

**WSR 21-11-110  
PROPOSED RULES  
SUPERINTENDENT OF  
PUBLIC INSTRUCTION**

[Filed May 19, 2021, 10:33 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-07-111.

Title of Rule and Other Identifying Information: WAC 392-550-040 Truancy, in alternative learning experience (ALE).

Hearing Location(s): On June 24, 2021, at 10:00 a.m., 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 the 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: June 28, 2021.

Submit Written Comments to: Anissa Sharratt, OSPI, Alternative Learning Department, P.O. Box 47200, Olympia, WA 98504, email [Anissa.Sharratt@k12.wa.us](mailto:Anissa.Sharratt@k12.wa.us), by June 24, 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 June 17, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposed rule making is to include permanent rule language reflecting (1) OSPI's emergency adjustments to the effective date of WAC 392-550-040, and (2) a change in statutory language as a result of HB [ESHB] 1113.

Reasons Supporting Proposal: OSPI filed an emergency rule in February 2021 delaying the effective date of WAC 392-550-040 Truancy, in ALE, until the beginning of the 2021-22 school year. The emergency rule was due to the ongoing COVID-19 pandemic, and the requirement of many school districts to shift their instructional models, either completely or partially, in order to ensure the safety of their students, staff, and communities.

In addition, the legislature passed HB [ESHB] 1113 during the 2021 session which changed the term community truancy board to community engagement board.

Statutory Authority for Adoption: Chapter 28A.232 RCW; RCW 28A.232.030.

Statute Being Implemented: Chapter 28A.232 RCW; RCW 28A.232.030.

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Anissa Sharratt, OSPI, 600 Washington Street S.E., Olympia, 360-725-4954.

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).

May 19, 2021  
Chris P. S. Reykdal  
State Superintendent  
of Public Instruction

### OTS-2791.3

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 justification. 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~~) engagement 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~~) engagement 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.]