

WSR 21-06-032
EMERGENCY RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed February 23, 2021, 2:27 p.m., effective February 23, 2021, 2:27 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to align truancy timelines for alternative learning experience (ALE) settings with revised timelines in the non-ALE setting. The office of superintendent of public instruction (OSPI) established truancy requirements in ALE aligned with truancy requirements of non-ALE settings set to take effect January 1, 2021. OSPI has since filed an emergency rule in November 2020 (WAC 392-401A-035, WSR 20-17-086) modifying these requirements for the non-ALE setting until March 1, 2021, and again in February 2021 modifying these requirements for the non-ALE setting until the 2021-22 school year in response to the COVID-19 pandemic. This revision aligns ALE timelines with those in non-ALE settings.

Citation of Rules Affected by this Order: Amending WAC 392-550-040.

Statutory Authority for Adoption: RCW 28A.232.010, 28A.232.030.

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 shift their instructional models 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 implementing remote learning and support students in access learning. By extending the period before districts are required to implement truancy protocols in ALE settings, OSPI intends to provide districts additional time to refine their student tracking and engagement processes and continue to attempt to engage families in a similar fashion as in the non-ALE setting.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.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 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: February 22, 2021.

Chris P. S. Reykdal
State Superintendent
of Public Instruction

OTS-2791.2

AMENDATORY SECTION (Amending WSR 20-15-062, filed 7/10/20, effective 8/10/20)

WAC 392-550-040 Truancy. (1) This section provides the process for determining truancy, required interventions, and a threshold for filing a truancy petition for students enrolled in alternative learning experience courses. Beginning (~~(January 1, 2021)~~) with the 2021-22 school year, this process should be used in place of the thresholds provided in RCW 28A.225.030. All other requirements of compulsory attendance outlined in chapter 28A.225 RCW apply.

(2) If a child required to attend school under RCW 28A.225.010 fails to meet the contact requirements of an alternative learning experience under this chapter without valid justification, the school district or charter school in which the child is enrolled must perform the following procedures:

(a) (i) The school district or charter school must inform the child's parent by a notice through direct personal contact whenever the child has failed to make weekly contact without valid justification.

(ii) The notice must inform the parent of the potential consequences of additional missed weekly contacts.

(iii) The school district or charter school must ensure that this notification is in a language the parents understand, which may require language assistance for parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

(b) (i) After the second consecutive week of missed contact without valid justification or third cumulative week of missed contact without valid justification, the school district or charter school must schedule a conference with the parent and child to discuss the missed contact, administer a screener, and develop a data-based intervention plan to reduce the child's missed contacts.

(ii) The purpose of the conference is to understand the underlying reasons for the missed contact and to develop an intervention plan to address them.

(iii) In middle school and high school, the conference must include the application of the Washington assessment of the risks and needs of students (WARNS), or other screener that identifies barriers to attendance, by a school district's designee under RCW 28A.225.026.

(iv) The conference may take place in-person, by phone, or through interactive video communication.

(v) The conference must take place within one calendar week.

(vi) If the child's parent does not attend the scheduled conference, the conference may be conducted with the student and school official. The parent must be notified of the steps to be taken to eliminate the child's missed weekly contacts.

(3) (a) (i) If the actions performed under subsection (2) of this section are not successful in substantially reducing an enrolled student's missed weekly contacts without valid justification, the school district or charter school must file a petition and supporting affidavit for a civil action with the juvenile court alleging a violation of RCW 28A.225.010 by the parent, the child, or the parent and the child.

(ii) The petition must be filed no later than the fifth consecutive or sixth cumulative missed weekly contact without valid justifi-

cation. The petition may be filed earlier and it may include the student's previous history of unexcused absences.

(b) A petition filed under this section must include the supporting documentation as provided in RCW 28A.225.030(1).

(c) For nonresident students, the petition must be filed in the county juvenile court that is most accessible for the student and parent. When determining the appropriate county court in which to file a truancy petition for nonresident students, the following must be considered:

(i) Proximity to the student or parents' primary place of residence;

(ii) The guidance from the juvenile court closest to the student or parents' primary place of residence; and

(iii) Preference stated by the student or parent, if communication with the parent(s) has been established.

(4) The petition must follow the requirements of RCW 28A.225.035.

(5) (a) Pursuant to RCW 28A.225.035, the petition must be stayed and the child and the child's parents must be referred to a community truancy board or other coordinated means of intervention.

(b) The school district or charter school offering alternative learning experience course(s), or program designee, is responsible for coordinating with the juvenile court to determine whether a community truancy board is the best intervention for the child or if another coordinated means of intervention will be more likely to support the student to return to school.

[Statutory Authority: Chapter 28A.232 RCW and RCW 28A.232.030. WSR 20-15-062, § 392-550-040, filed 7/10/20, effective 8/10/20.]