

WSR 21-18-022
EMERGENCY RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed August 23, 2021, 9:08 a.m., effective September 1, 2021]

Effective Date of Rule: September 1, 2021.

Purpose: The purpose of the emergency rule amendment to WAC 392-160-015 and 392-160-026 is to provide school districts with additional time for required screening of potential multilingual/English learners. The emergency rule increases the screening time frame from ten days to thirty days and is intended to be effective through December 2021. The 30-day screening period is consistent with current federal screening period. The extended screening time frame allows districts to screen students identified on a provisional status as well as incoming new students within 30 days of on-site attendance when school resumes in the fall.

Citation of Rules Affected by this Order: Amending WAC 392-160-015 and 392-160-026.

Statutory Authority for Adoption: RCW 28A.180.060.

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

Reasons for this Finding: Due to the ongoing global pandemic caused by the COVID-19 virus and the need for many schools to operate fully or partially remotely last school year (2020-2021), students screened were identified on a provisional basis for last school year. The extended screening time frame allows districts to screen students identified on a provisional status as well as incoming new students within 30 days of on-site attendance when school resumes in the fall 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: August 23, 2021.

Chris P. S. Reykdal
State Superintendent
of Public Instruction

OTS-3242.1

AMENDATORY SECTION (Amending WSR 16-15-100, filed 7/20/16, effective 8/20/16)

WAC 392-160-015 Identification of eligible students. (1) District procedures—Identification of primary language required: Every school district board of directors shall adopt written procedures governing the identification of each student's primary language and the determination of which students with a primary language other than English are eligible students. Such procedures shall include:

(a) A home language survey, completed by the student and the student's parent(s) or guardian(s), which identifies the student's primary language as other than English; and

(b) Provisions for testing students on the state-approved screener.

(2) Deadline for determining eligibility of newly enrolled students: The primary language and eligibility of each newly enrolled student shall be established no later than the (~~tenth~~) thirtieth school day after the date upon which the student registers and commences attendance at a particular school district. Provided that no eligible student shall be required to participate in a transitional bilingual instructional program or an alternative instructional program, if the parent/guardian chooses to opt the student out of program services.

(3) Annual reassessment of all (eligible) students is required: Each school year each school in which an eligible student is enrolled shall conduct an evaluation of the overall academic progress and English language development of the student. This evaluation must include, but not be limited to, the administration of a standardized test in reading, writing, listening and speaking in English as set forth in WAC 392-160-035.

[Statutory Authority: RCW 28A.180.060. WSR 16-15-100, § 392-160-015, filed 7/20/16, effective 8/20/16. Statutory Authority: RCW 28A.180.010. WSR 08-19-039, § 392-160-015, filed 9/10/08, effective 10/11/08; WSR 08-09-071, § 392-160-015, filed 4/16/08, effective 5/17/08. Statutory Authority: Chapter 28A.180 RCW. WSR 91-17-008 (Order 12), § 392-160-015, filed 8/12/91, effective 9/12/91. Statutory Authority: RCW 28A.58.808. WSR 84-20-083 (Order 84-41), § 392-160-015, filed 10/2/84. Statutory Authority: RCW 28A.58.800 through 28A.58.810. WSR 84-13-027 (Order 84-17), § 392-160-015, filed 6/13/84. Statutory Authority: RCW 28A.58.804. WSR 81-15-089 (Order 81-4), § 392-160-015, filed 7/22/81. Statutory Authority: RCW 28A.58.808. WSR 80-07-039 (Order 80-21), § 392-160-015, filed 6/17/80.]

AMENDATORY SECTION (Amending WSR 08-09-071, filed 4/16/08, effective 5/17/08)

WAC 392-160-026 District application. Each school district that seeks an allocation of state funds for a transitional bilingual instruction program or alternative instructional program shall submit a program approval application to the superintendent of public instruction no later than (~~August~~) September 1 of each year: Provided, That in the case of extenuating circumstances or in the case of a change in circumstances such as the unexpected enrollment of eligible students

the superintendent of public instruction may allow the belated submission of an application or the submission of a modification to a previously approved application. The application shall apply to programs to be conducted during the ensuing school year and shall provide data and information in accordance with instructions and forms now or hereafter established and published by the superintendent of public instruction in bulletins distributed to school districts.

[Statutory Authority: RCW 28A.180.010. WSR 08-09-071, § 392-160-026, filed 4/16/08, effective 5/17/08. Statutory Authority: RCW 28A.58.808. WSR 84-20-083 (Order 84-41), § 392-160-026, filed 10/2/84. Statutory Authority: RCW 28A.58.800 through 28A.58.810. WSR 84-13-027 (Order 84-17), § 392-160-026, filed 6/13/84.]