

WSR 21-05-063
EMERGENCY RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed February 16, 2021, 11:58 a.m., effective February 16, 2021, 11:58 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule revision is to (1) define student absence in the 2020-21 school year for school districts across the state to collect and use daily attendance data during the COVID-19 epidemic, and (2) establish the minimum criteria of the attendance system that each school district must implement as required under WAC 180-16-200 (4)(c). These rules continue to support the state and school districts in addressing the challenge of chronic absenteeism, improving learning outcomes and success in school for all students, and supporting the whole child.

Citation of Rules Affected by this Order: New chapter 392-401A WAC.

Statutory Authority for Adoption: RCW 28A.300.046.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The COVID-19 pandemic has required that many school districts provide instruction remotely in school year 2020-21, either completely or partially, in order to ensure the safety of their students, staff, and communities. The immediate adoption of this emergency rule is therefore necessary for the preservation of the public health, safety, and general welfare in order to support districts in defining absence for students participating in remote learning and supporting students to access learning. The extension of the nontruancy remote learning absence for the remainder of the school year is based on data received by the office of superintendent of public instruction (OSPI) from school districts and court partners, both quantitative and qualitative data, that demonstrates the unique circumstances of this school year and remote learning are resulting in a high number of absences and data quality concerns.

On October 21, 2020, OSPI initiated permanent rule making to amend chapter 392-401 WAC to adjust the statewide definition of absence to, among other things, reflect districts' ongoing need to provide remote learning for the 2020-21 school year and beyond.

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 the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 13, 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 0, Repealed 0.

Date Adopted: February 16, 2021.

Chris P. S. Reykdal
State Superintendent
of Public Instruction

OTS-2524.5

Chapter 392-401A WAC
STATEWIDE DEFINITION OF ABSENCE FOR THE 2020-21 SCHOOL YEAR

NEW SECTION

WAC 392-401A-005 Purpose. Attendance is a critical building block for student learning. If students are not present, they cannot engage in learning. Attendance is a leading indicator of equity that signals when students might need additional support and areas for system and school improvement.

The purpose of this chapter is to:

(1) Define student absence in the 2020-21 school year for school districts across the state to collect and use daily attendance data during the COVID-19 epidemic; and

(2) Establish the minimum criteria of the attendance system that each school district must implement as required under WAC 180-16-200 (4)(c).

These rules continue to support the state and school districts in addressing the challenge of chronic absenteeism, improving learning outcomes and success in school for all students, and supporting the whole child.

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NEW SECTION

WAC 392-401A-010 Authority. The authority for this chapter is RCW 28A.300.046, which requires the superintendent of public instruction to adopt rules establishing a standard definition of student absence from school.

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NEW SECTION

WAC 392-401A-011 Scope and application. (1) While in effect, this chapter supersedes chapter 392-401 WAC.

(2) This chapter applies to common school districts, charter public schools, and state-tribal education compact schools.

(3) This chapter does not apply to students enrolled in an alternative learning experience and claimed for state funding pursuant to WAC 392-121-182.

(4) This chapter shall be effective only during the 2020-21 school year.

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NEW SECTION

WAC 392-401A-012 General definitions. (1) "Parent" has the same meaning as in WAC 392-172A-01125.

(2) "In-person learning" is when instructional activity is planned and delivered under the supervision of school district staff and on school grounds.

(3) "Remote learning" is when daily learning activities are delivered through remote learning modalities including, but not limited to, distance learning, hybrid classrooms, rotating schedules, and other methods that allow for the delivery of basic education services during the COVID-19 epidemic. Remote learning activities may be synchronous or asynchronous.

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NEW SECTION

WAC 392-401A-015 Definition of absence from in-person learning.

(1) A student is absent from in-person learning when the student is:

(a) Not physically present on school grounds; and

(b) Not participating in the following activities at an approved location during a scheduled in-person learning day:

(i) Instruction;

(ii) Any instruction-related activity; or

(iii) Any other district- or school-approved activity that is regulated by an instructional/academic accountability system, such as participation in district-sponsored sports.

(2) A full day absence from in-person learning is when a student is absent for fifty percent or more of their scheduled day.

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NEW SECTION

WAC 392-401A-016 Definition of absence from remote learning.

(1) A student is absent from remote learning when the student is not participating in planned instructional activities on a scheduled remote learning day.

(2) Evidence of student participation in remote learning may include, but is not limited to:

(a) Daily logins to learning management systems;

- (b) Daily interactions with the teacher to acknowledge attendance (including messages, emails, phone calls or video chats); or
- (c) Evidence of participation in a task or assignment.

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NEW SECTION

WAC 392-401A-018 Daily attendance taking. School districts must take daily attendance for all enrolled students participating in remote learning and in-person learning.

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NEW SECTION

WAC 392-401A-020 Excused absences from in-person learning or remote learning. (1) Absences due to the following reasons must be excused:

- (a) Illness, health condition or medical appointment (including, but not limited to, medical, counseling, dental, optometry, pregnancy, and in-patient or out-patient treatment for chemical dependency or mental health) for the student or person for whom the student is legally responsible;
- (b) Family emergency including, but not limited to, a death or illness in the family;
- (c) Religious or cultural purpose, including observance of a religious or cultural holiday or participation in religious or cultural instruction;
- (d) Court, judicial proceeding, court-ordered activity, or jury service;
- (e) Post-secondary, technical school or apprenticeship program visitation, or scholarship interview;
- (f) State-recognized search and rescue activities consistent with RCW 28A.225.055;
- (g) Absence directly related to the student's homeless or foster care/dependency status;
- (h) Absences related to deployment activities of a parent who is an active duty member consistent with RCW 28A.705.010;
- (i) Absences due to suspensions, expulsions or emergency expulsions imposed pursuant to chapter 392-400 WAC if the student is not receiving educational services and is not enrolled in qualifying "course of study" activities as defined in WAC 392-121-107;
- (j) Absences due to student safety concerns, including absences related to threats, assaults, or bullying;
- (k) Absences due to a student's migrant status;
- (l) An approved activity that is consistent with district policy and is mutually agreed upon by the principal or designee and a parent or emancipated youth;
- (m) Absences related to the student's illness, health condition, or medical appointments due to COVID-19;
- (n) Absences related to caring for a family member who has an illness, health condition, or medical appointment due to COVID-19;

(o) Absences related to the student's employment or other family obligations during regularly scheduled school hours that are temporarily necessary due to COVID-19 until other arrangements can be made, including placement in a more flexible education program;

(p) Absences due to the student's parent's work schedule or other obligations during regularly scheduled school hours, until other arrangements can be made;

(q) Absences due to the student's lack of necessary instructional tools, including internet broadband access or connectivity; and

(r) Other COVID-19 related circumstances as determined between school and parent or emancipated youth.

(2) A school principal or designee has the authority to determine if an absence meets the above criteria for an excused absence.

(3) School districts may define additional categories or criteria for excused absences.

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NEW SECTION

WAC 392-401A-030 Unexcused absences from in-person learning.

Any absence from in-person learning is unexcused unless it meets one of the criteria provided in WAC 392-401A-020.

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NEW SECTION

WAC 392-401A-035 Unexcused absences from remote learning.

Absences from remote learning must be considered a "nontruancy remote learning absence" starting October 5, 2020, through the end of the 2020-21 school year, unless they meet the criteria for an excused absence in WAC 392-401A-020. Absences from remote learning shall not be treated as unexcused.

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NEW SECTION

WAC 392-401A-038 Data reporting.

School districts must report student absences to the office of superintendent of public instruction through the comprehensive education and data research system (CEDARS) as provided in the CEDARS data manual.

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NEW SECTION**WAC 392-401A-040 Student absences—General requirements. (1)**

Students shall not be absent if:

(a) They have been suspended, expelled, or emergency expelled pursuant to chapter 392-400 WAC;

(b) Are receiving educational services as required by RCW 28A.600.015 and chapter 392-400 WAC; and

(c) The student is enrolled in qualifying "course of study" activities as defined in WAC 392-121-107.

(2) A school or district shall not convert or combine tardies into absences that contribute to a truancy petition.

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NEW SECTION**WAC 392-401A-045 Tiered response system for student absences.**

(1) School districts must implement a tiered response system to reduce chronic absenteeism and address barriers to student engagement in learning during the COVID epidemic.

(2) Tiered response systems under this section must include:

(a) Monitoring daily attendance data for all students who are absent from in-person or remote learning, whether excused, unexcused, or nontruancy remote learning;

(b) A process to contact families and verify current contact information for each enrolled student that includes multiple attempts and modalities in the parent's home language;

(c) Daily notification of absences to parents;

(d) A process for outreach from the school to determine student needs, such as basic needs, connectivity and hardware, connection with health and social services as necessary;

(e) Differentiated supports that address the barriers to attendance and participation that includes universal supports for all students and tiered interventions for students at-risk of and experiencing chronic absence, including school and district engagement teams, community truancy boards, and referral to community resources; and

(f) When feasible and appropriate, transitioning the students to full-time in-person learning or other program to accommodate the student's needs.

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