

WSR 21-05-072  
PROPOSED RULES  
SUPERINTENDENT OF  
PUBLIC INSTRUCTION

[Filed February 17, 2021, 10:38 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-20-134.

Title of Rule and Other Identifying Information: WAC 392-410-135  
Physical education—Grade school and high school requirement.

Hearing Location(s): On March 23, 2021, at 1:00 p.m. PST. Webinar via Zoom (call-in option will be available). Due to the public health emergency related to the COVID-19 virus pandemic, this public hearing will take place by webinar via Zoom (with a call-in option). There will be no physical location for the hearing. For information on registering and participating, please visit the office of superintendent of public instruction's (OSPI) website at <https://www.k12.wa.us/policyfunding/ospi-rulemaking-activity>. For questions, please email [kristin.murphy@k12.wa.us](mailto:kristin.murphy@k12.wa.us).

Date of Intended Adoption: March 30, 2021.

Submit Written Comments to: Ken Turner, Health and P.E. Program Supervisor, OSPI, P.O. Box 47200, Olympia, WA 98504, email [healthpe@k12.wa.us](mailto:healthpe@k12.wa.us), by March 23, 2021.

Assistance for Persons with Disabilities: Contact Kristin Murphy, phone 360-725-6133, fax 360-754-4201, TTY 360-664-3631, email [Kristin.murphy@k12.wa.us](mailto:Kristin.murphy@k12.wa.us), by March 16, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposed rule change is to amend WAC 392-410-135(1) for the 2020-21 school year only. The amendment would allow that instructional minutes for physical education can be less than the regularly required one hundred instructional minutes per week for students in grades 1-8. Physical education instruction must still be provided to students in grades 1-12, unless otherwise waived per RCW 28A.230.040.

Reasons Supporting Proposal: The COVID-19 pandemic has required many school districts to provide instruction remotely in school year 2020-21, either completely or partially, in order to ensure the safety of their students, staff, and communities.

This rule amendment would provide flexibility for school districts to offer physical education instructional time for all students in grades 1-8. This change does not remove the requirement for all students in grades 1-8 to receive instruction in physical education, per RCW 28A.230.040. OSPI filed an emergency rule concerning this rule change (see WSR 21-02-006).

Statutory Authority for Adoption: RCW 28A.230.040.

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

Name of Proponent: OSPI, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Ken Turner, OSPI, 600 South Washington Street, Olympia, WA.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.030.

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

February 17, 2021  
Chris P. S. Reykdal  
State Superintendent  
of Public Instruction

## OTS-2517.2

AMENDATORY SECTION (Amending WSR 06-14-009, filed 6/22/06, effective 6/22/06)

**WAC 392-410-135 Physical education—Grade school and high school requirement.** (1) Grades (~~1-8~~) 1 through 8. Pursuant to RCW 28A.230.040, an average of at least one hundred instructional minutes per week per year in physical education shall be required of all pupils in the common schools in the grade school program (grades (~~1-8~~) 1 through 8) unless waived pursuant to RCW 28A.230.040. For the 2020-21 school year only, the instructional minutes can be less than one hundred instructional minutes per week; however, physical education instruction must be provided to all pupils in the commons schools in the grade school program (grades 1 through 8) unless waived pursuant to RCW 28A.230.040.

(2) Grades (~~9-12~~) 9 through 12. Pursuant to RCW 28A.230.050, a one credit course or its equivalent shall be offered in physical education for each grade in the high school program (grades (~~9-12~~) 9 through 12).

[Statutory Authority: 2006 c 263. WSR 06-14-009, recodified as § 392-410-135, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.04.120. WSR 00-23-031, § 180-50-135, filed 11/8/00, effective 12/9/00. Statutory Authority: 1990 c 33. WSR 90-17-009, § 180-50-135, filed 8/6/90, effective 9/6/90. Statutory Authority: RCW 28A.04.120 (6) and (8) and 28A.05.060. WSR 85-20-026 (Order 19-85), § 180-50-135, filed 9/24/85. Statutory Authority: RCW 28A.04.120 (6) and (8). WSR 84-21-004 (Order 12-84), § 180-50-135, filed 10/4/84.]