

WSR 21-15-059
 PERMANENT RULES
 DEPARTMENT OF
 SOCIAL AND HEALTH SERVICES
 (Developmental Disabilities Administration)
 [Filed July 15, 2021, 2:40 p.m., effective August 15, 2021]

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

Purpose: Amendments to chapter 388-826 WAC align with recent amendments to chapter 74.13 RCW, and align with new chapter 71A.28 RCW, Out-of-home services. These amendments are necessary to update the program from the voluntary placement services model to the way the program will now operate under chapter 71A.28 RCW as out-of-home services.

Citation of Rules Affected by this Order: New WAC 388-826-0018, 388-826-0019, 388-826-0042, 388-826-0043, 388-826-0044, 388-826-0073, 388-826-0074, 388-826-0231, 388-826-0232, 388-826-0233, 388-826-0234, 388-826-0235, 388-826-0236 and 388-826-0237; repealing WAC 388-826-0011 and 388-826-0050; and amending WAC 388-826-0001, 388-826-0005, 388-826-0010, 388-826-0016, 388-826-0040, 388-826-0041, 388-826-0070, 388-826-0071, 388-826-0072, 388-826-0075, 388-826-0077, 388-826-0078, 388-826-0079, 388-826-0095, 388-826-0096, 388-826-0097, 388-826-0098, 388-826-0130, 388-826-0133, 388-826-0138, 388-826-0145, 388-826-0150, 388-826-0160, 388-826-0170, 388-826-0175, 388-826-0200, 388-826-0205, 388-826-0230, and 388-826-0240.

Statutory Authority for Adoption: RCW 71A.12.030.

Other Authority: Chapters 71A.28, 74.13 RCW.

Adopted under notice filed as WSR 21-09-055 on April 16, 2021.

Changes Other than Editing from Proposed to Adopted Version: **Under WAC 388-826-0005, developmental disabilities administration (DDA) changed the definition of "custody" to replace "as allocated between two divorcing parents" with "as allocated by a court to one of two parents under a parenting plan." This change broadens the definition to include parents who were not married.**

Under WAC 388-826-0019, DDA changed the text as shown below:

(1) Out-of-home services ~~must~~ may be terminated if:

~~(1) The client is receiving services in a hospital, nursing facility, intermediate care facility for individuals with intellectual disabilities, or other institution for thirty consecutive days or longer.~~

(2) Out-of-home services must be terminated if:

(2a) The client's parent or legal guardian terminates services;

or

(2b) The client is over eighteen and terminates services.

DDA made this change because out-of-home services also follow waiver rules under chapter 388-845 WAC. Under WAC 388-845-0060, DDA may terminate a client's waiver enrollment if the client resides in one of the settings above for at least one full calendar month. Changing "must" to "may" in WAC 388-826-0019 aligns with the permissiveness in WAC 388-845-0060.

A final cost-benefit analysis is available by contacting Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, fax 360-407-0955, TTY 1-800-833-6388, email Chantelle.Diaz@dshs.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 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 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 14, Amended 29, 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 14, Amended 29, Repealed 2.

Date Adopted: July 15, 2021.

Donald Clintsman
Acting Secretary

SHS-4859.4

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0001 What are ~~((voluntary placement))~~ out-of-home services? ~~((Voluntary placement))~~ Out-of-home services are administered by the developmental disabilities administration (DDA) ~~((and))~~ through a person-centered service plan to provide ~~((temporary))~~ residential ~~((placement))~~ habilitation services for a child in a qualified setting outside of the child's ~~((regular))~~ home ~~((setting))~~ that is ~~((voluntarily))~~ agreed to by the child's parent ~~((, custodian,))~~ or legal guardian ~~((and DDA))~~. Out-of-home services do not include educational services or care that is provided by other paid supports.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0001, filed 11/7/18, effective 12/8/18. Statutory Authority: RCW 74.13.350. WSR 02-22-057, § 388-826-0001, filed 10/31/02, effective 12/1/02.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0005 What definitions apply to this chapter?

"Child" means a person who is eligible under chapter 388-823 WAC for developmental disabilities administration (DDA) services ~~((under chapter 388-825 WAC))~~, under age eighteen, and in the custody of a parent ~~((by blood, adoption,))~~ or legal ~~((guardianship))~~ guardian.

"Child and family engagement plan" means a written agreement between the client's parent or legal guardian and the licensed or certified provider.

"Child foster home" means a private home licensed under chapter 110-148 WAC by the department of children, youth, and families (DCYF) to provide twenty-four hour care to children.

"Client" means a person eligible for DDA services under chapter ~~((388-825))~~ 388-823 WAC.

"Client responsibility" means the total amount of a client's participation and room and board.

"Community inclusion activities" means person-centered (~~(, age appropriate, participation in)~~) activities where clients engage with others in ((a client's)) their local community.

"Custody" means:

(1) Protective care or guardianship of someone; or

(2) Parental responsibility, especially as allocated by a court to one of two ((divorcing)) parents under a parenting plan.

"DDA" means the developmental disabilities administration within the department of social and health services.

"Department" means the department of social and health services of the state of Washington.

"Family" means one or more of the following relatives: Spouse or registered domestic partner((~~r~~)); natural, adoptive, or step parent; grandparent; child; stepchild; sibling; stepsibling; uncle; aunt; first cousin; niece; or nephew.

"Group care facility" means ~~((an agency, other than a foster family home, which))~~ a facility licensed under chapter 110-145 WAC by DCYF that is maintained and operated ((for the care of a group of children)) on a twenty-four hour basis to provide a safe and healthy living environment that meets the developmental needs of the children in care.

~~((("Guardian ad litem (GAL)" means a court-appointed neutral investigator whose job is to make a recommendation to the court if the proposed guardian is fit to serve and whether the client is legally incapacitated.~~

~~"Judicial determination" means a court process to determine whether out-of-home placement is in the best interest of a child.))~~

"Habilitation" means services delivered by a DCYF-licensed or DDA-certified provider that are intended to help a client acquire, retain, or improve upon the self-help, socialization, and adaptive skills necessary to reside successfully in a community-based setting.

"Individual instruction and support plan" means a written document that describes how staff will provide habilitation and supports to meet the needs identified in the client's person-centered service plan, which are assigned to and agreed upon by the out-of-home service provider.

"Legal guardian" means a person's legal guardian appointed through formal proceedings in accordance with state law.

~~((("Legal status of the child" means that the child is in legal custody of a biological or adoptive parent or legal and custodial guardian.~~

~~"Out-of-home placement" means a home other than the child's regular home, such as a state-operated living alternative or a facility licensed by the division of licensed resources (DLR) where the child has been placed.~~

~~"Parent" means a biological or adoptive parent who has legal responsibility for and physical custody of the child.))~~

"Out-of-home services acknowledgment" means a document signed by the client's parent or legal guardian acknowledging their custodial responsibility and decision making authority while the client is receiving services in a licensed or certified facility.

"Parent or legal guardian" means a biological or adoptive parent, guardian, or legal custodian with legal authority to make decisions on behalf of the child regarding healthcare and public benefits.

"Participation" has the same meaning as is under WAC 182-513-1100.

"Personal needs allowance (PNA)" means an amount set aside from a client's income under WAC 182-513-1105.

~~"Person-centered service plan (PCSP)" ((means a document that identifies the client's goals and assessed health and welfare needs. The person-centered service plan also indicates the paid services and natural supports that will assist the client to achieve their goals and address their assessed needs))~~ has the same meaning as is under WAC 388-845-0001.

"Registered nurse delegator" means a licensed registered nurse who delegates specific nursing care tasks to a qualified nursing assistant or home care aide, and supports clients in a community-based care setting or in-home care setting under RCW 18.79.260.

"Residential habilitation services" means instruction and support services under WAC 388-845-1500.

"Respite care" means short-term, intermittent care to relieve a primary caregiver under WAC 388-845-1600.

"Room and board" has the same meaning as is under WAC 182-513-1100.

~~("Shared parenting" means a collaboration between the parent or legal guardian and licensed provider or state-operated living alternative (SOLA) to share in meeting the support needs of the client receiving voluntary placement services.~~

~~"Shared parenting plan" means a written plan for sharing responsibilities among the parent, a licensed provider or SOLA and the department, outlining the shared responsibilities for care of a child.~~

~~"Significant change assessment" means an assessment triggered by an unexpected, documented change in a client's condition, activities of daily living, mood and behaviors, or psychological or medical conditions which affect the level of care needed for the client.)~~

"Significant change," as defined in WAC 388-832-0001, means a change in a client's medical condition, caregiver status, behavior, living situation, or employment status.

"SOLA" means a certified state-operated living alternative program.

"Staffed residential home," as defined in WAC 388-110-145-1305, means a licensed group care facility that provides twenty-four hour care to six or fewer children who require more supervision than can be provided in a foster home.

"Supplemental security income (SSI)" means a needs-based assistance program administered by the federal Social Security Administration for blind, disabled, and aged individuals.

~~("Voluntary placement agreement" means a written agreement between the department and a child's parent, custodian, or legal guardian authorizing the department to place the child in a licensed facility or SOLA.)~~

"Treating professional" means a professional who specializes in the discipline within the professional's scope of practice.

"Wraparound planning" means a strengths-based process that includes regular meetings to review the client's individual instruction and support plan and ensure coordination with the client's team. The wraparound process is driven by the perspectives of the family and the child or youth.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0005, filed 11/7/18, effective 12/8/18. Statutory Authority:

RCW 74.13.350. WSR 02-22-057, § 388-826-0005, filed 10/31/02, effective 12/1/02.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0010 Who is eligible for ~~((voluntary placement))~~ out-of-home services? ~~((1))~~ A ~~((child))~~ client is eligible for ~~((voluntary placement))~~ out-of-home services if:

~~((a))~~ (1) The ~~((child))~~ client:

~~((i))~~ (a) Is ~~((DDA-eligible))~~ eligible for DDA services under chapter ~~((388-825))~~ 388-823 WAC;

~~((ii))~~ Will enter voluntary out-of-home placement while under eighteen; (b) Is eligible for the core waiver under chapter 388-845 WAC, or roads to community living under WAC 182-513-1235;

~~((iii))~~ (c) Has ~~((accessed all other available and appropriate DDA services))~~ received medically necessary inpatient treatment—when recommended by the client's treating professional—for conditions related to behavioral health or autism;

~~((b))~~ (d) Will begin receiving out-of-home services before turning eighteen;

(e) Does not have a treatment recommendation for a locked or secure facility; and

(f) Is not:

(i) In the custody of the department of children, youth, and families under RCW 13.34.050 or 26.44.050;

(ii) In shelter care under RCW 13.34.060; or

(iii) A dependent in foster care under RCW 13.34.130;

(2) The ~~((child's))~~ client's parent ~~((, guardian,))~~ or legal ~~((custodian))~~ guardian:

~~((i))~~ Is unable to provide care for the child needs;

~~((ii))~~ Has determined that the child would benefit from voluntary out-of-home placement;

~~((iii))~~ (a) Has accessed available services the client is eligible for, including those available through private insurance, medicare, the medicaid state plan, and DDA;

(b) Requests out-of-home ~~((placement))~~ services solely because of the child's developmental disability; and

~~((iv))~~ Requests voluntary placement services in writing;

~~((v))~~ Complies with the voluntary placement agreement; and

(c) DDA:

(i) Has available funding;

(ii) Determines that available and appropriate in-home supports do not meet the child's needs;

(iii) Determines that voluntary out-of-home placement is in the child's best interest.

(2) The department considers voluntary out-of-home placement to be in the best interest of the child if voluntary placement services:

(a) Help maintain family relationships; and

(b) Provide the least restrictive setting that will benefit the child's medical, social, developmental, and personal needs.

(3) DDA waits to determine a client's eligibility for voluntary placement services until any pending child protective services' investigations conclude) (c) Acknowledges and understands that enrollment

in out-of-home services does not affect the legal rights and responsibilities of a client's parent or legal guardian.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0010, filed 11/7/18, effective 12/8/18. Statutory Authority: RCW 74.13.350. WSR 02-22-057, § 388-826-0010, filed 10/31/02, effective 12/1/02.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0016 Where may a client receive (~~voluntary placement~~) out-of-home services? (1) A client may receive (~~voluntary placement~~) out-of-home services (~~in~~) from the following provider types:

((1)) (a) A children's state-operated living alternative certified under this chapter; or

((2)) (b) A home contracted with the developmental disabilities administration and licensed under chapter 74.15 RCW(~~, including~~) as a:

((a)) (i) Child foster home;

((b)) (ii) Staffed residential home; or

((c)) (iii) Group care facility for medically fragile children.

(2) To determine which type of provider will provide a client's out-of-home services, DDA:

(a) Assesses the amount of direct support necessary to meet the client's medical, social, developmental, and personal care needs; and

(b) Determines which provider type is the most cost-effective option that meets the unmet need identified in the client's person-centered service plan as required under WAC 388-845-0110.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0016, filed 11/7/18, effective 12/8/18.]

NEW SECTION

WAC 388-826-0018 Does approval of out-of-home services affect a client's parental or custodial rights and responsibilities? (1) Enrollment in out-of-home services does not affect the legal rights and responsibilities of a client's parent or legal guardian.

(2) When a client enrolls in out-of-home services neither DSHS nor DDA takes custodial responsibility of the client.

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NEW SECTION

WAC 388-826-0019 When must out-of-home services be terminated?

(1) Out-of-home services may be terminated if the client is receiving services in a hospital, nursing facility, intermediate care facility

for individuals with intellectual disabilities, or other institution for thirty consecutive days or longer.

(2) Out-of-home services must be terminated if:

- (a) The client's parent or legal guardian terminates services; or
- (b) The client is over eighteen and terminates services.

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AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0040 What is the ((voluntary placement agreement)) out-of-home services acknowledgment? (1) ((Before a child may enter voluntary out-of-home placement, the child's parent or legal guardian must execute a voluntary placement agreement)) The out-of-home services acknowledgment is a document signed by the client's parent or legal guardian acknowledging their custodial responsibility and decision making authority while the client is receiving services from a qualified provider.

(2) ((The voluntary placement agreement must specify)) An out-of-home services acknowledgment must state:

(a) ((That the child's parent or legal guardian retains legal custody of the child;

(b) That the department is responsible for the child's placement and care;

(c) That the signature of the child's parent or legal guardian is required;

(d) The legal status of the child;

(e) The rights and obligations of the parent or legal guardian;

(f) The rights and obligations of the child;

(g) The rights and obligations of the department while the child is in placement; and

(h) That any party to the voluntary placement agreement may terminate the agreement at any time.

(3) If a court has entered a final divorce decree or parenting plan that delineates decision-making authority, the parent must provide a copy of the document to the department.

(4) A voluntary placement agreement regarding an Indian child is invalid unless it complies with RCW 13.38.150.

(5) If a child's placement is unsuccessful under the terms of the voluntary placement agreement, the child returns to their parent's physical care until a new placement is available.

(6) Upon termination of the voluntary placement agreement, the child must return to the parent or legal guardian's care unless:

(a) Taken into custody under RCW 13.34.050 or 26.44.050;

(b) Placed in shelter care under RCW 13.34.060; or

(c) Placed in foster care under RCW 13.34.130)) DSHS and DDA are offering services through medicaid or roads to community living;

(b) The client is not a dependent of the state by enrolling in out-of-home services;

(c) Enrollment in out-of-home services does not affect the legal rights and responsibilities of the parent or legal guardian;

(d) The client's parent or legal guardian retains the authority to authorize medical care for the client;

(e) The client's parent or legal guardian retains the authority to make all legal decisions for the client;

(f) The client's parent or legal guardian continues to be legally responsible for caring for the client;

(g) The client's parent or legal guardian continues to be legally responsible for the client if out-of-home services are disrupted; and

(h) The client's parent or legal guardian continues to be legally responsible for the cost of the client's care, including room and board and basic expenses that are not covered by private insurance, medicare, the medicaid state plan, or other funding sources.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0040, filed 11/7/18, effective 12/8/18. Statutory Authority: RCW 74.13.350. WSR 02-22-057, § 388-826-0040, filed 10/31/02, effective 12/1/02.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0041 What is a ~~((shared parenting))~~ child and family engagement plan?

(1) A ~~((shared parenting))~~ child and family engagement plan is a written agreement between the client's parent or legal guardian~~((r))~~ and the ~~((licensed))~~ provider ~~((or SOLA, and the department))~~.

(2) ~~((The shared parenting))~~ A child and family engagement plan must:

(a) ~~((Include a plan for))~~ Outline the parent or legal guardian's ~~((continual involvement))~~ role while their child is receiving out-of-home services, including:

(i) A visitation schedule for ~~((visiting the child in out-of-home placement))~~ both the licensed or certified setting and family home;

(ii) ~~((An activities schedule))~~ Assistance in maintaining significant relationships to the child, such as transportation assistance and coordination; and

(iii) ~~((Emergency contact information;~~

~~(iv) Consent to medical care;~~

~~(v) Routine communication about medical issues, education, daily routines, and special considerations in the life of the child; and~~

~~(vi) Expectations for each party's role, including special considerations.))~~ Participation in attending medical and dental appointments, school meetings, and community inclusion activities;

(b) ~~((Coordinate health care benefits;~~

~~(c) Designate a representative payee;~~

~~(d) Address the requirement to access all available income sources under WAC 182-512-0700(1);~~

~~(e) Include a plan for respite care if the child lives in a child foster home))~~ Outline the provider's role, including:

(i) Supporting the client, parent, or legal guardian's cultural or religious practices;

(ii) Developing and implementing an individual financial plan under WAC 388-826-0042; and

~~((f))~~ (iii) Celebrating holidays and special occasions;

(c) Be developed ~~((within forty-five days))~~ before the start date of the client's out-of-home ~~((placement and reviewed annually thereafter by the department.~~

~~(3) If any party does not follow the shared parenting plan, all parties must review and revise the shared parenting plan.~~

~~(4) If any party does not follow the revised shared parenting plan, DDA may terminate the client's voluntary placement services and the child will return to the parent or legal guardian's care unless:~~

~~(a) Taken into custody under RCW 13.34.050 or 26.44.050;~~

~~(b) Placed in shelter care under RCW 13.34.060; or~~

~~(c) Placed in foster care under RCW 13.34.130) services;~~

~~(d) Be reviewed during the annual assessment or more frequently upon request; and~~

~~(e) Be updated when the client turns age eighteen to reflect the client's individualized transition goals, and legal guardianship if applicable.~~

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0041, filed 11/7/18, effective 12/8/18.]

NEW SECTION

WAC 388-826-0042 What is an individual financial plan? (1) An individual financial plan is a written agreement that delineates support needed in managing any portion of a client's funds by the provider.

(2) An individual financial plan is required when the child and family engagement plan indicates support is needed for the client to acquire money management skills.

(3) The provider must obtain signatures from the client's parent or legal guardian on the individual financial plan.

(4) The provider must include the following in the client's individual financial plan:

(a) Client funds and income managed by the provider;

(b) Client funds and income managed by the client;

(c) Client funds and income managed by the representative payee;

(d) The type of accounts containing client funds; and

(e) Money management instruction or support provided to the client.

(5) The provider must review the individual financial plan with the client's parent or legal guardian at least every twelve months.

(6) If the client is seventeen or younger, the provider must send a copy of the client's individual financial plan to:

(a) The client's parent or legal guardian; and

(b) The client's DDA case/resource manager or social service specialist.

(7) If the client is eighteen or older, the provider must send a copy of the client's individual financial plan to:

(a) The client;

(b) The client's parent or legal guardian if they have one; and

(c) The client's DDA case/resource manager or social service specialist.

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NEW SECTION

WAC 388-826-0043 When must an individual instruction and support plan be developed or revised? (1) If a client is receiving out-of-home services in a staffed residential home or children's SOLA, the provider must develop and implement an individual instruction and support plan for each client they support.

(2) The provider must develop and implement a client's instruction and support plan no more than 30 days after the client begins receiving out-of-home services.

(3) The provider must revise a client's individual instruction and support plan:

(a) As goals are achieved or as the client's assessed needs change;

(b) At least semiannually; and

(c) If requested by the client or the client's parent or legal guardian.

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NEW SECTION

WAC 388-826-0044 What requirements must the individual instruction and support plan meet? The individual instruction and support plan must:

(1) Describe habilitation goals that the provider and client will work on together while the provider supports the client;

(2) List the instruction and support activities the provider will provide to the client and explain how those activities meet the assessed needs identified in the client's person-centered service plan; and

(3) Describe other relevant support and service information.

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AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0070 What are the department's responsibilities for a ((child)) client receiving ((voluntary placement)) out-of-home services? When a ((child)) client receives ((voluntary placement)) out-of-home services, the department must:

(1) ~~((Develop the shared parenting))~~ Facilitate the development of the child and family engagement plan ((no more than forty-five days after the child is placed out-of-home and review the plan)) under WAC 388-826-0041 before the start of service and at each annual assessment;

(2) Visit the ((child)) client in their ((out-of-home placement)) licensed or certified setting at least every ninety days;

(3) ~~((Review))~~ Develop the ((child's)) client's person-centered service plan ((no more than ninety days after the child is placed out-of-home)) as required under WAC 388-845-3055;

(4) Assist families to access a client's medically necessary physical or behavioral health benefits, which may include attending care conferences and sharing information with medicare, medicaid, or private health insurance representatives for purposes of care coordination;

(5) Monitor the ~~((child's voluntary placement))~~ client's out-of-home services by:

(a) Facilitating team meetings using a wraparound planning model;

(b) Reviewing the ~~((child's))~~ individual instruction and support ((plans)) plan;

(c) Reviewing the quarterly report;

(d) Reviewing incident reports and follow-up measures involving the client;

~~((d))~~ (e) Authorizing payment for services; ((and

~~(e) Facilitating communication between the client's parent, legal guardian, and licensed provider or SOLA;~~

~~(5))~~ (f) Completing annual quality assurance assessments of staffed residential providers and children's state-operated living alternative providers; and

(g) Contracting with evaluators to complete certification evaluations of children's state-operated living alternative providers.

(6) Determine eligibility for ~~((apple health))~~ medicaid coverage under chapters 182-513 and 182-515 WAC;

~~((6))~~ (7) Determine the ~~((child's))~~ client's participation and room and board amount, if any;

~~((7) Comply with the permanency planning hearing requirements under RCW 13.34.270 no more than one hundred eighty days after the child is placed out-of-home and annually thereafter;))~~

~~((8) Notify the child's parent or legal guardian in writing before the date of each annual permanency planning hearing;~~

~~(9))~~ (8) Monitor the ~~((licensed))~~ provider ~~((or SOLA))~~ to ensure the provider complies with contract requirements, which includes compliance with DDA policies ~~((and minimum licensing rules)); and~~

~~((10))~~ (9) Refer a client ~~((age eighteen or older))~~ for a nurse delegation assessment by a registered nurse delegator, if ~~((necessa-ry))~~ requested by the provider.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0070, filed 11/7/18, effective 12/8/18. Statutory Authority: RCW 74.13.350. WSR 02-22-057, § 388-826-0070, filed 10/31/02, effective 12/1/02.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0071 What are the responsibilities of the licensed or certified provider supporting a client receiving ~~((voluntary placement))~~ out-of-home services? (1) When a client is receiving ~~((voluntary placement))~~ out-of-home services, the licensed or certified provider must:

~~((1))~~ (a) Ensure the health and safety of the client;

(b) Provide adequate staff to meet the needs of clients as identified in the rate assessment;

(c) Meet the requirements of each contract entered into with the department;

(d) Develop and implement an individual instruction and support plan, unless the client is receiving out-of-home services from a child foster home provider or a group care facility for medically fragile children;

(e) Complete quarterly reports under subsection (2) or subsection (3) of this section;

(f) Participate in the development of the child and family engagement plan with the client, the client's parent or legal guardian, and social service specialist;

(g) Implement the child and family engagement plan;

(h) Support the client in regular school attendance, including following the school's reporting requirements when the client is absent or has an appointment during the school day;

(i) Participate in the client's individualized education program;

(j) Attend all school-related meetings;

(k) With the parent or legal guardian's consent, maintain regular communication with school representatives;

(l) Maintain regular communication with the client's parent or legal guardian;

(m) Develop evacuation plans in case of fire, natural disaster, or other emergencies in accordance with:

(i) WAC 110-145-1670 for staffed residential and group care facilities for medically fragile children; or

(ii) WAC 110-148-1460 for child foster homes;

(n) Maintain a client rights policy in accordance with chapter 71A.26 RCW;

(o) If the client is in a staffed residential home or children's SOLA:

(i) Discuss and schedule community inclusion activity options with the client; and

(ii) Track, and make available to the department upon request, the client's participation in community inclusion activities, including:

(A) Date of each activity;

(B) Cost of each activity; and

(C) A running balance of the client's community inclusion activities funds;

(p) Request an assessment for nurse delegation if the client needs medication administration.

(2) ~~((Develop a))~~ Quarterly ~~((report if the client is in a staffed residential home or group care facility for medically fragile children. The quarterly report))~~ reports from a staffed residential provider, a children's SOLA, or group care facility for medically fragile children must ~~((include))~~:

(a) Be submitted to DDA and sent to the client's parent or legal guardian no more than ten business days after the end of each quarter; and

(b) Include:

(i) A summary of the client's progress toward ~~((developing skills))~~ habilitation goals identified in the ~~((individualized treatment))~~ individual instruction and support plan;

~~((b))~~ (ii) An update regarding ~~((shared parenting))~~ the child and family engagement plan, including a summary of family visits;

~~((e))~~ (iii) A summary of incident reports, if any;

~~((d))~~ (iv) School progress, including individualized education program updates;

- ~~((e))~~ (v) Any significant changes in the client's condition or prescribed medications; and
- ~~((f))~~ (vi) A summary of the client's participation in community inclusion activities.
- ~~(3) ((Help develop and implement the shared parenting plan;~~
- ~~(4) Participate in the client's individualized education program;~~
- ~~(5) Develop emergency preparedness plans under WAC 110-145-1670;~~
- ~~(6) Track, and make available to the department upon request, the client's participation in community inclusion activities — if the client is in a staffed residential home — including:~~
- ~~(a) Date of each activity;~~
- ~~(b) Cost of each activity; and~~
- ~~(c) A running balance of the client's community inclusion activities funds;~~
- ~~(7) Retain all client records for at least six years after termination or expiration of their contract; and~~
- ~~(8) Request an assessment for nurse delegation if the client is age eighteen or older and needs medication administration))~~ Quarterly reports from a child foster home provider must:
- (a) Be submitted to DDA and sent to the client's parent or legal guardian no more than ten business days after the end of each quarter; and
- (b) Include:
- (i) The client's progress toward their habilitation goal;
- (ii) A list of community and other activities the client has participated in;
- (iii) An update regarding the child and family engagement plan, including a summary of family visits;
- (iv) School progress, including individualized education program updates; and
- (v) Any significant changes in the client's condition or prescribed medications.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0071, filed 11/7/18, effective 12/8/18.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0072 What training must ~~((a-licensed))~~ direct care staff of a staffed residential ((or SOLA employee)) home complete? To provide direct support to a client receiving ((voluntary placement)) out-of-home services, ((a-licensed)) direct care staff of a staffed residential ((or SOLA employee)) home must complete:

(1) Training required under chapter 110-145 WAC;

(2) Training and continuing education required under chapter 388-829 WAC;

(3) Client-specific training based on the ((client's treatment plan and person-centered service)) individual instruction and support plan; and

(4) Nurse delegation training under chapter 246-888 WAC, if applicable.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0072, filed 11/7/18, effective 12/8/18.]

NEW SECTION

WAC 388-826-0073 What training must a child foster home provider complete? To support a client receiving out-of-home services, a child foster home provider must complete:

(1) Training required to maintain licensing under chapter 110-148 WAC; and

(2) Nurse delegation training under chapter 246-888 WAC, if applicable.

[]

NEW SECTION

WAC 388-826-0074 What training must a children's state-operated living alternative provider complete? (1) To provide direct support to a client receiving out-of-home services, a children's state-operated living alternative provider must complete:

(a) Training and continuing education required under chapter 388-829 WAC;

(b) Training required under WAC 388-101D-0090 through WAC 388-101D-0110; and

(c) Nurse delegation training under chapter 246-888 WAC, if applicable.

(2) The provider must ensure that each employee providing direct support keeps their first-aid training, CPR certification, food worker card, and bloodborne pathogens training current.

[]

AMENDATORY SECTION (Amending WSR 20-02-101, filed 12/31/19, effective 2/1/20)

WAC 388-826-0075 What are a parent or legal guardian's responsibilities ((when a child is receiving voluntary placement)) while the client receives out-of-home services? ~~((1) When)~~ While a client ~~((is receiving voluntary placement))~~ receives out-of-home services, the client's parent or legal guardian must:

~~((a))~~ (1) Maintain weekly contact with the child and actively participate in care planning;

~~((b))~~ Comply with the voluntary placement agreement;

~~((c))~~ (2) Participate in the development and ongoing assessment of the client's individual educational plan and maintain regular communication with the provider and school representatives;

(3) Coordinate all medically necessary physical or behavioral health benefits available through private insurance, medicare, or the medicaid state plan;

(4) Apply for ~~((all))~~ income and benefits available to the child; ~~((and~~

~~((d))~~ (5) Participate in:

~~((i))~~ (a) The ~~((shared parenting)) development and implementation of the child and family engagement plan;~~

~~((ii))~~ (b) Team meetings; and

~~((iii))~~ (c) The DDA annual assessment, including the person-centered service plan(-

~~(2) When the child receives social security income, the child's parent or legal guardian must establish a representative payee to manage the child's income and comply with the client responsibility and basic expenses required in this chapter.~~

~~(3) Nonpayment of a child's client responsibility or basic expenses may jeopardize the child's placement with a provider); and~~

(6) Establish a representative payee to manage the client's social security or supplemental security income and comply with the client responsibility and basic expenses required in this chapter.

(7) Ensure payment of the client responsibility or basic expenses. Nonpayment may jeopardize the client's services with a provider.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 20-02-101, § 388-826-0075, filed 12/31/19, effective 2/1/20; WSR 18-23-004, § 388-826-0075, filed 11/7/18, effective 12/8/18. Statutory Authority: RCW 74.13.350. WSR 02-22-057, § 388-826-0075, filed 10/31/02, effective 12/1/02.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0077 ~~((Who is eligible for))~~ May a client who is receiving out-of-home services also receive respite services? (1) A client ~~((who lives in a foster home is))~~ receiving out-of-home services in a child foster home may be eligible for respite services under chapter 388-828 WAC.

(2) A client ~~((who lives))~~ receiving out-of-home services in a ~~((licensed))~~ staffed residential, children's SOLA, or group home for medically fragile children is not eligible for respite services.

~~((3) The DDA assessment under chapter 388-828 WAC determines the amount of respite services a client may receive.))~~

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0077, filed 11/7/18, effective 12/8/18. Statutory Authority: RCW 71A.12.010, 71A.12.030, and Title 71A RCW. WSR 09-24-063, § 388-826-0077, filed 11/25/09, effective 12/26/09.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0078 Who may provide respite services to a client receiving ~~((voluntary placement))~~ out-of-home services in a child foster home? To provide respite services to a client receiving ~~((voluntary placement))~~ out-of-home services in a child foster home, a provider must:

(1) Be a qualified provider under WAC 388-845-1615; and

(2) Have a respite contract with the developmental disabilities administration.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0078, filed 11/7/18, effective 12/8/18.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0079 What limits apply to respite services? The respite limits under WAC 388-845-1620 apply to a client receiving ~~((voluntary placement))~~ out-of-home services in a child foster home.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0079, filed 11/7/18, effective 12/8/18.]

AMENDATORY SECTION (Amending WSR 20-02-101, filed 12/31/19, effective 2/1/20)

WAC 388-826-0095 What must a client pay toward the cost of ~~((voluntary placement))~~ out-of-home services in a ~~((licensed))~~ staffed residential home, a children's SOLA, or a group care facility? (1) To receive ~~((voluntary placement))~~ out-of-home services in a ~~((licensed))~~ staffed residential home, a children's SOLA, or a group care facility for medically fragile children, a client may be required to pay client responsibility as required under this section.

(2) The department determines the amount of client responsibility and room and board a client must pay under:

(a) WAC 182-515-1510 if the client is enrolled on a DDA home and community-based ~~((HCB))~~ services (HCBS) waiver under chapter 388-845 WAC; or

(b) WAC 182-513-1235 if the client is enrolled in roads to community living under chapter 388-106 WAC.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 20-02-101, § 388-826-0095, filed 12/31/19, effective 2/1/20. Statutory Authority: RCW 74.13.350. WSR 02-22-057, § 388-826-0095, filed 10/31/02, effective 12/1/02.]

AMENDATORY SECTION (Amending WSR 20-02-101, filed 12/31/19, effective 2/1/20)

WAC 388-826-0096 What must a client pay toward the cost of ~~((voluntary placement))~~ out-of-home services in a child foster home? (1) To receive ~~((voluntary placement))~~ out-of-home services in a child foster home, a client must pay the provider a fixed monthly amount referred to as basic expenses, which must be outlined in a basic expense agreement.

(2) The written basic-expense agreement must include:

(a) Monthly amounts for rent, utilities, and food costs; and

(b) The day of the month the payment is due to the provider.

(3) The total monthly obligation in the basic-expense agreement must not exceed the client's available income minus the personal needs allowance under WAC 182-513-1105(5).

(4) Before the client moves into the child foster home, the basic-expense agreement must be:

(a) Signed by the ~~((client or the))~~ client's parent or legal ~~((representative))~~ guardian;

(b) Signed by the provider; and

(c) Sent to DDA.

(5) Changes to the basic-expense agreement must be reviewed by DDA before implementation.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 20-02-101, § 388-826-0096, filed 12/31/19, effective 2/1/20.]

AMENDATORY SECTION (Amending WSR 20-02-101, filed 12/31/19, effective 2/1/20)

WAC 388-826-0097 What expenses must a parent or legal guardian pay for while their child receives ((voluntary placement)) out-of-home services? A parent or legal guardian remains financially responsible for all expenses for their minor child that are not included in ((voluntary placement)) out-of-home services.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 20-02-101, § 388-826-0097, filed 12/31/19, effective 2/1/20.]

AMENDATORY SECTION (Amending WSR 20-02-101, filed 12/31/19, effective 2/1/20)

WAC 388-826-0098 What does the department pay toward ((voluntary placement)) out-of-home services? (1) For a client residing in a ((licensed)) staffed residential home, a children's ((state-operated living alternative (SOLA))) SOLA, or a group care facility for medically fragile children, the department pays the cost of the ((voluntary placement)) out-of-home services minus the amount of client responsibility under WAC 388-826-0095.

(2) For a client residing in a child foster home, the department pays the cost of the ((voluntary placement)) out-of-home services minus basic expenses under WAC 388-826-0096.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 20-02-101, § 388-826-0098, filed 12/31/19, effective 2/1/20.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0130 How does the department determine the rate to support a client in a ((licensed)) child foster home? (1) The department determines the rate that is paid to support a client in a ((licensed)) child foster home by conducting a child foster ((care)) home rate assessment.

(2) DDA conducts the child foster ((care)) home rate assessment (÷

~~(a) No more than thirty days after the date the child is admitted to a licensed foster home;~~

~~(b) Annually; and~~

~~(c) If a significant change occurs) with the child foster home provider before out-of-home services begin.~~

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0130, filed 11/7/18, effective 12/8/18. Statutory Authority: RCW 74.13.750 [74.13.350]. WSR 07-15-003, § 388-826-0130, filed 7/6/07, effective 8/6/07. Statutory Authority: RCW 71A.12.030, 74.13.350, and Title 71A RCW. WSR 06-04-088, § 388-826-0130, filed 1/31/06, effective 3/3/06.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0133 What is the representative payee's role? The representative payee:

- (1) Manages the client's social security or supplemental security income;
- (2) Uses the client's income to contribute toward the cost of the client's participation and room and board;
- (3) Places the client's personal needs allowance and any conserved funds in a payee account; and
- (4) Monitors the child's payee account to maintain eligibility for supplemental security income ((-SSI-)) and medicaid.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0133, filed 11/7/18, effective 12/8/18.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0138 What questions are in the child foster ((care)) home rate assessment and how are ((answers)) responses scored? (1)

The child foster ((care)) home rate assessment consists of thirteen questions.

- (2) Scores are based on the parent or legal guardian's report, natural supports available, documented support plans (e.g., nursing, physical therapy, occupational therapy), and report of care provided by the ((licensed)) child foster home provider.
- (3) The assessment excludes any additional paid supports provided, such as nursing and therapies.
- (4) The hours are assessed against the number of hours expected to support a typically developing child the same age as the client.
- (5) Daily living: What is the average number of hours per day spent supporting the client with daily living tasks like dressing, grooming, toileting, feeding and providing specialized body care? Do not include private duty nursing hours in this average.

Hours per day	Score
0 to 1	30
2 to 5	91
6 to 9	213
10 to 20	396
Over 20	609

(6) Physical needs: What is the average number of hours per day spent providing assistance to the client that is not included in the "daily living" category above? Examples include assistance with: Mobility; prosthetics; communication; other assistive devices; airway management (monitors, ventilators); pressure sores; and enteral nutrition. Do not include private duty nursing hours in this average.

Hours per day	Score
0 to 1	30
2 to 5	91
6 to 20	274
Over 20	609

(7) Behavioral needs: What is the average number of hours per day spent providing behavioral, emotional, and mental health supports to the client? Do not include hours under subsection (8) (b) of this section in this average.

Hours per day	Score
0 to 1	30
2 to 5	91
6 to 13	335
14 to 24	578
Over 24	731

(8) Therapeutic plan: What is the average number of hours per week spent implementing a plan prescribed by a professional related to the child's physical, behavioral, emotional, or mental health therapy? The foster parent must provide a copy of each plan to the assessor.

(a) What is the average number of hours per week spent providing or attending physical, occupational, and speech therapy?

Hours per week	Score
0 to 1	4
2 to 3	13
4 to 9	30
10 to 46	65
Over 46	390

(b) What is the average number of hours per week spent participating in or implementing services identified in the client's behavioral support plan, such as applied behavior analysis (ABA) or counseling?

Hours per week	Score
0 to 1	4
2 to 3	13
4 to 19	48
20 to 60	104
Over 60	390

(9) Appointments: What is the average number of hours per week spent scheduling, traveling to and from, and participating in appointments? The foster parent must provide documentation of appointments to the assessor.

(a) What is the average number of hours per week spent scheduling, traveling to and from, and participating in doctor visits, dental visits, rehabilitation, and therapy visits?

Hours per week	Score
0 to 1	4
2 to 5	13
6 to 14	39
Over 14	82

(b) What is the average number of hours per week spent scheduling, traveling to and from, and participating in community activities, such as recreation, leisure, sports, and extra-curricular activities?

Hours per week	Score
0 to 1	4
2 to 3	13
4 to 7	30
8 to 20	48
Over 20	130

(10) House care: What is the average number of times per week spent repairing, cleaning, and replacing household items and medical equipment, over and above normal wear and tear, due to:

(a) A chronic medical condition?

Times per week	Score
0 to 1	6
2 to 7	24
8 to 19	58
20 to 38	91
Over 38	238

(b) Destructive behavior?

Times per week	Score
0 to 1	6
2 to 3	15
4 to 9	28
10 to 22	58
Over 22	162

(11) Development and socialization skills: What is the average number of hours per week spent providing guidance and assistance?

(a) What is the average number of hours per week spent helping with homework and learning new activities?

Hours per week	Score
0 to 1	4
2 to 3	13
4 to 11	30
12 to 30	87
Over 30	249

(b) What is the average number of hours per week spent interacting with other professionals, such as meeting with teachers, visiting

the client's school, speaking on the phone with school personnel, participating in individual education plan development and review?

Hours per week	Score
0 to 1	4
2 to 3	13
4 to 5	22
6 to 12	30
Over 12	82

(c) What is the average number of hours per week spent developing socialization and functional life skills, like making positive choices, being accountable, managing money, exploring the community, and relating to peers, adults, and family members?

Hours per week	Score
0 to 1	4
2 to 7	22
8 to 19	56
20 to 60	173
Over 60	403

(12) (~~Shared parenting~~) Child and family engagement plan: What is the average number of hours per week spent (~~implementing the shared parenting~~) coordinating the child and family engagement plan? The (~~shared parenting~~) plan must be available for review by the assessor.

Hours per week	Score
0 to 1	4
2 to 3	13
4 to 12	30
Over 12	82

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0138, filed 11/7/18, effective 12/8/18. Statutory Authority: RCW 74.13.750 [74.13.350]. WSR 07-15-003, § 388-826-0138, filed 7/6/07, effective 8/6/07.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0145 How does DDA determine the (~~foster care~~) assessed level from the raw score in the child foster home rate assessment? (1) The following are the (~~foster care~~) assessed levels based on the range of aggregate scores:

Level	Low Score	High Score
1	0	320
2	321	616
3	617	1501
4	1502	2085
5	2086	2751

Level	Low Score	High Score
6	2752	9999999

(2) A standardized rate for (~~specialized~~) out-of-home services is assigned to levels one through six.

(3) The standardized rate is published by DDA and is paid monthly to the child foster (~~parent~~) home provider.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0145, filed 11/7/18, effective 12/8/18. Statutory Authority: RCW 74.13.750 [74.13.350]. WSR 07-15-003, § 388-826-0145, filed 7/6/07, effective 8/6/07.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0150 What happens if a client who is receiving out-of-home services in a child foster home experiences a significant change (~~assessment occurs~~)? (1) If a client who is receiving out-of-home services in a child foster home experiences a significant change (~~assessment occurs~~), DDA conducts (~~a~~):

(a) A reassessment under WAC 388-828-1500; and

(b) A child foster (~~care~~) home rate assessment.

(2) If the child foster (~~care~~) home rate assessment results in a rate change, the foster parent receives a thirty-day written notice that includes the effective date of the change.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0150, filed 11/7/18, effective 12/8/18. Statutory Authority: RCW 71A.12.030, 74.13.350, and Title 71A RCW. WSR 06-04-088, § 388-826-0150, filed 1/31/06, effective 3/3/06.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0160 Are child foster (~~care~~) home rates appealable? A child foster (~~care~~) home rate is not appealable through the administrative hearing process.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0160, filed 11/7/18, effective 12/8/18. Statutory Authority: RCW 71A.12.030, 74.13.350, and Title 71A RCW. WSR 06-04-088, § 388-826-0160, filed 1/31/06, effective 3/3/06.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0170 How does the department determine the rate to support a client in a (~~licensed~~) staffed residential home? (1) (~~To determine~~) The department determines the rate to support a client in a (~~licensed~~) staffed residential home (~~(, the department assesses)~~)

by assessing the client's ~~((support))~~ identified needs ~~((, includ-~~
~~ing:))~~.

(2) The department completes a rate assessment, which consists of four cost centers:

(a) Administrative and nonstaff costs, including transportation and damage reimbursement, if applicable;

(b) Funds for community inclusion activities as outlined in WAC 388-826-0005;

(c) Consultant and training costs; and

(d) Instruction and support services, which are determined by assessing a client's identified needs and supervision in the following areas:

(i) Activities of daily living as defined in WAC 388-106-0010;

~~((b))~~ (ii) Instrumental activities of daily living as defined in WAC 388-106-0010; and

~~((e))~~ (iii) Behavioral support and supervision ((supports)).

~~((2) Children are entitled to appropriate educational services including, to the extent possible, participating in a full school day. The department must not pay a provider for any hours the client is in school))~~

(3) Instruction and support services provided by the school district are not included in the rate assessment to support a client in a staffed residential home.

(4) A rate assessment must be completed before start of services, if a significant change occurs, or when the household composition changes.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0170, filed 11/7/18, effective 12/8/18. Statutory Authority: RCW 71A.12.030, 74.13.350, and Title 71A RCW. WSR 06-04-088, § 388-826-0170, filed 1/31/06, effective 3/3/06.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0175 ~~((How))~~ What does the department ((determine the rate to support a medically fragile client in)) pay a group care facility for medically fragile children that is providing out-of-home services to a client? (1) To support a client receiving out-of-home services in a group care facility for medically fragile children, the department pays ((a group care facility)) the provider a DDA-established, per-person, monthly rate ((to support a medically fragile client)).

(2) Out-of-home services must not replace or duplicate services or benefits available through private insurance, medicare, or the medicaid state plan.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0175, filed 11/7/18, effective 12/8/18. Statutory Authority: RCW 74.13.750 [74.13.350]. WSR 07-15-003, § 388-826-0175, filed 7/6/07, effective 8/6/07.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0200 What happens if a licensed provider terminates a client's out-of-home ((placement)) services? (1) If a licensed provider terminates a client's out-of-home ((placement)) services, the provider must:

~~((1) The child must return to the parent or legal guardian's care unless:~~

~~(a) Taken into custody under RCW 13.34.050 or 26.44.050;~~

~~(b) Placed in shelter care under RCW 13.34.060; or~~

~~(c) Placed in foster care under RCW 13.34.130;~~

~~(2) The provider must:))~~

(a) Notify the client's parent or legal guardian, the department, and the client's school in writing at least thirty days before the termination; ((and))

(b) ((Develop)) Provide one of the following termination reasons:

(i) The provider cannot meet the needs of the client;

(ii) The client's safety or the safety of other people in the home or facility is endangered;

(iii) The client's health or the health of other people in the home or facility would otherwise be endangered; or

(iv) The provider ceases to operate; and

(c) Participate in the development of a transition plan((; and (3)).)

(2) If a licensed provider terminates a client's out-of-home services, the department assesses the client's health and welfare needs((,)) and ((may authorize supports to the family while a new out-of-home placement is identified)) authorizes services within the scope of the home and community-based services waiver identified in the client's person-centered service plan.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0200, filed 11/7/18, effective 12/8/18. WSR 06-01-107, recodified as § 388-826-0200, filed 12/21/05, effective 12/21/05. Statutory Authority: RCW 74.13.350. WSR 02-22-057, § 388-826-0100, filed 10/31/02, effective 12/1/02.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0205 What happens when a client, parent, or legal guardian requests a different provider? (1) A client, parent, or legal guardian requesting a change in provider must((; and

~~(a-))~~ notify the DDA social ((worker)) service specialist and provider((; and

~~(b) Determine if current services can be modified to meet the client's need)).~~

(2) ((If services cannot be modified to meet the client's need, alternative residential options may be explored)) DDA will work with the parent or legal guardian to determine whether the parent or legal guardian's concerns can be addressed with the current provider.

(3) If the parties do not come to a resolution:

(a) The client may return to the family home until a ((new placement)) qualified residential service provider is identified; or

(b) The client may remain (~~(in)~~) with the current (~~(placement)~~) provider until (~~(a new)~~) another qualified provider is (~~(identified)~~) selected by the parent or legal guardian.

~~((3) The department may request a court review and a guardian ad litem to represent the best interest of the child.)~~

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0205, filed 11/7/18, effective 12/8/18.]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0230 ~~((What happens after a client turns))~~ When may a client age eighteen or older continue to receive out-of-home services? A client (~~(who turns eighteen while in voluntary)~~) age eighteen or older may continue receiving out-of-home (~~(placement may remain there until their twenty-first birthday)~~) services if the client is:

- (1) ~~((They pursue a high school or equivalency course of study (GED/HSEC) or vocational program))~~ Under the age of twenty-one;
- (2) ~~((A voluntary placement agreement is signed by the client or their legal guardian))~~ Receiving out-of-home services the day before their eighteenth birthday; and
- (3) ~~((The client can self-administer medication or they receive nurse delegation services))~~ Pursuing a high school or equivalency course of study (GED/HSEC) or vocational program.

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0230, filed 11/7/18, effective 12/8/18. WSR 06-01-107, recodified as § 388-826-0230, filed 12/21/05, effective 12/21/05. Statutory Authority: RCW 74.13.350. WSR 02-22-057, § 388-826-0115, filed 10/31/02, effective 12/1/02.]

NEW SECTION

WAC 388-826-0231 **What is initial certification?** (1) Initial certification is a document issued by DDA that indicates a children's state-operated living alternative provider meets the requirements under this chapter to deliver out-of-home services.

- (2) The provider must obtain initial certification no more than ninety days after the first date of service delivery.
- (3) The provider must allow a DDA-contracted evaluator to complete an on-site certification evaluation.
- (4) Based on the findings of the certification evaluation, DDA may issue:
 - (a) Initial certification; or
 - (b) Provisional certification.
- (5) An initial certification is valid for no more than twelve months.

[]

NEW SECTION

WAC 388-826-0232 What is standard certification? (1) Standard certification is a document issued by DDA that indicates a children's state-operated living alternative provider meets the requirements under this chapter to deliver out-of-home services.

(2) The provider must obtain standard certification before their initial certification expires.

(3) The provider must allow a DDA-contracted evaluator to complete an on-site certification evaluation.

(4) Based on the findings of the evaluation, DDA may:

- (a) Issue standard certification;
- (b) Issue provisional certification; or
- (c) Decertify the provider.

(5) A standard certification is valid for no more than twenty-four months.

[]

NEW SECTION

WAC 388-826-0233 What is provisional certification? (1) DDA may impose a provisional certification for a maximum of ninety days if the children's state-operated living alternative provider:

(a) Prevents or interferes with a certification evaluation or complaint investigation by DSHS;

(b) Fails to comply with chapter 388-826 WAC;

(c) Fails to comply with chapter 74.34 RCW or chapter 26.44 RCW;

(d) Knowingly makes a false statement of material fact to DSHS;

or

(e) Fails to implement a plan of correction.

(2) At the end of the provisional certification, if the provider has complied with certification requirements, DDA may approve the provider for standard certification.

(3) At the end of the provisional certification, if the provider has not complied with certification requirements, DDA must decertify the provider.

[]

NEW SECTION

WAC 388-826-0234 What must a children's state-operated living alternative provider comply with to maintain certification? To maintain certification, a children's state-operated living alternative provider must comply with:

(1) Requirements under this chapter;

(2) Laws governing this chapter, including chapter 71A.12 RCW;

(3) Requirements under chapter 74.34 RCW;

(4) Other relevant federal, state and local laws, requirements, and ordinances.

[]

NEW SECTION

WAC 388-826-0235 What if a children's state-operated living alternative provider disagrees with a certification evaluation or certification decision? If a children's state-operated living alternative provider disagrees with a certification evaluation or certification decision under this chapter, the provider may request an informal dispute resolution meeting with DDA by:

- (1) Submitting a written request to DDA no more than ten days after receiving the final certification letter and report; and
- (2) Including a written statement that identifies the challenged action, describes the provider's concerns, and lists regulations and standards cited.

[]

NEW SECTION

WAC 388-826-0236 When may DDA decertify a children's state-operated living alternative provider? DDA may decertify a children's state-operated living alternative provider who:

- (1) Has had a certification, medicaid or medicare provider agreement denied, suspended, revoked, not renewed, or terminated for non-compliance with state or federal regulations;
- (2) Obtained or attempted to obtain a certification or contract by fraudulent means or misrepresentation; or
- (3) Willfully prevented or interfered with or failed to cooperate with any investigation or certification evaluation made by the department or DDA-contracted evaluator, including refusal to permit authorized department representatives to interview clients or have access to their records.

[]

NEW SECTION

WAC 388-826-0237 How must the children's state-operated living alternative provider participate in the certification evaluation process? The children's state-operated living alternative provider must participate in the certification evaluation process with DDA employees and DDA-contracted evaluators by:

- (1) Allowing scheduled and unscheduled visits;
- (2) Providing information and documentation as requested;
- (3) Cooperating in setting up appointments;
- (4) Responding to questions or issues identified;
- (5) Participating in an exit conference; and
- (6) Submitting a corrective action plan within an agreed time frame, if applicable.

[]

AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0240 Who may appeal a department action? ~~((1))~~ A client, the client's parent, or the client's ~~((authorized representa-~~
~~tive))~~ legal guardian may appeal ~~((any decision))~~ an action under ~~((RCW 71A.10.050))~~ chapter 182-526 WAC or WAC 388-825-120.

~~((2) A request may be made orally or in writing.~~

~~(3) An appellant must request an administrative hearing no more than ninety days after the date they received notification of the disputed decision.~~

~~(4) An appellant must request an administrative hearing within the ten-day notice period under WAC 388-458-0040 if the client wishes to receive continued benefits under WAC 388-825-145.)~~

[Statutory Authority: RCW 71A.12.030 and 74.13.350. WSR 18-23-004, § 388-826-0240, filed 11/7/18, effective 12/8/18. WSR 06-01-107, recodified as § 388-826-0240, filed 12/21/05, effective 12/21/05. Statutory Authority: RCW 74.13.350. WSR 02-22-057, § 388-826-0120, filed 10/31/02, effective 12/1/02.]

REPEALER

The following sections of the Washington Administrative Code are repealed:

- | | |
|------------------|--|
| WAC 388-826-0011 | What do voluntary placement services include? |
| WAC 388-826-0050 | What are the judicial requirements for a child receiving voluntary placement services? |

WSR 21-16-002

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed July 22, 2021, 8:33 a.m., effective November 1, 2021]

Effective Date of Rule: November 1, 2021.

Purpose: WAC 246-810-990 Counselors fees and renewal cycle, 246-843-990 Nursing home administrator fees and renewal cycle, and 246-849-990 Ocularists fee and renewal cycle. The adopted rules implement a fee increase for the specified professions to satisfy the requirements of RCW 43.70.250, which requires the cost of each licensing program to be fully borne by the profession's members and licensing fees to be based on the licensing program's costs.

The forecasted revenue for the certified counselor/advisor program is insufficient to recover the program's accumulated debt of nearly \$1.1 million and build adequate reserves. The forecasted revenue for the nursing home administrator program is insufficient to recover the program's accumulated debt of nearly \$400,000 and maintain adequate reserves. While the ocularist program ended the 2019 fiscal year with a positive fund balance of \$131, the balance is forecasted to decline over the next six years, resulting in an estimated fund deficit of approximately \$8,700 by June of 2026.

Citation of Rules Affected by this Order: Amending WAC 246-810-990, 246-843-990, and 246-849-990.

Statutory Authority for Adoption: RCW 43.70.250 and 43.70.280.

Adopted under notice filed as WSR 21-08-049 on April 2, 2021.

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 3, 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: July 21, 2021.

Kristin Peterson, JD
Deputy Secretary
for Policy and Planning
for Umair A. Shah, MD, MPH
Secretary

OTS-2849.3

AMENDATORY SECTION (Amending WSR 18-01-098, filed 12/18/17, effective 4/1/18)

WAC 246-810-990 Counselors fees and renewal cycle. (1) Under chapter 246-12 WAC, (~~Part 27~~) a counselor must renew (~~his or her~~) their credential every year on the practitioner's birthday.

(2) Examination and reexamination fees are the responsibility of the applicant and are paid directly to the testing company.

(3) The following nonrefundable fees will be charged:

Title	Fee
Registered hypnotherapist:	
Application and registration	\$155.00
Renewal	\$80.00
Late renewal penalty	\$75.00
Expired registration reissuance	\$75.00
Duplicate registration	\$10.00
Verification of registration	\$25.00
Certified counselor:	
Application and certification	((\$255.00)) \$345.00
Examination or reexamination	\$85.00
Renewal	((\$225.00)) \$305.00
Late renewal penalty	((\$115.00)) \$155.00
Expired credential reissuance	\$100.00
Duplicate credential	\$10.00
Verification of credential	\$25.00
Certified adviser:	
Application and certification	((\$210.00)) \$285.00
Examination or reexamination	\$85.00
Renewal	((\$185.00)) \$250.00
Late renewal penalty	((\$95.00)) \$125.00
Expired credential reissuance	\$100.00
Duplicate credential	\$10.00
Verification of credential	\$25.00
Registered agency affiliated counselor:	
Application and registration	\$90.00
Renewal	\$75.00
Late renewal penalty	\$50.00
Expired registration reissuance	\$50.00
Duplicate registration	\$10.00
Verification of registration	\$25.00

[Statutory Authority: RCW 43.70.250 and 43.70.280. WSR 18-01-098, § 246-810-990, filed 12/18/17, effective 4/1/18. Statutory Authority: RCW 43.70.250, 18.19.050, 43.70.110 and 2013 c 4. WSR 14-07-095, § 246-810-990, filed 3/18/14, effective 7/1/14. Statutory Authority: RCW 43.70.110, 43.70.250, and 2011 1st sp.s. c 50. WSR 11-20-092, §

246-810-990, filed 10/4/11, effective 12/1/11. Statutory Authority: RCW 18.19.050 and chapter 18.19 RCW. WSR 09-15-041, § 246-810-990, filed 7/8/09, effective 7/8/09. Statutory Authority: RCW 43.70.110, 43.70.250 and 2008 c 329. WSR 08-16-008, § 246-810-990, filed 7/24/08, effective 7/25/08. Statutory Authority: RCW 18.19.050. WSR 06-08-106, § 246-810-990, filed 4/5/06, effective 5/6/06. Statutory Authority: RCW 43.70.250, [43.70.]280 and 43.70.110. WSR 05-12-012, § 246-810-990, filed 5/20/05, effective 7/1/05. Statutory Authority: RCW 43.70.250. WSR 99-08-101, § 246-810-990, filed 4/6/99, effective 7/1/99. Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-810-990, filed 2/13/98, effective 3/16/98. Statutory Authority: RCW 18.19.050(1). WSR 97-17-113, § 246-810-990, filed 8/20/97, effective 9/20/97. Statutory Authority: Chapter 18.19 RCW. WSR 96-08-069, § 246-810-990, filed 4/3/96, effective 5/4/96. Statutory Authority: RCW 43.70.250. WSR 93-14-011, § 246-810-990, filed 6/24/93, effective 7/25/93. Statutory Authority: RCW 43.70.040. WSR 91-02-049 (Order 121), recodified as § 246-810-990, filed 12/27/90, effective 1/31/91. Statutory Authority: RCW 43.70.250. WSR 90-18-039 (Order 084), § 308-190-010, filed 8/29/90, effective 9/29/90; WSR 90-04-094 (Order 029), § 308-190-010, filed 2/7/90, effective 3/10/90. Statutory Authority: RCW 43.24.086. WSR 87-18-033 (Order PM 669), § 308-190-010, filed 8/27/87.]

OTS-2850.3

AMENDATORY SECTION (Amending WSR 17-24-014 and 17-22-088, filed 11/27/17 and 10/27/17, effective 3/1/18)

WAC 246-843-990 Nursing home administrator fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC(~~(7-Part-2)~~).

(2) (~~The following nonrefundable fees will be charged:~~) Between the effective date of this rule and October 31, 2022, the following fees will apply:

Title of Fee	Fee
Application-Original license	((\$75.00)) <u>\$690.00</u>
Administrator-in-training	285.00
Application-Endorsement	715.00
License renewal	
Renewal	((695.00)) <u>835.00</u>
Late renewal penalty	300.00
Expired license reissuance	285.00
Inactive license	
Inactive license renewal	315.00
Late renewal penalty	160.00
Expired inactive license reissuance	190.00
Temporary permit	325.00
Duplicate license	10.00

Title of Fee	Fee
Verification of license	25.00

(3) On and after November 1, 2022, the following fees apply:

<u>Title of Fee</u>	<u>Fee</u>
<u>Application-Original license</u>	<u>\$805.00</u>
<u>Administrator-in-training</u>	<u>285.00</u>
<u>Application-Endorsement</u>	<u>805.00</u>
<u>License renewal</u>	
<u>Renewal</u>	<u>975.00</u>
<u>Late renewal penalty</u>	<u>300.00</u>
<u>Expired license reissuance</u>	<u>285.00</u>
<u>Inactive license</u>	
<u>Inactive license renewal</u>	<u>315.00</u>
<u>Late renewal penalty</u>	<u>160.00</u>
<u>Expired inactive license reissuance</u>	<u>190.00</u>
<u>Temporary permit</u>	<u>325.00</u>
<u>Duplicate license</u>	<u>10.00</u>
<u>Verification of license</u>	<u>25.00</u>

[Statutory Authority: RCW 43.70.250 and 43.70.280. WSR 17-24-014 and 17-22-088, § 246-843-990, filed 11/27/17 and 10/27/17, effective 3/1/18. Statutory Authority: RCW 43.70.110, 43.70.250, and 2011 1st sp.s. c 50. WSR 11-20-092, § 246-843-990, filed 10/4/11, effective 12/1/11. Statutory Authority: RCW 43.70.110, 43.70.250, 2008 c 329. WSR 08-15-014, § 246-843-990, filed 7/7/08, effective 7/7/08. Statutory Authority: RCW 43.70.250, [43.70.]280 and 43.70.110. WSR 05-12-012, § 246-843-990, filed 5/20/05, effective 7/1/05. Statutory Authority: RCW 43.70.250, [43.70.]280 and chapter 18.52 RCW. WSR 99-24-098, § 246-843-990, filed 11/30/99, effective 12/31/99. Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-843-990, filed 2/13/98, effective 3/16/98. Statutory Authority: RCW 43.70.250 and chapter 18.52 RCW. WSR 94-09-006, § 246-843-990, filed 4/11/94, effective 5/12/94. Statutory Authority: RCW 43.70.250. WSR 93-14-011, § 246-843-990, filed 6/24/93, effective 7/25/93; WSR 91-09-051 (Order 154), § 246-843-990, filed 4/16/91, effective 5/17/91. Statutory Authority: RCW 43.70.040. WSR 91-06-058 (Order 138), recodified as § 246-843-990, filed 3/1/91, effective 4/1/91. Statutory Authority: RCW 43.70.250. WSR 90-04-094 (Order 029), § 308-54-315, filed 2/7/90, effective 3/10/90. Statutory Authority: RCW 43.24.086. WSR 87-18-031 (Order PM 667), § 308-54-315, filed 8/27/87. Statutory Authority: 1983 c 168 § 12. WSR 83-17-031 (Order PL 442), § 308-54-315, filed 8/10/83. Formerly WAC 308-54-310.]

OTS-2851.2

AMENDATORY SECTION (Amending WSR 17-24-014 and 17-22-088, filed 11/27/17 and 10/27/17, effective 3/1/18)

WAC 246-849-990 Ocularist fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC (~~(, Part 2)~~).

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Original application and examination	((\$200.00)) <u>\$370.00</u>
License renewal	
Renewal	((300.00)) <u>555.00</u>
Late renewal penalty	((150.00)) <u>185.00</u>
Apprentice registration	
Apprentice renewal	((25.00)) <u>100.00</u>
Expired license reissuance	115.00
Temporary practice permit	25.00
Retired active license	50.00
Duplicate license	10.00
Verification of license	25.00

[Statutory Authority: RCW 43.70.250 and 43.70.280. WSR 17-24-014 and 17-22-088, § 246-849-990, filed 11/27/17 and 10/27/17, effective 3/1/18. Statutory Authority: RCW 43.70.250, [43.70.]280 and 43.70.110. WSR 05-12-012, § 246-849-990, filed 5/20/05, effective 7/1/05. Statutory Authority: RCW 43.70.250. WSR 99-08-101, § 246-849-990, filed 4/6/99, effective 7/1/99. Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-849-990, filed 2/13/98, effective 3/16/98. Statutory Authority: RCW 43.70.250. WSR 93-14-011, § 246-849-990, filed 6/24/93, effective 7/25/93; WSR 92-02-018 (Order 224), § 246-849-990, filed 12/23/91, effective 1/23/92. Statutory Authority: RCW 43.70.040. WSR 91-02-049 (Order 121), recodified as § 246-849-990, filed 12/27/90, effective 1/31/91. Statutory Authority: RCW 43.24.086. WSR 87-18-031 (Order PM 667), § 308-55-025, filed 8/27/87. Statutory Authority: 1983 c 168 § 12. WSR 83-17-031 (Order PL 442), § 308-55-025, filed 8/10/83. Formerly WAC 308-55-010.]

WSR 21-16-006

PERMANENT RULES

BUILDING CODE COUNCIL

[Filed July 22, 2021, 12:32 p.m., effective August 22, 2021]

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

Purpose: After adoption and publication of the amendments to the 2018 International Residential Code, chapter 51-51 WAC, errors and omissions of an editorial nature were discovered; these must be corrected to ensure consistent enforcement of the code.

Citation of Rules Affected by this Order: Amending 1.

Statutory Authority for Adoption: RCW 19.27.031.

Other Authority: RCW 19.27.074.

Adopted under notice filed as WSR 21-08-080 on April 7, 2021.

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 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 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: June 18, 2021.

Diane Glenn
Chair

OTS-2975.1

AMENDATORY SECTION (Amending WSR 20-21-041, filed 10/13/20, effective 11/13/20)

WAC 51-51-0507 Section R507—Decks.

R507.1 Decks. Wood-framed decks shall be in accordance with this section. Decks shall be designed for the live load required in Section R301.5 or the ground snow load indicated in Table R301.2(1), whichever is greater. For decks using materials and conditions not prescribed in this section, refer to Section R301.

TABLE R507.3.1**MINIMUM FOOTING SIZE FOR DECKS**

LIVE OR GROUND SNOW LOAD ^b (psf)	TRIBUTARY AREA ^c (sq.ft.)	SOIL BEARING CAPACITY ^{acd}								
		1500 psf			2000 psf			≥ 3000 psf		
		Side of a square footing (inches)	Diameter of a round footing (inches)	Thickness ^f (inches)	Side of a square footing (inches)	Diameter of a round footing (inches)	Thickness ^f (inches)	Side of a square footing (inches)	Diameter of a round footing (inches)	Thickness ^f (inches)
60 Live or 70 Ground Snow Load	5	7	8	6	7	8	6	7	8	6
	20	12	14	6	11	13	6	9	10	6
	40	18	20	6	15	17	6	12	14	6
	60	21	24	8	19	21	6	15	17	6
	80	25	28	9	21	24	8	18	20	6
	100	28	31	11	24	27	9	20	22	7
	120	30	34	12	26	30	10	21	24	8
	140	33	37	13	28	32	11	23	26	9
160	35	40	15	30	34	12	25	28	9	

For SI: 1 inch = 25.4 mm, 1 square foot = 0.0929 m², 1 pound per square foot = 0.0479 kPa.

- a. Interpolation permitted, extrapolation not permitted.
- b. Reserved.
- c. Footing dimensions shall allow complete bearing of the post.
- d. If the support is a brick or CMU pier, the footing shall have a minimum 2-inch projection on all sides.
- e. Area, in square feet, of deck surface supported by post and footings.
- f. Minimum thickness shall only apply to plain concrete footings,

R507.4 Deck posts. For single-level decks, wood post size shall be in accordance with Table R507.4.

TABLE R507.4
DECK POST HEIGHT

LOADS ^b (psf)	POST SPECIES ^c	POST SIZE ^d	MAXIMUM DECK POST HEIGHT ^a (feet-inches)							
			Tributary Area ^{g,h} (sq. ft.)							
			20	40	60	80	100	120	140	160
60 Live Load, ≤60 Ground Snow Load	Douglas Fir ^e , Hem-fir ^e , SPF ^e	4 x 4	14-0	10-10	8-7	7-0	5-8	4-1	NP	NP
		4 x 6	14-0	13-10	11-1	9-5	8-2	7-3	6-4	5-4
		6 x 6	14-0	14-0	14-0	14-0	14-0	13-3	10-9	6-11
		8 x 8	14-0	14-0	14-0	14-0	14-0	14-0	14-0	14-0
	Redwood ^f , Western Cedars ^f , Ponderosa Pine ^f , Red Pine ^f	4 x 4	14-0	10-3	7-0	NP	NP	NP	NP	NP
		4 x 6	14-0	13-6	10-6	8-4	5-10	NP	NP	NP
		6 x 6	14-0	14-0	14-0	14-0	11-11	NP	NP	NP
		8 x 8	14-0	14-0	14-0	14-0	14-0	14-0	14-0	14-0
70 Ground Snow Load	Douglas Fir ^e , Hem-fir ^e , SPF ^e	4 x 4	14-0	10-1	7-11	6-6	5-3	3-7	NP	NP
		4 x 6	14-0	12-10	10-3	8-9	7-7	6-8	5-10	4-11
		6 x 6	14-0	14-0	14-0	14-0	14-0	12-2	9-9	5-9
		8 x 8	14-0	14-0	14-0	14-0	14-0	14-0	14-0	14-0
	Redwood ^f , Western Cedars ^f , Ponderosa Pine ^f , Red Pine ^f	4 x 4	14-0	9-5	6-5	NP	NP	NP	NP	NP
		4 x 6	14-0	12-6	9-8	7-7	5-3	NP	NP	NP
		6 x 6	14-0	14-0	14-0	14-0	10-8	NP	NP	NP
		8 x 8	14-0	14-0	14-0	14-0	14-0	14-0	14-0	14-0

For SI: 1 inch = 25.4 mm, 1 square foot = 0.0929 m², 1 pound per square foot = 0.0479 kPa, NP = Not permitted.

- a. Measured from the underside of the beam to top of footing or pier.
- b. 10 psf dead load. Snow load not assumed to be concurrent with live load.
- c. No. 2 grade, wet service factor included.
- d. Notched deck posts shall be sized to accommodate beam size per in accordance with Section R507.5.2.
- e. Includes incising factor.
- f. Incising factor not included.
- g. Area, in square feet, of deck surface supported by post and footing.
- h. Interpolation permitted. Extrapolation not permitted.

R507.5 Deck beams. Maximum allowable spans for wood deck beams, as shown in Figure R507.5, shall be in accordance with Table R507.5(1) through R507.5(4)). Beam plies shall be fastened with two

rows of 10d (3-inch × 0.128-inch) nails minimum at 16 inches (406 mm) on center along each edge. Beams shall be permitted to cantilever at each end up to one-fourth of the allowable beam span. Deck beams of other materials shall be permitted where designed in accordance with accepted engineering practices.

TABLE R507.5
 MAXIMUM DECK BEAM SPAN - 60 PSF LIVE LOAD or
 70 PSF GROUND SNOW LOAD^c

((BEAM SPECIES ^d	BEAM SIZE ^e	MAXIMUM BEAM SPAN ^{a,b,f} (feet-inches)						
		Deck Joist Span ^{a,i} (feet)						
		6	8	10	12	14	16	18))
BEAM SPECIES ^d	BEAM SIZE ^e	DECK JOIST SPAN ^{a,i} (feet)						
		6	8	10	12	14	16	18
		MAXIMUM BEAM SPAN ^{a,b,f} (feet-inches)						
Douglas fir-larch ^g , Hem-fir ^g , Spruce-pine-fir ^g	1-2×6	3-5	2-10	2-5	2-2	2-0	1-10	1-9
	1-2×8	4-7	3-8	3-2	2-10	2-7	2-5	2-4
	1-2×10	5-8	4-9	4-1	3-8	3-4	3-1	2-11
	1-2×12	6-7	5-8	5-0	4-6	4-1	3-10	3-7
	2-2×6	5-2	4-6	4-0	3-5	3-1	2-10	2-7
	2-2×8	6-11	6-0	5-3	4-7	4-1	3-8	3-5
	2-2×10	8-5	7-4	6-6	5-10	5-2	4-9	4-5
	2-2×12	9-10	8-6	7-7	6-11	6-4	5-9	5-4
	3-2×6	6-6	5-7	5-0	4-7	4-2	3-9	3-5
	3-2×8	8-8	7-6	6-8	6-1	5-6	5-0	4-7
	3-2×10	10-7	9-2	8-2	7-6	6-11	6-4	5-10
3-2×12	12-4	10-8	9-7	8-9	8-1	7-7	7-1	
Redwood ^h , Western Cedars ^h , Ponderosa Pine ^h , Red Pine ^h	1-2×6	3-6	2-11	2-6	2-3	2-0	1-11	1-9
	1-2×8	4-6	3-10	3-3	2-11	2-8	2-6	2-4
	1-2×10	5-6	4-9	4-2	3-9	3-5	3-2	3-0
	1-2×12	6-4	5-6	4-11	4-6	4-2	3-11	3-8
	2-2×6	5-3	4-7	4-1	3-6	3-2	2-11	2-8
	2-2×8	6-8	5-9	5-2	4-8	4-2	3-10	3-6
	2-2×10	8-2	7-1	6-4	5-9	5-4	4-10	4-6
	2-2×12	9-5	8-2	7-4	6-8	6-2	5-9	5-5
	3-2×6	6-4	5-8	5-1	4-8	4-3	3-10	3-6
	3-2×8	8-4	7-3	6-5	5-11	5-5	5-1	4-8
	3-2×10	10-2	8-10	7-11	7-2	6-8	6-3	5-11
3-2×12	11-10	10-3	9-2	8-4	7-9	7-3	6-10	

For SI: 1 inch = 25.4 mm, 1 foot = 304.8 mm, 1 pound per square foot = 0.0479 kPa, 1 pound = 0.454 kg.

- a. Interpolation allowed. Extrapolation is not allowed.
- b. Beams supporting a single span of joists with or without cantilever.
- c. Dead load = 10 psf, L/Δ = 360 at mainspan, L/Δ = 180 at cantilever. Snow load not assumed to be concurrent with live load.
- d. No. 2 grade, wet service factor included.
- e. Beam depth shall be equal to or greater than the depth of intersecting joist for a flush beam connection.
- f. Beam cantilevers are limited to the adjacent beam's span divided by 4.
- g. Includes incising factor.
- h. Incising factor not included.
- i. Deck joist span as shown in Figure R507.5.

(~~TABLE R507.5(1)~~
~~MAXIMUM DECK BEAM SPAN — 40 PSF LIVE LOAD (NOT ADOPTED)~~
 TABLE R507.5(2)
~~MAXIMUM DECK BEAM SPAN — 50 PSF LIVE LOAD (NOT ADOPTED)~~
 TABLE R507.5(3)
 MAXIMUM DECK BEAM SPAN — 60 PSF LIVE LOAD^c

BEAM SPECIES ^d	BEAM SIZE ^e	DECK JOIST SPAN ^{a,i} (feet)						
		6	8	10	12	14	16	18
		MAXIMUM BEAM SPAN ^{a,b,f} (feet-inches)						
Douglas fir-larch ^g , Spruce-pine-fir ^g	1-2×6	3-8	3-1	2-8	2-4	2-2	2-0	1-10
	1-2×8	5-0	4-1	3-6	3-1	2-10	2-7	2-5
	1-2×10	6-1	5-2	4-6	4-0	3-7	3-4	3-2
	1-2×12	7-1	6-1	5-5	4-10	4-5	4-1	3-10
	2-2×6	5-6	4-9	4-3	3-10	3-5	3-1	2-10
	2-2×8	7-5	6-5	5-9	5-0	4-6	4-1	3-9
	2-2×10	9-0	7-10	7-0	6-4	5-9	5-2	4-10
	2-2×12	10-6	9-1	8-1	7-5	6-10	6-4	5-10
	3-2×6	6-11	6-0	5-4	4-11	4-6	4-2	3-10
	3-2×8	9-3	8-0	7-2	6-6	6-1	5-6	5-0
	3-2×10	11-4	9-10	8-9	8-0	7-5	6-11	6-5
3-2×12	13-2	11-5	10-2	9-4	8-7	8-1	7-7	
Redwood ^h , Western Cedars ^h , Ponderosa Pine ^h , Red Pine ^h	1-2×6	6-9	3-2	2-9	2-5	2-2	2-0	1-11
	1-2×8	4-10	4-2	3-7	3-2	2-11	2-8	2-6
	1-2×10	5-10	5-1	4-6	4-1	3-8	3-5	3-3
	1-2×12	6-10	5-11	5-3	4-10	4-5	4-2	3-11
	2-2×6	5-7	4-10	4-4	3-11	3-6	3-2	2-11
	2-2×8	7-1	6-2	5-6	5-0	4-7	4-2	3-10
	2-2×10	8-8	7-6	6-9	6-2	5-8	5-4	4-11
	2-2×12	10-1	8-9	7-10	7-2	6-7	6-2	5-10
	3-2×6	6-8	6-1	5-5	5-0	4-7	4-3	3-11
	3-2×8	8-9	7-9	6-11	6-4	5-10	5-5	5-2
	3-2×10	10-11	9-5	8-5	7-8	7-2	6-8	6-3
3-2×12	12-8	10-11	9-9	8-11	8-3	7-9	7-3	

For SI: 1 inch = 25.4 mm, 1 foot = 304.8 mm, 1 pound per square foot = 0.0479 kPa, 1 pound = 0.454 kg.
 a: Interpolation permitted. Extrapolation not permitted.
 b: Beams supporting a single span of joists with or without cantilever.
 c: Dead load = 10 psf, L/Δ = 360 at main span, L/Δ = 180 at cantilever. Snow load not assumed to be concurrent with live load.
 d: No .2 grade, wet-service factor included.
 e: Beam depth shall be equal to or greater than the depth intersecting joist for a flush beam connection.
 f: Beam cantilevers are limited to the adjacent beam's span divided by 4.
 g: Includes incising factor.
 h: Incising factor not included.
 i: Deck joist span as shown in Figure R507.5.

TABLE R507.5(4)
 MAXIMUM DECK BEAM SPAN — 70 PSF LIVE LOAD^c

BEAM SPECIES ^d	BEAM SIZE ^e	DECK JOIST SPAN ^{a,i} (feet)						
		6	8	10	12	14	16	18
		MAXIMUM BEAM SPAN ^{a,b,f} (feet-inches)						
Douglas fir-larch ^g , Spruce-pine-fir ^g	1-2x6	3-5	2-10	2-5	2-2	2-0	1-10	1-9
	1-2x8	4-7	3-8	3-2	2-10	2-7	2-5	2-4
	1-2x10	5-8	4-9	4-1	3-8	3-4	3-1	2-11
	1-2x12	6-7	5-8	5-0	4-6	4-1	3-10	3-7
	2-2x6	5-2	4-6	4-0	3-5	3-1	2-10	2-7
	2-2x8	6-11	6-0	5-3	4-7	4-1	3-8	3-5
	2-2x10	8-5	7-4	6-6	5-10	5-2	4-9	4-5
	2-2x12	9-10	8-6	7-7	6-11	6-4	5-9	5-4
	3-2x6	6-6	5-7	5-0	4-7	4-2	3-9	3-5
	3-2x8	8-8	7-6	6-8	6-1	5-6	5-0	4-7
	3-2x10	10-7	9-2	8-2	7-6	6-11	6-4	5-10
	3-2x12	12-4	10-8	9-7	8-9	8-1	7-7	7-1
Redwood ^h , Western Cedars ^h , Ponderosa Pine ^h , Red Pine ^h	1-2x6	3-6	2-11	2-6	2-3	2-0	1-11	1-9
	1-2x8	4-6	3-10	3-3	2-11	2-8	2-6	2-4
	1-2x10	5-6	4-9	4-2	3-9	3-5	3-2	3-0
	1-2x12	6-4	5-6	4-11	4-6	4-2	3-11	3-8
	2-2x6	5-3	4-7	4-1	3-6	3-2	2-11	2-8
	2-2x8	6-8	5-9	5-2	4-8	4-2	3-10	3-6
	2-2x10	8-2	7-1	6-4	5-9	5-4	4-10	4-6
	2-2x12	9-5	8-2	7-4	6-8	6-2	5-9	5-5
	3-2x6	6-4	5-8	5-1	4-8	4-3	3-10	3-6
	3-2x8	8-4	7-3	6-5	5-11	5-5	5-1	4-8
	3-2x10	10-2	8-2	7-11	7-2	6-8	6-3	5-11
	3-2x12	11-10	10-3	9-2	8-4	7-9	7-3	7

For SI: 1 inch = 25.4 mm, 1 foot = 304.8 mm, 1 pound per square foot = 0.0479 kPa, 1 pound = 0.454 kg.

- a. Interpolation permitted. Extrapolation not permitted.
- b. Beams supporting a single span of joists with or without cantilever.
- c. Dead load = 10 psf, L/Δ = 360 at main span, L/Δ = 180 at cantilever. Snow load not assumed to be concurrent with live load.
- d. No. 2 grade, wet service factor included.
- e. Beam depth shall be equal to or greater than the depth intersecting joist for a flush beam connection.
- f. Beam cantilevers are limited to the adjacent beam's span divided by 4.
- g. Includes incising factor.
- h. Incising factor not included.
- i. Deck joist span as shown in Figure R507.5.)

R507.6 Deck joists. Maximum allowable spans for wood deck joists, as shown in Figure R507.6, shall be in accordance with Table R507.6. The maximum joist spacing shall be limited by the decking materials in accordance with Table R507.7.

TABLE R507.6
MAXIMUM DECK JOIST SPANS

LOAD ^a (psf)	JOIST SPECIES ^b	JOIST SIZE	ALLOWABLE JOIST SPAN ^{b,c} (feet-inches)			MAXIMUM CANTILEVER ^{f,g} (feet-inches)							
			Joist Spacing (inches)			Adjacent Joist Back Span ^g (feet)							
			12	16	24	4	6	8	10	12	14	16	18
60 Live Load or 70 Ground Snow Load	Douglas fir-larch ^e , Hem-fir ^e , Spruce-pine-fir ^e	2×6	7-11	7-1	5-9	1-0	1-6	NP	NP	NP	NP	NP	NP
		2×8	10-5	9-5	7-8	1-0	1-6	2-0	2-1	NP	NP	NP	NP
		2×10	13-3	11-6	9-5	1-0	1-6	2-0	2-6	2-8	NP	NP	NP
		2×12	15-5	13-4	10-11	1-0	1-6	2-0	2-6	3-0	3-3	NP	NP
	Redwood ^f , Western Cedars ^f , Ponderosa Pine ^f , Red Pine ^f	2×6	7-4	6-8	5-10	1-0	1-4	NP	NP	NP	NP	NP	NP
		2×8	9-8	8-10	7-4	1-0	1-6	1-11	NP	NP	NP	NP	NP
		2×10	12-4	11-0	9-0	1-0	1-6	2-0	2-6	2-6	NP	NP	NP
		2×12	14-9	12-9	10-5	1-0	1-6	2-0	2-6	3-0	3-0	NP	NP

For SI: 1 inch = 25.4 mm, 1 foot = 304.8 mm, 1 pound per square foot = 0.0479 kPa, 1 pound = 0.454 kg, NP = Not permitted.

- a. Dead load = 10 psf dead load. Snow load not assumed to be concurrent with live load.
- b. No. 2 grade, wet service factor included.
- c. L/Δ = 360 at main span.
- d. L/Δ = 180 at cantilever with 220-pound point load applied to end.
- e. Includes incising factor.
- f. Incising factor not included.
- g. Interpolation permitted. Extrapolation not permitted.

R507.9.1.2 Band joist details. Band joists supporting a ledger shall be a minimum 2-inch-nominal (51 mm), solid-sawn, spruce-pine-fir or better lumber or minimum 1-inch (25 mm) nominal engineered wood rim boards in accordance with Section R502.1.7. Band joists shall bear fully on the primary structure capable of supporting all required loads.

TABLE R507.9.1.3(1)
DECK LEDGER CONNECTION TO BAND JOIST

LOAD ^c (psf)	JOIST SPAN ^a (feet)	On-CENTER SPACING OF FASTENERS ^b (inches)		
		1/2-inch diameter lag screw with 1/2-inch maximum sheathing ^{d,e}	1/2-inch diameter bolt with 1/2-inch maximum sheathing ^e	1/2-inch diameter bolt with 1-inch maximum sheathing ^f
60 Live Load or 70 Ground Snow Load	6	22	36	35
	8	16	31	26
	10	13	25	21
	12	11	20	17
	14	9	17	15
	16	8	15	13
	18	7	13	11

For SI: 1 inch = 25.4 mm, 1 foot = 304.8 mm, 1 pound per square foot = 0.0479 kPa.

- a. Interpolation permitted. Extrapolation is not permitted.
- b. Ledgers shall be flashed in accordance with Section R703.4 to prevent water from contacting the house band joist.
- c. Dead load = 10 psf. Snow load shall not be assumed to act concurrently with live load.
- d. The tip of the lag screw shall fully extend beyond the inside face of the band joist.
- e. Sheathing shall be wood structural panel or solid sawn lumber.
- f. Sheathing shall be permitted to be wood structural panel, gypsum board, fiberboard, lumber or foam sheathing. Up to 1/2-inch thickness of stacked washers shall be permitted to substitute for up to 1/2 inch of allowable sheathing thickness where combined with wood structural panel or lumber sheathing.

R507.9.2 Deck lateral load connections. Lateral loads shall be transferred to the ground or to a structure capable of transmitting them to the ground. Where the lateral load connection is provided in accordance with Figure R507.9.2(1), hold-down tension devices shall be installed in not less than two locations per deck, within 24 inches of each end of the deck. Each device shall have an allowable stress design capacity of not less than 1500 pounds (6672 N). Where the lateral load connections are provided in accordance with Figure R507.9.2(2),

the hold-down tension devices shall be installed in not less than four locations per deck, and each device shall have an allowable stress design capacity of not less than 750 pounds (3336 N).

EXCEPTION: Decks not more than 30 inches above grade at any point may be unattached.

**TABLE R507.9.1
PLACEMENT OF LAG SCREWS AND BOLTS IN DECK LEDGERS AND
BAND JOISTS**

MINIMUM END AND EDGE DISTANCES AND SPACING BETWEEN ROWS				
	TOP EDGE	BOTTOM EDGE	ENDS	ROW SPACING
Ledger ^a	2 inches ^d	3/4 inch	2 inches ^b	1 5/8 inches ^b
Band joist ^c	3/4 inch	2 inches ^e	2 inches ^b	1 5/8 inches ^b

For SI: 1 inch = 25.4 mm.

- a Lag screws or bolts shall be staggered from the top to the bottom along the horizontal run of the deck ledger in accordance with Figure R507.2.1(1).
- b Maximum 5 inches.
- c For engineered rim joists, the manufacturer's recommendations shall govern.
- d The minimum distance from bottom row of lag screws to the top edge of the ledger shall be in accordance with Figure R507.2.1(1).
- e The 2 inches may be reduced to 3/4 inch when the band joist is directly supported by a mudsill, a header or by double top wall plates.

**TABLE R507.9.3(1)
DECK LAGER CONNECTION TO BAND JOIST**

LOAD ^c (psf)	JOIST SPAN ^a (feet)	1/2-inch diameter leg screw with 1/2-inch maximum sheathing ^{d,e}	1/2-inch diameter bolt with 1/2-inch maximum sheathing ^e	1/2-inch diameter bolt with 1-inch maximum sheathing ^f
		ON-CENTER SPACING OF FASTENERS ^b (inches)		
60 Ground Snow Load	6	25	36	36
	8	18	35	30
	10	15	28	24
	12	12	23	20
	14	10	20	17
	16	9	17	15
70 Ground Snow Load	6	22	36	35
	8	16	31	26
	10	13	25	21
	12	11	20	17
	14	9	17	15
	16	8	15	13
	18	7	13	11

For SI: 1 inch = 25.4 mm, 1 foot = 304.8 mm, 1 pound per square foot = 0.0479 kPa.

- a. Interpolation permitted. Extrapolation not permitted.
- b. Ledgers shall be flashed in accordance with Section R703.4 to prevent water from contacting the house band joist.
- c. Dead Load = 10 psf. Snow load shall not be assumed to act concurrently with live load.
- d. The tip of the lag screw shall fully extend beyond the inside face of the band joist.
- e. Sheathing shall be wood structural panel or solid sawn lumber.
- f. Sheathing shall be permitted to be wood structural panel, gypsum board, fiberboard, lumber or foam sheathing. Up to 1/2 inch thickness of stacked washers shall be permitted to substitute for up to 1/2 inch of allowable sheathing thickness where combined with wood structural panel or lumber sheathing.

[Statutory Authority: RCW 19.27.031 and 19.27.074. WSR 20-21-041, § 51-51-0507, filed 10/13/20, effective 11/13/20; WSR 20-03-023, § 51-51-0507, filed 1/6/20, effective 7/1/20; WSR 16-03-025, § 51-51-0507, filed 1/11/16, effective 7/1/16. Statutory Authority: RCW 19.27.031 and chapters 19.27 and 34.05 RCW. WSR 13-04-068, § 51-51-0507, filed 2/1/13, effective 7/1/13.]

WSR 21-16-019
PERMANENT RULES
OFFICE OF
FINANCIAL MANAGEMENT

[Filed July 23, 2021, 12:16 p.m., effective August 23, 2021]

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

Purpose: To establish official pay dates for state officers and employees for calendar year 2022.

Citation of Rules Affected by this Order: Amending WAC 82-50-021.

Statutory Authority for Adoption: RCW 42.16.010(1) and 42.16.017.

Adopted under notice filed as WSR 21-11-014 on May 7, 2021.

Date Adopted: July 23, 2021.

Roselyn Marcus
Assistant Director for
Legal and Legislative Affairs
Rules Coordinator

AMENDATORY SECTION (Amending WSR 20-10-059, filed 4/30/20, effective 5/31/20)

WAC 82-50-021 Official lagged, semimonthly pay dates established. Unless exempted otherwise under the provisions of WAC 82-50-031, the salaries of all state officers and employees are paid on a lagged, semimonthly basis for the official twice-a-month pay periods established in RCW 42.16.010(1). The following are the official lagged, semimonthly pay dates for calendar years ((2020 and)) 2021 and 2022:

Table with 2 columns: ((CALENDAR YEAR 2020 and)) CALENDAR YEAR 2021. Lists dates from January to December for both years.

<u>CALENDAR YEAR 2021</u>	<u>CALENDAR YEAR 2022</u>
<u>Monday, January 11, 2021</u>	<u>Monday, January 10, 2022</u>
<u>Monday, January 25, 2021</u>	<u>Tuesday, January 25, 2022</u>
<u>Wednesday, February 10, 2021</u>	<u>Thursday, February 10, 2022</u>
<u>Thursday, February 25, 2021</u>	<u>Friday, February 25, 2022</u>
<u>Wednesday, March 10, 2021</u>	<u>Thursday, March 10, 2022</u>
<u>Thursday, March 25, 2021</u>	<u>Friday, March 25, 2022</u>
<u>Friday, April 9, 2021</u>	<u>Monday, April 11, 2022</u>
<u>Monday, April 26, 2021</u>	<u>Monday, April 25, 2022</u>
<u>Monday, May 10, 2021</u>	<u>Tuesday, May 10, 2022</u>
<u>Tuesday, May 25, 2021</u>	<u>Wednesday, May 25, 2022</u>
<u>Thursday, June 10, 2021</u>	<u>Friday, June 10, 2022</u>
<u>Friday, June 25, 2021</u>	<u>Friday, June 24, 2022</u>
<u>Friday, July 9, 2021</u>	<u>Monday, July 11, 2022</u>
<u>Monday, July 26, 2021</u>	<u>Monday, July 25, 2022</u>
<u>Tuesday, August 10, 2021</u>	<u>Wednesday, August 10, 2022</u>
<u>Wednesday, August 25, 2021</u>	<u>Thursday, August 25, 2022</u>
<u>Friday, September 10, 2021</u>	<u>Friday, September 9, 2022</u>
<u>Friday, September 24, 2021</u>	<u>Monday, September 26, 2022</u>
<u>Friday, October 8, 2021</u>	<u>Friday, October 7, 2022</u>
<u>Monday, October 25, 2021</u>	<u>Tuesday, October 25, 2022</u>
<u>Wednesday, November 10, 2021</u>	<u>Thursday, November 10, 2022</u>
<u>Wednesday, November 24, 2021</u>	<u>Wednesday, November 23, 2022</u>
<u>Friday, December 10, 2021</u>	<u>Friday, December 9, 2022</u>
<u>Thursday, December 23, 2021</u>	<u>Friday, December 23, 2022</u>

[Statutory Authority: RCW 42.16.010(1) and 42.16.017. WSR 20-10-059, § 82-50-021, filed 4/30/20, effective 5/31/20; WSR 19-12-008, § 82-50-021, filed 5/23/19, effective 6/23/19; WSR 18-10-052, § 82-50-021, filed 4/26/18, effective 5/27/18; WSR 17-13-073, § 82-50-021, filed 6/16/17, effective 7/17/17; WSR 16-12-057, § 82-50-021, filed 5/26/16, effective 6/26/16; WSR 15-10-025, § 82-50-021, filed 4/27/15, effective 5/28/15; WSR 14-12-007, § 82-50-021, filed 5/22/14, effective 6/22/14; WSR 13-08-078, § 82-50-021, filed 4/2/13, effective 5/3/13; WSR 12-09-016, § 82-50-021, filed 4/5/12, effective 5/6/12; WSR 11-10-019, § 82-50-021, filed 4/26/11, effective 5/27/11; WSR 10-10-011, § 82-50-021, filed 4/22/10, effective 5/23/10; WSR 09-11-008, § 82-50-021, filed 5/7/09, effective 6/7/09; WSR 08-09-038, § 82-50-021, filed 4/9/08, effective 5/10/08; WSR 07-11-015, § 82-50-021, filed 5/3/07, effective 6/3/07; WSR 06-11-053, § 82-50-021, filed 5/11/06, effective 6/11/06; WSR 05-11-038, § 82-50-021, filed 5/11/05, effective 6/11/05; WSR 04-15-006, § 82-50-021, filed 7/7/04, effective 8/7/04; WSR 03-11-073, § 82-50-021, filed 5/20/03, effective 6/20/03; WSR 02-13-087, § 82-50-021, filed 6/18/02, effective 7/19/02; WSR 01-12-007, § 82-50-021, filed 5/24/01, effective 6/24/01; WSR 00-09-088, § 82-50-021, filed 4/18/00, effective 5/19/00; WSR 99-12-081, § 82-50-021, filed 5/28/99, effective 6/28/99; WSR 98-14-079, § 82-50-021, filed 6/30/98, effective 6/30/98; WSR 97-13-064, § 82-50-021, filed 6/17/97, effective 7/18/97; WSR 96-15-039, § 82-50-021, filed 7/11/96, effective 8/11/96; WSR 95-15-031, § 82-50-021, filed 7/11/95, effective 8/11/95; WSR 94-13-097, § 82-50-021, filed 6/15/94, effective 7/16/94; WSR 93-24-041, § 82-50-021, filed 11/23/93, effective 12/24/93; WSR 92-20-038, § 82-50-021, filed 9/29/92, effective 10/30/92; WSR 91-20-061 (Order 91-73), § 82-50-021, filed 9/24/91, effective 10/25/91; WSR 90-17-017

(Order 90-72), § 82-50-021, filed 8/7/90, effective 9/7/90; WSR 89-17-090 (Order 89-70), § 82-50-021, filed 8/22/89, effective 9/22/89; WSR 89-03-063 (Order 89-67), § 82-50-021, filed 1/18/89; WSR 88-16-027 (Order 88-66), § 82-50-021, filed 7/27/88; WSR 87-16-060 (Order 87-65), § 82-50-021, filed 7/30/87; WSR 86-17-001 (Order 86-63), § 82-50-021, filed 8/8/86; WSR 85-16-014 (Order 85-62), § 82-50-021, filed 7/26/85; WSR 84-14-046 (Order 84-61), § 82-50-021, filed 6/29/84; WSR 83-17-118 (Order 83-59), § 82-50-021, filed 8/24/83.]

WSR 21-16-020
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed July 23, 2021, 1:17 p.m., effective August 23, 2021]

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

Purpose: To eliminate subsection numbers in citations for definitions.

Citation of Rules Affected by this Order: Amending WAC 415-02-030, 415-02-200, 415-108-010, 415-108-436, 415-108-445, 415-108-456, 415-108-458, 415-108-467, 415-108-469, 415-108-510, 415-108-550, 415-108-560, 415-108-690, 415-108-730, 415-108-800, and 415-108-980.

Statutory Authority for Adoption: RCW 41.50.050.

Adopted under notice filed as WSR 21-11-111 on May 19, 2021.

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 16, 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: July 23, 2021.

Tracy Guerin
Director

OTS-2585.1

AMENDATORY SECTION (Amending WSR 20-13-064, filed 6/15/20, effective 7/16/20)

WAC 415-02-030 Definitions. This section contains definitions of words and phrases commonly used in the department of retirement systems' rules. It also serves as a directory for finding definitions within the RCW and WAC.

(1) **Accumulated contributions** means the sum of all contributions paid into a member's defined benefit account, including interest.

(2) **Appeal** means the proceeding through which a party obtains review of a department action in an adjudicative proceeding conducted under chapter 34.05 RCW (the Administrative Procedure Act) and chapter 415-08 WAC (the department's appeal rules).

(3) **Average final compensation** is defined in RCW 41.32.010(~~((+30))~~) (TRS); RCW 41.35.010(~~((+14))~~) (SERS); RCW 41.40.010(~~((+17))~~) (PERS); and RCW 41.37.010(~~((+14))~~) (PSERS).

(4) **Average final salary** for WSPRS is defined in RCW 43.43.120(~~((+15))~~).

(5) **Cafeteria plan** means a "qualified" employee benefit program under IRC section 125, such as certain health and welfare plans.

(6) **Calendar month.**

(a) Refers to one of the twelve named months of the year, extending from the first day of the named month through the last day. For example: January 1st through January 31st is a calendar month. February 1st through February 29th is a calendar month in a leap year. March 13th through April 12th is **not** a calendar month.

(b) Exception: For the purpose of administering the break in employment required by RCW 41.32.570, 41.32.802, 41.32.862, 41.35.060, 41.37.050 and 41.40.037 for retirees returning to work, one calendar month means thirty consecutive calendar days. For example: Kim's retirement date is August 1st. August 31st would be the earliest Kim could return to work and meet the requirement for a one calendar month break in employment.

(7) **Compensation earnable or earnable compensation** definitions can be found in RCW 41.32.010(~~((+10))~~) and 41.32.345 (TRS); RCW 41.35.010(~~((+6))~~) (SERS); RCW 41.37.010(~~((+6))~~) (PSERS); and RCW 41.40.010(~~((+8))~~) (PERS).

(8) **Contribution rate** is:

(a) For employees: The fraction (percent) of compensation a member contributes to a retirement system each month.

(b) For employers: The fraction (percent) of payroll a member's employer contributes to a retirement system each month. Contribution rates vary for the different systems and plans.

(9) **Deferred compensation** refers to the amount of the participant's compensation, which the participant voluntarily defers from earnings before taxes to a deferred compensation program.

(10) **Defined benefit plan** is a pension plan in which a lifetime retirement allowance is available, based on the member's service credit and compensation.

(11) **Defined contribution plan** is a plan in which part of members' or participants' earnings are deferred into investment accounts in which tax is deferred until funds are withdrawn. The benefit is based on the contributions and the amount of return from the investment of the contributions. Members or participants receive the full market rate of return minus expenses. There is no guaranteed rate of return and the value of an account will increase or decrease based upon market fluctuations.

(12) **Department** means the department of retirement systems.

(13) **Director** means the director of the department of retirement systems.

(14) **Employee** means a worker who performs labor or services for a retirement systems employer under the control and direction of the employer as determined under WAC 415-02-110(2). An employee may be eligible to participate as a member of one of the state-administered retirement systems according to eligibility requirements specified under the applicable retirement system.

(15) **Employer** is defined in RCW 41.26.030(~~((+2))~~) (LEOFF), 41.32.010(~~((+11))~~) (TRS), 41.34.020(~~((+5))~~) (Plan 3), 41.35.010(~~((+4))~~) (SERS), 41.37.010(~~((+4))~~) (PSERS) and 41.40.010(~~((+4))~~) (PERS).

(16) **Ex-spouse** refers to a person who is a party to a "dissolution order" as defined in RCW 41.50.500(~~((+3))~~).

(17) **Final average salary for LEOFF** is defined in RCW 41.26.030(~~((+12))~~).

(18) **First employed by an eligible employer in an eligible position** means, for purposes of plan default, first employment with an em-

ployer, in an eligible position, with which a member has fully exhausted their plan choice rights.

(19) **HERPs** mean higher education retirement plans described in chapter 28B.10 RCW, which are non-DRS retirement plans offered by institutions of higher education, such as, but not limited to, University of Washington retirement plan (UWRP) and Western Washington University retirement plan (WWURP).

(20) **Independent contractor** means a contract worker who is not under the direction or control of the employer as determined under WAC 415-02-110 (2) and (3).

(21) **IRC** means the Federal Internal Revenue Code of 1986, as subsequently amended.

(22) **Indexed retirement allowance** means a defined benefit retirement allowance from an indexed retirement plan, payable to a member who separates after having completed at least twenty service credit years, that is increased by twenty-five one-hundredths of one percent, compounded for each month from the date of separation to the date that the retirement allowance commences.

(23) **Indexed retirement plan** means one of the following retirement plans, which are administered by the department of retirement systems and provide an indexed retirement allowance: Law Enforcement Officers' and Firefighters Retirement System Plan 2 (RCW 41.26.530), Public Employees' Retirement System Plan 3 (RCW 41.40.790), School Employees' Retirement System Plan 3 (RCW 41.35.620), and Teachers' Retirement System Plan 3 (RCW 41.32.840).

(24) **JRF** means the judges' retirement fund created by chapter 2.12 RCW.

(25) **JRS** means the Washington judicial retirement system created by chapter 2.10 RCW.

(26) **LEOFF** means the Washington law enforcement officers' and firefighters' retirement system created by chapter 41.26 RCW.

(27) **Member** means a person who is included in the membership of one of the retirement systems created by chapters 2.10, 2.12, 41.26, 41.32, 41.34, 41.35, 41.37, 41.40, or 43.43 RCW.

(28) **Nonadministrative position or nonadministrative capacity** refers to retirees returning to work in a position at a school district, charter school, educational service district, state school for the deaf, state school for the blind, or tribal school which:

(a) Does not require an administrative certification, as defined by the office of the superintendent of public instruction, (currently positions requiring the certification include: Principal, vice principal, program administrator, conditional administrator, superintendent or program administrator certifications); or

(b) Does not evaluate staff.

(29) **Normal retirement** means qualifying for retirement based on the standard age and service credit requirements as specified in RCW 2.10.100 (JRS), 2.12.020 (JRF), 41.26.090 (LEOFF Plan 1), 41.26.430(1) (LEOFF Plan 2), 41.32.470 (TRS Plan 1), 41.32.765(1) (TRS Plan 2), 41.32.875(1) (TRS Plan 3), 41.35.420(1) (SERS Plan 2), 41.35.680(1) (SERS Plan 3), 41.37.210(1) (PSERS), 41.40.180 (PERS Plan 1), 41.40.630(1) (PERS Plan 2), 41.40.820(1) (PERS Plan 3), or 43.43.250 (WSPRS).

(30) **Participant** means an eligible employee who participates in a deferred compensation plan.

(31) **Participation agreement** means an agreement that an eligible employee signs to become a participant in a deferred compensation plan.

(32) **Pension plan** is a plan that provides a lifelong post retirement payment of benefits to employees.

(33) **PERS** means the Washington public employees' retirement system created by chapter 41.40 RCW.

(34) **Petition** means the method by which a party requests a review of an administrative determination prior to an appeal to the director. The department's petitions examiner performs the review under chapter 415-04 WAC.

(35) **Plan 1** means the retirement plans in existence prior to the enactment of chapters 293, 294 and 295, Laws of 1977 ex. sess.

(36) **Plan 2** means the retirement plans established by chapters 293, 294 and 295, Laws of 1977 ex. sess., chapter 341, Laws of 1998, and chapter 329, Laws of 2001.

(37) **Plan 3** means the retirement plans established by chapter 239, Laws of 1995, chapter 341, Laws of 1998, and chapter 247, Laws of 2000.

(38) **Plan choice rights** refers to a member's right, within a ninety-day period, to make an irrevocable choice to become a member of Plan 2 or Plan 3 or be defaulted into a plan after the full ninety-day period has expired.

(a) A member will be reported in Plan 2 until plan choice rights have been exercised.

(b) A member must make a choice within ninety calendar days (computed as described in RCW 1.12.040) from the first day of employment in an eligible position.

(c) A member will be defaulted into a plan if they continue employment in an eligible position past the ninety-day plan choice period without making a choice.

(d) A member may exercise plan choice rights only once per system.

(39) **Plan year** is the twelve-month period that begins on January 1st and ends on December 31st of the same calendar year.

(40) **Portability** is the ability to use membership in more than one Washington state retirement system in order to qualify for retirement benefits. See chapters 41.54 RCW and 415-113 WAC.

(41) **PSERS** means the Washington public safety employees' retirement system created by chapter 41.37 RCW.

(42) **Public record** is defined in RCW (~~(42.17.020(41))~~) 42.56.010.

(43) **Restoration** is the process of restoring a member's service credit for prior periods.

(44) **Retirement system employer - See "employer."**

(45) **Rollover** means a distribution that is paid to or from an eligible retirement plan within the statutory time limit allowed.

(46) **Separation date** is the date a member ends employment in a position eligible for retirement.

(47) **SERS** means the Washington school employees' retirement system created by chapter 41.35 RCW.

(48) **Split account** is the account the department establishes for a member or retiree's ex-spouse.

(49) **Surviving spouse** refers to a person who was married to the member at the time of the member's death and who is receiving or is eligible to receive a survivor benefit.

(50) **Survivor beneficiary** means a person designated by the member to receive a monthly benefit allowance after the member dies.

(51) **Survivor benefit** is a feature of a retirement plan that provides continuing payments to a designee after the death of a member or retiree.

(52) **TRS** means the Washington state teachers' retirement system created by chapter 41.32 RCW.

(53) **The Uniform Services Employment and Reemployment Rights Act of 1994 (USERRA)** is the federal law that requires employers to reemploy and preserve job security, pension and welfare benefits for qualified employees who engage in military service.

(54) **WSPRS** means the Washington state patrol retirement system created by chapter 43.43 RCW.

[Statutory Authority: RCW 41.50.050. WSR 20-13-064, § 415-02-030, filed 6/15/20, effective 7/16/20; WSR 20-01-079, § 415-02-030, filed 12/11/19, effective 1/11/20. Statutory Authority: RCW 41.50.050(5). WSR 16-17-047, § 415-02-030, filed 8/11/16, effective 9/11/16; WSR 16-08-008, § 415-02-030, filed 3/24/16, effective 4/24/16; WSR 10-24-099, § 415-02-030, filed 12/1/10, effective 1/1/11. Statutory Authority: RCW 41.50.050(5) and 41.04.640. WSR 09-01-021, § 415-02-030, filed 12/8/08, effective 1/8/09. Statutory Authority: RCW 41.50.050(5). WSR 06-18-009, § 415-02-030, filed 8/24/06, effective 9/24/06. Statutory Authority: RCW 41.50.050(5), 41.40.010(42), 41.40.037. WSR 04-04-037, § 415-02-030, filed 1/29/04, effective 3/1/04. Statutory Authority: RCW 41.50.050(5). WSR 02-23-037, § 415-02-030, filed 11/13/02, effective 1/1/03; WSR 02-01-120, § 415-02-030, filed 12/19/01, effective 1/19/02. Statutory Authority: RCW 41.50.050. WSR 00-10-016, § 415-02-030, filed 4/21/00, effective 5/22/00; WSR 94-09-039, § 415-02-030, filed 4/19/94, effective 5/20/94; Order 4, § 415-02-030, filed 7/27/77.]

AMENDATORY SECTION (Amending WSR 04-04-038, filed 1/29/04, effective 3/1/04)

WAC 415-02-200 Can I transfer former LEOFF Plan 1 service? If you are a member of PERS, TRS, SERS, or WSPRS, and you have previously established service credit in LEOFF Plan 1, you may **irrevocably** choose to transfer your LEOFF Plan 1 service to your current retirement system and plan subject to the following conditions:

(1) The choice to transfer service must be filed in writing with the department no later than one year from the date you become employed by a PERS, TRS, SERS, or WSPRS employer in an eligible position.

(2) If you transfer your service credit under this section:

(a) You will forfeit (lose) all rights to benefits as a LEOFF Plan 1 member and will be permanently excluded from membership.

(b) Your transferred service will **not apply** to the eligibility requirements for military service credit as defined in RCW 41.40.170(3) for PERS Plan 1 or in RCW 43.43.260(3) for WSPRS Plan 1.

(3) When you transfer your service credit under this section to your current retirement system and plan, DRS will transfer:

(a) All of your accumulated LEOFF Plan 1 contributions;

(b) An amount sufficient to ensure that the employer contribution rate in your current system and plan will not increase because of the transfer; and

(c) All applicable months of LEOFF Plan 1 service credit, as defined in RCW 41.26.030 (~~((14)(a))~~).

(4) If you previously withdrew contributions from LEOFF Plan 1, you:

(a) May restore the contributions, together with interest as determined by the director, and recover the service represented by the contributions for the sole purpose of transferring service under this section;

(b) Must restore the contributions before the transfer can occur; and

(c) Must complete the restoration within the time limitations specified in subsection (1) of this section.

(5) If you do not meet the time limitations of subsection (1) of this section, you may restore any withdrawn contributions and transfer service under this section by paying the amount required under subsection (3)(b) of this section less any employee contributions transferred.

(6) **Terms used:**

LEOFF - Law enforcement officers' and firefighters' retirement system.

PERS - Public employees' retirement system.

SERS - School employees' retirement system.

TRS - Teachers' retirement system.

WSPRS - Washington state patrol retirement system.

[Statutory Authority: RCW 41.50.050(5), 41.26.195. WSR 04-04-038, § 415-02-200, filed 1/29/04, effective 3/1/04.]

OTS-2620.1

AMENDATORY SECTION (Amending WSR 02-18-046, filed 8/28/02, effective 9/30/02)

WAC 415-108-010 Definitions in the public employees' retirement system. All definitions in RCW 41.40.010 and WAC 415-02-030 apply to terms used in this chapter. Other terms relevant to the administration of chapter 41.40 RCW are defined in this chapter.

(1) **Annual leave** means leave provided by an employer for the purpose of taking regularly scheduled work time off with pay. Annual leave does not usually include leave for illness, personal business if in addition to and different from vacation leave, or other paid time off from work. However, if an employer authorizes only one type of leave, covering paid leave for vacation, illness, and any other excused absence from work, such leave will be considered annual leave for purposes of RCW 41.50.150.

(2) **Level of union organization** means a union or a lodge or division of a union.

(3) **Normally** as used in the definition of eligible position under RCW 41.40.010 means a position is eligible if it is expected to require at least five months of seventy or more hours of compensated service each month during each of two consecutive years. Once a position is determined to be eligible, it will continue to be eligible if it requires at least five months of seventy or more hours of compensated service during at least one year in any two-year period.

(4) **Project position** means a position, established by an employer, which has a specific goal and end date.

(5) **Public corporation** means a public corporation created under RCW 35.21.730. A public corporation may be admitted as an "employer" under the definition in RCW 41.40.010(~~(+4)~~).

(6) **Report** means an employer's reporting of an employee's hours of service, compensation and contributions to the department on the monthly transmittal report.

(7) **Reportable compensation** means compensation earnable as that term is defined in RCW 41.40.010(~~(+8)~~).

(8) **Retirement plan** as used in RCW 41.40.023 and in this chapter, means any plan operated wholly or in part by the state or a political subdivision. This includes, but is not limited to:

(a) The retirement systems listed under RCW 41.50.030;

(b) The retirement systems of the cities of Seattle, Spokane and Tacoma; or

(c) Any higher education plan authorized under RCW 28B.10.400.

(9) **System acronyms** used in this chapter are defined as follows:

(a) "PERS" means the public employees' retirement system.

(b) "TRS" means the teachers' retirement system.

(c) "SERS" means the school employees' retirement system.

(10) **Union** means a labor guild, labor association, and/or labor organization.

(11) **Union employer** means a union or a union lodge or other division of a union which has verified that it meets the definition of a Plan 1 employer in RCW 41.40.010.

(12) **Year** means any twelve consecutive month period established and applied consistently by an employer to evaluate the eligibility of a specific position. The term may include, but is not limited to, a school year, calendar year or fiscal year.

Example: An employer has used the twelve consecutive month period from July 1st to June 30th to evaluate the eligibility of positions. When the employer hires a new employee to fill an existing position, the employer must continue to use the July 1st through June 30th period to define a year for the position.

Example: If the same employer in the above example hires a person to work in a project position beginning in November, the employer will use the twelve-month period beginning in November to evaluate the eligibility of the new position. The employer must consistently apply this twelve-month period to evaluate the eligibility of this position.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.40 RCW. WSR 02-18-046, § 415-108-010, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5), 35.21.730, 41.40.010(4), chapter 41.40 RCW. WSR 01-21-090, § 415-108-010, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050. WSR 98-09-059, § 415-108-010, filed 4/17/98, effective 5/18/98; WSR 95-16-053, § 415-108-010, filed 7/25/95, effective 8/25/95. Statutory Authority: RCW 41.50.050 and Bowles v. Retirement Systems, 121 Wn.2d 52 (1993). WSR 94-11-009, § 415-108-010, filed 5/5/94, effective 6/5/94. Statutory Authority: RCW 41.50.050(5) and 41.40.010 (4)(a). WSR 93-11-077, § 415-108-010, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-108-010, filed 2/15/78. Formerly WAC 184-01-025 and 184-01-035.]

AMENDATORY SECTION (Amending WSR 20-06-040, filed 2/27/20, effective 3/29/20)

WAC 415-108-436 PERS Plans 2 and 3 disability benefits. This section covers disability benefits provided for in RCW 41.40.670 and 41.40.825 for members of PERS Plans 2 and 3. Disability provisions are designed primarily to provide an income to members who have been forced to leave the workforce because of an incapacitating disability. This section applies equally to on- or off-the-job injuries and/or illnesses.

Members may also be eligible for benefits from the Washington state departments of labor and industries (workers' compensation benefits) and social and health services, the U.S. Social Security Administration, employers, disability insurers, and others. Please contact these organizations directly for more information.

(1) **Am I eligible for disability benefits?** You are eligible for a disability allowance if, at the time of your separation from employment, you are totally incapacitated to perform the duties of your job or any other position for a PERS employer for which you are qualified by training or experience. Objective medical evidence is required to establish total incapacitation. Vocational and/or occupational evidence may be required at the discretion of the department.

(2) **If eligible, what will I receive as my monthly disability benefits under the standard option?**

(a) If you are a Plan 2 member, you will receive two percent times average final compensation (AFC) times service credit years, permanently actuarially reduced to reflect the difference in the number of years between your age when you separate for disability and age sixty-five. See WAC 415-02-320 for more information on early retirement.

(b) If you are a Plan 3 member, you will receive a defined benefit of one percent times average final compensation times service credit years, permanently actuarially reduced to reflect the difference in the number of years between your age when you separate for disability and age sixty-five. See WAC 415-02-320 for more information on early retirement.

(c) The degree of your disability or impairment will not impact the amount of your disability benefit.

(3) **May I choose a benefit option that provides a monthly allowance to my survivor beneficiary?** You may choose to have your benefit paid according to any of the benefit options described in WAC 415-108-326. If you choose an option with a survivor benefit, your monthly benefit will be reduced to offset the cost of the survivor option.

(4) **How do I apply?**

(a) You or your representative must contact the department to request an application. The three-part application must be completed by the proper persons and returned to the department.

(i) **Part 1:** Disability retirement application. You must complete and sign the application. If you are married, your spouse's consent may be required as described in WAC 415-108-326.

(ii) **Part 2:** Employer's statement and report. Your employer must complete, sign and return directly to the department.

(iii) **Part 3:** Medical report. You must complete section one. Your physician must complete the remainder of the form, attach supporting documentation, sign and return directly to the department. You are re-

sponsible for all medical expenses related to your application for benefits.

(b) When the department receives Part 1 of your application, you are considered to be an applicant for disability benefits. However, your eligibility will not be determined until the department receives all three parts of the application.

(5) **What is the time limit for filing an application for disability benefits?** There is no time limit for applying for benefits. However, if you have separated from employment, your application must be based on your condition at the time of separation.

(6) **If I am eligible to retire, may I still apply for disability benefits?** Yes, however, there will be no difference in the dollar amount of your benefit.

(7) **Once my application is approved, when will my benefit begin?**

(a) You will start accruing disability benefits the first day of the calendar month immediately following your separation from employment. If you are continuing to earn service credit while on paid leave or through programs such as shared leave, you are not considered to be separated from employment.

(b) Your first benefit payment will include all retroactive benefits to which you are entitled.

(c) Department approval will expire ninety days after the approval date if you have not officially separated from PERS employment.

(i) If you are continuing to perform the duties of your position or another PERS position, you may reapply for disability benefits according to subsection (4) of this section if your condition worsens.

(ii) If you are on leave, the department may reinstate approval upon your request and your employer's verification of your leave status.

(8) **What are my options if my application is denied?**

(a) You may submit additional information that shows you were totally incapacitated at the time of your separation from employment.

(b) If you continue to work in a PERS position, you may reapply for disability benefits at a later time if your condition worsens.

(c) You may petition for review of the department's decision according to the provisions of chapter 415-04 WAC.

(9) **What information must be provided to the department if I am receiving disability benefits?**

(a) You and your doctor must report any improvement in your condition; and

(b) You must report the name of your employer and monthly salary if you resume employment, regardless of the number of hours you work.

(10) **How long will my disability benefits last?** You may receive benefits throughout your lifetime, subject to the provisions of subsection (15) of this section.

(11) **Are my disability benefits taxable?** You should consult with your tax advisor regarding all questions of federal or state income, payroll, personal property or other tax consequences regarding any payments you receive from the department. The department does not:

(a) Guarantee that payments should or should not be designated as exempt from federal income tax;

(b) Guarantee that it was correct in withholding or not withholding taxes from disability payments;

(c) Represent or guarantee that any particular federal or state income, payroll, personal property or other tax consequence will occur because of its nontaxable determination; or

(d) Assume any liability for your compliance with the Internal Revenue Code.

(12) Are disability benefits subject to court or administrative orders? Your benefits may be subject to orders for spousal maintenance, child support, property division, or any other administrative or court order expressly authorized by federal law. For more information, see RCW 41.40.052(3) or contact the department.

(13) Am I eligible for disability benefits if my disability is the result of my criminal conduct committed after April 21, 1997? No. For more information, see RCW 41.40.054.

(14) How is my disability benefit affected if I am a member of more than one retirement system? If you are a member of more than one retirement system, your benefit is governed by portability law (see chapters 41.54 RCW and 415-113 WAC). You may apply for disability only from your active system. However, if you qualify for a disability benefit from your active system, you will also be eligible for a service retirement calculated under the laws governing the inactive system.

(15) Is it possible to lose my disability benefits after I begin receiving them?

(a) The department may, at its expense, require comprehensive medical examinations to reevaluate your eligibility for disability benefits. You will no longer be eligible to receive disability benefits if both of the following apply:

(i) Medical evidence indicates you have recovered from the disability for which the department granted your disability benefits; and

(ii) You have been offered reemployment by an employer, as defined in RCW 41.40.010 (~~((4)(b))~~), at a comparable compensation.

(b) If you return to employment and reenter PERS membership, your benefits will cease.

(16) If I take my disability benefit in a lump sum and return to work, may I restore my service credit? Yes, you may restore your service credit if you take a lump sum benefit and return to PERS membership at a later date.

(a) You may restore your service credit within two years of reentering membership or prior to retirement, whichever comes first. You must pay back the lump sum amount you received, minus the monthly amount for which you were eligible, plus interest as determined by the director.

(b) If you restore your service after two years, you will have to pay the actuarial value of the resulting increase in your future retirement benefit. See RCW 41.50.165.

(c) The provisions for restoring service credit vary according to retirement plan.

(i) If you are a member of PERS Plan 2, see RCW 41.40.625.

(ii) If you are a member of PERS Plan 3, see RCW 41.40.815.

[Statutory Authority: RCW 41.50.050. WSR 20-06-040, § 415-108-436, filed 2/27/20, effective 3/29/20. Statutory Authority: RCW 41.50.050(5). WSR 13-18-034, § 415-108-436, filed 8/28/13, effective 10/1/13. Statutory Authority: RCW 41.50.050(5), 41.40.670 and 41.40.825. WSR 05-12-106, § 415-108-436, filed 5/27/05, effective 6/27/05.]

AMENDATORY SECTION (Amending WSR 02-18-045, filed 8/28/02, effective 9/28/02)

WAC 415-108-445 What compensation can be reported? (1) Compensation earnable:

(a) Compensation earnable must meet the definition in RCW 41.40.010(~~((8))~~) and:

(i) Be earned as a salary or wage for personal services provided during a payroll period and be paid by an employer to an employee; or

(ii) Qualify as compensation earnable under WAC 415-108-464 through 415-108-470.

(b) The department determines whether payments to an employee are compensation earnable based on the nature, not the name, of the payment. The department considers the reason for the payment and whether the reason brings the payment within the statutory definition of compensation earnable.

Example: "Longevity pay" conditioned on retirement is not for services provided and is therefore not compensation earnable.

(c) "Compensation earnable" is defined in very similar terms for all three PERS plans. Any differences among plans are specifically noted in WAC 415-108-443 through 415-108-488.

(2) Reportable compensation:

(a) Reportable compensation is the compensation paid by an employer to an employee that the employer must report to the department.

(b) An employer must report all of an employee's compensation earnable, as defined by RCW 41.40.010(~~((8))~~) and WAC 415-108-445(~~((1))~~), to the department.

(c) An employer must report compensation for the month in which it was earned. Compensation is earned when the service is provided, rather than when payment is made.

Example: A member is paid in July for work performed during June. The employer must report the compensation to the department as "June earnings."

[Statutory Authority: RCW 41.50.050(5) and 41.40.010(8). WSR 02-18-045, § 415-108-445, filed 8/28/02, effective 9/28/02. Statutory Authority: RCW 41.50.050(5) and 41.40.010. WSR 02-03-120, § 415-108-445, filed 1/23/02, effective 3/1/02. Statutory Authority: RCW 41.50.050. WSR 98-09-059, § 415-108-445, filed 4/17/98, effective 5/18/98.]

AMENDATORY SECTION (Amending WSR 02-03-120, filed 1/23/02, effective 3/1/02)

WAC 415-108-456 Leave payments earned over time. (1) Sick and annual leave usage.

(a) Leave accrues at a prescribed rate, usually a certain number of hours per month.

(b) You earn a leave day by providing service during the month the leave accrued.

(c) Sick leave and annual leave are accumulated over time and paid to you during a period of excused absence.

(d) When you use your accrued leave by taking a scheduled work day off with pay, the payment is deferred compensation for services previously provided.

(e) The payment is a salary or wage earned for services provided and is reportable.

(2) **Annual leave cash outs.** Annual leave cash outs, like payments for leave usage, are deferred compensation earned for services previously provided. Whether, and to what extent an annual leave cash out qualifies as reportable compensation depends upon the PERS plan to which you belong and the type of employer.

(a) **Plans 2 and 3:** Annual leave cash outs are not reportable compensation. Although the payments are for services provided, they are excluded from the definition of compensation earnable by statute. See RCW 41.40.010 (~~((8)-(b))~~).

(b) **Plan 1, state government employees:** A cash out of up to thirty days of annual leave for state government employees is reportable compensation. See RCW 43.01.040. A cash out in excess of thirty days of annual leave:

(i) Qualifies as reportable compensation if the leave is authorized by a letter of necessity under RCW 43.01.040. Annual leave qualifies as authorized under a letter of necessity only if the leave was earned after the letter of necessity was issued;

(ii) Does not qualify as reportable compensation if the leave is earned between the date that you accrued thirty days of annual leave and your anniversary date under RCW 43.01.044.

(c) **Plan 1 employees not covered by subsection (2)(b) of this section:** All annual leave cash outs received by PERS Plan 1 members who are not state employees qualify as reportable compensation.

(3) **Sick leave cash outs.** Sick leave cash outs are deferred compensation for services previously provided.

(a) Sick leave cash outs are excluded from the definition of compensation earnable for PERS Plan 2 or 3 members by statute. See RCW 41.40.010 (~~((8)-(b))~~).

(b) Sick leave cash outs are reportable compensation for PERS Plan 1 members other than state, school district, and educational service district employees.

(c) Sick leave cash outs are excluded from reportable compensation for:

(i) State employees by RCW 41.04.340;

(ii) School district employees by RCW 28A.400.210; and

(iii) Educational service district employees by RCW 28A.310.490.

See RCW 41.40.010 (~~((8)-(a))~~).

[Statutory Authority: RCW 41.50.050(5) and 41.40.010(8). WSR 02-03-120, § 415-108-456, filed 1/23/02, effective 3/1/02. Statutory Authority: RCW 41.50.050. WSR 98-09-059, § 415-108-456, filed 4/17/98, effective 5/18/98.]

AMENDATORY SECTION (Amending WSR 02-03-120, filed 1/23/02, effective 3/1/02)

WAC 415-108-458 Severance pay earned over time. (1) **PERS Plan 1:** Severance pay earned over time is reportable compensation. Conversely, severance pay not earned over time is not reportable compensation (see WAC 415-108-488). The difference is that severance pay

earned over time is deferred compensation for services previously provided.

Severance pay is earned over time if the employment contract(s) or compensation policies in effect at the beginning of a given period of employment specify that a certain amount of severance pay will be earned during that period in consideration for services provided.

Example: Mr. Jones is a PERS Plan 1 member employed as a city manager. Since the beginning of his term of employment with the city, his contract has specified that he will earn one week of severance pay for every year of his employment. The earned severance pay will be paid at the time of his separation. His severance pay is reportable compensation. When Mr. Jones retires, the two weeks severance pay that he earned during his two highest paid years (i.e., one week per year for two years) will be included in his PERS Plan 1 retirement calculation.

To the extent that severance pay qualifies as reportable compensation and is earned within your average final compensation period, the severance pay is excess compensation. See RCW 41.50.150.

(2) **PERS Plans 2 and 3:** All forms of severance pay are excluded from earnable compensation. See RCW 41.40.010 (~~((+8)-(b))~~).

[Statutory Authority: RCW 41.50.050(5) and 41.40.010(8). WSR 02-03-120, § 415-108-458, filed 1/23/02, effective 3/1/02. Statutory Authority: RCW 41.50.050. WSR 98-09-059, § 415-108-458, filed 4/17/98, effective 5/18/98.]

AMENDATORY SECTION (Amending WSR 01-08-057, filed 4/2/01, effective 5/3/01)

WAC 415-108-467 Reinstatement or payment instead of reinstatement. (1) Payments to an employee are not earned for services rendered if an employer makes them for periods during which the employee was not employed and the payments are made either upon reinstatement or instead of reinstatement. Nonetheless, RCW 41.40.010(~~((+8))~~) specifically designates these payments as reportable compensation. The payments are only reportable to the extent that they are equivalent to the salary the employee would have earned had he or she been working. The payment will be prorated over the entire period that the employee was suspended, terminated, or otherwise absent from work.

(2) For purposes of subsection (1) of this section, "reinstatement" means that the employee is entitled to return to full employment rights by action of either:

(a) The employer; or

(b) A personnel board, personnel appeals board or court of law following a hearing.

[Statutory Authority: RCW 41.50.050(5), 41.40.020, 41.35.010(6), 41.40.010(8). WSR 01-08-057, § 415-108-467, filed 4/2/01, effective 5/3/01. Statutory Authority: RCW 41.50.050. WSR 98-09-059, § 415-108-467, filed 4/17/98, effective 5/18/98.]

AMENDATORY SECTION (Amending WSR 98-09-059, filed 4/17/98, effective 5/18/98)

WAC 415-108-469 Standby pay. Some employers pay employees for being on "standby." A member is on standby when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work if the need arises, although the need may not arise. Because the member is not actually working, the member is not rendering service. However, RCW 41.40.010(~~((8))~~) specifically identifies standby pay that meets the above requirements as reportable compensation. Although included in the definition of compensation earnable, time spent on standby is excluded from the definition of "service," see RCW 41.40.010(~~((9))~~).

[Statutory Authority: RCW 41.50.050. WSR 98-09-059, § 415-108-469, filed 4/17/98, effective 5/18/98.]

AMENDATORY SECTION (Amending WSR 99-14-008, filed 6/24/99, effective 7/25/99)

WAC 415-108-510 Treatment of cash payments made in lieu of unused leave—First-in-first-out accounting method for determining when leave earned—Forms of leave deemed excess compensation—Conversions.

(1) Cash compensation in lieu of unused annual or sick leave may be considered compensation earnable for Plan 1 members subject to the provisions of RCW 41.40.010 (~~((8)(a))~~) and WAC 415-108-456. Employers may not limit the inclusion of cash compensation paid in lieu of unused annual or sick leave as compensation earnable in conflict with RCW 41.40.010 (~~((8)(a))~~). Provisions of collective bargaining agreements, employment and administrative policies or other rules applied by an employer that conflict with RCW 41.40.010 (~~((8)(a))~~) and rules adopted thereunder are without legal effect.

(2) When an employer provides cash compensation in lieu of unused annual or sick leave, the department applies a first-in-first-out accounting method to determine when the compensated leave was earned, and when or whether the leave was used or cashed out, with the following exceptions:

(a) As otherwise provided in *Bowles v. Department of Retirement Systems*, 121 Wn.2d 52 (1993); and

(b) The employer has in place a regulation, charter provision, ordinance, collective bargaining agreement, or other comparable written policy statement which clearly delineates when the cashed out leave was accrued, or a different method of accounting for the accrual and use of leave, and, if applicable, compensation for unused leave and the same such method is consistently applied in each instance and for all purposes.

Any employer's policy which is not consistent for all purposes which is contained in a regularly negotiated labor agreement in effect on the effective date of this section will be honored until the expiration date of the agreement not including any extensions at which time it will be brought into compliance with this section. Any employer's policy which is not consistent for all purposes which is established by the employer shall be brought into compliance within sixty days of the effective date of this section. In the event an employer

fails to come into full compliance with this section by the dates established herein, the department will treat cashed out leave on the same basis as the employer has established for using leave.

(3) A cash out of leave which is not annual leave as defined under WAC 415-108-010, shall be treated by the department as "any other form of leave" under RCW 41.50.150(2). The department shall bill the employer for any such leave cash out as excess compensation under RCW 41.50.150.

(4) For purposes of determining average final compensation and excess compensation, hours of leave earned by a member shall be considered for all purposes in the form in which it was earned. The department shall disregard any conversion of leave by an employer from one form to another and bill the employer for the amount converted as excess compensation pursuant to RCW 41.50.150.

[Statutory Authority: RCW 41.50.050. WSR 99-14-008, § 415-108-510, filed 6/24/99, effective 7/25/99. Statutory Authority: RCW 41.50.050 and Bowles v. Retirement Systems, 121 Wn.2d 52 (1993). WSR 94-11-009, § 415-108-510, filed 5/5/94, effective 6/5/94. Statutory Authority: RCW 41.40.010(8) and 41.40.020. WSR 87-17-061 (Order DRS 87-08), § 415-108-510, filed 8/19/87.]

AMENDATORY SECTION (Amending WSR 03-08-090, filed 4/2/03, effective 5/1/03)

WAC 415-108-550 Elected officials—Eligibility and application for retirement service membership. (1) **Definition:** For the purposes of this section and WAC 415-108-570, and pursuant to RCW 41.40.010 (~~((25)(b))~~), 41.40.010 (~~((9)(a))~~), 41.40.023 and 41.40.035, "elected" officials means individuals elected to any state, local or political subdivision office or individuals appointed to any vacant elective office.

(2) **Voluntary application for membership:** Under RCW 41.40.023 (3)(a), elected officials are exempt from mandatory retirement system membership. You have the option to apply for membership during your current term of elected office. To apply for membership, submit a written application directly to the department. When the department approves your application, you will be entitled to establish membership effective the first day of your current term of elected service. Once membership is established, you will be required to pay the employee contributions from the first day of your current term of elected service with interest as determined by the department.

(3) If you are not currently a retiree and when the department approves your application, you may establish membership retroactive to the first day of any previous elected term or terms of office. Your plan membership that you established under subsection (2) of this section remains the same. To exercise this option, you must apply to the department pursuant to subsection (2) of this section. When the department approves the application, you must:

(a) Pay the required employee contributions for such previous term or terms of elected service with interest as determined by the department; and

(b) Pay the required employer contributions for such previous term or terms of elected service with interest as determined by the

department. The employer may, in its discretion, pay the required employer contributions plus interest in lieu of your paying this amount.

(4) (a) If you are a retiree and you become an elected official, you may establish membership prospectively from the first day of the month following the date the department accepts your application.

(b) If you chose not to establish membership, the reemployment provisions of RCW 41.40.037 and WAC 415-108-710 will apply to you.

(5) **Multiple positions:** If you are employed in an eligible position at the time of election to office and will hold multiple positions concurrently, you may:

(a) Apply to the department to participate in membership pursuant to your elected position as provided in subsection (2) of this section; or

(b) Choose not to participate pursuant to your elected position while continuing membership through the nonelected position.

(6) **Membership length:** Except as provided under RCW 41.40.023

(3) (b), once you become a member of the retirement system you shall remain a member until you separate from all eligible public employment pursuant to RCW 41.40.150. It is not a separation if:

(a) Your term of office ends and you begin another term of office in the same or a different position for the same employer without a break in service; or

(b) You resign from your elected position and you are later reappointed to the same position during the same term.

(7) This section codifies the department's long-standing administrative practice in relation to elected officials. The department will apply this section to service by elected officials which occurred prior to the effective date of this section.

[Statutory Authority: RCW 41.50.050(5), 41.40.023, 41.40.037. WSR 03-08-090, § 415-108-550, filed 4/2/03, effective 5/1/03. Statutory Authority: RCW 41.50.050. WSR 94-12-014, § 415-108-550, filed 5/23/94, effective 6/23/94.]

AMENDATORY SECTION (Amending WSR 03-08-090, filed 4/2/03, effective 5/1/03)

WAC 415-108-560 Appointed officials—Eligibility and application for retirement service membership. (1) For the purposes of this section and WAC 415-108-570, an "appointed" official is a person who meets the criteria in RCW 41.40.010 (~~((25)(b))~~) and is not excluded by the criteria in RCW 41.40.035.

(2) **Voluntary application for membership:** Under RCW 41.40.023

(3) (a), appointed officials are exempt from mandatory retirement system membership. You have the option to apply for membership during your current term of appointed service. To apply for membership, submit a written application directly to the department. When the department approves your application you will be entitled to establish membership effective the first day of your current term of appointed service. Once membership is established, you will be required to pay the employee contributions for your current term of appointed service with interest as determined by the department.

(3) If you are not currently a retiree and when the department approves your application, you may establish membership retroactive to

the first day of any previous appointed term or terms of office. Your plan membership that you established under subsection (2) of this section remains the same. To exercise this option, you must apply to the department pursuant to subsection (3) of this section. When the department approves the application you must:

(a) Pay the required employee contributions for such previous term or terms of appointed service with interest as determined by the department; and

(b) Pay the required employer contributions for such previous term or terms of appointed service with interest as determined by the department. The employer may, in its discretion, pay the required employer contributions plus interest in lieu of your paying this amount.

(c) "Current term of appointed service" includes an appointed official's entire current term of service. If you have not been appointed to a position with a set term of office, "current term of appointed service" includes all uninterrupted service in your current appointed position.

(4) (a) If you are a retiree and you become an appointed official, you may establish membership prospectively from the first day of the month following the date the department accepts your application.

(b) If you choose not to establish membership, the reemployment provisions of RCW 41.40.037 and WAC 415-108-710 will apply to you.

(5) **Multiple positions:** If you are employed in an eligible position at the time of appointment to office and will hold the two positions concurrently you may:

(a) Apply to the department to participate in membership pursuant to your appointed position as provided in subsection (2) of this section; or

(b) Choose not to participate pursuant to your appointed position while continuing membership through the nonappointive position.

(6) **Membership length:** Once you become a member of the retirement system you shall remain a member until you separate from all eligible public employment pursuant to RCW 41.40.150. It is not a separation if:

(a) Your term of office ends, and you begin another term of office in the same or a different position for the same employer without a break in service; or

(b) You resign from your appointed position and you are later reappointed to the position during the same term.

(7) This section codifies the department's long-standing administrative practice in relation to appointed officials. The department will apply this section to service by appointed officials which occurred prior to the effective date of this section.

[Statutory Authority: RCW 41.50.050(5), 41.40.023, 41.40.037. WSR 03-08-090, § 415-108-560, filed 4/2/03, effective 5/1/03. Statutory Authority: RCW 41.50.050. WSR 94-12-014, § 415-108-560, filed 5/23/94, effective 6/23/94.]

AMENDATORY SECTION (Amending WSR 02-03-120, filed 1/23/02, effective 3/1/02)

WAC 415-108-690 How is my membership eligibility evaluated? (1) Your eligibility to participate as a member of PERS is based on your position.

In evaluating whether your position is eligible for membership, your employer will determine only whether the position meets the criteria of an eligible position under RCW 41.40.010(~~(-25)~~) and WAC 415-108-680(1). Your employer will not consider your membership status or individual circumstances unless you:

(a) Leave employment in an eligible position to serve in a project position (See WAC 415-108-680(2)); or

(b) Work in both a PERS and TRS position during the same school year (See WAC 415-108-728).

(2) **Your employer will evaluate your position's eligibility for a particular year at the beginning of the year.** This is normally a calendar year unless your employer has determined and supports a different twelve-month period for its year.

(3) **Your employer or the department may reclassify your position's eligibility based upon your actual work history.** If your employer declares your position to be ineligible at the beginning of a year and by the end of the year, you have actually worked five or more months of seventy or more hours, your employer will, at that time, review your position's eligibility. If at the end of the first year:

(a) Your employer believes your position meets the requirements for an eligible position and declares the position as eligible, you will enter membership and your employer will report you to the department effective from the date your employer declares the position as eligible; or

(b) Your employer believes that the position will not meet the criteria for an eligible position during the next year, your employer may continue to define your position as ineligible. However, if during the next year the position actually requires you to again work seventy or more hours each month for at least five months, the department will declare your position as eligible. You will enter membership in the retirement system.

(i) Except as provided in (b)(ii) of this subsection, your employer will report you to the department effective from the first month of the first year in which your position required you to work for seventy or more hours.

(ii) If:

(A) Your employer has monitored the work history of your position for PERS eligibility;

(B) Has notified you in writing when you entered the position that the position was not considered eligible; and

(C) The months of employment in a twelve-month period required by the position are determined by the occurrence or nonoccurrence of natural disasters such as forest fires;
You will enter membership prospectively.

(4) **The department will not reclassify your position's eligibility until history of the position shows that it meets the criteria for an eligible or ineligible position.**

(a) If your employer has declared your position ineligible, the department will not reclassify your position as eligible until history of the position shows a period of two consecutive years of at least five months of seventy or more hours of compensated employment each month.

(b) If your employer has declared your position ineligible, the position must continue to fail to meet the requirements of an eligible position or reclassification of your position will occur as stated in subsection (3)(b) of this section.

(5) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

- (a) "Eligible position" - RCW 41.40.010.
- (b) "Employer" - RCW 41.40.010.
- (c) "Ineligible position" - RCW 41.40.010.
- (d) "Membership" - RCW 41.40.023.
- (e) "Project position" - WAC 415-108-010.
- (f) "Report" - WAC 415-108-010.
- (g) "Year" - WAC 415-108-010.

[Statutory Authority: RCW 41.50.050(5), 41.40.010, 41.40.023. WSR 02-03-120, § 415-108-690, filed 1/23/02, effective 3/1/02. Statutory Authority: RCW 41.50.050. WSR 95-16-053, § 415-108-690, filed 7/25/95, effective 8/25/95.]

AMENDATORY SECTION (Amending WSR 97-19-035, filed 9/9/97, effective 9/9/97)

WAC 415-108-730 Membership for city managers. The purpose of the WAC is to implement the provisions of RCW ((41.40.120(17))) 41.40.023(17) relating to city managers.

Effective immediately and until December 31, 1986 any current member described in RCW ((41.40.120(17))) 41.40.023(17) may, at his/her option, elect to withdraw from membership in the retirement system provided by chapter 41.40 RCW. Such election is to be made in writing on a form provided for that purpose by the department. Persons making this election will be refunded the contributions and related interest which were credited while in their current position. The effect of such a withdrawal will be to terminate and cancel the service credit acquired while in that position. Such action is final and no service credit may ever be obtained in the future for the period ((cancelled)) canceled.

Effective immediately any person described in RCW ((41.40.120(17))) 41.40.023(17) who is employed in one of the positions described shall not become a member of the system provided by chapter 41.40 RCW unless within thirty days of employment in such position he/she shall submit in writing on a form, provided by the department, a waiver of his/her right to be excluded and requesting his/her inclusion in the system. Such a person may not then subsequently withdraw from the system except as provided by RCW 41.40.260 or 41.40.730 as appropriate.

[Recodified as § 415-108-730. WSR 97-19-035, filed 9/9/97, effective 9/9/97. Statutory Authority: RCW 41.40.120(17). WSR 86-13-023 (Order 86-3), § 415-108-500, filed 6/10/86.]

AMENDATORY SECTION (Amending WSR 06-04-059, filed 1/27/06, effective 2/27/06)

WAC 415-108-800 When do I enter retirement status? As a member of PERS, you enter retirement status when you:

- (1) Have separated from service as defined in RCW 41.40.010((-42));

(2) Have no written or oral agreement to return to employment;
and

(3) Have applied for retirement, the accrual date has been determined under RCW 41.40.193, 41.40.680, or 41.40.801, and your benefit begins to accrue.

Example: Sally is eligible for retirement on July 1st. She submits an application on June 1st with a July 1st retirement date. Her last day of employment is June 30th and she does not have an agreement to return to work.

Sally's retirement date (accrual date) is July 1st and the benefit begins to accrue. The first retirement payment will be paid at the end of July. Sally entered "retiree status" effective July 1st.

[Statutory Authority: RCW 41.40.020 and 41.50.050(5). WSR 06-04-059, § 415-108-800, filed 1/27/06, effective 2/27/06. Statutory Authority: RCW 41.50.050(5), 41.04.270, 41.26.030, 41.32.010, 41.32.025, 41.32.480, 41.32.500, 41.32.570, 41.32.765, 41.32.795, 41.32.802, 41.32.855, 41.32.860, 41.32.862, 41.35.010, 41.35.030, 41.35.060, 41.35.450, 41.35.640, 41.40.010, 41.40.023, 41.40.037, 41.40.150, 41.40.193, 41.40.680, 41.40.750, 41.40.801. WSR 02-02-060, § 415-108-800, filed 12/28/01, effective 1/1/02.]

AMENDATORY SECTION (Amending WSR 02-12-085, filed 6/4/02, effective 6/13/02)

WAC 415-108-980 Will I receive a transfer payment when I transfer to Plan 3? (1) **PERS Plan 3 will be implemented on March 1, 2002.** If you transfer from PERS Plan 2 to PERS Plan 3 during the Phase 1 transfer period and establish service credit in June 2002, or transfer during the Phase 2 transfer period and establish service credit in either June 2002 or February 2003, you will receive a transfer payment to be added to your member account on or after June 1, 2003, once the department receives the transfer information from your employer. The transfer period and payment amount you will receive is based upon your employer type and your account balance as of March 1, 2002.

(a) You will receive a payment of one hundred and ten percent of your **transfer basis** if you are employed in an eligible position by a Phase 1 employer and you transfer to Plan 3 during the Phase 1 transfer period. State agencies and institutes of higher education are Phase 1 employers.

(b) You will receive a payment of one hundred and eleven percent of your **transfer basis** if you are employed in an eligible position by a Phase 2 employer and you transfer to Plan 3 during the Phase 2 transfer period. All other employers are Phase 2 employers.

(2) Your **transfer basis** is your total accumulated contributions (and interest) on March 1, 2002, less fifty percent of any contributions you made under RCW 41.50.165(2).

(3) If you request to transfer but die before payment is made, the transfer payment will be paid immediately to your defined contribution account. These moneys will be distributed when payment is made from your account to your estate, or the person or persons, trust or organization you nominated by the most recent written beneficiary designation filed with the department.

Examples:**Phase 1 Employer (110%) (state agencies and institutes of higher education)**

- Al works for a Phase 1 employer and makes \$2,000 a month.
- On March 1, 2002, Al's defined benefit (DB) account balance is \$10,000.
- On June 1, 2002, Al transfers to PERS Plan 3 and chooses contribution rate option A (5%).
- On June 1, 2002, the department transfers approximately \$10,185 to Al's new defined contribution (DC) account. The transfer amount is the sum of:
 - ◆ Al's \$10,000 account balance on March 1, 2002;
 - ◆ Approximately \$50 in contributions between March 1st and June 1st; and
 - ◆ Approximately \$135 in interest in Plan 2 at 5.5% annually, compounded quarterly.
- Al continues working for his Phase 1 employer through June 2003, including the month of June 2002.
- In June 2003, after he receives his transfer payment, Al will have approximately **\$22,385** in his DC account. Here is how:
 - ◆ In June 2002, when Al transferred to Plan 3, he started with approximately \$10,185 in his DC account.
 - ◆ He then made twelve monthly contributions of \$100 (5% of a \$2,000 salary, June 2002 through May 2003) for a total of \$1,200.
 - ◆ In June 2003, he receives a transfer payment of \$11,000 (110% of \$10,000, his account balance on March 1, 2002).
 - ◆ The total is approximate because it will depend on earnings or losses on the investments of the original amount transferred the previous year, and the contributions made to date.

Phase 2 Employer (111%) (local government)

- Peggy works for a Phase 2 employer and makes \$2,000 a month.
- On March 1, 2002, Peggy's defined benefit (DB) account balance is \$10,000.
- On November 1, 2002, Peggy transfers to PERS Plan 3 and chooses contribution rate option A (5%).
- On November 1, 2002, the department transfers approximately \$10,560 to Peggy's new defined contribution (DC) account. The transfer amount is the sum of:
 - ◆ Peggy's \$10,000 account balance on March 1, 2002;
 - ◆ Approximately \$140 in contributions between March 1st and November 1st;
 - ◆ Approximately \$420 in interest in Plan 2 at 5.50% annually, compounded quarterly.
- Peggy continues working for her Phase 2 employer through June 2003, including the month of February 2003*.
 - * A Phase 2 employee can establish service credit in either June 2002 or February 2003.
- In June 2003, after she receives her transfer payment, Peggy will have approximately **\$22,360** in her DC account. Here is how:
 - ◆ In November 2002, when Peggy transferred to Plan 3, she started with approximately \$10,560 in her DC account.

- ◆ She then made monthly contributions of \$100 (5% of a \$2,000 salary) for a total of \$700.
- ◆ In June 2003, she receives a transfer payment of \$11,100 (111% of \$10,000, her account balance on March 1, 2002).
- ◆ The total is approximate because it will depend on earnings or losses on the investments of the original amount transferred the previous year, and the contributions made to date.

(4) Terms defined:

Phase 1 employer: WAC 415-108-425.

Phase 2 employer: WAC 415-108-425.

Phase 1 transfer period: WAC 415-108-425.

Phase 2 transfer period: WAC 415-108-425.

Service: RCW 41.40.010 (~~(+9)(b)~~).

Transfer basis: RCW 41.40.795 (1)(b).

Transfer period: RCW 41.40.795 (1)(a).

[Statutory Authority: RCW 41.50.050(5), 41.40.795. WSR 02-12-085, § 415-108-980, filed 6/4/02, effective 6/13/02. Statutory Authority: RCW 41.50.050(5), 41.32.8401, 41.35.630, 41.40.795. WSR 02-03-120, § 415-108-980, filed 1/23/02, effective 3/1/02.]

WSR 21-16-024

PERMANENT RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed July 23, 2021, 3:17 p.m., effective August 23, 2021]

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

Purpose: On April 16, 2021, the governor signed SSB 5425 (2021) which, among other things, updated the requirements for extended unemployment benefits for claimants when offered suitable work. Under the rule, a claimant will be denied extended benefits for failing to accept suitable work if the job was either offered in writing **or** listed with the department, as opposed to denying benefits if the job was offered in writing **and** listed with the department.

Citation of Rules Affected by this Order: Amending WAC 192-240-025.

Statutory Authority for Adoption: RCW 50.22.020 (4)(b) addresses denial of extended benefits for failing to accept suitable work; RCW 50.12.010 and 50.12.040 provides general rule-making authority to the employment security department.

Adopted under notice filed as WSR 21-11-079 on May 18, 2021.

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 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: July 23, 2021.

Dan Zeitlin
Employment Security Policy Director

OTS-2468.1

AMENDATORY SECTION (Amending WSR 07-22-055, filed 11/1/07, effective 12/2/07)

WAC 192-240-025 Failure to apply for or accept suitable work—RCW 50.22.020 (4)(b)—Extended benefits. (1) You will be denied extended benefits if you fail:

(a) To accept any offer of suitable work as defined in WAC 192-240-020 if the job was:

(i) Offered to you in writing; or

(ii) Listed with the department.

(b) To accept a referral, or to apply for suitable work, when referred by your local employment center, if the job was:

(i) Offered to you in writing((τ)); or

(ii) Listed with the department.

(2) The denial is for the week in which the refusal occurs and until you work in four weeks and earn four times your weekly benefit amount.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 07-22-055, § 192-240-025, filed 11/1/07, effective 12/2/07; WSR 03-06-038, § 192-240-025, filed 2/26/03, effective 3/29/03.]

WSR 21-16-034

PERMANENT RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed July 26, 2021, 12:05 p.m., effective January 2, 2022]

Effective Date of Rule: January 2, 2022.

Purpose: Under current rules, unemployment insurance benefits claimants must be available for work during all the usual hours and days of the week customary for their occupation. This requirement can be unobtainable for some claimants who work in 24/7 professions, especially those claimants who have family caregiving responsibilities. Rule making is necessary to set a more obtainable standard of availability. Additionally, rule making is necessary to include shifts of employment as a factor used to determine suitable work, consistent with Unemployment Insurance Program Letter No. 41-98.

Citation of Rules Affected by this Order: New WAC 192-170-020; and amending WAC 192-140-200, 192-170-010, 192-170-050, 192-170-070, 192-170-090, and 192-200-005.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040 provide general rule-making authority to the employment security department. RCW 50.12.042 provides specific rule-making authority regarding the requirement that unemployment claimants be able to work, available for work, and actively seek work. RCW 50.20.010 addresses the requirement that claimants be able to work, available for work, and be actively seeking work. RCW 50.20.100 provides rule-making authority to determine what factors to consider when determining suitable work.

Adopted under notice filed as WSR 21-11-004 on May 7, 2021.

Changes Other than Editing from Proposed to Adopted Version: The final rule is updated to reflect current subsection numbering of WAC 192-170-010, which was amended by WSR 21-12-068 on May 28, 2021.

A final cost-benefit analysis is available by contacting Joshua Dye, P.O. Box 9046, phone 360-890-3472, fax 844-652-7096, email rules@esd.wa.gov, website <https://esd.wa.gov/newsroom/rulemaking/benefits>.

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 1, Amended 6, 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: July 26, 2021.

Dan Zeitlin
Employment Security
Policy Director

OTS-1987.1

AMENDATORY SECTION (Amending WSR 16-21-013, filed 10/7/16, effective 11/14/16)

WAC 192-140-200 What happens if I certify that I am not able to or available for work? (1) Benefits will be denied or reduced (~~under RCW 50.20.130~~) in accordance with WAC 192-170-020 without requiring additional information or interview if you file a weekly claim that:

(a) States you were not available for work or were not able to work (~~on one or two days of a week or weeks being claimed~~) for at least forty hours during the week during the hours customary for your trade or occupation; and

(b) (~~The day or days to which this condition applies are normal working days in your regular occupation;~~ and

~~(e))~~ The information supplied clearly supports this finding.

(~~This reduction applies only to the day or days for which available information shows you are ineligible for benefits.~~

~~(2) Benefits will be denied under RCW 50.20.010 (1)(c) without requiring additional information or interview if you file a weekly claim that:~~

~~(a) States you were not available for work or were not able to work for three or more days of a week or weeks being claimed; and~~

~~(b) The days to which this condition applies are normal working days in your regular occupation; and~~

~~(c) The information supplied clearly supports this finding.~~

~~This denial applies only to the week or weeks for which you specifically indicate you are ineligible for benefits.~~

~~(3))~~ (2) Benefits will be denied under RCW 50.20.010 (1)(c) without requiring additional information or interview if you file a weekly claim that indicates you are not able to work or not available for work because of a circumstance that is expected to continue beyond the immediate week or weeks claimed.

This denial will begin with the first week claimed in which the circumstance applies and continue until the circumstance no longer exists.

(~~(4))~~) (3) Any denial of benefits under subsections (~~(2) and (3))~~) (1) and (2) of this section will be issued without delay. The department will not issue a written decision when benefits are reduced under subsection (1) of this section.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 16-21-013, § 192-140-200, filed 10/7/16, effective 11/14/16. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. WSR 05-01-076, § 192-140-200, filed 12/9/04, effective 1/9/05.]

OTS-3176.1

AMENDATORY SECTION (Amending WSR 21-12-068, filed 5/28/21, effective 6/28/21)

WAC 192-170-010 Availability for work—RCW 50.20.010. (1) In general, the department will consider you available for work if you:

(a) Are willing to (~~work~~) accept suitable full-time, part-time, and (~~accept~~) temporary work during (~~all of~~) the usual hours and days of the week customary for your occupation.

(i) You are not required to (~~be available for~~) accept part-time or temporary work if it would substantially interfere with your return to your regular occupation.

(ii) The requirement to be (~~available for~~) willing to accept full-time work does not apply under the circumstances described in WAC 192-170-050 (1)(b) or 192-170-070;

(b) Are capable of accepting and reporting for any suitable work within the labor market in which you are seeking work;

(c) Do not impose conditions that substantially reduce or limit your opportunity to return to work at the earliest possible time;

(d) Are available for work for at least forty hours during the week during the hours customary for your trade or occupation; and

(e) Are physically present in your normal labor market area, unless you are actively seeking and willing to accept work outside your normal labor market.

(2) You are considered available for work if you are an active registered electrical apprentice in an approved electrical apprenticeship program under chapter 49.04 RCW and chapter 296-05 WAC.

(3) You are not considered available for work if you fail or refuse to seek work as required in a directive issued by the department under WAC 192-180-010.

(4) If you are physically located outside of the United States, Puerto Rico, or the U.S. Virgin Islands, the department will consider you available for work if you meet the requirements of subsections (1) and (2) of this section, and:

(a) You are legally authorized to work in the country in which you are physically located;

(b) You are immediately available for work in the United States; or

(c) You are a spouse or domestic partner of a member of the United States Armed Forces and you are legally authorized to work within the foreign military base where your spouse or domestic partner is stationed.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010, 50.20.230, 50.20.240, 50.29.021, 50.29.025 and 50.29.062. WSR 21-12-068, § 192-170-010, filed 5/28/21, effective 6/28/21. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042 and 50.20.010. WSR 20-11-022, § 192-170-010, filed 5/13/20, effective 7/5/20. Statutory Authority: RCW 50.12.010, 50.20.010, 50.20.230, 50.20.240, and 50.12.040. WSR 20-10-056, § 192-170-010, filed 4/30/20, effective 7/5/20. Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. WSR 10-11-046, § 192-170-010, filed 5/12/10, effective 6/12/10.]

OTS-1989.3

NEW SECTION

WAC 192-170-020 Benefit reductions due to only partial availability—RCW 50.20.130(1). (1) If you are available for at least forty hours during the week during the hours customary for your trade or occupation, benefits will not be reduced under RCW 50.20.130(1).

(2) If you are available for at least thirty-five but less than forty hours during the week during the hours customary for your trade or occupation, your weekly benefit amount will be reduced by one-seventh.

(3) If you are available for at least thirty but less than thirty-five hours during the week during the hours customary for your trade or occupation, your weekly benefit amount will be reduced by two-sevenths.

(4) If you are not available for at least thirty hours during the week during the hours customary for your trade or occupation, benefits will be denied under RCW 50.20.010 (1)(c).

[]

AMENDATORY SECTION (Amending WSR 02-08-072, filed 4/2/02, effective 5/3/02)

WAC 192-170-050 Suitable work factors—RCW 50.20.100 and 50.20.110. (1) **Physical fitness.** In determining whether work is suitable as defined by RCW 50.20.100 and 50.20.110, the department will consider whether you have a disability that prevents you from performing the essential functions of the job without a substantial risk to your health or safety.

(a) For purposes of this section, the term "disability" means a sensory, mental, or physical condition that:

(i) Is medically recognizable or diagnosable;

(ii) Exists as a record or history; and

(iii) Substantially limits the proper performance of your job.

(b) The department may determine in individual circumstances that less than full-time work is suitable if:

(i) The disability prevents you from working the number of hours that are customary to the occupation;

(ii) You are actively seeking work for the occupation and hours you have the ability to perform; and

(iii) The restriction on the number of hours you can work, the essential functions you can perform, and the occupations you are seeking does not substantially limit your employment prospects within your general area.

(c) To be considered available for suitable work, you must be available for employment in an occupation in keeping with your prior work experience, shifts of employment, education, or training. If such employment is not available in your general area, you must be willing to accept any employment which you have the physical or mental ability to perform.

(d) Disabilities resulting from pregnancy will be treated the same as other disabilities, except that the department will also consider the risk to your pregnancy when deciding whether work is suitable.

(e) The department will require verification from a physician of your disability, including:

(i) The restrictions on the tasks or work-related functions you can perform;

(ii) The restrictions on the number of hours you can work, if any;

(iii) The expected duration of the disability and resulting work restrictions; and

(iv) The types of tasks or work-related functions you are able to perform with this disability, if known by the physician.

(2) **Definitions.** For the purposes of this chapter:

(a) "General area" means an individual's labor market area and includes the geographic area within which an individual would customarily seek work in a given occupation.

(b) "Physician" means a person licensed to practice one or more of the following professions: Medicine and surgery (including, but not limited to, psychiatry); osteopathic medicine and surgery; chiropractic; naturopathic medicine; podiatry.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010. WSR 02-08-072, § 192-170-050, filed 4/2/02, effective 5/3/02.]

AMENDATORY SECTION (Amending WSR 05-19-018, filed 9/9/05, effective 10/10/05)

WAC 192-170-070 What are the availability requirements for part-time eligible workers?—RCW 50.20.119. (~~((1))~~) If you are a part-time eligible worker as defined in RCW 50.20.119 (~~(, you may limit your availability for work to)~~):

(1) You must be willing to accept work of 17 or fewer hours per week. You may refuse any job of 18 or more hours per week.

(2) You must be available for work at least 17 hours per week during the usual hours and days of the week customary for your occupation. (~~(For example, if your occupation normally requires both day and evening hours of work, you must be available for work both day and evening hours.)~~)

(3) You must (~~(be available for work all days of the week that are usual for your occupation, even if you have not worked those days in the past. If you are not available for work on any day that is a usual day of work for your occupation, we will reduce your benefits under RCW 50.20.130. For example, if your occupation usually works Monday through Friday, you must be available for work Monday through Friday, even if you have only worked weekends in the past)~~) not impose conditions on your availability that substantially reduce or limit your opportunity to return to work at the earliest possible time.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.12.042. WSR 05-19-018, § 192-170-070, filed 9/9/05, effective 10/10/05.]

AMENDATORY SECTION (Amending WSR 10-11-046, filed 5/12/10, effective 6/12/10)

WAC 192-170-090 Incarceration. (1) If you were previously warned that your continued employment was in jeopardy because of poor attendance, and you engage in illegal activities where you are aware there is a clear possibility of arrest and detention, misconduct may be established under RCW 50.04.294 (2)(d) or (e).

(2) If you are jailed but later released without having been charged with or convicted of a crime, the separation is not considered misconduct except as provided in subsection (3) of this section.

(3) If your employer discharges you for absenteeism or job abandonment because you failed without good cause to notify the employer of your incarceration or anticipated release date, such failure may be considered misconduct.

~~((4) You will be considered unavailable for work during any days in which you are incarcerated unless those days are not part of your regular work week based on your occupation. Example: You are sentenced to a specific time in custody but allowed to serve your time on week-ends. If weekends are not part of your regular work week, you will be considered available for work.))~~

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. WSR 10-11-046, § 192-170-090, filed 5/12/10, effective 6/12/10.]

OTS-1988.1

AMENDATORY SECTION (Amending WSR 10-11-046, filed 5/12/10, effective 6/12/10)

WAC 192-200-005 Disqualification of students—RCW 50.20.095.

(1) **General rule.** If you are registered in a course of study that provides scholastic instruction of twelve or more credit hours per week, you are disqualified from receiving benefits or credit for your waiting week.

(2) **Period of disqualification.** The disqualification starts with the week the instruction begins or the week you left employment to return to school, whichever is earlier. The disqualification ends at midnight on Saturday of the week prior to the first full week in which you are no longer registered for twelve or more hours of instruction. You must certify to the department that you are not currently registered for twelve or more credit hours and will not be registered for twelve or more credit hours for at least sixty days. If you begin classes within sixty days, all benefits paid since the date of your certification will be considered an overpayment. This overpayment is subject to recovery under RCW 50.20.190. If you are registered for classes that begin more than sixty days in the future, you will not be disqualified under this subsection.

(3) **Disqualification not applicable.** The disqualification does not apply if you:

(a) Are in approved training under RCW 50.20.043;

(b) Are in an approved self-employment assistance program under RCW 50.20.250; or

(c) Show by a preponderance of the evidence that ~~((your student status does not significantly interfere with your actual availability for work when you apply))~~ you meet the availability requirements in chapter 192-170 WAC.

(4) **Definitions.** As used in this section:

(a) "School" includes primary schools, secondary schools, and institutions of higher education as defined in RCW 50.44.037;

(b) "Scholastic instruction" includes all teaching or opportunity for learning subjects other than those of a strictly vocational nature. Subjects of a vocational nature are those embraced in the definition of "training" contained in WAC 192-200-010.

(c) "Twelve or more hours per week" means 12 or more credit hours per week or its equivalent.

(5) **Students.** Students who claim benefits are subject to all of the provisions of Title 50 RCW including:

(a) RCW 50.20.050 dealing with those who leave work voluntarily without good cause;

(b) RCW 50.20.010 (1)(c) requiring claimants to be able and available for and actively seeking work; and

(c) RCW 50.20.240 requiring claimants to provide evidence of their job search activities as requested by the department.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. WSR 10-11-046, § 192-200-005, filed 5/12/10, effective 6/12/10. Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010, 50.20.250(7) and 50.20.012. WSR 07-23-129, § 192-200-005, filed 11/21/07, effective 1/1/08. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. WSR 05-01-076, § 192-200-005, filed 12/9/04, effective 1/9/05.]

WSR 21-16-044

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed July 27, 2021, 3:34 p.m., effective August 27, 2021]

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

Purpose: The state board of education (SBE) is revisiting the definition of instructional hours by clarifying the definition of instructional hours to address modalities for delivery of instruction including in-person method of delivery and other methods of delivery. SBE also proposes changes to chapter 180-16 WAC to align rule to current policy or practice, improve readability of the rule, or make other changes identified during the review of the WAC chapter and through public feedback.

- School districts shall establish a continuity of operations plan to ensure districts can continue operations while being responsive to disruptions caused by an emergency. Requirements of the continuity of operations plan are defined in the proposed rule.
- The proposed rules for WAC 180-16-200 clarify that "in-person" instruction, as defined in RCW 28A.232.010, is the default method of delivery and that other modalities are allowable under these exceptions:
 - The first exception is for modalities other than in-person as allowable under funding allocation models (WAC 392-121, RCW 28A.232, and 28A.250).
 - The second exception allows a district to offer the opportunity for individual students, under district and student agreement, to engage in instructional hours delivered through modalities other than in-person instruction due to health or safety needs of the student.
 - The third exception allows a district to count modalities other than in-person to allow for continued operation and delivery of basic education services during an emergency.
- Other policy changes as identified during this review.

Citation of Rules Affected by this Order: New WAC 180-16-212; and amending WAC 180-16-195 and 180-16-200.

Statutory Authority for Adoption: RCW 28A.150.220(7).

Adopted under notice filed as WSR 21-11-106 on May 19, 2021.

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 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: July 27, 2021

Randy Spaulding
Executive Director

OTS-3075.1

AMENDATORY SECTION (Amending WSR 21-05-015, filed 2/5/21, effective 3/8/21)

WAC 180-16-195 Annual reporting and review process. (1) **Annual school district reports.** A review of each school district's kindergarten through twelfth grade program shall be conducted annually for the purpose of determining compliance or noncompliance with basic education program approval requirements. On or before September 15th of each school year, each school district superintendent shall complete and return the program assurance form distributed by the state board of education. The form shall be designed to elicit data necessary to make a determination of a school district's compliance or noncompliance with basic education program approval requirements. (~~For the 2020-21 school year, local education agencies shall submit a copy of the reopening schools plan to the state board of education and superintendent of public instruction two weeks before school begins and no later than September 15, 2020.~~) The form shall be submitted electronically and signed by:

- (a) The school board president or chairperson, and
- (b) The superintendent of the school district.

(2) **State board staff review.**

(a) State board of education staff shall review each school district's program assurance form, may conduct on-site visits of selected school districts, as needed and subject to funding support, and shall prepare recommendations and reports for presentation to the state board of education: Provided, that, if a school district's initial program assurance form does not establish compliance with the basic education program approval requirements, the district shall be provided the opportunity to explain the deficiency or deficiencies.

(b) School districts may use the personnel and services of the educational service district to assist the school district and schools in the district that are out of compliance with basic education program approval requirements.

(3) **Annual certification of compliance or noncompliance—Withholding of funds for noncompliance.**

(a) At the November meeting of the state board of education, or at such other meeting as the board shall designate, the board shall certify by motion each school district as being in compliance or noncompliance with the basic education program approval requirements.

(b) A certification of compliance shall be effective for the then current school year subject to any subsequent ad hoc review and determination of noncompliance as may be deemed necessary by the state board of education or advisable by the superintendent of public instruction. In addition, a certification of compliance shall be effective tentatively for the succeeding school year until such time as the state board takes its annual action certifying compliance or noncompliance with the program approval requirements.

(c) A certification of noncompliance shall be effective until program compliance is assured by the school district to the satisfaction of state board of education staff, subject to review by the state board.

(d) Upon the certification of noncompliance of a school district, state board of education staff shall notify the superintendent of pub-

lic instruction and the school district of a certification of noncompliance immediately after the board meeting at which certification occurred.

(e) A withholding of basic education allocation funding from a school district shall not occur for noncompliance if the school district has remediated the noncompliance situation within sixty school business days from the time the district receives notice of the noncompliance from the state board of education. The state board of education may extend the sixty days timeline only if the district demonstrates by clear and convincing evidence to the satisfaction of the state board of education that sixty days is not reasonable to make the necessary corrections. For the purposes of this section, a school business day shall mean any calendar day, exclusive of Saturdays, Sundays, and any federal and school holidays upon which the office of the superintendent of the school district is open to the public for the conduct of business. A school business day shall be concluded or terminated upon the closure of said office for the calendar day.

(f) At the discretion of the state board of education, after notification by the state board of education to a school district regarding an existing noncompliance, the state board of education may recommend (~~(withholding of)~~) the superintendent of public instruction withhold funds or may enter into a compliance agreement with the school district that shall include, but not be limited to, the following criteria:

(i) A deadline for school district remediation of the noncompliance(s).

(ii) A listing of all the noncompliance areas and the necessary terms that must be satisfied in each area in order for the school district to gain compliance status. This listing also shall specify additional deadlines for the accomplishment of the stated terms if different from the final deadline as specified in subsection (1) of this section.

(iii) A closing statement specifying that a school district's failure to remediate a noncompliance by the determined deadline may result, at the state board of education's or its designee's discretion, in the recommendation to the superintendent of public instruction of withholding of the school district's basic education allocation funding by the superintendent of public instruction.

(iv) The date and the signatures of the superintendent of the school district, the chair of the school district's board of directors, and the chair of the state board of education, or his/her designee, to the agreement. A copy of the completed compliance agreement shall be sent to the chairperson of the school district's board of directors and the school district superintendent.

(g) In the event a school district fails to sign a compliance agreement within five school business days from the date of issuance or does not satisfy all of the terms of the signed compliance agreement within the designated amount of time, the state board of education may recommend to the superintendent of public instruction withholding state funds for the basic education allocation until program compliance is assured.

(h) Any school district may appeal to the state board of education the decision of noncompliance by the state board of education. Such appeal shall be limited to the interpretation and application of these rules by the state board of education. Such appeal shall not stay the withholding of any state funds pursuant to this section or completion of the compliance agreement.

(4) The provisions of subsection (3)(g) of this section shall not apply if the noncompliance is related to the school district's fiscal condition and results in the implementation of a financial plan under RCW 28A.505.140(3).

(5) Each school district shall develop, maintain and, if necessary, implement a continuity of operations plan under WAC 180-16-200 and 180-16-212 for delivering the program of basic education during disruptions to basic education delivery resulting from an "emergency or disaster" as defined in RCW 38.52.010. "Emergency" may also include a national declaration of emergency by an authorized federal official.

[Statutory Authority: RCW 28A.150.220(7). WSR 21-05-015, § 180-16-195, filed 2/5/21, effective 3/8/21. Statutory Authority: RCW 28A.150.220 and 28A.150.250. WSR 18-24-090, § 180-16-195, filed 12/3/18, effective 1/3/19. Statutory Authority: RCW 28A.150.220, 28A.150.250, and 28A.150.260. WSR 11-17-044, § 180-16-195, filed 8/11/11, effective 9/11/11. Statutory Authority: RCW 28A.150.220(4), 28A.305.140, 28A.305.130(6). WSR 02-18-056, § 180-16-195, filed 8/28/02, effective 9/28/02. Statutory Authority: RCW 28A.150.250, 28A.150.260 and 28A.15.220 [28A.150.220]. WSR 99-10-091, § 180-16-195, filed 5/4/99, effective 6/4/99. Statutory Authority: RCW 28A.58.754(6). WSR 84-11-043 (Order 2-84), § 180-16-195, filed 5/17/84. Statutory Authority: RCW 28A.04.120. WSR 83-13-002 (Order 3-83), § 180-16-195, filed 6/2/83. Statutory Authority: RCW 28A.01.010, 28A.04.120, 28A.41.130, 28A.41.140, 28A.58.754, 28A.58.758, and 1979 ex.s. c 250. WSR 79-10-033 (Order 10-79), § 180-16-195, filed 9/12/79. Statutory Authority: RCW 28A.41.130 and 28A.58.754. WSR 78-06-097 (Order 3-78), § 180-16-195, filed 6/5/78.]

AMENDATORY SECTION (Amending WSR 21-05-015, filed 2/5/21, effective 3/8/21)

WAC 180-16-200 Total instructional hour requirement. (1) Kindergarten total instructional hour requirement - ~~((Four hundred fifty hours annual minimum, increased to))~~ An annual minimum one thousand instructional hours according to an implementation schedule under RCW 28A.150.315.

(2) Grades 1-12 total instructional hour requirement - District-wide annual average of ~~((one thousand hours, increased beginning in the 2015-16 school year to))~~ at least:

(a) ~~((At least))~~ A district-wide average of one thousand eighty instructional hours for students enrolled in grades nine through twelve and a district-wide annual average of one thousand instructional hours in grades one through eight; or

(b) A district-wide annual average of one thousand twenty-seven instructional hours in grades one through twelve.

(3) For nonhigh school districts, a district-wide annual average of one thousand instructional hours in such grades as are offered by the district.

(4) ~~((For the 2020-21 school year, "instructional hours" as defined in RCW 28A.150.205 are not limited to in-person educational services. Local education agencies may count as instructional hours towards the minimum district-wide annual average those hours students are provided the opportunity to engage in educational activity planned by and under the direction of school district staff that are delivered~~

~~through learning modalities which may include, but are not limited to, distance learning, hybrid classrooms, rotating schedules, or other methods that allow for delivery of basic education services during the COVID-19 epidemic. The following are applicable to the 2020-21 school year:~~

~~(a) Nothing in this section supersedes applicable statutory or office of superintendent of public instruction funding allocation requirements;~~

~~(b) Days in which instructional hours are offered shall count as school days for the purpose of meeting the minimum one hundred eighty-day school year requirement;~~

~~(c) Local education agencies must implement a system consistent with OSPI attendance rules; and~~

~~(d) The state board of education will revisit this rule no later than its regularly scheduled July 2021 board meeting.) Instructional hours are defined in RCW 28A.150.205.~~

(a) Instructional hours are delivered "in-person," as defined in RCW 28A.232.010 (1)(b), except as provided in RCW 28A.232.010 (4)(b).

(b) School districts may deliver instructional hours through learning modalities other than in-person instruction which may include, but are not limited to, distance learning, hybrid classrooms, rotating schedules, or other methods that allow for delivery of basic education services under the following:

(i) Funding allocation models established by the legislature or the superintendent of public instruction in chapter 392-121 WAC, chapters 28A.232 and 28A.250 RCW that allow for modalities other than in-person instruction;

(ii) Districts may provide the opportunity for individual students to engage in the program of basic education through modalities other than in-person instruction if so agreed upon by the district and the student due to health or safety needs of the student;

(iii) During implementation of the school district's continuity of operations plan under WAC 180-16-212; and

(iv) Under any other applicable law that would allow for modalities other than in-person instruction to be delivered.

(5) Nothing in this section supersedes other applicable law.

[Statutory Authority: RCW 28A.150.220(7). WSR 21-05-015, § 180-16-200, filed 2/5/21, effective 3/8/21. Statutory Authority: 2014 c 217 and RCW 28A.230.090. WSR 14-19-032, § 180-16-200, filed 9/8/14, effective 10/9/14. Statutory Authority: Chapter 28A.630 RCW. WSR 01-24-092, § 180-16-200, filed 12/4/01, effective 1/4/02. Statutory Authority: Chapter 28A.630 RCW and 1995 c 208. WSR 95-20-086, § 180-16-200, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 28A.410.010. WSR 94-03-104 (Order 5-94), § 180-16-200, filed 1/19/94, effective 2/19/94. Statutory Authority: RCW 28A.150.220, 28A.320.200, 28A.150.260 and 1992 c 141. WSR 92-17-053, § 180-16-200, filed 8/17/92, effective 9/17/92. Statutory Authority: RCW 28A.150.220 and [28A.150.]260. WSR 92-05-047, § 180-16-200, filed 2/13/92, effective 3/15/92. Statutory Authority: RCW 28A.04.127 and 28A.41.140. WSR 86-21-020 (Order 15-86), § 180-16-200, filed 10/7/86. Statutory Authority: RCW 28A.58.754(6). WSR 84-11-043 (Order 2-84), § 180-16-200, filed 5/17/84. Statutory Authority: RCW 28A.01.010, 28A.04.120, 28A.41.130, 28A.41.140, 28A.58.754, 28A.58.758, and 1979 ex.s. c 250. WSR 79-10-033 (Order 10-79), § 180-16-200, filed 9/12/79. Statutory Authority: RCW 28A.41.130 and 28A.58.754. WSR 78-06-097 (Order 3-78), § 180-16-200, filed 6/5/78.]

NEW SECTION

WAC 180-16-212 Continuity of operations plan. By the beginning of the 2021-22 school year, each school district shall develop, maintain and, if necessary, implement a continuity of operations plan that ensures delivery of basic education services during disruptions to basic education delivery resulting from an "emergency or disaster" as defined in RCW 38.52.010. "Emergency" may also include a national declaration of emergency by an authorized federal official.

(1) The continuity of operations plan shall describe the following:

(a) The process for the school district to decide how to transition to modalities other than in-person instruction if needed in the event of an emergency or disaster in order to ensure equitable delivery of the program of basic education to all students;

(b) The roles of school district staff responsible for executing the continuity of operations plan during an emergency;

(c) The process for the school district to decide how to transition to offering each student in-person instruction when the disruptions to basic education delivery due to the emergency have ended; and

(d) The schedule for routine review of the continuity of operations plan by the district.

(2) The following apply during implementation of the continuity of operations plan:

(a) Days in which instructional hours are offered shall count as school days for the purpose of meeting the requirements of RCW 28A.150.220; and

(b) Nothing in this section supersedes other applicable law.

(3) Each school district that implements its continuity of operations plan shall notify the state board of education and the office of superintendent of public instruction within five days of the decision to implement the continuity of operations plan by email and postal mail of the following:

(a) Date that the disruptions to basic education delivery began or will begin if there is an impending emergency situation and the estimated duration of the emergency or disaster;

(b) Documentation of the emergency or disaster, such as a declaration of emergency, and information that describes the disruption to basic education delivery due to the emergency;

(c) Contact information for school district staff who are responsible for executing the continuity of operations plan; and

(d) Further information or assurances upon request, at the discretion of the state board of education or the office of superintendent of public instruction staff.

(4) At the discretion of state board of education staff, each school district's compliance with the requirements of the program of basic education is subject to review under WAC 180-16-195.

(5) This continuity of operations plan may be used as a component of the comprehensive emergency management plan under RCW 38.52.030.

[]

WSR 21-16-051

PERMANENT RULES

LOWER COLUMBIA COLLEGE

[Filed July 28, 2021, 2:14 p.m., effective August 28, 2021]

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

Purpose: WAC 132M-104-010 rule on regular meeting for the board of trustees is duplicative of the Open Public Meetings Act (RCW 42.30.075) and therefore not necessary.

WAC 132M-108-020 Brief adjudicative procedure, needs minor grammatical and formatting corrections and also needs clarification that this WAC applies to appeals pursuant to any other formal rule adopted by the college which specifically provides for a brief adjudicative procedure.

Citation of Rules Affected by this Order: Repealing WAC 132M-104-010; and amending WAC 132M-108-020.

Statutory Authority for Adoption: RCW 28B.50.140.

Adopted under notice filed as WSR 21-12-054 on May 26, 2021.

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 0, Repealed 1.

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: July 28, 2021.

Kendra Sprague
Vice President of Foundation
Human Resources and Legal Affairs

OTS-2983.1

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 132M-104-010 Regular meetings.

OTS-2984.1

AMENDATORY SECTION (Amending WSR 95-16-069, filed 7/28/95, effective 8/28/95)

WAC 132M-108-020 Brief adjudicative procedure. This rule is adopted in accordance with RCW 34.05.482 through 34.05.494, the provisions of which are hereby adopted. Brief adjudicative procedures shall be used in all matters related to:

- ((1)) (a) (1) Appeals from residency classifications made pursuant to RCW 28B.15.013;
- ((2)) (b) (2) Appeals from parking and traffic infractions;
- ((3)) (c) (3) Appeals from actions from student conduct or disciplinary proceedings;
- ((4)) (d) (4) Appeals from actions due to outstanding debts of college employees or students;
- ((5)) (e) (5) Appeals from actions regarding loss of eligibility to participate in athletic events;
- ((6)) (f) (6) Challenges to the contents of education records pursuant to ((WAC 132M-113-055(2))) 34 C.F.R. Sec. 99.21;
- ((g)) (7) (7) Appeals from actions due to mandatory tuition and fee waivers;
- (8) Appeals pursuant to any other formal rule adopted by the college which specifically provides for a brief adjudicative procedure.

[Statutory Authority: RCW 28B.50.140(13), 1995 c 36 § 2 and amendment to RCW 28B.16.600. WSR 95-16-069, § 132M-108-020, filed 7/28/95, effective 8/28/95. Statutory Authority: RCW 28B.50.140. WSR 92-09-005, § 132M-108-020, filed 4/2/92, effective 5/3/92.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WSR 21-16-052

PERMANENT RULES

LOWER COLUMBIA COLLEGE

[Filed July 28, 2021, 2:15 p.m., effective August 28, 2021]

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

Purpose: Chapter 132M-113 WAC, Access to student records, and chapter 132M-160 WAC, Admission, registration, graduation, repeal and replace with college policy and procedures as they are duplicative of college policies, state board for community and technical college rules, and federal laws.

Citation of Rules Affected by this Order: Repealing WAC 132M-113-010, 132M-113-015, 132M-113-020, 132M-113-025, 132M-113-030, 132M-113-040, 132M-113-050, 132M-113-055, 132M-160-010, 132M-160-040, and 132M-160-050.

Statutory Authority for Adoption: RCW 28B.50.140.

Adopted under notice filed as WSR 21-12-053 on May 26, 2021.

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 0, Repealed 11.

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: July 28, 2021.

Kendra Sprague
Vice President of Foundation
Human Resources and Legal Affairs

OTS-2964.1

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 132M-113-010 Student's access to records.
- WAC 132M-113-015 Waiver of student access right.
- WAC 132M-113-020 Release of information—General policy and procedure.
- WAC 132M-113-025 Release of information to or about parents and spouses.
- WAC 132M-113-030 Release of personally identifiable records.
- WAC 132M-113-040 Release of information in emergencies.

WAC 132M-113-050 College records.
WAC 132M-113-055 Review of records requests and requests
to amend.

OTS-2965.1

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 132M-160-010 Admission.
WAC 132M-160-040 Tuition and fee waivers.
WAC 132M-160-050 Refunds.

WSR 21-16-059

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed July 28, 2021, 5:06 p.m., effective August 28, 2021]

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

Purpose: The state board of education proposes changes to chapter 180-111 WAC to establish an emergency waiver program to allow school districts and other local education agencies to waive certain graduation requirements on an individual student basis and to allow private schools a waiver of certain requirements. The purpose of this emergency waiver program is to help prevent student[s] from being unduly impacted by unforeseen disruptions to coursework and assessment resulting from an emergency or disaster, as defined in RCW 39.52.010.

Citation of Rules Affected by this Order: Amending WAC 180-111-010, 180-111-020, 180-111-030, 180-111-040, and 180-111-050.

Statutory Authority for Adoption: RCW 28A.195.010, 28A.230.090, 28A.150.220(7).

Adopted under notice filed as WSR 21-11-105 on July 28 [May 19], 2021.

Changes Other than Editing from Proposed to Adopted Version: Based on stakeholder feedback received during the public comment period, the board removed proposed amendments to chapter 180-51 WAC, that were intended to clarify existing WAC that permits a single course to meet more than one graduation requirement.

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 5, 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 1, Amended 5, 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: July 21, 2021.

Randy Spaulding
Executive Director

OTS-2954.5

Chapter 180-111 WAC

EMERGENCY WAIVER OF CERTAIN REQUIREMENTS ((IN RESPONSE TO NOVEL CORONAVIRUS))

AMENDATORY SECTION (Amending WSR 21-01-077, filed 12/10/20, effective 1/10/21)

WAC 180-111-010 Authority and purpose. (~~((1) The authority for this chapter is sections 10 through 12, chapter 7, Laws of 2020 (EHB 2965) which authorizes the state board of education to administer an emergency waiver program.~~

~~(2)) The purpose of this chapter is ((:~~

~~(a)) to establish an emergency waiver program to ((grant local education agencies and private schools flexibility so that students in the graduating class of 2020 or earlier who were on track to graduate before the gubernatorial declaration of emergency of February 29, 2020, the proclamation of statewide school closures on March 13, 2020, and any subsequent amendments to these proclamations, are not negatively impacted by measures taken by the local education agency or private school in response to the novel coronavirus (COVID-19); and~~

~~(b) To allow flexibility from instructional hour or school day requirements for the 2019-20 school year for private schools that close due to the novel coronavirus.~~

~~(3) This chapter expires July 31, 2020)) allow school districts as defined in WAC 180-111-020, and private schools, to waive certain graduation requirements on an individual student basis and emergency waiver of certain requirements for private schools in WAC 180-111-060. The intent is to help prevent students from being unduly impacted by unforeseen disruptions to coursework and assessments resulting from an "emergency or disaster" as defined in RCW 38.52.010. "Emergency" may also include a national declaration of emergency by an authorized federal official.~~

[Statutory Authority: 2020 c 7 § 10-12 and RCW 28A.195.010, 28A.230.090, 28A.150.220(7). WSR 21-01-077, § 180-111-010, filed 12/10/20, effective 1/10/21.]

AMENDATORY SECTION (Amending WSR 21-01-077, filed 12/10/20, effective 1/10/21)

WAC 180-111-020 Definitions. The definitions in this section apply throughout this chapter.

~~(1) ("Good faith effort" means the local education agency or private school considered and implemented options, determined appropriate by the local education agency or private school, to support individual students in meeting credit requirements. Options for helping students meet credit requirements or waive credit requirements include, but are not limited to:~~

~~(a) Recommendations provided by the office of the superintendent of public instruction in its published guidance on supporting seniors during long-term school closures, as outlined in Bulletin Number 022-20 issued on March 20, 2020, and Bulletin Number 024-20 issued on March 23, 2020, and any related subsequent bulletins.~~

~~(b) Awarding or waiving of credits through existing authority of local education agencies and private schools:~~

~~(i) Local graduation requirements under WAC 180-51-020 may be waived at local discretion without approval of the state board of education.~~

~~(ii) Local education agencies and private schools that have implemented state credit requirements under WAC 180-51-068 (the twenty-four-credit graduation requirement framework) have the authority to award a two-credit waiver of flexible credits for individual student circumstances.~~

~~(iii) Students may be excused from physical education, provided they demonstrate competency/mastery in the knowledge portion of the required one and one-half credits, as articulated in WAC 180-51-056 (1)(e), 180-51-067(6), and 180-51-068(6).~~

~~(iv) Per WAC 180-51-056 (1)(e)(ii), 180-51-067 (4)(b), and 180-51-068 (4)(b)(i) and (ii), the noncredit requirement of Washington state history can be waived for students who either have completed a state history course in another state, or for eleventh or twelfth grade students who have not completed the course because of previous residence in another state.~~

~~(v) Credits may be awarded based on the student's demonstrated proficiency/competency of the state's learning standards under WAC 180-51-050.~~

~~(2) "Local education agency" means a school district, charter school established under chapter 28A.710 RCW, or tribal compact school operated according to the terms of state-tribal education compacts authorized under chapter 28A.715 RCW. References within this chapter to local education agency shall also apply to community and technical college colleges per WAC 180-51-015.~~

~~(3) "On track to graduate" means the individual student's earned credits and current or planned enrollment as of the gubernatorial declaration of emergency of February 29, 2020, would have been sufficient, as determined by the student's local education agency or private school, for the student to meet the applicable state minimum graduation requirements (as defined in WAC 180-51-056, 180-51-067, and 180-51-068) by the end of the 2019-20 school year as defined by RCW 28A.150.203.)~~ "Demonstrated postsecondary preparation" means the student has demonstrated skills and knowledge indicating preparation for the next steps identified in their high school and beyond plan under RCW 28A.230.090 and for success in postsecondary education, gainful employment, and civic engagement.

(a) The school district shall review the individual student's completed and planned coursework and other information applicable to the individual student and determine if the student has demonstrated postsecondary preparation.

(b) This individual student review may include, but is not limited to, whether the following considerations apply to that student:

(i) The student has completed a graduation pathway option in accordance with RCW 28A.655.250 and WAC 180-51-230.

(ii) The student has completed activities consistent with the criteria for "career prep" or has participated in an approved "career launch" program through career connect Washington.

(iii) The student has completed a preparatory career and technical education course or a course that meets the preparatory standards as defined in RCW 28A.700.030.

(iv) The student has developed and practiced leadership and employability skills through a job, volunteer position, or a career and technical student organization that would enable them to advance in their chosen career field and has obtained external validation from an employer, tribal elder, CTE business or industry advisory committee member, or other community member that can attest to the student's preparation for their next steps.

(v) The student is a participant in a recognized apprenticeship preparation program or registered apprenticeship program or has signed an apprenticeship agreement with an employer.

(vi) The student has earned college credit in a core subject area.

(vii) The student has earned an industry recognized credential.

(viii) The student has completed minimum college admission standards for four-year institutions of higher education, in accordance with RCW 28B.77.020 (7) (a).

(ix) The student placed into a college-level math or English course at an institution of higher education.

(x) The student completed a summer bridge program or a senior transition course (bridge to college).

(xi) The student has completed an admission to a higher education institution or career preparation program.

(xii) The student received an award of a scholarship for higher education.

(2) "Eligible student" means:

(a) The student was reasonably expected to graduate as defined in subsection (5) of this section;

(b) The student has demonstrated postsecondary preparation as defined in subsection (1) of this section; and

(c) The student experienced a significant disruption to their ability to complete graduation requirements due to the emergency, which could include, but is not limited to: Inability for the student to access the school building or other education facility due to closure or, if online learning is a part of the school program, the student did not have a reliable internet connection or sufficient technology within their household, had to support their family by working during the emergency, had to care for family members during the emergency, illness of the student or student's household member, or other circumstances due to the emergency that directly compromised the student's ability to complete the credit requirements or a graduation pathway option.

(3) "Emergency" means the same as the definition for "emergency or disaster" in RCW 38.52.010. "Emergency" may also include a national declaration of emergency by an authorized federal official.

(4) "Good faith effort" means the school district considered and implemented options, determined appropriate by the school district, to support each individual student in meeting credit and pathway requirements.

(a) For each student who is being considered for the emergency waiver, school districts shall provide individual student advising to help each student determine: What supports they need to be successful; how they might meet the graduation requirements, including the feasibility of summer or a partial or full additional year of high school enrollment; and whether the emergency waiver is appropriate for the individual student.

(b) Options for supporting students to meet credit and course-based graduation pathway requirements include, but are not limited to:

(i) Provision of additional academic supports to aid student completion.

(ii) Awarding credits based on the student's demonstrated proficiency/mastery of the state's learning standards under WAC 180-51-050, 180-51-051, and 392-410-300, including credits, grades, and courses transcribed on the high school transcript.

(iii) Awarding credit through expanded learning opportunities, dual credit programs, work-based learning (WAC 392-410-315), traditional online, summer learning, CTE course equivalencies, and other local credit options for awarding credit outside of school.

(c) Options for supporting students to meet the exam-based graduation pathway requirement include, but are not limited to: Efforts to ensure students are aware of, and can access, online or by other alternative access options, the SAT, ACT, ASVAB, AP, IB, Cambridge International, and state assessments (if applicable). School districts are encouraged to reduce or eliminate any cost to students in using these options.

(5) "Reasonably expected to graduate" means the individual student's earned credits and current or planned enrollment would have been sufficient, as determined by the school district, for the student to meet the applicable state minimum graduation requirements for the student's graduation year cohort (as defined in WAC 180-51-056, 180-51-067, 180-51-068, and 180-51-210) by August 31st of the school year when the emergency waiver is granted if not for the impact of the emergency.

(6) "School district" means any school district, charter school established under chapter 28A.710 RCW, tribal compact school operated according to the terms of state-tribal education compacts authorized under chapter 28A.715 RCW, state schools established under chapter 72.40 RCW, and community and technical colleges granting high school diplomas.

[Statutory Authority: 2020 c 7 § 10-12 and RCW 28A.195.010, 28A.230.090, 28A.150.220(7). WSR 21-01-077, § 180-111-020, filed 12/10/20, effective 1/10/21.]

AMENDATORY SECTION (Amending WSR 21-01-077, filed 12/10/20, effective 1/10/21)

WAC 180-111-030 Application and approval process for public school districts. ~~(1) ((Beginning no later than April 15, 2020,)) The state board of education ((shall)) will make an application available to ((local education agencies)) school districts seeking ((this waiver. A local education agency)) the emergency waiver of certain graduation requirements. A school district may apply to the state board of education for the authority to waive pathway and credit-based graduation requirements for individual students. The state board of education will accept applications through a deadline to be determined by the state board of education.~~

~~(2) ((In order)) To be granted the emergency waiver authority, the ((local education agency must certify the following:~~

~~(a) The local education agency has considered equity in applying for the waiver and will consider equity in administering the waiver. This may include, but is not limited to, an equity analysis, community outreach, or other means to assess and mitigate potential disparate impacts of this waiver.~~

~~(b) The local education agency will grant waivers on an individual student basis to eligible students in accordance with WAC 180-111-040.~~

~~(c) Prior to granting a waiver, the local education agency will make a good faith effort, as defined in WAC 180-111-020, to help indi-~~

~~vidual students address credit deficiencies and meet core course requirements.~~

~~(d) The local education agency will administer the waiver in accordance with program rules as outlined)) school district must certify it will administer the emergency waiver in accordance with program rules as stated in this chapter.~~

(3) The application must be certified by the school district superintendent or equivalent personnel with authority to sign on behalf of the ~~((local education agency))~~ school district.

(4) The SBE will develop an application and process for granting school districts emergency waiver authority in a subsequent emergency that will include:

(a) For local emergencies: The school districts will apply to the state board of education and will state the nature and duration of the emergency and how it impacts students' ability to meet requirements. The district may request specific credit and graduation pathway option flexibility based on the nature of the emergency. If the state board of education approves the district application, the board will grant the school district authority through a formal action in a public board meeting.

(b) For state or national emergencies: The state board of education will adopt rules that address the specific circumstances surrounding each new emergency, any applicable eligibility criteria, and limitations on the number and type of credits that can be waived.

(5) The state board of education may approve applications that meet the criteria ~~((outlined))~~ stated in subsections (2) and (3) of this section. The board may delegate this authority to its executive director for efficiency per RCW 28A.305.130(7).

~~((5))~~ (6) The state board of education ~~((shall))~~ will promptly post on its public website ~~((the information collected on the application,))~~ a list of all approved applications ~~((received, and the decision to approve or deny each application))~~.

[Statutory Authority: 2020 c 7 § 10-12 and RCW 28A.195.010, 28A.230.090, 28A.150.220(7). WSR 21-01-077, § 180-111-030, filed 12/10/20, effective 1/10/21.]

AMENDATORY SECTION (Amending WSR 21-01-077, filed 12/10/20, effective 1/10/21)

WAC 180-111-040 School district implementation of the emergency waiver of ((credit-based)) certain graduation requirements. (1) Before granting any emergency waivers, the school district board or equivalent governing body shall adopt by resolution a plan that describes the school district's process for granting and declining emergency waivers for students. The plan must include:

(a) A process for school district staff to initiate an emergency waiver and a process for students to request an emergency waiver if not initiated by the district;

(b) A school district process if an initial decision is made to decline an emergency waiver for an individual student, for further review and recommendations by a panel with at least one school counselor and educators with expertise in trauma-informed instruction and culturally responsive education, and if appropriate, special education,

instruction for multilingual/English language learners, and a migrant graduation specialist or migrant student advocate;

(c) A process for students to appeal within the school district a decision to not grant an emergency waiver; and

(d) Culturally responsive ways, based on the school district's local community, to communicate with students and families about the emergency waiver and the process to request, appeal, or decline the emergency waiver.

(2) Beginning from the date of approval of its emergency waiver application, in accordance with WAC 180-111-030, ((through July 31, 2020, in accordance with the establishing legislation, a local education agency)) a school district may waive ((subject area credit)) certain graduation requirements ((outlined in subsection (2) of this section for individual students)) on an individual student basis to eligible students in accordance with this section and subject to any specific limitations for particular graduation cohorts of students or specific emergency declarations specified in this chapter or in the board's approval of a school district emergency waiver application. The emergency waiver may be granted after completing all of the following requirements:

(a) ((The local education agency)) Before use of this emergency waiver for graduation credit requirements, school districts shall consider using their existing authority to waive credits through the following ways:

(i) Local graduation requirements under WAC 180-51-020 may be waived at local discretion without approval of the state board of education.

(ii) Two-credit waiver of flexible credits may be granted for individual student circumstances, in accordance with WAC 180-51-068(13) and 180-51-210(2).

(iii) Students may be excused from physical education in accordance with the applicable requirements in WAC 180-51-067(6), 180-51-068(6), and 180-51-210 (4) (f).

(iv) The noncredit requirement of Washington state history may be waived in accordance with WAC 180-51-067 (4) (b), 180-51-068 (4) (b) (i) and (ii), and 180-51-210 (4) (d) (iv) (A) and (B).

(b) The school district shall review the individual student's completed and planned coursework and determine that the student was ((on track)) reasonably expected to graduate((r)) as defined in WAC 180-111-020 and that the student has demonstrated postsecondary preparation as defined in WAC 180-111-020.

(((b) The local education agency)) (c) The school district shall demonstrate a good faith effort, as defined in WAC 180-111-020, to help the individual student ((meet credit-based graduation requirements through other options)) complete coursework, address credit deficiencies, and meet core course and graduation pathway option requirements through other options that align with their high school and beyond plan. The school district shall document the steps taken to demonstrate this good faith effort in the individual student record.

(((c) The local education agency)) (d) The school district shall consult with the individual student, and make a reasonable effort to consult with a parent or guardian of the student, and shall make a reasonable effort to provide information about this emergency waiver in the preferred languages of the student, and of the parent or guardian of the student if applicable. The information ((shall)) must include, but is not limited to:

(i) ~~((What is being waived for the individual student;))~~ In the consideration of whether emergency waiver(s) are appropriate for an individual student, and if so what emergency waiver(s), the school district shall advise the student to waive only those credit(s) that are least applicable to the student's postsecondary plans as articulated in the student's high school and beyond plan;

(ii) The potential benefits and limitations that could result from receiving the emergency waiver including impacts on ((high school graduation and)) postsecondary plans((+)) and, if applicable to their high school and beyond plan, the recommendation to contact the student's intended postsecondary institutions or apprenticeship provider regarding potential impacts; and

(iii) The option for the individual student to decline the emergency waiver and for the student to be provided with the opportunity to earn the credits needed or meet their intended pathway option to complete graduation requirements ((through)) which may include continued enrollment beyond the planned graduation date.

~~((2) Waived credit graduation requirements:~~

~~(a) Waived credit graduation requirements are limited to credits a student would have had the opportunity to earn by the end of the 2019-20 school year including:~~

~~(i) Courses and other credit-earning opportunities the student was enrolled in as of February 29, 2020; and~~

~~(ii) Credits that the student planned to complete by the end of the 2019-20 school year as defined in RCW 28A.150.203 for terms not yet started as of February 29, 2020, that were scheduled to occur during the period of school closure due to the novel coronavirus. These planned credits must be indicated on the student's high school and beyond plan, in course registration records, or in the student's credit attainment or recovery plan.~~

~~(b) Waived graduation requirement credits may include both core credit graduation requirements and flexible credit graduation requirements, as defined in WAC 180-51-210.~~

~~(3) This waiver may apply to individual students participating in the international baccalaureate diploma programme as defined in RCW 28A.230.122 to enable these students to earn a Washington high school diploma.~~

~~(4) Schools operating under the waiver defined in WAC 180-18-055 may waive graduation requirements in a manner consistent with this section.~~

~~(5) Each local education agency shall maintain a record of courses and requirements waived as part of the individual student record and shall report to the state board of education in a manner determined by the state board of education.~~

~~(6) The local education agency shall consider equity in administering the emergency waiver under this section. This consideration should be designed to identify and mitigate potential disparate impacts of the emergency waiver and to determine if any changes to the local education agency's approach in administering the emergency waiver are needed before the conclusion of the 2019-20 school year.))~~ (3) The school district shall ensure equity in administering the emergency waiver. The school district shall disaggregate emergency waiver data by student groups as referenced in RCW 28A.300.042(3) and shall conduct further disaggregation of student groups if data are available to do so. If disproportionality is found, the school district shall take appropriate actions to ensure equitable administration. This consideration must further be designed to identify and mitigate potential dis-

parate impacts of the emergency waiver and to determine if any changes to the school district's approach in administering the emergency waiver, including supports under WAC 180-111-020(4) to help students meet the requirements, are needed before the conclusion of the school year.

(4) The school district shall:

(a) Maintain a record of the following in the individual student record: Actions taken under the good faith effort to help the student meet the graduation requirements, courses (including the term and amount of credit) and requirements waived, and how the student demonstrated postsecondary preparation;

(b) Include a notation of waived credits and graduation pathway on the student's high school transcript in accordance with RCW 28A.230.125;

(c) Keep a record of the number of emergency waivers requested and not granted;

(d) Report on administration of the emergency waiver to the state board of education in a manner determined by the state board of education; and

(e) Report student level emergency waiver data to the office of the superintendent of public instruction in a manner determined by the superintendent of public instruction in consultation with the state board of education.

[Statutory Authority: 2020 c 7 § 10-12 and RCW 28A.195.010, 28A.230.090, 28A.150.220(7). WSR 21-01-077, § 180-111-040, filed 12/10/20, effective 1/10/21.]

AMENDATORY SECTION (Amending WSR 21-01-077, filed 12/10/20, effective 1/10/21)

WAC 180-111-050 Emergency waiver ((for private schools) of certain graduation requirements in response to novel coronavirus. ((-1)

This section applies to private schools approved to operate in Washington for the 2019-20 school year under chapter 180-90 WAC.

(2) Private schools may waive credit-based graduation requirements for individual students who were on track to graduate, as defined in WAC 180-111-020, in a manner consistent with the provisions of WAC 180-111-040.

(3) Private schools that have implemented an online education program consistent with the provisions of RCW 28A.195.090 that provide the remaining curriculum will be considered to have the instructional hour requirements met. Private schools have discretion to determine whether the curriculum has been adequately satisfied.

(4) The state board of education waives the instructional hours and days requirement under RCW 28A.195.010 for the 2019-20 school year. The number of hours or days offered after February 29, 2020, will not be considered for continued approval of private schools.

(5) Each private school shall notify the state board of education in a format provided by the board whether the private school is waiving requirements under this section.) This section is for the novel coronavirus emergency, in response to the gubernatorial declaration of emergency on February 29, 2020. It applies to the classes of 2020 through 2022 beginning in the 2020-21 school year. The state board of education will consider what, if any, flexibility should be provided to subsequent classes of students no later than its May 2022 board

meeting. Beginning from the date of approval of a school district's emergency waiver application, in accordance with WAC 180-111-040:

(1) Waived credit graduation requirements are limited to the student's classes impacted by the novel coronavirus disruption. The school district shall prioritize student completion of core coursework and coursework related to the student's high school and beyond plan under RCW 28A.230.090. School districts may waive credits for eligible students in the classes of 2020 to 2022. In addition to existing waiver authorities as described in WAC 180-111-040 (2) (a), school districts may waive up to two additional credits under this emergency waiver, provided that students graduate with no fewer than a total of twenty credits. The terms "core" and "flexible" credits used in this subsection are defined in WAC 180-51-210.

(2) For the class of 2020, 2021, and 2022: The emergency waiver may be applied to core credits or flexible credits, provided that no more than one credit in each core subject area is waived.

(3) A student's graduation pathway requirement may be waived for eligible students in the classes of 2020 to 2022 after a school district has made a good faith effort to help the student meet their pathway requirement, as defined in WAC 180-111-020.

(4) The graduation pathway requirement may also be waived for a student so that the student may earn a diploma before their planned graduation year, provided that:

(a) The student may not be granted an emergency waiver of credit requirements; and

(b) The student must meet all other state graduation requirements including credit requirements under WAC 180-51-210.

(5) This emergency waiver may apply to individual students participating in the international baccalaureate diploma programme as defined in RCW 28A.230.122 to enable these students to earn a Washington high school diploma.

(6) Schools operating under the waiver defined in WAC 180-18-055 may waive graduation requirements in a manner consistent with this section.

[Statutory Authority: 2020 c 7 § 10-12 and RCW 28A.195.010, 28A.230.090, 28A.150.220(7). WSR 21-01-077, § 180-111-050, filed 12/10/20, effective 1/10/21.]

NEW SECTION

WAC 180-111-060 Emergency waiver of certain requirements in response to novel coronavirus for private schools. (1) This section applies to private schools approved to operate in Washington under chapter 180-90 WAC.

(2) In response to emergencies as defined in WAC 180-111-020 that impact a private school or the public school district in which a private school is located, private schools may waive credit-based graduation requirements for individual students who have demonstrated post-secondary preparation as defined in WAC 180-111-020, in a manner consistent with the provisions of WAC 180-111-040 and rules adopted to address specific emergencies. Private schools are exempt from the reporting requirements listed in WAC 180-111-040 (4) (d) and (e).

(3) Private schools that have implemented an online education program consistent with the provisions of RCW 28A.195.090 will be con-

sidered to have met the instructional hour requirements. Private schools have discretion to determine whether the curriculum has been adequately satisfied.

(4) Each private school shall notify the state board of education in a format provided by the board whether the private school is waiving requirements under this section.

(5) For the 2020 to 2022 school years, the state board of education will maintain a private school's status as an approved private school if:

(a) Due to a significant disruption caused by the novel coronavirus, the school is unable to fulfill the requirements of RCW 28A.195.010 of a full school year of one hundred eighty days or are unable to fulfill the annual average total instructional hours requirements.

(b) For the 2021-22 school year, approved private schools may operate an online education program consistent with the provisions of RCW 28A.195.090 for all of their students and will not be subject to rescission of approval based on a failure to have students enrolled in the school's physical facilities provided that:

(i) Prior to the use of this waiver of the requirement that students are enrolled in and attending the school's physical facility, the school will notify the state board of education; the process and form of the notification will be established by the state board of education; and

(ii) The school maintains a physical address for the education of students in Washington and plans to resume classroom instruction when it is safe to do so based on lifting state and local emergency declarations restricting the delivery of educational services or based on a determination of the school's governing body.

[]

WSR 21-16-062

PERMANENT RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed July 29, 2021, 3:39 p.m., effective August 1, 2021]

Effective Date of Rule: August 1, 2021.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: RCW 34.05.380 (3)(a), section 2(3), chapter 109, Laws of 2021 (HB [E2SHB] 1073) requires the department to accept applications based on conditions established by the bill beginning August 1, 2021. The August 1, 2021, effective date is necessary to comply with that requirement.

Purpose: The rules amend several sections of Title 192 WAC to implement the passage of chapter 109, Laws of 2021 (HB [E2SHB] 1073) and chapter 232, Laws of 2021 (SB [ESSB] 5097). HB [E2SHB] 1073 creates additional qualifying periods for employees whose employment was affected by the COVID-19 pandemic. SB [ESSB] 5097 modifies the definition of "family member" and creates additional reporting requirements for the division. The rules create a definition for use throughout WAC, clarify premium calculations, offer guidance to employers with an approved voluntary plan, clarify small business grants, add an attestation requirement for certain applicants, and modify language related to documentation.

Citation of Rules Affected by this Order: New WAC 192-500-200 Pandemic leave assistance, 192-510-095 How will certain moneys owed to the trust be considered when calculating the premium rate?, 192-530-100 Are voluntary plans required to pay pandemic leave assistance benefits?, 192-560-011 What small business grants are available under pandemic leave assistance? and 192-610-100 What is the attestation required for an employee claiming pandemic leave assistance?; and amending WAC 192-610-035 Documenting a family relationship.

Statutory Authority for Adoption: RCW 50A.05.060, 50A.25.030, 50A.05.010; section 5, chapter 109, Laws of 2021 (HB [E2SHB] 1073).

Adopted under notice filed as WSR 21-13-161 on June 22, 2021.

Changes Other than Editing from Proposed to Adopted Version: A typo in Example 2 of WAC 192-610-100 was corrected.

A final cost-benefit analysis is available by contacting April Amundson, Employment Security Department, P.O. Box 9046, Olympia, WA 98507-9046, phone 360-485-2816, Washington relay 711 (contact Teresa Eckstein at 360-507-9890 for accommodations), email rules@esd.wa.gov, website <https://paidleave.wa.gov/rulemaking/>.

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 5, Amended 1, 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 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 5, 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 5, Amended 1, Repealed 0.

Date Adopted: July 29, 2021.

April Amundson
Policy and Rules Manager

OTS-3134.1NEW SECTION

WAC 192-500-200 Pandemic leave assistance. (1) "Pandemic leave assistance" is a temporary grant authorized by the legislature that is only available for employees who:

(a) Do not meet the eight hundred twenty hours threshold in the qualifying period defined in RCW 50A.05.010; and

(b) Are unable to do so due to the impacts of the COVID-19 pandemic.

(2) A pandemic leave assistance qualifying period is either:

(a) The first through fourth completed calendar quarters of 2019; or

(b) If eligibility is not established, the second through fourth completed calendar quarters of 2019 and first completed calendar quarter of 2020.

(3) Pandemic leave assistance is only available for claim years beginning between January 1, 2021, and March 31, 2022.

(4) Employees who receive pandemic leave assistance are subject to all rights and responsibilities of family or medical leave taken under Title 50A RCW.

(5) Employers with employees who receive pandemic leave assistance are subject to all rights and responsibilities associated with an employee's family or medical leave under Title 50A RCW.

[]

OTS-3135.1NEW SECTION

WAC 192-510-095 How will certain moneys owed to the trust be considered when calculating the premium rate? For the purposes of premium rate calculation under RCW 50A.10.030(6), any benefit moneys that have been paid to employees, but have not yet been reimbursed pursuant to section 4, chapter 232, Laws of 2021 (SB 5097), will be included in the balance of the family and medical leave insurance account.

[]

OTS-3136.1

NEW SECTION

WAC 192-530-100 Are voluntary plans required to pay pandemic leave assistance benefits? (1) Voluntary plans are not required to pay pandemic leave assistance benefits to employees.

(2) Employees eligible for pandemic leave assistance who work for an employer with an approved voluntary plan may apply to the state for benefits.

[]

OTS-3137.1NEW SECTION

WAC 192-560-011 What small business grants are available under pandemic leave assistance? (1) An employer may apply for one small business assistance grant based on an employee taking leave under pandemic leave assistance.

(2) An application for a small business grant for an employee taking leave under pandemic leave assistance does not count toward an employer's maximum number of applications for small business grants permitted under RCW 50A.24.010(4).

(3) An employer may not use additional grant applications permitted under RCW 50A.24.010(4) to receive more than one grant for an employee taking leave under pandemic leave assistance.

(4) The application process for a small business grant for an employee taking leave under pandemic leave assistance must follow the same process as described in WAC 192-560-020.

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OTS-3133.1

AMENDATORY SECTION (Amending WSR 19-08-016, filed 3/22/19, effective 4/22/19)

WAC 192-610-035 Documenting a family relationship. The department may request documentation or information from the employee that ~~((is sufficient to establish the familial relationship))~~ sufficiently demonstrates that the individual for whom leave is being taken is a "family member" as defined by RCW 50A.05.010 for the purposes of benefit eligibility and program integrity.

[Statutory Authority: RCW 50A.04.215. WSR 19-08-016, § 192-610-035, filed 3/22/19, effective 4/22/19.]

OTS-3138.2

NEW SECTION

WAC 192-610-100 What is the attestation required for an employee claiming pandemic leave assistance? (1) Employees applying for pandemic leave assistance will be required to attest in a manner approved by the department that they did not meet the hours worked threshold for eligibility under RCW 50A.15.010 or 50A.30.020(1) due to reasons related to the COVID-19 pandemic.

(2) Employees must attest that they were not:

(a) Separated from employment due to misconduct; or

(b) Voluntarily separated from employment for reasons not related to the COVID-19 pandemic.

EXAMPLE 1

An employee had a part time job in 2019 resulting in 1,000 hours reported to the department for that calendar year. The employee's workplace closed in 2020 due to the COVID-19 pandemic and the employee was unable to find additional work. The employee experiences a qualifying event in June, 2021, and applies in August, 2021. The department determines that the employee would not qualify under the normal qualifying period but would qualify under the pandemic leave assistance qualifying period. As a part of the application process, the employee must attest that the lack of qualifying hours for their normal qualifying period is attributable to the COVID-19 pandemic before they can be approved.

EXAMPLE 2

An employee had a part time job in the second, third, and fourth quarters of 2019 and the first quarter of 2020 resulting in 820 hours reported to the department for those four quarters. The employee's child care facility was closed in April, 2020, due to the COVID-19 pandemic. The employee had to end their employment to care for their child. The employee experiences a qualifying event in August, 2021, and applies for leave. The department determines that the employee would not qualify under the normal qualifying period but would qualify under the pandemic leave assistance qualifying period. As a part of the application process, the employee must attest that the lack of qualifying hours for their normal qualifying period is attributable to the COVID-19 pandemic before they can be approved.

[]

WSR 21-16-063

PERMANENT RULES

BUILDING CODE COUNCIL

[Filed July 29, 2021, 5:05 p.m., effective August 29, 2021]

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

Purpose: This rule is in response to E3SHB 1257, chapter 285, Laws of 2019, and addresses WAC 51-50-0427 Amendments to the 2018 International Building Code pertaining to electric vehicle charging infrastructure. This is a correction to WSR 21-14-074, which inadvertently retained an earlier error in section numbering, placing what should have been Section 429 into 427.

Citation of Rules Affected by this Order: New 1; amending 1.

Statutory Authority for Adoption: RCW 19.27.077.

Other Authority: RCW 19.27.031, 19.27.074.

Adopted under notice filed as WSR 21-03-081 on January 19, 2021.

Changes Other than Editing from Proposed to Adopted Version: WAC 51-50-0427 is renumbered to WAC 51-50-0429 and all sections are renumbered to align with numbering in the model code. WAC 51-50-0427 will be "Reserved" for possible future use. No other changes were made to the text filed in the CR-102. This CR-103P is a correction to WSR 21-14-074, which was unintentionally filed with incorrect section numbers (under WAC 51-50-0427) and overwriting requirements in the model code for medical gas systems which was intended to be retained.

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 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 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: June 18, 2021.

Diane Glenn
Chair

OTS-3239.1

AMENDATORY SECTION (Amending WSR 21-14-074, filed 7/6/21, effective 8/6/21)

WAC 51-50-0427 ((Section 427 Electric vehicle charging infrastructure-)) Reserved.

~~((427.1 Scope. The provisions of this section shall apply to the construction of new buildings.~~

EXCEPTIONS: 1. Occupancies classified as Group R-3 or Group U.
2. Group A, Group E, or Group M occupancies, except where employee parking spaces are designated. The provisions of Section 427 shall apply only to those designated employee parking spaces.

~~**427.2 Required electric vehicle charging infrastructure.** Where parking is provided, ten percent of parking spaces shall be provided with electric vehicle charging infrastructure in compliance with Sections 427.3, 427.4 and 427.5. When the calculation of percent served results in a fractional parking space, the applicant shall round up to the next whole number.~~

~~**427.3 Electrical room(s).** Electrical room(s) serving buildings with on-site parking spaces must be sized to accommodate the potential for electrical equipment and distribution required to serve a minimum of 20 percent of the total parking spaces with 208/240 V 40-amp, circuit or equivalent electric vehicle charging infrastructure.~~

~~**427.4 Electric vehicle charging infrastructure.** Electric vehicle charging infrastructure shall meet the following requirements:~~

~~1. A minimum number of 208/240 V 40-amp, circuit or equivalent electric vehicle charging stations required to serve the parking spaces specified in section 427.2. The electric vehicle charging stations shall be located to serve spaces designated for parking and charging electric vehicles.~~

~~2. Additional service capacity, space for future meters, panel capacity or space for additional panels, and raceways for future installation of electric vehicle charging stations. The service capacity and raceway size shall be designed to accommodate the future installation of the number of 208/240 V 40-amp, circuit or equivalent electric vehicle charging stations specified in section 427.2. The raceway shall terminate at spaces designated for parking and charging electric vehicles in the future.~~

~~Where designated electric vehicle charging locations serve exterior on-grade parking spaces that are located more than 4 feet from a building, raceways shall be extended below grade to a pull box in the vicinity of the designated future electric vehicle charging locations or stub above grade in the vicinity of the designated future electric vehicle charging locations, protected from vehicles by a curb or other device.~~

~~EXCEPTION: In lieu of surface-mounted raceway between the electrical panel and the designated electric vehicle charging locations, it is permitted to provide permanent markings indicating the pathway for future raceway, and one-inch diameter capped sleeves through each wall and floor assembly that are penetrated along that route. This pathway and the locations of capped sleeves shall also be indicated on the electrical plans. Raceway shall be installed for any portion of the pathway located below slabs, below grade, or within floor, wall or roof assemblies.~~

~~Load management infrastructure may be used to adjust the size and capacity of the required building electric service equipment and circuits on the customer facilities, as well as electric utility owned infrastructure, as allowed by applicable local and national electric codes.~~

~~**427.5 Electric vehicle charging infrastructure for accessible parking spaces.** When electric vehicle charging infrastructure is required, ten percent of accessible parking space, rounded to the next whole number, shall be provided with electric vehicle charging infrastructure. The electric vehicle charging infrastructure may also serve adjacent parking spaces not designated as accessible parking. A maximum of ten percent rounded to the next whole number, of the accessible parking spaces are allowed to be included in the total number of electric vehicle parking spaces required under Section 427.2.)~~

~~[Statutory Authority: RCW 19.27.077, 19.27.031, and 19.27.074. WSR 21-14-074, § 51-50-0427, filed 7/6/21, effective 8/6/21. Statutory Au-~~

thority: RCW 19.27.031 and 19.27.074. WSR 16-03-064, § 51-50-0427, filed 1/19/16, effective 7/1/16.]

NEW SECTION

WAC 51-50-0429 Section 429—Electric vehicle charging infrastructure.

429.1 Scope. The provisions of this section shall apply to the construction of new buildings.

EXCEPTIONS:

1. Occupancies classified as Group R-3 or Group U.
2. Group A, Group E, or Group M occupancies, except where employee parking spaces are designated. The provisions of Section 429 shall apply only to those designated employee parking spaces.

429.2 Required electric vehicle charging infrastructure. Where parking is provided, ten percent of parking spaces shall be provided with electric vehicle charging infrastructure in compliance with Sections 429.3, 429.4 and 429.5. When the calculation of percent served results in a fractional parking space, the applicant shall round up to the next whole number.

429.3 Electrical room(s). Electrical room(s) serving buildings with on-site parking spaces must be sized to accommodate the potential for electrical equipment and distribution required to serve a minimum of 20 percent of the total parking spaces with 208/240 V 40-amp, circuit or equivalent electric vehicle charging infrastructure.

429.4 Electric vehicle charging infrastructure. Electric vehicle charging infrastructure shall meet the following requirements:

1. A minimum number of 208/240 V 40-amp, circuit or equivalent electric vehicle charging stations required to serve the parking spaces specified in Section 429.2. The electric vehicle charging stations shall be located to serve spaces designated for parking and charging electric vehicles.

2. Additional service capacity, space for future meters, panel capacity or space for additional panels, and raceways for future installation of electric vehicle charging stations. The service capacity and raceway size shall be designed to accommodate the future installation of the number of 208/240 V 40-amp, circuit or equivalent electric vehicle charging stations specified in Section 429.2. The raceway shall terminate at spaces designated for parking and charging electric vehicles in the future.

Where designated electric vehicle charging locations serve exterior on-grade parking spaces that are located more than 4 feet from a building, raceways shall be extended below grade to a pull box in the vicinity of the designated future electric vehicle charging locations or stub above grade in the vicinity of the designated future electric vehicle charging locations, protected from vehicles by a curb or other device.

EXCEPTION:

In lieu of surface-mounted raceway between the electrical panel and the designated electric vehicle charging locations, it is permitted to provide permanent markings indicating the pathway for future raceway, and one-inch diameter capped sleeves through each wall and floor assembly that are penetrated along that route. This pathway and the locations of capped sleeves shall also be indicated on the electrical plans. Raceway shall be installed for any portion of the pathway located below slabs, below grade, or within floor, wall or roof assemblies.

Load management infrastructure may be used to adjust the size and capacity of the required building electric service equipment and circuits on the customer facilities, as well as electric utility owned

infrastructure, as allowed by applicable local and national electric codes.

429.5 Electric vehicle charging infrastructure for accessible parking spaces. When electric vehicle charging infrastructure is required, ten percent of accessible parking space, rounded to the next whole number, shall be provided with electric vehicle charging infrastructure. The electric vehicle charging infrastructure may also serve adjacent parking spaces not designated as accessible parking. A maximum of ten percent rounded to the next whole number, of the accessible parking spaces are allowed to be included in the total number of electric vehicle parking spaces required under Section 429.2.

[]

WSR 21-16-069
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 21-130—Filed July 30, 2021, 11:48 a.m., effective August 30, 2021]

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

Purpose: The purpose of this rule change is to adopt WAC for coastal recreational bottomfish and halibut fisheries that are consistent with regulations adopted by the Pacific Fishery Management Council (council).

Recreational fisheries in Washington are primarily constrained by yelloweye rockfish. Depth restrictions and closed areas have been an effective tool for minimizing encounters with yelloweye rockfish and keeping catch within state specific harvest guidelines (HG). Largely influenced by the federal yelloweye rockfish annual catch limit, regulatory changes focus on reducing the timing when depth restrictions are in place and the need for depth restrictions. The regulatory changes also consider reducing restrictions on the retention of healthy rockfish and flatfish species.

WAC 220-314-010 Bottomfish and halibut—Closed areas. This change would open two yelloweye rockfish conservation areas (YRCAs) located in Marine Area 1, the Westport Offshore YRCA and South Coast YRCA, to fishing for, retaining, and possessing bottomfish and halibut.

WAC 220-314-020 Possession limits—Bottomfish. This change would allow the retention of five flatfish in addition to the nine fish daily bottomfish limit.

WAC 220-314-030 Halibut—Seasons—Daily and possession limits. Regulation changes are necessary to revise depth restrictions in Marine Areas 1 through 4. Federal harvest quotas for yelloweye rockfish in Washington are high enough to allow some relaxation of depth restrictions which would provide access to healthy lingcod resources that are commonly found in areas with yelloweye rockfish.

The 20-fathom depth restriction in Marine Areas 3 and 4, west of the Bonilla-Tatoosh line would be in place each year from June 1 through July 31.

Yellowtail and widow rockfish retention would be allowed seaward of the 120-foot depth restriction in Marine Area 4 east of the Bonilla-Tatoosh line during July and August, and seaward of the 20-fathom depth restriction in Marine Areas 3 and 4 west of the Bonilla-Tatoosh line during the month of July.

In Marine Areas 3 and 4, anglers will be allowed to retain lingcod, sablefish, Pacific cod, bocaccio, silvergray, canary, widow, and yellowtail rockfish.

In Marine Area 2, the 30-fathom line would be in place each year from May 1 to May 31.

In Marine Area 1 anglers would be allowed to retain the following bottomfish when halibut is on board: Sablefish, Pacific cod, flatfish, yellowtail, widow, canary, redstriped, greenstriped, silvergray, chilipepper, bocaccio, blue and deacon rockfish, as well as lingcod north of the Washington-Oregon [border].

WAC 220-314-040 Lingcod—Areas and seasons. A deepwater area in Marine Areas 1 and 2 is closed to lingcod retention; this rule change would allow lingcod retention in this area each year from June 1 through June 15 and from September 1 through September 30.

Citation of Rules Affected by this Order: Amending WAC 220-220-010 Bottomfish and halibut—Closed areas, 220-314-020 Posses-

sion Limits—Bottomfish, 220-314-030 Halibut—Seasons—Daily and possession limits, and 220-314-040 Lingcod—Areas and seasons.

Statutory Authority for Adoption: RCW 77.04.020, 77.12.045, and 77.12.047.

Other Authority: C.F.R. Title 50, Part 660.

Adopted under notice filed as WSR 21-08-093 on April 7, 2021.

Changes Other than Editing from Proposed to Adopted Version:

None. This rule making went through the expedited rule-making process which eliminated the need for the agency to hold a public hearing. No objections to this rule making were received.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 4, 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 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: July 30, 2021.

Kelly Susewind
Director

OTS-2992.1

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-314-010 Bottomfish and halibut—Closed areas. (1) It is unlawful to take, fish for, retain, or possess bottomfish or halibut taken for personal use from within the following areas: ((a)) An eastward-facing C-shaped closed area defined as: Beginning at 48°N, 124°59'W; thence to 48°N, 125°18'W; thence to 48°18'N, 125°18'W; thence to 48°18'N, 124°59'W; thence to 48°11'N, 124°59'W; thence to 48°11'N, 125°11'W; thence to 48°04'N, 125°11'W; thence to 48°04'N, 124°59'W; thence to the point of origin.

((b) The "Westport Offshore Recreational YRCA" closed area, defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed: Beginning at 46°54.30'N, 124°53.40'W; thence to 46°54.30'N, 124°51.00'W; thence to 46°53.30'N, 124°51.00'W; thence to 46°53.30'N, 124°53.40'W; thence to the point of origin.

(c) The "South Coast Recreational YRCA" closed area, defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed: Beginning at 46°58.00'N, 124°48.00'W; thence to 46°55.00'N, 124°48.00'W; thence to 46°55.00'N, 124°49.00'W; thence to 46°58.00'N, 124°49.00'W; thence to the point of origin.)

(2) In Marine Area 4 east of the westernmost point of Cape Flattery and Marine Area 5 through 13, it is unlawful to take, fish for, retain, or possess bottomfish taken for personal use except from within the following areas:

(a) In Marine Area 4 east of the westernmost point of Cape Flattery, Marine Area 5, and Marine Area 6 west of the easternmost point of Dungeness Spit: Waters inside of an area approximating 120 feet (20 fathoms) described by following the coordinates: 124°44.20'W, 48°23.90'N; 124°40.00'W, 48°24.10'N; 124°36.46'W, 48°23.61'N; 124°21.24'W, 48°17.71'N; 124°14.43'W, 48°15.96'N; 124°02.02'W, 48°11.91'N; 123°34.51'W, 48°09.93'N; 123°31.13'W, 48°11.02'N; 123°24.13'W, 48°08.53'N; 123°06.02'W, 48°11.45'N; 123°06.02'W, 48°08.22'N.

(b) In the remaining portion of Marine Area 6, and Marine Areas 7 through 11 and 13: Waters shallower than 120 feet (20 fathoms).

(c) In Marine Area 12 north of a true east line from the mouth of Turner Creek to the Toandos Peninsula: Waters shallower than 120 feet (20 fathoms).

(3) It is unlawful to take, fish for, retain, or possess rockfish taken for personal use from Marine Areas 6 through 13.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-314-010, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.045, and 77.12.047. WSR 15-15-012 (Order 15-199), § 220-56-230, filed 7/2/15, effective 8/2/15. Statutory Authority: RCW 77.12.047. WSR 10-07-105 (Order 10-64), § 220-56-230, filed 3/19/10, effective 5/1/10. Statutory Authority: RCW 77.04.020 and 77.12.047. WSR 09-14-010 (Order 09-107), § 220-56-230, filed 6/22/09, effective 7/23/09. Statutory Authority: RCW 77.12.047. WSR 03-05-057 (Order 03-24), § 220-56-230, filed 2/14/03, effective 5/1/03. Statutory Authority: RCW 75.08.080. WSR 90-06-026, § 220-56-230, filed 2/28/90, effective 3/31/90.]

AMENDATORY SECTION (Amending WSR 20-04-058, filed 1/30/20, effective 7/1/20)

WAC 220-314-020 Possession limits—Bottomfish. It is unlawful for any person to fish for or take bottomfish for personal use except within the seasons, daily quantities, and possession limits prescribed as follows:

(1) Coastal areas (Marine Areas 1 through 3 and 4 west of the Bonilla-Tatoosh line):

(a) Bottomfish fishing is open the second Saturday in March through the third Saturday in October, except fishing for surfperch from the shore is allowed year-round.

(b) Limit of surfperch is 12 per person per day. For all other bottomfish, limit is 9 fish total per person per day, which may include no more than:

(i) Lingcod: 2 fish, no minimum length.

(ii) Rockfish: 7 fish in aggregate. The possession limit for yelloweye rockfish is 0.

(iii) Wolf-eel: 0 fish from Catch Record Card Area 4.

(iv) Cabezon: Marine Areas 1 through 4: 1 fish, no minimum size.

(c) Additional flatfish: In addition to the bottomfish limit in (b) of this subsection, anglers may take ((3)) 5 flatfish per person, per day, not to be counted towards the bottomfish limit but in addition to it.

(2) Inner Puget Sound (Marine Areas 4 east of the Bonilla-Tatoosh line, and 5 through 13):

(a) Marine Area 4 east of the Bonilla-Tatoosh line: Limit of surfperch is 12 per person per day. For all other bottomfish, 9 fish total, which may include no more than:

(i) Lingcod: 2 fish, no minimum length.

(ii) Rockfish: 7 fish. Only black, blue/deacon, yellowtail, and widow rockfish may be retained.

(iii) Wolf-eel: 0 fish.

(iv) Cabezon: 1 fish, no minimum size.

(b) Marine Areas 5 and 6: 15 fish total for all species and species groups of bottomfish, which may include no more than:

Rockfish in Marine Area 5 except	1 fish May 1 through September 30. Only black or blue/deacon rockfish may be retained.
in Marine Area 5 west of Slip Point	3 fish. Only black or blue/deacon rockfish may be retained.
in Marine Area 6.	0 fish
Surfperch	10 fish
Pacific cod	2 fish
Pollock	2 fish
Flatfish (except halibut)	15 fish
Lingcod	1 fish
Wolf-eel	0 fish
Cabezon	1 fish
Pacific hake	2 fish

(c) Marine Area 7: 15 fish total for all species of bottomfish, which may include no more than:

Rockfish	0 fish
Surfperch	10 fish
Pacific cod	2 fish
Flatfish (except halibut)	15 fish
Lingcod	1 fish
Wolf-eel	0 fish
Cabezon	1 fish
Pollock	2 fish
Pacific hake	2 fish

(d) Marine Areas 8-1 through 11, and 13: 15 fish total for all species and species groups of bottomfish, which may include no more than:

Rockfish	0 fish
Surfperch	10 fish
Pacific cod	0 fish
Pollock	0 fish

Flatfish (except halibut)	15 fish
Lingcod	1 fish
Wolf-eel	0 fish
Cabezon	1 fish
Pacific hake	0 fish

(e) Marine Area 12: 15 fish total for all species and species groups of bottomfish, which may include no more than:

Rockfish	0 fish
Surfperch	0 fish
Pacific cod	0 fish
Pollock	0 fish
Flatfish (except halibut) only in Dabob Bay north of Turner Creek	15 fish
Lingcod	0 fish
Wolf-eel	0 fish
Cabezon	0 fish
Pacific hake	0 fish

(f) The possession limit for lingcod taken by angling gear is 26 to 36 inches in length. For spear fishing, lingcod may not be possessed that exceed 36 inches in length but there is no minimum size limit.

(g) In Marine Areas 5 through 11, and 13, the minimum size limit for cabezon is 18 inches. All cabezon must be released in Marine Areas 5 through 11, and 13, from December 1 through April 30.

(h) In Marine Area 5, the daily limit for rockfish is the first legal rockfish caught, except that west of Slip Point, the daily limit for rockfish is the first three legal rockfish caught. Only black or blue/deacon rockfish may be retained. After the daily limit of rockfish is caught, all subsequent rockfish must be released.

(i) In Marine Area 5, it is unlawful to take rockfish by spear fishing except when this area is open to spear fishing for lingcod.

(3) The possession limit at any time may not exceed the equivalent of two daily limits in fresh, frozen or processed form.

(4) Unless otherwise provided, bottomfish fishing is open the entire year.

(5) Daily limits include bottomfish caught in adjacent areas bordering other states, such as Oregon.

(6) It is unlawful to fish for, retain, or possess sixgill, sevengill, or thresher sharks.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, and 77.04.055. WSR 20-04-058 (Order 20-19), § 220-314-020, filed 1/30/20, effective 7/1/20. Statutory Authority: RCW 77.04.020, 77.12.045, 77.12.047 and C.F.R. Title 50, Part 660. WSR 19-16-001 (Order 19-150), § 220-314-020, filed 7/24/19, effective 8/24/19; WSR 18-23-070 (Order 18-302), § 220-314-020, filed 11/16/18, effective 12/17/18; WSR 17-17-045, § 220-314-020, filed 8/10/17, effective 9/10/17. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-314-020, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.04.020, 77.12.045, 77.12.047, and C.F.R. Title 50, Part 660. WSR 16-17-017

(Order 16-200), § 220-56-235, filed 8/5/16, effective 9/5/16. Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.045, and 77.12.047. WSR 15-15-012 (Order 15-199), § 220-56-235, filed 7/2/15, effective 8/2/15. Statutory Authority: RCW 77.04.012 and 77.12.047. WSR 13-19-007 (Order 13-221), § 220-56-235, filed 9/5/13, effective 10/6/13; WSR 12-05-082 (Order 12-17), § 220-56-235, filed 2/16/12, effective 3/18/12. Statutory Authority: RCW 77.04.020, 77.12.045, 77.12.047, and C.F.R. Title 50, Part 660. WSR 11-15-003 (Order 11-142), § 220-56-235, filed 7/6/11, effective 8/6/11. Statutory Authority: RCW 77.04.020, 77.12.045, 77.12.047 and 50 C.F.R., Parts 223 and 224. WSR 11-07-107 (Order 11-30), § 220-56-235, filed 3/23/11, effective 4/23/11. Statutory Authority: RCW 77.12.047. WSR 10-07-105 (Order 10-64), § 220-56-235, filed 3/19/10, effective 5/1/10. Statutory Authority: RCW 77.12.047 and 77.65.200. WSR 07-12-080, § 220-56-235, filed 6/5/07, effective 7/6/07. Statutory Authority: RCW 77.12.047. WSR 04-17-098 (Order 04-218), § 220-56-235, filed 8/17/04, effective 9/17/04; WSR 04-07-009 (Order 04-39), § 220-56-235, filed 3/4/04, effective 5/1/04; WSR 03-16-100 (Order 03-178), § 220-56-235, filed 8/6/03, effective 9/6/03; WSR 03-05-057 (Order 03-24), § 220-56-235, filed 2/14/03, effective 5/1/03; WSR 02-09-001 (Order 02-53A), § 220-56-235, filed 4/3/02, effective 5/4/02; WSR 01-06-036 (Order 01-24), § 220-56-235, filed 3/5/01, effective 5/1/01. Statutory Authority: 2000 c 107 § 7. WSR 00-17-016 (Order 00-139), § 220-56-235, filed 8/3/00, effective 9/3/00. Statutory Authority: RCW 75.08.080, 77.12.040. WSR 00-08-038 (Order 00-29), § 220-56-235, filed 3/29/00, effective 5/1/00; WSR 99-15-081 (Order 99-102), § 220-56-235, filed 7/20/99, effective 8/20/99. Statutory Authority: RCW 75.08.080. WSR 98-15-032 (Order 98-119), § 220-56-235, filed 7/7/98, effective 8/7/98; WSR 97-07-078 (Order 97-53), § 220-56-235, filed 3/19/97, effective 5/1/97; WSR 96-05-004 (Order 96-13), § 220-56-235, filed 2/9/96, effective 5/1/96; WSR 95-04-066 (Order 95-10), § 220-56-235, filed 1/30/95, effective 5/1/95; WSR 94-14-069, § 220-56-235, filed 7/1/94, effective 8/1/94; WSR 93-08-034 (Order 93-20), § 220-56-235, filed 3/31/93, effective 5/1/93; WSR 92-11-012 (Order 92-19), § 220-56-235, filed 5/12/92, effective 6/12/92; WSR 91-08-054 (Order 91-13), § 220-56-235, filed 4/2/91, effective 5/3/91; WSR 90-06-026, § 220-56-235, filed 2/28/90, effective 3/31/90; WSR 89-07-060 (Order 89-12), § 220-56-235, filed 3/16/89; WSR 88-10-013 (Order 88-15), § 220-56-235, filed 4/26/88; WSR 85-09-017 (Order 85-20), § 220-56-235, filed 4/9/85; WSR 84-09-026 (Order 84-22), § 220-56-235, filed 4/11/84; WSR 83-07-043 (Order 83-16), § 220-56-235, filed 3/17/83; WSR 80-07-017 (Order 80-45), § 220-56-235, filed 6/11/80; WSR 80-03-064 (Order 80-12), § 220-56-235, filed 2/27/80, effective 4/1/80.]

AMENDATORY SECTION (Amending WSR 20-04-058, filed 1/30/20, effective 7/1/20)

WAC 220-314-030 Halibut—Seasons—Daily and possession limits.

(1) It is unlawful to fish for or possess halibut taken for personal use except from the areas or in excess of the amounts provided for in this section:

(a) Marine Area 1: Closed except as provided by emergency rule. By-catch restriction: It is unlawful during any vessel trip to bring into port or land bottomfish, except flatfish, sablefish, Pacific cod,

yellowtail rockfish, widow rockfish, canary rockfish, redstriped rockfish, greenstriped rockfish, silvergray rockfish, chilipepper, bocaccio, blue/deacon rockfish, and lingcod north of the Washington-Oregon border if the vessel has brought halibut into port or landed halibut.

(b) Marine Area 2:

(i) The northern near shore fishery takes place in those waters from 47°31.70'N. lat. south to 46°58.00'N. lat. and east of a boundary line approximating the 30 fathom depth contour as defined by the following coordinates:

47°31.70'N. lat., 124°37.03'W. long.
 47°25.67'N. lat., 124°34.79'W. long.
 47°12.82'N. lat., 124°29.12'W. long.
 46°58.00'N. lat., 124°24.24'W. long.

Closed except as provided by emergency rule.

(ii) All other waters in Area 2 - Closed except as provided by emergency rule.

(iii) From (~~the second Saturday in March~~) May 1 through May 31, it is unlawful to fish for or possess lingcod, seaward of line approximating the 30-fathom depth contour as defined by the coordinates below. However, a person may fish for and retain lingcod on days open during the primary halibut season as described in (b)(ii) of this subsection, seaward of a line approximating the 30-fathom depth contour as defined by the coordinates below:

47°31.70'N. lat., 124°37.03'W. long.
 47°25.67'N. lat., 124°34.79'W. long.
 47°12.82'N. lat., 124°29.12'W. long.
 46°52.94'N. lat., 124°22.58'W. long.
 46°44.18'N. lat., 124°18.00'W. long.
 46°38.17'N. lat., 124°15.88'W. long.

(c) Marine Areas 3 and 4 west of Bonilla-Tatoosh line - Closed except as provided by emergency rule. The following area southwest of Cape Flattery is closed to halibut fishing at all times:

Those waters within an eastward-facing C-shaped closed area defined as: Beginning at 48°18'N. lat., 125°18'W. long.; thence to 48°18'N. lat., 124°59'W. long.; thence to 48°11'N. lat., 124°59'W. long.; thence to 48°11'N. lat., 125°11'W. long.; thence to 48°04'N. lat., 125°11'W. long.; thence to 48°04'N. lat., 124°59'W. long.; thence to 48°00'N. lat., 124°59'W. long.; thence to 48°00'N. lat., 125°18'W. long.; thence to the point of origin.

It is unlawful to fish for or possess bottomfish seaward of a line approximating the 20-fathom depth contour as defined by the following coordinates, from June 1 through (~~Labor Day~~) July 31 except, on days and times open to halibut fishing, it is permissible to retain lingcod, sablefish, bocaccio, silvergray rockfish, canary rockfish, widow rockfish, yellowtail rockfish, and Pacific cod. The retention of yellowtail rockfish and widow rockfish is permitted seaward of the line approximating 20 fathoms (~~on days open to the recreational salmon fishery~~) during the month(~~s~~) of July (~~and August~~):

48°23.9'N. lat., 124°44.2'W. long.
 48°23.6'N. lat., 124°44.9'W. long.
 48°18.6'N. lat., 124°43.6'W. long.
 48°18.6'N. lat., 124°48.2'W. long.
 48°10.0'N. lat., 124°48.8'W. long.
 48°02.4'N. lat., 124°49.3'W. long.

47°37.6'N. lat., 124°34.3'W. long.

47°31.7'N. lat., 124°32.4'W. long.

(d) Marine Area 4 east of the Bonilla-Tatoosh line, closed except as provided by emergency rule. It is unlawful to fish for or possess bottomfish seaward of a line approximating 120 feet except, on days open to the Pacific halibut fishery in this area, it is permissible to retain lingcod, and Pacific cod seaward of 120 feet as defined by WAC 220-314-010. The retention of yellowtail rockfish and widow rockfish is permitted seaward of the line approximating 120 feet (~~on days open to the recreational salmon fishery~~) during the months of July and August.

(e) Marine Areas 5 through 11, and 13 - On days that the halibut fishery is open, it is lawful to fish for, retain, and possess lingcod and Pacific cod seaward of 120 feet in Marine Area 5. Closed except as provided by emergency rule.

(2) Daily limit is one halibut taken from state or offshore waters. This does not include Canadian waters; see WAC 220-310-210 for limits on Canadian-origin halibut.

(3) The possession limit is two daily limits of halibut in any form, except the possession limit aboard the fishing vessel is one daily limit. See WAC 220-310-210 for rules on Canadian-origin halibut possession.

(4) The annual limit is four halibut taken from state or offshore waters. This does not include Canadian waters; see WAC 220-310-210 for limits on Canadian-origin halibut.

(5) It is unlawful to fish for, retain, possess, or land halibut into a port located within an area that is closed to halibut fishing. This does not include halibut caught in Canadian waters. See WAC 220-310-210 for rules on Canadian-origin halibut possession.

(6) A violation of this section is punishable under RCW 77.15.370 or 77.15.380, depending on the violation.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, and 77.04.055. WSR 20-04-058 (Order 20-19), § 220-314-030, filed 1/30/20, effective 7/1/20. Statutory Authority: RCW 77.04.020, 77.12.045, 77.12.047 and C.F.R. Title 50, Part 660. WSR 19-16-001 (Order 19-150), § 220-314-030, filed 7/24/19, effective 8/24/19; WSR 18-23-070 (Order 18-302), § 220-314-030, filed 11/16/18, effective 12/17/18; WSR 17-17-045, § 220-314-030, filed 8/10/17, effective 9/10/17. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-314-030, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.04.020, 77.12.045, 77.12.047, and C.F.R. Title 50, Part 660. WSR 12-08-033 (Order 12-28), § 220-56-255, filed 3/29/12, effective 4/29/12. Statutory Authority: RCW 77.04.020, 77.12.045, and 77.12.047. and C.F.R. Title 50, Part 300. WSR 10-17-003 (Order 10-199), § 220-56-255, filed 8/4/10, effective 9/4/10. Statutory Authority: RCW 77.04.020 and 77.12.047. WSR 09-14-010 (Order 09-107), § 220-56-255, filed 6/22/09, effective 7/23/09; WSR 07-21-068, § 220-56-255, filed 10/15/07, effective 11/15/07. Statutory Authority: RCW 77.12.047. WSR 06-17-057 (Order 06-199), § 220-56-255, filed 8/10/06, effective 9/10/06; WSR 05-14-035 (Order 05-130), § 220-56-255, filed 6/24/05, effective 7/25/05; WSR 03-05-057 (Order 03-24), § 220-56-255, filed 2/14/03, effective 5/1/03. Statutory Authority: RCW 75.08.080 and 77.12.040. WSR 99-15-081 (Order 99-102), § 220-56-255, filed 7/20/99, effective 8/20/99; WSR 99-08-029 (Order 99-13), § 220-56-255, filed

3/30/99, effective 5/1/99; WSR 98-06-031, § 220-56-255, filed 2/26/98, effective 5/1/98. Statutory Authority: RCW 75.08.080. WSR 97-07-078 (Order 97-53), § 220-56-255, filed 3/19/97, effective 5/1/97; WSR 95-12-027 (Order 95-46), § 220-56-255, filed 5/31/95, effective 7/1/95; WSR 94-14-069, § 220-56-255, filed 7/1/94, effective 8/1/94; WSR 93-15-011, § 220-56-255, filed 7/8/93, effective 8/8/93; WSR 93-08-034 (Order 93-20), § 220-56-255, filed 3/31/93, effective 5/1/93; WSR 89-07-060 (Order 89-12), § 220-56-255, filed 3/16/89; WSR 88-10-013 (Order 88-15), § 220-56-255, filed 4/26/88; WSR 85-10-062 (Order 85-39), § 220-56-255, filed 5/1/85; WSR 80-03-064 (Order 80-12), § 220-56-255, filed 2/27/80, effective 4/1/80. Formerly WAC 220-56-071.]

AMENDATORY SECTION (Amending WSR 20-04-058, filed 1/30/20, effective 7/1/20)

WAC 220-314-040 Lingcod—Areas and seasons. It is unlawful to take, fish for, or possess lingcod for personal use except during the following seasons and areas:

(1) Coastal area:

(a) Marine Areas 1 through 4: From the second Saturday in March, through the third Saturday in October.

(b) It is unlawful to fish for, retain, or possess lingcod in Marine Area 1 seaward of a line extending from 46°38.17'N. lat., 124°21.00'W. long. to 46°33.00'N. lat., 124°21.00'W. long. when lingcod is open, except that lingcod may be taken, retained and possessed seaward of the line from June 1 through June 15 and September 1 through September 30.

(c) It is unlawful to fish for, retain, or possess lingcod in Marine Area 2 seaward of a line extending from 47°31.70'N. lat., 124°45.00'W. long. south to 46°38.17'N. lat., 124°30.00'W. long. when lingcod is open, except that lingcod may be taken, retained and possessed seaward of the line on days open during the primary halibut season and from June 1 through June 15 and September 1 through September ~~(15)~~ 30.

(2) Marine Areas 5 through 11, and 13: May 1 through June 15 by angling, and May 21 through June 15 by spear fishing.

(3) Marine Area 12: Closed year-round.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, and 77.04.055. WSR 20-04-058 (Order 20-19), § 220-314-040, filed 1/30/20, effective 7/1/20. Statutory Authority: RCW 77.04.020, 77.12.045, 77.12.047 and C.F.R. Title 50, Part 660. WSR 19-16-001 (Order 19-150), § 220-314-040, filed 7/24/19, effective 8/24/19; WSR 17-17-045, § 220-314-040, filed 8/10/17, effective 9/10/17. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-314-040, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.04.020, 77.12.045, 77.12.047, and C.F.R. Title 50, Part 660. WSR 12-08-033 (Order 12-28), § 220-56-250, filed 3/29/12, effective 4/29/12; WSR 11-15-002 (Order 11-141), § 220-56-250, filed 7/6/11, effective 8/6/11. Statutory Authority: RCW 77.04.020 and 77.12.047. WSR 09-14-010 (Order 09-107), § 220-56-250, filed 6/22/09, effective 7/23/09; WSR 08-15-089 (Order 08-173), § 220-56-250, filed 7/17/08, effective 8/17/08. Statutory Au-

thority: RCW 77.12.047. WSR 04-07-009 (Order 04-39), § 220-56-250, filed 3/4/04, effective 5/1/04; WSR 03-05-057 (Order 03-24), § 220-56-250, filed 2/14/03, effective 5/1/03. Statutory Authority: 2000 c 107 § 7. WSR 00-17-016 (Order 00-139), § 220-56-250, filed 8/3/00, effective 9/3/00. Statutory Authority: RCW 75.08.080, 77.12.040. WSR 00-08-038 (Order 00-29), § 220-56-250, filed 3/29/00, effective 5/1/00. Statutory Authority: RCW 75.08.080. WSR 92-11-012 (Order 92-19), § 220-56-250, filed 5/12/92, effective 6/12/92; WSR 91-08-054 (Order 91-13), § 220-56-250, filed 4/2/91, effective 5/3/91; WSR 89-10-032 (Order 89-26), § 220-56-250, filed 4/27/89; WSR 84-09-026 (Order 84-22), § 220-56-250, filed 4/11/84; WSR 83-07-043 (Order 83-16), § 220-56-250, filed 3/17/83; WSR 82-07-047 (Order 82-19), § 220-56-250, filed 3/18/82; WSR 80-07-017 (Order 80-45), § 220-56-250, filed 6/11/80; WSR 80-03-064 (Order 80-12), § 220-56-250, filed 2/27/80, effective 4/1/80.]

WSR 21-16-072

PERMANENT RULES

GAMBLING COMMISSION

[Filed July 30, 2021, 2:01 p.m., effective August 30, 2021]

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

Purpose: On March 25, 2020, Governor Jay Inslee signed HB [ESHB] 2638 authorizing sports wagering for Class III tribal facilities under terms negotiated in tribal-state compacts, and adding or amending several sections of the Gambling Act giving the gambling commission the authority to adopt and/or amend rules needed for the state's regulation of sports wagering. Several tribal-state compact amendment agreements have been reached and signed by the governor; therefore, the gambling commission needs to adopt and amend existing rules to create a licensing and regulatory framework for sports wagering consistent with the Gambling Act and negotiated tribal-state compact amendments. The proposed rules address: (1) Licensing and regulation; and (2) agency funding, consistent with the Gambling Act and recently negotiated tribal-state compact amendments.

Citation of Rules Affected by this Order: New WAC 230-03-196 Additional information required for sports wagering vendors, 230-03-229 Applying for a major sports wagering vendor license, 230-03-231 Applying for a mid-level sports wagering license, 230-03-233 Applying for an ancillary sports wagering vendor license, 230-03-234 Sports wagering vendor applicants and associated entities in their corporate structure, 230-03-311 Applying for a major sports wagering vendor representative license, 230-03-312 Applying for a mid-level sports wagering vendor representative license, 230-03-313 Applying for an ancillary sports wagering vendor representative license, 230-06-084 Submitting sports wagering related contracts and agreements for review and 230-06-116 Transporting, displaying, and selling gambling equipment at trade shows; repealing WAC 230-03-408 Applying for sports wagering prelicensing investigation, 230-05-101 Implementation of new permit and license fees and 230-16-005 Transporting, displaying, and selling gambling equipment at trade shows; and amending WAC 230-03-035 Applying for a license, 230-03-040 Signing the application, 230-03-045 Defining substantial interest holder, 230-03-060 Fingerprinting, 230-03-065 Spouses must also be qualified, 230-03-070 Training required for licensing, 230-03-075 Withdrawing your application, 230-03-195 Additional information required from manufacturer, distributor, and sports wagering vendor license applicants, 230-03-320 Substantial interest holders not required to be licensed as representatives, 230-03-330 Representing one or more licensed businesses, 230-03-335 Representatives must not work before receiving a license, 230-05-110 Defining "gross gambling receipts rate," 230-05-112 Defining "gross gambling receipts," 230-05-120 Paying annual license fee, 230-05-124 Quarterly license reports and quarterly license fees, 230-05-125 Report gross gambling receipts on the quarterly license report, 230-05-126 Online filing and payments required with waivers available upon request for good cause, 230-05-170 Fees for other businesses, 230-05-175 Individual license fees, 230-06-030 Restrictions and conditions for gambling promotions, 230-06-050 Review of electronic or mechanical gambling equipment malfunctions, 230-06-082 Manufacturers, distributors, gambling service suppliers, sports wagering vendors, linked bingo prize providers, and call centers for enhanced raffles reporting changes in licensed employees, 230-06-110 Buying, sell-

ing, or transporting gambling equipment, and 230-06-120 Selling or transferring gambling equipment when no longer licensed.

Decodified and recodified:

Old WAC Number	New WAC Number
230-03-230	230-03-226
230-03-232	230-03-227

Statutory Authority for Adoption: RCW 9.46.070, 9.46.075, 9.46.140, 9.46.153, 9.46.210.

Adopted under notice filed as WSR 21-13-165 on June 23, 2021.

Changes Other than Editing from Proposed to Adopted Version: Non-substantive changes were made to the following:

WAC 230-03-200 Defining "gambling equipment." No amendments are being made to this rule, meaning "sports wagering" is not being included in this definition.

WAC 230-05-170 Fees for other businesses. The major vendor licensing fee was reduced from \$85,000 to \$65,000.

WAC 230-06-050 Review of electronic or mechanical gambling equipment. Removal of references to WAC 230-19-045.

WAC 230-06-110 Buying, selling, or transporting gambling equipment. Because "sports wagering equipment" was not included in the definition of gambling equipment in WAC 230-03-200, it needed to be included in this rule.

WAC 230-06-116 Transporting, displaying, and selling gambling equipment at trade shows. Because "sports wagering equipment" was not included in the definition of gambling equipment in WAC 230-03-200, it needed to be included in this rule.

WAC 230-06-120 Selling or transferring gambling equipment when no longer licensed. Because "sports wagering equipment" was not included in the definition of gambling equipment in WAC 230-03-200, it needed to be included in this rule.

WAC 230-06-050 Review of electronic or mechanical gambling equipment malfunctions. The references to WAC 230-19-045 were removed.

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 10, Amended 24, Repealed 3.

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 10, Amended 24, Repealed 3.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 10, Amended 24, Repealed 3.

Number of Sections Adopted using Negotiated Rule Making: New 10, Amended 24, Repealed 3; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: July 28, 2021.

Ashlie Laydon
Rules Coordinator

OTS-3103.6

AMENDATORY SECTION (Amending WSR 18-05-026, filed 2/9/18, effective 5/1/18)

WAC 230-03-035 Applying for a license. (1) You must fully complete the license application form we provide in order to be considered for a license. You must submit it with the appropriate fees online in the manner we require, or return it, along with the appropriate fees, to our headquarters office.

(2) (~~(If your application is incomplete,)~~) You must provide us with the required items within thirty days of notification of an incomplete application or we may administratively close the application.

(3) Applicants for a new organization license or permit will submit the base license fee for each authorized activity they are applying for with their application.

(4) Applicants for a new individual license will submit the new application fee they are applying for with their application.

[Statutory Authority: RCW 9.46.070. WSR 18-05-026, § 230-03-035, filed 2/9/18, effective 5/1/18; WSR 06-07-157 (Order 457), § 230-03-035, filed 3/22/06, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 07-21-116, filed 10/22/07, effective 1/1/08)

WAC 230-03-040 Signing the application. The applicant signs the application under oath and under penalty of perjury under the laws of the state of Washington. This oath affirms that the information on the application and any accompanying materials is accurate and complete.

(1) The person signing the application must be:

(a) The highest ranking officer, or their designee, of a charitable, nonprofit, or profit-seeking corporation, or limited liability company seeking licensure; or

(b) The owner of a sole proprietorship seeking licensure; or

(c) All partners of a partnership or general partner of a limited partnership seeking licensure.

(2) The person seeking an individual license and a designated officer of the organization for which the person will work must both sign the application.

[Statutory Authority: RCW 9.46.070. WSR 07-21-116 (Order 617), § 230-03-040, filed 10/22/07, effective 1/1/08; WSR 06-07-157 (Order 457), § 230-03-040, filed 3/22/06, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 13-09-048, filed 4/15/13, effective 5/16/13)

WAC 230-03-045 Defining substantial interest holder. (1) "Substantial interest holder" means a person who has actual or potential influence over the management or operation of any organization, association, or other business entity.

(2) Evidence of substantial interest may include, but is not limited to:

- (a) Directly or indirectly owning, operating, managing, or controlling an entity or any part of an entity; or
 - (b) Directly or indirectly profiting from an entity or assuming liability for debts or expenditures of the entity; or
 - (c) Being an officer or director or managing member of an entity; or
 - (d) Owning ten percent or more of any class of stock in a privately or closely held corporation; or
 - (e) Owning five percent or more of any class of stock in a publicly traded corporation; or
 - (f) Owning ten percent or more of the membership shares/units in a privately or closely held limited liability company; or
 - (g) Owning five percent or more of the membership shares/units in a publicly traded limited liability company; or
 - (h) Providing ten percent or more of cash, goods, or services for the start up of operations or the continuing operation of the business during any calendar year or fiscal year. To calculate ten percent of cash, goods, or services, take the operational expenses of the business over the past calendar or fiscal year, less depreciation and amortization expenses, and multiply that number by ten percent; or
 - (i) Receiving, directly or indirectly, a salary, commission, royalties, or other form of compensation based on the gambling receipts.
- (3) Spouses of officers of charitable or nonprofit organizations and spouses of officers or board members of publicly traded entities or subsidiaries of publicly traded entities are not considered substantial interest holders, unless there is evidence to the contrary. If so, then an investigation will be conducted to determine if they qualify as a substantial interest holder.
- (4) Spouses of officers, owners, or shareholders owning ten percent or more of the organizations' shares of a sports wagering organization are not considered substantial interest holders.

[Statutory Authority: RCW 9.46.070. WSR 13-09-048 (Order 687), § 230-03-045, filed 4/15/13, effective 5/16/13; WSR 06-07-157 (Order 457), § 230-03-045, filed 3/22/06, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 18-05-026, filed 2/9/18, effective 5/1/18)

WAC 230-03-060 Fingerprinting. (1) The following persons must submit fingerprints and undergo a national criminal history background check:

- (a) Substantial interest holders of commercial businesses and charitable or nonprofit organizations who live or have lived out of the state in the last ten years; and
 - (b) Card room employees, commercial and nonprofit gambling managers, and manufacturer, distributor, service supplier, call centers for enhanced raffles, ~~((and))~~ linked bingo prize provider, and sports wagering vendor representatives; and
 - (c) Any other substantial interest holder when we have information they may not be qualified for licensure or to participate in a gambling activity.
- (2) Recreational gaming activity and agricultural fair permit holders do not need to submit fingerprints.

[Statutory Authority: RCW 9.46.070. WSR 18-05-026, § 230-03-060, filed 2/9/18, effective 5/1/18. Statutory Authority: RCW 9.46.070 and 9.46.0209. WSR 13-19-056 (Order 692), § 230-03-060, filed 9/16/13, effective 10/17/13. Statutory Authority: RCW 9.46.070(7). WSR 13-17-018 (Order 690), § 230-03-060, filed 8/9/13, effective 9/9/13. Statutory Authority: RCW 9.46.070. WSR 06-07-157 (Order 457), § 230-03-060, filed 3/22/06, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 13-09-048, filed 4/15/13, effective 5/16/13)

WAC 230-03-065 Spouses must also be qualified. (1) Applicants' spouses must also meet the qualifications to hold a gambling license when married persons who maintain a marital community apply for or hold a license to operate gambling activities. This includes, but is not limited to, owners and substantial interest holders of commercial gambling establishments.

(2) If you are a licensed employee of a gambling operation, officer of a charitable or nonprofit organization, or an officer or a board member of a publicly traded entity or subsidiary of a publicly traded entity, your spouse does not need to meet the licensing qualifications, unless they are deemed to be a substantial interest holder.

(3) Spouses of owners and substantial interest holders of a sports wagering organization are not considered substantial interest holders.

[Statutory Authority: RCW 9.46.070. WSR 13-09-048 (Order 687), § 230-03-065, filed 4/15/13, effective 5/16/13; WSR 06-07-157 (Order 457), § 230-03-065, filed 3/22/06, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 06-07-157, filed 3/22/06, effective 1/1/08)

WAC 230-03-070 Training required for licensing. (1) You must complete a training course we establish if you:

(a) Signed the licensing application; or
 (b) Are a manager; or
 (c) Are responsible for conducting gambling activities or completing records.

(2) You must complete training within thirty days of the effective date of your license.

(3) We do not require manufacturers ((~~or~~)), manufacturers' representatives, or major sports wagering vendors to complete training. However, all licensees are expected to know and follow all rules upon receiving your license.

[Statutory Authority: RCW 9.46.070. WSR 06-07-157 (Order 457), § 230-03-070, filed 3/22/06, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 06-07-157, filed 3/22/06, effective 1/1/08)

WAC 230-03-075 Withdrawing your application. (1) You may withdraw your license application for any reason by sending written or electronic mail notice to us. We must receive your written request at our headquarters office before we issue or deny the license.

(2) Withdrawing an application will not affect any future application for a license.

[Statutory Authority: RCW 9.46.070. WSR 06-07-157 (Order 457), § 230-03-075, filed 3/22/06, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 06-07-157, filed 3/22/06, effective 1/1/08)

WAC 230-03-195 Additional information required from manufacturer ((and)), distributor, and sports wagering vendor license applicants. If you are applying for a manufacturer ((~~or~~)), distributor, or sports wagering vendor license, you must attach the following to your application form or submit the following in a manner we require:

(1) A list of all businesses or corporations which you, or officers, directors, or substantial interest holders of your business, either directly or indirectly, own or control as a substantial interest holder; and

(2) A list of all businesses or corporations licensed to conduct gambling activities or to supply gambling-related equipment, supplies, or services in which you, officers, directors, or substantial interest holders of your business have any interest; and

(3) A list of all jurisdictions in which you or any of the officers, directors, or substantial interest holders of your business have had a gambling-related license at any level during the previous ten years; and

(4) A statement about whether you, or officers, directors, or substantial interest holders have ever been part of a business that had a gambling-related license denied, revoked, or suspended by any jurisdiction for a period longer than thirty days.

[Statutory Authority: RCW 9.46.070. WSR 06-07-157 (Order 457), § 230-03-195, filed 3/22/06, effective 1/1/08.]

NEW SECTION

WAC 230-03-196 Additional information required for sports wagering vendors. Sports wagering vendor applicants must provide contracts and agreements, or proposed contracts or agreements, with any third parties, excluding contracts or agreements with Washington state tribes, that are part of their sports wagering offerings for review for compliance with chapter 9.46 RCW and Title 230 WAC. Contracts or agreements to be provided for review will relate to the applicant's or third-party vendor's sports wagering equipment, goods, services, and information.

[]

LICENSING SPORTS WAGERING VENDORSNEW SECTION

WAC 230-03-229 Applying for a major sports wagering vendor license. You must apply for a major sports wagering vendor license if you provide integral sports wagering goods or services in our state. This includes:

- (1) Managing a Tribe's or Tribes' sports wagering operations;
- (2) Being a Tribe's or Tribes' primary consultant who provides substantial sports wagering related services;
- (3) Being a manufacturer or distributor of a sports wagering system(s);
- (4) Providing bookmaking services; or
- (5) Providing sports wagering risk management services.

[]

NEW SECTION

WAC 230-03-231 Applying for a mid-level sports wagering vendor license. You must apply for a mid-level sports wagering vendor license if you provide services or equipment related to data, security, and integrity that include, but are not limited to:

- (1) Integrity monitoring;
- (2) Data to be used by a Tribe(s) or sports wagering vendor, including data to set odds;
- (3) The compilation, furnishing, or storage of data for use in sports wagering;
- (4) Initial or annual wagering system security testing or assessment;
- (5) Geofence and geolocation compliance and monitoring; and
- (6) Sports wagering account management, including Software-as-a-Service (SaaS) products.

[]

NEW SECTION

WAC 230-03-233 Applying for an ancillary sports wagering vendor license. You must apply for an ancillary sports wagering vendor li-

cense if you provide necessary sports wagering support services that include, but are not limited to:

- (1) Mobile payment processing for use in mobile sports wagering;
- (2) Know your customer or identity verification for use in mobile sports wagering; and
- (3) Marketing or promotional affiliates for a sports wagering vendor or tribal sports wagering operator where the contractual financial arrangement is based on a percentage of an operator's sports wagering revenue.

[]

NEW SECTION

WAC 230-03-234 Sports wagering vendor applicants and associated entities in their corporate structure. You must apply for a sports wagering vendor license if you enter into contracts or agreements to provide sports wagering gaming goods or services to operators or other sports wagering vendors for sports wagering goods or services in our state. Any associated organizations linked to the sports wagering applicant in their corporate structure, who provides sports wagering goods or services to the applicant, must comply with our rules. The applicant will have the ultimate responsibility for any goods or services provided by another legal entity associated to the applicant. This only includes organizations in the applicant's corporate ownership structure.

[]

NEW SECTION

WAC 230-03-311 Applying for a major sports wagering vendor representative license. You must apply for a major sports wagering representative license if you, as an individual, are employed or contracted by a major sports wagering vendor to represent, service, or work in any sports wagering activities in our state or you supervise those who do.

[]

NEW SECTION

WAC 230-03-312 Applying for a mid-level sports wagering vendor representative license. You must apply for a mid-level sports wagering representative license if you, as an individual, are employed or contracted by a mid-level sports wagering vendor to represent, service, or work in any sports wagering activities in our state or you supervise those who do.

[]

NEW SECTION

WAC 230-03-313 Applying for an ancillary sports wagering vendor representative license. You must apply for an ancillary sports wagering representative license if you, as an individual, are employed or contracted by an ancillary sports wagering vendor to represent, service, or work in any sports wagering activities in our state or you supervise those who do.

[]

AMENDATORY SECTION (Amending WSR 13-19-056, filed 9/16/13, effective 10/17/13)

WAC 230-03-320 Substantial interest holders not required to be licensed as representatives. (1) If you are a substantial interest holder in a business licensed to operate a manufacturer, distributor, gambling service supplier, call centers for enhanced raffles, or linked bingo prize provider or a spouse of the same, you do not have to have an additional license to perform representative duties connected with that licensed business.

(2) If you are a substantial interest holder in a business licensed as a sports wagering vendor, you do not need to have an additional sports wagering vendor representative license to perform representative duties connected with that licensed business.

[Statutory Authority: RCW 9.46.070 and 9.46.0209. WSR 13-19-056 (Order 692), § 230-03-320, filed 9/16/13, effective 10/17/13. Statutory Authority: RCW 9.46.070. WSR 06-07-157 (Order 457), § 230-03-320, filed 3/22/06, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 18-05-026, filed 2/9/18, effective 5/1/18)

WAC 230-03-330 Representing one or more licensed businesses.

(1) If you are a licensed distributor representative, gambling service supplier representative, or a linked bingo prize provider representative or applying for one of these representative licenses, you must represent only one licensed distributor, gambling service supplier, or linked bingo prize provider at a time.

(2) If you are a licensed manufacturer representative, you may represent more than one licensed manufacturer.

(3) Sports wagering vendor representatives may represent more than one licensed sports wagering vendor so long as their representation would not create a conflict that would undermine the integrity of sports wagering or a sporting event.

(4) If the owner you represent owns more than one licensed business, you may represent the owner in all those licensed businesses, including licensed manufacturers.

~~((4))~~ (5) You must submit an application and pay a fee before beginning work at a new or additional employer.

[Statutory Authority: RCW 9.46.070. WSR 18-05-026, § 230-03-330, filed 2/9/18, effective 5/1/18; WSR 09-24-012 (Order 664), § 230-03-330, filed 11/20/09, effective 12/21/09; WSR 06-07-157 (Order 457), § 230-03-330, filed 3/22/06, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 13-19-056, filed 9/16/13, effective 10/17/13)

WAC 230-03-335 Representatives must not work before receiving a license. If you are applying for a license as a representative for a manufacturer, distributor, gambling services supplier, call centers for enhanced raffles, a sports wagering vendor, or linked bingo prize provider, you must not work until you receive a license from us.

[Statutory Authority: RCW 9.46.070 and 9.46.0209. WSR 13-19-056 (Order 692), § 230-03-335, filed 9/16/13, effective 10/17/13. Statutory Authority: RCW 9.46.070. WSR 06-07-157 (Order 457), § 230-03-335, filed 3/22/06, effective 1/1/08.]

NEW SECTION

The following sections of the Washington Administrative Code are decodified and recodified as follows:

Old WAC Number	New WAC Number
230-03-230	230-03-226
230-03-232	230-03-227

OTS-3099.1

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 230-03-408	Applying for sports wagering prelicensing investigation.
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OTS-3101.3

AMENDATORY SECTION (Amending WSR 18-05-026, filed 2/9/18, effective 5/1/18)

WAC 230-05-110 Defining "gross gambling receipts rate." "Gross gambling receipts rate" is the rate listed in this chapter that licensees use to calculate their quarterly license fees, if applicable. This also is the rate used for quarterly license reports.

[Statutory Authority: RCW 9.46.070. WSR 18-05-026, § 230-05-110, filed 2/9/18, effective 5/1/18.]

AMENDATORY SECTION (Amending WSR 20-08-095, filed 3/30/20, effective 4/30/20)

WAC 230-05-112 Defining "gross gambling receipts." (1) "Gross gambling receipts" means the amount due to any operator of an authorized activity as described in subsection (5) of this section.

(2) The amounts must be stated in U.S. currency.

(3) The value must be before any deductions for prizes or other expenses, such as over/short.

(4) "Gross gambling receipts" does not include fees from players to enter player-supported jackpots. However, any portion of wagers deducted for any purpose other than increasing current prizes or repayment of amounts used to seed prizes are "gross gambling receipts."

(5) Gross gambling receipts for authorized activities:

Activity:	Gross gambling receipts include amounts due to any operator for:
(a) Punch board and pull-tab	Purchasing chances to play.
(b) Raffles and enhanced raffles	Purchasing chances to enter.
(c) Bingo	Fees or purchase of cards to participate.
(d) Amusement games	Amounts paid to play amusement games.
(e) Card games	<ul style="list-style-type: none"> • "Net win" from house-banked card games; • Tournament entry fees; • Administrative fees from player-supported jackpots; • Fees to participate in nonhouse-banked card games.

Activity:	Gross gambling receipts include amounts due to any operator for:
(f) Manufacturers and distributors	<p>(i) Fees from sales, rentals, leases, royalties, and service fees collected for the following gambling equipment in Washington to include, but not limited to:</p> <ul style="list-style-type: none"> • Bingo paper or bingo cards; • Punch boards and pull-tabs; • Devices for dispensing pull-tabs; • Electronic devices for conducting, facilitating or accounting for the results of gambling activities; • Cards; • Dice; • Gambling chips; • Cash exchange terminals; • Progressive meters; • Gambling software; • License agreements; • Card shuffling devices; • Graphical game layouts for table games; • Ace finders or no-peek devices; • Roulette wheels; • Keno equipment; • Tables manufactured exclusively for gambling purposes; • Bet totalizers; • Electronic devices for reading or displaying outcomes of gambling activities; • Tribal lottery systems and components thereof. <p>(ii) Fees from the service, repair and modification of gambling equipment in Washington to include, but not limited to:</p> <ul style="list-style-type: none"> • Charges for labor and parts for repairing gambling equipment; • Service fees related to gambling operations; • Training or set-up fees; • Maintenance contract fees related to gambling equipment and operations.

Activity:	Gross gambling receipts include amounts due to any operator for:
(g) Gambling service suppliers	Fees from gambling-related services provided in or to be used in Washington to include, but not limited to: <ul style="list-style-type: none"> • Consulting, advisory or management services related to gambling; • Interest from financing the purchase or lease of gambling equipment, infrastructure or facilities or equipment that supports gambling operations; • Acting as a lending agent, loan services or placement agent; • Assembly of components for gambling equipment to be used under a contract with a licensed manufacturer; • Ongoing financial arrangements for gambling related software with a licensed manufacturer; • Installing, integrating, maintaining, or servicing digital surveillance systems that allow direct access to the operating system; • Training individuals to conduct authorized gambling activities; • Performing testing and certification of tribal lottery systems in meeting requirements specified in the tribal-state compacts; • Providing nonmanagement related recordkeeping or storage services for punch board and pull-tab operators; • Ownership of proprietary games or equipment.
(h) Punch board/pull-tab service businesses	Providing nonmanagement related recordkeeping or storage services for punch board and pull-tab operators.
(i) Fund-raising event distributors	Fees from contracts to organize and conduct recreational gaming activities.
(j) Fund-raising events and agricultural fairs	Fees received from the operation of bingo, amusement games, raffles, lotteries, contests of chance, and/or net win from table games operated at a fund-raising event.
<u>(k) Major sports wagering vendor</u>	<u>Fees or revenues received from providing sports wagering goods and services, including management, consulting, sales, rentals, leases, and royalties, for any sports wagering activities in Washington.</u>

Activity:	Gross gambling receipts include amounts due to any operator for:
<u>(l) Mid-level sports wagering vendor</u>	<u>Fees or revenues received from providing sports wagering goods and services, including sales, rentals, leases, and royalties, for any sports wagering activities in Washington.</u>
<u>(m) Ancillary sports wagering vendor</u>	<u>Fees or revenues from providing sports wagering goods and services, including sales, rentals, leases, and royalties, for any sports wagering activities in Washington.</u>

[Statutory Authority: RCW 9.46.070. WSR 20-08-095, § 230-05-112, filed 3/30/20, effective 4/30/20; WSR 18-05-026, § 230-05-112, filed 2/9/18, effective 5/1/18.]

AMENDATORY SECTION (Amending WSR 18-05-026, filed 2/9/18, effective 5/1/18)

WAC 230-05-120 Paying annual license fee. (1) All licensed organizations will pay annual license fees (~~(in up to five payments)~~). The annual license fee will be up to five payments and includes:

- (a) A base license fee paid with your:
 - (i) Initial application for a new license or permit; or
 - (ii) License renewal or annual permit application; and
 - (b) Quarterly license fees, if applicable, based on the gross gambling receipts reported on your quarterly license report.
- (2) Licensed organizations starting a new activity will begin paying quarterly license fees, if applicable, on that activity upon completion of the first quarter, whether a partial or full quarter, after your license or annual permit was issued.
- (3) Individual licensees will pay an annual license fee with their initial application or license renewal application.

[Statutory Authority: RCW 9.46.070. WSR 18-05-026, § 230-05-120, filed 2/9/18, effective 5/1/18.]

AMENDATORY SECTION (Amending WSR 20-12-046, filed 5/28/20, effective 6/28/20)

WAC 230-05-124 Quarterly license reports and quarterly license fees. (~~All~~) Licensed organizations must submit quarterly license reports (and) Licensed organizations must also submit quarterly license fees to us, if applicable, for each licensed gambling activity beginning with the first quarter of their license year. The quarterly license fee is due with the quarterly license report.

The quarterly license reports must be in the format we require and must:

- (1)

Cover the period:	Be received by us no later than:
January 1 through March 31	April 30
April 1 through June 30	July 31
July 1 through September 30	October 31
October 1 through December 31	January 31

(2) Be received online at our administrative office or postmarked no later than the dates indicated in the table in subsection (1) of this section; and

(3) Be submitted even if there is no quarterly license fee payable to us; and

(4) Be accurate; and

(5) Be completed by the highest ranking executive officer or a designee. If someone other than the licensee or an employee prepares the report, the preparer must include his or her name and business telephone number on the report; and

(6) Be submitted for any period of time the license was valid, even if there was no gambling activity or the gambling license was not renewed.

[Statutory Authority: RCW 9.46.070. WSR 20-12-046, § 230-05-124, filed 5/28/20, effective 6/28/20; WSR 18-05-026, § 230-05-124, filed 2/9/18, effective 5/1/18.]

AMENDATORY SECTION (Amending WSR 18-11-055, filed 5/10/18, effective 6/10/18)

WAC 230-05-125 Report gross gambling receipts on the quarterly license report. (1) You must report your gross gambling receipts for each of your licensed gambling activities during the previous quarter on your quarterly license report.

(2) You must submit a quarterly license report even if you:

(a) Only need to pay your base license fee;

(b) Have paid the maximum annual license fee for your license year;

~~((b))~~ (c) You do not owe a quarterly license fee for the quarter;

~~((e))~~ (d) Have no gross gambling receipts to report;

~~((d))~~ (e) Close your business;

~~((e))~~ (f) Surrender your license;

~~((f))~~ (g) Do not renew your license; or

~~((g))~~ (h) Your license is revoked or suspended.

[Statutory Authority: RCW 9.46.070. WSR 18-11-055, § 230-05-125, filed 5/10/18, effective 6/10/18.]

AMENDATORY SECTION (Amending WSR 18-05-026, filed 2/9/18, effective 5/1/18)

WAC 230-05-126 Online filing and payments required with waivers available upon request for good cause. (1) All licensees must submit the following online, where applicable:

- (a) Renewal application and base license fees; and
- (b) Quarterly license fees; and
- (c) Quarterly license reports.

(2) We may waive these requirements if a licensed organization can show good cause. The reasons for good cause include:

- (a) You do not have access to the internet using your own computer or similar equipment; or
- (b) You do not have a bank account; or
- (c) Your bank is unable to send electronic fund transactions; or
- (d) Some other circumstance or condition exists that, in our judgment, prevents you from submitting online.

(3) We may waive these requirements if a licensed individual can show good cause. The reasons for good cause include:

- (a) You do not have access to the internet using your own computer or similar equipment; or
- (b) You do not have a bank account or credit card; or
- (c) Your bank is unable to send electronic fund transactions; or
- (d) Some other circumstance or condition exists that, in our judgment, prevents you from submitting online.

(4) You must request a waiver when applying for a new license or permit.

(5) A waiver will cover all fees and reports required under subsection (1) of this section.

[Statutory Authority: RCW 9.46.070. WSR 18-05-026, § 230-05-126, filed 2/9/18, effective 5/1/18.]

AMENDATORY SECTION (Amending WSR 18-11-055, filed 5/10/18, effective 6/10/18)

WAC 230-05-170 Fees for other businesses. All other business organizations must pay the following fees:

- (1) Annual licenses or permits:

License Type	Base License Fee	Gross Gambling Receipts Rate	Maximum Annual License Fee
Agricultural fair bingo (annual permit)	\$200	-	-
Call centers for enhanced raffles	\$4,800	-	-
Commercial amusement games	\$500 plus \$65 per approved location	1.130%	\$11,000
Distributor	\$700	1.430%	\$7,000
Fund-raising event distributor	\$280	1.430%	\$1,000
Linked bingo prize providers	\$1,500	.046%	\$20,000
Manufacturer	\$1,500	1.430%	\$25,000

License Type	Base License Fee	Gross Gambling Receipts Rate	Maximum Annual License Fee
Manufacturer's special sales permit	\$250	-	-
Punch board/pull-tab service business permit	\$250	-	-
Gambling service supplier	\$300	1.430%	\$7,000
<u>Major sports wagering vendor</u>	<u>\$65,000</u>	=	=
<u>Mid-level sports wagering vendor</u>	<u>\$10,000</u>	=	=
<u>Ancillary sports wagering vendor</u>	<u>\$5,000</u>	=	=

(2) Events or permits:

License or Permit Type	Base License Fee	Gross Gambling Receipts Rate	Maximum Annual License Fee
Recreational gaming activity	\$65	-	-
Special property bingo	\$30	-	-

(3) Change fees:

Change of:	Fee
Name	\$100
Location	\$100
Business classification (same owners)	\$100
Corporate stock/limited liability company shares/units	\$100
License transfers	\$100

(4) Other fees:

Transaction	Fee
Add a new amusement game location	\$65
Defective punch board/pull-tab cost recovery fees	Up to \$100
Duplicate license	\$50
Pre- and post-licensing investigations	Cost reimbursement
Review, inspection, and/or evaluation of gambling equipment, supplies, services, games, schemes, or group 12 amusement games	Deposit and cost reimbursement

[Statutory Authority: RCW 9.46.070. WSR 18-11-055, § 230-05-170, filed 5/10/18, effective 6/10/18.]

AMENDATORY SECTION (Amending WSR 18-08-053, filed 3/30/18, effective 5/1/18)

WAC 230-05-175 Individual license fees. Individuals must pay the following fees:

(1) Annual license and additional employer fees:

License Type	New Application Fee	Annual Renewal Fee	Additional or Change of Employer Fee
Call center for enhanced raffle representative	\$275	\$170	-
Card room employee license - Nonhouse-banked (Class A)	\$200	\$95	\$65
Card room employee license - Class F and house-banked (Class B)	\$275 (in-state) \$340 (out-of-state)	\$170	\$65
Charitable or nonprofit gambling manager	\$200	\$95	\$95
Commercial gambling manager	\$200	\$95	\$95
Distributor representative	\$275	\$170	\$65
Linked bingo prize provider representative	\$275	\$170	\$65
Manufacturer representative	\$275	\$170	\$65
Gambling service supplier representative	\$275	\$170	\$65
<u>Major sports wagering vendor representative</u>	<u>\$275</u>	<u>\$170</u>	<u>\$65</u>
<u>Mid-level sports wagering vendor representative</u>	<u>\$275</u>	<u>\$170</u>	<u>\$65</u>
<u>Ancillary sports wagering vendor representative</u>	<u>\$275</u>	<u>\$170</u>	<u>\$65</u>

(2) Class B card room employees must pay the out-of-state application fee if over the last ten years the applicant lived outside of Washington for six nonconsecutive months or more.

(3) Other service fees:

Transaction	Fee
Change of name	\$30
Card room employee emergency waiver request	\$65
Duplicate license	\$30

(4) Military personnel returning from service. If a license expires while an individual is on active military service, the individual may apply to have their license reissued at the renewal fee. The application must be received within six months after completing their active military service. The applicant must provide evidence of the completion date of active military service.

[Statutory Authority: RCW 9.46.070. WSR 18-08-053, § 230-05-175, filed 3/30/18, effective 5/1/18.]

OTS-3100.1

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 230-05-101 Implementation of new permit and license fees.

OTS-3102.5

AMENDATORY SECTION (Amending WSR 17-04-009, filed 1/19/17, effective 2/19/17)

WAC 230-06-030 Restrictions and conditions for gambling promotions. Licensees may conduct gambling promotions to encourage players to participate in the gambling activity they are licensed to conduct without our review or approval under these restrictions and conditions:

- (1) You must establish rules and restrictions to determine how you will give promotional prizes and items to players; and
- (2) You must comply with all applicable federal, state, and tribal laws and rules; and
- (3) You must display all rules and restrictions clearly in the gambling area and include them on promotional materials or advertisements; and
- ~~((3))~~ (4) You must give all players eligible for the promotion an equal opportunity to participate; and
- ~~((4))~~ (5) Except for members-only progressive raffles conducted as authorized in WAC 230-11-091, you must not give another chance to participate in a gambling activity we regulate as a promotional item; and
- ~~((5))~~ (6) As part of a gambling promotion, you may add additional merchandise or cash prizes, including increasing payouts for gambling activities you are licensed to conduct; and
- ~~((6))~~ (7) Licensed manufacturers, distributors, and service suppliers may give cash or merchandise items to licensed operators to be used as promotional prizes as long as:
 - (a) The cash or merchandise is offered to all licensed operators; and
 - (b) The gambling promotion is approved by the director or director's designee when cash or merchandise provided to a licensed operator for a single promotion is over twenty-five thousand dollars; and
- ~~((7))~~ (8) In order for a licensed manufacturer, distributor, and service supplier to receive approval, the plan for the gambling promotion must be submitted to the director at least ninety days in advance of the intended start date. The promotion must include sufficient information for the director's approval, comply with all applicable federal and state laws, and include:
 - (a) The gambling promotion rules and restrictions; and
 - (b) How the operator will safeguard the prizes; and
 - (c) How the prizes will be given away; and
 - (d) The beginning and ending dates for the gambling promotion; and
 - (e) A detailed prize winner's record to be filled out upon completion of the promotion that includes the winner's name, prizes paid out, date the prize was awarded; and
 - (f) Any other information we request; and

~~((8))~~ (9) You must not give promotional prizes or items based on additional elements of chance except that:

(a) Licensed bingo operators are authorized to give promotional prizes or items as part of a bingo game; and

(b) Licensed card rooms are authorized to give promotional prizes or items as part of a physical drawing, spinning a wheel, or selecting from a group of concealed items; and

~~((9))~~ (10) You must not combine gambling activities and related gambling promotions in any way with a promotional contest of chance as defined in RCW 9.46.0356.

[Statutory Authority: RCW 9.46.070. WSR 17-04-009, § 230-06-030, filed 1/19/17, effective 2/19/17. Statutory Authority: RCW 9.46.070 and 9.46.0277. WSR 14-17-056 (Order 703), § 230-06-030, filed 8/15/14, effective 9/15/14. Statutory Authority: RCW 9.46.070. WSR 08-17-066 (Order 629), § 230-06-030, filed 8/18/08, effective 9/18/08; WSR 06-17-132 (Order 601), § 230-06-030, filed 8/22/06, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 19-11-047, filed 5/10/19, effective 6/10/19)

WAC 230-06-050 Review of electronic or mechanical gambling equipment. (1) When you are required to submit gambling equipment, supplies, services, or games for our review to verify compliance with chapter 9.46 RCW and Title 230 WAC, you must pay the application deposit before we perform the review. You must also reimburse us for any additional costs of the review. All costs must be paid in full prior to the completion of the review.

(2) The gambling equipment submitted for review must be identical or substantially similar to what will be marketed, distributed, and deployed in Washington. If the equipment is not sufficient for testing and review, we may require additional equipment or information.

(3) If your application is incomplete or we request additional information, you must provide us with the required items within thirty days of notification or we may administratively close your application.

(4) You can begin accepting orders for gambling equipment when you are licensed.

(5) Only gambling equipment approved by the director or director's designee is allowed in Washington except as provided under WAC 230-16-005.

(6) We may include security or surveillance requirements as part of gambling equipment approval.

(7) Gambling equipment must operate as approved by the director or director's designee.

(8) We may keep equipment submitted for review to allow for continued testing and training as long as the equipment remains in play in Washington. We are not liable for any damage to equipment while in our possession.

(9) If you do not agree with the director or director's designee's decision, you may file a petition for declaratory order with the commission according to RCW 34.05.240 and chapter 230-17 WAC.

[Statutory Authority: RCW 9.46.070. WSR 19-11-047, § 230-06-050, filed 5/10/19, effective 6/10/19; WSR 14-09-037 (Order 696), § 230-06-050,

filed 4/11/14, effective 7/1/14; WSR 07-21-116 (Order 617), § 230-06-050, filed 10/22/07, effective 1/1/08; WSR 06-17-132 (Order 601), § 230-06-050, filed 8/22/06, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 18-05-029, filed 2/9/18, effective 7/1/18)

WAC 230-06-082 Manufacturers, distributors, gambling service suppliers, sports wagering vendors, linked bingo prize providers, and call centers for enhanced raffles reporting changes in licensed employees. Manufacturers, distributors, gambling service suppliers, sports wagering vendors, linked bingo prize providers and call centers for enhanced raffles licensees must:

(1) Submit an application and the required fees before allowing licensed employees or sports wagering vendor representatives to begin working.

(2) Notify us in the format we require when a licensed employee or sports wagering vendor representative no longer works for them. We must receive the notice at our Lacey office within ten days of the licensed ((employee's)) employee or representative's last day.

[Statutory Authority: RCW 9.46.070. WSR 18-05-029, § 230-06-082, filed 2/9/18, effective 7/1/18.]

NEW SECTION

WAC 230-06-084 Submitting sports wagering related contracts and agreements. Sports wagering vendors must provide contracts or agreements, or changes to contracts or agreements, with any third parties, excluding contracts or agreements with Washington state tribes, that are part of their sports wagering offerings within thirty days of the effective date of the contract or agreement. Contracts or agreements to be provided will relate to the applicant's or third-party vendor's sports wagering equipment, goods, services, and information.

[]

AMENDATORY SECTION (Amending WSR 18-05-029, filed 2/9/18, effective 7/1/18)

WAC 230-06-110 Buying, selling, or transferring gambling or sports wagering equipment. (1) All licensees and persons authorized to possess gambling or sports wagering equipment must closely control the ((gambling)) equipment in their possession.

(2) Before selling gambling or sports wagering equipment, licensees must ensure that the buyer possesses a valid gambling license or can legally possess the equipment without a license.

(3) Licensees buying, selling, or transferring gambling or sports wagering equipment must ensure that it will be used pursuant to all state laws and rules, or laws and rules in the jurisdiction(s) where the activity is occurring.

(4) Before purchasing gambling or sports wagering equipment, licensees must ensure that the seller possesses a valid gambling license.

~~((4))~~ (5) Applicants for Class F or house-banked card room licenses may purchase and possess gambling equipment during the prelicensing process, but only after receiving written approval from us.

~~((5))~~ (6) Charitable and nonprofit organizations conducting unlicensed bingo games, as allowed by RCW 9.46.0321, may possess bingo equipment without a license.

~~((6))~~ (7) Group 12 amusement games can only be sold or leased to amusement game licensees by a licensed manufacturer or distributor. Amusement game licensees can lease or rent group 12 amusement games for operation at approved amusement game locations.

~~((7))~~ (8) Licensees may transfer gambling or sports wagering equipment as a part of a sale of a business as long as a condition of the sale is that the buyer receives a gambling license before the sale is complete. Licensees must make a complete record of all gambling or sports wagering equipment transferred in this manner, including I.D. stamps. Licensees must report these transfers, including a copy of the inventory record, to us.

[Statutory Authority: RCW 9.46.070. WSR 18-05-029, § 230-06-110, filed 2/9/18, effective 7/1/18. Statutory Authority: RCW 9.46.070, 9.46.0201. WSR 16-19-015, § 230-06-110, filed 9/8/16, effective 10/9/16; WSR 16-08-033 (Order 718), § 230-06-110, filed 3/30/16, effective 4/30/16. Statutory Authority: RCW 9.46.070. WSR 08-11-044 (Order 628), § 230-06-110, filed 5/14/08, effective 7/1/08; WSR 07-21-116 (Order 617), § 230-06-110, filed 10/22/07, effective 1/1/08; WSR 06-17-132 (Order 601), § 230-06-110, filed 8/22/06, effective 1/1/08.]

NEW SECTION

WAC 230-06-116 Transporting, displaying, and selling gambling equipment at trade shows. (1) "Trade show" when used in this section means an exhibition where licensees can promote their products and services to operators of authorized gambling activities in Washington; the exhibition is not open to the public; and it is of limited duration.

(2) "Gambling equipment" as used in this section has the same meaning as in WAC 230-03-200.

(3) "Demonstration mode" when used in this section means when gambling equipment cannot be used for actual wagering and the equipment's coin or bill acceptor is removed or physically restricted from use.

(4) Licensees may transport, display, and accept orders for the sale or lease of their products at trade shows only under the following conditions:

(a) All products must be manufactured by a licensee for activities authorized by state laws or tribal-state compacts, or is Class II gaming equipment as authorized by federal law for use on tribal lands; and

(b) All gambling or sports wagering equipment physically displayed must be in demonstration mode and either:

(i) Approved for sale or lease in the state; or

(ii) Not approved by us but is only used for authorized activities under state laws or tribal-state compacts, or is Class II gaming equipment as authorized by federal law for use on tribal lands, and is transported into the state no more than ten days before a trade show begins and is removed from the state within ten days following the last day of a trade show.

(c) Equipment must have a sign posted in close proximity to the device that contains the phrase, "No one under 18 years of age is allowed to operate this machine."

(5) Licensees must provide notification that they will be transporting, displaying, or accepting orders for gambling or sports wagering equipment on a form prescribed by us at least ten days before a specified trade show.

(6) Gambling equipment and sports wagering equipment at a trade show is subject to on-site inspection by us.

[]

AMENDATORY SECTION (Amending WSR 07-21-116, filed 10/22/07, effective 1/1/08)

WAC 230-06-120 Selling or transferring gambling or sports wagering equipment when no longer licensed. (1) If we have revoked your operator ((~~op~~)), distributor, or sports wagering vendor license, your license has expired, or you have voluntarily surrendered your license, you may only sell or otherwise transfer gambling or sports wagering equipment to a licensed manufacturer ((~~op~~)), distributor, or sports wagering vendor, as applicable, and consistent with all laws and rules, including WAC 230-06-110.

(2) Transfers of gambling or sports wagering equipment in this manner are subject to the following requirements:

(a) The transfer must be complete within thirty days of the date the license became invalid; and

(b) Distributors must use the cash or credit against amounts they owe manufacturers; and

(c) Operators ((~~op~~)), distributors, or sports wagering vendors selling the equipment must report to us within ten days of the transaction a complete inventory of all the ((~~gambling~~)) equipment transferred, including commission I.D. stamps; and

(d) Manufacturers ((~~op~~)), distributors, or sports wagering vendors receiving the equipment must prepare a credit memorandum and retain it with their records.

[Statutory Authority: RCW 9.46.070. WSR 07-21-116 (Order 617), § 230-06-120, filed 10/22/07, effective 1/1/08; WSR 06-17-132 (Order 601), § 230-06-120, filed 8/22/06, effective 1/1/08.]

OTS-3148.1

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 230-16-005 Transporting, displaying, and selling
gambling equipment at trade shows.

WSR 21-16-076

PERMANENT RULES

STATE BOARD OF HEALTH

[Filed July 30, 2021, 3:55 p.m., effective July 1, 2022]

Effective Date of Rule: July 1, 2022.

Purpose: WAC 246-680-010 and 246-680-020, prenatal tests, congenital and heritable disorders. The purpose of the adopted rule is to update the state board of health's (board) existing rules outlining prenatal screenings and diagnostic tests required to be covered by certain payers to align with current clinical standards and best practices. The board's rule was most recently updated in 2003, and since such time, new screenings and diagnostics have become available and standards of practice have been revised. This adopted rule will increase access to certain prenatal screening and diagnostic testing for pregnant individuals.

Citation of Rules Affected by this Order: Amending WAC 246-680-010 and 246-680-020.

Statutory Authority for Adoption: RCW 43.20.050, 48.21.244, 48.44.344, 48.46.375, and 70.54.220.

Adopted under notice filed as WSR 20-24-119 [21-10-077] on May 3, 2021.

Changes Other than Editing from Proposed to Adopted Version: WAC 246-680-020 (2)(g)(ii) was amended, based on comment received during the public comment period, to remove the requirement for a follow-up appointment be scheduled for coverage of cell-free DNA testing and instead require documentation of how post-procedure counseling be provided.

A final cost-benefit analysis is available by contacting Samantha Pskowski, P.O. Box 47990, Olympia, WA 98540-7990, phone 360-789-2358, TTY 711, email samantha.pskowski@sboh.wa.gov, website <https://sboh.wa.gov/Rulemaking/CurrentRulesandActivity/PrenatalTestsCongenitalandHeritableDisorders>.

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 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 2, Repealed 0.

Date Adopted: June 9, 2021.

Michelle A. Davis
Executive Director

OTS-1481.5

AMENDATORY SECTION (Amending WSR 03-11-031, filed 5/15/03, effective 6/15/03)

WAC 246-680-010 Definitions. (~~For the purpose of this chapter, the following definitions apply:~~

~~(1) "Department" means the Washington state department of health.
(2) "Health care providers" means persons licensed or certified by the state of Washington under Title 18 RCW to provide prenatal care or to practice medicine and qualified genetic counselors.~~

~~(3) "Prenatal carrier testing" means a procedure to remove blood or other tissue from one or both parents in order to perform laboratory analysis to establish chromosome constitution or genetic carrier status of the parents.~~

~~(4)) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:~~

~~(1) "Amniocentesis" means a procedure to remove a small amount of amniotic fluid from the uterus of a pregnant person in order to perform one or more of the following laboratory tests:~~

~~(a) Measure the level of alpha-fetoprotein;~~

~~(b) Measure the level of acetylcholinesterase;~~

~~(c) Cytogenetic studies on fetal cells including chromosome analysis, cytogenomic microarray analysis (CMA), and fluorescent in-situ hybridization (FISH);~~

~~(d) Biochemical studies on fetal cells or amniotic fluid;~~

~~(e) Deoxyribonucleic acid (DNA) studies on fetal cells for single gene disorders or fetal genotyping for isoimmunization studies; and~~

~~(f) Infectious disease studies.~~

~~(2) "Carrier screening" means a procedure to remove blood or other tissue from one or both parents in order to perform laboratory analysis to establish chromosome constitution or recessive or X-linked genetic carrier status of the parents.~~

~~(3) "Chorionic villus sampling" means a procedure to remove a small number of cells from the developing placenta, in order to perform one or more of the following laboratory tests:~~

~~(a) Cytogenetic studies on fetal cells including chromosome analysis, cytogenomic microarray analysis (CMA), and fluorescent in-situ hybridization (FISH);~~

~~(b) Biochemical studies on placental cells; and~~

~~(c) DNA studies on placental cells for single gene disorders.~~

~~(4) "Hepatitis B surface antigen (HBsAg) screening" means a procedure involving obtaining blood from a pregnant person to test for maternal hepatitis B infection.~~

~~(5) "Maternal serum marker screening" means a procedure involving obtaining blood from a pregnant person in order to measure through laboratory tests the level of certain products that are associated with increased risks to the fetus or pregnancy such as alpha-fetoprotein, unconjugated estriol, human gonadotropin, inhibin, or PAPP-A.~~

~~(6) "Percutaneous umbilical blood sampling" means a procedure to obtain blood from the fetus, in order to perform one or more of the following laboratory tests:~~

~~(a) Cytogenetic studies on fetal cells including chromosome analysis, cytogenomic microarray analysis (CMA), and fluorescent in-situ hybridization (FISH);~~

~~(b) Viral titer studies;~~

~~(c) Fetal blood typing for isoimmunization studies;~~

~~(d) Prenatal diagnostic tests for hematological disorders;~~

~~(e) DNA studies on fetal cells for single gene disorders; and~~

(f) Biochemical studies on fetal blood.

(7) "Postprocedure genetic counseling" means individual counseling that may be part of another procedure, or service involving a health care provider and a pregnant person with or without other family members, to discuss the results of the prenatal tests done, any further testing or procedures available or referrals for further consultation or counseling.

(8) "Prenatal cell free DNA screening," sometimes called noninvasive prenatal screening, means drawing blood from the pregnant person to perform laboratory analysis on the cell free DNA circulating in the maternal blood stream.

(9) "Prenatal test" means any test or procedure to ((predict)) screen for or diagnose congenital or heritable disorders ((that may harm or endanger the health, safety, or welfare of members of the public if improperly utilized and includes preprocedure and postprocedure genetic counseling, laboratory tests, and procedures as follows:

(a) Maternal serum marker screening is a procedure involving obtaining blood from a pregnant woman during the fifteenth to twenty-second week of gestation, in order to measure through laboratory tests the level of certain analytes that are associated with increased risks to the fetus or pregnancy such as alpha-fetoprotein, unconjugated estriol, human gonadotropin, inhibin, and/or PAPP-A.

(b) Maternal hepatitis B surface antigen (HBsAg) screening is a procedure involving obtaining blood from a pregnant woman during the first trimester of pregnancy to test for maternal hepatitis B infection. HBsAg screening should be repeated during the last trimester of pregnancy if a woman is at high risk for hepatitis B infection.

(c) Group B strep screening per vaginorectal culture at 35-37 weeks gestation is used to screen pregnant women for Group B strep colonization. The swab culture specimen must be grown in selective broth media.

(d) Amniocentesis is a procedure performed after fourteen weeks of gestation to remove a small amount of amniotic fluid from the uterus of a pregnant woman, in order to perform one or more of the following laboratory tests:

- (i) Measure the level of alpha-fetoprotein;
- (ii) Measure the level of acetylcholinesterase;
- (iii) Cytogenetic studies on fetal cells including fluorescent in-situ hybridization (FISH) if indicated;
- (iv) Biochemical studies on fetal cells or amniotic fluid;
- (v) Deoxyribonucleic Acid (DNA) studies on fetal cells including fetal genotyping for isoimmunization studies; and
- (vi) Infectious disease studies.

(e) Chorionic villus sampling is a procedure performed from ten to twelve weeks of gestation to remove a small amount of cells from the developing placenta, in order to perform one or more of the following laboratory tests:

- (i) Cytogenetic studies on fetal cells including fluorescent in-situ hybridization (FISH) if indicated;
- (ii) Biochemical studies on fetal cells; and
- (iii) DNA studies on fetal cells.

(f) Percutaneous umbilical cord blood sampling is a procedure performed typically after fifteen weeks of gestation to obtain blood from the fetus, in order to perform one or more of the following laboratory tests:

- (i) Cytogenetic studies including fluorescent in-situ hybridization (FISH) if indicated;

- ~~(ii) Viral titer studies;~~
- ~~(iii) Fetal blood typing for isoimmunization studies;~~
- ~~(iv) Prenatal diagnostic tests for hematological disorders;~~
- ~~(v) DNA studies on fetal cells;~~
- ~~(vi) Biochemical studies on fetal blood.~~
- ~~(g)) of a fetus.~~

(10) "Prenatal ultrasonography ((is))" means a procedure (~~(performed at any time during pregnancy)~~) resulting in visualization of the uterus, the placenta, the fetus, and internal structures through use of sound waves.

~~((h)) (11) "Preprocedure genetic counseling" means individual counseling((, which)) that may be part of another procedure, or service, involving a health care provider ((or a qualified genetic counselor under the direction of a physician,)) and a pregnant ((woman)) person with or without other family members, to assess and identify increased risks for congenital abnormalities or pregnancy complications, offer specific carrier screening or diagnostic tests, discuss the purposes, risks, accuracy, and limitations of a prenatal testing procedure, aid in decision making and to assist, when necessary, in obtaining the desired testing or procedure.~~

~~((i) "Postprocedure genetic counseling" means, when test results are available, individual counseling, which may be part of another procedure or service, involving a health care provider or a qualified genetic counselor under the direction of a physician and a pregnant woman with or without other family members, to discuss the results of the prenatal tests done, any further testing or procedures available and/or referrals for further consultation or counseling.~~

~~(j) "Qualified genetic counselor" means an individual eligible for certification or certified as defined by the American Board of Medical Genetics, Inc., or the American Board of Genetic Counseling.))~~

[Statutory Authority: RCW 48.21.244, 48.44.344, 48.46.375, 70.54.220. WSR 03-11-031, § 246-680-010, filed 5/15/03, effective 6/15/03. Statutory Authority: RCW 43.20.050. WSR 91-02-051 (Order 124B), recodified as § 246-680-010, filed 12/27/90, effective 1/31/91. Statutory Authority: RCW 48.21.244, 48.44.344 and 48.46.375. WSR 90-02-094 (Order 024), § 248-106-010, filed 1/3/90, effective 2/3/90.]

AMENDATORY SECTION (Amending WSR 03-11-031, filed 5/15/03, effective 6/15/03)

WAC 246-680-020 Board of health standards for screening and diagnostic tests during pregnancy.

(1) For the purpose of RCW 48.21.244, 48.44.344, and 48.46.375, the following are standards of medical necessity for insurers, health care service contractors, and health maintenance organizations to use when authorizing requests or claims for prenatal screening ~~((and/or))~~ or diagnosis without the requirement of a case-by-case determination:

(a) Hepatitis B surface antigen (HBsAg) screening for all pregnant persons during the first trimester of pregnancy and the last trimester of pregnancy if the person is at high risk for hepatitis B infection.

(b) Group B strep screening through prenatal vaginorectal cultures at thirty-five to thirty-seven weeks of gestation. Pregnant persons who are currently colonized with Group B strep, or who have un-

known Group B strep status should receive intrapartum treatment in accordance with the current standard of practice in order to reduce risk to the newborn.

(2) For the purpose of RCW 48.21.244, 48.44.344, and 48.46.375, the following are standards of medical necessity for insurers, health care service contractors, and health maintenance organizations to use when authorizing requests or claims for prenatal screening or diagnosis without the requirement of a case-by-case determination and including preprocedure and postprocedure genetic counseling:

(a) Maternal serum marker screening for all pregnant ((women)) persons at the beginning of prenatal care if initiated before the ((twentieth)) twenty-second completed week of gestation.

(b) ((Maternal hepatitis B surface antigen (HBsAg) screening for all pregnant women during the first trimester of pregnancy and the last trimester of pregnancy if the woman is at high risk for hepatitis B infection.

(c) Information about Group B strep should be provided to all pregnant women, including the risk to the newborn, if the woman is identified through screening as potentially colonized with Group B strep. Screening is done through prenatal vaginorectal cultures, although specific clinical indicators may preclude screening. Pregnant women who are currently colonized with Group B strep, or who have unknown Group B strep status should receive intrapartum treatment in accordance with the current standard of practice in order to reduce risk to the newborn.

(d)) Prenatal ultrasonography:

(i) During the first trimester to establish viability, gestational age, and determine if singleton or multiple births; and

(ii) During second trimester for fetal morphology.

(c) Additional prenatal ultrasonography can be done at any time during a pregnancy if one or more of the following criteria are met:

(i) A ((woman)) person is undergoing amniocentesis, chorionic villus sampling, ((or)) percutaneous umbilical ((cord)) blood sampling, or fetal tissue biopsy;

(ii) The results of a maternal serum marker screening or prenatal cell free DNA test indicate an increased risk to the fetus or pregnancy;

(iii) ((A woman or the biological father of the fetus has a personal or family history of a congenital abnormality detectable by prenatal ultrasound;

(iv)) There is an increased risk of a congenital abnormality ((is present)) due to:

(A) An environmental exposure ((including maternal exposure to alcohol; or

(v)) ;

(B) A medical evaluation ((indicates)) indicating the possibility of polyhydramnios ((or)), oligohydramnios, or poor or accelerated fetal growth; or

(C) A personal or family history of a congenital abnormality that is potentially detectable by prenatal ultrasound.

((e)) (d) Amniocentesis ((if one or more of the following criteria are met:

(i) A woman is thirty-five years of age or older at the time of delivery;

(ii) A woman or the biologic father of the fetus has a previous child or fetus with a chromosomal abnormality or other prenatally diagnosable disorder;

- ~~(iii) A woman or the biologic father of the fetus has a family history that includes birth defects or developmental delays;~~
- ~~(iv) A woman or the biologic father of the fetus is a carrier of a chromosomal rearrangement;~~
- ~~(v) A woman and/or the biologic father of the fetus are carriers of, or affected with, a prenatally diagnosable inherited disorder;~~
- ~~(vi) The results of a maternal serum marker screening test indicate an increased risk to the pregnancy or fetus;~~
- ~~(vii) A woman has a documented history of three or more miscarriages of unknown cause when circumstances prevent parental chromosomal testing;~~
- ~~(viii) There is an ultrasound diagnosis of fetal anomaly;~~
- ~~(ix) A medical evaluation indicates an increased risk of fetal infection;~~
- ~~(x) Fetal blood studies are indicated for isoimmunization studies or therapy.~~
- ~~(f)) after fourteen weeks of gestation.~~
- ~~(e) Chorionic villus sampling ((with preprocedure and postprocedure genetic counseling if one or more of the following criteria are met:~~
 - ~~(i) A woman is thirty-five years of age or older at the time of delivery;~~
 - ~~(ii) A woman or the biologic father of the fetus has a previous child or fetus with a chromosomal abnormality or other prenatally diagnosable inherited disorder;~~
 - ~~(iii) A woman or the biologic father of the fetus is a carrier of a chromosomal rearrangement;~~
 - ~~(iv) A woman or the biologic father of the fetus is a carrier of, or affected with, a prenatally diagnosable inherited disorder;~~
 - ~~(v) A woman has a documented history of three or more miscarriages of unknown cause when circumstances prevent parental chromosomal testing; or~~
 - ~~(vi) Fetal genotyping is indicated to determine risks for isoimmunization.~~
 - ~~(g)) between ten and fourteen weeks of gestation.~~
 - ~~(f) Fetal diagnostic testing including:~~
 - ~~(i) Cytogenetic studies on fetal cells including chromosome analysis, targeted cytogenomic microarray analysis (CMA), and fluorescent in-situ hybridization (FISH) ((if a medical evaluation indicates a rapid or specific submicroscopic chromosomal diagnosis is required to predict the prognosis for the fetus)) for any person undergoing amniocentesis or chorionic villus sampling; and~~
 - ~~(ii) DNA testing, biochemical testing, or testing for infectious diseases if medically indicated because of an abnormal ultrasound finding, intrauterine fetal demise, or known family history; and~~
 - ~~(iii) Cytogenomic microarray analysis in the case of recurrent intrauterine fetal demise.~~
 - ~~(g) Prenatal cell free DNA testing performed after nine weeks of gestation for the detection of aneuploidy including trisomy 21, 18, 13, or the sex chromosomes if the following criteria are met:~~
 - ~~(i) There is documentation of preprocedure genetic counseling;~~
 - ~~(ii) There is documentation of how postprocedure genetic counseling will be provided; and~~
 - ~~(iii) Testing the sex chromosomes is not solely for the purposes of determining the sex of the fetus.~~
 - ~~(h) Carrier screening at any time during the pregnancy for:~~

(i) Recessive or X-linked conditions if indicated by a positive family history; and

(ii) Any of the following conditions irrespective of family history:

- (A) Alpha-thalassemia (HBA1/HBA2);
- (B) Beta-thalassemia;
- (C) Bloom syndrome;
- (D) Canavan disease;
- (E) Cystic fibrosis;
- (F) Familial dysautonomia (IKBKAP);
- (G) Fanconi anemia type C (FANCC);
- (H) Gaucher disease (GBA);
- (I) Mucopolysaccharidosis IV (MCPOLN1); or
- (J) Niemann-Pick disease (SMPD1);
- (K) Sickle cell disease;
- (L) Spinal muscular atrophy (SMN1);
- (M) Tay-Sachs disease (HEXA);
- (N) Fragile-X Syndrome.

(iii) Carrier screening under (h)(i) and (ii) of this subsection may be limited to once per lifetime.

(i) Molecular genetic or cytogenetic testing of parents to allow for definitive fetal testing, or parental testing to better inform results that are suggestive of, but do not identify a unifying diagnosis and when the results of the parental testing will be used to guide treatment, reproductive decisions, or care planning that would not otherwise be made.

~~((2))~~ (3) The ~~(board recommends the)~~ following ~~(additional)~~ procedures ~~(for use by insurers, health service contractors, and health maintenance organizations in determining medical necessity on a case-by-case basis)~~ are for use by insurers, health service contractors, and health maintenance organizations in determining medical necessity on a case-by-case basis to use when authorizing requests for claims for prenatal screening and diagnosis:

(a) Percutaneous umbilical cord blood sampling ~~(with preprocedure and postprocedure genetic counseling)~~ after fifteen weeks of gestation if one or more of the following criteria are met:

(i) A medical evaluation indicates rapid or specific submicroscopic chromosomal diagnosis or DNA diagnosis is required to predict prognosis for the fetus;

(ii) A medical evaluation indicates the possibility of a prenatally diagnosable fetal infection;

(iii) Fetal blood studies are medically indicated for isoimmunization studies or therapy;

(iv) Fetal blood is the only means to provide biochemical genetic diagnosis;

(v) Prenatal diagnosis of a hematological disorder is medically indicated.

(b) Prenatal tissue biopsy if the nature of the disorder in question indicates that fetal liver, skin, or other tissue biopsy is the only means to provide biochemical genetic diagnosis to protect the health of the ~~(mother)~~ pregnant person or predict the prognosis of the fetus.

(c) Cytogenomic microarray analysis (CMA) if medically indicated because of an abnormal ultrasound finding or known family history.

[Statutory Authority: RCW 48.21.244, 48.44.344, 48.46.375. WSR 03-11-031, § 246-680-020, filed 5/15/03, effective 6/15/03. Statutory

Authority: RCW 43.20.050. WSR 91-02-051 (Order 124B), recodified as § 246-680-020, filed 12/27/90, effective 1/31/91. Statutory Authority: RCW 48.21.244, 48.44.344 and 48.46.375. WSR 90-02-094 (Order 024), § 248-106-020, filed 1/3/90, effective 2/3/90.]

WSR 21-16-080

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed August 2, 2021, 9:43 a.m., effective September 1, 2021]

Effective Date of Rule: September 1, 2021.

Purpose: The purpose of this fee increase is to raise fees at a level necessary to defray the costs of administering the real estate program. We anticipate this will be difficult for some individuals and businesses within the real estate industry, however, it is necessary to ensure the department is able to effectively administer the program. The department has raised most of the fees listed in WAC 308-124A-775 and all fees listed in WAC 308-124H-990.

Citation of Rules Affected by this Order: Amending WAC 308-124A-775 Real estate fees and 308-124H-990 Real estate course, school, and instructor approval fees.

Statutory Authority for Adoption: RCW 43.24.086 Fee policy for professions, occupations, and businesses—Determination by rule.

Adopted under notice filed as WSR 21-13-147 on June 22, 2021.

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 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 2, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: August 2, 2021.

Ellis Starrett
Rules and Policy Manager

OTS-2536.3

AMENDATORY SECTION (Amending WSR 16-05-064, filed 2/12/16, effective 3/14/16)

WAC 308-124A-775 Real estate fees. These fees are applicable to all original licenses, examination services, and fee generating services issued or performed on or after (~~July 1, 2010~~) September 1, 2021, and all renewals for existing licenses with expiration date on or after (~~July 1, 2010~~) September 1, 2021. The fees for an original license and renewal include a ten dollar fee which is assessed for the real estate research center for the real estate broker and the real estate managing broker licenses. The following fees shall be charged by the department of licensing:

Title of Fee	Fee
Real estate broker:	

Title of Fee	Fee
Application/examination	\$((138.25)) <u>210.00</u>
Reexamination	((138.25)) <u>210.00</u>
Original license	((146.25)) <u>223.00</u>
License renewal	((146.25)) <u>223.00</u>
Late renewal with penalty	((172.75)) <u>263.00</u>
((Duplicate)) <u>License print fee</u>	((26.50)) <u>5.00</u>
Certification	((26.50)) <u>40.00</u>
Name or address change, transfer or license activation	0.00
Real estate managing broker:	
Application/examination	\$((138.25)) <u>210.00</u>
Reexamination	((138.25)) <u>210.00</u>
Original license	((210.00)) <u>320.00</u>
License renewal	((210.00)) <u>320.00</u>
Late renewal with penalty	((236.50)) <u>360.00</u>
((Duplicate)) <u>License print fee</u>	((26.50)) <u>5.00</u>
Certification	((26.50)) <u>40.00</u>
Name or address change, transfer or license activation	0.00
Real estate firm and assumed name license:	
Original license	\$((200.00)) <u>304.00</u>
License renewal	((200.00)) <u>304.00</u>
Late renewal with penalty	((226.50)) <u>345.00</u>
Name or address change	0.00
((Duplicate)) <u>License print fee</u>	((26.50)) <u>5.00</u>
Certification	((26.50)) <u>40.00</u>
Real estate branch:	
Original license	\$((189.50)) <u>288.00</u>
License renewal	((189.50)) <u>288.00</u>
Late renewal with penalty	((216.50)) <u>329.00</u>
Certification	((26.50)) <u>40.00</u>

Title of Fee	Fee
((Duplicate)) <u>License print fee</u>	((26.50)) <u>5.00</u>
Name or address change, transfer or license activation	0.00
Fingerprint processing	per vendor schedule
Subsequent fingerprint processing	per vendor schedule
Fingerprints rejected by the department, Washington state patrol or FBI may necessitate subsequent fingerprint processing fees.	
Fingerprint rolling fee per vendor schedule.	

[Statutory Authority: RCW 18.85.171 and 18.85.041. WSR 16-05-064, § 308-124A-775, filed 2/12/16, effective 3/14/16. Statutory Authority: RCW 18.85.061 and 18.85.451. WSR 10-15-055, § 308-124A-775, filed 7/15/10, effective 8/15/10. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124A-775, filed 3/1/10, effective 7/1/10.]

OTS-3118.1

AMENDATORY SECTION (Amending WSR 14-16-054, filed 7/29/14, effective 8/29/14)

WAC 308-124H-990 Real estate course, school, and instructor approval fees. (1) The following fees shall be charged for applications for approval of real estate courses, schools, and instructors. An application fee shall accompany each application. Approval for schools and instructors, if granted, shall be two years from the date of approval. Approval for courses, except for the core course, if granted, shall be four years from the date of approval. Applications submitted and disapproved may be resubmitted at no additional fee.

(2) Application for course content approval - A fee of ~~((five dollars))~~ seven dollars and sixty cents per clock hour credit being offered, with a minimum fee of ~~((fifty))~~ seventy-six dollars per core course. A fee of ~~((ten dollars))~~ fifteen dollars and twenty cents per clock hour credit being offered, with a minimum of one hundred fifty-two dollars per course other than the core course. Except, the application fee for approval of the sixty clock hour course in real estate fundamentals shall be ~~((three hundred))~~ four hundred fifty-six dollars.

(3) Application for school approval - A fee of ~~((two hundred fifty))~~ three hundred eighty dollars.

(4) Application for instructor approvals:

(a) Approval to teach a specific course on one occasion - A fee of ~~((fifty))~~ seventy-six dollars;

(b) Approval to teach as many subject areas as requested at time of initial application - A fee of ~~((seventy five))~~ one hundred four-teen dollars. Approval shall be for two years from the approval date;

(c) Approval to teach additional subject area(s) not requested at time of initial application or renewal - A fee of (~~twenty-five~~) thirty-eight dollars for each application to teach additional subject area(s). Approval, if granted, shall be for remainder of two year approval period. Applications submitted under (a), (b) and (c) of this section and disapproved may be resubmitted at no additional fee.

[Statutory Authority: RCW 18.85.041. WSR 14-16-054, § 308-124H-990, filed 7/29/14, effective 8/29/14. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-990, filed 3/1/10, effective 7/1/10.]

WSR 21-16-083
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed August 2, 2021, 2:12 p.m., effective September 4, 2021]

Effective Date of Rule: September 4, 2021.

Purpose: The department is adopting WAC 388-437-0015 Good cause extension of Social Security number (SSN) requirement for basic food applicants during COVID-19, and amending WAC 388-476-0005 Social Security number requirements, to allow good cause for not providing a Social Security number during the COVID-19 pandemic, contingent upon ongoing federal approval, and clarify timeframes for showing good cause in accordance with federal regulations.

Citation of Rules Affected by this Order: New WAC 388-437-0015; and amending WAC 388-476-0005.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090.

Adopted under notice filed as WSR 21-10-055 on April 29, 2021.

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

Date Adopted: August 2, 2021.

Katherine I. Vasquez
Rules Coordinator

SHS-4820.5

NEW SECTION

WAC 388-437-0015 Good cause extension of Social Security number (SSN) requirement for basic food applicants during COVID-19. Applicants for food benefits must provide an SSN under WAC 388-476-0005(1) to qualify. Those who do not have an SSN must apply for one and provide it to DSHS when issued.

(1) For applicants with an initial application date of March 1, 2020, or later, who have established good cause for failure to provide an SSN, the good cause period is extended for three months, in addition to the application month and the following month under WAC 388-476-0005 (5) (a), for a total of up to five months.

(2) To continue receiving benefits beyond the five month good cause period, the applicant must show good cause for failure to apply

for an SSN on a monthly basis in accordance with WAC 388-476-0005 (5) (b).

(3) Adjustments under subsection (1) of this section will continue each month until the U.S. Department of Agriculture, Food and Nutrition Service no longer approves these adjustments.

[]

AMENDATORY SECTION (Amending WSR 13-18-005, filed 8/22/13, effective 10/1/13)

WAC 388-476-0005 Social Security number requirements. (1) With certain exceptions, each person who applies for or receives cash or food assistance benefits must provide to the department a Social Security number (SSN), or numbers if more than one has been issued. For SSN requirements for immigrants, see WAC 388-424-0009.

(2) If the person is unable to provide the SSN, either because it is not known or has not been issued, the person must:

- (a) Apply for the SSN;
- (b) Provide proof that the SSN has been applied for; and
- (c) Provide the SSN when it is received.

(3) Assistance will not be delayed, denied or terminated pending the issuance of an SSN by the Social Security Administration. However, a person who does not comply with these requirements is not eligible for assistance.

(4) For cash and food assistance benefits, a person cannot be disqualified from receiving benefits for refusing to apply for or supply an SSN based on religious grounds.

(5) For food assistance programs:

(a) A person can receive benefits for the month of application and the following month if the person attempted to apply for the SSN and made every effort to provide the needed information to the Social Security Administration.

(b) For a person to receive benefits after the time period provided in subsection (5)(a) of this section, good cause for failure to apply for the SSN must be shown monthly.

(c) If a person is unable to provide proof of application for a SSN for a newborn:

(i) The newborn can receive basic food (~~(with)~~) while the household (~~(while effort is being made)~~) makes efforts to get the SSN.

(ii) For the newborn to continue receiving basic food benefits (~~(+)~~), the household must provide proof of application for SSN or the SSN for the newborn, at the next recertification, or within six months following the month the baby is born, whichever is later.

(6) There is no SSN requirement for the following programs:

- (a) The consolidated emergency assistance program; and
- (b) The refugee cash assistance program.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.04.510, and 2011 1st sp.s. c 15. WSR 13-18-005, § 388-476-0005, filed 8/22/13, effective 10/1/13. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, 74.08A.100, 74.04.770, 74.04.0052, 74.04.655, 74.08.043, 74.08.335, and 2011 1st sp.s. c 36. WSR 12-10-042, § 388-476-0005, filed 4/27/12, effective 6/1/12. Statutory Authority: RCW 74.08.090, 74.04.050, 74.04.055,

74.04.057, 74.04.510, and Title 7, 273.6 C.F.R. WSR 10-17-101, § 388-476-0005, filed 8/17/10, effective 9/17/10. Statutory Authority: RCW 74.08.090. WSR 03-20-061, § 388-476-0005, filed 9/26/03, effective 10/27/03. Statutory Authority: RCW 74.08.090 and 74.04.510. WSR 99-17-025, § 388-476-0005, filed 8/10/99, effective 10/1/99. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-476-0005, filed 7/31/98, effective 9/1/98. Formerly WAC 388-505-0530.]