certification or authorization status by:

(a) Earning a minimum of twenty credit hours of DSHS approved continuing education (CE) every four years, of which at least one credit hour per year must be in ethics training. A current list of DSHS recognized continuing education and/or professional development courses is published on the LTC web site; or

(b) Retake the examination within four years from the date you were certified/authorized if you do not earn a minimum of twenty credit hours of DSHS recognized continuing education during this time frame. Once you pass all test requirements, a new certificate or authorization letter will be issued to you with a new expiration date. Your name and contact information will then be included for publication.

(c) Continuing education credits (CEC) earned before January 1, 2015 will not be accepted, even if the CEC were DSHS approved.

AMENDATORY SECTION (Amending WSR 15-07-008, filed 3/6/15, effective 4/6/15)

WAC 388-03-114 Can I provide language services to DSHS without taking a department examination? There are five ways that you may gain department recognition as an interpreter or translator without taking the department's certification examinations.

(1) If you are certified as an interpreter by either the Washington state administrative office of the courts or the Administrative Office of the United States Courts, the department will recognize you as a social services interpreter without requiring you to take its social service interpreter examination. However, you must formally submit a written request for recognition, a photocopy of your valid official certificate, and a copy of official record attesting to your completion of the required minimum DSHS interpreter/translator orientation and interpreter/translator professional ethics trainings to the entity you contract with for your language services.

(2) If you are certified as an interpreter by either the Certification Commission for Healthcare Interpreters (CCHI) or the National Board of Certification for the Medical Interpreters (NBCMI), the department will recognize you as a medical interpreter without requiring you to take its medical interpreter examination. However, you must formally submit a written request for recognition, a photocopy of your valid official certificate, and a copy of official record attesting to your completion of the required minimum DSHS interpreter/translator orientation and interpreter/translator (~~professional~~) professional ethics trainings to the entity you contract with for your language services.

(3) If you are certified as a translator by the American Translators Association (ATA), the department will recognize you as a translator without requiring you to take its translator examination. However, you must formally submit a written request for recognition, a photocopy of your valid official certificate, and a copy of official record attesting to your completion of the required minimum DSHS interpreter/translator orientation and interpreter/translator professional ethics trainings to the entity you contract with for your language services.

(4) If you are certified as an interpreter or translator by another state or U.S. territory or another country that is com-

parable to DSHS certification and based upon similar requirements, the department may recognize your certification. In your written request for DSHS recognition, you must submit a photocopy of your valid official certificate and a copy of the official examination manual containing descriptions of the test development process, the scope of the examination, the knowledge and skills to be evaluated, the test validation approach and related statistics, the evaluation criteria, and the passing benchmark. Your request must be submitted to LTC. LTC will evaluate all requests on a case-by-case basis. If LTC determines that your certification meets DSHS certification requirements, a recognition letter will be issued to you, which you will submit with your written request and a copy of your valid official certificate, and a copy of the official record attesting to your completion of the required minimum DSHS interpreter/translator orientation and interpreter/translator professional ethics trainings to the entity you contract with for your language services.

(5) If you are certified as an interpreter or translator by a nonprofit organization that uses a credible certification program and is recognized by the department, the department may recognize your certification. In your written request for DSHS recognition, you must submit a photocopy of your valid official certificate and a copy of the official examination manual containing descriptions of the test development process, the scope of the examination, the knowledge and skills to be evaluated, the test validation approach and related statistics, the evaluation criteria, and the passing benchmark. Your request must be submitted to LTC. LTC will evaluate all requests on a case-by-case basis. If LTC determines that your certification meets DSHS certification requirements, a recognition letter will be issued to you, which you will submit with your written request and a copy of your valid official certificate, and a copy of official record attesting to your completion of the required minimum DSHS interpreter/translator orientation and interpreter/translator professional ethics trainings to the entity you contract with for your language services.

(6) DSHS does not recognize any academic interpreter/translator degrees/certificates or training courses as substitutes for its certification/authorization examination requirements.

WSR 16-04-025
PERMANENT RULES
SEATTLE COLLEGES

[Filed January 25, 2016, 8:28 a.m., effective February 25, 2016]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Update language to reflect mandatory changes required by VAWA and Title IX.

Citation of Existing Rules Affected by this Order: Amending chapter 132F-121 WAC.

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

Adopted under notice filed as WSR 15-24-086 on November 30, 2015.

Changes Other than Editing from Proposed to Adopted Version: The agency did not adopt the definition of "bully-

ing" in WAC 132F-121-010 (1)(a) in response to public comment and reverted to the original definition. The agency clarified WAC 132F-121-110(24) to include "any hate crime."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 3, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 14, 2016.

Jill Wakefield
Chancellor

NEW SECTION

WAC 132F-121-005 Statement of values. The Seattle College District is a diverse and dynamic learning community. As such, the college district maintains a strong commitment to our values. We value students: We promote programs, services and activities that address students' needs and interests; student success through accessibility and support services; and student development through activities both inside and outside the classroom. We value diversity: We promote respect for the abilities and interests of each individual; awareness and understanding of all people; and appreciation of the unique cultures of our campuses. We are committed to the concept and practice of equal opportunity for all, and do not tolerate discrimination or retaliation against any member of the college community because of her/his race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status, religion; creed; genetic information; sexual orientation; age; gender identity; gender expression; veteran's status; or any other legally protected classification, in accordance with WAC 132F-121-110(1).

AMENDATORY SECTION (Amending WSR 15-02-072, filed 1/6/15, effective 2/6/15)

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

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

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

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

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

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

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

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

(2)) **Cyber misconduct.** Cyberstalking, cyberbullying or online harassment. Use of electronic communications including, but not limited to, electronic mail, instant messaging, electronic bulletin boards, and social media sites, to harass, abuse, bully or engage in other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person. Prohibited activities include, but are not limited to, unauthorized monitoring of another's e-mail communications directly or through spyware, sending threatening e-mails, disrupting electronic communications with spam or by sending a computer virus, sending false messages to third parties using another's e-mail identity, nonconsensual recording, including images or videos of a sexual nature, and nonconsensual distribution of such material.

(c) **Stalking.** Stalking is intentional and repeated following of another person, which places that person in reasonable fear that the perpetrator intends to injure, intimidate or harass that person. Stalking also includes instances where the perpetrator knows or reasonably should know that person is frightened, intimidated or harassed, even if the perpetrator lacks such an intent.

(2) **Sexual misconduct.** The term "sexual misconduct" includes sexual harassment, sexual intimidation, sexual violence, and domestic violence.

(a) **Sexual harassment.** The term "sexual harassment" means unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature that is sufficiently serious as to deny or limit, and that does deny or limit, based on sex, the ability of a student to participate in or benefit from the college's educational program or that creates an intimidating, hostile, or offensive environment for other campus community members.

(b) Sexual intimidation. The term "sexual intimidation" incorporates the definition of "sexual harassment" and means threatening or emotionally distressing conduct based on sex including, but not limited to, nonconsensual recording of sexual activity or the distribution of such recording.

(c) Sexual violence. Sexual violence is a type of sexual discrimination and harassment. Nonconsensual sexual intercourse, nonconsensual sexual contact, domestic violence, dating violence, and stalking are all types of sexual violence.

(i) Nonconsensual sexual intercourse is any sexual intercourse (anal, oral, or vaginal), however slight, with any object, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

(ii) Nonconsensual sexual contact is any intentional sexual touching, however slight, with any object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

(iii) Domestic violence as defined in (d) of this subsection.

(iv) Dating violence means violence by a person who has been in a romantic or intimate relationship with the victim, and includes conduct that causes emotional, psychological, physical, and sexual trauma. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.

(v) Stalking as defined in subsection (1)(c) of this section.

(vi) Consent: Knowing, voluntary and clear permission by word or action, to engage in mutually agreed upon sexual activity. Each party has the responsibility to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be at the time of the act of sexual intercourse or sexual contact actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.

A person cannot consent if he or she is unable to understand what is happening or is disoriented, helpless, asleep or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has engaged in nonconsensual conduct.

Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.

(d) Domestic violence. Domestic violence includes asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law, and, includes conduct that causes emotional, psychological, physical, and sexual trauma.

(3) The terms "college" and "campus" are used interchangeably, and each refers to any of the district's three colleges, North Seattle College, Seattle Central College, and

South Seattle College. The Seattle Vocational Institute is considered to be part of Seattle Central College.

~~((3))~~ (4) "Day" means calendar day, unless specified otherwise, and deadlines shall be computed in accordance with WAC 10-08-080.

~~((4))~~ (5) "District" means the sixth state college district, the district administrative offices (Siegal Center), North Seattle College, Seattle Central College, South Seattle College, the Seattle Vocational Institute, and/or every other District VI educational facility, each separately and all together.

~~((5))~~ (6) "District community" includes, but is not limited to, the district itself and all enrolled students, employees, officers, and invitees of the district.

~~((6))~~ (7) "District property" includes all real property, buildings, and other facilities that are owned, leased, or controlled by the district or by the state for district purposes.

~~((7))~~ (8) "Vice-president for student services" means the person whom a college president has appointed to that position or has otherwise designated to perform the functions ascribed to that position in this chapter.

~~((8))~~ (9) An action or activity that may be authorized or taken by the district chancellor, a vice chancellor, a campus president, or a campus vice-president may also be authorized or taken by any other person whom that officer has specifically designated to perform that function on his/her behalf, but this officer retains responsibility for the function.

~~((9))~~ (10) After the adoption of these rules, if a statute or rule to which they refer is renumbered or otherwise amended, these rules shall be interpreted to the fullest extent possible to incorporate such amendment while still giving effect to their original purposes.

~~((10))~~ (11) Service of any document, notice, or copy under this chapter shall be made (a) by personal delivery, (b) by mailing to the recipient's last known address, which service shall be regarded as complete upon deposit in the U.S. mail properly stamped and addressed, or (c) as otherwise authorized by law or rule.

~~((11))~~ (12) The term "student" includes all persons taking courses at the district, either full-time or part-time. Persons who withdraw after allegedly violating the student code, who are not officially enrolled for a particular term but who have a continuing relationship with the district, or who have been notified of their acceptance for admission are considered "students" as are persons who are living in district resident halls, although not enrolled at the district.

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

WAC 132F-121-020 Student rights, freedoms, and responsibilities. (1) ~~((Preamble-))~~ Statement of student rights. As members of the academic community, students are encouraged to develop the capacity for critical judgment and to engage in an independent search for truth. Freedom to teach and freedom to learn are inseparable facets of academic freedom. The freedom to learn depends upon appropriate opportunities and conditions in the classroom, on the campus, and in the larger community. Students should exercise their freedom with responsibility. The responsibility to secure and to respect general conditions conducive to the freedom to

learn is shared by all members of the ((district)) college community.

The following enumerated rights are guaranteed to each student within the limitations of statutory law and college policy which are deemed necessary to achieve the educational goals of the college:

(a) Academic freedom.

(i) Students are guaranteed the rights of free inquiry, expression, and assembly upon and within college facilities that are generally open and available to the public.

(ii) Students are free to pursue appropriate educational objectives from among the college's curricula, programs, and services, subject to the limitations of RCW 28B.50.090 (3)(b).

(iii) Students shall be protected from academic evaluation which is arbitrary, prejudiced, or capricious, but are responsible for meeting the standards of academic performance established by each of their instructors.

(iv) Students have the right to a learning environment which is free from unlawful discrimination, inappropriate and disrespectful conduct, and any and all harassment, including sexual harassment.

(b) Due process.

(i) The rights of students to be secure in their persons, quarters, papers, and effects against unreasonable searches and seizures is guaranteed.

(ii) No disciplinary sanction may be imposed on any student without notice to the accused of the nature of the charges.

(iii) A student accused of violating this code of student conduct is entitled, upon request, to procedural due process as set forth in this chapter.

(iv) Sexual misconduct investigations. Both the respondent and the complainant in cases involving allegations of sexual misconduct shall be provided the same procedural rights to participate in student discipline matters, including the right to participate in the initial disciplinary decision-making process and to appeal any disciplinary decision.

(2) Classroom freedom of expression. The district recognizes the rights of students to freedom of discussion and free expression of views. However, students' rights of classroom expression do not include expressions or conduct which create a hostile educational environment or violate chapter 49.60 RCW or other applicable law. It is the responsibility of the instructor to insure and encourage the realization not only of the fact but of the spirit of free inquiry. Instructors have the responsibility to maintain order, but this authority shall not be used to inhibit the expression of views contrary to their own. Students have the right to take reasoned exception to the data or views offered in any course of study and to reserve judgment about matters of opinion, but they cannot do so in a disruptive manner that interferes with the educational process. Students are responsible for learning the content of any course of study for which they are enrolled. It also is the responsibility of the student to comply with the instructor's efforts to assure freedom of expression and to maintain order.

(3) Protection against improper evaluation. Instructors shall give their students fair and consistent evaluations of the students' course performance. Toward this end, instructors are also responsible for establishing appropriate standards of

academic performance for each course. Fair and consistent grading is a legitimate classroom experience.

(4) Protection against improper disclosure. Information about student views, beliefs, and political associations which is acquired by instructors in the course of their work as faculty or advisors, under circumstances which clearly indicate that it is intended to be confidential, shall be treated as confidential and shall not be disclosed to others, unless it relates to the apparent or intended commission of a crime or disclosure is required by law. Protection against improper disclosure of student education record information is a serious professional obligation incurred by the teaching profession and district administrators. However, evaluations of student ability and character may be provided to third parties with the student's consent or in accordance with applicable law.

(5) Nonacademic expression and inquiry. Students and student organizations are free to examine and to discuss all questions of interest to them and to express opinions publicly and privately, in accordance with law. They are free to support causes by orderly and lawful means which do not disrupt the operation of the institution and which comply with the district's policies regarding these activities.

(6) The district shall respect students' right to privacy. It will not inquire into the off-campus activities of its students without legal justification.

AMENDATORY SECTION (Amending WSR 13-11-127, filed 5/21/13, effective 6/21/13)

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

(1) Discriminatory conduct. Discriminatory conduct which harms or adversely affects any member of the college community because of her/his race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; religion; creed; genetic information; sexual orientation; age; gender identity; gender expression; veteran's status; or any other legally protected classification.

(2) Sexual misconduct. The term "sexual misconduct" includes sexual harassment, sexual intimidation, and sexual violence as defined in WAC 132F-121-010(2).

(3) Harassment. Unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct, that is directed at a person because of such person's protected status and that is sufficiently serious as to deny or limit, and that does deny or limit, the ability of a student to participate in or benefit from the college's educational program or that creates an intimidating, hostile, or offensive environment for other campus community members. Protected status includes a person's race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age; religion; creed; genetic information; sexual orientation; gender identity; gender expression; veteran's status; or any other legally protected classification, and includes sexual harassment. Harassing conduct may include, but is not limited to, physical conduct, verbal, written, social media and electronic forms of communication.

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

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

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

(c) Academic dishonesty also includes, but is not limited to, submitting in an instructional course either information that is known to be false (while concealing that falsity) or work that is substantially the same as that previously submitted in another course (without the current instructor's approval).

~~((2))~~ (5) Any other act of college-related dishonesty. Such acts include, but are not limited to:

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

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

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

~~((3))~~ (6) Obstruction or disruption of (a) any instruction, research, administration, disciplinary proceeding, or other district activity, whether occurring on or off district property, or (b) any other activity that is authorized to occur on district property, whether or not actually conducted by the district.

~~((4))~~ (7) Assault, physical abuse, verbal abuse, threat(s), intimidation, harassment, bullying, cyberbullying, stalking or other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of ~~((any student, any district officer or employee, or any other person who is on district property or is participating in a district activity.~~

~~((5))~~ another person or another person's property.

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

~~((6))~~ (9) Failure to comply with the direction of a district officer or employee who is acting in the legitimate performance of his or her duties, or failure to properly identify oneself to such a person when requested to do so.

~~((7))~~ (10) Participation in any activity which unreasonably disrupts the operations of the district or infringes on the rights of another member of the district community, or leads or incites another person to engage in such an activity.

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

~~((9))~~ (11) Weapons. Carrying, holding, wearing, exhibiting, displaying or drawing of any firearm, dagger, sword, knife or other cutting or stabbing instrument, club, explosive device, or any other weapon apparently capable of producing bodily harm is prohibited on the college campus, subject to the following exceptions:

(a) Commissioned law enforcement personnel or legally authorized military personnel while in performance of their duties;

(b) A student with a valid concealed weapons permit may store a firearm in his or her vehicle parked on campus in accordance with RCW 9.41.050, provided the vehicle is locked and the weapon is concealed from view; or

(c) The president or the president's designee may authorize possession of a weapon on campus upon a showing that the weapon is reasonably related to a legitimate pedagogical purpose. Such permission shall be in writing and shall be subject to such terms or conditions incorporated therein.

This policy does not apply to the possession and/or use of disabling chemical sprays when possessed and/or used for self-defense.

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

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

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

~~((12))~~ (13) Alcohol. The use, possession, delivery, or sale of any alcoholic beverage, except as permitted by law, applicable college policies, or authorized by chancellor or a college president, or being observably under the influence of alcohol.

(14) Drugs.

(a) Marijuana. The use, possession, delivery, or sale of marijuana or the psychoactive compounds found in marijuana and intended for human consumption, regardless of form. While state law permits the recreational use of marijuana, federal law prohibits such use on college premises or in connection with college activities.

(b) Drugs. The use, possession, delivery, sale or being under the influence of any legend drug, including anabolic steroids, androgens, or human growth hormones as defined in chapter 69.41 RCW, or any other controlled substance under chapter 69.50 RCW, except as prescribed for a student's use by a licensed practitioner.

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

~~((13))~~ (16) Conduct which is disorderly, lewd, or obscene.

~~((14))~~ (17) Breach of the peace, or aiding, abetting, or procuring a breach of the peace.

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

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

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

~~(18) Smoking inside a campus building or in or on any other property where smoking is not authorized.)~~ (18) The use of tobacco, electronic cigarettes, and related products is prohibited in any building owned, leased or operated by the college, including twenty-five feet from entrances, exits, windows that open, and ventilation intakes of such buildings, and where otherwise prohibited. "Related products" include, but are not limited to, cigarettes, pipes, bidi, clove cigarettes, water pipes, hookahs, chewing tobacco, and snuff.

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

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

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

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

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

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

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

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

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

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

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

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

(a) Failure to obey a subpoena;

(b) Falsification or misrepresentation of information;

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

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

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

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

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

(22) ~~((Operation of any motor vehicle on district property in an unsafe manner or in a manner which is reasonably perceived as threatening the health or safety of another person.))~~ Safety violations. The operation of any motor vehicle on district property in an unsafe manner or in a manner which is reasonably perceived as threatening the health or safety of another person. Safety violation includes any nonaccidental conduct that interferes with or otherwise compromises any college policy, equipment, or procedure relating to the safety and security of the campus community, including tampering with fire safety equipment and triggering false alarms or other emergency response systems.

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

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

(25) Ethical violation. The breach of any generally recognized and published code of ethics or standards of professional practice that governs the conduct of a particular profession for which the student is taking a course or is pursuing as an educational goal or major.

In addition to initiating discipline proceeding for violation of the student conduct code, the college may refer any violations of federal, state or local laws to civil and criminal authorities for disposition. The college shall proceed with student disciplinary proceedings regardless of whether the underlying conduct is subject to civil or criminal prosecution.

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

(27) Retaliation. Retaliation against any individual for reporting, providing information, exercising one's rights or responsibilities, or otherwise being involved in the process of responding to, investigating, or addressing allegations or violations of federal, state or local law, or college policies including, but not limited to, student conduct code provisions prohibiting discrimination and harassment.

AMENDATORY SECTION (Amending WSR 13-11-127, filed 5/21/13, effective 6/21/13)

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

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

(b) Reprimand: Written notice to the student of the violation(s). A reprimand indicates, and usually states, that other

or further misconduct, especially any continuation or repetition of the misconduct in question, may or will result in more serious disciplinary action. There shall be no appeal from a reprimand.

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

Probation may include formal action placing specific conditions and restrictions upon the student's continued attendance depending upon the seriousness of the violation and which may include a deferred disciplinary sanction. If the student subject to a deferred disciplinary sanction is found in violation of any college rule during the time of disciplinary probation, the deferred disciplinary sanction which may include, but is not limited to, a suspension or a dismissal from the college, shall be in addition to any sanction or conditions arising from the new violation. Probation may be for a limited period of time or may be for the duration of the student's attendance at the college.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The sanction(s) imposed; and

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

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

AMENDATORY SECTION (Amending WSR 13-11-127, filed 5/21/13, effective 6/21/13)

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

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

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

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

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

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

WSR 16-04-026
PERMANENT RULES
HEALTH CARE AUTHORITY
(Washington Apple Health)

[Filed January 25, 2016, 9:07 a.m., effective March 1, 2016]

Effective Date of Rule: March 1, 2016.

Purpose: This rule creates a habilitative services section (WAC 182-545-400) as required under the Patient Protection and Affordable Care Act. WAC 182-545-900 and 182-551-2100 were updated to reflect the creation of habilitative services.

Citation of Existing Rules Affected by this Order: Amending 182-545-900 and 182-551-2100.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 15-24-115 on December 1, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 25, 2016.

Wendy Barcus
Rules Coordinator

NEW SECTION

WAC 182-545-400 Habilitative services. (1) Habilitative services assist the client in partially or fully attaining, learning, maintaining, or improving developmental-age appropriate skills that were not fully acquired as a result of a congenital, genetic, or early acquired health condition. To the extent practical, habilitative services maximize the client's ability to function in the client's environment.

(2) Eligibility is limited to clients who are enrolled in the Washington apple health alternative benefits plan defined in WAC 182-501-0060 and who have a diagnosis which is one of the qualifying conditions listed in the agency's provider guide for habilitative services. Clients enrolled in an agency-contracted managed care organization (MCO) must arrange for habilitative services through their MCO.

(3) The following licensed health care professionals may enroll with the agency to provide habilitative services within their scope of practice to eligible clients:

- (a) Psychiatrists;
- (b) Occupational therapists;

(c) Occupational therapy assistants supervised by a licensed occupational therapist;

(d) Physical therapists;

(e) Physical therapy assistants supervised by a licensed physical therapist;

(f) Speech-language pathologists who have been granted a certificate of clinical competence by the American Speech-Language-Hearing Association; and

(g) Speech-language pathologists who have completed the equivalent educational and work experience necessary for such a certificate.

(4) The agency pays for habilitative services that are:

(a) Covered within the scope of the client's alternative benefits plan under WAC 182-501-0060;

(b) Medically necessary;

(c) Within currently accepted standards of evidence-based medical practice;

(d) Ordered by a physician, physician assistant, or an advanced registered nurse practitioner;

(e) Begun within thirty calendar days of the date ordered;

(f) Provided by one of the health care professionals listed in subsection (3) of this section;

(g) Authorized under this chapter, chapters 182-501 and 182-502 WAC, and the agency's published provider guides;

(h) Billed under this chapter, chapters 182-501 and 182-502 WAC, and the agency's published provider guides; and

(i) Provided as part of a habilitative treatment program:

(i) In an office or outpatient hospital setting;

(ii) In the home, by a home health agency as described in chapter 182-551 WAC; or

(iii) In a neurodevelopmental center, as described in WAC 182-545-900.

(5) For billing purposes under this section:

(a) Each fifteen minutes of timed procedure code equals one unit.

(b) Each nontimed procedure code equals one unit, regardless of how long the procedure takes.

(c) Duplicate services for habilitative services are not allowed for the same client when both providers are performing the same or similar procedure on the same day.

(d) The agency does not pay a health care professional for habilitative services performed in an outpatient hospital setting when the health care professional is not employed by the hospital. The hospital must bill the agency for the services.

(6) The limitations in subsection (7) of this section do not apply to eligible clients under age twenty-one.

(7) For eligible clients age twenty-one and older, the agency covers habilitative services that include an ongoing management plan for the client or the client's caregiver to support continued client progress. The agency limits habilitative services as follows:

(a) Occupational therapy, per client, per year:

(i) Without authorization:

(A) One occupational therapy evaluation;

(B) One occupational therapy reevaluation at time of discharge; and

(C) Twenty-four units of occupational therapy (which equals approximately six hours).

(ii) With expedited prior authorization (EPA), up to twenty-four additional units of occupational therapy may be available when the therapy is required as part of an initial botulinum toxin injection protocol for spasticity or dystonia and botulinum toxin has been authorized by the agency.

(b) Physical therapy, per client, per year:

(i) Without authorization:

(A) One physical therapy evaluation;

(B) One physical therapy reevaluation at time of discharge; and

(C) Twenty-four units of physical therapy (which equals approximately six hours).

(ii) With EPA, up to twenty-four additional units of physical therapy may be available when the therapy is required as part of an initial botulinum toxin injection protocol for spasticity or dystonia and botulinum toxin has been authorized by the agency.

(c) Speech therapy, per client, per year:

(i) Without authorization:

(A) One speech language pathology evaluation;

(B) One speech language pathology reevaluation at the time of discharge; and

(C) Six units of speech therapy (which equals approximately six hours).

(ii) With EPA, up to six additional units of speech therapy may be available when:

(A) The therapy is required as part of an initial botulinum toxin injection protocol for spasticity or dystonia and botulinum toxin has been authorized by the agency; or

(B) The client has a speech deficit caused by the qualifying condition which requires a speech generating device.

(d) Two durable medical equipment needs assessments, per client, per year. The agency covers devices and other durable medical equipment for habilitative purposes to treat conditions that qualify under chapter 182-543 WAC.

(e) Two program units of orthotics management and training of upper and lower extremities, per client, per day.

(f) Two program units for the provider to assess prosthetic or orthotic use, per client, per year.

(g) One muscle testing procedure, per client, per day.

(h) One wheelchair-needs assessment, per client, per year.

(8) The agency evaluates requests for habilitative services that exceed the limitations in this section under WAC 182-501-0169. The agency requires prior authorization for additional units when:

(a) The criteria for EPA do not apply;

(b) The number of available units under the EPA have been used and services are requested beyond the limits; or

(c) The provider requests it as a medically necessary service.

(9) The agency does not cover the following:

(a) Day habilitation services designed to provide training, structured activities, and specialized services to adults;

(b) Services to assist basic needs;

(c) Vocational services;

(d) Custodial services;

(e) Respite care;

(f) Recreational care;

(g) Residential treatment;

(h) Social services; and

(i) Educational services of any kind.

AMENDATORY SECTION (Amending WSR 11-21-066, filed 10/17/11, effective 11/17/11)

WAC 182-545-900 Neurodevelopmental centers. (1)

This section describes:

(a) Neurodevelopmental centers that may be reimbursed by the agency;

(b) Clients who may receive covered services at a neurodevelopmental center; and

(c) Covered services ~~((that may be provided at and reimbursed to))~~ for which a neurodevelopmental center may be reimbursed.

(2) In order to provide and be reimbursed for the services listed in subsection (4) of this section, the agency requires a neurodevelopmental center ~~((provider))~~ to do all of the following:

(a) Be contracted with the department of health (DOH) as a neurodevelopmental center;

(b) Provide documentation of the DOH contract to the agency; and

(c) Have an approved core provider agreement with the agency.

(3) Clients ~~((;))~~ age twenty ~~((years of age))~~ or younger ~~((;))~~ may receive outpatient rehabilitation and habilitative services (occupational therapy, physical therapy, and speech therapy) in agency-approved neurodevelopmental centers.

(4) The agency reimburses neurodevelopmental centers for providing the following services to clients:

(a) Outpatient rehabilitation and habilitative services as described in chapter 182-545 WAC ~~((182-545-200))~~; and

(b) Specific pediatric evaluations and team conferences that are:

(i) Attended by the center's medical director; and

(ii) Identified as payable in the agency's ~~((billing instructions))~~ provider guides.

(5) ~~((In order))~~ To be reimbursed, neurodevelopmental centers must meet the agency's billing requirements in WAC 182-502-0020, 182-502-0100, and 182-502-0150.

AMENDATORY SECTION (Amending WSR 11-21-066, filed 10/17/11, effective 11/17/11)

WAC 182-551-2110 Home health services—Covered specialized therapy. The agency covers ~~((specialized therapy (also known as outpatient rehabilitation)))~~ outpatient rehabilitation and habilitative services in an in-home setting by a home health agency. ~~((See chapter 182-545 WAC outpatient rehabilitation for coverage and limitations.))~~ Outpatient rehabilitation and habilitative services are described in chapter 182-545 WAC. Specialized therapy is defined in WAC 182-551-2010.

WSR 16-04-027**PERMANENT RULES****PUBLIC DISCLOSURE COMMISSION**

[Filed January 25, 2016, 9:15 a.m., effective February 25, 2016]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The commission is inserting a note in each form where the reference did not appear advising that the form is available on the commission's web site. The commission is also eliminating the need for persons to submit signature cards when establishing an electronic filing account for the purpose of filing campaign reports.

Citation of Existing Rules Affected by this Order: Amending 8.

Statutory Authority for Adoption: RCW 42.17A.110.

Other Authority: SB [ESSB] 5810 (promotes the use, acceptance, and remove(s) barriers to the use and acceptance of electronic signatures).

Adopted under notice filed as WSR 15-23-021 on November 7, 2016.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 7, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.


Date Adopted: January 19, 2016.

Lori Anderson
Communications and
Training Officer

AMENDATORY SECTION (Amending WSR 12-01-047, filed 12/14/11, effective 1/14/12)

WAC 390-16-011 Forms—Registration statement for political committees. The official form for providing the statement of organization by political committees for designating a campaign treasurer and depository and for reporting information required to qualify for mini campaign finance reporting is designated "C-1pc," revised ((4/12)) 2/16. Copies of this form are available on the commission's web site, www.pdc.wa.gov, and at the Commission Office, 711 Capitol Way, Room 206, P.O. Box 40908, Olympia, Washington 98504-0908. Any attachments shall be on 8-1/2" x 11" white paper.

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 PUBLIC DISCLOSURE COMMISSION 711 CAPITOL WAY RM 206 PO BOX 40908 OLYMPIA WA 98504-0908 (360) 753-1111 Toll Free 1-877-601-2828		Political Committee Registration		C1pc <small>(1/12)</small>	
Committee Name (Include sponsor in committee name. See next page for definition of "sponsor." Show entire official name. Do not use abbreviations or acronyms in this box.)				Acronym: _____ Telephone: () _____	
Mailing Address				Fax: () _____	
City _____ County _____ Zip + 4 _____		E-mail: _____			
NEW OR AMENDED REGISTRATION? <input type="checkbox"/> NEW. Complete entire form. <input type="checkbox"/> AMENDS previous report. Complete entire form.		COMMITTEE STATUS <input type="checkbox"/> Continuing (On-going; not established in anticipation of any particular campaign election.) <input type="checkbox"/> _____ election year only. Date of general or special election: _____ (Year)			
1. What is the purpose or description of the committee? <input type="checkbox"/> Bona Fide Political Party Committee - official state or county central committee or legislative district committee. If you are not supporting the entire party ticket, attach a list of the names of the candidates you support.					
<input type="checkbox"/> Ballot Committee - Initiative, Bond, Levy, Recall, etc. Name or description of ballot measure: _____				Ballot Number _____ FOR <input type="checkbox"/> AGAINST <input type="checkbox"/>	
<input type="checkbox"/> Other Political Committee - PAC, caucus committee, political club, etc. If committee is related or affiliated with a business, association, union or similar entity, specify name: _____					
For single election-year only committees (not continuing committees): Is the committee supporting or opposing (a) one or more candidates? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, attach a list of each candidate's name, office sought and political party affiliation. (b) the entire ticket of a political party? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, identify the party: _____					
2. Related or affiliated committees. List name, address and relationship. <input type="checkbox"/> Continued on attached sheet.					
3. How much do you plan to spend during this entire election campaign, including the primary and general elections? Based on that estimate, choose one of the reporting options below. (If your committee status is continuing, estimate spending on a calendar year basis.) If no box is checked you are obligated to use Full Reporting. See instruction manuals for information about reports required and changing reporting options. <input type="checkbox"/> MINI REPORTING Mini Reporting is selected. No more than \$5,000 will be raised or spent and no more than \$500 in the aggregate will be accepted from any one contributor.					
<input type="checkbox"/> FULL REPORTING Full Reporting is selected. The frequent, detailed campaign reports mandated by law will be filed as required.				Telephone Number: () _____	
4. Campaign Manager's or Media Contact's Name and Address				Daytime Telephone Number: () _____	
5. Treasurer's Name and Address. Does treasurer perform <u>only</u> ministerial functions? Yes ___ No ___ See WAC 390-05-243 and next page for details. List deputy treasurers on attached sheet. <input type="checkbox"/> Continued on attached				Telephone Number: () _____	
6. Persons who perform only ministerial functions on behalf of this committee <u>and</u> on behalf of candidates or other political committees. List name, title, and address of these persons. See WAC 390-05-243 and next page for details. <input type="checkbox"/> Continued on attached sheet.					
7. Committee Officers and other persons who authorize expenditures or make decisions for committee. List name, title, and address. See next page for definition of "officer." <input type="checkbox"/> Continued on attached sheet.					
8. Campaign Bank or Depository		Branch		City	
9. Campaign books must be open to the public by appointment between 8 a.m. and 8 p.m. during the eight days before the election, except Saturdays, Sundays, and legal holidays. In the space below, provide contact information for scheduling an appointment and the address where the inspection will take place. It is not acceptable to provide a post office box or an out-of-area address. Street Address, Room Number, City where campaign books will be available for inspection In order to make an appointment, contact the campaign at (telephone, fax, e-mail): () _____					
10. Eligibility to Give to Political Committees and State Office Candidates: A committee must receive \$10 or more each from ten Washington State registered voters before contributing to a Washington State political committee. Additionally, during the six months prior to making a contribution to a state office candidate your committee must have received contributions of \$10 or more each from at least ten Washington State registered voters. <input type="checkbox"/> A check here indicates your awareness of and pledge to comply with these provisions. Absence of a check mark means your committee does not qualify to give to Washington State political committees and/or state office candidates.				11. Signature and Certification. I certify that this statement is true, complete and correct to the best of my knowledge. Committee Treasurer's Signature _____ Date _____	

SEE INSTRUCTIONS ON NEXT PAGE

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Please consult PDC instruction manuals when completing this report. Reporting requirements are contained in and governed by RCW 42.17A and WAC 390.

C1pc <small>(1/12)</small>	POLITICAL COMMITTEE REGISTRATION
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Who Must File – Persons, committees, organizations or groups that receive contributions or make expenditures in support of or opposition to: candidates in jurisdictions of 5,000 or more registered voters as of the last general election; statewide ballot issues; or local ballot issues in jurisdictions with 1,000 or more registered voters as of the last general election.

When To File – Within 2 weeks of organizing a committee or first expecting to receive contributions or make expenditures, whichever occurs first. **(Committees that organize within three weeks of an election must file within three business days of forming or of expecting to receive contributions or make expenditures.)**

Amend the C-1pc form within 10 calendar days of any material change to the registration information furnished previously. See “Sponsor” section below for further instructions.* For single election-year only committees, a material change includes providing or modifying the list of candidates the committee is supporting or opposing.

Continuing political committees using Mini Reporting are required to file a C-1pc annually each January. Reports are considered filed as of the postmark date or date hand-delivered to PDC.

File the initial C-1pc and any necessary amendments with the PDC. Keep copies with of the committee’s records.

Committee Name – Do not use the exact name of another active political committee – no two active committees may have the same name. Do not abbreviate or use acronyms in the committee name.

“Sponsor” of a Political Committee – Sponsor of a political committee includes any person, except a committee authorized by a candidate or by a public official against whom recall charges have been filed to whom any of the following applies:

- the committee receives 80% or more of its contributions either from the person or from the person’s members, officers, employees, or shareholders;
- the person collects contributions for the committee by use of payroll deductions or dues from its members, officers, or employees.

“Person” is defined in RCW 42.17A.005(36).

* A political committee shall include a known sponsor in its name when filing the initial C-1pc. In accordance with WAC 390-16-011A(6), the political committee must amend its registration 60 days before an election in which it participates if the political committee has a different sponsor at that time. See WAC 390-16-011A(6)(a) and (b) for information on calculating the 80% threshold for this amendment. Interim amendments are not required to show changes to a sponsor’s status.

“Officer” of a Political Committee – Officer of a political committee includes the following persons:

- any person designated as an officer on the C-1pc registration statement, and
- any person who alone or in conjunction with other persons makes, directs, or authorizes contribution, expenditure, strategic or policy decisions on behalf of the committee. [WAC 390-05-245]

Persons who perform “Ministerial Functions” for two or more campaigns – A person may perform ministerial functions for a candidate and a political committee without jeopardizing that political committee’s eligibility to make independent expenditures or electioneering communications regarding that candidate as long as:

- the person performs solely ministerial functions for both the candidate and the political committee;
- the person is identified on both the candidate’s and political committee’s registration statements as a person performing ministerial functions for the campaign; and
- the person does not share information from or about one of the campaigns with the other campaign, or does not use information from or about one of the campaigns to assist the other campaign. [See RCW 42.17A.005 (13)(b)(ix) and WAC 390-05-243 for more detailed information.]

“Ministerial functions” means activities carried out as part of the duties of an administrative office without exercise of personal judgment or discretion. RCW 42.17A.005(33). Also see WAC 390-05-243 for a non-exclusive list of ministerial functions and a definition of administrative office. Typically, persons performing ministerial functions may, under the supervision of a candidate or committee officer, file PDC reports, make deposits, pay bills and maintain campaign finance records. However, if a person performs functions for both a candidate and a political committee and those functions for one or both campaigns entail duties beyond those deemed ministerial, any expenditure by the committee benefiting the candidate may be a contribution, rather than an independent expenditure or electioneering communication. [RCW 42.17A.005(33) and WACs 390-05-243 and 390-05-210]

Instruction Manuals and Reporting Forms are found under the “Filer Resources” tab at www.pdc.wa.gov.

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Please consult PDC instruction manuals when completing this report. Reporting requirements are contained in and governed by RCW 42.17A and WAC 390.

C1pc <small>(2/16)</small>	POLITICAL COMMITTEE REGISTRATION
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Who Must File – Persons, committees, organizations or groups that receive contributions or make expenditures in support of or opposition to: candidates in jurisdictions of 5,000 or more registered voters as of the last general election; statewide ballot issues; or local ballot issues in jurisdictions with 1,000 or more registered voters as of the last general election.

When To File – Within 2 weeks of organizing a committee or first expecting to receive contributions or make expenditures, whichever occurs first. **(Committees that organize within three weeks of an election must file within three business days of forming or of expecting to receive contributions or make expenditures.)**

Amend the C-1pc form within 10 calendar days of any material change to the registration information furnished previously. See “Sponsor” section below for further instructions.* For single election-year only committees, a material change includes providing or modifying the list of candidates the committee is supporting or opposing.

Continuing political committees using Mini Reporting are required to file a C-1pc annually each January. Reports are considered filed as of the postmark date or date hand-delivered to PDC.

File the initial C-1pc and any necessary amendments with the PDC. Keep copies with of the committee's records.

Committee Name – Do not use the exact name of another active political committee – no two active committees may have the same name. Do not abbreviate or use acronyms in the committee name.

“Sponsor” of a Political Committee – Sponsor of a political committee includes any person, except a committee authorized by a candidate or by a public official against whom recall charges have been filed to whom any of the following applies:

- the committee receives 80% or more of its contributions either from the person or from the person's members, officers, employees, or shareholders;
- the person collects contributions for the committee by use of payroll deductions or dues from its members, officers, or employees.

“Person” is defined in RCW 42.17A.005(36).

* A political committee shall include a known sponsor in its name when filing the initial C-1pc. In accordance with WAC 390-16-011A(6), the political committee must amend its registration 60 days before an election in which it participates if the political committee has a different sponsor at that time. See WAC 390-16-011A(6)(a) and (b) for information on calculating the 80% threshold for this amendment. Interim amendments are not required to show changes to a sponsor's status.

“Officer” of a Political Committee – Officer of a political committee includes the following persons:

- any person designated as an officer on the C-1pc registration statement, and
- any person who alone or in conjunction with other persons makes, directs, or authorizes contribution, expenditure, strategic or policy decisions on behalf of the committee. [WAC 390-05-245]

Persons who perform “Ministerial Functions” for two or more campaigns – A person may perform ministerial functions for a candidate and a political committee without jeopardizing that political committee's eligibility to make independent expenditures or electioneering communications regarding that candidate as long as:

- the person performs solely ministerial functions for both the candidate and the political committee;
- the person is identified on both the candidate's and political committee's registration statements as a person performing ministerial functions for the campaign; and
- the person does not share information from or about one of the campaigns with the other campaign, or does not use information from or about one of the campaigns to assist the other campaign. [See RCW 42.17A.005 (13)(b)(ix) and WAC 390-05-243 for more detailed information.]

“Ministerial functions” means activities carried out as part of the duties of an administrative office without exercise of personal judgment or discretion. RCW 42.17A.005(33). Also see WAC 390-05-243 for a non-exclusive list of ministerial functions and a definition of administrative office. Typically, persons performing ministerial functions may, under the supervision of a candidate or committee officer, file PDC reports, make deposits, pay bills and maintain campaign finance records. However, if a person performs functions for both a candidate and a political committee and those functions for one or both campaigns entail duties beyond those deemed ministerial, any expenditure by the committee benefiting the candidate may be a contribution, rather than an independent expenditure or electioneering communication. [RCW 42.17A.005(33) and WACs 390-05-243 and 390-05-210]

Instruction Manuals and Reporting Forms are found under the “Filer Resources” tab at www.pdc.wa.gov.


Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-16-012 Forms—Registration statement for candidates. The official form for providing the statement of organization by candidates and candidate's committees, for


designating a campaign treasurer and depository and for reporting information required to qualify for mini campaign finance reporting is designated “C-1,” revised ((1/12)) 2/16. Copies of this form are available on the commission's web site, www.pdc.wa.gov, and at the Commission Office, 711 Capitol Way, Room 206, P.O. Box 40908, Olympia, Washington, 98504-0908. Any attachments shall be on 8-1/2" x 11" white paper.

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 PUBLIC DISCLOSURE COMMISSION 711 CAPITOL WAY RM 206 PO BOX 40908 OLYMPIA WA 98504-0908 (360) 753-1111 Toll Free 1-877-601-2828		<h2>Candidate Registration</h2>	<h1>C1</h1> (1/12)
Candidate's Name (Give candidate's full name.)		Telephone Number ()	
Candidate's Committee Name (Do not abbreviate.)		Fax Number ()	
Mailing Address		Candidate's E-Mail Address	
City	County	Zip + 4	Campaign E-Mail Address
1. What office are you running for?		Legislative District, County or City	Position No. Do you now hold this office? Yes <input type="checkbox"/> No <input type="checkbox"/>
2. Political party (if partisan office)		3. Date of general or special election	
4. How much do you plan to spend during your entire election campaign, including the primary and general elections? Based on that estimate, choose one of the reporting options below. If no box is checked you are obligated to use Option II, Full Reporting. See instruction manuals for information about reports required and changing reporting options.			
<input type="checkbox"/> Option I MINI REPORTING: In addition to my filing fee of \$ _____, I will raise and spend no more than \$5,000, including any charges for inclusion in state and local voters pamphlets. I will not accept more than \$500 in the aggregate from any contributor except myself.			
<input type="checkbox"/> Option II FULL REPORTING: I will use the Full Reporting system. I will file the frequent, detailed campaign reports required by law.			
5. Treasurer's Name and Address. Does treasurer perform only ministerial functions? Yes ___ No ___ See WAC 390-05-243 and next page for details. List deputy treasurers on attached sheet.		Daytime Telephone Number ()	
6. Persons who perform only ministerial functions on your behalf and on behalf of other candidates or political committees. List name, title and address of these persons. See WAC 390-05-243 and next page for details.		<input type="checkbox"/> Continued on attached sheet	
7. Committee Officers and other persons who authorize expenditures or make decisions on your behalf. List name, title and address. See next page for definition of "officer."		<input type="checkbox"/> Continued on attached sheet	
8. Campaign Bank or Depository	Branch	City	
9. Related or Affiliated Political Committees. List name, address and relationship.		<input type="checkbox"/> Continued on attached sheet	
10. Campaign books must be open to the public by appointment between 8 a.m. and 8 p.m. during the eight days before the election, except Saturdays, Sundays, and legal holidays. In the space below, provide contact information for scheduling an appointment and the address where the inspection will take place. It is not acceptable to provide a post office box or an out-of-area address.			
Street Address, Room Number, City where campaign books will be available for inspection			
In order to make an appointment, contact the campaign at (telephone, fax, e-mail): ()			
11. CERTIFICATION: I certify that this report is true, complete and correct to the best of my knowledge.		Date	
Candidate's Signature			

SEE INSTRUCTIONS ON NEXT PAGE

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 PUBLIC DISCLOSURE COMMISSION 711 CAPITOL WAY RM 206 PO BOX 40908 OLYMPIA WA 98504-0908 (360) 753-1111 Toll Free 1-877-601-2828		<h2 style="margin: 0;">Candidate Registration</h2>		<h1 style="font-size: 2em; margin: 0;">C1</h1> (2/16)
Candidate's Name (Give candidate's full name.)			Telephone Number ()	
Candidate's Committee Name (Do not abbreviate.)			Fax Number ()	
Mailing Address			Candidate's E-Mail Address	
City	County	Zip + 4	Campaign E-Mail Address	
1. What office are you running for?		Legislative District, County or City	Position No.	Do you now hold this office? Yes <input type="checkbox"/> No <input type="checkbox"/>
2. Political party (if partisan office)		3. Date of general or special election		
4. How much do you plan to spend during your entire election campaign, including the primary and general elections? Based on that estimate, choose one of the reporting options below. If no box is checked you are obligated to use Option II, Full Reporting. See instruction manuals for information about reports required and changing reporting options.				
<input type="checkbox"/> Option I MINI REPORTING: In addition to my filing fee of \$ _____, I will raise and spend no more than \$5,000, including any charges for inclusion in state and local voters pamphlets. I will not accept more than \$500 in the aggregate from any contributor except myself.				
<input type="checkbox"/> Option II FULL REPORTING: I will use the Full Reporting system. I will file the frequent, detailed campaign reports required by law.				
5. Treasurer's Name and Address. Does treasurer perform <u>only</u> ministerial functions? Yes ___ No ___ See WAC 390-05-243 and next page for details. List deputy treasurers on attached sheet.			Daytime Telephone Number ()	
6. Persons who perform only ministerial functions on your behalf <u>and</u> on behalf of other candidates or political committees. List name, title and address of these persons. See WAC 390-05-243 and next page for details.			<input type="checkbox"/> Continued on attached sheet.	
7. Committee Officers and other persons who authorize expenditures or make decisions on your behalf. List name, title and address. See next page for definition of "officer."			<input type="checkbox"/> Continued on attached sheet.	
8. Campaign Bank or Depository		Branch	City	
9. Related or Affiliated Political Committees. List name, address and relationship.			<input type="checkbox"/> Continued on attached sheet.	
10. Campaign books must be open to the public by appointment between 8 a.m. and 8 p.m. during the eight days before the election, except Saturdays, Sundays, and legal holidays. In the space below, provide contact information for scheduling an appointment and the address where the inspection will take place. It is not acceptable to provide a post office box or an out-of-area address.				
Street Address, Room Number, City where campaign books will be available for inspection				
In order to make an appointment, contact the campaign at (telephone, fax, e-mail): ()				
11. CERTIFICATION: I certify that this report is true, complete and correct to the best of my knowledge.				
Candidate's Signature			Date	

SEE INSTRUCTIONS ON NEXT PAGE

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Please consult PDC instruction manuals when completing this report. Reporting requirements are contained in and governed by RCW 42.17A and WAC 390.



Who Must File – Candidates who seek:

- state office (legislative or statewide executive),
- a state supreme court or state court of appeals position,
- local office in jurisdictions having 5,000 or more registered voters as of the last general election or in jurisdictions covering an entire county,
- local office in jurisdictions of any size if the candidate receives or expects to receive \$5,000 or more in contributions.

When To File – Within 2 weeks of becoming a candidate. A person becomes a candidate for PDC purposes when he or she **first** does any of the following:

- receives contributions, makes expenditures, or reserves space or facilities with intent to promote his or her candidacy;
- purchases commercial advertising space or broadcast time to promote his or her candidacy;
- authorizes another person to take one of these above actions on his or her behalf;
- announces publicly that he or she is seeking office; or
- files a declaration of candidacy with the appropriate elections official.

File an amended registration within 10 days of a material change to information provided on previously filed C-1. Reports are considered filed as of the postmark date or date hand-delivered to PDC.

Where To File – Send the **original to PDC** at the address on the reverse side. Candidates for city offices are advised to contact their City Clerk to learn if local filing is required by local ordinance. Keep a copy for the campaign’s records.

“Officer” of a Candidate’s Committee – Officer of a candidate’s committee includes the following persons:

- any person designated as an officer on the C-1 registration statement, and
- any person who alone or in conjunction with other persons makes, directs, or authorizes contribution, expenditure, strategic or policy decisions on behalf of the committee. [WAC 390-05-245]

Persons who perform “Ministerial Functions” for two or more campaigns

A person may perform ministerial functions for a candidate and a political committee without jeopardizing that political committee’s eligibility to make independent expenditures or electioneering communications regarding that candidate as long as:

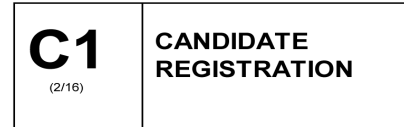
- the person performs solely ministerial functions for both the candidate and the political committee;
- the person is identified on both the candidate’s and political committee’s registration statements as a person performing ministerial functions for the campaign; and
- the person does not share information from or about one of the campaigns with the other campaign, or does not use information from or about one of the campaigns to assist the other campaign. [See RCW 42.17A.005 (13)(b)(ix) and WAC 390-05-243 for more detailed information.]

“Ministerial functions” means activities carried out as part of the duties of an administrative office without exercise of personal judgment or discretion. RCW 42.17A.005(33). Also see WAC 390-05-243 for a non-exclusive list of ministerial functions and a definition of administrative office. Typically, persons performing ministerial functions may, under the supervision of a candidate or committee officer, file PDC reports, make deposits, pay bills and maintain campaign finance records. However, if a person performs functions for both a candidate and a political committee and those functions for one or both campaigns entail duties beyond those deemed ministerial, any expenditure by the committee benefiting the candidate may be a contribution, rather than an independent expenditure or electioneering communication. [RCW 42.17A.005(33) and WACs 390-05-243 and 390-05-210]

For Instruction Manuals and Reporting Forms click on the “Filer Resources” tab at www.pdc.wa.gov

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Who Must File – Candidates who seek:

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- any person designated as an officer on the C-1 registration statement, and
- any person who alone or in conjunction with other persons makes, directs, or authorizes contribution, expenditure, strategic or policy decisions on behalf of the committee. [WAC 390-05-245]

Persons who perform "Ministerial Functions" for two or more campaigns

A person may perform ministerial functions for a candidate and a political committee without jeopardizing that political committee's eligibility to make independent expenditures or electioneering communications regarding that candidate as long as:

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- the person is identified on both the candidate's and political committee's registration statements as a person performing ministerial functions for the campaign; and
- the person does not share information from or about one of the campaigns with the other campaign, or does not use information from or about one of the campaigns to assist the other campaign. [See RCW 42.17A.005 (13)(b)(ix) and WAC 390-05-243 for more detailed information.]

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For Instruction Manuals and Reporting Forms click on the "Filer Resources" tab at www.pdc.wa.gov

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-16-031 Forms for statement of contributions deposit. The official form for statement of contributions deposit is designated "C-3," revised (~~(1/12)~~) 2/16. Cop-

ies of this form are available on the commission's web site, www.pdc.wa.gov, and at the Commission Office, Room 206, Evergreen Plaza Building, Olympia, Washington 98504. Any paper attachments shall be on 8-1/2" x 11" white paper.



**CASH RECEIPTS
MONETARY
CONTRIBUTIONS**

C3

(2/16)

THIS SPACE FOR OFFICE USE

Candidate or Committee Name (Do not abbreviate. Use full name.)		
Mailing Address		
City	Zip + 4	Office Sought (candidates)
		Election Date

1. MONETARY CONTRIBUTIONS DEPOSITED IN ACCOUNT

Date Received		Amount	Total
	a. Anonymous.....	\$	\$
	b. Candidate's personal funds deposited in the bank (include candidate loans in 1c).....		
	c. Loans, notes, security agreements. Attach Schedule L.....		
	d. Miscellaneous receipts (interest, refunds, auctions, other). Attach explanation.....		
	e. Small contributions \$25.00 or less not itemized and number of persons giving _____ (persons)		

2. CONTRIBUTIONS OVER \$25.00

Date Received	Contributor's Name, Address, City, State, Zip	Contributions of more than \$100:*	P R I	G E N	Amount	Aggregate* Total
		Employer's Name, City and State			\$	\$
		Occupation			\$	\$
		Occupation			\$	\$
		Occupation			\$	\$
		Occupation			\$	\$
		Occupation			\$	\$
		Occupation			\$	\$
		Sub-total				
		Amount from attached pages				

Check here if additional pages are attached

Sub-total
Amount from
attached pages

***See reverse
for details.**

3. TOTAL FUNDS RECEIVED AND DEPOSITED OR CREDITED TO ACCOUNT
Sum of parts 1 and 2 above. Enter this amount in line 1, Schedule A to C4.

4. Date of Deposit	I certify that this report is true and complete to the best of my knowledge
	Treasurer's Signature _____ Date _____
Treasurer's Daytime Telephone No.: () -	

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Page 2	C3
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Reporting requirements are contained in and governed by chapters 42.17A RCW and 390-16 WAC. Consult PDC instruction manuals when completing this report.

CONTRIBUTIONS OF MORE THAN \$100

When an individual gives the campaign more than \$100 in the aggregate, that person's employer must be identified by name, city, state and the person's occupation must also be disclosed. Once an individual gives more than \$100, occupation and employer information will appear on every report showing additional contributions from the individual.

For all candidates – when an individual gives more than \$100 in the aggregate from the beginning of the campaign, show occupation and employer information.

For Single Election Political Committees (e.g., ballot issue committees) – when an individual gives more than \$100 in the aggregate from the beginning of the campaign, show occupation and employer.

For Continuing Political Committees (e.g., party committees & PACs) – when an individual gives more than \$100 in the aggregate from the beginning of the calendar year, show occupation and employer.

PRIMARY/GENERAL ELECTION

Candidates subject to contribution limits must specify in Part 2 of the C-3 form whether a contribution is designated for the primary or the general election. If a contribution is for the primary election, put a "X" in the PRI box; if it counts toward the contributor's general election limit, put an "X" in the GEN box. If one check is used to make both a primary and a general election contribution, use two separate contributor blocks – one each for the primary and general donations. See instruction manual for example.

Candidates not subject to limits, political committees and continuing political committees – primary and general election designations not required; disregard these boxes.

AGGREGATE TOTAL

The total put in the Aggregate Total column for each contributor will depend on who is filing the report. See below.

Candidates subject to contribution limits: Show the total given for each election. If the contributor is giving a primary election contribution, the Aggregate Total figure is the total of that person's primary election contributions. If the GEN box is checked, the Aggregate Total is the contributor's general election total. (Only your campaign records and PDC's computer records will keep track of the grand total for both elections.)

Candidates not subject to limits: Show the total given since the beginning of the campaign.

Political Committees Organized for One Election Only: Show the total given since the beginning of the campaign.

Continuing Political Committees: Show the total given since the beginning of the calendar year.

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Reporting requirements are contained in and governed by chapters 42.17A RCW and 390-16 WAC.
Consult PDC instruction manuals when completing this report.

**CONTRIBUTIONS OF
MORE THAN \$100**

When an individual gives the campaign more than \$100 in the aggregate, that person's employer must be identified by name, city, state and the person's occupation must also be disclosed. Once an individual gives more than \$100, occupation and employer information will appear on every report showing additional contributions from the individual.

For all candidates – when an individual gives more than \$100 in the aggregate from the beginning of the campaign, show occupation and employer information.

For Single Election Political Committees (e.g., ballot issue committees) – when an individual gives more than \$100 in the aggregate from the beginning of the campaign, show occupation and employer.

For Continuing Political Committees (e.g., party committees & PACs) – when an individual gives more than \$100 in the aggregate from the beginning of the calendar year, show occupation and employer.

**PRIMARY/GENERAL
ELECTION**

Candidates subject to contribution limits must specify in Part 2 of the C-3 form whether a contribution is designated for the primary or the general election. If a contribution is for the primary election, put a "X" in the PRI box; if it counts toward the contributor's general election limit, put an "X" in the GEN box. If one check is used to make both a primary and a general election contribution, use two separate contributor blocks – one each for the primary and general donations. See instruction manual for example.

Candidates not subject to limits, political committees and continuing political committees – primary and general election designations not required; disregard these boxes.

AGGREGATE TOTAL

The total put in the Aggregate Total column for each contributor will depend on who is filing the report. See below.

Candidates subject to contribution limits: Show the total given for each election. If the contributor is giving a primary election contribution, the Aggregate Total figure is the total of that person's primary election contributions. If the GEN box is checked, the Aggregate Total is the contributor's general election total. (Only your campaign records and PDC's computer records will keep track of the grand total for both elections.)

Candidates not subject to limits: Show the total given since the beginning of the campaign.

Political Committees Organized for One Election Only: Show the total given since the beginning of the campaign.

Continuing Political Committees: Show the total given since the beginning of the calendar year.

RECEIPTS CONTINUATION SHEET (Attachment to C-3 Form)

Page

Candidate or Committee Name (Do not abbreviate. Use full name.)	Deposit Date
---	--------------

2. CONTRIBUTIONS OVER \$25.00										
Date Received	Contributor's Name, Address, City, State, Zip	Contributions of more than \$100:* Employer's Name, City and State	P	R	I	G	E	N	Amount	Aggregate Total*
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$	\$
		Occupation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$	\$
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$	\$
		Occupation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$	\$
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$	\$
		Occupation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$	\$
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$	\$
		Occupation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$	\$
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$	\$
		Occupation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$	\$
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$	\$
		Occupation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$	\$
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$	\$
		Occupation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$	\$
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$	\$
		Occupation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$	\$

Page Total

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-16-032 Forms—Auction report. The official form for reporting items donated and sold at auctions, as required by RCW 42.17A.240 (2)(b), is designated "Attachment Au," revised ((1/12)) 2/16. This attachment shall accompany each C-3 which reports the receipt of funds from an auction. Copies of this form are available on the commis-

sion's web site, www.pdc.wa.gov, and at the Commission Office, 711 Capitol Way, Room 206, Evergreen Plaza Building, P.O. Box 40908, Olympia, Washington, 98504-0908.

AUCTION REPORT

Use this form as an attachment to C3 to report items donated and sold at auctions. Please see the reverse for an example of a report.

ATTACHMENT TO C3

Au

(1/12)

Page ____

Candidate or Committee Name (Do not abbreviate. Use full name.)

Date Auction was held

Item No. Description	Name and Address	P R I N	G E N	Fair Market Value	Sale Price	Amount Over Fair Market Value	Aggregate Total*
	Contributor						
	*Occupation and Employer:						
	Buyer						
	*Occupation and Employer:						
	Contributor						
	*Occupation and Employer:						
	Buyer						
	*Occupation and Employer:						
	Contributor						
	*Occupation and Employer:						
	Buyer						
	*Occupation and Employer:						
	Contributor						
	*Occupation and Employer:						
	Buyer						
	*Occupation and Employer:						

*If an individual – whether a contributor or buyer – has given more than \$100 in the aggregate to the campaign, show his or her occupation and the name, city & state of his or her employer.

Cash receipts, this page	→
Total, sale price column	→
Total from attached pages	→
Total cash receipts (Put this amount in part 1d of C3 report)	→

I certify that the information herein is true, correct and complete to the best of my knowledge.
 Treasurer's signature _____ Date _____

))

AUCTION REPORT

Use this form as an attachment to C3 to report items donated and sold at auctions. Please see the reverse for an example of a report.

ATTACHMENT TO C3

Au

(2/16)

Page ____

Candidate or Committee Name (Do not abbreviate. Use full name.)

Date Auction was held

Item No. Description	Name and Address	P R I	G E N	Fair Market Value	Sale Price	Amount Over Fair Market Value	Aggregate Total*
Contributor							
*Occupation and Employer:							
Buyer							
*Occupation and Employer:							
Contributor							
*Occupation and Employer:							
Buyer							
*Occupation and Employer:							
Contributor							
*Occupation and Employer:							
Buyer							
*Occupation and Employer:							

*If an individual – whether a contributor or buyer – has given more than \$100 in the aggregate to the campaign, show his or her occupation and the name, city & state of his or her employer.

Cash receipts, this page	→	
Total, sale price column	→	
Total from attached pages	→	
Total cash receipts (Put this amount in part 1d of C3 report)	→	

I certify that the information herein is true, correct and complete to the best of my knowledge.
 Treasurer's signature _____ Date _____

INSTRUCTIONS

Item No./Description: As each item to be auctioned is received, assign it a number and a brief description.

Contributor: The person or organization that donates an item or service to be auctioned. If the campaign purchases items for auction, state "purchased by committee" under contributor's name. If auction is held by candidate subject to contribution limits, designate which election (PRI or GEN) contribution is for. Contribution amount is fair market value of item or service and is subject to any applicable contribution limit. Adjust fair market value amount if sold for less than initial fair market value. See No. 2 below.

Buyer: The person who buys the item or service being auctioned. If auction is held by candidate subject to contribution limits, designate which election (PRI or GEN) buyer is giving to when purchase price exceeds fair market value amount.

Fair Market Value: The retail value of the article. Adjust if amount paid is less than fair market value. See No. 2 below.

Sale Price: The amount the buyer paid for the item or service.

Amount Over Fair Market Value: The amount the sale price exceeds fair market value. If sale price is less than or equal to the fair market value, leave blank. The amount paid in excess of fair market value is a contribution from the buyer and is subject to any applicable contribution limit.

Aggregate Total:

Contributor: Fair market value of the donation plus all previous contributions made during campaign (for candidates subject to contribution limits, all contributions made for election designated; for continuing political committees, all contributions made during calendar year).

Buyer: Amount over fair market value plus all previous contributions made during campaign (for candidates subject to contribution limits, all contributions made for election designated; for continuing political committees, all contributions made during calendar year).

If Cash is Received: RCW 42.17A.475 says that a political committee must make all of its monetary contributions by check (or other written instrument). However, individuals, businesses, unions and other entities may use currency to make small contributions. The maximum amount of a currency contribution is periodically adjusted by PDC. See WAC 390-05-400 or contact PDC. If the campaign receives cash contributions, each of which does not exceed the maximum, but is more than \$50, prepare a receipt – signed by the donor and either the candidate, treasurer or deputy treasurer – and keep it as part of the campaign records.

Example of Auction Report

Candidate or Committee Name (Do not abbreviate. Use full name.)				Date Auction was held			
Sam Smith for State Senate				09/14/XXXX			
Item No. Description	Name and Address	PRI	GEN	Fair market value	Sale price	Amount over fair market value	Aggregate Total*
No. 1 Use of Beach Cabin for Week	Contributor John Doe 200 "A" Street, Seattle, WA 98101 *Occupation and Employer: Accountant; CPA Firm, Seattle, WA	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$ 500.00			\$ 500.00
	Buyer Mary Smith 400 "B" Street, Tacoma, WA 98402 *Occupation and Employer:	<input type="checkbox"/>	<input checked="" type="checkbox"/>		\$ 600.00	\$ 100.00	\$ 100.00
No. 2 Dinner For 4	Contributor Sam Brown 123 Military Road, Anytown, WA 98101 *Occupation and Employer: Contractor; Sam's Decks, Anytown, WA	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$ 200.00			\$ 150.00
	Buyer Tom Mix Rt. 2, Box 1, Saddle Mt., WA 98900 *Occupation and Employer: Manager; ABC Retail, Saddle Mt., WA	<input type="checkbox"/>	<input type="checkbox"/>		\$ 150.00		
Cash receipts, this page							
Total, sale price column				→	\$ 750.00		
Total from attached pages				→	\$ 0		
Total cash receipts				→	\$ 750.00		
Put this amount in part 1d of C3 report				→			

INSTRUCTIONS

Item No./Description: As each item to be auctioned is received, assign it a number and a brief description.

Contributor: The person or organization that donates an item or service to be auctioned. If the campaign purchases items for auction, state "purchased by committee" under contributor's name. If auction is held by candidate subject to contribution limits, designate which election (PRI or GEN) contribution is for. Contribution amount is fair market value of item or service and is subject to any applicable contribution limit. Adjust fair market value amount if sold for less than initial fair market value. See No. 2 below.

Buyer: The person who buys the item or service being auctioned. If auction is held by candidate subject to contribution limits, designate which election (PRI or GEN) buyer is giving to when purchase price exceeds fair market value amount.

Fair Market Value: The retail value of the article. Adjust if amount paid is less than fair market value. See No. 2 below.

Sale Price: The amount the buyer paid for the item or service.

Amount Over Fair Market Value: The amount the sale price exceeds fair market value. If sale price is less than or equal to the fair market value, leave blank. The amount paid in excess of fair market value is a contribution from the buyer and is subject to any applicable contribution limit.

Aggregate Total:

Contributor: Fair market value of the donation plus all previous contributions made during campaign (for candidates subject to contribution limits, all contributions made for election designated; for continuing political committees, all contributions made during calendar year).

Buyer: Amount over fair market value plus all previous contributions made during campaign (for candidates subject to contribution limits, all contributions made for election designated; for continuing political committees, all contributions made during calendar year).

If Cash is Received: RCW 42.17A.475 says that a political committee must make all of its monetary contributions by check (or other written instrument). However, individuals, businesses, unions and other entities may use currency to make small contributions. The maximum amount of a currency contribution is periodically adjusted by PDC. See WAC 390-05-400 or contact PDC. If the campaign receives cash contributions, each of which does not exceed the maximum, but is more than \$50, prepare a receipt – signed by the donor and either the candidate, treasurer or deputy treasurer – and keep it as part of the campaign records.

Example of Auction Report

Candidate or Committee Name (Do not abbreviate. Use full name.)				Date Auction was held			
Sam Smith for State Senate				09/14/XXXX			
Item No. Description	Name and Address	PRI	GEN	Fair market value	Sale price	Amount over fair market value	Aggregate Total*
No. 1 Use of Beach Cabin for Week	Contributor John Doe 200 "A" Street, Seattle, WA 98101 *Occupation and Employer: Accountant; CPA Firm, Seattle, WA	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$ 500.00			\$ 500.00
	Buyer Mary Smith 400 "B" Street, Tacoma, WA 98402 *Occupation and Employer:	<input type="checkbox"/>	<input checked="" type="checkbox"/>		\$ 600.00	\$ 100.00	\$ 100.00
No. 2 Dinner For 4	Contributor Sam Brown 123 Military Road, Anytown, WA 98101 *Occupation and Employer: Contractor; Sam's Decks, Anytown, WA	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$ 200.00			\$ 150.00
	Buyer Tom Mix Rt. 2, Box 1, Saddle Mt., WA 98900 *Occupation and Employer: Manager; ABC Retail, Saddle Mt., WA	<input type="checkbox"/>	<input type="checkbox"/>		\$ 150.00		
Cash receipts, this page							
Total, sale price column				→	\$ 750.00		
Total from attached pages				→	\$ 0		
Total cash receipts				→	\$ 750.00		
Put this amount in part 1d of C3 report							

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-16-033 Earmarked contributions—Reporting—Form. The official form for reporting the details surrounding an earmarked contribution, as required by RCW 42.17A.270, is designated "Special Report E," revised ((1/02)) 2/16. This report shall be filed within two working days of receiving a contribution earmarked for another candi-

date or committee. Copies of this form are available on the [commission's web site, www.pdc.wa.gov](http://www.pdc.wa.gov), and at the Commission Office, Room 206, Evergreen Plaza Building, Olympia, Washington 98504-0908.



EARMARKED CONTRIBUTION

SPECIAL REPORT 1/02	E	PDC OFFICE USE
		P O S T R E C E I V E D

1. Name of committee filing this report (Candidate or committee which received a contribution earmarked for another.)

Address

City

County

Zip

2. Original source of earmarked contribution

Name

Address

City

State

Zip

3. Contribution Date	Amount/Value	Description (Fully describe in-kind contributions)	If contribution is to benefit a state office candidate, designate whether it's for Primary or General Election.
			Primary _____ General _____

4. Name of candidate or committee to be benefited

Address

City

County

Zip

If candidate, what office is the person seeking? _____

5. Certification: I certify that the information contained herein is true, complete and correct to the best of my knowledge.

Treasurer's signature _____ Date _____

The purpose of this report is to highlight receipt of an earmarked contribution. (That is, a contribution given to one candidate or political committee with the understanding, intent or instruction that it be used to benefit another candidate or committee.) This report is filed in addition to any other required reporting of the transaction.

A separate "Special Report E" is filed for each earmarked contribution received by any candidate or political committee.

File this report within two working days of receiving the earmarked contribution. Mail or deliver the original to PDC. Send a copy to the benefiting candidate or committee, also within two working days.

NOTE: Candidates for legislative and statewide executive office are subject to state contribution limits. Earmarked contributions count toward the applicable limit and are attributed to the original source of the contribution (unless another person controlled the choice of recipient). It's a violation for anyone to accept a contribution in excess of the relevant limit. Verify with the campaign of a legislative or statewide office candidate before accepting a contribution earmarked for the benefit of such a candidate.



EARMARKED CONTRIBUTION

POST MARK RECEIVED	SPECIAL REPORT 2/16	E	PDC OFFICE USE

1. Name of committee filing this report (Candidate or committee which received a contribution earmarked for another.)

Address _____

City _____ County _____ Zip _____

2. Original source of earmarked contribution

Name _____

Address _____

City _____ State _____ Zip _____

3. Contribution Date	Amount/Value	Description (Fully describe in-kind contributions)	If contribution is to benefit a state office candidate, designate whether it's for Primary or General Election. Primary _____ General _____

4. Name of candidate or committee to be benefited

Address _____

City _____ County _____ Zip _____

If candidate, what office is the person seeking? _____

5. Certification: I certify that the information contained herein is true, complete and correct to the best of my knowledge.

Treasurer's signature _____ Date _____

The purpose of this report is to highlight receipt of an earmarked contribution. (That is, a contribution given to one candidate or political committee with the understanding, intent or instruction that it be used to benefit another candidate or committee.) This report is filed in addition to any other required reporting of the transaction.

A separate "Special Report E" is filed for each earmarked contribution received by any candidate or political committee.

File this report within two working days of receiving the earmarked contribution. Mail or deliver the original to PDC. Send a copy to the benefiting candidate or committee, also within two working days.

NOTE: Candidates for legislative and statewide executive office are subject to state contribution limits. Earmarked contributions count toward the applicable limit and are attributed to the original source of the contribution (unless another person controlled the choice of recipient). It's a violation for anyone to accept a contribution in excess of the relevant limit. Verify with the campaign of a legislative or statewide office candidate before accepting a contribution earmarked for the benefit of such a candidate.

PDC E

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-16-041 Forms—Summary of total contributions and expenditures. (1) The official form for reports of contributions and expenditures by candidates and political committees who use the "full" reporting option is designated "C-4," revised ((4/12)) 2/16, and includes Schedule A,

revised 1/04, Schedule B, revised 1/04, Schedule C, revised 3/93, and Schedule L, revised 1/12.

(2) Copies of these forms are available on the commission's web site, www.pdc.wa.gov, and at the Commission Office, 711 Capitol Way, Room 206, P.O. Box 40908, Olympia, Washington 98504-0908. Any paper attachments shall be on 8-1/2" x 11" white paper.



CAMPAIGN SUMMARY RECEIPTS & EXPENDITURES

C4 (1/12)

PDC OFFICE USE

Candidate or Committee Name (Do not abbreviate. Include full name)

Mailing Address

City

Zip + 4

Office Sought (Candidates)

Election Date

*For PACs, Parties & Caucus Committees: During this report period, did the committee make an independent expenditure (i.e., an expense not considered a contribution supporting or opposing a state or local candidate?)

Report Period Covered

From (last C-4)

To (end of period)

Final Report?

Yes [] No []

*See reverse

Yes []

No []

RECEIPTS

- 1. Previous total cash and in kind contributions (From line 8, last C-4)
2. Cash received (From line 2, Schedule A)
3. In kind contributions received (From line 1, Schedule B)
4. Total cash and in kind contributions received this period (Line 2 plus 3)
5. Loan principal repayments made (From line 2, Schedule L)
6. Corrections (From line 1 or 3, Schedule C)
7. Net adjustments this period (Combine line 5 & 6)
8. Total cash and in kind contributions during campaign (Combine lines 1, 4 & 7)
9. Total pledge payments due (From line 2, Schedule B)

EXPENDITURES

- 10. Previous total cash and in kind expenditures (From line 17, last C-4)
11. Total cash expenditures (From line 4, Schedule A)
12. In kind expenditures (goods & services) (From line 1, Schedule B)
13. Total cash and in kind expenditures made this period (Line 11 plus line 12)
14. Loan principal repayments made (From line 2, Schedule L)
15. Corrections (From line 2 or 3, Schedule C)
16. Net adjustments this period (Combine lines 14 & 15)
17. Total cash and in kind expenditures during campaign (Combine lines 10, 13 and 16)

CANDIDATES ONLY

Table with columns: Won, Lost, Unopposed, Name not on ballot. Rows: Primary election, General election.

Treasurer's Daytime Telephone No.:

()

CASH SUMMARY

- 18. Cash on hand (Line 8 minus line 17)
19. Liabilities: (Sum of loans and debts owed)
20. Balance (Surplus or deficit) (Line 18 minus line 19)

CERTIFICATION: I certify that the information herein and on accompanying schedules and attachments is true and correct to the best of my knowledge.

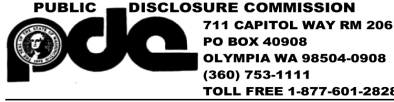
Candidate's Signature

Date

Treasurer's Signature

Date

SEE INSTRUCTIONS ON REVERSE



CAMPAIGN SUMMARY RECEIPTS & EXPENDITURES

C4 (2/16) PDC OFFICE USE

Candidate or Committee Name (Do not abbreviate. Include full name)

Mailing Address City

Zip + 4 Office Sought (Candidates) Election Date Report Period Covered From (last C-4) To (end of period) Final Report? Yes No

*For PACs, Parties & Caucus Committees: During this report period, did the committee make an independent expenditure (i.e., an expense not considered a contribution) supporting or opposing a state or local candidate?

RECEIPTS

*See reverse Yes No

- 1. Previous total cash and in kind contributions (From line 8, last C-4) (if beginning a new campaign or calendar year, see instruction booklet) \$
2. Cash received (From line 2, Schedule A) \$
3. In kind contributions received (From line 1, Schedule B)
4. Total cash and in kind contributions received this period (Line 2 plus 3)
5. Loan principal repayments made (From line 2, Schedule L) ()
6. Corrections (From line 1 or 3, Schedule C) Show + or (-)
7. Net adjustments this period (Combine line 5 & 6) Show + or (-)
8. Total cash and in kind contributions during campaign (Combine lines 1, 4 & 7)
9. Total pledge payments due (From line 2, Schedule B)

EXPENDITURES

- 10. Previous total cash and in kind expenditures (From line 17, last C-4) (If beginning a new campaign or calendar year, see instruction booklet)
11. Total cash expenditures (From line 4, Schedule A)
12. In kind expenditures (goods & services) (From line 1, Schedule B)
13. Total cash and in kind expenditures made this period (Line 11 plus line 12)
14. Loan principal repayments made (From line 2, Schedule L) ()
15. Corrections (From line 2 or 3, Schedule C) Show + or (-)
16. Net adjustments this period (Combine lines 14 & 15) Show + or (-)
17. Total cash and in kind expenditures during campaign (Combine lines 10, 13 and 16)

CANDIDATES ONLY Won Lost Unopposed Name not on ballot Primary election General election Treasurer's Daytime Telephone No. ()

CASH SUMMARY 18. Cash on hand (Line 8 minus line 17) [Line 18 should equal your bank account balance(s) plus your petty cash balance.] 19. Liabilities: (Sum of loans and debts owed) () 20. Balance (Surplus or deficit) (Line 18 minus line 19)

CERTIFICATION: I certify that the information herein and on accompanying schedules and attachments is true and correct to the best of my knowledge. Candidate's Signature Date Treasurer's Signature Date

SEE INSTRUCTIONS ON REVERSE

((

<p>Page 2</p>	<p>C4 (1/12)</p>	<p>CAMPAIGN SUMMARY RECEIPTS & EXPENDITURES</p>
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**Please consult PDC instruction manuals when completing this report.
Reporting requirements are contained in and governed by RCW 42.17A and WAC 390.**

WHO MUST FILE

Each candidate and political committee using Full Reporting.

FILING DATES

- 1) File with C-1 or C-1pc (Registration form) if you received contributions or made expenditures before registering.
- 2) File on the 10th of each month if contributions or expenditures are over \$200 since last C-4 was filed. (These 10th-of-the-month reports are not required if another C-4 must be filed during that month. See #3 below.)
- 3) For each primary, general and special election in which the candidate or political committee makes an expenditure, file
 - 21 days prior to the election
 - 7 days prior to the election
 - 10th of the first month after the election -- see note below

(Note: Not required after primary election from candidates who will be in the general election or from continuing political committees.)

- 4) File final report when campaign is finished or committee closes operation. Often, this coincides with the primary or general post-election, 10th-of-the-month report.

All reports are considered filed as of the postmark date or the date hand-delivered to PDC.

WHERE TO SEND REPORTS

Send original C-4 reports, along with all schedules and attachments, to PDC. Keep a copy for the campaign's records.

Candidates for city offices, city ballot issue committees and other political committees who give to city candidates or ballot issue committees should check with city clerk regarding any local filing requirements.

***FOR ALL PACS, POLITICAL PARTIES & CAUCUS POLITICAL COMMITTEES**

The question posted near the top of the first page of this form regarding independent expenditures applies to **ALL POLITICAL COMMITTEES** required to file C-4 reports, **except ballot issue committees** that neither contribute to candidates nor make independent expenditures regarding them **and candidate committees** (because they are prohibited from making expenditures that are not directly related to their own campaigns).

All other Political Committees and PACs must indicate whether they made any independent expenditures supporting or opposing one or more candidates for state or local office.

If the response is "yes," the independent expenditure(s) **MUST** be itemized on the appropriate schedule (either Schedule A, or Part 3 of Schedule B), showing:

- the date of the expense;
- the name and address of the vendor or recipient of the funds;
- if using Schedule A, an "I" in the Code column;
- the name and office sought of the candidate supported or opposed;
- an indication of support or opposition; and
- a brief description of the expense (e.g., brochure mailed to absentee voters).

))

Page 2

C4

(2/16)

**CAMPAIGN SUMMARY
RECEIPTS &
EXPENDITURES**

**Please consult PDC instruction manuals when completing this report.
Reporting requirements are contained in and governed by RCW 42.17A and WAC 390.**

WHO MUST FILE	Each candidate and political committee using Full Reporting.
FILING DATES	<ol style="list-style-type: none"> 1) <u>File with C-1 or C-1pc</u> (Registration form) if you received contributions or made expenditures before registering. 2) <u>File on the 10th of each month</u> if contributions or expenditures are over \$200 since last C-4 was filed. (These 10th-of-the-month reports are not required if another C-4 must be filed during that month. See #3 below.) 3) For each primary, general and special election in which the candidate or political committee makes an expenditure, file <ul style="list-style-type: none"> • 21 days prior to the election • 7 days prior to the election • 10th of the first month after the election -- see note below <p>(Note: Not required after primary election from candidates who will be in the general election or from continuing political committees.)</p> 4) <u>File final report</u> when campaign is finished or committee closes operation. Often, this coincides with the primary or general post-election, 10th-of-the-month report. <p>All reports are considered filed as of the postmark date or the date hand-delivered to PDC.</p>
WHERE TO SEND REPORTS	<p>Send original C-4 reports, along with all schedules and attachments, to PDC. Keep a copy for the campaign's records.</p> <p>Candidates for city offices, city ballot issue committees and other political committees who give to city candidates or ballot issue committees should check with city clerk regarding any local filing requirements.</p>
*FOR ALL PACS, POLITICAL PARTIES & CAUCUS POLITICAL COMMITTEES	<p>The question posted near the top of the first page of this form regarding independent expenditures applies to ALL POLITICAL COMMITTEES required to file C-4 reports, except ballot issue committees that neither contribute to candidates nor make independent expenditures regarding them and candidate committees (because they are prohibited from making expenditures that are not directly related to their own campaigns).</p> <p>All other Political Committees and PACs must indicate whether they made any independent expenditures supporting or opposing one or more candidates for state or local office.</p> <p><u>If the response is "yes,"</u> the independent expenditure(s) MUST be itemized on the appropriate schedule (either Schedule A, or Part 3 of Schedule B), showing:</p> <ul style="list-style-type: none"> • the date of the expense; • the name and address of the vendor or recipient of the funds; • if using Schedule A, an "I" in the Code column; • the name and office sought of the candidate supported or opposed; • an indication of support or opposition; and • a brief description of the expense (e.g., brochure mailed to absentee voters).

CASH RECEIPTS AND EXPENDITURE

<p>SCHEDULE to C4</p> <p>A (1/04)</p>

Candidate or Committee Name (Do not abbreviate. Use full name.) Report Date

1 CASH RECEIPTS (Contributions) which have been reported on C3. List each deposit made since last C4 report was submitted.

Date of deposit	Amount	Date of deposit	Amount	Date of deposit	Amount	Total deposits
						\$

2. TOTAL CASH RECEIPTS Enter also on line 2 of C4 \$

CODES FOR CLASSIFYING EXPENDITURES: If one of the following codes is used to describe an expenditure, no other description is generally needed.

The exceptions are:

- 1) If expenditures are in-kind or earmarked contributions to a candidate or committee or independent expenditures that benefit a candidate or committee, identify the candidate or committee in the Description block;
- 2) When reporting payments to vendors for travel expenses, identify the traveler and travel purpose in the Description block; and
- 3) If expenditures are made directly or indirectly to compensate a person or entity for soliciting signatures on a statewide initiative or referendum petition, use code "V" and provide the following information in the Description block: name and address of each person/entity compensated, amount paid each during the reporting period, and cumulative total paid all persons to date to gather signatures.

<p>CODE DEFINITIONS ON NEXT PAGE</p>	<p>C - Contributions (monetary, in-kind & transfers) I - Independent Expenditures L - Literature, Brochures, Printing B - Broadcast Advertising (Radio, TV) N - Newspaper and Periodical Advertising O - Other Advertising (yard signs, buttons, etc.) V - Voter Signature Gathering</p>	<p>P - Postage, Mailing Permits S - Surveys and Polls F - Fundraising Event Expenses T - Travel, Accommodations, Meals M - Management/Consulting Services W - Wages, Salaries, Benefits G - General Operation and Overhead</p>
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3. EXPENDITURES

- a) Expenditures of \$50 or less, including those from petty cash, need not be itemized. Add up these expenditures and show the total in the amount column on the first line below.
- b) Itemize each expenditure of more than \$50 by date paid, name and address of vendor, code/description, and amount.
- c) For each payment to a candidate, campaign worker, PR firm, advertising agency, consultant or credit card company, provide a detailed breakdown in the Description block of expenses included in the payment.

Date Paid	Vendor or Recipient (Name and Address)	Code	Purpose of Expense and/or Description	Amount
N/A	Expenses of \$50 or less	N/A	N/A	
				\$

Total from attached pages \$

4. TOTAL CASH EXPENDITURES

Enter also on line 11 of C4 \$

CODE DEFINITIONS ON NEXT PAGE

Page 2 - For information only. Do not file as part of report.

EXPENDITURE CODE DEFINITIONS AND USES

(for use on Schedule A and Schedule B)

NOTE: Expenditures (including debts) for payments to a candidate, campaign worker, PR firm, advertising agency, consultant or credit card company require further detail in the Description block. See expenditure description on Schedule A, WAC 390-16-037 and WAC 390-16-205.

- C MONETARY, IN-KIND AND EARMARKED CONTRIBUTIONS** your campaign legally makes to other campaigns. Put a "C" in the Code column, in the Description column specify who was benefited and, if in-kind, what was purchased.
- I INDEPENDENT EXPENDITURES** (those expenditures that benefit other candidates or committees but are made independently of them). Put an "I" in the Code column and fully describe purpose.
- L LITERATURE.** Use "L" for expenditures made for the preparation and production of campaign literature and printed solicitations, including expenditures for mailing lists, design, photography, copy, layout, printing and reproduction. Use "P" for literature mailing costs.
- B BROADCAST ADVERTISING** Use "B" for expenditures associated with the production and purchase of radio and television advertising.
- N NEWSPAPER & PERIODICAL ADVERTISING.** Use "N" for expenditures associated with the production and purchase of advertising in newspapers, periodicals and other publications.
- O OTHER ADVERTISING.** Use "O" for expenditures associated with the production and purchase of advertising on billboards, yard signs and campaign paraphernalia such as buttons, bumper stickers, T-shirts, etc.
- V VOTER SIGNATURE GATHERING.** Use "V" for expenditures made directly or indirectly to compensate a person or entity for soliciting or procuring signatures on a statewide initiative or referendum petition. Attach itemization of each such payment.
- P POSTAGE.** Use "P" for expenditures for stamps, postage, United Parcel Service, Federal Express and direct mail services (postage only). Use "L" for design and other production costs associated with producing campaign literature.
- F FUNDRAISING EVENTS.** Use "F" for expenditures associated with holding a fundraiser, including payments to restaurants, hotels, caterers, other food and refreshment vendors, entertainers and speakers. Use "L" for expenditures for printed matter produced in connection with fundraising events.
- S SURVEYS AND POLLS.** Use "S" for expenditures associated with designing or producing polls, reports on election trends, voter surveys, telemarketing, telephone banks, GOTV drives, etc.
- T TRAVEL, ACCOMMODATIONS, MEALS.** Use "T" for expenditures associated with travel. If vendor has been paid directly, identify the traveler in Description column. If travel payment was made to credit card company or traveler (for out-of-pocket expenses), itemize expenses on separate sheet and attach to Schedule A.
- M MANAGEMENT AND CONSULTING SERVICES.** Use "M" for salaries, fees and commissions paid to campaign management companies and contract consultants, including law firms, whether the person is retained or formally employed by the campaign (for tax withholding purposes).
- W WAGES, SALARIES, BENEFITS.** Use "W" for expenditures associated with hiring campaign employees and other freelance workers who provide miscellaneous services other than campaign management or consulting.
- G GENERAL OPERATION AND OVERHEAD.** Use "G" for general campaign operating expenses and overhead, including filing fees, miscellaneous campaign expenses, headquarters rental, utilities, and purchase or rental of office equipment and furniture for the campaign.

**IN KIND CONTRIBUTIONS, PLEDGES,
ORDERS, DEBTS, OBLIGATIONS**

**SCHEDULE
TO C4**

B
(1/04)

Candidate or Committee Name (Do not abbreviate. Use full name.)

Report Date

1. IN KIND CONTRIBUTIONS RECEIVED (goods, services, discounts, etc.)

Date Received	Contributor's Name and Address	Description of Contribution*	Fair Market Value	Aggregate Total	P R I	G E N	If more than \$100, Employer Name, City, State & Occup.
							Occupation
							Occupation
							Occupation
<input type="checkbox"/> Check here if additional pages are attached.			TOTAL (Enter also on line 3 and line 12 of C4)				

2. PLEDGES RECEIVED BUT NOT YET PAID. List each pledge of \$100.00 or more.

Date Notified of Pledge	Name and Address of Pledge Maker	Fair Market Value	Aggregate Total	P R I	G E N	If more than \$100, Employer Name, City, State & Occup.
						Occupation
						Occupation
<input type="checkbox"/> Check here if additional pages are attached.			TOTAL (include new pledges above and all other outstanding pledges.) (Enter also on line 9 of C4)			

3. ORDERS PLACED, DEBTS, OBLIGATIONS. If debt is owed to a candidate, campaign worker, PR firm, advertising agency, consultant or credit card company, provide a detailed breakdown of expenses included in the debt. (Give estimate if actual amount not known. Exclude loans. Report loans on Schedule L.)

Expenditure Date	Vendor's/Recipient's Name and Address	Amount Owed	Code	OR	Description of Obligation*
		\$			
		\$			
		\$			
		\$			
		\$			
		\$			
<input type="checkbox"/> Check here if additional pages are attached.		TOTAL (Include in line 19 of C4)			

*SEE NOTE AND CODE DEFINITIONS ON REVERSE

EXPENDITURE CODE DEFINITIONS AND USES

(for use on Schedule A and Schedule B)

NOTE: Expenditures (including debts) for payments to a candidate, campaign worker, PR firm, advertising agency, consultant or credit card company require further detail in the Description block. See expenditure description on Schedule A, WAC 390-16-037 and WAC 390-16-205.

- C MONETARY, IN-KIND AND EARMARKED CONTRIBUTIONS** your campaign legally makes to other campaigns. Put a "C" in the Code column, in the Description column specify who was benefited and, if in-kind, what was purchased.
- I INDEPENDENT EXPENDITURES** (those expenditures that benefit other candidates or committees but are made independently of them). Put an "I" in the Code column and fully describe purpose.
- L LITERATURE**. Use "L" for expenditures made for the preparation and production of campaign literature and printed solicitations, including expenditures for mailing lists, design, photography, copy, layout, printing and reproduction. Use "P" for literature mailing costs.
- B BROADCAST ADVERTISING**. Use "B" for expenditures associated with the production and purchase of radio and television advertising.
- N NEWSPAPER & PERIODICAL ADVERTISING**. Use "N" for expenditures associated with the production and purchase of advertising in newspapers, periodicals and other publications.
- O OTHER ADVERTISING**. Use "O" for expenditures associated with the production and purchase of advertising on billboards, yard signs and campaign paraphernalia such as buttons, bumper stickers, T-shirts, etc.
- V VOTER SIGNATURE GATHERING**. Use "V" for expenditures made directly or indirectly to compensate a person or entity for soliciting or procuring signatures on a statewide initiative or referendum petition. Attach itemization of each such payment.
- P POSTAGE**. Use "P" for expenditures for stamps, postage, United Parcel Service, Federal Express and direct mail services (postage only). Use "L" for design and other production costs associated with producing campaign literature.
- F FUNDRAISING EVENTS**. Use "F" for expenditures associated with holding a fundraiser, including payments to restaurants, hotels, caterers, other food and refreshment vendors, entertainers and speakers. Use "L" for expenditures for printed matter produced in connection with fundraising events.
- S SURVEYS AND POLLS**. Use "S" for expenditures associated with designing or producing polls, reports on election trends, voter surveys, telemarketing, telephone banks, GOTV drives, etc.
- T TRAVEL, ACCOMMODATIONS, MEALS**. Use "T" for expenditures associated with travel. If vendor has been paid directly, identify the traveler in Description column. If travel payment was made to credit card company or traveler (for out-of-pocket expenses), itemize expenses on separate sheet and attach to Schedule A.
- M MANAGEMENT AND CONSULTING SERVICES**. Use "M" for salaries, fees and commissions paid to campaign management companies and contract consultants, including law firms, whether the person is retained or formally employed by the campaign (for tax withholding purposes).
- W WAGES, SALARIES, BENEFITS**. Use "W" for expenditures associated with hiring campaign employees and other freelance workers who provide miscellaneous services other than campaign management or consulting.
- G GENERAL OPERATION AND OVERHEAD**. Use "G" for general campaign operating expenses and overhead, including filing fees, miscellaneous campaign expenses, headquarters rental, utilities, and purchase or rental of office equipment and furniture for the campaign.

CORRECTIONS

SCHEDULE **C**
to C4

Candidate or Committee Name (Do not abbreviate. Use full name.) Date

1. CONTRIBUTIONS AND RECEIPTS (Include mathematical corrections.)

Date of report	Contributor's name or description of correction	Amount reported	Corrected amount	Difference (+ or -)
				Total corrections to contributions Enter on line 6 of C4. Show + or (-).

2. EXPENDITURES (Include mathematical corrections.)


Date of report	Vendor's name or description of correction	Amount reported	Corrected amount	Difference (+ or -)
				Total corrections to expenditures Enter on line 15 of C4. Show + or (-).

3. REFUNDS FROM VENDORS. The below listed amounts have been received as refunds on expenditures previously reported. The refund has been deposited and reported on C3 report, Line 1d.

Date of refund	Source/person making refund	Amount of refund
		Total refunds Enter as (-) on line 6 & line 15 of C4.

LOANS

See Instructions and Example on reverse

SCHEDULE TO C3 OR C4	 (1/02)
-------------------------------------	---

Candidate or Committee Name _____ Report Date _____

1. MONETARY OR IN-KIND LOAN RECEIVED. Loans are considered contributions and are subject to any applicable limit.

Date Loaned	Lender's Name and Address	P R I N G E N	Amount of Loan	Annual Interest Rate	Repayment Schedule	Date Due
If monetary loan, also include this amount on line 1c, C3 report. If in-kind loan, itemize in Part 1 of Schedule B.						
						If Total Contributed is more than \$100, Show Lender's Occupation and Name, City & State of Employer

Name and Address of Each Loan Endorser, Co-Signer	P R I N G E N	Amount Liable For (Same as Loan Amount)	Aggregate Total	If Total Contributed is more than \$100, Show Endorser's Occupation and Name, City, & State of Employer

Continued on attached sheet

2. LOAN PAYMENTS. Candidates may be repaid no more than amount loaned or permitted by WAC 390-05-400, whichever is less. See instruction manual.

Date Paid	Lender's Name and Address	Principal Paid	Interest Paid	Total Payment	Balance Owed
		Total Principal Paid Enter also on lines 5 and 14, C-4 report		Total Payments Enter as an expenditure on Schedule A	

3. LOANS FORGIVEN.

Date	Lender's Name and Address	Original Amount	Principal Repaid	Amount Forgiven	Balance Owed

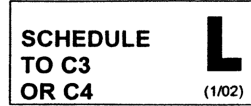
4. LOANS STILL OWED. List each loan that has previously been reported and still has a balance due.

Date	Lender's Name and Address	Original Amount	Principal Repaid or Forgiven	Amount Owed

Subtotal _____
 New Loans Received (and listed in Item 1 above) _____
 Total Loans Owed
 Include in total on line 19, C-4 report _____

Continued on attached sheet.

LOANS



Please consult PDC instruction manuals when completing this schedule. Reporting requirements are contained in and governed by RCW 42.17 and WAC 390.

WHO MUST FILE Each candidate and political committee using full reporting that receives one or more campaign loans.

FILING DATES When a monetary loan is received by the campaign, complete Part 1 and file the Schedule L with the C-3 report that corresponds with the loan's deposit into the account. **Use a separate schedule for each loan received.**

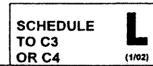
When an in-kind loan is received, complete Part 1 and file Schedule L along with the Schedule B (to the C-4) that itemizes the in-kind contribution.

When a loan is paid or forgiven, in whole or in part, complete Part 2 and/or Part 3 and file the Schedule L with the C-4 covering the period when the payment or forgiveness occurred.

When one or more loans remain unpaid, complete Part 4 and file the schedule with each C-4 report until all loans are repaid in full or forgiven. (The same schedule may be used to show loan payments, forgiveness information and to show which loans remain unpaid.)

LOAN RECEIVED (Information would appear on separate Schedule L)

Example LOANS



Candidate or Committee Name		Report Date	
Adrian Adams for State Representative		12/22/XXXX	
1. MONETARY OR IN-KIND LOAN RECEIVED. Loans are considered contributions and are subject to any applicable limit.			
Date Loaned	Lender's Name and Address	Amount of Loan	Annual Interest Rate
2/12/XXXX	Tyler Adams PO Box 123 Olympia, WA	\$ 500.00	12%
If monetary loan, also include this amount on line 1c, C3 report.		\$ 500.00	
If in-kind loan, itemize in Part 1 of Schedule B.			
Name and Address of Each Loan Endorser, Co-Signer	Amount Liable For (Same as Loan Amount)	Aggregate Total	
<input type="checkbox"/> Continued on attached sheet			
2. LOAN PAYMENTS. Candidates may be repaid no more than amount loaned or permitted by WAC 390-05-400, which ever is less. See instruction manual.			
Date Paid	Lender's Name and Address	Principal Paid	Interest Paid
3/30/XXXX	Tyler Adams PO Box 123, Olympia, WA	\$ 100.00	\$ 10.00
3/31/XXXX	Michael Murray 201 Westway Rd, Tacoma, WA	100.00	\$ 0
Total Principal Paid		\$ 200.00	
Total Payments		\$ 210.00	
<input type="checkbox"/> Continued on attached sheet			
3. LOANS FORGIVEN.			
Date	Lender's Name and Address	Original Amount	Amount Forgiven
3/15/XXXX	Kelly Adams 2222 Riverfront Rd, Olympia, WA	\$ 250.00	\$ 150.00
<input type="checkbox"/> Continued on attached sheet			
4. LOANS STILL OWED. List each loan that has previously been reported and still has a balance due.			
Date	Lender's Name and Address	Original Amount	Amount Owed
1/22/XXXX	Tyler Adams PO Box 123, Olympia, WA	\$ 500.00	\$ 100.00
2/12/XXXX	Michael Murray 201 Westway Rd, Tacoma, WA	350.00	100.00
3/01/XXXX	Kelly Adams 2222 Riverfront Rd, Olympia, WA	250.00	150.00
3/11/XXXX	K.M. Lawrence PO Box 3456, Olympia, WA	1,000.00	0
Subtotal		\$ 1,750.00	
New Loans Received (and listed in Item 1 above)		\$ 0	
Total Loans Owed		\$ 1,750.00	
<input type="checkbox"/> Continued on attached sheet			

LOAN PAYMENTS

LOANS FORGIVEN

LOANS STILL OWED

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-19-020 Electronic filing—Mandatory filing. (1) RCW 42.17A.245 mandates that persons satisfying the qualifying criteria in that section file all contribution and expenditure reports by electronic means.

(2) Persons filing by electronic means shall register with the PDC and receive a filer identification number and pass-

word. Filers must have a current C-1 Candidate Registration Statement or a C-1pc Committee Registration Statement ((and an original signature)) on file with the PDC prior to receiving a filer identification number.

(3) A filer subject to RCW 42.17A.245 shall file all PDC C-3 and C-4 reports and all appropriate schedules electronically in compliance with subsection (5) of this section.

(4) Any filer required to file electronically, but who files on paper, is in violation of RCW 42.17A.245 and may be subject to enforcement action unless the filer is a candidate who has sought and been granted an exception from electronic filing under WAC 390-19-050.

(5) A filer subject to electronic filing shall file reports using one of the following:

(a) The ORCA software (Online Reporting of Campaign Activity) provided free-of-charge by the PDC; or

(b) Any other electronic filing application provided or approved by the PDC.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-20-130 Forms for statement of employment of legislators, state officers, and state employees. The official form for statement of employment of legislators, state officers, and state employees as required by RCW 42.17A.645 is designated "L-7" revised ~~((1/12))~~ 2/16. Copies of this form are available on the commission's web site, www.pdc.wa.gov, and at the Commission Office, Room 206, Evergreen Plaza Building, Olympia, Washington 98504-0908. Any paper attachments shall be on 8-1/2" x 11" white paper.



L7
1/12

TO BE FILED BY
**EMPLOYERS OF STATE LEGISLATORS
STATE OFFICERS OR
STATE EMPLOYEES**

EMPLOYER'S NAME AND BUSINESS ADDRESS	THIS SPACE FOR OFFICE USE	
	POSTMARK	DATE RECEIVED

DATE PREPARED: _____ THIS FORM **AMENDS** PREVIOUS FILING **REPLACES** PREVIOUS FILING PREPARED (DATE) _____

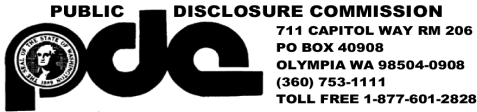
ITEM 1 **NAME OF PERSON BEING EMPLOYED**

ITEM 2 **NATURE OF EMPLOYMENT BY REPORTING EMPLOYER**

ITEM 3 **AMOUNT AND NATURE OF PAY OR CONSIDERATION**

ITEM 4 **NATURE OF STATE OFFICE OR EMPLOYMENT**

<p align="center">INSTRUCTIONS</p> <p>WHO SHOULD FILE THIS FORM: Any person registered or required to be registered as a lobbyist under this act or any employer of any person registered or required to be registered as a lobbyist under this act, who employs a member of the legislature, an employee of the legislature, a member of a state board or commission, or a full time state employee, if that employee remains partially employed by the state.</p> <p>FILING DEADLINE: Within 15 days after commencement of employment.</p> <p>FORM TO BE SUBMITTED TO: Public Disclosure Commission.</p>	<p>CERTIFICATION: I hereby certify under oath, that the above is a true, complete and correct statement in accordance with RCW 42.17A.645.</p>	
	SIGNATURE	DATE
<p>TITLE</p>		
<p>EXCERPT FROM PUBLIC DISCLOSURE LAW <u>RCW 42.17A.645 — Employment of legislators, board or commission members, or state employees -- Statement, contents.</u> If any person registered or required to be registered as a lobbyist, or any employer of any person registered or required to be registered as a lobbyist, employs a member or an employee of the legislature, a member of a state board or commission, or a full-time state employee, and that new employee remains in the partial employ of the state, the new employer must file within fifteen days after employment a statement with the commission, signed under oath, setting out the nature of the employment, the name of the person employed, and the amount of pay or consideration.</p>		



L7
2/16

TO BE FILED BY
**EMPLOYERS OF STATE LEGISLATORS
STATE OFFICERS OR
STATE EMPLOYEES**

EMPLOYER'S NAME AND BUSINESS ADDRESS	THIS SPACE FOR OFFICE USE	
	POSTMARK	DATE RECEIVED

DATE PREPARED: _____	THIS FORM	<input type="checkbox"/> AMENDS	PREVIOUS FILING PREPARED (DATE) _____
		<input type="checkbox"/> REPLACES	

ITEM 1	NAME OF PERSON BEING EMPLOYED
-----------	--------------------------------------

ITEM 2	NATURE OF EMPLOYMENT BY REPORTING EMPLOYER
-----------	---

ITEM 3	AMOUNT AND NATURE OF PAY OR CONSIDERATION
-----------	--

ITEM 4	NATURE OF STATE OFFICE OR EMPLOYMENT
-----------	---

<p style="text-align: center;">INSTRUCTIONS</p> <p>WHO SHOULD FILE THIS FORM: Any person registered or required to be registered as a lobbyist under this act or any employer of any person registered or required to be registered as a lobbyist under this act, who employs a member of the legislature, an employee of the legislature, a member of a state board or commission, or a full time state employee, if that employee remains partially employed by the state.</p> <p>FILING DEADLINE: Within 15 days after commencement of employment.</p> <p>FORM TO BE SUBMITTED TO: Public Disclosure Commission.</p>	<p>CERTIFICATION: I hereby certify under oath, that the above is a true, complete and correct statement in accordance with RCW 42.17A.645.</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td colspan="2" style="padding: 5px;">SIGNATURE</td> </tr> <tr> <td style="width:70%; padding: 5px;">TITLE</td> <td style="width:30%; padding: 5px;">DATE</td> </tr> </table>	SIGNATURE		TITLE	DATE
SIGNATURE					
TITLE	DATE				
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WSR 16-04-035
PERMANENT RULES
DEPARTMENT OF REVENUE
 [Filed January 26, 2016, 12:55 p.m., effective February 26, 2016]
 Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 458-20-261 (Rule 261) Commute trip reduction incentives, this rule discusses the various commute trip reduction incentives available. Rule 261 is being revised to recognize passage of 2ESSB 5987, chapter 44, Laws of 2015, which extends the commute trip reduction credit expi-

ration date from June 30, 2017, to July 1, 2024. Other changes include:

- Allowing carryover credits to be used for tax reporting periods through December 31, 2016;
- Requiring all credits approved after June 30, 2015, be used for tax reporting periods within the calendar year they are approved by department of revenue;
- Lowering the maximum credit a taxpayer can receive per year to \$100,000;
- Providing a maximum fifteen day extension to apply for the credit for circumstances beyond the control of the taxpayer; and
- Requiring taxpayers to apply for the credit electronically, and claim the credit on their return electronically.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-261 (Rule 261) Commute trip reduction incentives.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Other Authority: RCW 82.70.020, 82.70.025, 82.70.040, and 82.70.900.

Adopted under notice filed as WSR 15-23-085 on November 17, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: January 26, 2016.

Kevin Dixon
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-03-019, filed 1/8/15, effective 2/8/15)

WAC 458-20-261 Commute trip reduction incentives. (1) **Introduction.** This rule explains the various commute trip reduction incentives that are available. ~~((First,))~~ RCW 82.04.355 and 82.16.047 provide exemptions from business and occupation (B&O) tax and public utility tax (PUT) on amounts received from providing commuter ride sharing and ride sharing for persons with special transportation needs. RCW 82.08.0287 and 82.12.0282 provide sales and use tax exemptions for sales or use of passenger motor vehicles as ride-sharing vehicles. Finally, chapter 82.70 RCW provides commute trip reduction incentives in the form of B&O tax or ~~((public utility tax))~~ PUT credit ~~((effective~~

~~July 1, 2003,))~~ in connection with ride sharing, public transportation, car sharing, and nonmotorized commuting.

(2) **B&O tax and ~~((public utility tax))~~ PUT exemptions ~~((on))~~ for providing commuter ride sharing or ride sharing for persons with special transportation needs.** RCW 82.04.355 and 82.16.047 provide B&O tax and PUT exemptions for amounts received in the course of commuter ride sharing or ride sharing for persons with special transportation needs ~~((are exempt from the business and occupation tax and from the public utility tax. RCW 82.04.355 and 82.16.047)).~~

(a) **What is "commuter ride sharing"?** "Commuter ride sharing" means a ~~((car pool))~~ carpool or ~~((van pool))~~ vanpool arrangement, whereby one or more fixed groups:

(i) Not exceeding fifteen persons each, including the drivers; and

(ii) Either:

(A) Not fewer than five persons, including the drivers; or

(B) Not fewer than four persons, including the drivers, where at least two of those persons are confined to wheelchairs when riding; are transported in a passenger motor vehicle with a gross vehicle weight not exceeding ten thousand pounds, excluding any special rider equipment. The transportation must be between their places of residence or near such places of residence, and their places of employment or educational or other institutions. Each group must be in a single daily round trip where the drivers are also on the way to or from their places of employment or educational or other institutions. RCW 46.74.010.

(b) **What is "ride sharing for persons with special transportation needs"?** "Ride sharing for persons with special transportation needs" means an arrangement, whereby a group of persons with special transportation needs, and their attendants, is transported by a public social service agency or a private, nonprofit transportation provider, in a passenger motor vehicle as defined by the department of licensing to include small buses, cutaways, and modified vans not more than twenty-eight feet long. The driver need not be a person with special transportation needs. RCW 46.74.010.

(i) **What is a "private, nonprofit transportation provider"?** A "private, nonprofit transportation provider" is any private, nonprofit corporation providing transportation services for compensation solely to persons with special transportation needs. RCW 81.66.010.

(ii) ~~((What is))~~ **Who are "persons with special transportation needs"?** "Persons with special transportation needs" are those persons, including their personal attendants, who because of physical or mental disability, income status, or age, are unable to transport themselves or to purchase appropriate transportation. RCW 81.66.010.

(3) **Retail sales tax and use tax exemptions on sales or use of passenger motor vehicles as ride-sharing vehicles.** RCW 82.08.0287 and 82.12.0282 provide retail sales tax and use tax exemptions for sales and use of passenger motor vehicles as ride-sharing vehicles.

(a) **What are the requirements?** ~~((The requirements are that))~~ To qualify for these exemptions, the passenger motor vehicles must be used:

(i) Primarily for commuter ride sharing or ride sharing for persons with special transportation needs; and

(ii) As ride-sharing vehicles for thirty-six consecutive months beginning from the date of purchase (retail sales tax exemption) and the date of first use (use tax exemption). If the vehicle is used as a ride-sharing vehicle for less than thirty-six consecutive months, the registered owner must pay the retail sales tax or use tax.

(b) **Additional requirements in certain cases.** Vehicles used primarily for commuter ride sharing must be operated within a county, or a city or town within that county, which has a commute trip reduction plan under chapter 70.94 RCW in order to be exempt from retail sales tax or use tax. In addition, for the exemptions to apply, at least one of the following conditions must apply:

(i) The vehicle (~~(must be)~~) is operated by a public transportation agency for the general public;

(ii) The vehicle (~~(must be)~~) is used by a major employer, as defined in RCW 70.94.524, as an element of its commute trip reduction program for their employees; or

(iii) The vehicle (~~(must be)~~) is owned and operated by individual employees and must be registered either with the employer as part of its commute trip reduction program or with a public transportation agency serving the area where the employees live or work.

Individual-employee owned and operated motor vehicles require certification that the vehicle is registered with a major employer or a public transportation agency. Major employers who own and operate motor vehicles for their employees must certify that the commute ride-sharing arrangement conforms to a (~~(car pool/van pool)~~) carpool or vanpool element contained within their commute trip reduction program.

(4) **B&O tax or (~~(public utility tax)~~) PUT credit for ride sharing, public transportation, car sharing, or nonmotorized commuting.** (~~(Effective July 1, 2003,)~~) RCW 82.70.020 provides a credit against B&O tax or (~~(public utility tax)~~) PUT liability for amounts paid to or on behalf of employees for ride sharing in vehicles carrying two or more persons, for using public transportation, for using car sharing, or for using nonmotorized commuting. The credit is equal to the amount paid to or on behalf of each employee multiplied by fifty percent, but may not exceed sixty dollars per employee per fiscal year. No refunds will be granted for unused credits.

(a) **Who is eligible for this credit?**

(i) Employers in Washington are eligible for this credit, for amounts paid to or on behalf of their own or other employees, as financial incentives to such employees for ride sharing, for using public transportation, for using car sharing, or for using nonmotorized commuting.

(ii) Property managers who manage worksites in Washington are eligible for this credit, for amounts paid to or on behalf of persons employed at those worksites, as financial incentives to such persons for ride sharing, for using public transportation, for using car sharing, or for using nonmotorized commuting.

(b) **What is "ride sharing"?** "Ride sharing" means a (~~(car pool or van pool)~~) carpool or vanpool arrangement, whereby a group of at least two but not exceeding fifteen persons, including the driver, is transported in a passenger motor vehicle with a gross vehicle weight not exceeding ten thou-

sand pounds, excluding any special rider equipment. The transportation must be between their places of residence or near such places of residence, and their places of employment or educational or other institutions. The driver must also be on the way to or from his or her place of employment or educational or other institution. "Ride sharing" includes ride sharing on Washington state ferries. RCW 82.70.010.

(c) **What is "public transportation"?** "Public transportation" means the transportation of packages, passengers, and their incidental baggage, by means other than by charter bus or sight-seeing bus, together with the necessary passenger terminals and parking facilities or other properties necessary for passenger and vehicular access to and from such people moving systems. "Public transportation" includes passenger services of the Washington state ferries. RCW 82.70.010.

(d) **What is "car sharing"?** "Car sharing" means a membership program intended to offer an alternative to car ownership under which persons or entities that become members are permitted to use vehicles from a fleet on an hourly basis. RCW 82.70.010.

(e) **What is "nonmotorized commuting"?** "Nonmotorized commuting" means commuting to and from the workplace by an employee, by walking or running or by riding a bicycle or other device not powered by a motor. "Nonmotorized commuting" does not include teleworking, which is a program where work functions normally performed at a traditional workplace are instead performed by an employee at his or her home, at least one day a week for the purpose of reducing the number of trips to the employee's workplace. RCW 82.70.010.

(f) **What is the credit amount?** The amount of the credit is equal to the amount paid to or on behalf of each employee multiplied by fifty percent, but may not exceed sixty dollars per employee per fiscal year. RCW 82.70.020.

(g) **What is a "fiscal year"?** A "fiscal year" begins at July 1st of one year and ends on June 30th of the following year.

(h) **When will the credit expire?** The credit program (~~(is)~~) was scheduled to expire June 30, 2015 (~~(If the program is not extended after June 30, 2015, commute trip reduction incentive payments paid by employers and property managers from January 1, 2015 through June 30, 2015, will not accrue commute trip reduction credits)~~), but has been extended to June 30, 2024, by legislation passed in 2015 (2ESSB 5987, chapter 44, Laws of 2015). For credits approved by the department through June 30, 2015, the approved credit may be carried forward and used for tax reporting periods through December 31, 2016. Credits approved after June 30, 2015, must be used for tax reporting periods within the calendar year for which they are approved by the department and may not be carried forward to subsequent tax reporting periods. No credit may be claimed after June 30, 2024.

(i) **What are the limitations of the credit?**

(i) The credit may not exceed the amount of B&O tax or (~~(public utility tax)~~) PUT that would otherwise be due for the same fiscal year.

(ii) A person may not receive credit for amounts paid to or on behalf of the same employee under both B&O tax and (~~(public utility tax)~~) PUT.

(iii) A person may not take a credit for amounts claimed for credit by other persons.

(iv) ~~The total credit ((received by)) granted to a person ((against)) under both B&O tax and ((public utility tax)) PUT may not exceed two hundred thousand dollars for a fiscal year. Effective in 2016, the maximum credit that may be granted is one hundred thousand dollars for a fiscal year.~~

(v) ~~The total credit granted to all persons under both B&O tax and ((public utility tax, including any credits carried forward from prior fiscal years as described in (i)(vii) of this subsection,)) PUT may not exceed((:~~

~~(A)) two million seven hundred fifty thousand dollars in any fiscal year ((through the fiscal year ending June 30, 2013; and~~

~~(B)) with the exception of one million five hundred thousand dollars per fiscal year for the period ((beginning)) July 1, 2013, through June 30, ((2016)) 2015.~~

(vi) No credit or portion of a credit denied, because of exceeding the limitations in (i)(iv) or (v) of this subsection, may be used against tax liability for other fiscal years.

~~(vii) ((Credit approved by the department may be carried forward to subsequent years until used, except that no person may claim the tax credit after June 30, 2015.~~

~~(viii)) No person is eligible for tax credits under RCW 82.70.020 if the additional revenues for the multimodal transportation account (RCW 47.66.070) created ((under RCW 46.68.035(1), 82.08.020(3), 82.12.045(7), 46.16.233(2), and 46.16.690)) by chapter 361, Laws of 2003 are terminated.~~

(j) What are the credit procedures?

(i) Persons applying for the credit must complete ~~((an))~~ the commute trip reduction credit annual application. The application must be electronically filed and received by the department between January 1st and January 31st, following the calendar year in which the applicant((s)) made incentive payments. The commute trip reduction credit annual application ((must be made to the department in a form and manner prescribed by the department)) is available through the business's "My Account" on the department's web site at dor.wa.gov.

(ii) The department must make a determination on an application within sixty days of the January 31st deadline. ~~((In addition))~~ Except as explained immediately below, the department must disapprove an application not received by the January 31st deadline. Legislation (2ESSB 5987, chapter 44, Laws of 2015) passed in 2015 allows the department to accept applications received up to fifteen calendar days after the deadline if the application was not received by the deadline because of circumstances beyond the control of the taxpayer. For what is considered circumstances beyond the control of a taxpayer see WAC 458-20-228 Returns, payments, penalties, extensions, interest, stay of collection. Once the application is approved and tax credit is granted, the department is not allowed to increase the credit.

(iii) If the total amount of credit applied for by all applicants in a fiscal year exceeds the limitation as provided in (i)(v) of this subsection, the amount of credit allowed for all applicants ~~((is))~~ must be proportionally reduced so as not to exceed the limit. The amount reduced may not be carried forward and claimed in subsequent fiscal years.

(iv) To claim a commute trip reduction tax credit, a person must file all returns, forms, and other information the department requires in an electronic format as provided or approved by the department. Any return, form, or information required to be filed in an electronic format is not filed until received by the department in an electronic format. For the purpose of this subsection, "returns" has the same meaning as "return" in RCW 82.32.050.

(k) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all ~~((of))~~ the facts and circumstances.

(i) **Example 1.** An employer pays one hundred eighty dollars for a yearly bus pass for one employee. For another employee, the employer buys a bicycle helmet and bicycle lock for a total of fifty dollars. These are the total expenditures during a fiscal year of amounts paid to or on behalf of employees in support of ride sharing, using public transportation, using car sharing, and using nonmotorized commuting. The employer may claim a credit of sixty dollars for the amount spent for the employee using the bus pass. Fifty percent of one hundred eighty dollars is ninety dollars, but the credit is limited to sixty dollars per employee. The employer may claim a credit of twenty-five dollars (fifty percent of fifty dollars) for the amount spent for the employee who bicycles to work. Even though fifty percent of two hundred thirty dollars, the amount spent on both employees, works out to be less than sixty dollars per employee, the credit is computed by looking at actual spending for each employee and not by averaging the spending for both employees.

(ii) **Example 2.** An employer provides parking spaces for the exclusive use of ride-sharing vehicles. Amounts spent for signs, painting, or other costs related to the parking spaces do not qualify for the credit. This is because the credit is for financial incentives paid to or on behalf of employees. While the parking spaces support the use of ride-sharing vehicles, they are not financial incentives and do not involve amounts paid to or on behalf of employees.

(iii) **Example 3.** As part of its commute trip reduction program, an employer pays the cab fare for an employee who has an emergency and must leave the workplace but has no vehicle available because he or she commutes by ride-sharing vehicle. The cab fare qualifies for the credit but ~~((there is a))~~ is subject to the maximum credit limit of sixty dollars per employee.

(iv) **Example 4.** An employer pays the property manager for a yearly bus pass for one employee who works at the worksite managed by the property manager. The property manager in turn pays the amount received from the employer to a public transportation agency to purchase the bus pass. Either the employer or the property manager, but not both, may take the credit for this expenditure.

WSR 16-04-046
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed January 27, 2016, 2:25 p.m., effective February 27, 2016]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is amending WAC 388-444-0005, 388-444-0010, and 388-444-0035 to align WAC with the Code of Federal Regulations (C.F.R.). Proposed changes define able-bodied adults without dependents (ABAWD) as a subset of work registrants, allow the department to review work registration at recertification, and add policy regarding work registration and ABAWD exemptions related to inability to work.

Citation of Existing Rules Affected by this Order: Amending WAC 388-444-0005, 388-444-0010, and 388-444-0035.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, and 74.08A.120.

Other Authority: 7 C.F.R. 273.7 and 7 C.F.R. 273.24.

Adopted under notice filed as WSR 15-19-100 on September 17, 2015.

Changes Other than Editing from Proposed to Adopted Version: 1. WAC 388-444-0005:

a. The department reworded the question for clarity.

b. We kept the reference to the twelve month frequency for work registration and added clarification for when persons are reregistered for work at recertification.

c. Added words "the person" in subsection (3)(f) before "... sanctioned under WAC 388-310-1600 ...".

d. Other minor edits for clarity.

2. WAC 388-444-0010:

a. Corrected a typographical error by inserting missing subsection number in citation for WAC 388-310-0350 under subsection (6)(b), and restructured the paragraph for clarity.

b. Listed the definitions in subsection (7) previously referenced from WAC 388-310-0350 (1)(b) and made edits to adapt the definitions used for TANF to the Basic Food program.

c. Made editorial changes and corrected the word "ten" to read "thirty" in subsection (7).

d. Removed the twelve month durational requirement under subsection (7).

e. Minor grammatical edits were made for clarity.

3. WAC 388-444-0035:

a. Decided not to remove original list of exemptions (1) through (12) except that we did remove subsection (3) and added a more detailed way of determining if someone is physically or mentally unable to work.

b. Based on overall comments about exemptions for work requirements we wanted to make it clear that any ABAWD exempt from Basic Food work requirements is exempt from ABAWD work requirements and time limits. With that in mind we added a final exemption in the list that reads: "Otherwise exempt from work requirements under WAC 388-444-0010."

c. Additional minor grammatical edits were made for clarity.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 3, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Date Adopted: January 21, 2016.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-21-126, filed 10/22/13, effective 11/22/13)

WAC 388-444-0005 Am I required to work, register for work, or look for work in order to be eligible for Basic Food? Some people must register for work to receive Basic Food.

(1) If you receive Basic Food, we register you for work if you are:

(a) Age sixteen through fifty-nine (~~((with dependents))~~); and

(b) (~~((Age sixteen or seventeen, not attending secondary school and not the head of household;~~

~~(c) Age fifty through fifty nine with no dependents; or~~

~~(d) Age eighteen through forty nine, able-bodied and with no dependents as provided in WAC 388-444-0030))~~ Not exempt from work registration under WAC 388-444-0010.

(2) (~~(Unless you are exempt from work registration under WAC 388-444-0010))~~ If you are required to register for work, we register you ((for work)):

(a) When you apply for Basic Food benefits or are added to someone's assistance unit; and

(b) At least once every twelve months thereafter or at recertification if your work registration status changes.

(3) If we register you for work, you must:

(a) Contact us as required;

(b) Provide information regarding your employment status and availability for work if we ask for it;

(c) Report to an employer if we refer you;

(d) Not voluntarily quit a job or reduce your work effort as defined under WAC 388-444-0065 unless you have good cause under WAC 388-444-0070; (~~and~~)

(e) Accept a bona fide offer of suitable employment. We define unsuitable employment under WAC 388-444-0060(-); and

(f) Not be in sanction status under WAC 388-310-1600 (if you are a mandatory WorkFirst participant).

(4) If we register you for work, you must meet all of the requirements under subsection (3) of this section. If you do not meet these requirements, we disqualify you from receiving

ing benefits as described in WAC 388-444-0055, unless you meet the good cause conditions as defined in WAC 388-444-0050.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending WSR 13-24-043, filed 11/26/13, effective 1/1/14)

WAC 388-444-0010 Who is exempt from work registration while receiving Basic Food? If you receive Basic Food, you are exempt from work registration and the requirements in chapter 388-444 WAC if you meet any one of the following conditions:

- (1) ~~((You are))~~ Are age sixteen or seventeen, and:
 - (a) ~~Not the head of household~~;
 - ~~((a))~~ (b) Attend school ~~((such as high school or high school equivalency programs));~~ or
 - ~~((b))~~ (c) Are enrolled at least half time (using the institutions definition) in an employment and training program under:
 - (i) The Workforce ~~((Investment))~~ Innovation and Opportunity Act of 2014 (WIOA);
 - (ii) Section 236 of the Trade Act of 1974; or
 - (iii) ~~((Another))~~ A state or local employment and training program.
- (2) You are a student age eighteen or older enrolled at least half time as defined by the institution in:
 - (a) Any accredited school;
 - (b) A training program; or
 - (c) An institution of higher education. If you are enrolled in higher education, you must meet the requirements under WAC 388-482-0005 to be eligible for Basic Food benefits.
- (3) You are an employed or self-employed person working at least thirty hours ~~((or more))~~ per week, or receiving weekly earnings equal to the federal minimum wage multiplied by thirty;
- (4) You are complying with the work requirements of an employment and training program under temporary assistance for needy families (TANF);
- (5) You receive unemployment compensation (UC) benefits or have an application pending for UC benefits;
- (6) You are responsible to care for:
 - (a) A dependent child under age six; or
 - (b) ~~((Someone who is incapacitated))~~ An adult with an incapacity that meets the requirements of WAC 388-310-0350 (1)(d)(i), (ii), (iv), and (v), except the person does not need to be related to you as stated in (1)(d)(v).
- (7) ~~((We determine that))~~ You are physically or mentally unable to work as determined below: ~~((or))~~
 - (a) A DSHS SSI facilitator has assessed you as likely to be approved for SSI or other benefits and are required to apply for SSI or another type of federal disability benefit (such as railroad retirement or Social Security disability) and your SSI application status may be verified through either the SSI facilitator or state data exchange, or both;
 - (b) You have a severe and chronic mental, physical, emotional, or cognitive disability that prevents you from par-

ticipating in work or work activities for at least thirty hours a week; or

(c) We verify your disability using documentation from DDA, DVR, HCS, MHD, or RSN, or by one of the medical or mental health professionals listed in WAC 388-310-0350(2).

(8) You regularly participate in a drug addiction or alcoholic treatment and rehabilitation program.

AMENDATORY SECTION (Amending WSR 10-23-112, filed 11/17/10, effective 12/18/10)

WAC 388-444-0035 Who is exempt from the ABAWD time limits and minimum work requirements?

Some persons receiving Basic Food are exempt from ABAWD time limits and minimum work requirements. You are exempt from the ABAWD work requirements and time limits under WAC 388-444-0030 if you are any one or more of the following:

- (1) Under eighteen or fifty years of age or older;
- (2) ~~((Determined to be physically or mentally unable to work;))~~ Receiving temporary or permanent disability benefits issued by a governmental or private source;
- (3) ~~((A member of a household with responsibility for a person who is incapacitated;))~~ Obviously mentally or physically unfit for employment as determined by the department. If the unfitness is not obvious, you must provide a statement from a physician, physician's assistant, nurse, nurse practitioner, designated representative of the physician's office, a licensed or certified psychologist, a social worker, or any other medical personnel we determine is appropriate, that you are physically or mentally unfit for employment.
- (4) An adult in a ~~((household))~~ basic food assistance unit that has a family member who is under the age of eighteen ~~((; even if the child is not eligible for Basic Food));~~
- (5) Pregnant;
- (6) Living in an area approved as exempt by U.S. Department of Agriculture (USDA);
- (7) Complying with the work requirements of an employment and training program under temporary assistance for needy families (TANF);
- (8) Applying for or receiving unemployment compensation;
- (9) A student enrolled at least half time as defined by the institution in:
 - (a) Any accredited school;
 - (b) Training program; or
 - (c) Institution of higher education. A student enrolled in higher education must meet the requirements under WAC 388-482-0005 in order to be eligible for Basic Food.
- (10) Participating in a chemical dependency treatment and rehabilitation program;
- (11) Employed a minimum of thirty hours per week or receiving weekly earnings which equal the minimum hourly rate multiplied by thirty hours;
- (12) Eligible for one of the ~~((annual federal))~~ approved exemption slots under the USDA fifteen percent exemption rule ~~((;));~~
- (13) A recipient of the state-funded food assistance program (FAP) under WAC 388-400-0050; or

(14) Otherwise exempt from work requirements under WAC 388-444-0010.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**WSR 16-04-048
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS**

[Filed January 27, 2016, 3:10 p.m., effective February 27, 2016]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To define, document and clarify how the agency administers statutes that provide for the purchase of additional annuities and service credits in certain retirement systems.

Citation of Existing Rules Affected by this Order: Amending WAC 415-02-177 May I purchase additional service credit?

Statutory Authority for Adoption: RCW 41.50.050(5).

Adopted under notice filed as WSR 16-01-199 on December 23, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 27, 2016.

Marcie Frost
Director

AMENDATORY SECTION (Amending WSR 13-18-034, filed 8/28/13, effective 10/1/13)

WAC 415-02-177 May I purchase additional service credit? (1) What is the option for purchasing additional service credit? The following statutes provide an option for eligible members to purchase additional service credit that provides a guaranteed, lifetime increase to their monthly retirement benefit:

$$\begin{aligned} \text{Amount of increase} &= 2\% \times \text{additional service credit years} \times \text{AFC} \times \text{ERF} \\ &= 2\% \times 5 \text{ years} \times \$4000 \times .7240000 \\ &= \$289.60 \end{aligned}$$

- (a) RCW 41.26.199 for LEOFF Plan 1 members;
 - (b) RCW 41.26.432 for LEOFF Plan 2 members;
 - (c) RCW 41.40.034 for PERS Plan 1, 2, and 3 members;
 - (d) RCW 41.37.265 for PSERS Plan 2 members;
 - (e) RCW 41.35.183 for SERS Plan 2 and 3 members;
 - (f) RCW 41.32.066 for TRS Plan 1, 2, and 3 members;
- and

(g) RCW 43.43.233 for WSPRS Plan 1 and 2 members.

(2) Am I eligible to purchase additional service credit?

(a) You may purchase additional service credit if you are eligible to retire from one or more of the following plans and you elect a monthly benefit rather than a lump sum payment:

(i) LEOFF Plan 1 or 2 under RCW 41.26.090 or 41.26.430;

(ii) PERS Plan 1, 2, or 3 under RCW 41.40.180, 41.40.-630, or 41.40.820;

(iii) PSERS Plan 2 under RCW 41.37.210;

(iv) SERS Plan 2 or 3 under RCW 41.35.420 or 41.35.-680;

(v) TRS Plan 1, 2, or 3 under RCW 41.32.480, 41.32.-765, or 41.32.875; or

(vi) WSPRS Plan 1 or 2 under RCW 43.43.250.

(b) If you retire as a result of a disability, you may purchase additional service credit if you meet the requirements in (a) of this section.

(3) How much additional service credit may I purchase? If you are eligible, you may purchase from one to sixty months of additional service credit in whole month increments.

(4) May I use the additional purchased service credit to qualify for normal retirement or an early retirement? No. You may not use the purchased service credit to qualify for normal retirement or to qualify for an early retirement.

(5) When must I apply to purchase additional service credit? You must submit your request to purchase additional service credit to the department at the same time you submit your application for retirement.

(6) How much will my monthly retirement benefit increase if I purchase additional service credit? The increase in your monthly retirement benefit will be calculated using the benefit formula for your system and plan, with a reduction for early retirement, if applicable.

Example 1 (PERS Plan 2): John is a member of PERS Plan 2. He applies for retirement, effective the first month after his 62nd birthday and chooses to purchase an additional sixty months (five years) of service credit. His average final compensation (AFC) is \$4000 per month. For illustration purposes in this example only, we will use .7240000 as the corresponding early retirement factor (ERF) for retiring three years early (actuarial factors change periodically). As a result, John's monthly benefit will increase by \$289.60 per month, calculated as follows:

Example 2 (TRS Plan 3): Jane is a member of TRS Plan 3. She applies for retirement, effective the first month after her 62nd birthday and chooses to purchase an additional sixty months (five years) of service credit. Her AFC is \$4000 per month. For illustration purposes in this example only, we will

$$\begin{aligned} \text{Amount of increase} &= 1\% \times \text{additional service credit years} \times \text{AFC} \times \text{ERF} \\ &= 1\% \times 5 \text{ years} \times \$4000 \times .7240000 \\ &= \$144.80 \end{aligned}$$

Example 3 (LEOFF Plan 2): Jim is a member of LEOFF Plan 2. He applies for retirement, effective the first month after his 53rd birthday and chooses to purchase an additional sixty months (five years) of service credit. His final average salary (FAS) is \$4000 per month. No ERF is

$$\begin{aligned} \text{Amount of increase} &= 2\% \times \text{additional service credit years} \times \text{FAS} \\ &= 2\% \times 5 \text{ years} \times \$4000 \\ &= \$400 \end{aligned}$$

(7) How is the cost of the additional purchased service credit calculated? The cost to purchase additional service credit is calculated by dividing the amount of the increase in subsection (6) of this section by the age-based annuity factor in effect at the time of retirement. (See WAC 415-02-340 for more information.)

$$\begin{aligned} \text{Cost} &= \text{Amount of increase} \div \text{age-based annuity factor} \\ &= \$289.60 \div .0065016 \\ &= \$44,542.88 \end{aligned}$$

(8) How and when do I pay for the additional service credit? The department will generate a bill to you for the cost of the additional service credit.

(a) Payment may be made with an eligible rollover, a direct rollover or a trustee-to-trustee transfer, if allowed by the transferring plan. Payment may also be made with after-tax dollars, such as money from a personal savings account. However, IRS regulations limit the amount of after-tax dollars you may use to purchase additional service credit.

(b) Payment must be made in full within ninety days after the bill issue date.

(9) If I choose a benefit option with a survivor feature, will my (~~survivor beneficiary's~~) survivor's monthly benefit reflect the additional purchased service credit? Yes. Depending upon the rules for your retirement system and plan and the benefit option you choose at retirement, your (~~survivor beneficiary's~~) survivor's monthly benefit will be a percentage of the gross monthly retirement benefit you were receiving at the time of your death. Since the additional service you purchased is included in the calculation of your monthly benefit, the survivor option you designate for your monthly benefit will also be applied to the benefit from the purchased service credit. You cannot choose a different survivor. If you choose a benefit option with a survivor feature and your survivor (~~beneficiary~~) dies before you, your monthly retirement benefit will increase to the amount it would have been had you not selected a survivor option.

use .7240000 as the corresponding ERF for retiring three years early (actuarial factors change periodically). As a result, Jane's monthly retirement benefit will increase by \$144.80 per month, calculated as follows:

needed for this calculation as Jim has already reached normal retirement age for LEOFF Plan 2. Jim's monthly retirement benefit will increase by \$400 per month, calculated as follows:

Example. In subsection (6) of this section, Example 1, it was determined that John's retirement benefit would increase by \$289.60 per month. For illustration purposes in this example only, we will use .0065016 as the annuity factor for John's retirement date (actuarial factors change periodically). As a result, John's cost to purchase the five years of additional service credit would be \$44,542.88, calculated as follows:

(10) Will I receive a cost of living adjustment (COLA) on the portion of my benefit that is based on the additional purchased service credit?

(a) For all systems and plans, except as noted in (b) of this subsection, your COLA will be based on your gross monthly retirement benefit, including the increase due to the purchased service credit.

(b) If you retire from PERS Plan 1 or TRS Plan 1 and you do not elect the optional auto COLA, you will not receive a COLA on the additional purchased service credit amount.

(11) If I purchase additional service credit and then return to work, how will my retirement benefit be affected? Your entire retirement benefit, including the amount attributable to purchased service credit, is subject to the return to work provisions of your system and plan. The following rules describe the impact on your benefit if you return to work as a retiree of the referenced systems and plans:

PERS Plans 1, 2, and 3:	WAC 415-108-710
TRS Plan 1:	WAC 415-112-541
TRS Plans 2 and 3:	WAC 415-112-542
SERS Plans 2 and 3:	WAC 415-110-710
PSERS Plan 2:	WAC 415-106-700
LEOFF Plan 2:	WAC 415-104-111

(12) **If I retire and purchase less than sixty months of additional service credit, may I purchase more at a later time?** No. You may not purchase additional months of service credit from the same plan unless you return to membership and retire again from the same system and plan. You must meet the eligibility requirements provided in subsection (2) of this section at the time you retire again. You may not purchase more than a total of sixty months of service credit regardless of how many times you retire again from the same system and plan.

(13) **May I purchase service credit from more than one retirement plan?**

(a) If you are a dual member under chapter 415-113 WAC, Portability of public employment benefits, and you combine service credit to retire as a dual member, you may purchase up to sixty months of additional service credit from each of your dual member plans.

(b) If you retire from more than one plan, but are not a dual member under chapter 415-113 WAC, you may purchase up to sixty months of additional service credit from each plan in which you meet the eligibility requirements in subsection (2) of this section.

(14) **How are the funds I paid to purchase the additional service credit treated upon my death (and the death of my survivor ((beneficiary)), if applicable)?**

(a) Plans 1 and 2. The amount paid to purchase the additional service credit is credited to your individual account as part of your accumulated contributions. Distribution of accumulated contributions after your death (and the death of your survivor ((beneficiary)), if any) is governed by the statutes and rules applicable to your plan. See:

- (i) WAC 415-108-326 for PERS Plan 1 and 2;
- (ii) WAC 415-112-504(9) for TRS Plan 1;
- (iii) WAC 415-112-505(7) for TRS Plan 2;
- (iv) WAC 415-110-610(7) for SERS Plan 2;
- (v) WAC 415-106-600(7) for PSERS Plan 2;
- (vi) WAC 415-103-215 for WSPRS Plan 1;
- (vii) WAC 415-103-225(7) for WSPRS Plan 2;
- (viii) WAC 415-104-202 for LEOFF Plan 1; or
- (ix) WAC 415-104-215(7) for LEOFF Plan 2.

(b) Plan 3. ~~((The amount paid to purchase the additional service credit is credited to the Plan 3 trust fund and not to your member account. There are no circumstances under which the amount will be distributed upon your death.))~~ If you and your survivor (if you selected a survivor option) die before the amount of your purchased service credit has been paid back to you in your monthly retirement benefit, the difference will be refunded to your designated beneficiary.

NEW SECTION

WAC 415-02-178 May I purchase an annuity? (1) Am I eligible to purchase an annuity? You are eligible to purchase an annuity at the time of retirement from your defined benefit for either service or disability if you are a member of TRS (RCW 41.32.067), WSPRS (RCW 43.43.315), or LEOFF Plan 2 (RCW 41.26.463). This annuity provides a lifetime increase to your monthly benefit. (For purchasing an annuity from your Plan 3 defined contribution account, refer to WAC 415-111-320.)

(2) **Can I purchase an annuity if I take a lump sum payment?** No, you may not purchase an annuity if you elect a lump sum payment instead of a monthly benefit.

(3) **Are there limits to the annuity amount I may purchase?** There is no maximum limit on the purchase amount. If you are a LEOFF Plan 2 member or WSPRS member the minimum amount you may purchase is \$25,000. There is no minimum required for TRS members.

(4) **When can I apply to purchase an annuity?** You must submit your request to purchase an annuity to the department at the time you apply for retirement.

(5) **How much will my monthly benefit increase if I purchase an annuity?** The increase in your monthly benefit will be calculated using the following formula:

$$\text{Purchase Annuity Amount} \times \text{Annuity Factor} = \text{Increase to Monthly Benefit}$$

The annuity factor is determined by your age on the later of your retirement date or the date your retirement application is submitted to the department.

Example: John is a member of LEOFF Plan 2. He applies for retirement and requests to purchase an annuity for \$45,000. For illustration purposes in this example only, we will use .0051025 as the corresponding annuity factor (factors change periodically). John's monthly benefit will increase by \$229.61 per month, calculated as follows:

$$\text{Purchase Annuity Amount} \times \text{Annuity Factor} = \text{Increase to Monthly Benefit}$$

$$\$45,000 \times .0051025 = 229.61$$

(6) **How and when do I pay for the annuity?** The department will generate a bill to you for the cost of the annuity after we receive your request to purchase.

(a) For all TRS members, payment may be made by making a one-time cash, check, or electronic fund transfer; or you may roll over funds from another tax-deferred retirement account.

(b) For LEOFF Plan 2 and WSPRS members, the annuity must be purchased by rolling over funds from an "eligible retirement plan" which is a tax qualified plan offered by a governmental employer (like the state of Washington's deferred compensation program).

(c) Payment must be made in full by ninety days after the later of your retirement date or bill issue date. Your annuity will begin once your payment is received and your retirement is processed. The effective date for the start of this benefit is the later of your retirement date or the payment in full date plus one day.

(7) **Are there benefit options that allow me to choose a survivor to receive a continuing payment after my death?** Yes. The survivor option you designate for your monthly benefit must also be used for your purchase of annuity.

Depending upon the rules for your retirement system and plan and the benefit option you choose at retirement, your survivor's monthly benefit will be a percentage of the gross monthly benefit you were receiving. If you choose a benefit option with a survivor feature and your survivor dies before

you, your monthly benefit will increase to the amount it would have been had you not selected a survivor option.

(8) Will I receive a cost of living adjustment (COLA) on the portion of my benefit that is based on the purchased annuity?

(a) If you are eligible for an annual COLA adjustment on your monthly benefit, you will receive the same COLA percentage on this annuity.

(b) If you retire from TRS Plan 1 you must elect the optional auto COLA in order to receive a COLA on the annuity amount.

(9) If I purchase an annuity and then return to work, how will the annuity portion of my benefit be affected? You will continue to receive the annuity portion of your monthly benefit payment even if you return to work, or return to membership.

(10) If I retire then return to membership and rere-tire, may I purchase another annuity? Yes. You may purchase another annuity when you rere-tire provided you are rere-tiring from an eligible plan that allows an annuity purchase.

(11) May I purchase an annuity from more than one retirement plan?

(a) If you are a dual member under chapter 415-113 WAC, Portability of public employment benefits, and you combine service credit to retire as a dual member, you may purchase an annuity from each dual member plan that allows an annuity purchase.

(b) If you are not a dual member and retire separately from more than one plan you may purchase an annuity from each eligible plan that allows an annuity purchase.

(12) How are the funds I paid to purchase the annuity treated upon my death (and the death of my survivor beneficiary, if applicable)?

(a) Plans 1 and 2. The amount paid to purchase the annuity is credited to your individual account as part of your accumulated contributions. Distribution of accumulated contributions after your death (and the death of your survivor beneficiary, if any) is governed by the statutes and rules applicable to your plan. See:

- (i) WAC 415-112-504(9) for TRS Plan 1;
- (ii) WAC 415-112-505(7) for TRS Plan 2;
- (iii) WAC 415-104-215(7) for LEOFF Plan 2;
- (iv) WAC 415-103-215 for WSPRS Plan 1;
- (v) WAC 415-103-225(7) for WSPRS Plan 2.

(b) TRS Plan 3. If you and your survivor (if you selected a survivor option) die before the amount of your purchased annuity has been paid back to you in your monthly benefit, the difference will be refunded to your designated beneficiary.

Purpose: WAC 182-550-4400 (2)(i) was revised to remove the list of approved hospitals for bariatric surgery. The list was outdated. Providers may refer to the agency's inpatient hospital provider guide or the agency's web site for the most updated list of approved hospitals for bariatric surgery. WAC 182-550-4400 (2)(f) was revised to change the authorization requirements for administrative days.

Citation of Existing Rules Affected by this Order: Amending WAC 182-550-4400.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 16-01-186 on December 22, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: January 28, 2016.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-12-047, filed 5/29/14, effective 7/1/14)

WAC 182-550-4400 Services—Exempt from DRG payment. (1) Inpatient services are exempt from the diagnosis-related group (DRG) payment method only if they qualify for payment methods specifically mentioned in other sections of this chapter or in this section.

(2) Subject to the restrictions and limitations in this section, the agency exempts the following services for medicaid and CHIP clients from the DRG payment method. This policy also applies to covered services paid through medical care services (MCS) and any other state-administered program, except when otherwise indicated in this section. The exempt services are:

(a) Alcohol or other drug detoxification services when provided in a hospital having a detoxification provider agreement with the agency to perform these services.

(b) Hospital-based intensive inpatient detoxification, medical stabilization, and drug treatment services provided to chemical-using pregnant (CUP) women by a certified hospital. These are medicaid program services and are not covered or funded by the agency through MCS or any other state-administered program.

(c) Acute physical medicine and rehabilitation (acute PM&R) services.

WSR 16-04-051
PERMANENT RULES
HEALTH CARE AUTHORITY
(Washington Apple Health)

[Filed January 28, 2016, 7:32 a.m., effective March 1, 2016]

Effective Date of Rule: March 1, 2016.

(d) Psychiatric services. A mental health designee that arranges to pay a hospital directly for psychiatric services may use the agency's payment methods or contract with the hospital to pay using different methods. Claims not paid directly through a mental health designee are paid through the agency's payment system.

(e) Chronic pain management treatment provided in a hospital approved by the agency to provide that service.

(f) Administrative day services. ~~((For patient days during an inpatient stay where no acute care services were provided, a hospital may request an administrative day designation on a case-by-case basis.))~~ The agency pays administrative days for one or more days of a hospital stay in which an acute inpatient or observation level of care is not medically necessary, and a lower level of care is appropriate. The administrative day((s)) rate is based on the statewide average daily medicaid nursing facility ((per diem)) rate, which is adjusted annually. The agency may designate part of a client's stay to be paid an administrative day rate upon review of the claim or the client's medical record, or both.

(g) Inpatient services recorded on a claim grouped by the agency to a DRG for which the agency has not published an all-patient DRG (AP-DRG) or all-patient refined DRG (APR-DRG) relative weight. The agency will deny payment for claims grouped to DRG 469, DRG 470, APR DRG 955, or APR DRG 956.

(h) Organ transplants that involve heart, intestine, kidney, liver, lung, allogeneic bone marrow, autologous bone marrow, pancreas, or simultaneous kidney/pancreas. The agency pays hospitals for these organ transplants using the ratio of costs-to-charges (RCC) payment method. The agency maintains a list of DRGs which qualify as transplants on the agency's web site.

(i) Bariatric surgery performed in hospitals that meet the criteria in WAC 182-550-2301. The agency pays hospitals for bariatric surgery on a per case rate basis for clients in medicaid and state-administered programs when the services are prior authorized and take place at an approved hospital. ~~((The agency approves bariatric services at Sacred Heart Medical Center, the University of Washington Medical Center, and the Oregon Health Sciences University and may approve other hospitals based on agency discretion.))~~ See WAC 182-550-3000 and 182-550-3470.

WSR 16-04-066
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 16-18—Filed January 28, 2016, 4:33 p.m., effective February 28, 2016]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To provide the department guidance for managing wildlife conflict issues and implementing abatement measures. This clarifies roles, responsibilities, process and requirements for trappers, wildlife control operators, permit holders, hunters, and landowners that participate in activities. The changes assist the department with abating wildlife damage and conflict issues and to further facilitate an improved

understanding of the assistance available through the department as well as lessen the likelihood for confusion regarding the tools used for mitigation. The changes incorporate feedback, suggestions, and concerns received by stakeholders and interest groups.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-266 and 232-12-025; and amending WAC 232-12-142, 232-36-051, 232-36-055, 232-36-060, 232-36-065, 232-36-100, 232-36-110, 232-36-210, 232-36-300, and 232-36-510.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047, 77.12.240, 77.12.320, 77.12.150, 77.15.245, and chapter 77.36 RCW.

Adopted under notice filed as WSR 15-16-134 on August 5, 2015.

Changes Other than Editing from Proposed to Adopted Version: **Rules Amended as Part of This Rule Making:** WAC 232-12-142 Special trapping permit—Use of body-gripping traps, 232-36-051 Killing of wildlife causing private property damage, 232-36-055 Disposal of wildlife killed for personal safety or for causing private property damage, 232-36-060 Director or his/her designee is empowered to grant wildlife control operator certifications, 232-36-065 Director or his/her designee is empowered to grant wildlife control operator permits to address wildlife interactions, 232-36-100 Payment for commercial crop damage—Limitations, 232-36-110 Application for cash compensation for commercial crop damage—Procedure, 232-36-210 Application for cash compensation for livestock damage or other domestic animal—Procedure, 232-36-300 Public hunting requirements, and 232-36-510 Failure to abide by the conditions of permits, provide completed forms, or submit required document or reports.

Rules Repealed as Part of This Rule Making: WAC 232-12-025 Depredation hunts and 232-28-266 Damage prevention hunts.

Rules Proposed as Part of This Rule Making: WAC 232-36-054 Use of body-gripping traps and exceptions, 232-36-066 Report required of certified wildlife control operators, 232-36-090 Limitations to managing damage caused by big game on private property, 232-36-310 Damage prevention permit hunts: Deer, elk, and turkey, 232-36-320 Black bear timber damage depredation permits, and 232-36-330 Bear and cougar depredation permit hunts for domestic animal or livestock loss.

General Note: Minor technical changes were made throughout the proposed rules to adjust grammar and formatting concerns.

WAC 232-12-142 Special trapping permits.

- Change: Struck the introductory sentence directing applicants to submit a special trapping permit application.
Rationale: The introductory statement was repetitive of subsection (6), which directs a person to complete and submit a department-provided application.
- Change: The definition of body-gripping traps under subsection (1)(a) was modified to define unpadded foot-hold traps and language describing specific falconry traps was removed.

Rationale: Changes retain the definition of a body-gripping trap as defined in RCW 77.15.192 and remove references to falconry traps because they are addressed in subsection (1)(d).

- Change and Rationale: In subsection (1)(c), struck the "in water" definition as it is no longer referenced within the rule.
- Change and Rationale: In subsection (1)(c), inserted a revised definition of "padded jaw-leghold or padded foot-hold trap" for clarification of the terms.
- Change and Rationale: Under subsection (1)(d), language referencing falconry traps was modified to be broader and more inclusive in nature.
- Change: Under subsection (11), added text to clarify that retention of raw fur obtained through the use of a special trapping permit requires a Washington state trapper's license.

Rationale: This language was added to clarify that the retention rule is specific to special trapping permits.

- Change: In subsection (11) language was revised to clarify possession of a carcass is lawful if accompanied by a transfer authorization as described in WAC 232-12-077. Rationale: This language allows the trapper to transfer raw fur to another party for personal and educational uses.
- Change: In subsection (15)(a), reinstated "600 Capitol Way North." Rationale: This language allows for receipt of certified mail from the applicants that request an appeal.

WAC 232-36-051 Killing wildlife causing private property damage.

- Change and Rationale: In subsection (2)(b), separated deer and elk damage to crops from black bear and cougar damage to livestock or domestic animals. Deer and elk will be addressed in subsection (2)(b) and black bear and cougar will be addressed in subsection (2)(d).
- Change: In subsection (2)(b), added language requiring a landowner to have attempted nonlethal control techniques in addition to receiving verbal or written approval from the department in order to remove a deer or elk causing damage to crops. Rationale: Reflects the value that landowners should not resort to lethal removal without having first attempted nonlethal control techniques.
- Change: Language added to subsection (2)(b) to allow an owner to remove one individual deer or elk during the physical act of damaging crops with verbal or written approval from the department within a twelve-month period. Language was also added to require notification to the department within twenty-four hours of the kill. Rationale: Language regarding verbal or written approval has been added to allow the department an opportunity to take steps to address the conflict issue and work with the owner to minimize wildlife caused damage. Prior approval and notification after kill allows the department to provide the appropriate level of customer service, accountability, and transparency to all interested parties and potentially avoid wastage. Limiting the action to once per calendar year minimizes potential of

persistent removal of animals outside of general harvest seasons, damage prevention practices, and other conflict avoidance processes which the department currently utilizes to mitigate wildlife caused damage.

- Change and Rationale: In subsection (2)(b), added the term "commercial" to provide consistency with other rules.
- Change: In subsection (2)(b), added language that directs the department to document animals harvested under this subsection and to ensure that harvest is consistent with herd management objectives when available. Rationale: This change ensures that animals that are causing damage and are harvested are accounted for in the overall harvest and management of a particular area.
- Change: Created subsection (2)(d) and moved damage to livestock into the subsection. Added the word "black" before bear to allow an owner to kill (one) black bear or cougar during the physical act of attacking livestock or domestic animals with or without an agreement or permit. Added language to clarify that one animal could be taken within a twelve month period and that the owner must notify the department within twenty-four hours of killing an animal.

Rationale: Specifically identifying "bear" as "black bear" provided clarity that the rule does not authorize shooting a grizzly bear. In addition, limiting the action to once per calendar year minimizes potential of persistent removal of animals outside of general harvest seasons, damage prevention practices, and other conflict avoidance processes that the department utilizes to mitigate wildlife caused damage. Notifying the department within twenty-four hours allows the department an opportunity to document the kill, address disposition of carcass to avoid wastage, and provide accurate information regarding the event when requested by interested parties.

- Change: In subsection (4), removed sentence prohibiting wildlife control operators (WCO) from killing big game animals. Rationale: The sentence prior to the deleted sentence indicates that WCOs will be directed under their certifications and permits to assist with abating wildlife caused damage. At the present time, the department is not permitting WCOs to remove big game animals and does not have a certification course for big game animals. Removing this exclusion will allow the department to regulate WCO participation through their certifications and the permit conditions.

WAC 232-36-054 Use of body-gripping traps and exceptions.

- Change: Added language under subsection (5) to allow for retention of raw fur for personal use and educational purposes. Rationale: This addition provides consistency between WAC 232-36-054 and 232-12-142. Many trappers and WCOs utilize the fur of animals for their own personal use as well as for educational opportunities. This change minimizes wastage and allows the trapper or WCO to utilize acquired furs in a noncommercial capacity.

WAC 232-36-055 Disposal of wildlife killed for personal safety or for causing private property damage.

- Change: In subsection (1), added language to clarify that animals killed are disposed of according to RCW 77.15.170.
Rationale: This addition provides a direct reference to the law regulating waste of wildlife and highlights the commission's desire to ensure animals harvested using department permits are utilized whenever possible.
- Change: In subsection (2), removed the statement "may not be retained."
Rationale: There are times when animals that are causing damage to private property are removed without a permit from the department (e.g., beaver removed by a trapper during trapping season and under a trapping license) and it would otherwise be legal for them to keep the animal. The rule still requires lawful disposal, which is described in subsection (4) of this rule.

WAC 232-36-060 Certification of wildlife control operators.

- Change: In subsection (1)(b), struck "Applicants may document the two-year experience requirement by" and replaced it with "Methods of documenting experience include, but are not limited to."
Rationale: Based on working with stakeholders, this language allows for multiple methods of verifying experience.
- Change: In subsection (1)(b), changed language so the rule provides examples of how WCO applicants can document the required two years of experience.
Rationale: Provides clarity that the methods are not limited to the few that are listed in rule.
- Change: In subsection (1)(e), strike as written and replace with:
(1)(e) Not have, within the last three years:
(i) More than one finding of paid or committed as a final disposition for an infraction under chapter 77.15 RCW; or
(ii) A conviction for a fish and wildlife crime under chapter 77.15 RCW.
Rationale: This language provides clarification on violations that would prohibit certifications. As proposed, the new rule will include felony convictions.
- Change: In subsection (1)(e), language was changed to allow for one infraction during a three year period instead of not allowing any infraction over a five year period.
Rationale: Because many infractions are minor violations (e.g., illegally fishing with a barbed hook), not allowing a WCO to have even one was overly punitive. The time frame was changed to three years to match the time frame for which a WCO license is valid.
- Change: In subsection (3), removed "harassing" and "releasing" from the list of actions and added language to clarify that the permit being referenced in this section is the special trapping permit needed for a body-gripping trap (reference: RCW 77.15.194).
Rationale: Because this section refers to the body-gripping trap special permit, there was no need to include

"harassing" or "releasing" as the traps are intended to kill the animal.

WAC 232-36-065 Use of wildlife control operators to address wildlife interactions.

- Change: In subsection (3), added "except for beaver released according to RCW 77.32.585."
Rationale: Stakeholders asked for clarification that beaver could be released as provided by law.
- Change: In subsection (9)(a), reinstated "600 Capitol Way North."
Rationale: This language allows for receipt of certified mail from the applicants that request an appeal.

WAC 232-36-066 Report required of certified wildlife control operators.

- Change and Rationale: Added "knowingly" to the beginning of subsection (4) to align the rule with the language provided in RCW 77.15.270.

WAC 232-36-090 Limitation to managing damage caused by big game on private property.

- Change and Rationale: Added language under subsection (4)(b) to identify that a written refusal statement must be submitted within thirty days of offer of preventative measures. This provides clarity around the thirty day requirement.

WAC 232-36-100 Payment for commercial crop damage—Limitations.

- Change: Added language in subsection (4) to include a department approved checklist of preventative measures as a valid way to qualify for compensation.
Rationale: Allowing a department approved checklist was inadvertently omitted in the previous version. There are occasions when an owner may be impacted but not have an active agreement with the department. The intent is to allow the claimant to utilize one of the three options (i.e. damage prevention agreement, director's waiver, and department approved checklist) and create consistency between WAC 232-36-100, 232-36-110, and 232-36-210.
- Change: Utilized the last sentence from subsection (4) to create a new subsection (5). This is not additional language, but rather a stand-alone bullet point created from existing language. This insertion resulted in subsequent subsections being shifted by one number.
Rationale: This bullet needs to be separated as it references compliance with the agreement versus having an agreement or other form of documentation of preventative measures. Compliance with the damage prevention cooperative agreement conditions that were agreed upon by the owner and the department is important to illustrate the owner has been working with the department.
- Change: Former subsection (14), which is new subsection (15) - Language was added to ensure the department is notified at least seventy-two hours prior to harvest. Language requiring a Washington department of fish and wildlife (WDFW) directed adjutor was removed to clarify the owner can utilize any licensed adjutor.

Rationale: This aligns WAC 232-36-100 with 232-36-110 by allowing the owner to select either a department contracted adjustor or one of their own choosing and by allowing the owner to proceed with harvesting if they have notified WDFW within seventy-two hours prior to harvest. This change provides the department an opportunity to assign an adjustor to assess damage prior to crop harvest.

- Change: Struck former subsection (15), which is new subsection (16), regarding denying claims once funds were expended and replaced it with language found in WAC 232-36-110 which outlines the process that allows the department to maintain a list of claims and pay those in chronologic [chronocological] order once additional funding becomes available.

Rationale: Replacing language in this subsection provides consistency with proposed WAC 232-36-110, which clarifies that claims will roll over, in chronological order, to the next fiscal year when funds are expended for the current fiscal year.

WAC 232-36-110 Application for cash compensation for commercial crop damage—Procedure.

- Change: In subsection (1), language was added to include the department approved checklist and a director's waiver as a valid means of eligibility for compensation.

Rationale: The intent is to provide consistency in rules associated with compensation for losses. Allowing the claimant to submit one of the three options (i.e. damage prevention agreement, director's waiver, and department approved checklist) creates consistency between WAC 232-36-100, 232-36-110, and 232-36-210.

WAC 232-36-210 Application for cash compensation for livestock damage or domestic animal—Procedure.

- Change: Inserted the director's waiver, in subsection (10)(e), as part of the acceptable documents, in addition to the department approved checklist or the damage prevention cooperative agreement, required for claims for higher than normal losses.

Rationale: The director's waiver allows owners who do not have a damage prevention cooperative agreement or a department approved checklist but have a waiver, signed by the director, to be eligible to apply for cash compensation for livestock losses. This allows an owner who may not be able to comply with a damage prevention cooperative agreement or a department approved checklist to acquire approval through providing the justification on their waiver and having the director approve their justification.

WAC 232-36-310 Damage prevention permit hunts—Deer, elk, and turkey.

- Change: In subsection (3)(e), inserted a new (i) "Season Framework: July 1 - March 31."

Rationale: The season framework was not identified in the proposal and should be included to clearly define when these actions may occur in GMUs 105-124.

WAC 232-36-320 Black bear timber damage depredation permits.

- Change: In subsection (5)(c), replaced language allowing animals (or their parts) and permit materials to be submitted five days after permit expiration with a seven day requirement.

Rationale: Disposition of the carcass will continue to be designated on the permit and the extended time will allow for animal parts and/or permit materials to be collected and submitted with consideration for landowners and permittees who often need to coordinate their response and may be working on multiple properties across a large landscape.

- Change: In subsections (5)(c) and (d), deleted "renders" and added "may render" and authorized the department to make that determination.

Rationale: This change makes WAC 232-36-320 consistent with similar sections in WAC 232-36-330. The level of violation may be minor (e.g. turned paperwork into the department in eight days instead of seven) and if so, should not warrant making the permittee ineligible for future permits.

WAC 232-36-330 Black bear and cougar depredation permit hunts for domestic animal or livestock loss.

- Change and Rationale: In subsection (1)(c), replaced "may" with "will" to clarify that department staff need to be in communication with property owners to verify damage before removing an animal.

- Change: In subsection (4)(a), added language to require biological samples to be submitted within forty-eight hours of take.

Rationale: This ensures biological information is collected for bear and cougar harvested under a depredation permit.

- Change: In subsection (4)(c), replaced "renders" with "may render" and authorized the department to make that determination.

Rationale: This change makes WAC 232-36-330 consistent with similar sections in WAC 232-36-320 and other sections within WAC 232-36-330. The level of violation may be minor, and if so, should not warrant making the permittee ineligible for future permits.

A final cost-benefit analysis is available by contacting Wildlife Program Customer Service, 600 Capitol Way North, Olympia, WA 98501, phone (360) 902-2515, fax (360) 902-2162, e-mail wildthing@dfw.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 6, Amended 10, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 13, 2015.

Brad Smith
Commission Chair

AMENDATORY SECTION (Amending WSR 01-17-067, filed 8/15/01, effective 9/15/01)

WAC 232-12-142 Special trapping permit~~((—Use of body-gripping traps))~~. (1) As used in this section, unless the context clearly requires otherwise, the following definitions apply:

(a) ~~((“Animal” means any nonhuman vertebrate.~~

~~(b) “Animal problem” means any animal that threatens or damages timber or private property or threatens or injures livestock or any other domestic animal.~~

~~(c) “Body-gripping trap” as defined by RCW 77.15.192 means a trap that grips an animal’s body or body part. Body-gripping trap includes, but is not limited to, ~~((unpadded foot-hold traps,)) steel-jawed leghold traps, padded-jaw leghold or padded foot-hold traps, Conibear traps, neck snares, and non-strangling foot snares. Cage and box traps, suitcase-type live beaver traps, and common rat and mouse traps are not considered body-gripping traps.~~~~

~~((d)) (b) “Conibear or Conibear-type trap” means any trap of various manufacturers having design and operational characteristics essentially the same as or like that developed by Frank Conibear and designed and set to grip and hold an animal’s body across its main axis.~~

~~((e) “In water” means beneath the water surface so that the trap is completely submerged.~~

~~((f)) (c) “Padded-jaw leghold” or “padded foot-hold trap” means a trap designed and set to grip the foot of an animal, both jaws of which are covered with rubber pads having a minimum thickness of one-eighth inch.~~

~~(d) “Nonstrangling-type foot snare” means a cable or wire designed and set to encircle and hold an animal’s foot or limb. Noose traps used in falconry are not considered non-strangling-type foot snare traps because they are not designed to ultimately kill the bird but rather to ensure the bird’s health and safety and cause no harm by using slip nooses which are constructed of monofilament nylon.~~

~~((g) “Padded foot-hold trap” means a trap designed and set to grip the foot of an animal, both jaws of which are covered with rubber pads having a minimum thickness of one-eighth inch.~~

~~((h)) (e) “Special trapping permit” means a ~~((special trapping))~~ permit issued to a person under the authority of RCW 77.15.194 and the provisions of this section to use certain body-gripping traps to abate an animal problem for thirty days.~~

~~((i)) (f) “Permittee” means the person to whom a special trapping permit is granted.~~

~~((j) “Raw fur” means a pelt that has not been processed for purposes of retail sale.)~~

(2) It is unlawful to trap ~~((animals))~~ wildlife using body-gripping traps without a special trapping permit issued by the department.

(3) It is unlawful to fail to comply with any conditions of a special trapping permit to trap.

~~((It is unlawful for any))~~ Persons issued a special trapping permit ~~((to fail to complete and submit to the department))~~ must submit a report of ~~((animals))~~ wildlife taken ~~((under the permit. This report is due))~~ to the department within ten days ~~((of))~~ after the permit expiration date ~~((of))~~ as defined on the permit.

(5) It is unlawful to knowingly offer to sell, barter, or otherwise exchange the raw fur or carcass of a mammal that has been trapped pursuant to a special trapping permit.

(6) A person seeking a special trapping permit shall complete and submit ~~((a complete))~~ a department-provided application ~~((to the department. The applicant shall provide the following information:~~

~~(a) Applicant’s name, address, and telephone number.~~

~~(b) Location(s) of animal problem (physical address or legal description including township, range, and section number).~~

~~(c) Description of the animal problem:~~

~~(i) Duration of the animal problem.~~

~~(ii) Description of the damage or potential damage being caused (i.e., crop, timber, property, livestock, or pet animals, etc.).~~

~~(iii) Any threat or potential threat to the health and/or safety of people.~~

~~(d) Species of animal causing the problem and, if known, the number of animals involved.~~

~~(e) Description of the measures taken to prevent or alleviate the problem or damage.~~

~~(f) Explanation of why the measures taken were ineffective to abate the problem or why such measures could not reasonably or effectively be used to abate the animal problem.~~

~~(g) Whether Conibear-type traps in water, padded foot-hold traps or nonstrangling-type foot snares will be used.~~

~~(h) Species and number of animals to be removed).~~

(7) ~~((For))~~ To conduct wildlife research, the applicant shall ~~((provide the following information:~~

~~(a) Applicant’s name, address, and telephone number.~~

~~(b) Location(s) where wildlife trapping will occur (physical address or legal description including township, range, and section number).~~

~~(c) Whether padded foot-hold traps or nonstrangling-type foot snares will be used.~~

~~(d) Species and number of animals to be captured.~~

~~(e) Research objective or proposal.~~

~~(f) A copy of a valid department scientific collection permit.~~

~~(8) A completed report of animals taken pursuant to a special trapping permit shall include the following information:~~

~~(a) Permittee’s name, address, and telephone number.~~

~~(b) The number of the permit for which the report is being submitted.~~

~~(c) The common name of the animal(s) taken, the number of animals taken, and the disposition.~~

~~(d) For any nontargeted animals taken, the common name of the animal, the number of animals, and the disposition.~~

~~(9) Successive permits for the same animal problem) submit a scientific collection permit application as provided by the department.~~

~~(8) One permit renewal may be requested by completing the justification and applicant certification on the report of animals taken.~~

~~((10)) (9) The conditions of a special trapping permit shall (include:~~

~~(a) The term of the permit is thirty days.~~

~~(b) Any body-gripping trap authorized under a permit shall be checked at least every twenty-four hours.~~

~~(c) Each body-gripping trap authorized under a permit shall have attached to its chain or to the trap a legible metal tag with either the department identification number of the trapper or the name and address of the trapper in English letters not less than one-eighth inch in height.~~

~~(d) Nontargeted species shall be released unharmed if possible.~~

~~(e) Any mammal trapped pursuant to a permit must be lethally dispatched or released as soon as possible, unless taken for scientific research, in which case the animal may be retained alive if so provided in the permit.~~

~~(f) The carcass of any mammal) be determined by the department and be annotated on the permit.~~

~~(10) All parts of animals taken under a special trapping permit must be properly disposed of in a lawful manner. Raw fur may only be retained for personal use or education purposes which do not result in retail sale or commerce.~~

~~((g)) (11) Any retention of raw fur obtained through the use of a special trapping permit requires a valid Washington state trapper's license unless the carcass is accompanied by a transfer authorization, as described in WAC 232-12-077, from a licensed trapper.~~

~~(12) A copy of the permit shall be in the immediate possession of the person authorized to trap pursuant to a permit.~~

~~((H)) (13) A special trapping permit may be denied when, in the judgment of the department:~~

~~(a) Other appropriate nonlethal methods to abate damage have not been utilized;~~

~~(b) The alleged animal problem either does not exist or the extent is insufficient to justify lethal removal;~~

~~(c) The use of the requested body-gripping trap(s) would result in direct or indirect harm to people or domestic animals;~~

~~(d) The use of the requested body-gripping trap(s) would conflict with federal or state law, local ordinance or department rule((; or)).~~

~~(e) The application is ((not complete)) incomplete.~~

~~((I)) (14) A special trapping permit may be revoked ((when, in the judgment of)) if the department determines:~~

~~(a) Information contained in the application was inaccurate or false;~~

~~(b) The permittee or person trapping under the permit fails to comply with any of the permit conditions; or~~

~~(c) The permittee or person trapping under the permit exceeds the number of animals authorized.~~

~~((13)) (d) Information becomes available that otherwise would have led to the denial of the original application or the inclusion of additional conditions in the permit.~~

~~(15) If the department denies or revokes a special trapping permit ((is denied or revoked,)) the department ((shall)) will provide the applicant((, in writing,)) a written notice including a statement of the specific reason(s) for the denial or revocation.~~

~~(a) The applicant may request an appeal ((in accordance with)) to contest the denial or revocation pursuant to chapter 34.05 RCW. The department must receive an appeal request((s shall be filed)) in writing ((and returned)) within twenty days from the mailing date of the notice of denial ((and be addressed to)) or revocation. Address appeals to WDFW Legal Services Office, 600 Capitol Way North, Olympia, Washington 98501-1091.~~

~~(b) A notice contested by written appeal is final when that proceeding ends in a final order pursuant to chapter 34.05 RCW, or is otherwise dismissed.~~

~~(c) If there is no timely request for an appeal, then the department's denial or revocation of the permit is final and effective on the 21st calendar day following the mailing date of the notice of denial or revocation.~~

AMENDATORY SECTION (Amending WSR 13-22-056, filed 11/4/13, effective 12/5/13)

WAC 232-36-051 Killing wildlife causing private property damage. The fish and wildlife commission is authorized to classify wildlife as game, and/or as endangered species or protected ((species)) wildlife, and/or as a predatory bird consistent with RCW 77.08.010 and 77.12.020. The commission is also authorized, pursuant to RCW 77.36.030, to establish the limitations and conditions on killing or trapping wildlife that is causing damage on private property. The department may authorize, pursuant to RCW 77.12.240 the killing of wildlife destroying or injuring property.

The conditions for killing wildlife vary, based primarily on the classification of the wildlife species, the imminent nature of the threat to damage private property, the type of private property damage, and the preventive and nonlethal methods employed by the person prior to the damage event. Additional conditions defined by the department may also be important, depending on individual situations. Killing wildlife to address private property damage is subject to all other state and federal laws including, but not limited to, Titles 77 RCW and 232 WAC.

(1) It is unlawful to kill protected ((species (as defined in WAC 232-12-011))) wildlife or endangered species (as defined in ((WAC 232-12-014)) RCW 77.08.010) unless authorized by commission rule or with a permit from the department, with the following additional requirements:

(a) Federally listed threatened or endangered species will require federal permits or federal authority, in addition to a state permit.

(b) All migratory birds are federally protected and may require a federal permit or federal authority, in addition to a state permit.

(2) Killing wildlife causing damage to a commercial crop or to livestock.

It is permissible to kill unclassified wildlife, predatory birds, and game animals that are in the act of damaging commercial crops or attacking livestock or other domestic animals, under the following conditions:

(a) ~~Predatory birds (defined in RCW 77.08.010((39))) and unclassified wildlife that are in the act of damaging commercial crops or attacking livestock or other domestic animals may be killed with the express permission of the crop, livestock, domestic animals, or property owner at any time on private property, to protect domestic animals, livestock, or commercial crops.~~

~~(b) If an owner ((with a valid, written damage prevention agreement with the department may kill an individual (one) game animal while it is in the act of damaging commercial crops; a permit will be provided if authorized in the agreement.~~

~~(c) An individual (one) game animal may be killed during the physical act of attacking livestock or domestic animals.~~

~~(d) Multiple game animals may be killed while they are in the act of damaging commercial crops or attacking livestock if the owner is issued a kill permit by the department.~~

~~(e) A damage prevention agreement or kill permit must include: An approved checklist of the reasonable preventative and nonlethal means that must be employed prior to lethal removal; a description of the properties where lethal removal is allowed; the species and sex of the animal that may be killed; the terms of the agreement/permit; the dates when lethal removal is authorized; who may kill the animal(s); and other conditions developed within department procedural documents.) has attempted nonlethal damage control techniques and acquires verbal or written approval from the department, they may kill an individual (one) deer or elk during the physical act of damaging commercial crops within a twelve-month period. The owner must notify the department within twenty-four hours of kill. The department will document animals harvested under this subsection and will ensure harvest is consistent with herd management objectives developed cooperatively with comanagers where available.~~

~~(c) Multiple deer or elk may be killed if they are in the act of damaging commercial crops if the owner, owner's immediate family member, agent of the owner, or owner's documented employee is issued damage prevention or kill permits and the owner has a valid, written damage prevention cooperative agreement with the department.~~

~~(d) An owner may kill an individual (one) black bear or cougar during the physical act of attacking livestock or domestic animals with or without an agreement or permit within a twelve-month period. The owner must notify the department within twenty-four hours of kill.~~

(3) Killing wildlife causing damage or killing wildlife to prevent private property damage.

(a) ~~((An individual (one) game animal may be killed during the physical act of attacking domestic animals.~~

~~((b)) Predatory birds (as defined in RCW 77.08.010 (39)), unclassified wildlife, and eastern gray squirrels may be killed by the owner of private property, owner's immediate family, agent of the owner, or the owner's documented employee with the express permission of the private real~~

property owner at any time, to prevent private property damage on private real property.

~~((e)) (b) Subject to subsection (7) of this section, the following list of wildlife species may be killed by the owner of the property, owner's immediate family member, agent of the owner, owner's documented employee, or licensed hunters/trappers in a lawful manner with the express permission of the private real property owner, when causing damage to private property: Raccoon, fox, bobcat, beaver, muskrat, mink, river otter, weasel, hare, and cottontail rabbits.~~

~~((d)) (c) The department may make agreements with landowners to prevent private property damage by wildlife. The agreements may ((include special hunting season)) authorize permits ((such as: Landowner damage prevention permits, spring black bear hunting permits, permits issued through the landowner hunting permit program, kill permits, and Master Hunter permits.~~

~~((e)) to remove animal(s) to abate private property damage.~~

~~(d) Landowners are encouraged to allow general season ((hunters during established hunting seasons)) hunting and trapping on their property to help minimize damage potential and concerns.~~

(4) Wildlife control operators may assist property owners under the conditions of their certification or permits ~~((as established in WAC 232-36-060 and 232-36-065))~~ to remove animals causing damage.

(5) Tribal members may assist property owners under the conditions of valid comanagement agreements between tribes and the department. Tribes must be in compliance with the agreements including, but not limited to, adhering to reporting requirements, possession, and harvest restrictions.

(6) Hunting licenses and/or associated tags are not required to kill wildlife under this section ~~((;))~~ unless the killing is pursuant to subsections ~~((3)(e) and (d))~~ (2)(c) and (3)(b) of this section. Hunters and trappers participating in harvesting wildlife under this section must comply with provisions of each permit. Tribal members operating under subsection (5) of this section are required to meet tribal hunting license, tag, and permit requirements.

(7) Except as specifically provided in a permit from the department or a rule of the commission, people taking wildlife under this rule are subject to the laws and rules of the state ~~((including, but not limited to, those found in Titles 77 RCW and 220 and 232 WAC)).~~

AMENDATORY SECTION (Amending WSR 10-13-182, filed 6/23/10, effective 7/24/10)

WAC 232-36-055 Disposal of wildlife killed for personal safety or for causing private property damage. The fish and wildlife commission is authorized pursuant to RCW 77.36.030, to establish the limitations and conditions on disposal of wildlife killed or trapped because they were threatening human safety or causing property damage.

Except as specifically provided in a permit from the department or a rule of the commission, people taking wildlife under this title are subject to the laws and rules of the state including, but not limited to, those found in Titles 77 RCW and 220 and 232 WAC. Wildlife taken under this chap-

ter remains the property of the state and may be disposed of in the manner and under the conditions that follow:

~~(1) ((Wildlife taken under WAC 232-36-050 (1)(b) and 232-36-051 (1)(b), and 232-36-051 (1)(a)(iii) must be reported to the department within twenty-four hours, and the animal and all parts must be provided to the department or its designees.~~

~~(2) Wildlife taken under WAC 232-36-051 (1)(a)(i) and (ii) becomes the property of the private landowner and may be lawfully disposed consistent with state laws and rules including, but not limited to, Titles 77 RCW and 232 WAC.~~

~~(3) Wildlife taken under WAC 232-36-051 (1)(a)(iv) must be disposed of consistent with the conditions identified under the permit.~~

~~(4) Wildlife taken under WAC 232-36-051(2) may be lawfully possessed by the owner, licensee, and/or permit holder. Possession of legally taken wildlife by tribal members is subject to the laws of their tribe and must be consistent with their agreement with the state.) Wildlife killed subsequent to a permit provided by the department shall be possessed or disposed of in accordance with permit provisions and consistent with RCW 77.15.170.~~

(2) Except as otherwise provided, all parts of wildlife killed in protection of private property without a permit authorized by the department must be lawfully disposed of as specified by the department or as otherwise provided in statute, rule, or local ordinance.

(3) Except as otherwise provided, big game animals or parts of big game animals killed in protection of private property without a permit must be reported to the department within twenty-four hours.

(4) Disposal methods: Unless otherwise specified in permits issued by the department:

(a) The person killing wildlife, or their designee, is responsible for disposal of killed wildlife and must dispose of the animal, within twenty-four hours or as soon as feasible, in a manner so as not to become a public or common nuisance or cause pollution of surface or groundwater.

(b) The person responsible for disposal of dead wildlife must dispose of it by burial, landfilling, incineration, composting, rendering, or another method approved (such as natural decomposition) that is not otherwise prohibited by federal, state, or local law or regulation.

(c) A person disposing of dead wildlife by burial must place it so that every part is covered by at least three feet of soil; at a location not less than one hundred feet from any well, spring, stream or other surface waters; not in a low-lying area subject to seasonal flooding; and not in a manner likely to contaminate groundwater.

(d) A person disposing of a dead animal must not bury or compost it within the sanitary control area of a public drinking water supply source.

AMENDATORY SECTION (Amending WSR 13-22-056, filed 11/4/13, effective 12/5/13)

WAC 232-36-060 ~~((Director or his/her designee is empowered to grant wildlife control operator certifications.))~~ **Certification of wildlife control operators.** For purposes of training individuals to assist landowners with

employing nonlethal management techniques, or to harass, kill, trap, release, ~~((and dispatch animals))~~ wildlife that ~~((are))~~ is causing damage to private property, the director or his/her designee may ~~((issue))~~ certify wildlife control operators (WCOs) ~~((certifications)).~~

(1) To ~~((qualify))~~ be eligible to apply for WCO certification, applicants must:

(a) Be at least eighteen years of age;

(b) Must pass the Washington state trapper education exam and possess a minimum of two years experience that demonstrates the knowledge and ability to control wildlife species causing conflict or property damage. Methods of documenting experience include, but are not limited to, possessing a trapper's license for two years, providing a letter of recommendation from a currently certified WCO or trapper, providing evidence being employed in the wildlife abatement field for two years, providing a written statement verifying they are currently working with a certified WCO, or other method as identified by the department.

(c) Take and ~~((complete))~~ pass the department's approved WCO basic certification(s) course(s);

~~((e))~~ Be certified by the department and have the equipment, knowledge, and ability to control the wildlife species causing conflict or property damage;

(d) Be legally eligible to possess a firearm and without a felony or domestic violence conviction including, but not limited to, convictions under chapter 9.41 RCW, unless firearm possession rights have been restored;

(e) Not have ~~((a gross misdemeanor fish and wildlife conviction))~~ within the last ~~((five))~~ three years ~~((; and));~~

(i) More than one finding of paid or committed as a final disposition for an infraction under chapter 77.15 RCW; or

(ii) A conviction for a fish and wildlife crime under chapter 77.15 RCW.

(f) Pay the enrollment fee for each certification training/education (RCW 77.12.184). ~~((After July 1, 2010;))~~ This fee shall be fifty dollars ~~((RCW 77.12.184))~~ per certification.

~~((Once a person is granted))~~ The department may grant a WCO certification if the applicant meets the criteria for eligibility in subsection (1) of this section and passes the basic certification courses.

~~((he or she))~~ If the department grants WCO certification, (he or she) the WCO must apply for a permit ((pursuant to WAC 232-36-065 in order to harass, kill, trap, release, or dispatch animals causing damage to private property)) to lawfully engage in killing, trapping, or dispatching wildlife using a body gripping trap.

(4) WCO certification is valid for three years.

AMENDATORY SECTION (Amending WSR 10-13-182, filed 6/23/10, effective 7/24/10)

WAC 232-36-065 ~~((Director or his/her designee is empowered to issue))~~ **Use of wildlife control operators ((permits)) to address wildlife interactions.** The director or director's designee may issue permits to persons that fulfill the requirements to become a certified wildlife control operator (WCO) for purposes of assisting property owners in managing animals causing damage to private property ~~((; the~~

director or his/her designee may issue permits to wildlife control operators (WCOs). Only WCOs who are certified by the department). Only persons meeting the WCO certification requirements qualify for such a permit.

~~(1) (If the certification for a WCO included training for the use of live traps, the WCO may use live traps) Certified WCOs may use nonbody-gripping traps or body-gripping traps with a special trapping permit, outside of designated harvest season to capture ((any animal)) wildlife causing damage or creating an animal problem, as ((that term is)) defined in RCW 77.15.192.~~

~~(2) ((Depending on a WCO's certification training, he or she may use body-gripping traps, but only if he or she complies with RCW 77.15.194.~~

~~(3)) WCOs with a valid trapping license may retain raw fur of wildlife taken using a special trapping permit, for personal use or educational purposes that does not result in retail sale or commerce. The carcass must be disposed of in a lawful manner according to WAC 232-36-055.~~

~~(3) WCOs who trap wildlife under the authority of a department permit may not release wildlife outside of the property boundary where they were captured without a permit from the department, except for beaver released according to RCW 77.32.585, or dispose of such wildlife without the consent of the property owner where ((the)) wildlife is to be ((released or)) disposed.~~

~~(4) It is unlawful to trap, harass, or otherwise control wildlife on the property of another for a fee without a WCO certification.~~

~~(5) WCOs must submit a complete annual report of all control activity ((on the form supplied)) as directed by the department. ((The report must be received or postmarked on or before the twentieth day of April each year.)) Failure to submit a report may result in ((the department revoking)) revocation of the WCO's certification ((and)) or permits and ((suspending the person's right to)) denial of future certifications ((and)) or permits.~~

~~((5)) (6) The department may develop additional conditions and procedures to include training requirements for WCOs consistent with this rule.~~

~~(7) WCO certification and associated permits will be revoked and future certification and permits may be denied by the director or ((issuing authority when, in the judgment of)) director's designee if the department determines:~~

~~(a) Information contained in a WCO's application was inaccurate or false;~~

~~(b) The WCO fails to comply with department statutes or rules; ((or))~~

~~(c) The WCO violates a trapping or other fish and wildlife law(-~~

~~(6) A WCO who provides false or misleading information in his or her WCO certification application may be punished under RCW 9A.76.175 or 40.16.030. A WCO who fails to comply with department statutes or rules as required by his or her WCO certification and permit may be punished under RCW 77.15.750. A WCO who violates trapping or other wildlife laws may be punished under the appropriate statute in Title 77 RCW for that crime.~~

~~(7)) or~~

~~(d) The WCO is no longer eligible to possess a firearm, has been convicted of a felony or domestic violence conviction including, but not limited to, convictions under chapter 9A.17 RCW.~~

~~(8) Revocation of certifications and permits shall remain in effect until all issues pertaining to revocation are resolved.~~

~~(9) If the initial application ((for WCO certification is denied or revoked,)) or the application to renew a WCO's certification is denied or revoked, the department ((shall)) will provide the applicant, in writing, a notice containing a statement of the ((specific)) reason(s) for the denial or revocation.~~

~~(a) The applicant may request an appeal ((in accordance with)) to contest the denial or revocation pursuant to chapter 34.05 RCW. The department must receive an appeal request((s shall be filed)) in writing ((and returned)) within twenty days from the mailing date of the notice of denial ((and be addressed)) or revocation. Address appeal requests to WDFW Legal Services Office, 600 Capitol Way North, Olympia, Washington 98501-1091.~~

~~((8)) (b) A notice contested by written appeal is final when that proceeding ends in a final order pursuant to chapter 34.05 RCW, or is otherwise dismissed.~~

~~(c) If there is no timely request for an appeal, then the department's denial or revocation of the permit is final and effective on the 21st calendar day following the mailing date of the notice of denial or revocation.~~

~~(10) WCO certification ((and permits are)) is valid for three years.~~

~~((9) It is unlawful to trap, harass, or otherwise control wildlife on the property of another for a fee or other consideration without a WCO certification and permit.~~

~~(10) The department may develop additional conditions and procedures, to include training requirements, for WCOs consistent with this rule.)) (11) A WCO who provides false or misleading information in his or her WCO certification application may be subject to prosecution under RCW 9A.76.175 or 40.16.030. A WCO who fails to comply with department statutes or rules as required by his or her WCO certification and associated permit may be subject to prosecution under RCW 77.15.750. A WCO who violates trapping or other fish and wildlife laws may be subject to prosecution under the appropriate statute in Title 77 RCW for that crime or infraction.~~

AMENDATORY SECTION (Amending WSR 13-05-003, filed 2/6/13, effective 3/9/13)

WAC 232-36-100 Payment for commercial crop damage—Limitations. Owners, who have worked with the department to prevent deer and elk damage, but continue to experience losses, may be eligible to file a damage claim and receive cash compensation from money appropriated by the legislature. Damages payable under this section are limited to the lost or diminished value of a commercial crop, whether growing or harvested, and ((shall)) will only be paid ((only)) to the owner of the crop at the time of damage, without assignment. Cash compensation for claims from deer and elk damage ((shall)) does not include damage to other real or personal property, including other vegetation or animals, lost profits, consequential damages, or any other damages. The

department is authorized to pay up to ten thousand dollars to the owner per claim.

Claims for cash compensation will be denied when:

- (1) The claim is for a noncommercial crop;
- (2) The owner of the commercial crop does not meet the definition of "eligible farmer" in RCW 82.08.855 (4)(b)(i) through (iv);
- (3) The loss estimate is less than one thousand dollars;
- (4) ~~((No claim will be processed unless))~~ The owner does not have a valid damage prevention cooperative agreement signed by the owner and the department, or a waiver signed by the director, or does not provide((s the department with an)) a department approved checklist of the preventative and nonlethal means that have been employed((, and)) to prevent damage;
- (5) The owner has not complied with the terms and conditions of his or her agreement(s) with the department;
- ~~((5))~~ (6) An owner or lessee has accepted noncash compensation to offset crop damage in lieu of cash consistent with conditions of the damage prevention cooperative agreement with the department. Acceptance of noncash compensation will constitute full and final payment for crop damages within the growing season of the damaged crop or for the time period specified by the department in writing to the owner;
- ~~((6))~~ (7) An owner or lessee has denied the department's offer of fencing as a long-term preventative measure;
- ~~((7))~~ (8) The owner or lessee has denied prevention measures offered by the department. The prevention measures offered shall be applicable, legal, practical, and industry recognized;
- (9) Damages to the commercial crops claimed are covered by insurance or are eligible for payment from other entities. Any portion of the actual damage not covered by others that exceeds one thousand dollars is eligible for compensation from the department;
- ~~((8))~~ (10) The property where the damage occurred was not open to public hunting consistent with WAC 232-36-300 for the species causing the damage, unless, as determined by the department, the property is inconsistent with hunting or hunting would not address the damage problem. This includes all properties owned or leased by the owner adjacent to, contiguous to, or in the vicinity of the property where crop damage occurred;
- ~~((9))~~ (11) The crop is grown or stored on public property;
- ~~((10))~~ (12) The owner or lessee fails to provide on-site access to the department or designee for inspection and investigation of alleged damage or to verify eligibility for a claim;
- ~~((11))~~ (13) The owner has not provided a completed written claim form and all other required information, or met required timelines prescribed within WAC 232-36-110;
- ~~((12))~~ (14) The owner fails to sign a statement affirming that the facts and supporting documents are truthful to the best of the owner's knowledge;
- ~~((13))~~ (15) The owner or designee ~~((has))~~ harvested commercial crops ~~((without an investigation completed under the direction of the department; or~~

~~((14))~~ prior to providing a seventy-two hour notice to the department;

(16) The department ~~((has expended all funds appropriated for payment of such claims for the current fiscal year))~~ will prioritize payment for commercial crop damage in the order the claims were received or upon final adjudication of an appeal. If the department is unable to make a payment for commercial crop damage during the current fiscal year, the claim will be held over until the following fiscal year when funds become available. As funding becomes available to the department under this section, RCW 77.36.170, or any other source, the department must pay claims in the chronologic order. Claims that are carried over will take first priority and receive payment before any new claims are paid. The payment of a claim included on the list maintained by the department under this section is conditional on the availability of specific funding for this purpose and is not a guarantee of reimbursement.

AMENDATORY SECTION (Amending WSR 13-22-056, filed 11/4/13, effective 12/5/13)

WAC 232-36-110 Application for cash compensation for commercial crop damage—Procedure. Pursuant to this section, the department may distribute ~~((money))~~ funds appropriated by the legislature to pay commercial crop damage caused by wild deer or elk in the amount of up to ten thousand dollars per claim, unless following an appeal the department is ordered to pay more (see RCW 77.36.130(2)). The department shall develop claim procedures and application forms consistent with this section for cash compensation of commercial crop damage. Partnerships with other public and private organizations to assist with completion of applications, assessment of damage, and to provide funding for compensation are encouraged.

Filing a claim:

- (1) ~~((Owners))~~ Claimants who have ~~((worked))~~ cooperated with the department and have a valid damage prevention cooperative agreement or a department approved checklist to prevent deer or elk damage, or a waiver from the director, yet ~~((who))~~ still experience loss and meet eligibility requirements, may file a claim for cash compensation.
- (2) The claimant must notify the department within seventy-two hours of discovery of crop damage and at least seventy-two hours prior to harvest of the claimed crop.
- (3) A complete~~((s))~~ written claim and completed crop assessment must be submitted to the department within sixty days of ~~((when the damage stops))~~ harvest.
- (4) ~~((Owners))~~ Claimants may only file one claim per year. Multiple partners in a farming operation are considered one ~~((owner))~~ claimant. Operations involving multiple partners must designate a "primary grower" to receive payment from the department.
- (5) The claim form declaration must be signed, affirming that the information provided is factual and truthful per the certification set out in RCW 9A.72.085, before the department will process the claim.
- (6) In addition to a completed claim form, ~~((an applicant))~~ a claimant must provide:

(a) A copy of ~~((applicant's))~~ claimant's Schedule F of Form 1040, Form 1120, or other applicable forms filed with the Internal Revenue Service or other documentation indicating the ~~((applicant's))~~ claimant's gross sales or harvested value of commercial crops for the previous tax year.

(b) The assessment method used is consistent with WAC 232-36-120, valuation of property damage.

(c) ~~((Applicant must provide))~~ Proof of ownership of claimed commercial crops or contractual lease of claimed commercial crops consistent with department procedural requirements for submission of documents.

(d) Written documentation of approved methodology used to assess and determine final crop loss and value.

(e) ~~((Applicant must provide))~~ Records documenting average yield on claimed crop and parcel, certified yield reports, production reports and weight certificates completed at the time weighed for claimed year, and other applicable documents that support yield loss and current market price. Current market price will be determined less transportation and cleaning costs when applicable.

(f) A declaration signed under penalty of perjury as provided in RCW 9A.72.085, indicating that the ~~((applicant))~~ claimant is eligible for the claim, meets eligibility requirements listed under this section, and that all claim evaluation and assessment information in the claim application is true and accurate to the best knowledge of the claimant ~~((true and accurate))~~.

(g) A copy of the insurance policy and payment on the commercial crop where loss is claimed.

(h) ~~((Copy))~~ Copies of any applications for other sources of loss compensation and any payment or denial documentation.

Damage claim assessment:

(7) Completion of a damage claim assessment ~~((of))~~ for the amount and value of commercial crop loss is the ~~((primary))~~ responsibility of the claimant. A crop damage evaluation and assessment must be conducted by a licensed crop insurance adjuster in cooperation with the claimant:

(a) The ~~((owner))~~ claimant must submit a damage claim assessment prepared by a crop insurance adjuster licensed by the state of Washington and certified by the federal crop insurance service.

(b) The department will provide the claimant with a list of approved adjustors ~~((and written authorization to proceed with an assessment. The owner must))~~. The claimant may select an adjustor from the approved list and work with the department and the adjustor to arrange for the completion of a crop damage assessment ~~((Adjustor fees will be the responsibility of the department.))~~ or select a state licensed adjustor of their own choosing.

(i) If the claimant selects an adjustor from the approved list, the department will provide the adjustor written authorization to proceed with an assessment and adjustor fees will be the shared responsibility of the owner and the department. The claimant portion of the assessment fees may not exceed one half or a maximum of six hundred dollars, whichever is smaller, and will be deducted from the final payment.

(ii) If the claimant selects a state licensed adjustor of their own choosing then the claimant accepts full responsibility for the assessment fees.

(c) The department or the ~~((owner))~~ claimant may accept the damage claim assessment provided by the licensed adjuster or may hire a state licensed adjustor of their choosing and conduct a separate assessment or evaluation of the crop loss amount and value. The party hiring an adjustor to conduct a separate assessment or evaluation is responsible for payment of all fees.

(8) Disagreement between the claimant and the department over the crop loss value may be settled through an adjudicative proceeding pursuant to chapter 34.05 RCW.

Settlement of claims:

(9) ~~((The crop adjustor's fee is not subject to the ten thousand dollar payment limit per owner.~~

~~((10))~~ Compensation paid by the department, in addition to any other compensation received by the claimant, may not exceed the total value of the assessed crop loss.

~~((11))~~ (10) The ~~((owner))~~ claimant will be notified by the department upon completion of the evaluation and has sixty days to accept or appeal the department's offer for settlement of the claim, or the claim is considered ~~((satisfied))~~ accepted and not subject to appeal.

~~((12))~~ (11) The department ~~((shall))~~ will prioritize payment for commercial crop damage in the order the claims were received or upon final adjudication of an appeal. If the department is unable to make a payment for commercial crop damage during the current fiscal year, the claim ~~((shall))~~ will be held over until the following fiscal year when funds become available. As funding becomes available to the department under this section, RCW 77.36.170, or any other source, the department must pay claims in the chronologic order. Claims that are carried over will take first priority and receive payment before any new claims are paid. The payment of a claim included on the list maintained by the department under this section is conditional on the availability of specific funding for this purpose and is not a guarantee of reimbursement.

AMENDATORY SECTION (Amending WSR 13-22-056, filed 11/4/13, effective 12/5/13)

WAC 232-36-210 Application for cash compensation for livestock damage or ~~((other))~~ domestic animal—Procedure. Pursuant to this section, the department may distribute money specifically appropriated by the legislature or other funding entity to pay livestock or guard dog losses caused by wild bear, cougar, or wolves in the amount of up to ten thousand dollars per claim unless, following an appeal, the department is ordered to pay more (see RCW 77.36.130 (2)). The department will develop claim procedures and application forms consistent with this section for cash compensation of livestock or guard dog losses. Partnerships with other public and private organizations to assist with completion of applications, assessment of losses, and to provide funding for compensation are encouraged.

Filing a claim:

(1) ~~((Owners who have worked with the department to prevent livestock depredation, yet who still experience loss or losses that occur under emergent situations, may file a claim for cash compensation if they meet eligibility requirements.~~

~~((2))~~ Claimant must notify the department within twenty-four hours of discovery of livestock or other domestic animal attack or as soon as feasible.

~~((3))~~ (2) Damage claim assessment of amount and value of domestic animal loss is the primary responsibility of the claimant.

~~((4))~~ (3) Investigation of the loss and review and approval of the assessment will be conducted by the department:

(a) The ~~((owner))~~ claimant must provide access to department staff or designees to investigate the cause of death or injury to domestic animals and use reasonable measures to protect evidence at the depredation site.

(b) Federal officials may be responsible for the investigation when it is suspected that the attack was by a federally listed species.

~~((5) Claimant must request a damage claim application within ten days of a loss.~~

~~((6))~~ (4) To be eligible a claimant must submit a written statement, within thirty days of discovery of a loss to indicate his or her intent to file a claim.

(5) A complete, written claim must be submitted to the department within ~~((sixty))~~ ninety days of a discovery of an attack on domestic animals or livestock to be eligible for compensation.

~~((7) The)~~ (6) A claim form declaration must be signed, affirming that the information provided is factual and truthful, per the certification set out in RCW 9A.72.085 before the department will process ~~((a))~~ the claim.

~~((8))~~ (7) In addition to a completed claim form, ~~((an applicant))~~ a claimant must provide:

(a) ~~((Claimant must provide))~~ Proof of legal ownership or contractual lease of claimed livestock.

(b) ~~((Claimant must provide))~~ Records documenting the value of the domestic animal based on ~~((current))~~ either market price or value at the time of loss depending upon the determination for cause of loss.

(c) Declaration signed under penalty of perjury indicating that the ~~((applicant))~~ claimant is eligible for the claim, meets eligibility requirements listed under this chapter, and all claim evaluation and assessment information in the claim application is to the best knowledge of the claimant true and accurate.

(d) A copy of any insurance policy covering loss claimed.

(e) ~~((Copy))~~ Copies of applications for other sources of loss compensation and any payment or denial documentation.

(f) The department approved checklist of preventative measures that have been deployed, or documented compliance with the terms and conditions of the claimant's agreement with the department, or the director approved waiver.

Settlement of claims:

~~((9))~~ (8) Subject to ~~((money))~~ funds appropriated to pay for domestic animal losses, undisputed claims will be paid up to ten thousand dollars.

~~((10))~~ (9) Valuation of the lost livestock;

(a) For losses caused by wolves, livestock value will be determined by the market at the time the animals would normally be sold. Livestock will be valued based on the average weight of herd mates at the time of sale multiplied by the cash

market price received~~((;))~~ and depredated cows or ewes will be replaced based on the value of a bred animal of the same age and type as the one lost~~((, and))~~. Bulls will be replaced using actual purchase price prorated based on a four-year depreciation cycle minus salvage value.

(b) For losses caused by bear or cougar, livestock value will be determined by the market values at the time the animals are lost.

(c) The department may utilize the services of a certified livestock appraiser to assist in the evaluation of livestock claims.

~~((11))~~ (10) Claims for higher than normal livestock losses, reduced weight gains, or reduced pregnancy rates due to harassment of livestock caused by wolves must include:

(a) At least three years of records prior to the year of the claim. Claims will be assessed for losses in excess of the previous three-year running average;

(b) The losses must occur on large ~~((open))~~ pastures or range land used for grazing, lambing, or calving where regular monitoring of livestock is impractical (and therefore discovery of carcasses infeasible) as determined by the department;

(c) Verification by the department that wolves are occupying the area;

(d) The losses cannot be reasonably explained by other causes;

~~((Claims will be assessed for losses in excess of the previous three year running average, and~~

~~((Owners must be in compliance with the department's preventative measures checklist and/or damage prevention agreement.~~

(12)) Compliance with the department's preventative measures checklist, or damage prevention cooperative agreement, or a waiver signed by the director.

(11) Compensation paid by the department~~((, in addition to any other compensation,))~~ combined with any other compensation may not exceed the total value of the assessed loss.

~~((13))~~ (12) Upon completion of ~~((the))~~ an evaluation, the department will notify the ~~((owner))~~ claimant of its decision to either deny the claim or make a settlement offer (order). The ~~((owner))~~ claimant has sixty days from the date received to accept the department's offer for settlement of the claim ~~((or to submit an appeal of the order))~~. If the claimant wishes to appeal the offer, they must request an informal resolution or adjudicative proceeding as described in WAC 232-36-400. The acceptance must be in writing and the signed originals must be mailed in to the department. The ~~((response))~~ appeal must be in writing and ~~((the signed document))~~ may be mailed or submitted by ~~((fax or))~~ e-mail. If no written acceptance or request for appeal is received, the offer is considered rejected and not subject to appeal.

~~((14))~~ (13) If the claimant accepts the department's offer, the department will send payment to the ~~((owner))~~ claimant within thirty days from receipt of the written acceptance document.

~~((15))~~ (14) The department will prioritize payment for livestock losses in the order the claims were received or upon final adjudication of an appeal. If the department is unable to make a payment for livestock losses during the current fiscal year, the claim shall be held over until the following fiscal

year when funds become available. As funding becomes available to the department under this section, RCW 77.36.-170, or any other source, the department must pay claims in the chronologic order. Claims that are carried over will take first priority and receive payment before any new claims are paid. The payment of a claim included on the list maintained by the department under this section is conditional on the availability of specific funding for this purpose and is not a guarantee of reimbursement.

AMENDATORY SECTION (Amending WSR 10-13-182, filed 6/23/10, effective 7/24/10)

WAC 232-36-300 Public hunting requirements. "Public hunting" generally means that land is open for licensed hunters. The intent of ~~((the))~~ this provision ~~((in this chapter))~~ is to allow hunting at an appropriate time, manner, and level to help prevent property damage.

As specified in WAC 232-36-100, cash compensation for crop damage claims will only be paid when the property where the crop damage occurred is open to public hunting; unless the department determines that hunting is not practical. Public hunting is defined as:

(1) The landowner opens the property on which the damage or loss is claimed for general access to all licensed hunters during the season for the species causing damage, other species may be included to provide additional hazing, prior to the occurrence of damage; or

(2) The landowner has entered into and complied with any agreement with the department covering the land(s) on which the damage is claimed. ~~((Access))~~ Agreements shall require that:

(a) The land is open to general access to licensed hunters; or

(b) The landowner allows the department to select a limited number of hunters who are authorized to access the land to minimize or prevent damage; or

(c) The landowner and the department determine ~~((how hunters will be selected and authorized))~~ the number of hunters, timing, weapon options and the required permission for access to hunt on the landowner's property ~~((in order))~~ to effectively ~~((prevent))~~ minimize damage.

AMENDATORY SECTION (Amending WSR 10-13-182, filed 6/23/10, effective 7/24/10)

WAC 232-36-510 Failure to ~~((abide by))~~ comply with the conditions of permits, provide completed forms, or submit required documents or reports for the purposes of this chapter. (1) Failure to abide by the conditions of permits is a misdemeanor pursuant to RCW 77.15.750.

(2) Failure to provide reports or ~~((abide by))~~ comply with the conditions of landowner agreements is an infraction pursuant to RCW 77.15.160.

(3) Failure to ~~((abide by))~~ comply with the conditions of wildlife ~~((conflict))~~ control operator certification or permits is a misdemeanor pursuant to RCW 77.15.750.

(4) A person who provides false or misleading information required by this chapter may be in violation ~~((of))~~ subject to prosecution under RCW 9A.76.175 or 40.16.030.

NEW SECTION

WAC 232-36-054 Use of body-gripping traps and exceptions. (1) It is unlawful to trap for wild animals with body-gripping traps without a special permit from the director.

(2) Body-gripping traps, including conibear-type traps in water, as defined in RCW 77.15.192 may be used for the following purposes with a special trapping permit issued by the director:

(a) To protect public health and safety, in consultation with the department of health or the United States Department of Health and Human Services.

(b) To abate damages caused to private property, domestic animals, livestock or timber, which cannot be reasonably abated by nonlethal control tools. Any person requesting a special trapping permit must apply in writing, stating the threat or damages, the nonlethal control methods attempted or why they cannot be applied, and agree to use the above traps for no more than thirty days under the permit granted, pursuant to RCW 77.15.194 and WAC 232-12-142.

(c) To protect threatened or endangered species, if such traps are used by department employees or agents of the state.

(d) To conduct wildlife research, except that conibear-type traps are prohibited for this purpose.

(3) Traps must be checked every twenty-four hours and animals removed, pursuant to RCW 77.15.194.

(4) It is unlawful to trap within thirty feet of any exposed animal carcass, meat bait or nonedible game parts which are visible to flying raptors, except that nothing in this section prohibits department employees or agents of the state from trapping within thirty feet of exposed animal carcass, meat bait or nonedible game parts.

(5) Animals taken with the use of a body-gripping trap may not be retained and must be disposed as conditioned in the special trapping permit or as specified in WAC 232-36-055. Raw fur may only be retained for personal use or educational purposes which do not result in retail sale or commerce.

NEW SECTION

WAC 232-36-066 Report required of certified wildlife control operators. All wildlife control operators (WCOs) must report all WCO related activity, regardless of trapping success or whether they trapped or not for the previous year on or before April 20th of each year.

(1) Reports must be made using the department's designated WCO annual report form or web-based WCO reporting system.

(2) If a WCO chooses to report using the WCO annual report form versus the web-based WCO reporting system, it is the responsibility of the certified WCO to obtain a form from the department and ensure the form is received by Washington department of fish and wildlife as conditioned on the form, prior to the reporting deadline.

(3) A WCO who fails to report his or her activity by April 20th will be in violation of reporting requirements.

(4) Knowingly providing false or misleading information on reports is considered a gross misdemeanor per RCW 77.15.270.

(5) Failure to report trapping activity as required under this section is an infraction, punishable under RCW 77.15.-160.

NEW SECTION

WAC 232-36-090 Limitations to managing damage caused by big game on private property. Pursuant to this section the department shall establish guidelines for assisting landowners with minimizing big game damage to private property. Nothing in this section shall be construed to require the department to seek landowners that may be experiencing damage. It is incumbent upon the landowner to notify the department if they are experiencing damage.

(1) A landowner, lessee, or employee of and on behalf of the landowner may contact the department for assistance upon recognition of a damage or depredation event.

(2) Upon confirmation of damage or depredation, the department will offer assistance and work cooperatively with the landowner, lessee, or employee of the landowner on damage prevention measures.

(a) Damage prevention measures offered by the department shall be reasonable, fiscally responsible, and deemed effective in abating damage by the wildlife damage management profession. New techniques may be employed to determine feasibility.

(b) Practical long-term response for damage resolution shall be considered and written into agreements when feasible.

(3) The department will document when prevention measures are rejected by the landowner, lessee, or employee of the landowner.

(4) If the landowner, lessee, or employee of the landowner, rejects prevention measures offered by the department:

(a) The department is not required to take further action if at least three attempts to offer the prescribed prevention measures have been rejected.

(b) The landowner, lessee, or employee of the landowner may submit, within thirty days of offer of preventative measures, a written refusal statement documenting reasons supported by facts why they reject the prescribed measures and offer alternative solutions with justification. This written refusal statement must be submitted to the department and illustrate that the prevention measures prescribed by the department will not result in lessening the damage or depredation and/or would cause physical damage to persons or property.

(i) The department shall take no further action until a written refusal statement has been received by the department and approved by the director or director's designee for assistance to continue.

(ii) If the written refusal letter is approved by the director or director's designee, the department may continue working with the landowner to develop alternative measures.

(5) A landowner, lessee, or employee of the landowner, is ineligible for a compensation claim and the department shall take no further action unless agreed upon prevention measures have been employed.

(6) Nothing in this section prohibits a landowner, lessee, or employee of the landowner, from killing wildlife pursuant to WAC 232-36-051.

NEW SECTION

WAC 232-36-310 Damage prevention permit hunts—Deer, elk, and turkey. (1) A landowner may enter into a damage prevention cooperative agreement (contract) with WDFW. The landowner may receive a damage prevention permit, if deemed necessary by the department. Hunts conducted pursuant to a damage prevention permit must adhere to the special seasons provided in this section. Nothing in this section prevents a landowner from protecting their property.

(a) The landowner agrees not to file a damage claim unless damage exceeds the threshold established by the department and conditioned in the damage prevention cooperative agreement, except for Elk Areas 3721 and 3722. Landowners will work with the department to allow access to hunters during the general hunting seasons as determined by the department.

(b) A damage prevention cooperative agreement may include:

(i) An approved checklist of the reasonable preventative and nonlethal means that must be employed prior to lethal removal;

(ii) A description of the properties where lethal removal is allowed;

(iii) Other conditions developed within department procedural documents.

(c) A damage prevention permit issued to a landowner by the department and provided to the hunter by the landowner authorizes the hunter to use a deer or elk damage license or tag to hunt and take a legal animal as prescribed on the permit.

(d) A damage prevention permit may include:

(i) A description of the properties where lethal removal is allowed;

(ii) The species and sex of the animal that may be taken; the terms of the permit; the dates when lethal removal is authorized; and

(iii) Other conditions developed within department procedural documents.

(2) General deer and elk removal criteria:

(a) Only persons with a damage prevention permit may hunt and take one deer or one elk as designated on the permit.

(b) Hunters must have a valid big game license, damage deer/elk license or tag to participate in a damage prevention hunt during the prescribed damage prevention permit period, unless the damage permit specifies otherwise.

(c) Hunters who fill their deer or elk damage tag are ineligible to participate in another damage prevention hunt utilizing a damage prevention permit during the same season in which they already harvested wildlife under a damage prevention hunt; this does not preclude a landowner from utilizing a kill permit or their right to protect their property under WAC 232-36-051.

(d) Persons participating with a damage prevention permit may only hunt within the prescribed area, during the

specified season dates, and for the specified animal (e.g., antlerless, deer, elk) as indicated on the permit. If a deer or elk is wounded inside the damage hunt area, it may be pursued outside permit boundaries with adjacent landowner permission.

(e) A hunter who fails to comply with this subsection may be ineligible to participate in the next year's damage permit opportunities.

(3) Deer:

(a) Tag Required: Deer hunters must have a current valid big game license, damage deer hunting license or tag and a damage prevention permit on his/her person.

(b) Hunting Method: Any legal weapon (or as specified on the damage prevention permit).

(c) Location: Statewide.

(i) Season Framework: July 1 - March 31.

(ii) Legal Deer: Antlerless Only.

(iii) Kill Quota: 300 per license year.

(d) Location: Region One.

(i) Season Framework: July 1 - March 31.

(ii) Legal Deer: Antlerless Only.

(iii) Kill Quota: 300 per license year.

(e) Location: GMUs 105-124.

(i) Season Framework: July 1 - March 31.

(ii) Legal Deer: Whitetail Antlerless Only.

(iii) Kill Quota: 300 per license year.

(4) Elk:

(a) Tag Required: Elk hunters must have a valid big game license, a damage elk hunting license or tag and damage prevention permit on his/her person.

(b) Hunting Method: Any legal weapon.

(c) Location: Eastern Washington - GMUs 100, 200, and 300 series.

(i) Season Framework: July 1 - March 31.

(ii) Legal Elk: Antlerless Only.

(iii) Kill Quota: 200 per license year.

(d) Location: Western Washington - GMUs 400, 500, and 600 series.

(i) Season Framework: July 1 - March 31.

(ii) Legal Elk: Antlerless Only.

(iii) Kill Quota: 100 per license year.

(e) Location: Hanford Area - GMUs 372 and 379.

(i) Legal Elk: Antlerless Only.

(ii) Season Framework: July 1 - March 31.

(iii) Kill Quota: 70 per license year.

(f) Location: Elk Area 3721.

(i) Legal Elk: Spike or antlerless July 1 - March 31; any bull May 15 - June 30.

(ii) Season Framework: May 15 - March 31; as described in (f)(i) of this subsection.

(iii) Kill Quota: 100 Spike or antlerless per license year; 60 bulls per license year.

(g) Location: GMUs 501-578.

(i) Legal Elk: Antlerless Only.

(ii) Kill Quota: 100 per license year.

(h) Access in Elk Area 3721 may not be sold as a condition of use of these permits. The director may consider damage claims from landowners in Elk Areas 3721 and 3722 who accept these permits and do not charge for access.

(5) General turkey removal criteria:

(a) Only persons with a damage prevention permit may hunt and take one turkey as designated on the permit.

(b) Hunters must have a valid small game license and an unfilled turkey tag to participate in a damage prevention hunt during the prescribed damage prevention permit period, unless the damage permit specifies otherwise.

(c) Hunters who fill their turkey tag under a damage permit are ineligible to participate in another damage prevention hunt utilizing a damage prevention permit during the same season in which they already harvested wildlife under a damage prevention hunt.

(d) Persons participating with a damage prevention permit may only hunt within the prescribed area, during the specified season dates, and for the specified animal as indicated on the permit.

(e) A hunter who fails to comply with this subsection may be ineligible to participate in the next year's damage permit opportunities.

(6) Turkey:

(a) Tag Required: Turkey hunter must have an appropriate valid, unaltered, unnotched turkey tag or license on his/her person, along with the damage prevention permit.

(b) Hunting Method: Any legal turkey hunting method.

(c) Season Framework: October 1 - March 1.

(d) Location: Statewide.

(e) Legal Turkey: Either sex.

(f) Kill Quota: 300 per license year.

(7) It is unlawful to violate the provisions of this section. Violation of this section is punishable under RCW 77.15.400, 77.15.410, 77.15.430, or 77.15.750(1) depending on the violation. Hunters who violate this section will be punished under RCW 77.15.400, 77.15.410, 77.15.430 depending on the species hunted and circumstances of the violation.

NEW SECTION

WAC 232-36-320 Black bear timber damage depredation permits. This section applies to any person participating in a director-authorized black bear timber depredation hunt pursuant to RCW 77.12.240 or 77.15.245.

(1) Definitions: As used in this section and in the context of bear depredation removals for damage to timberlands, the following definitions apply:

(a) "Damage to timberlands" means there is evidence that bears have damaged private commercial timber that is confirmed through criteria outlined by the department.

(b) "Removal" means the act of killing one or more bear.

(2) Black bear removal criteria:

(a) A landowner or the landowner's designee may submit a request for removal to the department following the procedures established by the department.

(b) Areas permitted for black bear timber depredation action must have confirmed bear caused timber damage as defined in criteria developed by the department.

(c) The department will verify reported damage.

(d) The department will consider forest management objectives and shall ensure bear removals are consistent with population management objectives.

(3) Hunter selection:

(a) Landowners or the landowner's designee may only select hunters authorized by the department to participate in a black bear timber depredation removal effort on their property.

(b) The landowner or the landowner's designee and the hunters participating in the removal will be identified as permittees on permits issued for bear removal.

(4) Permit required for participation in bear removal:

(a) If approved for a bear removal action, the department will issue a permit for bear removal. The approved selected hunter(s) must be in possession of the bear timber depredation permit while conducting the removal.

(b) Only hunters whose names appear on the permit may participate in the black bear timber depredation removal.

(5) General requirements:

(a) Removals must be reported within twenty-four hours of take as prescribed in the black bear depredation permit.

(b) All harvested bears must be disposed of as conditioned on the permit.

(c) Within seven days after harvest, the permittee must submit all animals, parts of animals and all permit materials as prescribed in the black bear timber depredation permit. If a bear is not harvested under the bear depredation permit and the permit expires, the permittees must return all permit materials to the department within seven days of expiration. Failure to comply with this subsection may render the permittee(s) ineligible for the next year's black bear depredation permit as determined by the department.

(d) The black bear timber depredation permit belongs to the state of Washington. A violation of any condition of the permit may result in revocation of the permit and may render the permittee(s) ineligible for future black bear timber depredation permits as determined by the department.

(e) A violation of subsection (4) or (5) of this section is punishable under RCW 77.15.245, 77.15.410, or 77.15.750, depending on the circumstances of the violation.

NEW SECTION

WAC 232-36-330 Bear and cougar depredation permit hunts for domestic animal or livestock loss. This section applies to any person participating in a director-authorized bear or cougar depredation permit hunt for domestic animal or livestock loss pursuant to RCW 77.12.240 or 77.15.245:

(1) Black bear and cougar removal criteria:

(a) A landowner or the landowner's designee may submit a request for removal to the department following the procedures established by the department.

(b) Areas permitted for bear or cougar removal action must have confirmed bear or cougar caused property damage.

(c) The department will verify reported damage.

(d) The department shall ensure bear and cougar removals are consistent with population management objectives.

(2) Hunter selection:

(a) Landowner or landowner's designee may only select hunters authorized by the department to participate in a bear or cougar removal effort.

(b) The landowner or landowner's designee and the hunters participating in the removal will be identified as depreda-

tion permittees on depredation permits issued for bear or cougar removal.

(3) Permit required for participation in bear or cougar removal:

(a) If approved for bear or cougar removal action, the department will issue and condition the depredation permit and selected hunters participating in removals under this section must comply with provisions of the depredation permit.

(b) Selected hunter(s) must be in possession of the depredation permit while conducting the removal.

(c) Only hunters whose names appear on the depredation permit may take part in the hunt.

(4) General requirements:

(a) Removals must be reported within twenty-four hours of take. Biological samples required on the permit must be submitted and the carcass must be disposed of within forty-eight hours as conditioned in the depredation permit.

(b) All harvested animals must be disposed of as designated on the permit.

(c) Failure to comply with this section may render the permittee ineligible for future bear or cougar depredation permits as determined by the department.

(d) The depredation permit belongs to the state of Washington. A violation of any condition of the depredation permit may result in revocation of the depredation permit and may render the permittee(s) ineligible for future bear or cougar damage depredation permits; until all issues pertaining to the revocation are resolved at the department's discretion.

(e) A violation of subsection (3) of this section or this subsection (4) are punishable under RCW 77.15.245, 77.15.-410, or 77.15.750, depending on the circumstances of the violation.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-12-025 Depredation hunts.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-266 Damage prevention permit hunts.

WSR 16-04-068

PERMANENT RULES

OFFICE OF

FINANCIAL MANAGEMENT

[Filed January 29, 2016, 8:48 a.m., effective February 29, 2016]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Chapter 43.371 RCW directs the office of financial management (OFM) to establish a statewide all-payer health care claims database to support transparent public reporting of health care information. Chapter 43.371 RCW, as amended by ESSB 5084, sections 1, 3, 5 and 7 pro-

vides that the OFM director shall adopt rules necessary to implement this chapter and provides specific areas in which rules should be adopted.

These new rules create the required definitions and additional definitions. The rules set the registration requirements, data submission schedule, historical data submission, data submission guide, standard and process for waivers and extensions, penalties for failure to comply with reporting requirements, administrative review and appeals.

These rules begin to set the requirements necessary to implement the all-payer health care claims database.

Statutory Authority for Adoption: Chapter 43.371 RCW.

Adopted under notice filed as WSR 15-22-101 on November 4, 2015.

Changes Other than Editing from Proposed to Adopted Version: In response to comments received, two definitions were changed in WAC 82-75-030. "Claim" now includes demand for payment from third-party administrators and a state labor and industries program. "Member" now includes enrollee, policyholder, beneficiary of a group plan or individual covered by a health plan. The changes are not substantial, but amend the definitions to accurately reflect the intended meaning as originally represented by stakeholders.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 11, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 11, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 11, Amended 0, Repealed 0.

Date Adopted: January 29, 2016.

Roselyn Marcus
Assistant Director of
Legal and Legislative Affairs
Rules Coordinator

Chapter 82-75 WAC

ALL PAYER HEALTH CARE CLAIMS DATA BASE

NEW SECTION

WAC 82-75-010 Purpose. (1) Chapter 43.371 RCW establishes the framework for the creation and administration of a statewide all-payer health care claims data base.

(2) RCW 43.371.020 directs the office of financial management to establish a statewide all-payer health care claims data base to support transparent public reporting of health care information. The office shall select a lead organization to coordinate and manage the data base. The lead organiza-

tion shall also contract with a data vendor to perform data collection, processing, aggregation, extracts, and analytics.

(3) RCW 43.371.070 mandates that the director of the office of financial management adopt rules necessary to implement chapter 43.371 RCW. In addition, RCW 43.371.010 and 43.371.050 direct the adoption of specific rules by the director.

(4) The purpose of this chapter is to implement chapter 43.371 RCW, to facilitate the creation and administration of the Washington statewide all-payer health care claims data base.

NEW SECTION

WAC 82-75-020 Definitions required by chapter 43.371 RCW. The following definitions apply throughout this chapter unless the context clearly indicates another meaning.

"Allowed amount" means the maximum dollar amount contractually agreed to for an eligible health care service covered under the terms of an insurance policy, health benefits plan or state labor and industries program.

"Billed amount" means the dollar amount charged for a health care service rendered.

"Claim file" means a data set composed of health care service level remittance information for all nondenied adjudicated claims under the terms of an insurance policy, health benefits plan or state labor and industries program including, but not limited to, covered medical services files, pharmacy files and dental files.

"Covered medical services file" means a data set composed of service level remittance information for all nondenied adjudicated claims for Washington covered persons that are authorized under the terms of an insurance policy, health benefits plan or state labor and industries program including, but not limited to, member demographics, provider information, charge and payment information including facility fees, clinical diagnosis codes and procedure codes.

"Data file" means a data set composed of member or provider information including, but not limited to, member eligibility and enrollment data and provider data with necessary identifiers.

"Dental claims file" means a data set composed of service level remittance information for all nondenied adjudicated claims for dental services for Washington covered persons including, but not limited to, member demographics, provider information, charge and payment information including facility fees, and current dental terminology codes as defined by the American Dental Association.

"Member eligibility and enrollment data file" means a data set containing data about Washington covered persons who receive health care coverage from a payer for one or more days of coverage during the reporting period including, but not limited to, subscriber and member identifiers, member demographics, plan type, benefit codes, and enrollment start and end dates.

"Paid amount" means the actual dollar amount paid for a health care service rendered under the terms of an insurance policy, health benefits plan or state labor and industries pro-

gram for covered services, excluding member copayments, coinsurance, deductibles and other sources of payment.

"Pharmacy claims file" means a data set containing service level remittance information for all nondenied adjudicated claims for pharmacy services for Washington covered persons including, but not limited to, enrolled member demographics, provider information, charge and payment information including dispensing fees, and national drug codes.

"Provider data with necessary identifiers" means a data file containing information about health care providers that submitted claims for providing health care services, equipment or supplies, to subscribers or members and such other data as required by the data submission guide.

NEW SECTION

WAC 82-75-030 Additional definitions authorized by chapter 43.371 RCW. The following additional definitions apply throughout this chapter unless the context clearly indicates another meaning.

"Claim" means a request or demand on a carrier, third-party administrator, or the state labor and industries program for payment of a benefit.

"Coinsurance" means the percentage or amount an enrolled member pays towards the cost of a covered service.

"Copayment" means the fixed dollar amount a member pays to a health care provider at the time a covered service is provided or the full cost of a service when that is less than the fixed dollar amount.

"Data submission guide" means the document that contains data submission requirements including, but not limited to, required fields, file layouts, file components, edit specifications, instructions and other technical specifications.

"Deductible" means the total dollar amount an enrolled member pays on an incurred claim toward the cost of specified covered services designated by the policy or plan over an established period of time before the carrier or third-party administrator makes any payments under an insurance policy or health benefit plan.

"Director" means the director of the office of financial management.

"Health benefits plan" or "health plan" has the same meaning as in RCW 48.43.005.

"Health care" means care, services, or supplies related to the prevention, cure or treatment of illness, injury or disease of an individual, which includes medical, pharmaceutical or dental care. Health care includes, but is not limited to:

(a) Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, and counseling, service, assessment, or procedure with respect to the physical or mental condition, or functional status, of an individual or that affects the structure or function of the body; and

(b) Sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription.

"Lead organization" means the entity selected by the office of financial management to coordinate and manage the data base as provided in chapter 43.371 RCW.

"Member" means a person covered by a health plan including an enrollee, subscriber, policyholder, beneficiary

of a group plan, or individual covered by any other health plan.

"Office" means the Washington state office of financial management.

"Subscriber" means the insured individual who pays the premium or whose employment makes him or her eligible for coverage under an insurance policy or member of a health benefit plan.

"WA-APCD" means the statewide all payer health care claims data base authorized in chapter 43.371 RCW.

"Washington covered person" means any eligible member and all covered dependents where the state of Washington has primary jurisdiction, and whose laws, rules and regulations govern the members' and dependents' insurance policy or health benefit plan.

NEW SECTION

WAC 82-75-040 Registration requirements. (1) **Initial registration.** Each data supplier required to submit health care data pursuant to chapter 43.371 RCW shall register within thirty days of notification from the lead organization.

(2) **Annual registration.** Each data supplier required to submit health care data pursuant to chapter 43.371 RCW shall register by December 31st of each year after the initial registration. If the data supplier initially registers September 1st or later, then the data supplier shall file its annual registration by December 31st of the year following the year of the initial registration.

(3) Each data supplier newly required to submit health care data under chapter 43.371 RCW, either by a change in law or loss of qualified exemption, shall register with the lead organization within thirty days of being required to submit data.

NEW SECTION

WAC 82-75-050 Data submission schedule. (1) Data suppliers shall submit the required health care data in accordance with the schedule provided in this section.

(2) **Test file.**

(a) At least sixty calendar days prior to the data suppliers' first required submission, the lead organization will notify the data supplier in writing regarding the obligation to file. The lead organization will schedule time to work with the data supplier to establish a schedule for when the data supplier shall submit the initial test files.

(b) No more than ninety calendar days after notification of changes in requirements in the data submission guide, the data supplier shall submit initial test files. This deadline may be extended by the lead organization when it determines that additional time will be needed in order for the change to be implemented.

(3) **Submission file.** Data and claim files shall be submitted to the WA-APCD on a quarterly basis. On or before April 30th, July 31st, October 31st and January 31st of each year, data and claim files shall be submitted for all nondenied adjudicated claims paid in the preceding three months.

(4) **Resubmission file.** Failure to conform to the requirements of this chapter or the data submission guide shall result

in the rejection of the applicable data and claim files. The lead organization shall notify the data supplier when data and claim files are rejected. All rejected files must be resubmitted in the appropriate, corrected format within fifteen business days of notification unless a written request for an extension is received by the lead organization before the expiration of this fifteen business day period.

(5) **Claims run-out file.** If health care coverage is terminated for a Washington covered person, the data supplier shall submit data for a six month period following the health care coverage termination date.

(6) **Replacement file.**

(a) A data supplier may replace a complete data file, claim file or both data and claim file submission. Requests must be made to the lead organization with a detailed explanation as to why the replacement is needed. The lead organization shall make a recommendation to the office as to whether to approve or deny the request. The approval recommendation shall also state whether the approval is for the entire period requested or for a period less than requested.

(b) The office shall approve or deny the request and provide written notification to the requestor within thirty calendar days of receipt of the request. The office decision on the request for a replacement file will be provided in writing. If the office does not approve the complete request for a replacement file, the written notification will include the reason for the denial or approval of the shorter period of time.

(c) Requests may not be made more than one year after the end of the month in which the file was submitted unless the data supplier can establish exceptional circumstances for the replacement. The lead organization may recommend approval and the office may approve a request for more than one year for exceptional circumstances. The office shall approve or deny the request using the process set forth in (b) of this subsection.

NEW SECTION

WAC 82-75-060 Historical data submission. (1) The purpose of collecting historical data into the WA-APCD is to permit the systematic analysis of the health care delivery system including evaluation of the effectiveness of the Patient Protection and Affordable Care Act signed into law on March 23, 2010.

(2) The lead organization will provide written notification to the data suppliers when the WA-APCD is ready to accept the submission of historical data. Data suppliers shall submit the historical data within sixty days of notification. Requests for an extension of time to submit historical data shall be made in accordance with WAC 82-75-080(3).

(3) "Historical data" means covered medical services claim files, pharmacy claim files, dental claim files, member eligibility and enrollment data files, and provider data files with necessary identifiers for the period January 1, 2011, through December 31, 2015.

(4) The office may grant an exception to this section and approve the filing of historical data for a period less than the period specified in subsection (3) of this section. In no event will an exception be granted for a period beginning later than January 1, 2013. Requests for an exception under this subsec-

tion shall be made to the lead organization within fifteen calendar days of being notified in accordance with subsection (2) of this section. The lead organization shall make a recommendation to the office as to whether to approve or deny the request. The office may approve the request for good cause.

NEW SECTION

WAC 82-75-070 Data submission guide. (1) Data files and claim files shall be submitted to the WA-APCD in accordance with the requirements set forth in this chapter and the data submission guide.

(2) The lead organization shall develop the data submission guide with input from stakeholders. The lead organization shall develop a process to allow for stakeholder review and comment on drafts of the data submission guide and all subsequent changes to the guide. The office shall have final approval authority over the data submission guide and all subsequent changes.

(3) The lead organization shall notify data suppliers before changes to the data submission guide are final. Notification shall occur no less than one hundred twenty calendar days prior to the effective date of any change.

(4) Upon good cause shown, data suppliers may be granted an extension to comply with any changes to the data submission guide. Requests for extensions or exceptions shall be made in accordance with WAC 82-75-080.

NEW SECTION

WAC 82-75-080 Waivers and extensions. (1) The office may grant a waiver of reporting requirements or an extension of time to a reporting requirement deadline based on extenuating circumstances.

(2) **Waivers.**

(a) A data supplier may request a waiver from submission for a period of time due to extenuating circumstances affecting the data supplier's ability to comply with the reporting requirement for that period.

(b) The request shall be for no more than one reporting year and shall contain a detailed explanation as to the reason the data supplier is unable to meet the reporting requirements.

(c) A request for a waiver must be submitted to the lead organization at least sixty calendar days prior to the applicable reporting deadline. The lead organization shall make a recommendation to the office as to whether to approve or deny the request. The approval recommendation shall also state whether the approval is for the entire period requested or for a period less than requested.

(d) The office may approve a request for extenuating circumstances. Approval may be for a time period shorter than requested. The office shall approve or deny the request and provide written notification to the requester within thirty calendar days of receipt of the request. The office decision on the request for a waiver will be provided in writing. If the office does not approve a request for a waiver, the written notification will include the reason for the denial.

(3) **Extensions.**

(a) A data supplier may request an extension of time for submitting a quarterly report or the resubmission of a report

due to extenuating circumstances affecting the data supplier's ability to submit the data by the deadline.

(b) The request shall be for no more than one reporting quarter and shall contain a detailed explanation as to the reason the data supplier is unable to meet the reporting requirements for that quarter.

(c) A request for an extension must be submitted to the lead organization at least thirty calendar days prior to the applicable reporting deadline unless the requestor is unable to meet this deadline due to circumstances beyond the data supplier's control. If unable to meet this deadline, the data supplier shall notify the lead organization in writing as soon as the data supplier determines that an extension is necessary.

(d) The lead organization shall make a recommendation to the office as to whether to approve or deny the request. The approval recommendation shall also state whether the approval is for the entire period requested or for a period less than requested.

(e) The office may approve a request for extenuating circumstances. The office shall approve or deny the request and provide written notification to the requestor within fifteen calendar days from when the lead organization receives the request from the data supplier. The office decision on the request for an extension will be provided in writing. If the office does not approve a request for an extension, the written notification will include the reason for the denial.

NEW SECTION

WAC 82-75-090 Penalties for failure to comply with reporting requirements. (1) The office may assess fines for failure to comply with the requirements of this chapter including, but not limited to:

- (a) General reporting requirements.
- (b) Health care claim files and data files requirements.
- (c) Health care claim files and data files submission requirements.

The office will not assess fines when the data supplier is working in good faith with the lead organization to comply with the reporting requirements.

(2) Unless the office has approved a waiver or extension, the office may assess a fine for failure to comply with general reporting requirements including, but not limited to, the following occurrences:

- (a) Failure to submit health care claim files or data files for a required line of business; and
- (b) Submitting health information for an excluded line of business.

(3) Unless the office has approved a waiver or extension, the office may assess a fine for failure to comply with health care claim file or data file requirements including, but not limited to, the following occurrences:

- (a) Submitting a health care claim or data file in an unapproved layout;
 - (b) Submitting a data element in an unapproved format;
 - (c) Submitting a data element with unapproved coding; and
 - (d) Failure to submit a required data element.
- (4) Unless the office has approved a waiver or extension, the office may assess a fine for failure to comply with health

care claim file or data file submission requirements including, but not limited to, the following occurrences:

(a) Failure to comply with WAC 82-75-050 (Data submission schedule);

(b) Rejection of a health care claim or data file by the data vendor that is not corrected by the data supplier; and

(c) Transmitting health care claim or data files using an unapproved process.

(5) Upon the failure to comply with a reporting requirement in this chapter, the office shall first issue a warning notice to a data supplier. The warning notice shall set forth the nature of the failure to comply and offer to provide assistance to the data supplier to correct the failure.

(6) A data supplier that fails to comply with the same reporting requirement in this chapter for which it previously received a warning notice, may be assessed a penalty of two hundred fifty dollars per day, not to exceed a maximum of twenty-five thousand dollars per occurrence. Each failure to comply with a reporting requirement for a reporting period is considered a separate occurrence.

(7) For good cause shown, the office may suspend in whole or in part any fine assessed in accordance with this section.

NEW SECTION

WAC 82-75-100 Administrative review. (1) Data suppliers may request an administrative review of an office decision to deny a request for an extension or waiver, or an assessment of a fine.

(2) A request for an administrative review may be initiated by a written petition filed with the office within thirty calendar days after notice of the denial or assessment of a fine. The petition shall include the following information:

(a) Data supplier's name, address, telephone number, e-mail address and contact person.

(b) Information about the subject of the appeal including remedy requested.

(c) A detailed explanation as to the issue or area of dispute, and why the dispute should be decided in the data supplier's favor.

(3) The petition and all materials submitted will be reviewed by the director or director's designee. The reviewing official may request additional information or a conference with the data supplier. A decision from the reviewing official shall be provided in writing to the data supplier no later than thirty calendar days after receipt of the petition. A denial of the petition will include the reasons for the denial.

NEW SECTION

WAC 82-75-110 Appeals. (1) A data supplier may request an appeal of a denial of its administrative review conducted in accordance with WAC 82-75-100.

(2) Request for an appeal must be submitted in writing to the office within fifteen calendar days after receipt of written notification of denial of its administrative review.

(3) Within ten business days of receipt of a written notice of appeal, the office will transmit the request to the office of administrative hearings (OAH).

(a) **Scheduling.** OAH will assign an administrative law judge (ALJ) to handle the appeal. The ALJ will notify parties of the time when any additional documents or arguments must be submitted. If a party fails to comply with a scheduling letter or established timelines, the ALJ may decline to consider arguments or documents submitted after the scheduled timelines. A status conference in complex cases may be scheduled to provide for the orderly resolution of the case and to narrow issues and arguments for hearing.

(b) **Hearings.** Hearings may be by telephone or in-person. The ALJ may decide the case without a hearing if legal or factual issues are not in dispute, the appellant does not request a hearing, or the appellant fails to appear at a scheduled hearing or otherwise fails to respond to inquiries. The ALJ will notify the appellant by mail whether a hearing will be held, whether the hearing will be in-person or by telephone, the location of any in-person hearing, and the date and time for any hearing in the case. The date and time for a hearing may be continued at the ALJ's discretion. Other office employees may attend a hearing, and the ALJ will notify the appellant when other office employees are attending. The appellant may appear in person or may be represented by an attorney.

(c) **Decisions.** The decision of the ALJ shall be considered a final decision. Either party or both may file a petition for review of the final decision to superior court. If neither party files an appeal within the time period set by RCW 34.05.542, the decision is conclusive and binding on all parties. The appeal must be filed within thirty days from service of the final decision.

codified in chapter 42.17A RCW. Adjustments are based on changes in economic conditions as reflected in the inflationary index recommended by the office of financial management.

Modifies the disclosure threshold for major contributions reported by an out-of-state political committee who participates in Washington state elections. The modification is based on the implicit price deflator for personal consumption expenditures for the United States as published for the most recent twelve month period by the bureau of economic analysis of the federal Department of Commerce. Out-of-state committee report also updated to include a reference to the public disclosure commission's web site.

Citation of Existing Rules Affected by this Order: Amending 2 [WAC 390-05-400 and 390-16-050].

Statutory Authority for Adoption: RCW 42.17A.110, 42.17A.125(1) (adjustments to limits) and 42.17A.250 [(1)] (g) (out-of-state committee disclosure).

Adopted under notice filed as WSR 15-24-122 on December 1, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 28, 2016.

Lori Anderson
Communications and
Training Officer

WSR 16-04-080

PERMANENT RULES

PUBLIC DISCLOSURE COMMISSION

[Filed January 29, 2016, 1:32 p.m., effective February 29, 2016]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Make inflationary adjustments to contribution limits and other dollar amounts enacted by Initiative 134 and

AMENDATORY SECTION (Amending WSR 14-01-010, filed 12/5/13, effective 1/5/14)

WAC 390-05-400 Changes in dollar amounts. Pursuant to the requirement in RCW 42.17A.125 that the commission biennially revise the dollar amounts found in Initiative 134 and RCW 42.17A.410 to reflect changes in economic conditions, the following revisions are made:

Code Section	Subject Matter	Amount Enacted or Last Revised	((2014)) <u>2016</u> Revision
.005	Definition of "Independent Expenditure"	\$ ((900)) <u>950</u>	\$ ((950)) <u>1,000</u>
.445(3)	Reimbursement of candidate for loan to own campaign	\$ ((5,000)) <u>5,500</u>	\$ ((5,500)) <u>6,000</u>
.630(1)	Report— Applicability of provisions to Persons who made contributions Persons who made independent expenditures	\$ ((18,000)) <u>19,000</u> \$ ((900)) <u>950</u>	\$ ((19,000)) <u>20,000</u> \$ ((950)) <u>1,000</u>

Code Section	Subject Matter	Amount Enacted or Last Revised	((2014)) <u>2016</u> Revision
.405(2)	Contribution Limits—		
	Candidates for state leg. office	\$ ((900)) <u>950</u>	\$ ((950)) <u>1,000</u>
	Candidates for county office	\$ ((900)) <u>950</u>	\$ ((950)) <u>1,000</u>
	Candidates for other state office	\$ ((1,800)) <u>1,900</u>	\$ ((1,900)) <u>2,000</u>
	Candidates for special purpose districts	\$ ((1,800)) <u>1,900</u>	\$ ((1,900)) <u>2,000</u>
	Candidates for city council office	\$ ((900)) <u>950</u>	\$ ((950)) <u>1,000</u>
	Candidates for mayoral office	\$ ((900)) <u>950</u>	\$ ((950)) <u>1,000</u>
	Candidates for school board office	\$ ((900)) <u>950</u>	\$ ((950)) <u>1,000</u>
	Candidates for hospital district	\$ ((800)) <u>950</u>	\$ ((950)) <u>1,000</u>
.405(3)	Contribution Limits—		
	State official up for recall or pol comm. supporting recall—		
	State Legislative Office	\$ ((900)) <u>950</u>	\$ ((950)) <u>1,000</u>
	Other State Office	\$ ((1,800)) <u>1,900</u>	\$ ((1,900)) <u>2,000</u>
.405(4)	Contribution Limits—		
	Contributions made by political parties and caucus committees		
	State parties and caucus committees	((90)) <u>.95</u> per voter	((95)) <u>\$1.00</u> per registered voter
	County and leg. district parties	((45)) <u>.50</u> per voter	.50 per registered voter
	Limit for all county and leg. district parties to a candidate	((45)) <u>.50</u> per voter	.50 per registered voter
.405(5)	Contribution Limits—		
	Contributions made by pol. parties and caucus committees to state official up for recall or committee supporting recall		
	State parties and caucuses	((90)) <u>.95</u> per voter	((95)) <u>\$1.00</u> per registered voter
	County and leg. district parties	((45)) <u>.50</u> per voter	.50 per registered voter
	Limit for all county and leg. district parties to state official up for recall or pol. comm. supporting recall	((45)) <u>.50</u> per voter	.50 per registered voter
.405(7)	Limits on contributions to political parties and caucus committees		
	To caucus committee	\$ ((900)) <u>950</u>	\$ ((950)) <u>1,000</u>
	To political party	\$ ((4,500)) <u>5,000</u>	\$ ((5,000)) <u>5,500</u>
.410(1)	Candidates for judicial office	\$ ((1,800)) <u>1,900</u>	\$ ((1,900)) <u>2,000</u>
.475	Contribution must be made by written instrument	\$ ((90)) <u>95</u>	\$ ((95)) <u>100</u>

AMENDATORY SECTION (Amending WSR 14-01-010,
filed 12/5/13, effective 1/5/14)

WAC 390-16-050 Forms for contributions and expenditures of out-of-state political committees. The official form for the report required by RCW 42.17A.250 of contributions and expenditures of an out-of-state political committee organized for the purpose of supporting or opposing candidates or ballot propositions in another state that is not otherwise required to report

under RCW 42.17A.205 through 42.17A.240 is designated "C-5," revised ((1/14)) 2/16. Copies of this form are available on the commission's web site, www.pdc.wa.gov, and at the Commission Office, Room 206, Evergreen Plaza Building, Olympia, Washington 98504-0908. Any paper attachments shall be on 8 1/2" x 11" white paper.

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Form C5 (1/14)	This space for office use P M A R K R E C E I V E D
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Out-of-State Political Committee Campaign Finance Report

1. Name and full address of committee making the contribution Name Street address City / State / Zip	2. Check appropriate box <input type="checkbox"/> This is the first report submitted during 20__ <input type="checkbox"/> This shows new expenditures, contributions or information changed from reports submitted previously this calendar year.
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3. Provide the purpose of the committee and the identity of any business, union, association or person with which the committee is affiliated (e.g., a State Committee of the Oregon Republican Party, Idaho committee of United Workers Union or federal PAC of XYZ Trade Assn.)

4. Officers or responsible leaders of committee: Name and full address	Title
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5. States where this political committee is registered and has been actively reporting campaign finance information for the preceding two years: Name of state(s) & administrative agency(s)	Agency(s) website address
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6. Candidate contributions: List each Washington candidate for state, local or judicial office to whom you have made a contribution of more than \$50.00.

Candidate name	Office sought	Political party	Date	Amount

7. Ballot measure committee contributions: List each Washington committee supporting or opposing a ballot measure to whom you have made a contribution of more than \$50.00.

Committee name & full address	Ballot number	For or Against?	Date	Amount

8. Other contributions and expenditures: List each other contribution or expenditure of more than \$50.00 made to or on behalf of any Washington state, local or judicial candidate, ballot measure or political committee.

Recipient name & full address	Purpose	Date	Amount

Check here if continued on an attached sheet

9. Total contributions and expenditures (Add parts 6, 7, 8)

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Form C5 (2/16)	This space for office use P M O A S R T K R E C E I V E D
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Out-of-State Political Committee Campaign Finance Report

1. Name and full address of committee making the contribution Name Street address City / State / Zip	2. Check appropriate box <input type="checkbox"/> This is the first report submitted during 20__ <input type="checkbox"/> This shows new expenditures, contributions or information changed from reports submitted previously this calendar year.
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3. Provide the purpose of the committee and the identity of any business, union, association or person with which the committee is affiliated (e.g., a State Committee of the Oregon Republican Party, Idaho committee of United Workers Union or federal PAC of XYZ Trade Assn.)

4. Officers or responsible leaders of committee:	
Name and full address	Title

5. States where this political committee is registered and has been actively reporting campaign finance information for the preceding two years:	
Name of state(s) & administrative agency(s)	Agency(s) website address

6. Candidate contributions: List each Washington candidate for state, local or judicial office to whom you have made a contribution of more than \$50.00.

Candidate name	Office sought	Political party	Date	Amount

7. Ballot measure committee contributions: List each Washington committee supporting or opposing a ballot measure to whom you have made a contribution of more than \$50.00.

Committee name & full address	Ballot number	For or Against?	Date	Amount

8. Other contributions and expenditures: List each other contribution or expenditure of more than \$50.00 made to or on behalf of any Washington state, local or judicial candidate, ballot measure or political committee.

Recipient name & full address	Purpose	Date	Amount

Check here if continued on an attached sheet

9. Total contributions and expenditures (Add parts 6, 7, 8)

((

10. Aggregate contributions and expenditures made during this calendar year in Washington State. Include amounts shown on this report and C5 reports previously submitted this calendar year. _____

Does this aggregate total represent 20% or more of the committee's nationwide campaign activity to date for this calendar year? Y N

11. Contributions received from Washington residents. List all contributions of more than \$25.00 in the aggregate to this out-of-state committee during the current calendar year from Washington residents or corporations with their headquarters or a primary place of business in Washington.

Name and full address	Date	Amount	Aggregate Total

Check here if continued on an attached sheet

12. Contributions received from persons residing outside of Washington. List the name, address, and employer of each person or corporation residing outside the state of Washington who has made contributions of more than \$2,645.00 in the aggregate to this out-of-state committee during the current calendar year.

Name and full address	Employer name, city and state	Date	Amount	Aggregate Total

Check here if continued on an attached sheet

13. Eligibility to Give to Political Committees and State Office Candidates: A committee must receive \$10 or more each from ten Washington State registered voters before contributing to a Washington State political committee. Additionally, during the six months prior to making a contribution to a state office candidate your committee must have received contributions of \$10 or more each from at least ten Washington State registered voters.

A check here indicates your awareness of and pledge to comply with these provisions. Absence of a check mark means your committee does not qualify to give to Washington State political committees and/or state office candidates.

14. Certification: I certify the information contained in this report is true, complete and correct to the best of my knowledge.

Signature of Committee Official _____ Name – Typed or Printed _____

Title _____ Daytime Telephone No. () _____

E-Mail Address _____

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10. Aggregate contributions and expenditures made during this calendar year in Washington State. Include amounts shown on this report and C5 reports previously submitted this calendar year. _____

Does this aggregate total represent 20% or more of the committee's nationwide campaign activity to date for this calendar year? Y N

11. Contributions received from Washington residents. List all contributions of more than \$25.00 in the aggregate to this out-of-state committee during the current calendar year from Washington residents or corporations with their headquarters or a primary place of business in Washington.

Name and full address	Date	Amount	Aggregate Total

Check here if continued on an attached sheet

12. Contributions received from persons residing outside of Washington. List the name, address, and employer of each person or corporation residing outside the state of Washington who has made contributions of more than \$2,680.00 in the aggregate to this out-of-state committee during the current calendar year.

Name and full address	Employer name, city and state	Date	Amount	Aggregate Total

Check here if continued on an attached sheet

13. Eligibility to Give to Political Committees and State Office Candidates: A committee must receive \$10 or more each from ten Washington State registered voters before contributing to a Washington State political committee. Additionally, during the six months prior to making a contribution to a state office candidate your committee must have received contributions of \$10 or more each from at least ten Washington State registered voters.

A check here indicates your awareness of and pledge to comply with these provisions. Absence of a check mark means your committee does not qualify to give to Washington State political committees and/or state office candidates.

14. Certification: I certify the information contained in this report is true, complete and correct to the best of my knowledge.

Signature of Committee Official _____	Name – Typed or Printed _____
Title _____	Daytime Telephone No. () _____
	E-Mail Address _____

Instructions – (Statutory reference: RCW 42.17A.250)

Who Must Report on C5 Form: An out-of-state political committee, including political committees filing with the Federal Election Commission, organized for the purpose of supporting or opposing candidates or ballot propositions in another state that is not otherwise required to report under RCW 42.17A.205 through 42.17A.240 which has made contributions or expenditures to or on behalf of a state, local or judicial candidate or political committee in Washington state. See WAC 390-16-049 reprinted below. A political committee making contributions or expenditures to or on behalf of a state, local or judicial candidate or political committee in Washington state that fails to satisfy all of the conditions of WAC 390-16-049(3) shall not use the C5 form but instead shall register and report as a political committee pursuant to RCW 42.17A.205 through 42.17A.240 and as otherwise required by RCW 42.17A.

When to Report: A C5 report is due no later than the 10th day of the month following any month in which a contribution or other expenditure of more than \$50 is made to or on behalf of a Washington state candidate or political committee. After filing an initial C5 report, subsequent reports during the same calendar year shall be filed updating or amending the information previously reported. These follow-up reports are also due no later than the 10th day of the month following any month in which an additional contribution or other expenditure of more than \$50 is made. The C5 report is considered filed as of the postmark date.

Send Report to: Public Disclosure Commission, 711 Capitol Way, Room 206, PO Box 40908, Olympia, Washington 98504-0908

Questions? Contact PDC at www.pdc.wa.gov, toll free at 1-877-601-2828 or 1-360-753-1111

WAC 390-16-049 Out-of-state political committees – Implementation of RCW 42.17A.250

(1) RCW 42.17A.250 governs campaign reporting in Washington State by committees located outside of Washington. The statute directs that an out-of-state political committee organized for the purpose of supporting or opposing candidates or ballot propositions in another state (and that is not otherwise required to report as an in-state committee) reports the information listed in RCW 42.17A.250 on a C5 form (WAC 390-16-050). The committee begins reporting on a C5 form when it makes an expenditure supporting or opposing a Washington state candidate or political committee.

(2) To file as an out-of-state political committee, all the criteria in (a) and (b) below must be satisfied:

(a) **Out-of-State.** First, the committee must be located out-of-state. It must be maintaining its office or headquarters in another U.S. state or the District of Columbia, and has no office, street address or corporate registered agent in Washington State. If there is no office or headquarters in another state or the District of Columbia, and no corporate registered agent in Washington State, the political committee is deemed out-of-state if its treasurer resides in another U.S. state or the District of Columbia.

(b) **Organizational Purpose and Campaign Activities.** Second, the committee must also be currently organized primarily for engaging in campaign activities in another state. The political committee may be described in other states as a political committee, political action committee (PAC), group (Alaska) or similar terms to describe a committee. Therefore, to qualify as a current out-of-state committee, the committee must also:

(i) Be currently registered and actively filing campaign disclosure reports in one or more other states and has been so filing for the preceding two years; and,

(ii) Have organizational documents showing it was originally formed and is currently organized for the purpose of making expenditures in another state or soliciting contributions for use in another state's election campaigns; and,

(iii) Have spent less than 20 percent of its aggregate expenditures for all political campaign activity nationwide at any point in any calendar year to support and/or oppose Washington candidates for state, local and judicial office, Washington ballot measures and/or Washington political committees.

(3) A committee that does not satisfy the criteria subsection (2) shall file as an in-state committee under RCW 42.17A, including RCW 42.17A.205 – RCW 42.17A.240.

(4) Out-of-state political committees reporting under RCW 42.17A.250 are also subject to reporting pursuant to RCW 42.17A.260 (political advertising independent expenditures) and 42.17A.305 through 42.17A.315 (electioneering communications).

WSR 16-04-081**PERMANENT RULES****PUBLIC DISCLOSURE COMMISSION**

[Filed January 29, 2016, 1:47 p.m., effective February 29, 2016]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Clarifies the conditions under which an elected official subject to the provisions of RCW 42.17A.560 may participate in fund-raising events benefitting a candidate who is not subject to the session freeze or a bona fide political party. This clarification had been adopted ad [as] PDC Interpretation 01-04, which is being converted to rule.

Citation of Existing Rules Affected by this Order: Amending 1 [390-17-400].

Statutory Authority for Adoption: RCW 42.17A.110, 42.17A.125(1).

Adopted under notice filed as WSR 15-23-020 on November 7, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 28, 2016.

Lori Anderson
Communications and
Training Officer

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-17-400 Time limit to solicit or accept contributions. The purpose of this rule is to clarify and implement RCW 42.17A.560.

(1) **"Campaign debt,"** as used in RCW 42.17A.560 and this rule, means any debt incurred by a candidate seeking election to a nonfederal public office, including campaigns for state, county, city, town, school district, special district or other state political subdivision elective office.

(2) **"Known candidates"** means individuals who are, or who become, candidates for state or local office during a legislative session freeze period.

(3) **"Legislative session freeze period"** means the period of time in RCW 42.17A.560 within which contributions shall not be solicited or accepted by a state official or a person employed by or acting on behalf of a state official.

(a) The freeze period begins at 12:01 a.m. on the thirtieth day before the start of the regular legislative session and ends at 11:59 p.m. on the day of adjournment of the regular legislative session.

(b) If a special session is held immediately following the end of the regular legislative session, the freeze period ends at 11:59 p.m. on the day the special session adjourns.

(c) If a special session is held other than within thirty days before a regular legislative session, the freeze period begins at 12:01 a.m. on the first day of the special session and ends at 11:59 p.m. on the final day of the special session.

(4) A successful candidate for state office who does not already hold a state office is not required to comply with RCW 42.17A.560 until sworn into office.

(5) A state official must comply with RCW 42.17A.560 until he or she no longer holds state office.

(6) (~~"Person employed by or acting on behalf of a state official"~~ includes a caucus political committee or any political committee financed or controlled by a legislative caucus as a whole or by one or more officers of a caucus political committee.

~~(7) State officials may do the following.))~~ **Activities allowed during a freeze period.** During a legislative session freeze period, the activities in which state officials may engage include, but are not limited to:

(a) Soliciting or accepting contributions to assist his or her own campaign for federal office;

(b) Accepting gifts or other items permitted under chapter 42.52 RCW, so long as the gift or other item is not

- A contribution to an incumbent state official or known candidate,
- A contribution to a public office fund,
- Used to pay a nonreimbursed public office related expense, or
- Used to retire a campaign debt;

(c) Attending and speaking at a fund-raising event held by or on behalf of a bona fide political party, so long as the contributions raised are not earmarked or otherwise designated for any incumbent state official or known candidate;

(d) Attending a fund-raiser held by a candidate who is not subject to RCW 42.17A.560, provided the state official does not solicit or accept any contributions in connection with the fund-raiser.

(i) The state official's planned attendance may be included in publicity for the fund-raiser.

(ii) The state official may receive complimentary admission from the candidate so long as the official attends to show support for the candidate and the attendance does not assist the official's own campaign.

(e) Transferring their own personal funds, as defined in WAC 390-17-305, or their own surplus funds, as defined in RCW 42.17A.005, to their own campaign account, so long as the funds are properly reported;

~~((e))~~ (f) Soliciting or accepting contributions on behalf of a nonprofit charity; or

~~((f))~~ (g) Soliciting or accepting contributions on behalf of any political committee, including a caucus political committee, a bona fide political party or a ballot measure committee, so long as the political committee does not spend the contributions for the benefit of incumbent state officials or known candidates.

~~((8) State officials may not do the following.))~~ **(7) Activities not allowed during a freeze period.** During a legislative session freeze period, a state official, or a person employed by or acting on behalf of a state official, may not solicit or accept contributions that:

- (a) Go to an incumbent state official or known candidate;
- (b) Go to a public office fund;
- (c) Are used to pay a nonreimbursed public office related expense;
- (d) Are used to retire a campaign debt;

(e) Go to a caucus political committee if the committee spends the contributions for the benefit of incumbent state officials or known candidates; or

(f) Go to a bona fide political party or a political committee if the political party or committee spends the contributions for the benefit of incumbent state officials or known candidates.

~~((9) Caucus political committees. During a legislative session freeze period, a caucus political committee~~

~~(a) May solicit or accept contributions from caucus members if the members make the contributions with their own personal funds, as defined in WAC 390-17-305, or with their own surplus funds, as defined in RCW 42.17A.005;~~

~~(b) May not solicit or accept contributions for any of the purposes specified in subsection (8) of this rule.~~

~~((10)) (8) "Person(s) employed by or acting on behalf of a state official(s)" includes a caucus political committee or any political committee financed or controlled by a legislative caucus as a whole or by one or more officers of a caucus political committee.~~

~~(a) During a legislative session freeze period, a person employed by or acting on behalf of a state official may not solicit or accept contributions for any of the purposes specified in subsection ((8)) (7) of this section.~~

~~((11)) (b) During a legislative session freeze period, a caucus political committee may solicit or accept contributions from caucus members if the members make the contributions with their own personal funds, as defined in WAC 390-17-305, or with their own surplus funds, as defined in RCW 42.17A.005.~~

~~(c) During a legislative session freeze period, a caucus political committee may not solicit or accept contributions for any of the purposes specified in subsection (7) of this rule.~~

~~(9) Bona fide political parties. During a legislative session freeze period, a bona fide political party may not solicit or accept contributions that are~~

- Used for a public office fund,
- Used for a state official's nonreimbursed public office related expenses,
- Used for retiring a state official's campaign debt, or
- Earmarked contributions to specific incumbent state officials or known candidates.

However, a bona fide political party may solicit or accept contributions for its own fund-raising purposes.

~~((12)) (10) Segregating session freeze funds. During a legislative session freeze period, if a state official, a caucus political committee, or another person employed by or acting on behalf of a state official solicits or accepts contributions to~~

- A caucus political committee,
- A bona fide political party, or
- Any political committee that supports or opposes state or local office candidates, the contributions are presumed to violate RCW 42.17A.560, unless the contributions are
- Deposited into a separate bank account and

- Not spent for the benefit of incumbent state officials or known candidates.

However, nothing in this subsection authorizes a state official, a caucus political committee or any person employed by or acting on behalf of a state official to take any of the actions prohibited by subsection ~~((8) or (9)(b)) (7) or (8)(c)~~ of this section.

~~((13)) (11) Session freeze solicitations. If a person is solicited for a contribution during the legislative session freeze period~~

- By a state official, a caucus political committee, or another person employed by or acting on behalf of a state official, and
- The contribution is to a caucus political committee, a bona fide political party, or a political committee that supports or opposes candidates for state or local office, and
- The person makes a contribution during or after the freeze period in response to this solicitation, the contribution is subject to RCW 42.17A.560 and subsection (12) of this section.

~~((14)) (12) Spending contributions to benefit incumbents or known candidates. For purposes of complying with subsections ~~((7)(f), (8)(e) and (f), and (12)) (6)(g), (7)(e) and (f), and (10)~~ of this section, contributions are considered spent for the benefit of incumbent state officials or known candidates if the contributions are used at any time for one or more of the following purposes.~~

~~(a) Contributions to incumbent state officials or known candidates.~~

~~(b) Independent expenditures supporting incumbent state officials or known candidates, or opposing their opponents, whether or not the opponents are themselves known candidates during a legislative session freeze period.~~

~~(c) Payments to staff, consultants or advisors for performing activities that directly assist or promote the election of incumbent state officials or known candidates.~~

~~(d) Polls or surveys that relate to incumbent state officials, known candidates or their districts, or to general voter attitudes or preferences, unless~~

- A poll or survey is produced, conducted, tabulated and analyzed according to the terms of a written confidentiality agreement and, if the agreement is breached, all reasonable steps are taken to enforce it, and
- The results of a poll or survey are not provided by the spender, or with the spender's permission or prior knowledge, to incumbent state officials, known candidates or their agents.

However, candidate recruitment poll or survey results may be provided to an individual who later becomes a known candidate without the expenditure being considered as benefiting a known candidate so long as the poll or survey does not constitute a contribution to the individual or does not otherwise support or promote his or her election to state or local office. For purposes of this

subsection, a "candidate recruitment poll or survey" is a poll or survey that is conducted for the sole purpose of recruiting candidates to run for public office and only determines

- The respondent's party preference,
- The level of support the incumbent currently has and how strong that support is, but not why he or she has that support,
- Whether respondents recognize the names of individuals who may decide to seek that elective office,
- Whether respondents currently hold a favorable opinion about these individuals, their abilities or fitness for elective office, but not why such opinions are held,
- Whether respondents would likely vote for one or more of these individuals were they to seek office, but not why respondents would vote in the manner they indicated or whether they could be persuaded to change their vote, and
- The validity of the poll or survey results.

(e) Any other expenditure that directly benefits or promotes the election to state or local office of incumbent state officials or known candidates.

WSR 16-04-087
PERMANENT RULES
HEALTH CARE AUTHORITY
(Washington Apple Health)

[Filed January 29, 2016, 3:36 p.m., effective February 29, 2016]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The agency is amending these rules to comply with federal guidance.

Citation of Existing Rules Affected by this Order: Repealing WAC 182-514-0235 and 182-514-0255; and amending WAC 182-514-0230, 182-514-0240, 182-514-0245, 182-514-0250, 182-514-0260, and 182-514-0270.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 16-01-068 on December 14, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 6, Repealed 2.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making:

New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 6, Repealed 2.

Date Adopted: January 29, 2016.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-06-068, filed 2/28/14, effective 3/31/14)

WAC 182-514-0230 (~~Washington apple health—MAGI-based long-term care program.~~) **Purpose.** (1) (~~The sections that follow describe the~~) This chapter describes eligibility requirements for the Washington apple health (WAH) modified adjusted gross income (MAGI)-based long-term care program (LTC) for children and adults who (~~are admitted for a long-term stay to a medical institution, an inpatient psychiatric facility or an institution for mental diseases (IMD):~~

(a) WAC 182-514-0235 Definitions;
(b) WAC 182-514-0240 General eligibility requirements for the WAH MAGI-based long-term care program;
(c) WAC 182-514-0245 Resource eligibility for WAH MAGI-based long-term care program;
(d) WAC 182-514-0250 WAH MAGI-based long-term care programs for adults twenty-one years of age or older;
(e) WAC 182-514-0255 WAH MAGI-based long-term care program for young adults nineteen and twenty years of age;

(f) WAC 182-514-0260 WAH MAGI-based long-term care program for children eighteen years of age or younger;

(g) WAC 182-514-0265 How the agency or its designee determines how much of an institutionalized person's income must be paid towards the cost of care for the WAH MAGI-based long-term care program; and

(h) WAC 182-514-0270 When an involuntary commitment to Eastern or Western State Hospital is covered by Washington apple health.

(2) Recipients of a noninstitutional WAH children's program as described in WAC 182-505-0210 or 182-505-0211 do not need to submit a new application for long-term care coverage when admitted to an institution. The agency or its designee treats the admittance to the institution as a change of circumstances and determines eligibility based upon the anticipated length of stay)) have been admitted to an institution as defined in WAC 182-500-0050 for at least thirty days. The rules are stated in the following sections:

(a) WAC 182-514-0240 General eligibility;

(b) WAC 182-514-0245 Resource eligibility;

(c) WAC 182-514-0250 Program for adults age nineteen and older;

(d) WAC 182-514-0260 Program for children under age nineteen;

(e) WAC 182-514-0263 Non-SSI-related institutional medically needy coverage for pregnant women and people age twenty and younger.

(f) WAC 182-514-0270 Involuntary commitment to Eastern or Western State Hospital.

(2) A noninstitutional WAH program recipient does not need to submit a new application for LTC coverage if admitted to an institution under this section. Admission to an insti-

tution constitutes a change of circumstances. Eligibility is based on institutional status under WAC 182-513-1320.

(3) In this chapter, "medicaid agency" or "agency" means the Washington state health care authority and includes the agency's designee. See chapter 182-500 WAC for additional definitions.

(4) Income standards used in this chapter are listed at <http://www.hca.wa.gov/medicaid/eligibility/pages/standards.aspx>.

AMENDATORY SECTION (Amending WSR 14-06-068, filed 2/28/14, effective 3/31/14)

WAC 182-514-0240 ((Washington apple health—General eligibility requirements for MAGI-based long-term care program.)) General eligibility. ((1) This section applies to applicants for long-term care (LTC) services under the Washington apple health (WAH) modified adjusted gross income (MAGI) based LTC program. Additional rules may apply based upon a person's age at the time he or she applies for LTC services and whether the facility the person is admitted to is a medical institution, inpatient psychiatric facility, or an institution for mental diseases (IMD). Additional rules are described in WAC 182-514-0245 through 182-514-0265.

(2) The following requirements apply to be eligible for WAH MAGI based LTC coverage under this section:

(a) Institutional status described in WAC 182-513-1320. A person meets institutional status if he or she is admitted to:

(i) A medical institution and resides, or is likely to reside, there for thirty days or longer, regardless of age;

(ii) An inpatient psychiatric facility or IMD and resides, or is likely to reside, there for thirty days or longer and is eighteen through twenty years of age; or

(iii) An inpatient psychiatric facility or IMD and resides, or is likely to reside, there for ninety days or longer and is seventeen years of age or younger.

(b) General eligibility requirements described in WAC 182-503-0505 (with the exception that subsections (3)(c) and (d) of that section do not apply to noncitizen applicants who are eligible under one of the WAH alien medical programs described in chapter 182-507 WAC) and the person meets the program requirements of one of the following:

(i) WAH for parents and caretaker relatives as described in WAC 182-505-0240, including anyone who receives extended health care coverage as described in WAC 182-523-0100;

(ii) WAH for kids as described in WAC 182-505-0210 (with the exception that for MAGI-based LTC services, a person is considered a child through the age of twenty one);

(iii) WAH for adults as described in WAC 182-505-0250;

(iv) WAH for pregnant women as described in WAC 182-505-0115; or

(v) WAH alien medical program as described in WAC 182-507-0110 (with the exception that for MAGI-based LTC services, alien medical coverage may be authorized for children through twenty one years of age) and:

(A) Have a qualifying emergency condition; and

(B) For payment for LTC services and room and board costs in the institution, request prior authorization from the

aging and long-term support administration (AL TSA) if the person is admitted to a nursing facility.

(c) Have countable income below the applicable standard described in WAC 182-514-0250(4), 182-514-0255(3), or 182-514-0260(4); and

(d) Be assessed as needing nursing facility level of care as described in WAC 388-106-0355 if the admission is to a nursing facility. (This does not apply to nursing facility admissions under the hospice program.)

(3) Once the agency or its designee determines a person meets institutional status, it does not count the income of parent(s), a spouse, or dependent child(ren) when determining countable income. Only income received by the person in his or her own name is counted for eligibility determination.

(4) A person who is not a United States citizen or a qualified alien does not need to provide or apply for a Social Security number or meet the citizenship requirements under WAC 182-503-0535 as long as the requirements in subsection (2) of this section are met.

(5) A person who meets the federal aged, blind or disabled criteria may qualify for institutional benefits with income of up to three hundred percent of the federal benefit rate (FBR). Rules relating to institutional eligibility for an aged, blind or disabled person are described in WAC 182-513-1315. A person who is SSI-related and who meets the eligibility criteria described in WAC 182-513-1316 may qualify for institutional benefits.

(6) If a person does not meet institutional status, the agency or its designee determines his or her eligibility for a noninstitutional WAH medical program. A person who is determined eligible for CN or medically needy (MN) coverage under a noninstitutional program who is admitted to a nursing facility for less than thirty days is approved for coverage for the nursing facility room and board costs, as long as the person is assessed by AL TSA as meeting nursing home level of care as described in WAC 388-106-0355.

(7) A person who is found eligible for the MAGI-based LTC program is not required to participate income or assets toward the cost of care in the post-eligibility treatment-of-income process that applies to an SSI-related applicant.) (1) To be eligible for modified adjusted gross income (MAGI)-based long-term care (LTC) coverage under this section, a person must:

(a) Meet institutional status under WAC 182-513-1320;

(b) Meet the general eligibility requirements under WAC 182-503-0505, unless the applicant is a noncitizen, in which case WAC 182-503-0505 (3)(c) and (d) do not apply;

(c) Have countable income below the applicable standard described in WAC 182-514-0250(2) or 182-514-0260(3), unless the applicant is eligible as medically needy;

(d) Satisfy the program requirements in WAC 182-514-0250 and 182-514-0260; and

(e) Meet the nursing facility level of care under WAC 388-106-0355 if admitted to a nursing facility for nonhospice care. Hospice patients are exempt from this requirement.

(2) A person age nineteen or older who does not meet the citizenship or immigration requirements under WAC 182-503-0535 to qualify for medicaid must meet the criteria in subsection (1) of this section and:

(a) Have a qualifying emergency condition and meet the requirements under WAC 182-507-0115 and 182-507-0120; or

(b) Meet the requirements under WAC 182-507-0125 if the person needs LTC coverage in a nursing facility.

(3) If a person meets institutional status, the medicaid agency counts only income received by the person or on behalf of the person when determining eligibility.

(4) A person who meets the federal aged, blind, or disabled criteria may qualify for coverage under chapter 182-513 WAC.

(5) A person who receives supplemental security income (SSI) is not eligible for the MAGI-based LTC program.

(6) If a person does not meet institutional status, the agency determines the person's eligibility for a noninstitutional medical program.

(7) A person eligible for categorically needy or medically needy coverage under a noninstitutional program who is admitted to a nursing facility for fewer than thirty days is only approved for coverage for the nursing facility room and board costs if the person meets the nursing facility level of care as described under WAC 388-106-0355.

(8) A MAGI-based LTC recipient is not required to pay toward the cost of care.

AMENDATORY SECTION (Amending WSR 14-06-068, filed 2/28/14, effective 3/31/14)

~~WAC 182-514-0245 ((Washington apple health—Resource eligibility for MAGI-based long-term care program.)) Resource eligibility. ((1) There is no resource test for applicants or recipients of the Washington apple health (WAH) modified adjusted gross income (MAGI)-based long-term care (LTC) program.~~

~~(2) The transfer of asset evaluation described in WAC 182-513-1363 does not apply to applicants or recipients who are eligible under the WAH MAGI-based LTC program.)) Applicants for and recipients of the modified adjusted gross income (MAGI)-based long-term care program are exempt from the transfer-of-asset evaluation under WAC 182-513-1363, and there is no resource test.~~

AMENDATORY SECTION (Amending WSR 14-06-068, filed 2/28/14, effective 3/31/14)

~~WAC 182-514-0250 ((Washington apple health—MAGI-based long-term care)) Program for adults age ((twenty-one or)) nineteen and older. (1) To qualify for coverage under the modified adjusted gross income (MAGI)-based long-term care (LTC) program under this section, a person ((twenty-one years of)) age nineteen or older must ((meet the requirements in WAC 182-505-0250 to qualify for)) be eligible for one of the following Washington apple health (WAH) ((modified adjusted gross income (MAGI)-based long-term care (LTC) coverage under this section)) programs:~~

~~(a) WAC 182-505-0240 Washington apple health—Parents and caretaker relatives;~~

~~(b) WAC 182-523-0100 Washington apple health—Medical extension;~~

~~(c) WAC 182-505-0250 Washington apple health—MAGI-based adult medical;~~

~~(d) WAC 182-505-0115 Washington apple health—Eligibility for pregnant women; or~~

~~(e) WAC 182-507-0110 Washington apple health—Alien medical programs.~~

~~(2) The categorically needy (CN) income level ((CNIL)) for health care coverage under this section is ((one hundred thirty-three percent of the federal poverty level. A person's countable income (after a standard five percentage point income disregard) must be at or below this amount to be eligible)) the applicable standard for the program the person receives after the standard five percentage point income disregard. See WAC 182-505-0100 for standards based on the federal poverty level.~~

~~(3) The medicaid agency determines countable income for ((categorically needy (CN))CN((3))) coverage under this section ((is determined)) using ((the)) MAGI ((methodologies described in)) methodology under chapter 182-509 WAC.~~

~~(4) ((With the exception of an institutionalized pregnant woman, if the person's income exceeds the standards to be eligible under the WAH MAGI-based CN long-term care program, he or she is not eligible for medically needy coverage under this section.~~

~~(5) A person, age twenty-one through sixty-four years of age who is admitted to an institution for mental diseases (IMD) is not eligible for coverage under this section.)) The agency approves CN coverage under this section for twelve calendar months.~~

~~(5) A person is ineligible for medically needy (MN) coverage under this section if the person's income exceeds CN eligibility standards, unless the person is age nineteen, twenty, or pregnant.~~

~~(6) If a person who is age nineteen, twenty, or pregnant is not eligible for CN coverage under this section, the agency determines eligibility for MN coverage under WAC 182-514-0263.~~

~~(7) A person who applies for or receives MAGI-based LTC coverage at Eastern or Western State Hospital in the month of his or her twenty-first birthday and who receives active inpatient psychiatric treatment that will likely continue through the person's twenty-first birthday is eligible for CN coverage until:~~

~~(a) The facility discharges the person; or~~

~~(b) The end of the month in which the person turns age twenty-two, whichever occurs first.~~

~~(8) Except for a person described in subsection (7) of this section, a person who is admitted to Eastern or Western State Hospital who is older than age twenty but younger than age sixty-five is not eligible for WAH coverage.~~

AMENDATORY SECTION (Amending WSR 14-06-068, filed 2/28/14, effective 3/31/14)

~~WAC 182-514-0260 ((Washington apple health—MAGI-based long-term care coverage for children eighteen years of age or younger.)) Program for children under age nineteen. (1) ((Children eighteen years of age or younger must meet the requirements in WAC 182-514-0240 to qualify for the Washington apple health (WAH) modified~~

adjusted gross income (MAGI)-based long-term care (LTC) coverage under this section:

~~(2) When a child eighteen years of age or younger)) To qualify for the modified adjusted gross income (MAGI)-based long-term care (LTC) program under this section, a child under age nineteen must meet:~~

~~(a) The general eligibility requirements in WAC 182-514-0240; and~~

~~(b) Program requirements under WAC 182-505-0210 or 182-505-0117.~~

~~(2) If a child under age nineteen is eligible for the premium-based ((WAH for kids)) children's program ((as described in WAC 182-505-0210)) under WAC 182-505-0215, the medicaid agency ((or its designee)) redetermines ((his or her)) the child's eligibility ((using the provisions of)) under this section so that the child's family is not required to pay the premium.~~

~~(3) The categorically needy (CN) income level ((CNIL for WAH)) for LTC coverage under this section is two hundred ten percent of the federal poverty level ((f))after ((a)) the standard five percentage point income disregard((b)).~~

~~(4) To determine countable income for ((categorically needy f))CN((g)) coverage under this section ((is determined using the MAGI methodologies described in)), apply MAGI methodology under chapter 182-509 WAC.~~

~~(5) The agency ((or its designee)) approves CN ((health care)) coverage under this section for twelve calendar months ((certification period)). If the child is discharged from the facility before the end of ((his or her)) the certification period, the child remains continuously eligible for CN ((health care)) coverage through the ((end of the original)) certification ((date)) period, unless ((he or she)) the child ages out of the program, moves out of state, is incarcerated, or dies.~~

~~(6) If a child is not eligible for CN ((health care)) coverage under this section, the agency ((or its designee)) determines the child's eligibility for ((health care)) coverage under the ((WAH)) institutional medically needy ((MN)) program described in WAC ((182-513-1395)) 182-514-0263.~~

~~(7) ((MN coverage is only available for a child who meets the citizenship requirements under WAC 182-503-0535.~~

~~(8) The facility)) The institution where the child resides may submit an application on the child's behalf and may act as ((an)) the child's authorized representative if the child is:~~

~~(a) In a court-ordered, out-of-home placement under chapter 13.34 RCW; or~~

~~(b) Involuntarily committed to an inpatient treatment program by a court order under chapter 71.34 RCW.~~

~~((9) Children who are eligible for WAH MAGI-based long-term care coverage under the provisions of this section may be required to contribute a portion of their income towards the cost of care as described in WAC 182-514-0265.)~~

NEW SECTION

WAC 182-514-0263 Non-SSI-related institutional medically needy coverage for pregnant women and people age twenty and younger. (1) Medically needy (MN) coverage under this section is only available for people age

twenty and younger or pregnant women. The medicaid agency determines a person who meets SSI-related criteria under WAC 182-512-0050 eligible for institutional MN coverage under WAC 182-513-1395. If a person meets requirements in both this section and WAC 182-513-1395, the person may choose which program to enroll in for coverage.

(2) A person whose income exceeds the categorically needy (CN) standards under WAC 182-514-0250 and 182-514-0260 is:

(a) Eligible for MN coverage with no spenddown if the person's countable income (CI) is equal to or less than the department-contracted daily rate times the number of days in the institution;

(b) Eligible for MN coverage after a spenddown under WAC 182-519-0110 is met if the person's CI is above the department-contracted daily rate times the number of days in the institution but less than the institution's private rate;

(c) Not eligible for payment of long-term care services provided by the institution if the person's CI exceeds the institution's private rate;

(d) Responsible for paying up to the monthly state rate for the facility as participation in the cost of care; and

(e) Allowed to keep a monthly personal needs allowance (PNA) of at least \$57.28. Current PNA and long-term care standards can be found at <http://www.hca.wa.gov/medicaid/eligibility/pages/standards.aspx>.

(3) If a person's CI exceeds the institution's private rate, the agency determines eligibility for medical coverage under chapter 182-519 WAC.

AMENDATORY SECTION (Amending WSR 14-06-068, filed 2/28/14, effective 3/31/14)

WAC 182-514-0270 ((When an)) Involuntary commitment to Eastern or Western State Hospital ((is covered by medicaid)). (1) A person who is ((admitted)) involuntarily committed to Eastern or Western State Hospital ((for inpatient psychiatric treatment)) under chapter 71.34 RCW is eligible for categorically needy (CN) ((health care coverage in limited circumstances.

~~(2) To be eligible under this program, a person must:~~

~~(a) Be twenty years of age or younger, or sixty five years of age or older)) coverage if the person:~~

~~(a) Is under age twenty-one;~~

~~(b) Meets institutional status under WAC 182-513-1320; and~~

~~(c) ((Be involuntarily committed to an inpatient treatment program by a court order under chapter 71.34 RCW;~~

~~(d) Have)) Has countable income below:~~

~~(i) Two hundred ten percent of the federal poverty level if ((age twenty years or younger; or~~

~~(ii) The SSI-related CN income level if age sixty five years or older and have countable resources below the standard described in WAC 182-512-0010.~~

~~(3) A person who receives active psychiatric treatment in Eastern or Western State Hospital at the time of his or her twenty-first birthday continues to be eligible for CN health care coverage until the date he or she is discharged from the facility or until the person's twenty-second birthday, whichever occurs first.~~

~~(4) A person between the age of twenty-one and sixty-five, with the exception of subsection (3) of this section, is not eligible for federally funded health care coverage through Washington apple health.) under age nineteen; or~~

~~(ii) One hundred thirty-three percent of the federal poverty level if age nineteen or twenty.~~

~~(2) A person who is involuntarily committed or receives MAGI-based long-term care coverage at Eastern or Western State Hospital in the month of the person's twenty-first birthday and receives active inpatient psychiatric treatment that will likely continue through the person's twenty-first birthday, is eligible for CN coverage until:~~

~~(a) The facility discharges the person; or~~

~~(b) The end of the month in which the person turns twenty-two, whichever occurs first.~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 182-514-0235 Definitions.

WAC 182-514-0255 Washington apple health—MAGI-based long-term care program for young adults nineteen and twenty years of age.

WSR 16-04-094

PERMANENT RULES

DEPARTMENT OF

ENTERPRISE SERVICES

[Filed February 1, 2016, 11:32 a.m., effective March 3, 2016]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule-making order repeals chapter 200-370 WAC.

Under HB 2452 (2012), commonly known as procurement reform, RCW 43.19.185 was repealed. The former RCW 43.19.185 mandated rules relating to the use and control of credit cards by state agencies and departments.

While credit card policies and standards are still required for purchases under chapter 39.26 RCW, credit card rules are not. Rules under the former RCW 43.19.195 [43.19.185] were first adopted in 1986. At that point in time, government use of credit/debit/purchasing cards was emerging into mainstream payment methodologies. Since then, the credit/debit/purchasing card landscape has matured and is accepted as a standard payment practice. Fully developed and operational credit card systems, controls and policies are in place across state agencies and followed by state agencies. Further, the former department of general administration and the office of financial management worked together and put in place fully developed policies and procedures under chapter 45 of the State Administrative and Accounting Manual.

Based on the preceding, rules are no longer relevant and in some cases the current rules create inefficiencies. Because of this, the department of enterprise services is repealing the rules.

Citation of Existing Rules Affected by this Order: Repealing chapter 200-370 WAC.

Statutory Authority for Adoption: Chapters 43.19 and 39.26 RCW.

Adopted under notice filed as WSR 15-15-066 on July 10, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 4.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 4.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: February 1, 2016.

Jack Zeigler
Policy and Rules Manager

REPEALER

The following chapter of the Washington Administrative Code is repealed:

Chapter 200-370 WAC Office of state procurement

WSR 16-04-097

PERMANENT RULES

DEPARTMENT OF HEALTH

(Nursing Care Quality Assurance Commission)

[Filed February 1, 2016, 4:56 p.m., effective March 3, 2016]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amending WAC 246-840-125; repealing WAC 246-840-201 through 246-840-207; and new WAC 246-840-200 through 246-840-260. The rules improve and clarify the audit process, remove nonenforceable requirements, improve consistency, give due process for those not meeting continuing competency requirements, and support nurses furthering their nursing education including suicide prevention training.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-840-201, 246-840-202, 246-840-203, 246-840-204, 246-840-205, 246-840-206 and 246-840-207; and amending WAC 246-840-125.

Statutory Authority for Adoption: RCW 18.79.110 and 43.70.442.

Other Authority: RCW 18.79.110 and 43.70.442.

Adopted under notice filed as WSR 15-20-055 on September 30, 2015.

A final cost-benefit analysis is available by contacting Teresa Corrado, 111 Israel Road S.E., Tumwater, WA 98504, phone (360) 236-4708, fax (360) 236-4738, e-mail teresa.corrado@doh.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 5, Amended 1, Repealed 7.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 7, Amended 1, Repealed 7.

Date Adopted: February 1, 2016.

Paula R. Meyer, MSN, RN, FRE
Executive Director
Nursing Care Quality
Assurance Commission

AMENDATORY SECTION (Amending WSR 14-02-026, filed 12/20/13, effective 1/20/14)

WAC 246-840-125 Retired active credential. (1) A registered or licensed practical nurse may place their credential in "retired active" status by meeting the requirements of this section.

(2) A registered or licensed practical nurse who holds a retired active credential may only practice in intermittent or emergent circumstances.

(a) Intermittent means the registered or licensed practical nurse will practice no more than ninety days a year.

(b) Emergent means the registered or licensed practical nurse will practice only in emergency circumstances such as earthquakes, floods, times of declared war, or other states of emergency.

(3) To obtain a retired active credential a registered or a licensed practical nurse must:

(a) Meet the requirements in WAC 246-12-120.

(b) Pay the appropriate fee in WAC 246-840-990.

(4) To renew a retired active credential the registered nurse or licensed practical nurse must:

(a) Meet the requirements in WAC 246-12-130. The retired active credential fee is in WAC 246-840-990.

(b) Have completed forty-five hours of continuing nursing education every three years in compliance with WAC ~~((246-840-203 (1)(a)(iii)(A) through (F)))~~ 246-840-220 (2)(b). Education may include CPR and first aid.

(c) Demonstrate they have practiced at least ninety-six hours every three years. Practice may be paid or volunteer, but must require nursing knowledge or a nursing license.

(d) Renew their retired active credential every year on their birthday.

(5) To return to active status the registered or licensed practical nurse must:

(a) Meet the requirements in WAC 246-12-140. The active renewal fee is in WAC 246-840-990.

(b) Meet the continuing competency requirements in WAC ~~((246-840-205))~~ 246-840-230 (5)(d).

(6) A registered or licensed practical nurse who holds a retired active credential is subject to a continuing competency audit((-

~~(a) All late renewals and a percentage up to five percent of registered and licensed practical nurses renewing their license may be audited by the commission.~~

~~(b) A registered or practical nurse being audited will have thirty calendar days to complete and submit to the commission the audit form documenting at least ninety-six hours of active practice, and forty-five hours of continuing nursing education every three years. Active practice hours are not to exceed ninety days each year.~~

~~(c) To document practice hours and continuing nursing education a registered or licensed practical nurse shall comply with WAC 246-840-206 (4) and (5))~~ as outlined in WAC 246-840-220, 246-840-230, and 246-840-240.

NEW SECTION

WAC 246-840-200 Continuing competency purpose statement. Patients, families, and communities expect safe, competent, and compassionate nursing care. WAC 246-840-200 through 246-840-260 establish a self-directed continuing competency program which includes participation in active practice and continuing nursing education for registered nurses and licensed practical nurses as a mechanism to help keep patients safe and improve nursing practice.

NEW SECTION

WAC 246-840-210 Continuing competency definitions. The definitions in this section apply throughout WAC 246-840-200 through 246-840-260 unless the context clearly requires otherwise.

(1) **"Active nursing practice"** means engagement in paid, unpaid, or volunteer activity performing acts requiring substantial nursing knowledge, judgment, and skills described under RCW 18.79.040, 18.79.050, and 18.79.060. Active nursing practice may include, but is not limited to, working as an administrator, quality manager, policy officer, public health nurse, parish nurse, home health nurse, educator, consultant, regulator, and investigator or case manager.

(2) **"Advanced nursing degree"** means education preparation beyond one's initial education for nurse licensure.

(3) **"Attestation"** means the affirmation by signature of the nurse indicating compliance with the standards and terms of the continuing competency requirements.

(4) **"Compliance audit"** means a review of documents to determine whether the nurse has fulfilled the requirements in WAC 246-840-220 through 246-840-260.

(5) **"Continuing competency"** is the ongoing ability of a nurse to maintain, update and demonstrate sufficient knowledge, skills, judgment, and qualifications necessary to practice safely and ethically in a designated role and setting in accordance with the scope of nursing practice. A nurse

achieves continuing competency through active practice and continuing nursing education.

(6) **"Continuing nursing education"** refers to systematic professional learning experiences obtained after initial licensure and designed to augment the knowledge, skills, and judgment of nurses and enrich nurses' contributions to quality health care and the pursuit of professional career goals, related to a nurse's area of professional practice, growth and development.

(7) **"Nurse"** means a registered nurse and licensed practical nurse.

(8) **"Review period"** is three full licensing renewal cycles. For purposes of a compliance audit, the review period will be the three years preceding the audit due date.

(9) **"Technical assistance"** means guidance provided by commission staff to help the nurse comply with laws and rules.

NEW SECTION

WAC 246-840-220 Continuing competency requirements—Active status. (1) At the end of the three-year continuing competency cycle, a nurse must attest on a form provided by the department of health declaring completion of the required active nursing practice hours and continuing nursing education hours.

(2) The nurse must complete, within each three-year review period:

(a) A minimum of five hundred thirty-one hours of active nursing practice; and

(b) A minimum of forty-five hours of continuing nursing education.

(3) A nurse will have a full three years to meet the requirements in subsections (1) and (2) of this section. The hours may be accumulated at any time throughout the three-year review period. The review period begins on the licensee's first birthday after receiving the initial license.

(4) Nurses must complete a qualified suicide prevention training as follows:

(a) Beginning January 1, 2016, registered nurses, except for registered nurses holding an active certified registered nurse anesthetist license, and licensed practical nurses must complete a one-time training in suicide assessment, treatment, and management from a qualified suicide prevention training program. The training must be completed by the end of the first full continuing competency reporting period after or during the first full continuing competency reporting period after initial licensure, whichever is later.

(b) Beginning July 1, 2017, a qualified suicide training program must be on the model list, required under RCW 43.70.442, to be accepted.

(c) A qualified suicide prevention training program must be an empirically supported training including assessment treatment and management, and must be at least six hours in length which may be provided in one or more sessions.

(d) The hours spent completing a qualified training program in suicide assessment, treatment, and management under this section counts toward continuing competency requirements in subsection (2)(b) of this section.

(5) Nurses who are enrolled in, or have completed prerequisite classes for, an advanced nursing education program are exempt from the continuing competency requirements during their current review period. A final transcript or transcript of classes documenting current progress towards an advanced degree will be required by the commission for approval of the exemption.

NEW SECTION

WAC 246-840-230 Continuing competency audit process and compliance. (1) The commission shall conduct a compliance audit:

(a) On all late renewals if continuing competency requirements under WAC 246-840-220(2) are due;

(b) Through random selection; and

(c) At the discretion of the commission, on nurses under the disciplinary process.

(2) The commission will notify a nurse selected for compliance audit at the address on record with the department. For a nurse selected randomly, notification will be sent with the renewal notice.

(3) The nurse must submit continuing education in clock hours.

(4) When the nurse is unable to document compliance with WAC 246-840-220, technical assistance may be provided.

(5) If the nurse is unable to provide the required documentation of compliance with WAC 246-840-220, the nurse may elect to:

(a) Place his or her license on inactive status as outlined in WAC 246-840-120;

(b) Let his or her license expire;

(c) Request an extension under WAC 246-840-240;

(d) Enter into an agreement, on a form provided by the commission, to complete a minimum of one hundred seventy-seven hours of active nursing practice and fifteen hours of continuing nursing education within one year. A compliance audit will be conducted at the end of the year to ensure compliance with the agreement.

(6) Failure to complete the required hours and provide the required documentation, or intentional deceit, fraud, or misconduct in reporting continuing competency may result in discipline for unprofessional conduct under RCW 18.130.-180.

NEW SECTION

WAC 246-840-240 Extension. A nurse who does not meet continuing competency requirements in WAC 246-840-220 within the three-year audit review period may request an extension of up to one year to allow the nurse to complete the remaining hours. The commission will conduct an audit at the end of the extension period to ensure compliance. In order to qualify for an extension, a nurse must agree to complete the remaining practice and continuing education hours within one year or less. If the remaining active nursing practice hours and continuing nursing education hours are not completed within one year, the commission will refer the nurse for disciplinary action.

NEW SECTION

WAC 246-840-250 Continuing competency requirements—Reactivation from expired status. (1) All nurses applying for reactivation must meet the requirements of chapter 246-12 WAC, Part 2 and WAC 246-840-111.

(2) If a license is expired for more than one year, the nurse must provide evidence of five hundred thirty-one hours of active nursing practice in any United States jurisdiction, and forty-five hours of continuing nursing education in the last three years.

(3) If the nurse cannot provide the evidence required in subsection (2) of this section, the nurse shall agree, on the form provided by the commission, to complete a minimum of one hundred seventy-seven hours of active nursing practice and fifteen hours of continuing nursing education within the first year following reactivation. The commission will conduct an audit at the end of the year to ensure compliance with the agreement.

(4) If the practice hours and continuing nursing education hours required in this section are not completed within one year of reactivation, the commission will refer the nurse for disciplinary action.

NEW SECTION

WAC 246-840-260 Continuing competency requirements—Reactivation from inactive status. (1) All nurses applying for reactivation must meet the requirements of chapter 246-12 WAC, Part 4 and WAC 246-840-120.

(2) If a license is inactive for more than one year, the nurse must provide evidence of five hundred thirty-one hours of active nursing practice in any United States jurisdiction, and forty-five hours of continuing nursing education in the last three years.

(3) If the licensee cannot provide the evidence required in subsection (2) of this section, the nurse shall agree, on a form provided by the commission, to complete a minimum of one hundred seventy-seven hours of active nursing practice and fifteen hours of continuing nursing education within the first year following reactivation. The commission will conduct an audit at the end of the year to ensure compliance with the agreement.

(4) If the active nursing practice hours and continuing nursing education hours required in this section are not completed within one year of reactivation, the commission will refer the nurse for disciplinary action.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 246-840-201 Continuing competency purpose statement.
 WAC 246-840-202 Continuing competency definitions.
 WAC 246-840-203 Continuing competency requirements—Active status.

WAC 246-840-204 Continuing competency requirements—Reactivation from expired status.

WAC 246-840-205 Continuing competency requirements—Reactivation from inactive status.

WAC 246-840-206 Continuing competency audit process and compliance.

WAC 246-840-207 Failure to meet continuing competency requirements.

WSR 16-04-099**PERMANENT RULES****DEPARTMENT OF REVENUE**

[Filed February 2, 2016, 8:28 a.m., effective March 4, 2016]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Proposal incorporates changes from SSB 5275, section 310, chapter 86, Laws of 2015, concerning record-keeping and examination requirements. Clarifying language was also added throughout by changing "section" to "rule."

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-15503 Digital products.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Other Authority: RCW 82.32.070.

Adopted under notice filed as WSR 15-24-080 on November 30, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: February 2, 2016.

Kevin Dixon
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-13-092, filed 6/17/14, effective 7/18/14)

WAC 458-20-15503 Digital products. This rule provides a structured approach for determining tax liability for digital products and digital codes. For purposes of this rule, a digital product includes digital goods or digital automated services, which are described in detail below. The sale or use

of digital products and digital codes is generally subject to retail sales or use tax unless purchased for resale or some other exemption applies.

This rule is organized into six parts. Each part addresses a question or topic relevant to the determination of whether a person is selling or purchasing a digital product or digital code and, if so, what are the tax consequences that follow from such activity. In this respect this rule is intended to function similar to the decision tree provided in ETA 9003.2010.

1. Part 1: Are the products or services transferred electronically? If yes, go to Part 2.

2. Part 2: Does the product or service meet the general definitions of digital product or digital code? If yes, go to Part 3.

3. Part 3: Are there applicable exclusions from the general definitions of the digital product or digital code? If no, go to Part 4.

4. Part 4: Are the sales of the digital product or digital code sourced to Washington? If yes, go to Part 5.

5. Part 5: Are there applicable retail sales or use tax exemptions for the purchase or use of the digital product or digital code? If no, the transaction is likely taxable in Washington.

6. Part 6: Miscellaneous provisions.

Examples included in this rule identify a number of facts and then state a general conclusion; they should be used only as a general guide. The tax consequences of all situations must be determined after a review of all the facts and circumstances. Additionally, each fact pattern in each example is self contained (e.g., "stands on its own") unless otherwise indicated by reference to another example. Examples concluding that sales tax applies to the transaction assume that no exclusions or exemptions apply, and the sale is sourced to Washington.

Part 1. Are the Products or Services Transferred Electronically?

(101) **Introduction.** Products or services must be transferred electronically in order to be digital products. If a product is transferred by means of a tangible storage media (e.g., compact disc, magnetic tape, hard drive, etc.), it is not a digital product. Digital codes need not be transferred electronically in order to be digital codes, but may be obtained by any means, including tangible storage media.

(102) **Transferred electronically.** Means the purchaser obtains the product by means other than tangible storage media. Generally, this means the product is transferred using the public internet, a private network, or some combination. However, it is not necessary that the product be delivered to the purchaser. As long as the purchaser may access the product, it will be considered to have been electronically transferred to the purchaser. For example, whether a digital movie is downloaded by the user or streamed by the user, it is considered to be "transferred electronically." Alternatively, the same movie purchased on tangible media (e.g., DVD, etc.) is the purchase of tangible personal property and is not considered to be either the sale of a digital product or transferred electronically.

Part 2. Does the Product or Service Meet the General Definition of Digital Product or Digital Code?

(201) **Introduction.** The term "digital product" means (1) digital goods and (2) digital automated services. Digital products transferred to an end user are generally subject to retail sales or use tax regardless of whether the purchaser's right of use is permanent, less than permanent (e.g., 24-hour period), or the purchaser is obligated to make continued payments as a condition of the sale (e.g., "subscriptions").

(202) **Digital goods.** Means sounds, images, data, facts, or information, or any combination thereof, transferred electronically, with certain exclusions discussed in Part 3 of this rule. The term "digital goods" includes within it the specific term "specified digital products" (as required by the Streamline Sales and Use Tax Agreement). The sale of a digital good is generally subject to retail sales tax and retailing business and occupation (B&O) tax.

(a) **Specified digital products.** Means electronically transferred digital audio-visual works, digital audio works, and digital books.

(i) **Digital audio works.** These are products that result from the fixation of a series of musical, spoken, or other sounds. Digital audio works include ringtones, recorded or live music, readings of books or other written materials, speeches, and other sound recordings. For example, a music file in MP3 format accessed or downloaded through the internet is a digital audio work.

(A) A "ringtone" is a digitized sound file that is downloaded onto a communication device (e.g., mobile phone) and may be used to alert the user to an incoming communication such as a call or text message.

(B) A ringtone does not include "ring-back tones" or other digital audio files that are not stored on the purchaser's communication device. In other words a ring-back tone is not a "specified digital product." A ring-back tone may be a digital automated service or a digital good depending on the facts. See analysis for digital automated services in subsection (203) of this ((section)) rule.

(ii) **Digital audio visual works.** These products are a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any. Digital audio visual works include movies, music videos, videos of live events, and news and entertainment programs. For example, a movie downloaded or accessed via the internet is a digital audio visual work.

(iii) **Digital books.** These are books in a digital format that are generally recognized in the ordinary and usual sense as books. A digital book does not include periodicals, magazines, newspapers, chat rooms, or weblogs. For example, a cookbook in a PDF format downloaded or accessed through the internet is a digital book.

(b) **Other digital goods.** The following list illustrates the types of products that are also digital goods in addition to the subclass of "specified digital products" discussed above. This list is merely illustrative and not exhaustive:

(i) A digital schematic of a lawnmower engine transferred electronically.

(ii) A digital car history report transferred electronically.

(iii) A digital picture transferred electronically.

(iv) Digital periodicals or magazines transferred electronically.

(v) A digital presentation that includes still photos and accompanying audio content transferred electronically.

(c) **Digital goods prior to July 26, 2009.** The mere accessing or streaming of a digital good was not a retail sale before July 26, 2009. Instead, accessing or streaming a digital good was subject to the service and other activities B&O tax. The sale of a digital good to a customer who downloaded the digital good was a retail sale. See Part 6, subsection (604) of this ((~~section~~)) rule for a discussion of tax amnesty for past periods.

(203) **Digital automated services.** Means services transferred electronically that use one or more software applications. The sale of a digital automated service is generally subject to retail sales tax and retailing B&O tax.

(a) **Digital automated services may include.** One or more software applications either prewritten or custom, as well as components that are similar to stand-alone digital goods. For example, an online information service may contain data, facts, or information the use of which is facilitated by one or more software applications that provide search capabilities and other functionality. Thus, digital automated services will include software and may include elements similar to stand alone digital goods, which operate together in an integrated fashion to provide an electronically transferred service.

Example 1. BFC provides an online service that facilitates apartment building management. The online service lists and advertises apartment vacancies, screens applicants, routes maintenance requests, and accepts and processes rental payments. In this example the software based service facilitates and automates various administrative functions and coordinates third-party services for apartment renting. The service is a digital automated service the sale of which is generally subject to retail sales tax and retailing B&O tax.

Example 2. QPR provides a service that uses one or more software applications to "crawl the internet" in order to identify, gather, and categorize digital information according to specified criteria. In this example software facilitates the gathering, identifying and categorizing of information acquired from the internet. The service is a digital automated service the sale of which is generally subject to retail sales tax and retailing B&O tax.

(i) **Distinguishing a digital good from digital automated services.** A digital good is not a service involving one or more software applications. A digital good consists solely of images, sounds, data, facts, information or any combination thereof. Clear examples of digital goods are digital books, digital music, digital video files, and raw data.

Example 3. XYZ provides an online service that uses one or more software applications to facilitate the use of news and information with features such as: Research history, natural and boolean searching, industry chat forums, chart creation, document and word flagging, and information organizing folders. In this example software features facilitate the search of the news or information. XYZ's service is a digital automated service the sale of which is subject to retail sales tax and retailing B&O tax.

Example 4. Company sells digital music files (i.e., digital goods) on its web site. In order to locate specific digital music files customers may use a free software based search function that is integrated into Company's web site. Customers may also find the digital music file they are seeking by clicking on a series of links to get to the desired music file. Company's software based search function associated with the sale of the digital music file does not transform the sale of the digital music file into a digital automated service. Company is selling a digital good (i.e., music file) subject to retail sales tax and retailing B&O tax.

(ii) **Distinguishing remote access prewritten software from digital automated services.** Remote access prewritten software (defined in RCW 82.04.050 (6)(b)) is solely prewritten software that is made remotely accessible from the vendor's server or other third-party server for a customer. To the extent that components similar to digital goods and/or additional services are supplied with the prewritten software the sale may be the sale of a digital automated service (see also Part 3, subsection (303)(h) of this ((~~section~~)) rule).

Example 5. CFC provides an online gaming service that allows subscribers to play a game with other subscribers in a real time multiplayer environment using software accessed via the internet. In this example the gaming software is combined with additional capabilities that enable a real time multiplayer environment that is not otherwise available. The service is a digital automated service, the sale of which is generally subject to retail sales tax and retailing B&O tax.

Example 6. Company sells prewritten word processing software that is accessed by customers but hosted on Company's computers. The software includes access to clip-art image files that can be inserted into documents created with the remotely accessed prewritten word processing software. Company is selling remote access prewritten software and not a digital automated service or digital goods. The clip art made available with the software does not transform the remotely accessed prewritten software into a digital automated service or a digital good. Company is selling remote access prewritten software subject to retail sales tax and retailing B&O tax.

(b) **Digital automated service prior to July 26, 2009.** The sale of a digital automated service to consumers was not a retail sale before July 26, 2009. Generally, income earned from such sales was subject to B&O tax under the service and other activities classification.

(204) **Digital codes.** These are codes that provide a purchaser with the right to obtain one or more digital products, if all of the digital products to be obtained through the use of the code have the same retail sales and use tax treatment. A digital code may be obtained by any means, including e-mail or by tangible media regardless of its designation as song code, video code, book code, or some other term. For example, a digital code includes the sale of an alphanumeric code that, when entered online at a web site, provides the customer with a digital music file for download.

(a) **Products with mixed tax treatment.** Codes that provide the right to obtain one or more products that do not have the same retail sales and use tax treatment are not digital codes.

(b) **Codes that represent a stored monetary value, redeemable cards, gift cards, or gift certificates.** Codes that represent a stored monetary value that is deducted from a total as it is used by the purchaser or that represent a redeemable card, gift card, or gift certificate that entitles the holder to select digital products of an indicated cash value, are not digital codes.

Example 7. Calvin purchases a code at his local grocery store for use on Joe Seller's (JS) web site. At check out, Calvin tells the grocery store clerk to put \$25.00 in value on the plastic card containing the code. Calvin then goes to JS's web site and inputs the code from the card. The \$25.00 value of the card is stored in Calvin's "account" and can be used on any purchase by Calvin from JS's web site. Calvin then purchases five digital songs for \$5.00 from JS. At check-out from JS's web site, \$5.00 is deducted from Calvin's account to pay for the songs. When the transaction is complete, Calvin has a \$20.00 balance remaining in his account on JS's web site. Because the code represents a stored monetary value it is not a digital code and the sale of the code is not subject to retail sales tax or retailing B&O tax.

Part 3. Are There Applicable Exclusions from the General Definitions of Digital Product and Digital Code?

(301) **Introduction.** For certain products or services transferred electronically that otherwise meet the definition of digital good or digital automated service (as discussed in Part 2) there may be a specific exclusion from the applicable definition. If an exclusion applies, then the product or service will generally not be considered a digital good or digital automated service for retail sales and use tax purposes. For example, a service that is transferred electronically and that uses one or more software applications will generally be subject to retail sales tax as a digital automated service. However, if the service is an advertising service, then an exclusion applies, and the service will not be a digital automated service subject to retail sales tax; however, the service may still be subject to B&O tax. An excluded service may also still be subject to retail sales tax under certain circumstances. For example, telecommunications services are excluded from the definition of digital automated services, but remain subject to retail sales tax under their own separate definition of retail sale.

(302) **Exclusions from the definition of digital good are:**

(a) **Telecommunications and ancillary services** as defined in RCW 82.04.065. These services may be used to distribute digital goods, digital automated services, and digital codes, but are not themselves any of these products.

(b) **Computer software** as defined in RCW 82.04.215 and WAC 458-20-15502. These are coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

(c) **The internet and internet access** as defined in RCW 82.04.297.

(d) **Professional or personal services** represented in electronic form are not a digital good. This exclusion applies where the service primarily involves the application of human effort by the service provider, and the human effort originated after the customer requested the service. For example, an electronic engineering report created at the cus-

tomers request that reflects an engineer's professional analysis, calculations, and judgment, which is sent to the customer electronically, is considered evidence of a professional service and not a digital good.

Photography. This exclusion for professional or personal services does not apply to photographers in respect to amounts received for the taking of digital photographs that are transferred electronically to the end user/customer as defined in RCW 82.04.190(11). See Example 39 for an example of a nonend user transaction involving photography that is subject to royalties B&O tax.

(e) **Exclusions listed directly below for digital automated services** are also exclusions from the definition of digital good.

(303) **Exclusions from the definition of digital automated service are:**

(a) **Services that require primarily human effort by the seller** and the human effort originated after the customer requested the service. In this context, "primarily" means greater than fifty percent of the effort to perform the service involved human labor. To determine whether the fifty percent or greater threshold is satisfied, the average of the time and cost factors is considered. The time factor is determined by dividing the time spent to perform the human effort portion for customers by the total time spent performing the service. The cost factor is determined by dividing the direct costs incurred to perform the human effort portion for customers by the total direct costs incurred to perform the service. Direct costs of the human effort component include salaries, employee benefits and similar direct costs. Direct costs of the automated component include the cost of software, computers, hosting services and other similar direct costs. If the average of the time and cost factors is greater than fifty percent then the service requires primarily human effort and is not a digital automated service in which case the service will generally be subject to service and other activities B&O tax.

Example 8. RepuCo.com performs a reputation monitoring service on the internet for its clients. The service utilizes software and other technology that searches the internet for web sites that allow posting of information that may be harmful to RepuCo.com's client's reputation ("the automated component"). If the automated component finds a web site that is posting erroneous or harmful information about one of RepuCo.com's clients, then a RepuCo.com employee will contact the owner of the web site by phone or e-mail and work with the owner and the client to resolve the matter to the satisfaction of the client ("the human effort component"). If the human effort time factor is 20% and the human effort direct cost factor is 60%, then the average of the two factors is 40% ($80\%/2 = 40\%$). Accordingly, the service is performed using 40% human effort which is less than 50% and therefore the service does not require primarily human effort and is subject to retail sales tax as a digital automated service.

Alternative methods. If the time and cost factors in this rule do not fairly represent the extent to which the service is performed using primarily human effort, the taxpayer may ask in writing for, or the department may require, the employment of another reasonable method to equitably determine whether the service is performed using primarily human effort.

(b) **Loaning or transferring money or the purchase, sale, or transfer of financial instruments.** For purposes of this ((~~section~~)) rule, "financial instruments" include cash, accounts receivable and payable, loans and notes receivable and payable, debt securities, equity securities, as well as derivative contracts such as forward contracts, swap contracts, and options. For example, the electronic transfer of money from a savings account to a checking account, whether done for the customer by a bank teller or by an ATM machine, is excluded from the definition of digital automated service.

(c) **Dispensing cash or other physical items from a machine.** Includes an ATM that dispenses cash to users.

(d) **Payment processing services,** including services such as electronic credit card processing activities conducted online or in physical retail stores via electronic transmission.

(e) **Parimutuel wagering and handicapping contests** as authorized by chapter 67.16 RCW.

(f) **Telecommunications services and ancillary services** as those terms are defined in RCW 82.04.065. For additional information, refer to the discussion above concerning the comparable exclusion from the definition of digital goods (see Part 3, subsection (302)(a) of this ((~~section~~)) rule).

(g) **The internet and internet access** as those terms are defined in RCW 82.04.297.

(h) **Remote access prewritten software.** Remote access prewritten software (defined in RCW 82.04.050 (6)(b)) provided on a standalone basis is excluded from the definition of digital automated service. However, software that is used in connection with a service that is transferred electronically would generally be included in the definition of a digital automated service.

Example 9. Company sells prewritten gaming software that is identical in all substantive respects to the same software available in stores for individual use and installation on home computers except that it is hosted on Company's servers and accessed by customers. Company's sales to consumers would be treated as a sale of remote access prewritten software and therefore is excluded from the definition of digital automated services and generally subject to retail sales tax and retailing B&O tax.

Example 10. Same facts as Example 9 except that Company uses the remote access prewritten software to provide a monthly subscription service that provides a real item multiplayer environment. Company is selling a digital automated service. In this case the customers are not merely receiving the individual use of software, but instead an online gaming service facilitated by the software. Thus, the monthly subscription service is not excluded from the definition of digital automated service and is subject to retail sales tax and retailing B&O tax.

(i) **Online education programs** provided by the following:

- (i) Public or private elementary or secondary schools; or
- (ii) An institution of higher education as defined in Sections 1001 or 1002 of the federal Higher Education Act of 1965 (Title 20 U.S.C. Sections 1001 and 1002), as existing on July 1, 2009. This would include most colleges and universities. For the purposes of this ((~~section~~)) rule, an online educa-

tional program must be encompassed within the institution's accreditation.

Example 11. ABC University, a qualifying institution of higher education under the federal Higher Education Act of 1965, provides an accredited online Spanish course for which it charges a quarterly access and use fee to students. The course is remotely accessed by students logging into a web site and accessing a fully interactive program that includes components of video, text, and audio, as well as extensive software code. This service would generally be considered a digital automated service. However, it is specifically excluded from the definition of digital automated service as an online educational program and may be subject to service and other activities B&O tax if another exclusion, deduction, or exemption does not apply.

(j) **Live presentations** such as lectures, seminars, workshops, or courses, where participants are connected to other participants and presenters via the internet or other networks, allowing the participants and the presenters to provide, receive, and discuss information together in real time.

Example 12. Company provides an online seminar service for Customer. Company provides a panel of live speakers that make a presentation to Customer's employees listening to and viewing the seminar through an internet connection supplied by a third-party service provider. The seminar allows Customer's employees and panelists to ask and answer questions on a real time basis. Company's online seminar service is transferred electronically and uses one or more software applications and therefore would generally be considered a digital automated service. However, this type of service allowing live interaction is specifically excluded from the definition of digital automated service and would generally be subject to service and other activities B&O tax.

Example 13. Same facts as Example 12 except that Company records the seminar and charges other individuals a fee for accessing the seminar from Company's web site. The recorded presentation allows these customers to watch the presentation but it does not allow them to ask questions on a real time basis. Because the presentation was prerecorded there is no live interaction contemporaneous with the presentation and therefore Company is selling a digital good generally subject to retail sales tax and retailing B&O tax.

Example 14. Company provides online training courses to Steve for a fee. The training courses provide key interactive elements such as study guides, knowledge testing, and automated help, all facilitated by one or more software applications. Such courses are not live presentations and do not provide human interaction. Accordingly, Company is selling a digital automated service generally subject to retail sales tax and retailing B&O tax.

(k) **Travel agent services,** including online travel services, and automated systems used by travel agents to book reservations.

(l) **Online marketplace related activities,** which are services that allow the person receiving the services to make online sales of products or services, digital or otherwise, using either:

- (i) The service provider's web site; or
- (ii) The service recipient's web site, but only when the service provider's technology is used either to:

(A) Create or host the service recipient's web site; or

(B) Process orders from customers using the service recipient's web site.

Example 15. Company provides an "electronic marketplace" service to Holcomb that allows Holcomb to list and sell his coffee mugs on the internet using Company's web site. This online marketplace service is excluded from the definition of digital automated services and charges for the service would generally be subject to service and other activities B&O tax.

Example 16. Same facts as Example 15, except that now Holcomb decides he no longer wants to be just another seller on Company's web site. Instead, Holcomb wants his own "retailing presence" on the internet so Holcomb contracts with Company to create and host Holcomb's new coffee mug web site, "HolcombsCoffeeWorld.com." This is still an online marketplace service that is excluded from the definition of digital automated services and charges for the service would generally be subject to service and other activities B&O tax.

(iii) **Exclusion limitation.** The services described in this subsection do not include the underlying sale of the products or services, digital or otherwise, by the person receiving the service. For instance, in Examples 15 and 16, the sale by Holcomb of coffee mugs would still generally be subject to retail sales tax and retailing B&O tax as the sale of tangible personal property.

(m) **Advertising services** means all services directly related to the creation, preparation, production, or the dissemination of advertisements. Advertising services include: Layout, art direction, graphic design, mechanical preparation, production supervision, placement, and rendering advice to a client concerning the best methods of advertising that client's products or services. Advertising services also include online referrals, search engine marketing and lead generation optimization, web campaign planning, the acquisition of advertising space in the internet media, and the monitoring and evaluation of web site traffic for purposes of determining the effectiveness of an advertising campaign. Advertising services do not include web hosting services and domain name registration.

Example 17. Company provides marketing services to customers wishing to promote their products using the internet. Amy sells widgets on the internet and hires Company to market her products. Company consults with Amy on her marketing needs and then creates a marketing plan for her business. Company also creates and distributes online banners, links, and targeted "e-mail blasts" that promote Amy's business. All of the services provided by Company are advertising services excluded from the definition of digital automated services and would generally be subject to service and other activities B&O tax.

Example 18. RVP, Inc. creates "sponsored links" on its web site that drive customer traffic to Amy's web site. RVP is paid by Amy for each click on a sponsored link on RVP's web site. The services provided by RVP are advertising services excluded from the definition of digital automated services and charges for such would generally be subject to service and other activities B&O tax.

(n) **Storage, hosting, and back-up.** The mere storage of digital products, digital codes, computer software, or master copies of software is excluded from the definition of digital automated services. This exclusion includes providing space on a server for web hosting or backing-up data or other information.

Example 19. Company charges Rowe a fee for 25 terabytes of storage space under its "basic storage service" offering. Company also charges Rowe an additional and optional fee for its "premium service" package offering, which involves services beyond mere storage. The "basic storage" services are mere storage services and excluded from the definition of digital automated services. These services would generally be subject to service and other activities B&O tax. However, the charges for the optional premium services are more than mere storage or hosting services. As such, the premium services are not excluded from the definition of digital automated services and would generally be subject to retail sales tax and retailing B&O tax.

(o) **Data processing services** means a primarily automated service provided to a business or other organization where the primary object of the service is the systematic performance of operations by the service provider on data supplied in whole or in part by the customer to: (i) Extract the required information in an appropriate form, or (ii) to convert the data to usable information. Data processing services include check processing, image processing, form processing, survey processing, payroll processing, claim processing, and similar activities. Data processing does not include remote access prewritten software used by the customer to process their own data.

Example 20. Bango Corp., in preparation for litigation, hires Company to use its automated technology to search Bango's computers and gather documents relevant to the lawsuit. Company's service also provides software tools that allow Bango to categorize, copy, store, and notate the gathered documents. Company's service is not data processing. The services performed primarily involve gathering data, and providing software tools that allow the customer to categorize, copy, store and notate documents in preparation for litigation. Accordingly, Company is selling a digital automated service generally subject to retail sales tax and retailing B&O tax.

Example 21: Company provides check processing services to Wallo Corp., a bank operating in Washington. Company accepts scanned checks provided by Wallo and then uses its software and technology to extract the check dollar amount, account number, and verify the check has been signed. Company then provides this extracted and reformatted data back to Wallo allowing it to reconcile its customer's accounts. Company provides data processing services which are excluded from the definition of digital automated services. These services would generally be subject to service and other activities B&O tax.

Example 22. Same facts as Example 21, except that Company accepts checks provided directly by Wallo's customers. Thus, check images come from both Wallo and Wallo's customers. The services provided by Company are still data processing services excluded from the definition of digital automated services even though the data does not

come exclusively from Wallo. These services would generally be subject to service and other activities B&O tax.

Part 4. Are the Sales of the Digital Product or Digital Code Sourced to Washington?

(401) **Introduction.** Once it is determined that a transaction involves the sale of a digital product or digital code, the sale must be sourced to Washington in order to be subject to Washington's retail sales tax and B&O tax. If the sale is sourced outside Washington it is not subject to Washington sales tax or B&O tax. Sales of digital products are sourced using the same statute that applies to other retail sales, RCW 82.32.730 as outlined below.

(402) Sourcing retail sales.

(a) **Business location.** When a digital product or digital code is received by the buyer at a business location of the seller, the sale is sourced to that business location.

Example 23. Frank goes to BigBox brick-and-mortar store in Washington and purchases a music file from an electronic kiosk in the store. Frank purchases and downloads the music file inside BigBox's store by connecting his digital music player to the kiosk in the store. The sale of the music file is sourced to BigBox's store location in Washington and is generally subject to retail sales tax and retailing B&O tax.

(b) **Place of receipt.** If the first sourcing rule explained above in (a) of this subsection does not apply, the sale is sourced to the location where receipt takes place.

(i) The digital product or digital code may be received by the buyer at the buyer's location or by the buyer's donee (e.g., a gift recipient) at the donee's location.

(ii) In the context of digital products and digital codes, "receive" and "receipt" means: (A) Making first use of digital automated services; or (B) taking possession or making first use of digital goods or digital codes, whichever comes first.

Example 24. Drogba Inc., located in Olympia, Washington, purchases a digital automated service generally subject to retail sales tax from Company. Drogba's employees access and make first use of the service at their computer workstations located in Olympia. Company knows that the digital automated service is received in Olympia and therefore will source the sale of the digital automated service to that location.

(c) **Address in records.** If the first two sourcing rules explained in (a) and (b) of this subsection do not apply, the sale is sourced to the location indicated by an address for the buyer that is available from the seller's business records maintained in the ordinary course of business, so long as use of this address does not constitute bad faith. For example, any address of the buyer held by the seller that reasonably estimates the receipt location will be sufficient, including an address contained in a relevant service contract or an address used for accounts receivable purpose.

Example 25. Nani Corp., located in California, purchases a digital automated service generally subject to retail sales tax and retailing B&O tax from Company located in Washington. The purchase contract between Nani and Company provides that Nani may have 5 users access the digital automated service. Company does not know where the digital automated service is actually received. However, Company has Nani's California address in its business records and will

therefore source the sale to Nani's California address. Because the sale is sourced outside Washington, it is not subject to Washington's retail sales tax or retailing B&O tax. Note, to the extent that Nani Corp., receives the service at locations in Washington, it may have a use tax liability. See subsection (403) of this ((section)) rule for more on use tax.

(d) **Address obtained during sale.** If the first three sourcing rules explained in (a), (b), and (c) of this subsection do not apply, the sale is sourced to the location indicated by an address for the buyer obtained during the consummation of the sale. For example, an address obtained during consummation of the sale would include the address of a buyer's payment instrument (e.g., billing address for a credit card), if no other address is available, so long as use of this address does not constitute bad faith.

Internet protocol (IP) address. The buyer's IP address is acceptable location information obtained at the time of sale if an address cannot otherwise be obtained during consummation of the sale.

(e) **Origin.** If the first four sourcing rules explained in (a), (b), (c), or (d) of this subsection do not apply, including the circumstance where the seller is without sufficient information to apply those provisions, then the sale must be sourced to the location determined by the address from which the digital good or digital code was first available for transmission by the seller, or from which the digital automated service was provided. Any location that merely provided the digital transfer of the product sold shall be disregarded.

(403) **Sourcing for use tax purposes.** The sales sourcing rules above in subsection (402) of this ((section)) rule are for sourcing sales subject to retail sales tax under RCW 82.08.020 and RCW 82.32.730. What follows below is a discussion of use tax reporting obligations with respect to digital goods, digital automated services, and digital codes. Generally, use tax applies to the use of a digital product or digital code in Washington if retail sales tax has not already been paid and no exemption otherwise applies.

(a) **Digital good or digital code.** "Use" means the first act within this state by which the taxpayer, as a consumer, views, accesses, downloads, possesses, stores, opens, manipulates, or otherwise uses or enjoys the digital good or digital code.

(b) **Digital automated service.** "Use" means the first act within this state by which the taxpayer, as a consumer, uses, enjoys, or otherwise receives the benefit of the service.

Example 26. Company, located in New York, sells a digital automated service generally subject to retail sales tax and retailing B&O tax to Lampard Inc., located in Washington. Lampard's employees in Washington use the internet to access Company's services using an internet web browser. However, Company does not have nexus with Washington and is therefore not required to charge and collect retail sales tax on the sale of its service to Lampard. Lampard has a use tax reporting obligation because it uses, enjoys, or otherwise receives the benefit of Company's digital automated service at its location in Washington.

Part 5. Are there Applicable Retail Sales or Use Tax Exemptions for the Purchase or Use of the Digital Product or Digital Code?

(501) **Introduction.** After determining that a digital product or digital code has been sold or used and the sale or use is sourced to Washington, exemptions from retail sales or use tax should be examined. What follows is not an exhaustive list of exemptions but instead an explanation of the most common exemptions for digital products. Some exemptions may apply only with respect to certain digital products (e.g., some exemptions apply only to digital goods, not digital automated services). Exemptions may also require an exemption certificate or reseller permit.

(502) **Resale.** The purchase of a digital product or digital code for resale with no intervening use is not subject to retail sales or use tax. Sellers should obtain from buyers a copy of the buyer's reseller permit, a properly completed "Digital Products and Remote Access Software Exemption Certificate," or otherwise comply with RCW 82.04.470 to substantiate the wholesale nature of the sale. See RCW 82.32.780.

(503) **Component of a new product.** Generally, purchasing, acquiring, owning, holding, or using any digital product or digital code for purposes of incorporating it into a new product for sale will not be subject to retail sales tax. The digital product or digital code must become a component of the new product for sale. A digital code becomes a component of a new product if the digital good or digital automated service acquired through the use of the digital code becomes incorporated into a new product. RCW 82.04.190(11). This is also discussed in subsection (602) of this ((section)) rule in the context of wholesale sales.

Product. For purposes of this subsection, "product" means a digital product, an article of tangible personal property, or remote access prewritten software as defined in RCW 82.04.050 (6)(b). For example, an industrial drill manufacturer and seller combines hardware, software, and data to create a new product, a "smart drill." Software embedded in the drill uses the variance data (also embedded in the drill) to control the hardware during drill operations. The data is a digital good purchased for use as a component of a new product for sale (i.e., the drill). Sellers should obtain from buyers a copy of the buyer's reseller permit, a properly completed "Digital Products and Remote Access Software Exemption Certificate," or otherwise comply with RCW 82.04.470 to substantiate the wholesale nature of the sale.

(504) **Made available free to the general public.** Retail sales and use tax does not apply to the purchase or use by a business or other organization of a digital product (including a digital product acquired through the use of a digital code) in order to make that digital product (1) available free of charge for the use or enjoyment of (2) the general public. Buyers claiming this exemption must provide the seller with a properly completed "Digital Products and Remote Access Software Exemption Certificate" or other exemption certificate acceptable to the department. See RCW 82.08.02082.

(a) **Available for free.** In order to qualify, the digital product purchased must be made available for free. In this context, "free" means that the recipient of the digital product does not need to provide anything of significant value. If the

purchaser requires something of significant value from the recipient in exchange for the digital product, it is not given away for free.

Example 27. Mauro purchases 1,000 digital music files from Company to be used for a "give away" to the first 1,000 people to visit Mauro's web site. When people visit Mauro's web site they are required to fill out a marketing survey before they may receive a digital music file. The information gathered from the marketing survey is then sold to a marketing company by Mauro. Thus, Mauro has required that recipients provide something of significant value in exchange for the digital music file. This is not a "free" transaction and therefore, Mauro's purchase of the digital music from Company does not qualify for the exemption and would be subject to retail sales tax and retailing B&O tax. (See also Example 29.)

(b) **"General public"** means all persons and is not limited or restricted to a particular class of persons, except that the general public includes:

(i) **Certain classes of persons defined by their residency or property ownership.** The general public includes a class of persons residing or owning property within the boundaries of any state (e.g., Washington), political subdivision of a state (e.g., King County), or a municipal corporation (e.g., Seattle).

Example 28. The City of Evergreen (a municipal corporation) makes satellite images of land parcels available for free only to persons residing in Evergreen. Residents are required to enter their zip code prior to accessing the images and certify that they are a resident of the City. Accordingly, the City of Evergreen can purchase the satellite images exempt from retail sales tax.

(ii) **Library customers.** With respect to libraries, the term general public includes authorized library patrons.

(c) **Buyer must have the legal rights to provide the digital product to the general public.** The exemption provided in this subsection does not apply unless the purchaser has the legal right to broadcast, rebroadcast, transmit, retransmit, license, relicense, distribute, redistribute, or exhibit the digital product, in whole or in part, to the general public.

Example 29. Same facts as Example 27, except this time visitors to Mauro's web site are provided free access to the digital music files and no survey information is required in exchange. Additionally, Mauro purchased the digital music files from Company with the right to distribute them to the general public. Mauro also provided the seller with an exemption certificate. Accordingly, Mauro's purchase from Company qualifies for the exemption because he has made the digital audio files available free of charge to the general public pursuant to a contract that gives him rights of distribution. Mauro only purchased 1,000 files and therefore must limit the distribution to the first 1,000 people. Most "give-aways" will have similar quantity limitations but this fact alone will not disqualify such transactions under the "general public" requirement.

(505) **Purchased solely for business purpose.**

(a) **Introduction.** Retail sales and use tax does not apply to the sale to or use by a business of digital goods and services rendered in respect to those digital goods, where the digital goods and services rendered in respect to digital goods

are purchased solely for business purposes. This exemption only applies to purchases of digital goods and does not apply to the purchase of digital automated services, prewritten software, or remote access prewritten software. The exemption is only available when the buyer provides the seller with an exemption certificate. Buyers may use the department's "Digital Products and Remote Access Software Exemption Certificate" to claim this exemption. See RCW 82.08.02087.

(b) **Digital codes.** This exemption also applies to the sale to or use by a business of a digital code if all of the digital goods to be obtained through the use of the code will be used solely for business purposes. If the digital code purchased by a business for a business purpose provides access to both digital goods and digital automated services, the purchase of the digital code does not qualify for this exemption.

(c) **"Business purposes"** means the digital good is relevant to the buyer's business needs.

(d) **Personal or household purpose.** This exemption does not apply to the purchase for personal or household purposes.

(e) **Government entities.** This exemption does not apply to purchases by a governmental entity.

(f) **Prior periods.** For the period July 26, 2009, through June 30, 2010, the "business purpose" exemption applied only to "standard digital information." Standard digital information is a subset of digital goods.

Standard digital information is a digital good that consists primarily of data, facts, and/or information that is not generated or compiled for a specific client or customer. Standard digital information does not include a digital good that is comprised primarily of sounds or images.

(506) **Purchases of standard financial information by qualifying international investment management companies.** Effective October 1, 2013, the purchase of standard financial information by a qualifying international investment management company is exempt from retail sales tax. The exemption applies regardless of whether the standard financial information is provided in a tangible format or on a tangible storage medium or as a digital product transferred electronically. This sales and use tax exemption expires July 1, 2021.

(a) **"Qualifying international investment management company"** means a person:

(i) Who is primarily engaged in the business of providing investment management services; and

(ii) Who has gross income that is at least ten percent derived from providing investment management services to:

(A) Persons or collective investment funds residing outside the United States; or

(B) Collective investment funds with at least ten percent of their investments located outside the United States.

(b) The definitions in RCW 82.04.293 generally apply here to this subsection (506) except as follows:

(i) **Important distinction.** This definition of "qualifying international investment management company" is more narrow than the definition in RCW 82.04.293; this definition in (a)(ii)(B) of this subsection excludes "persons" and only allows for "collective investment funds" unlike RCW 82.04.293 (1)(b)(ii) which includes "persons or collective investment funds" for B&O tax purposes.

(ii) **"Standard financial information"** means financial data, facts, or information, or financial information services, not generated, compiled, or developed only for a single customer. Standard financial information includes, but is not limited to, financial market data, bond ratings, credit ratings, and deposit, loan, or mortgage reports.

(iii) **"Financial market data"** means market pricing information, such as for securities, commodities, and derivatives; corporate actions for publicly and privately traded companies, such as dividend schedules and reorganizations; corporate attributes, such as domicile, currencies used, and exchanges where shares are traded; and currency information.

(iv) **Filing and documentation.** Sellers making tax-exempt sales should obtain a completed buyer's retail sales tax exemption certificate from the buyer. In lieu of an exemption certificate, a seller may capture the relevant data elements as allowed under the streamlined sales and use tax agreement. The seller must retain a copy of the exemption certificate or other relevant data elements for the seller's files and must meet the records requirement in subsection (607) of this rule for tax liabilities owed to this state. For sellers who electronically file their taxes, the department will provide a separate tax reporting line for exemption amounts claimed under this ~~(section)~~ rule.

(v) **Limitations on exemption.** A buyer may not continue to claim the exemption once the buyer has purchased standard financial information during the current calendar year with an aggregate total selling price in excess of fifteen million dollars and an exemption has been claimed for such standard financial information. The fifteen million dollar limitation under this subsection does not apply to any other exemption that applies to standard financial information.

(vi) **Sellers' responsibilities.** Sellers are not responsible for ensuring a buyer's compliance with the fifteen million dollar limitation under this subsection. Sellers may not be assessed for uncollected sales tax on a sale to a buyer claiming an exemption under this ~~(section)~~ rule after having exceeded the fifteen million dollar limitation under this subsection, except as provided in RCW 82.08.050 (4) and (5).

(vii) **Reporting requirements for buyers.** This sales and use tax exemption for standard financial information is subject to additional reporting requirements. Buyers must report the amount of tax preference received as directed by the department. Buyers are not required to report the amount of preference received if the tax benefit to a buyer is less than one thousand dollars per year; or the buyer files an annual tax return with the department.

(507) **Multiple points of use (MPU).** Retail sales tax does not apply to the sale of digital products or digital codes concurrently available for use within and outside this state. See RCW 82.12.02088 and 82.08.02088. Note that Washington use tax still applies to the use of the digital product or digital code used in Washington.

(a) **Requirements.** A buyer is entitled to claim the MPU exemption only if:

(i) The buyer is a business or other organization.

(ii) The digital product purchased (or obtained by using the digital code purchased) will be concurrently available for use within and outside this state (not for personal use).

(iii) The buyer provides the seller with a valid exemption certificate acceptable to the department claiming the MPU exemption. Buyers may use the department's "Digital Products and Remote Access Software Exemption Certificate" to claim this exemption.

(b) **Concurrently available.** "Concurrently available for use within and outside this state" means that employees or other agents of the buyer may use the digital product simultaneously from one or more locations within this state and one or more locations outside this state.

Example 30. Company sells an online patent searching service to Iniesta Corp., for simultaneous use at Iniesta's headquarters in Washington and its research and development facility in California. This service would generally be considered the sale of a digital automated service subject to retail sales tax and retailing B&O tax. In this case, the digital automated service is concurrently available for use by Iniesta's employees both within Washington and outside Washington, and therefore Iniesta may claim the MPU exemption from retail sales tax for its purchase of the digital automated service from Company. See (c) of this subsection for an explanation of how to apportion the use tax in this example.

(c) **Apportionment (allocation) of use tax.** For purposes of this subsection on multiple points of use, "allocation" and "apportionment" have the same meaning. A business or other organization subject to use tax on digital products or digital codes that are concurrently available for use within and outside this state is entitled to apportion the amount of tax due this state based on users in this state compared to users everywhere. For example, in the case of Iniesta in Example 30, if we assume Iniesta had five employees in California and five employees in Washington using the service concurrently, Iniesta would allocate one-half of the purchase price to Washington because five of its ten users are in Washington (e.g., $5/10 = 50\%$). Thus Iniesta would pay use tax to Washington based on fifty percent of the value of the digital automated service. Additionally, the department may authorize or require an alternative method of allocation supported by the taxpayer's records that fairly reflects the proportion of in-state to out-of-state use by the taxpayer.

(i) **Records requirement.** No allocation under this ((section)) rule is allowed unless the allocation method is supported by the taxpayer's records kept in the ordinary course of business in compliance with the records requirement in subsection (607) of this rule for tax liabilities owed to this state.

(ii) **"User"** means an employee or agent of the taxpayer who is authorized by the taxpayer to use the digital product purchased in the performance of his or her duties as an employee or other agent of the taxpayer.

(d) **Application to digital codes.** A digital code is concurrently available for use within and outside this state if users may use the digital goods or digital automated services to be obtained by the code simultaneously at one or more locations within this state and one or more locations outside this state.

(e) **Reporting.** A buyer claiming an exemption under this ((section)) rule must report and pay state and local use tax directly to the department. As explained in (c) of this subsection, use tax may be reported and paid on an apportioned

basis if supported by the buyer's records in compliance with the records requirement in subsection (607) of this rule for tax liabilities owed to this state.

(508) **Machinery and equipment.** Generally retail sales and use tax does not apply to sales to or use by a manufacturer or processor for hire of certain machinery and equipment used directly in a manufacturing or research and development operation. This exemption is commonly referred to as the M&E exemption. (See RCW 82.08.02565 and 82.12.-02565 and WAC 458-20-13601 for information regarding the M&E exemption.) Included within the definition of "machinery and equipment" for purposes of the M&E exemption are digital goods. Accordingly, digital goods acquired by manufacturers and processors for hire and used directly in a manufacturing or research and development operation are exempt from retail sales and use tax, provided all of the requirements for the M&E exemption are met.

(509) **Audio or video programming.** Income received from the sale of regular audio or video programming by a radio or television broadcaster is generally subject to service and other B&O tax and therefore not subject to retail sales tax. However, the sale of audio or video programming sold on a pay per program or subscription on-demand basis is generally subject to retail sales and use tax except as provided in (d) and (e) of this subsection.

(a) **"Radio and television broadcasters"** include satellite radio providers, satellite television providers, cable television providers, and providers of subscription internet television.

(b) **"Pay per program or subscription on-demand basis"** means programming that the buyer pays for on a per program basis or a service that allows the buyer to access a library of programs at any time for a specific charge.

(c) **"Regular programming"** is scheduled programming. The person watching cannot stop, pause, rewind, or otherwise control the broadcast of the scheduled programming, including the time that the scheduled program is broadcast.

The fact that a customer uses a recording device, such as a VCR or DVR, does not result in the broadcaster's programming being characterized as a digital good.

(d) **Cable television providers paying franchise fees.** Cable television providers' sales of programming to consumers on a pay-per-program or subscription on-demand basis are not subject to retail sales and use tax if the cable television provider is subject to a franchise fee (under the authority of Title 47 U.S.C. Sec. 542(a)) on the gross revenue received from such sales. If the cable television provider is not subject to a franchise fee on the income from the sale of programming on a pay-per-program or subscription on-demand basis, then the exemption does not apply and the cable television provider must collect and remit retail sales tax on the retail sale of such programming.

Example 31. XYZ sells video programming to customers using cable technology. XYZ does not pay a franchise fee. Customers of XYZ are charged a monthly subscription fee to receive video programming. Customers are charged additional fees to view selected movies. XYZ must charge and collect retail sales tax on the additional fees charged to view the selected movies, but not on the monthly subscription fee

which would generally be subject to service and other activities B&O tax.

(e) Satellite television providers do not generally pay franchise fees and therefore do not qualify for the retail sales and use tax exemption based on payment of franchise fees as described in (d) of this subsection.

(510) **Newspapers.** Generally, retail sales and use tax does not apply to sales of newspapers transferred electronically, provided that the electronic version has a printed counterpart, and the electronic version:

(a) Shares content with the printed newspaper; and
 (b) Is prominently identified by the same name as the printed newspaper or otherwise conspicuously indicates that it is a complement to the printed newspaper.

(c) "Printed newspaper" means a publication issued regularly at stated intervals at least twice a month and printed on newsprint in tabloid or broadsheet format folded loosely together without stapling, glue, or any other binding of any kind, including any supplement of a printed newspaper.

(511) **Received for free by end user.** Digital products and digital codes obtained by the end user for free are not subject to use tax.

(a) For example, a person's use of a free search engine is not subject to use tax.

(b) For example, a person reading an online article or viewing an online picture for free is not subject to use tax.

(512) **Other use tax exemptions.** Use tax does not apply to the use of digital goods that are:

(a) Noncommercial in nature, such as personal e-mail communications;

(b) Created solely for an internal audience; or

(c) Created solely for the business needs of the person who created the digital good and is not the type of digital good that is offered for sale, including business e-mail communications.

Example 32. Gary, an employee of Kadabbera Corp., creates a digital audio-visual presentation using presentation authoring software and his innate creative capacity. Gary distributes the presentation internally to various divisions within Kadabbera in order to train employees on changes to company policies. Gary has created and distributed an item that meets the definition of "digital good." However, the distribution and use of this digital good is not subject to use tax as long as it is used solely internally or solely for the business needs of Kadabbera.

Part 6. Miscellaneous Provisions

(601) **Retail services.** Washington imposes retail sales and use tax on certain enumerated services under RCW 82.04.050 ("retail services"). For example, the sale of credit bureau services is subject to retail sales tax. However, when a retail service is transferred electronically and also meets the definition of digital automated service or digital good, such service will be treated as a digital product and is eligible for all applicable digital products retail sales and use tax exemptions as described above in Part 5 of this rule. Retail services that are not transferred electronically or those retail services that are excluded from the definitions of digital good or digital automated service (e.g., telecommunications services and ancillary services) continue to be taxed as retail services.

Example 33. ABC creates a "canned" digital report on Company X's creditworthiness prepared prior to a customer request for the report. The report may be a credit bureau service and/or a digital good (if transferred electronically). The "canned" report is listed for sale on ABC's web site. An employee of InvestCo, Inc. purchases and downloads a digital copy of the "canned" credit report from ABC's web site for InvestCo's business purpose. ABC is selling a digital good generally subject to retail sales tax. However, the "canned" report is purchased by InvestCo solely for a business purpose and therefore exempt from retail sales tax (see subsection (505) of this ~~(section)~~ rule for more on this exemption).

Example 34. Company sells credit reports and credit research services. EPD Corp., requests that Company prepare a credit report for EPD's specialized business purposes. After receiving the request, Company's employee researches, analyzes and generates information from various digital sources to prepare the credit report for EPD. Company then sends the report electronically as a digital file to EPD. Company is not selling a digital good because the digital item supplied to EPD is merely a representation of a professional service performed by EPD's employee. Therefore, Company's services are not a "digital product." However, Company is still required to charge and collect retail sales tax because Company is still providing credit bureau services, a retail service, subject to retail sales tax.

Example 35. Company sells an online credit reporting service. The service includes access to searchable data bases, digital data analysis, and digital data reporting tools. ManageCo investigates the credit worthiness of individuals and therefore purchases access to Company's online service. Company is selling a digital automated service to be used solely for a business purpose by ManageCo. However, the "used solely for a business purpose" exemption is limited to digital goods and is not applicable to digital automated services. As such, Company is required to charge and collect retail sales tax on its sale of the digital automated service to ManageCo.

(602) **Royalties and wholesaling B&O tax on digital products.** The sale of digital products to "nonend users" may be subject to royalties or wholesaling B&O tax depending on the type of transaction and the intangible rights provided to the purchaser. Transactions which provide the right to resell digital products (no copying rights) to consumers will generally be treated as wholesale sales. Additionally, transactions which allow the purchaser the right to incorporate a digital product into a new product for sale will also be treated as wholesale sales. See also subsection (503) of this ~~(section)~~ rule. Other nonend user transactions involving digital products or digital codes will generally be treated as royalties transactions.

Example 36. Media Corp., licenses to Rerun Inc., the right to further broadcast a digital movie file on Rerun's web site for a specified period of time. In this case Media Corp. provides Rerun with the right by contract to further commercially broadcast or exhibit a digital movie to its subscribers. This is a nonend user transaction subject to royalties B&O tax. Media Corp. would report its gross receipts from this transaction under the royalties B&O tax classification and not charge and collect retail sales tax on the transaction with

Rerun. Rerun's charges for the subscription service provided to consumers are generally subject to retail sales tax and retailing B&O tax.

Example 37. Same facts as Example 36 except Rerun purchases individual digital movie files from Media Corp. with the right to resell those individual files to end users at retail instead of rebroadcasting or exhibiting to the public. In this case Media Corp. has provided Rerun with the right to resell individual digital movie files to end users. Media Corp. would report its gross receipts from this transaction under the wholesaling B&O tax classification and not charge and collect retail sales tax on the transaction with Rerun. Rerun's charges to consumers for the movie files are generally subject to retail sales tax and retailing B&O tax.

Example 38. Same facts as Example 37 except that Rerun purchases a single digital movie file with the right provided by contract to duplicate and sell that movie file. In this case Media Corp. has provided Rerun with the right to duplicate and sell individual digital movie files. Media Corp. would report its gross receipts from this transaction under the royalties B&O tax classification. Media Corp. would not need to charge and collect retail sales or use tax from Rerun. Rerun's charges to consumers for the movie files are generally subject to retail sales tax and retailing B&O tax.

Example 39. Jack is a photographer who creates a digital picture of Mt. Rainier. Jack licenses, by contract, to Cashman the right to duplicate and sell copies of the Mt. Rainier picture in retail stores. Cashman's payment to Jack is for the grant of an intangible right and subject to royalties B&O tax. Cashman's sale of the picture at retail to customers is subject to retail sales tax and retailing B&O tax.

(603) **Substantial nexus** is not established in Washington if a business's only contact with the state of Washington is ownership of, or rights in, computer software as defined in RCW 82.04.215, including computer software used in providing a digital automated service; master copies of software; a digital goods or digital codes residing on servers in Washington. For purposes of this ((~~section~~)) rule, "substantial nexus" means the requisite connection that a person must have with a state to allow the state to subject the person to the state's taxing authority, consistent with the commerce clause of the United States Constitution.

(604) **Amnesty.** Before July 26, 2009, retail sales of downloaded digital goods on a permanent or nonpermanent basis were subject to retail sales tax. This did not include accessed or streamed digital goods. However, amnesty is available to those who did not collect or pay retail sales or use tax on digital goods and digital codes during that time. Sales of digital automated services and accessed or streamed digital goods were subject to service and other B&O tax before July 26, 2009, and amnesty does not extend to these transactions because they were not subject to retail sales tax during that time period.

(a) **Refunds and credits of retail sales or use tax.** No refund or credit will be given for state and local retail sales and use taxes properly paid on the sale or use, before July 26, 2009, of digital goods or of installing, repairing, altering, or improving digital goods.

(b) **No B&O tax refund or credit unless sales tax was paid.** If a taxpayer paid B&O tax under the service and other

activities classification prior to July 26, 2009, on income received from retail sales of digital products or digital codes, the taxpayer may not receive a refund or credit for the difference between the B&O tax actually paid and the B&O tax that should have been paid under the retailing classification unless the taxpayer has remitted the retail sales tax for those sales.

(605) **Bundled transactions.** A "bundled transaction" is the retail sale of two or more products, which are distinct and identifiable for one nonitemized price. Because retail sales of digital products and digital codes are subject to retail sales tax, the general rules on the taxation of bundled transactions may apply to certain transactions involving digital products and digital codes. See RCW 82.08.190 and 82.08.195 for more information on the tax treatment of bundled transactions.

(606) **Property tax.** The excise tax laws relating to digital products and digital codes do not have any impact in the characterization of digital goods and digital codes as tangible or intangible personal property for purposes of property taxation and may not be used in any way in construing Title 84 RCW. See section 1201, chapter 535, Laws of 2009.

(607) **Records requirement.** Every taxpayer liable for any tax collected by the department must keep and preserve, for a period of five years, suitable records to determine the amount of tax owed. Such records must include copies of all federal income tax and state tax returns and reports. All of taxpayer's books, records, and invoices must be open to examination by the department. An out-of-state taxpayer that does not keep the necessary books and records within this state may produce within this state the books and records required by the department, or permit the examination by an agent authorized or designated by the department at the place the books and records are kept.

WSR 16-04-102

PERMANENT RULES

SKAGIT VALLEY COLLEGE

[Filed February 2, 2016, 9:48 a.m., effective March 4, 2016]

Effective Date of Rule: Thirty-one days after filing.

Purpose:

- Bring Skagit Valley College into full compliance with the Violence Against Women Reauthorization Act of 2013 and Title IX regulations.
- Streamline the appeal process for students who are found in violation of the code of student conduct and receive certain sanctions, such as a warning, disciplinary probation, or a suspension of ten days or less.
- Clarify the right of faculty to suspend any student from the classroom for one day in order to maintain classroom order.

Citation of Existing Rules Affected by this Order:
Repealing chapter 132D-120 WAC.

Statutory Authority for Adoption: RCW 28B.50.150.

Adopted under notice filed as WSR 15-24-099 on December 1, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 6, Amended 0, Repealed 0; Federal Rules or Standards: New 6, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 6, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 23, Amended 0, Repealed 25.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 23, Amended 0, Repealed 25.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: February 2, 2016.

Lisa Radeleff
Executive Assistant to the
President/Rules Coordinator

Chapter 132D-150 WAC

CODE OF STUDENT CONDUCT

NEW SECTION

WAC 132D-150-010 Authority. The board of trustees, acting pursuant to RCW 28B.50.140(14), delegates to the president of the college the authority to administer disciplinary action. Administration of the disciplinary procedures is the responsibility of the vice-president for student affairs or designee. The student conduct officer shall serve as the principal investigator and administrator for alleged violations of this code.

NEW SECTION

WAC 132D-150-020 Statement of jurisdiction. The code of student conduct shall apply to student conduct that occurs on college premises, to conduct that occurs at or in connection with college sponsored activities, or to off-campus conduct that in the judgment of the college adversely affects the college community or the pursuit of its objectives. Jurisdiction extends to, but is not limited to, locations in which students are engaged in official college activities including, but not limited to, foreign or domestic travel, activities funded by the associated students, athletic events, training internships, cooperative and distance education, online education, practicums, supervised work experiences or any other college-sanctioned social or club activities. Students are responsible for their conduct from the time of application for admission through the actual receipt of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment. These standards shall apply to a student's conduct even if the student withdraws from college while a disciplinary matter is pending.

The college has sole discretion, on a case-by-case basis, to determine whether the student conduct code will be applied to conduct that occurs off campus.

NEW SECTION

WAC 132D-150-030 Definitions. The following definitions shall apply for purpose of this student conduct code:

(1) "Student conduct officer" is a college administrator designated by the president or vice-president for student services to be responsible for implementing and enforcing the student conduct code. The president or vice-president for student services is authorized to reassign any and all of the student conduct officer's duties or responsibilities as set forth in this chapter as may be reasonably necessary.

(2) "Conduct review officer" is the vice-president for student services or other college administrator designated by the president to be responsible for receiving and for reviewing or referring appeals of student disciplinary actions in accordance with the procedures of this code. The president is authorized to reassign any and all of the conduct review officer's duties or responsibilities as set forth in this chapter as may be reasonably necessary.

(3) "The president" is the president of the college. The president is authorized to delegate any of his or her responsibilities as set forth in this chapter as may be reasonably necessary.

(4) "Disciplinary action" is the process by which the student conduct officer imposes discipline against a student for a violation of the student conduct code.

(5) "Disciplinary appeal" is the process by which an aggrieved student can appeal the discipline imposed by the student conduct officer. Disciplinary appeals from a suspension in excess of ten instructional days or an expulsion are heard by the student conduct appeals board. Appeals of all other appealable disciplinary action shall be reviewed through brief adjudicative proceedings.

(6) "Respondent" is the student against whom disciplinary action is initiated.

(7) "Service" is the process by which a document is officially delivered to a party. Unless otherwise provided, service upon a party shall be accomplished by:

(a) Hand delivery of the document to the party; or

(b) By sending the document via first class mail to the party's last known address; or

(c) By sending the document by e-mail via Skagit Valley College's online student conduct software. It is the responsibility of each student to regularly check their official Skagit Valley College e-mail address.

Service is deemed complete upon hand delivery of the document or upon the date the document is e-mailed and deposited in the mail.

(8) "Filing" is the process by which a document is officially delivered to a college official responsible for facilitating a disciplinary review. Unless otherwise provided, filing shall be accomplished by:

(a) Hand delivery of the document to the specified college official or college official's assistant; or

(b) By sending the document by e-mail and first class mail to the specified college official's office and college e-mail address.

Papers required to be filed shall be deemed filed upon actual receipt during office hours at the office of the specified college official.

(9) "College premises" shall include all campuses of the college, wherever located, and includes all land, buildings, facilities, vehicles, equipment, and other property owned, used, or controlled by the college.

(10) "Student" includes all persons taking courses at or through the college, whether on a full-time or part-time basis, and whether such courses are credit courses, noncredit courses, online courses, or otherwise. Persons who withdraw after allegedly violating the code, who are not officially enrolled for a particular term but who have a continuing relationship with the college, or who have been notified of their acceptance for admission are considered "students."

(11) "Business day" means a weekday, excluding weekends and college holidays.

(12) "Calendar day" means days on the calendar including weekends and holidays.

Note: "Day" refers to calendar days unless otherwise specified.

NEW SECTION

WAC 132D-150-040 Statement of student rights. (1)

As members of the academic community, students are encouraged to develop the capacity for critical judgment and to engage in an independent search for truth. Freedom to teach and freedom to learn are inseparable facets of academic freedom. The freedom to learn depends upon appropriate opportunities and conditions in the classroom, on the campus, and in the larger community. Students should exercise their freedom with responsibility. The responsibility to secure and to respect general conditions conducive to the freedom to learn is shared by all members of the college community.

(2) The following enumerated rights are guaranteed to each student within the limitations of statutory law and college policy which are deemed necessary to achieve the educational goals of the college:

(a) Academic freedom.

(i) Students are guaranteed the rights of free inquiry, expression, and assembly upon and within college facilities that are generally open and available to the public.

(ii) Students are free to pursue appropriate educational objectives from among the college's curricula, programs, and services, subject to the limitations of RCW 28B.50.090 (3)(b).

(iii) Students shall be protected from academic evaluation which is arbitrary, prejudiced, or capricious, but are responsible for meeting the standards of academic performance established by each of their instructors.

(iv) Students have the right to a learning environment which is free from unlawful discrimination, inappropriate and disrespectful conduct, and any and all harassment, including sexual harassment.

(b) Due process.

(i) The rights of students to be secure in their persons, quarters, papers, and effects against unreasonable searches and seizures is guaranteed.

(ii) No disciplinary sanction may be imposed on any student without notice to the accused of the nature of the charges.

(iii) A student accused of violating this code of student conduct is entitled, upon request, to procedural due process as set forth in this chapter.

NEW SECTION

WAC 132D-150-050 Prohibited student conduct. The college may impose disciplinary sanctions against a student who commits, attempts to commit, aids, abets, incites, encourages or assists another person to commit, an act(s) of misconduct which include, but are not limited to, the following:

(1) **Academic dishonesty.** Any act of academic dishonesty including, but not limited to, cheating, plagiarism, and fabrication.

(a) Cheating includes any attempt to give or obtain unauthorized assistance relating to the completion of an academic assignment.

(b) Plagiarism includes taking and using as one's own, without proper attribution, the ideas, writings, or work of another person in completing an academic assignment. Prohibited conduct may also include the unauthorized submission for credit of academic work that has been submitted for credit in another course.

(c) Fabrication includes falsifying data, information, or citations in completing an academic assignment and also includes providing false or deceptive information to an instructor concerning the completion of an assignment.

(2) **Other dishonesty.** Any other acts of dishonesty. Such acts include, but are not limited to:

(a) Forgery, alteration, submission of falsified documents or misuse of any college document, record, or instrument of identification;

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

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

(3) **Obstruction or disruption.** Obstruction or disruption of:

(a) Any instruction, research, administration, disciplinary proceeding, or other college activity, including the obstruction of the free flow of pedestrian or vehicular movement on college property or at a college activity; or

(b) Any activity that is authorized to occur on college property, whether or not actually conducted or sponsored by the college.

(4) **Assault, intimidation, harassment.** Assault, physical abuse, verbal abuse, threat(s), intimidation, harassment, bullying, stalking or other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person or another person's property. For purposes of this subsection:

(a) Bullying is severe or pervasive physical or verbal abuse involving a power imbalance between the aggressor and victim.

(b) Stalking is intentional and repeated following of another person, which places that person in reasonable fear that the perpetrator intends to injure, intimidate or harass that person. Stalking also includes instances where the perpetrator knows or reasonably should know that the person is frightened, intimidated or harassed, even if the perpetrator lacks such an intent.

(5) **Cyber misconduct.** Cyberstalking, cyberbullying or online harassment. Use of electronic communications including, but not limited to, electronic mail, instant messaging, electronic bulletin boards, and social media sites, to harass, abuse, bully or engage in other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person. Prohibited activities include, but are not limited to, unauthorized monitoring of another's e-mail communications directly or through spyware, sending threatening e-mails, disrupting electronic communications with spam or by sending a computer virus, sending false messages to third parties using another's e-mail identity, nonconsensual recording of sexual activity, and nonconsensual distribution of a recording of sexual activity.

(6) **Property violation.** Damage to, or theft or misuse of, real or personal property or money of:

(a) The college or state;

(b) Any student or college officer, employee, or organization;

(c) Any other member of the college community or organization; or

(d) Possession of such property or money after it has been stolen.

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

(8) **Weapons.** Possession, holding, wearing, transporting, storage or presence of any firearm, dagger, sword, knife or other cutting or stabbing instrument, club, explosive device, or any other weapon apparently capable of producing bodily harm is prohibited on the college campus, subject to the following exceptions:

(a) Commissioned law enforcement personnel or legally authorized military personnel while in performance of their duties;

(b) A student with a valid concealed weapons permit may store a pistol in his or her vehicle parked on campus in accordance with RCW 9.41.050 (2) or (3), provided the vehicle is locked and the weapon is concealed from view; or

(c) The president may grant permission to bring a weapon on campus upon a determination that the weapon is reasonably related to a legitimate pedagogical, religious, or other purpose. Such permission shall be in writing and shall be subject to such terms or conditions incorporated in the written permission.

(d) This policy does not apply to the possession and/or use of disabling chemical sprays when possessed and/or used for self defense.

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

(10) **Alcohol, drug, and tobacco violations.**

(a) **Alcohol.** The use, possession, delivery, sale, or being observably under the influence of any alcoholic beverage, except as permitted by law and applicable college policies.

(b) **Marijuana.** The use, possession, delivery, sale, or being observably under the influence of marijuana or the psychoactive compounds found in marijuana and intended for human consumption, regardless of form. While state law permits the recreational use of marijuana, federal law prohibits such use on college premises or in connection with college activities.

(c) **Drugs.** The use, possession, delivery, sale, or being observably under the influence of any legend drug, including anabolic steroids, androgens, or human growth hormones as defined in chapter 69.41 RCW, or any other controlled substance under chapter 69.50 RCW, except as prescribed for a student's use by a licensed practitioner.

(d) **Tobacco, electronic cigarettes, and related products.** The use of tobacco, electronic cigarettes, and related products in any building owned, leased or operated by the college or in any location where such use is prohibited, including twenty-five feet from entrances, exits, windows that open, and ventilation intakes of any building owned, leased or operated by the college. The use of tobacco, electronic cigarettes, and related products on the college campus is restricted to designated smoking areas. "Related products" includes, but is not limited to, cigarettes, pipes, bidi, clove cigarettes, waterpipes, hookahs, chewing tobacco, and snuff.

(11) **Lewd conduct.** Conduct which is lewd or obscene.

(12) **Discriminatory conduct.** Discriminatory conduct which harms or adversely affects any member of the college community because of her/his race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age; religion; creed; genetic information; sexual orientation; gender identity; veteran's status; or any other legally protected classification.

(13) **Sexual misconduct.** The term "sexual misconduct" includes sexual harassment, sexual intimidation, and sexual violence.

(a) **Sexual harassment.** The term "sexual harassment" means unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature that is sufficiently serious as to deny or limit, and that does deny or limit, based on sex, the ability of a student to participate in or benefit from the college's educational program or that creates an intimidating, hostile, or offensive environment for other campus community members.

(b) **Sexual intimidation.** The term "sexual intimidation" incorporates the definition of "sexual harassment" and means threatening or emotionally distressing conduct based on sex including, but not limited to, nonconsensual recording of sexual activity or the distribution of such recording.

(c) **Sexual violence.** "Sexual violence" is a type of sexual discrimination and harassment. Nonconsensual sexual intercourse, nonconsensual sexual contact, domestic violence, dating violence, and stalking are all types of sexual violence.

(i) Nonconsensual sexual intercourse is any sexual intercourse (anal, oral, or vaginal), however slight, with any object, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

(ii) Nonconsensual sexual contact is any intentional sexual touching, however slight, with any object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

(iii) Domestic violence includes asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.

(iv) Dating violence means violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.

(v) Stalking means intentional and repeated harassment or following of another person, which places that person in reasonable fear that the perpetrator intends to injure, intimidate, or harass that person. Stalking also includes instances where the perpetrator knows or reasonably should know that the person is frightened, intimidated, or harassed, even if the perpetrator lacks such intent.

(vi) Consent means knowing, voluntary and clear permission by word or action, to engage in mutually agreed upon sexual activity. Each party has the responsibility to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be at the time of the act of sexual intercourse or sexual contact actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.

A person cannot consent if he or she is unable to understand what is happening or is disoriented, helpless, asleep or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has engaged in nonconsensual conduct.

Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.

(14) **Harassment.** Unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct, that is directed at a person because of such person's protected status and that is sufficiently serious as to deny or limit, and that does deny or limit, the ability of a student to participate in or benefit from the college's educational program or that creates an intimidating, hostile, or offensive environment for other campus community members. Protected status includes a person's race; color; national origin; sensory, mental or phys-

ical disability; use of a service animal; gender, including pregnancy; marital status; age; religion; creed; genetic information; sexual orientation; gender identity; veteran's status; or any other legally protected classification. See "sexual misconduct" for the definition of sexual harassment. Harassing conduct may include, but is not limited to, physical conduct, verbal, written, social media and electronic.

(15) **Retaliation.** Retaliation against any individual for reporting, providing information, exercising one's rights or responsibilities, or otherwise being involved in the process of responding to, investigating, or addressing allegations or violations of federal, state or local law, or college policies including, but not limited to, student conduct code provisions prohibiting discrimination and harassment.

(16) **Misuse of electronic resources.** Theft or other misuse of computer time or other electronic information resources of the college. Such misuse includes, but is not limited to:

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

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

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

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

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

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

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

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

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

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

(18) **Safety violations.** Safety violation includes any nonaccidental conduct that interferes with or otherwise compromises any college policy, equipment, or procedure relating to the safety and security of the campus community, including tampering with fire safety equipment and triggering false alarms or other emergency response systems.

(19) **Violation of other laws or policies.** Violation of any federal, state, or local law, rule, or regulation or other college rules or policies, including college traffic and parking rules.

(20) **Ethical violation.** The breach of any generally recognized and published code of ethics or standards of professional practice that governs the conduct of a particular profession for which the student is taking a course or is pursuing as an educational goal or major.

In addition to initiating discipline proceedings for violation of the student conduct code, the college may refer any violations of federal, state or local laws to civil and criminal

authorities for disposition. The college shall proceed with student disciplinary proceedings regardless of whether the underlying conduct is subject to civil or criminal prosecution.

NEW SECTION

WAC 132D-150-070 Disciplinary sanctions—Terms and conditions. The following disciplinary sanctions may be imposed upon students found to have violated the student conduct code.

(1) **Disciplinary warning.** A verbal statement to a student that there is a violation and that continued violation may be cause for further disciplinary action.

(2) **Written reprimand.** Notice in writing that the student has violated one or more terms of this code of conduct and that continuation of the same or similar behavior may result in more severe disciplinary action.

(3) **Disciplinary probation.** Formal action placing specific conditions and restrictions upon the student's continued attendance depending upon the seriousness of the violation and which may include a deferred disciplinary sanction. If the student subject to a deferred disciplinary sanction is found in violation of any college rule during the time of disciplinary probation, the deferred disciplinary sanction, which may include, but is not limited to, a suspension or a dismissal from the college, shall take effect immediately without further review. Any such sanction shall be in addition to any sanction or conditions arising from the new violation. Probation may be for a limited period of time or may be for the duration of the student's attendance at the college.

(4) **Disciplinary suspension.** Dismissal from the college and from the student status for a stated period of time. There will be no refund of tuition or fees for the quarter in which the action is taken.

(5) **Dismissal.** The revocation of all rights and privileges of membership in the college community and exclusion from the campus and college-owned or controlled facilities without any possibility of return. There will be no refund of tuition or fees for the quarter in which the action is taken.

Disciplinary terms and conditions that may be imposed alone or in conjunction with the imposition of a disciplinary sanction include, but are not limited to, the following:

(a) **Restitution.** Reimbursement for damage to or misappropriation of property, or for injury to persons, or for reasonable costs incurred by the college in pursuing an investigation or disciplinary proceeding. This may take the form of monetary reimbursement, appropriate service, or other compensation.

(b) **Professional evaluation.** Referral for drug, alcohol, psychological or medical evaluation by an appropriately certified or licensed professional may be required. The student may choose the professional within the scope of practice and with the professional credentials as defined by the college. The student will sign all necessary releases to allow the college access to any such evaluation. The student's return to college may be conditioned upon compliance with recommendations set forth in such a professional evaluation. If the evaluation indicates that the student is not capable of functioning within the college community, the student will remain suspended until future evaluation recommends that

the student is capable of reentering the college and complying with the rules of conduct.

(c) **Not in good standing.** A student may be deemed "not in good standing" with the college. If so, the student shall be subject to the following restrictions:

(i) Ineligible to hold an office in any student organization recognized by the college or to hold any elected or appointed office of the college.

(ii) Ineligible to represent the college to anyone outside the college community in any way, including representing the college at any official function, or any forms of intercollegiate competition or representation.

(d) **No contact order.** An order directing a student to have no contact with a specified student, college employee, a member of the college community, or a particular college facility.

NEW SECTION

WAC 132D-150-090 Initiation of disciplinary action.

(1) All disciplinary actions will be initiated by the student conduct officer. If that officer is the subject of a complaint initiated by the respondent, the president shall, upon request and when feasible, designate another person to fulfill any such disciplinary responsibilities relative to the complainant.

(2) The student conduct officer shall initiate disciplinary action by serving the respondent with written notice directing him or her to attend a disciplinary meeting. The notice shall briefly describe the factual allegations, the provision(s) of the conduct code the respondent is alleged to have violated, the range of possible sanctions for the alleged violation(s), and specify the time and location of the meeting. At the meeting, the student conduct officer will present the allegations to the respondent and the respondent shall be afforded an opportunity to explain what took place. If the respondent fails to attend the meeting after proper service of notice, the student conduct officer may take disciplinary action based upon the available information.

(3) Within ten business days of the initial disciplinary meeting, and after considering the evidence in the case, including any facts or argument presented by the respondent, the student conduct officer shall serve the respondent with a written decision setting forth the facts and conclusions supporting his or her decision, the specific student conduct code provisions found to have been violated, the discipline imposed, if any, and a notice of any appeal rights with an explanation of the consequences of failing to file a timely appeal.

(4) The student conduct officer may take any of the following disciplinary actions:

(a) Exonerate the respondent and terminate the proceedings.

(b) Impose a disciplinary sanction(s), as described in WAC 132D-150-070.

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

NEW SECTION

WAC 132D-150-110 Appeal from disciplinary action. (1) The respondent may appeal a disciplinary action by filing a written notice of appeal with the conduct review officer within ten business days of service of the student conduct officer's decision. Failure to timely file a notice of appeal constitutes a waiver of the right to appeal and the student conduct officer's decision shall be deemed final.

(2) The notice of appeal must include a brief statement explaining why the respondent is seeking review.

(3) The parties to an appeal shall be the respondent and the conduct review officer.

(4) A respondent, who timely appeals a disciplinary action or whose case is referred to the student conduct committee, has a right to a prompt, fair, and impartial hearing as provided for in these procedures.

(5) On appeal, the college bears the burden of establishing the evidentiary facts underlying the imposition of a disciplinary sanction by a preponderance of the evidence.

(6) Imposition of disciplinary action for violation of the student conduct code shall be stayed pending appeal, unless respondent has been summarily suspended.

(7) The student conduct committee shall hear appeals from:

(a) The imposition of disciplinary suspensions in excess of ten instructional days;

(b) Dismissals; and

(c) Discipline cases referred to the committee by the student conduct officer, the conduct review officer, or the president.

(8) Student conduct appeals from the imposition of the following disciplinary sanctions shall be reviewed through a brief adjudicative proceeding:

(a) Suspensions of ten instructional days or less;

(b) Disciplinary probation;

(c) Written reprimands; and

(d) Any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions.

(9) Except as provided elsewhere in these rules, disciplinary warnings and dismissals of disciplinary actions are final action and are not subject to appeal.

NEW SECTION

WAC 132D-150-130 Brief adjudicative proceedings authorized. This rule is adopted in accordance with RCW 34.05.482 through 34.05.494. Brief adjudicative proceedings shall be used, unless provided otherwise by another rule or determined otherwise in a particular case by the president, or a designee, in regard to:

(1) Parking violations.

(2) Outstanding debts owed by students or employees.

(3) Use of college facilities.

(4) Residency determinations.

(5) Use of library - Fines.

(6) Challenges to contents of education records.

(7) Loss of eligibility for participation in institution sponsored athletic events.

(8) Student conduct appeals involving the following disciplinary actions:

(a) Suspensions of ten instructional days or less;

(b) Disciplinary probation;

(c) Written reprimands;

(d) Any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions; and

(e) Appeals by a complainant in student disciplinary proceedings involving allegations of sexual misconduct in which the student conduct officer:

(i) Dismisses disciplinary proceedings based upon a finding that the allegations of sexual misconduct have no merit; or

(ii) Issues a verbal warning to respondent.

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

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

NEW SECTION**WAC 132D-150-150 Brief adjudicative proceedings**

—Initial hearing. (1) Brief adjudicative proceedings shall be conducted by a conduct review officer. The conduct review officer shall not participate in any case in which he or she is a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(2) Before taking action, the conduct review officer shall conduct an informal hearing and provide each party:

(a) An opportunity to be informed of the agency's view of the matter; and

(b) An opportunity to explain the party's view of the matter.

(3) The conduct review officer shall serve an initial decision upon both the parties within ten business days of consideration of the appeal. The initial decision shall contain a brief written statement of the reasons for the decision and information about how to seek administrative review of the initial decision. If no request for review is filed within twenty-one calendar days of service of the initial decision, the initial decision shall be deemed the final decision.

(4) If the conduct review officer upon review determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than ten instructional days or expulsion, the matter shall be referred to the student conduct committee for a disciplinary hearing.

NEW SECTION**WAC 132D-150-170 Brief adjudicative proceedings—Review of an initial decision.**

(1) An initial decision is subject to review by the president, provided the respondent files a written request for review with the conduct review officer within twenty-one days of service of the initial decision.

(2) The president shall not participate in any case in which he or she is a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(3) During the review, the president shall give each party an opportunity to file written responses explaining their view

of the matter and shall make any inquiries necessary to ascertain whether the sanctions should be modified or whether the proceedings should be referred to the student conduct committee for a formal adjudicative hearing.

(4) The decision on review must be in writing and must include a brief statement of the reasons for the decision and must be served on the parties within twenty days of the initial decision or of the request for review, whichever is later. The decision on review will contain a notice that judicial review may be available. A request for review may be deemed to have been denied if the president does not make a disposition of the matter within twenty days after the request is submitted.

(5) If the president upon review determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than ten instructional days or expulsion, the matter shall be referred to the student conduct committee for a disciplinary hearing.

NEW SECTION

WAC 132D-150-190 Brief adjudicative proceedings—Agency record. The agency record for brief adjudicative proceedings shall consist of any documents regarding the matter that were considered or prepared by the presiding officer for the brief adjudicative proceeding or by the reviewing officer for any review. These records shall be maintained as the official record of the proceedings.

NEW SECTION

WAC 132D-150-210 Student conduct committee. (1) The student conduct committee shall consist of five members:

- (a) Two full-time students appointed by the student government;
- (b) Two faculty members appointed by the president;
- (c) One faculty member or administrator, other than an administrator serving as a student conduct or conduct review officer, appointed by the president at the beginning of the academic year.

(2) The faculty member or administrator appointed on a yearly basis shall serve as the chair of the committee and may take action on preliminary hearing matters prior to convening the committee. The chair shall receive annual training on protecting victims and promoting accountability in cases involving allegations of sexual misconduct.

(3) Hearings may be heard by a quorum of three members of the committee so long as one faculty member and one student are included on the hearing panel. Committee action may be taken upon a majority vote of all committee members attending the hearing.

(4) Members of the student conduct committee shall not participate in any case in which they are a party, complainant, or witness, in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity. Any party may petition for disqualification of a committee member pursuant to RCW 34.05.425(4).

NEW SECTION

WAC 132D-150-230 Appeal—Student conduct committee. (1) Proceedings of the student conduct committee shall be governed by the Administrative Procedure Act, chapter 34.05 RCW, and by the model rules of procedure, chapter 10-08 WAC. To the extent there is a conflict between these rules and chapter 10-08 WAC, these rules shall control.

(2) The student conduct committee chair shall serve all parties with written notice of the hearing no less than seven days in advance of the hearing date, as further specified in RCW 34.05.434 and WAC 10-08-040 and 10-08-045. The chair may shorten this notice period if both parties agree, and also may continue the hearing to a later time for good cause shown.

(3) The committee chair is authorized to conduct prehearing conferences and/or to make prehearing decisions concerning the extent and form of any discovery, issuance of protective decisions, and similar procedural matters.

(4) Upon request filed at least five days before the hearing by any party or at the direction of the committee chair, the parties shall exchange, no later than the third day prior to the hearing, lists of potential witnesses and copies of potential exhibits that they reasonably expect to present to the committee. Failure to participate in good faith in such a requested exchange may be cause for exclusion from the hearing of any witness or exhibit not disclosed, absent a showing of good cause for such failure.

(5) The committee chair may provide to the committee members in advance of the hearing copies of:

(a) The conduct officer's notification of imposition of discipline, or referral to the committee; and

(b) The notice of appeal, or any response to referral, by the respondent. If doing so, however, the chair should remind the members that these "pleadings" are not evidence of any facts they may allege.

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

(7) The student conduct officer, upon request, shall provide reasonable assistance to the respondent in obtaining relevant and admissible evidence that is within the college's control.

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

(9) Each party may be accompanied at the hearing by a nonattorney assistant of his/her choice. A respondent may elect to be represented by an attorney at his or her own cost, but will be deemed to have waived that right unless, at least four business days before the hearing, written notice of the attorney's identity and participation is filed with the committee chair with a copy to the student conduct officer. The committee will ordinarily be advised by an assistant attorney general. If the respondent is represented by an attorney, the stu-

dent conduct officer may also be represented by a second, appropriately screened assistant attorney general.

NEW SECTION

WAC 132D-150-250 Student conduct committee hearings—Presentations of evidence. (1) Upon the failure of any party to attend or participate in a hearing, the student conduct committee may either:

(a) Proceed with the hearing and issuance of its decision;

or

(b) Serve a decision of default in accordance with RCW 34.05.440.

(2) The hearing will ordinarily be closed to the public. However, if all parties agree on the record that some or all of the proceedings be open, the chair shall determine any extent to which the hearing will be open. If any person disrupts the proceedings, the chair may exclude that person from the hearing room.

(3) The chair shall cause the hearing to be recorded by a method that he/she selects, in accordance with RCW 34.05.-449. That recording, or a copy, shall be made available to any party upon request. The chair shall assure maintenance of the record of the proceeding that is required by RCW 34.05.476, which shall also be available upon request for inspection and copying by any party. Other recording shall also be permitted, in accordance with WAC 10-08-190.

(4) The chair shall preside at the hearing and decide procedural questions that arise during the hearing, except as overridden by majority vote of the committee.

(5) The student conduct officer, unless represented by an assistant attorney general, shall present the case for imposing disciplinary sanctions.

(6) All testimony shall be given under oath or affirmation. Evidence shall be admitted or excluded in accordance with RCW 34.05.452.

NEW SECTION

WAC 132D-150-270 Student conduct committee—Initial decision. (1) At the conclusion of the hearing, the student conduct committee shall permit the parties to make closing arguments in whatever form it wishes to receive them. The committee also may permit each party to propose findings, conclusions, and/or a proposed decision for its consideration.

(2) Within twenty days following the later of the conclusion of the hearing or the committee's receipt of closing arguments, the committee shall issue an initial decision in accordance with RCW 34.05.461 and WAC 10-08-210. The initial decision shall include findings on all material issues of fact and conclusions on all material issues of law, including which, if any, provisions of the student conduct code were violated. Any findings based substantially on the credibility of evidence or the demeanor of witnesses shall be so identified.

(3) The committee's initial order shall also include a determination on appropriate discipline, if any. If the matter was referred to the committee by the student conduct officer, the committee shall identify and impose disciplinary sanction(s) or conditions, if any, as authorized in the student code.

If the matter is an appeal by the respondent, the committee may affirm, reverse, or modify the disciplinary sanction and/or conditions imposed by the student conduct officer and/or impose additional disciplinary sanction(s) or conditions as authorized herein.

(4) The committee chair shall cause copies of the initial decision to be served on the parties and their legal counsel of record. The committee chair shall also promptly transmit a copy of the decision and the record of the committee's proceedings to the president.

NEW SECTION

WAC 132D-150-290 Appeal from student conduct committee initial decision. (1) A respondent who is aggrieved by the findings or conclusions issued by the student conduct committee may appeal the committee's initial decision to the president by filing a notice of appeal with the president's office within twenty-one days of service of the committee's initial decision. Failure to file a timely appeal constitutes a waiver of the right and the initial decision shall be deemed final.

(2) The notice of appeal must identify the specific findings of fact and/or conclusions of law in the initial decision that are challenged and must contain argument why the appeal should be granted. If necessary to aid review, the president may ask for additional briefing from the parties on issues raised on appeal. The president's review shall be restricted to the hearing record made before the student conduct committee and will normally be limited to a review of those issues and arguments raised in the notice of appeal.

(3) The president shall provide a written decision to all parties within forty-five days after receipt of the notice of appeal. The president's decision shall be final and shall include a notice of any rights to request reconsideration and/or judicial review.

(4) The president shall not engage in an ex parte communication with any of the parties regarding an appeal.

NEW SECTION

WAC 132D-150-310 Summary suspension. (1) Summary suspension is a temporary exclusion from specified college premises or denial of access to all activities or privileges for which a respondent might otherwise be eligible, while an investigation and/or formal disciplinary procedures are pending.

(2) The student conduct officer may impose a summary suspension if there is probable cause to believe that the respondent:

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

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

(c) Poses an ongoing threat of substantial disruption of, or interference with, the operations of the college.

(3) Notice. Any respondent who has been summarily suspended shall be served with oral or written notice of the summary suspension. If oral notice is given, a written notification shall be served on the respondent within two business days of the oral notice.

(4) The written notification shall be entitled "Notice of Summary Suspension" and shall include:

(a) The reasons for imposing the summary suspension, including a description of the conduct giving rise to the summary suspension and reference to the provisions of the student conduct code or the law allegedly violated;

(b) The date, time, and location when the respondent must appear before the conduct review officer for a hearing on the summary suspension; and

(c) The conditions, if any, under which the respondent may physically access the campus or communicate with members of the campus community. If the respondent has been trespassed from the campus, a notice against trespass shall be included that warns the student that his or her privilege to enter into or remain on college premises has been withdrawn, that the respondent shall be considered trespassing and subject to arrest for criminal trespass if the respondent enters the college campus other than to meet with the student conduct officer or conduct review officer, or to attend a disciplinary hearing.

(5) The conduct review officer shall conduct a hearing on the summary suspension as soon as practicable after imposition of the summary suspension.

(a) During the summary suspension hearing, the issue before the conduct review officer is whether there is probable cause to believe that the summary suspension should be continued pending the conclusion of disciplinary proceedings and/or whether the summary suspension should be less restrictive in scope.

(b) The respondent shall be afforded an opportunity to explain why summary suspension should not be continued while disciplinary proceedings are pending or why the summary suspension should be less restrictive in scope.

(c) If the student fails to appear at the designated hearing time, the conduct review officer may order that the summary suspension remain in place pending the conclusion of the disciplinary proceedings.

(d) As soon as practicable following the hearing, the conduct review officer shall issue a written decision which shall include a brief explanation for any decision continuing and/or modifying the summary suspension and notice of any right to appeal.

(e) To the extent permissible under applicable law, the conduct review officer shall provide a copy of the decision to all persons or offices who may be bound or protected by it.

NEW SECTION

WAC 132D-150-330 Classroom misconduct and authority to suspend for no more than one day. (1) Faculty members have the authority to take appropriate action to maintain order and proper conduct in the classroom and to maintain the effective cooperation of students in fulfilling the objectives of the course.

(2) Bringing any person, thing, or object to a teaching and learning environment that may disrupt the environment or cause a safety or health hazard, without the express approval of the faculty member is expressly prohibited.

(3) Faculty members or college administrators have the right to suspend any student from any single class or related

activity for no more than one instructional day per incident, if the student's misconduct creates disruption to the point that it is difficult or impossible to maintain the decorum of the class, related activity, or the learning and teaching environment. The faculty member or college administrator shall report this suspension to the student conduct officer or designee on the same day of the suspension. In consultation with the faculty member, the student conduct officer may set conditions for the student upon return to the class or activity.

NEW SECTION

WAC 132D-150-350 Supplemental sexual misconduct procedures. Both the respondent and the complainant in cases involving allegations of sexual misconduct shall be provided the same procedural rights to participate in student discipline matters, including the right to participate in the initial disciplinary decision-making process and to appeal any disciplinary decision.

Application of the following procedures is limited to student conduct code proceedings involving allegations of sexual misconduct by a student. In such cases, these procedures shall supplement the student disciplinary procedures in WAC 132D-150-005 through 132D-150-080. In the event of conflict between the sexual misconduct procedures and the student disciplinary procedures, the sexual misconduct procedures shall prevail.

NEW SECTION

WAC 132D-150-370 Supplemental definitions. The following supplemental definitions shall apply for purposes of student conduct code proceedings involving allegations of sexual misconduct by a student:

(1) A "complainant" is an alleged victim of sexual misconduct, as defined in subsection (2) of this section.

(2) "Sexual misconduct" has the meaning ascribed to this term in WAC 132D-150-025.

NEW SECTION

WAC 132D-150-390 Supplemental complaint process. The following supplemental procedures shall apply with respect to complaints or other reports of alleged sexual misconduct by a student.

(1) The college's Title IX coordinator or designee shall investigate complaints or other reports of alleged sexual misconduct by a student. Investigations will be completed in a timely manner and the results of the investigation shall be referred to the student conduct officer for disciplinary action.

(2) Informal dispute resolution shall not be used to resolve sexual misconduct complaints without written permission from both the complainant and the respondent. If the parties elect to mediate a dispute, either party shall be free to discontinue mediation at any time. In no event shall mediation be used to resolve complaints involving allegations of sexual violence.

(3) College personnel will honor requests to keep sexual misconduct complaints confidential to the extent this can be done without unreasonably risking the health, safety and welfare of the complainant or other members of the college com-

munity or compromising the college's duty to investigate and process sexual harassment and sexual violence complaints.

(4) The student conduct officer, prior to initiating disciplinary action, will make a reasonable effort to contact the complainant to discuss the results of the investigation and possible disciplinary sanctions and/or conditions, if any, that may be imposed upon the respondent if the allegations of sexual misconduct are found to have merit.

(5) The student conduct officer, on the same date that a disciplinary decision is served on the respondent, will serve a written notice informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including disciplinary suspension or dismissal of the respondent. The notice will also inform the complainant of his or her appeal rights. If protective sanctions and/or conditions are imposed, the student conduct officer shall make a reasonable effort to contact the complainant to ensure prompt notice of the protective disciplinary sanctions and/or conditions.

NEW SECTION

WAC 132D-150-410 Supplemental appeal rights. (1)

The following actions by the student conduct officer may be appealed by the complainant:

(a) The dismissal of a sexual misconduct complaint; or
 (b) Any disciplinary sanction(s) and conditions imposed against a respondent for a sexual misconduct violation, including a disciplinary warning.

(2) A complainant may appeal a disciplinary decision by filing a notice of appeal with the conduct review officer within twenty-one days of service of the notice of the discipline decision provided for in WAC 132D-150-390. The notice of appeal may include a written statement setting forth the grounds of appeal. Failure to file a timely notice of appeal constitutes a waiver of this right and the disciplinary decision shall be deemed final.

(3) If the respondent timely appeals a decision imposing discipline for a sexual misconduct violation, the college shall notify the complainant of the appeal and provide the complainant an opportunity to intervene as a party to the appeal.

(4) Except as otherwise specified in this supplemental procedure, a complainant who timely appeals a disciplinary decision or who intervenes as a party to respondent's appeal of a disciplinary decision shall be afforded the same procedural rights as are afforded the respondent.

(5) An appeal by a complainant from the following disciplinary actions involving allegations of sexual misconduct against a student shall be handled as a brief adjudicative proceeding:

(a) Exoneration and dismissal of the proceedings;
 (b) A disciplinary warning;
 (c) A written reprimand;
 (d) Disciplinary probation;
 (e) Suspensions of ten instructional days or less; and/or
 (f) Any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions.

(6) An appeal by a complainant from disciplinary action imposing a suspension in excess of ten instructional days or an expulsion shall be reviewed by the student conduct committee.

(7) For such appeals that involve sexual misconduct allegations, the student conduct committee shall consist of three members:

(a) Two faculty members appointed by the president;

(b) One faculty member or administrator, other than an administrator serving as a student conduct or conduct review officer, appointed by the president at the beginning of the academic year.

(8) In proceedings before the student conduct committee, respondent and complainant shall have the right to be accompanied by a nonattorney assistant of their choosing during the appeal process. Complainant may choose to be represented at the hearing by an attorney at his or her own expense, but will be deemed to have waived that right unless, at least four business days before the hearing, he or she files a written notice of the attorney's identity and participation with the committee chair, and with copies to the respondent and the student conduct officer.

(9) In proceedings before the student conduct committee, complainant and respondent shall not directly question or cross examine one another. All questions shall be directed to the committee chair, who will act as an intermediary and pose questions on the parties' behalf.

(10) Student conduct hearings involving sexual misconduct allegations shall be closed to the public, unless respondent and complainant both waive this requirement in writing and request that the hearing be open to the public. Complainant, respondent and their respective nonattorney assistants and/or attorneys may attend portions of the hearing where argument, testimony and/or evidence are presented to the student conduct committee.

(11) The chair of the student conduct committee, on the same date as the initial decision is served on the respondent, will serve a written notice upon complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent. The notice will also inform the complainant of his or her appeal rights.

(12) Complainant may appeal the student conduct committee's initial decision to the president subject to the same procedures and deadlines applicable to other parties.

(13) The president, on the same date that the final decision is served upon the respondent, shall serve a written notice informing the complainant of the final decision. This notice shall inform the complainant whether the sexual misconduct allegation was found to have merit and describe any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 132D-120-010 Title.
- WAC 132D-120-020 Definitions.
- WAC 132D-120-030 Jurisdiction of the college.
- WAC 132D-120-040 Disciplinary authority.
- WAC 132D-120-050 Violations.
- WAC 132D-120-060 Violation of law and college discipline.
- WAC 132D-120-070 Disciplinary proceedings.
- WAC 132D-120-080 Sanctions.
- WAC 132D-120-090 Interim sanctions.
- WAC 132D-120-100 Appeals.
- WAC 132D-120-110 Student rights.
- WAC 132D-120-120 Interpretation and revision.
- WAC 132D-120-230 Student complaints.
- WAC 132D-120-240 Complaints excluded from this section.
- WAC 132D-120-250 Initial complaint.
- WAC 132D-120-260 Complaint procedure.
- WAC 132D-120-270 Grievance procedure—Sex and disability discrimination.
- WAC 132D-120-280 Grievance review committee procedures.
- WAC 132D-120-290 Final decision regarding process review—Extra-institutional appeals.
- WAC 132D-120-300 Nature of grievance proceedings.
- WAC 132D-120-310 Withdrawal of grievance.
- WAC 132D-120-320 Administrative, faculty and staff grievances.
- WAC 132D-120-330 Prior rules.
- WAC 132D-120-340 Severability.
- WAC 132D-120-350 Effective date of the rules of conduct.

WSR 16-04-128
PERMANENT RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed February 3, 2016, 11:15 a.m., effective March 5, 2016]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amending WAC 181-82-130 to reflect changes in Braille instruction.

Citation of Existing Rules Affected by this Order: Amending WAC 181-82-130.

Statutory Authority for Adoption: RCW 28A.410.210.

Adopted under notice filed as WSR 15-18-007 on August 20, 2015.

Changes Other than Editing from Proposed to Adopted Version: A transition option for proficiency testing is [in] effect until 2017.

A final cost-benefit analysis is available by contacting David Brenna, 600 Washington Street South, Room 400, Olympia, WA 98504-7236, phone (360) 725-6238, fax (360) 586-4548, e-mail david.brenna@k12.wa.us.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 21, 2016.

David Brenna
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

WAC 181-82-130 Assignment of persons providing instruction of Braille to students. (1) No certificated school district employee shall be assigned to provide instruction of Braille to students who has not demonstrated competency with the (~~(grade two standard literary)~~) standards for Unified English Braille code by:

(a) Successful completion of the National Literary Braille Competency Test; or

(b) Successful completion of the Braille competency test developed at (~~(Portland State University)~~) Washington State School for the Blind; or

(c) Successful completion of any other test approved for use by the professional educator standards board.

(2) No classified school district employee working under the supervision of a certificated school district employee, which certificated employee meets the requirement of subsection (1) of this section, may produce Braille material or provide instruction in the Braille code unless the employee has demonstrated competency with the (~~(grade two standard literary)~~) standards for Unified English Braille code as provided under subsection (1) of this section.

(3)(a) Each school district is responsible for monitoring the appropriate assignment of personnel under subsections (1) and (2) of this section.

(b) Any person under subsections (1) and (2) of this section shall have one year from the date of (~~(request)~~) application to successfully pass the testing requirement under subsection (1) of this section.

(c) The Washington (~~(Instructional)~~) Ogden Resource Center (~~(for the Visually Impaired)~~) shall forward to the professional educator standards board the names of individuals who have passed the testing requirement under subsection (1) of this section and the date of passage. The center also shall

forward to the professional educator standards board the names of individuals who have not passed the testing requirement within one year and the name of the employing school district of the individual.

(4) The professional educator standards board shall establish a test review committee which shall be responsible for developing criteria to evaluate a test under subsection (1)(c) of this section. No test shall be considered for approval by the professional educator standards board under subsection (1)(c) of this section unless it has been evaluated by the test review committee and a recommendation for approval or disapproval has been submitted to the board. At a minimum, the membership of the committee shall include persons representing:

- (a) National Federation of the Blind of Washington;
- (b) Washington council of the blind;
- (c) Association of education and rehabilitation of the blind and visually impaired of Washington;
- (d) Washington instructional resource center for the visually impaired;
- (e) Washington state school for the blind; and
- (f) Office of the superintendent of public instruction.

(5) A person who has met the requirement of subsection (1) of this section shall maintain their facility with the ((grade two standard literary)) current Unified English Braille code by:

- (a) ((Completing ten hours every five years of continuing education; or
- (b) Successful completion every five years of one of the tests under subsection (1) of this section.

(6)(a) For the purpose of subsection (5)(a) of this section, the continuing education option may be satisfied by:

- (i) Completing the equivalent of ten clock hours through completion of college credits as provided under WAC 181-85-030 (1) and (2); or
- (ii) Completing ten clock hours of continuing education as provided under WAC 181-85-030 (3) and (4); or
- (iii) Completing the equivalent of ten clock hours through completion of continuing education units through a college or university. One continuing education unit shall equal not fewer than ten clock hours of attendance.

(b) For the purpose of subsection (5)(a) of this section, "continuing education" shall mean one or more of the following:

- (i) Instructional methodology in Braille;
- (ii) Improving Braille code skills; or
- (iii) Maintaining or refreshing Braille code skills, not including technology or software. "Braille code skills" means literary, music, and the Nemeth code of mathematics and scientific notation.

(c) For the purpose of subsection (5)(a) of this section, an approved provider of continuing education may include:

- (i) The National Braille Association;
- (ii) The Library of Congress;
- (iii) The Braille Authority of North America;
- (iv) A regionally accredited institution of higher education under WAC 181-78A-010(6);
- (v) An educational service district;
- (vi) The American Foundation for the Blind;

(vii) The Association of Education and Rehabilitation of the Blind and Visually Impaired of Washington;

(viii) The American Foundation for the Blind annual American Braille literacy conference; or

(ix) Any other entity approved by the professional educator standards board based upon a recommendation to approve from the test review committee established under subsection (4) of this section.

(d) For the purpose of subsection (1) of this section, a person who holds a Library of Congress transcriber's certificate is exempt only from the testing requirement under subsection (1) of this section. If an individual earns the Library of Congress transcriber's certificate, they shall be deemed to have met the continuing education option under subsection (5)(a) of this section.

(e)) Passing a recertification exam of completing learning modules every five years, or completing ten hours of Braille specific clock hours: Provided the option of clock hours is available only until January 2017.

(b) Individuals who seek through subsection (5)(a) of this section to remain eligible to work with visually impaired students are responsible for documenting completion of continuing education. Such individuals are strongly encouraged to provide a copy of their documentation to their employing school district. The documentation shall not be collected by the professional educator standards board. However, the documentation could be audited for purposes of compliance with basic education appropriation requirements under WAC 180-16-195.

WSR 16-04-129

PERMANENT RULES

PROFESSIONAL EDUCATOR STANDARDS BOARD

[Filed February 3, 2016, 11:23 a.m., effective March 5, 2016]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amends WAC 181-78A-264 to clarify that an internship is for the full school year.

Citation of Existing Rules Affected by this Order: Amending WAC 181-78A-264.

Statutory Authority for Adoption: RCW 28A.410.210.

Adopted under notice filed as WSR 15-24-065 on November 24, 2015.

Changes Other than Editing from Proposed to Adopted Version: Effective date added.

A final cost-benefit analysis is available by contacting David Brenna, 600 Washington Street South, Room 400, Olympia, WA 98504-7236, phone (360) 725-6238, fax (360) 586-4548, e-mail david.brenna@k12.wa.us.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 22, 2016.

David Brenna
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 14-23-068, filed 11/18/14, effective 12/19/14)

WAC 181-78A-264 Approval standard—Program design. (1) Conceptual framework.

(a) The conceptual framework establishes the shared vision for the unit's efforts in preparing educators to work effectively in P-12 schools.

(b) The conceptual framework:

(i) Provides coherence among curriculum, instruction, field experiences, clinical practice, candidate assessment, and program evaluation;

(ii) Establishes the philosophy, purpose, goals, and standards of the program or unit;

(iii) Reflects renewing commitment to current research and best practices; and

(iv) Supports the state's goals for P-12 student learning and program approval Standard V.

(2) Transition elements.

(a) Programs recruit, admit, retain, and transition candidates to the field who meet program goals and state standards.

(b) Learner expectations for program requirements, progression, and completion are identified, published, and accessible.

(c) Faculty regularly review recruitment and retention data for effectiveness of program.

(i) Programs create, implement and communicate a recruitment and retention plan in response to data.

(ii) Programs annually report the data, the plan, and proposed modifications to the professional educator advisory board and other stakeholder groups supporting the program's efforts.

(iii) Program completers meet the state and partner districts' goals for increasing underrepresented populations in the workplace.

(iv) Program completers hold endorsements in shortage content areas identified by workforce data of the state and region.

(3) Field experiences and clinical practice.

(a) The program(s) and its school partners design, implement, and evaluate field experiences and clinical practices.

(b) Field experiences are integrated throughout the preparation program.

(i) Field experiences provide opportunity to plan, practice and reflect on methods of instruction and differentiation;

(ii) Field experiences provide opportunities to work with diverse communities and populations, e.g., racial and ethnic, low socioeconomic, and English language learners;

(iii) Faculty supervision, including on-site visits, will be provided on an on-going basis.

(c) Mentors are instructional leaders identified collaboratively with the partner school of district.

(i) Mentors and principals are provided with a set of internship expectations;

(ii) Mentors receive or provide evidence of training on mentoring of adult learners;

(iii) Mentors must be fully certificated school personnel and have a minimum of three years of professional experience in the role they are supervising;

(iv) Effectiveness of mentor preparation and communication are reviewed annually by faculty.

(d) All Washington educator preparation programs operating field experiences in Washington state shall establish and maintain field placement agreements with all Washington school districts in which candidates are placed for field experiences leading to certification or endorsement under WAC 181-78A-125.

(e) Entry and exit criteria and a process for mitigating concerns during clinical practice are provided for candidates and the mentor.

(f) Requirements for specific educator preparation programs.

(i) Teacher programs.

(A) Programs shall administer the teacher performance assessment adopted by the professional educator standards board to all candidates in a residency certificate program.

(B) Clinical practice (defined as supervised planning, instruction, and reflection) for teacher candidates should consist of no less than four hundred fifty hours in classroom settings.

(ii) School counselor programs.

(A) Candidates complete a supervised internship in the schools that includes a minimum of four hundred hours of on the job professional service and one hour per week of individual supervision provided by the mentor.

(B) Prior to the internship, the candidate will complete a faculty supervised practicum (a distinctly defined clinical experience intended to enable the candidate to develop basic counseling skills and integrate professional knowledge).

(iii) School psychology programs.

(A) Candidates complete a supervised internship in the schools that includes a minimum of one thousand two hundred hours of on the job professional service and one hour per week of individual supervision provided by the mentor.

(B) Prior to the internship, the candidate will complete a faculty supervised practicum (a distinctly defined clinical experience intended to enable the candidate to develop basic school psychology skills and integrate professional knowledge).

(iv) Administrator programs.

(A) The internship for administrators shall take place in an education setting serving under the general supervision of a certificated practitioner who is performing in the role for which certification is sought.

(B) Components of the required internship shall include demonstration by the candidate that he or she has the appropriate, specific relevant skills pursuant to WAC 181-78A-270.

(C) An approved preparation program for superintendents shall require an internship of at least three hundred sixty hours.

(D) An approved preparation program for principals shall require for those persons beginning their internship August 1, ~~((2009))~~ 2016, and after, an internship which requires practice as an intern ~~((during the))~~ for five hundred forty hours of which at least one-half shall be during school hours, when students and/or staff are present, and for the duration of a full school year. A "full school year" shall mean ~~((five hundred forty hours of which at least one-half shall be during school hours, when students and/or staff are present))~~ at least the academic year. Provided further, That an approved preparation program for principals shall require an internship that shall include demonstration by the candidate that she or he has the appropriate, specific skills pursuant to the standards identified in WAC 181-78A-270(2) and meets, at minimum, the standards-based benchmarks approved and published by the professional educator standards board. The benchmarks may not be changed without prior professional educator standards board approval.

(4) Collaboration.

(a) Faculty within the program and unit collaborate for continuous program improvement.

(b) Faculty collaborate with content area specialists.

(c) Programs collaborate with P-12 schools to assess and respond to work force, student learning, and professional development needs.

(d) Faculty collaborate with members of the broader professional community.

(e) Faculty collaborate with members of under-represented populations for program improvement.

(5) Diversity in learning experiences.

(a) Candidates have significant interaction with diverse populations including colleagues, faculty, P-12 practitioners, and P-12 students and families.

(i) Candidates reflect on interactions with diverse populations in order to integrate professional growth in cultural competency as a habit of practice.

(ii) Candidates integrate their cultural and linguistic backgrounds into classroom activities in order to build the multicultural capacity of the preparation program cohort.

(b) Faculty model equity pedagogy through:

(i) Interaction with diverse populations;

(ii) Reflective practice on their own professional growth in cultural competency;

(iii) Culturally relevant communication and problem solving; and

(iv) Personalized instruction that addresses cultural and linguistic backgrounds.