

WSR 21-19-066
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed September 14, 2021, 2:21 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-09-086.

Title of Rule and Other Identifying Information: WAC 392-121-249 through 392-121-299, Finance—General apportionment—Certificated instructional staff.

Hearing Location(s): October 27, 2021, at 1:00 p.m., webinar via Zoom (call-in option will be available). Due to ongoing public health emergency related to the COVID-19 virus pandemic, this public hearing will be held by webinar via Zoom (with a call-in option). There will be no physical location for the hearing. For information on registering and participating, please visit the office of superintendent of public instruction's (OSPI) website at <https://www.k12.wa.us/policyfunding/ospi-rulemaking-activity>. For questions, please email Kristin.murphy@k12.wa.us.

Date of Intended Adoption: November 1, 2021.

Submit Written Comments to: Ross Bunda, OSPI, P.O. Box 47200, Olympia, WA 98504-7200, email ross.bunda@k12.wa.us, fax 360-664-3683, by October 27, 2021.

Assistance for Persons with Disabilities: Contact Kristen Murphy, phone 360-725-6133, fax 360-754-4201, TTY 360-664-3631, email Kristin.murphy@k12.wa.us, by October 20, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: OSPI is proposing rule revisions regarding data collection requirements on the S-275 school personnel report after the 2018 Washington legislature made significant changes to how school districts are funded and how educators are compensated. The Washington legislature no longer provides funding to school districts for teacher salary and benefits tied to their education level (degree and credits) and certificated years of experience. Rule revisions are needed to implement those changes while continuing to collect S-275 education and experience data as needed.

Reasons Supporting Proposal: The proposed rule revisions are needed to provide simplified, but accurate data for the Washington legislature to review and rebase state salary allocations that align with the staffing costs for the state's program of basic education pursuant to RCW 28A.150.410.

Statutory Authority for Adoption: RCW 28A.150.290(1).

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

Name of Agency Personnel Responsible for Drafting: Ross Bunda, OSPI, 600 South Washington Street, Olympia, WA, 360-725-6308; and Implementation: Michelle Matakas, OSPI, 600 South Washington Street, Olympia, WA, 360-725-6019; and Enforcement: T.J. Kelly, OSPI, 600 South Washington Street, Olympia, WA, 360-725-6301.

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

A cost-benefit analysis is not required under RCW 34.05.328. OSPI is not subject to RCW 34.05.328 per subsection (5)(a)(i). Additionally, this rule is not a significant legislative rule per subsection (5)(c)(iii).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:
Is exempt under RCW 19.85.030.

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

September 14, 2021
Chris P. S. Reykdal
State Superintendent
of Public Instruction

OTS-3062.3

AMENDATORY SECTION (Amending WSR 17-03-025, filed 1/6/17, effective 2/6/17)

WAC 392-121-249 Definition—Accredited institution of higher education. As used in this chapter, "accredited institution of higher education" means an institution of higher education that has been accredited by a national or regional accrediting association recognized by the Washington student achievement council and the secretary of the U.S. Department of Education pursuant to WAC (~~(181-78A-010(7))~~) 250-61-050.

[Statutory Authority: RCW 28A.150.290(1) and 28A.415.024. WSR 17-03-025, § 392-121-249, filed 1/6/17, effective 2/6/17. Statutory Authority: RCW 28A.150.290(1). WSR 11-21-065, § 392-121-249, filed 10/17/11, effective 11/17/11; WSR 06-19-045, § 392-121-249, filed 9/15/06, effective 10/16/06. Statutory Authority: RCW 28A.150.290, 28A.150.400 and the Biennial Operating Appropriations Act. WSR 94-01-190, § 392-121-249, filed 12/22/93, effective 1/22/94.]

AMENDATORY SECTION (Amending WSR 11-21-065, filed 10/17/11, effective 11/17/11)

WAC 392-121-250 Definition—Highest degree level. As used in this chapter, the term "highest degree level" means:

- (1) The highest degree earned by the employee from an accredited institution of higher education, pursuant to WAC 392-121-249; or
- (2) "Nondegreed" for a certificated instructional employee who (~~(a))~~ holds no bachelor's or higher level degree (~~(b))~~ ~~holds a bachelor's or higher level degree and a valid vocational/career and technical education certificate, but:~~
 - ~~(i) The bachelor's or higher level degree was not a requirement of any past or present education certificate or permit, including the vocational/career and technical education certificate, pursuant to chapter 181-77 or 181-79A WAC; and~~

~~(ii) Whose highest placement pursuant to WAC 392-121-270 is as a nondegreed certificated instructional employee)).~~

[Statutory Authority: RCW 28A.150.290(1). WSR 11-21-065, § 392-121-250, filed 10/17/11, effective 11/17/11; WSR 09-15-127, § 392-121-250, filed 7/20/09, effective 8/20/09; WSR 08-08-033, § 392-121-250, filed 3/25/08, effective 4/25/08; WSR 06-19-045, § 392-121-250, filed 9/15/06, effective 10/16/06. Statutory Authority: RCW 28A.150.290, 28A.150.400 and the Biennial Operating Appropriations Act. WSR 94-01-190, § 392-121-250, filed 12/22/93, effective 1/22/94. Statutory Authority: RCW 28A.41.055 and 28A.41.170. WSR 88-03-013 (Order 88-8), § 392-121-250, filed 1/11/88.]

AMENDATORY SECTION (Amending WSR 15-18-078, filed 8/28/15, effective 9/28/15)

WAC 392-121-264 Definition—Certificated years of experience.

Regardless of the experience factors used by a school district ~~((or))~~, charter school, or tribal compact school for the purposes of its salary schedule(s), as used in this chapter, the term "certificated years of experience" means the number of years of accumulated full-time and part-time ~~((professional education))~~ certificated employment prior to the current reporting school year in the state of Washington, out-of-state, and a foreign country. School districts ~~((and))~~, charter schools, and tribal compact schools shall report all certificated years of experience including those beyond the experience limit of ~~((the school district's or charter school's))~~ their salary schedule(s).

(1) ~~((Professional education))~~ Certificated employment shall be limited to ~~((the following:~~

~~(a))~~ employment in public or private preschools or elementary and secondary schools in positions which require certification where ~~((:~~

~~(i) Schools include the Centrum education program, the Pacific Science Center education program, educational centers authorized under chapter 28A.205 RCW, and Seattle Children's Hospital education program;~~

~~(ii))~~ certification means the concurrent public professional education licensing requirements established in the state, province, country, or other governmental unit in which employment occurred and which, for the state of Washington, refers to the certificates authorized by WAC 181-79A-140 and 181-79A-142, and temporary permits authorized by WAC 181-79A-128 ~~((:~~

~~(b) Employment in public or private vocational-technical schools, technical colleges, community/junior colleges, colleges, and universities in positions comparable to those which require certification in Washington school districts;~~

~~(c) Employment in a governmental educational agency with regional administrative responsibilities for preschool, elementary, and/or secondary education including but not limited to an educational service district, office of superintendent of public instruction, or United States department of education in any professional position including but not limited to C.P.A., architect, business manager, or physician;~~

~~(d) Experience in the following areas:~~

~~(i) Military, Peace Corps, or Vista service which interrupted professional education employment included in (a), (b), or (c) of this subsection; and~~

~~(ii) Sabbatical leave.~~

~~(e) For nondegreed vocational/career and technical education instructors, up to a maximum of six years of management experience as defined in WAC 181-77-003(6) acquired after the instructor meets the minimum vocational/career and technical education certification requirements of three years (six thousand hours) established in WAC 181-77-041 (1) (a) (i), regardless of when the initial certificate is issued and regardless of type of vocational/career and technical education certificate held. If a degree is obtained while employed in the state of Washington as a nondegreed vocational/career and technical education instructor, the eligible years of management experience pursuant to this subsection reported on Report S-275 prior to the awarding of the degree shall continue to be reported but shall not increase.~~

~~(f) Beginning in the 2007-08 school year, for occupational therapists, physical therapists, nurses, speech-language pathologists, audiologists, counselors, psychologists, and social workers regulated under Title 18 RCW, years of experience may include employment as occupational therapists, physical therapists, nurses, speech-language pathologists, audiologists, counselors, psychologists, and social workers, that does not otherwise meet the requirements of (a) through (e) of this subsection, subject to the following conditions and limitations:~~

~~(i) Experience included under this subsection shall be limited to a maximum of two years.~~

~~(ii) The calculation of years of experience shall be that one year of experience in a school or other nonschool position counts as one year of experience for the purposes of this subsection, per subsection (2) (a) of this section.~~

~~(iii) Employment as occupational therapists shall be limited to the following:~~

~~(A) In positions requiring licensure as an occupational therapist under Title 18 RCW, or comparable out-of-state employment; and~~

~~(B) While holding a valid occupational therapist license, or other comparable occupational therapist credential.~~

~~(iv) Employment as physical therapists shall be limited to the following:~~

~~(A) In positions requiring licensure as a physical therapist under Title 18 RCW, or comparable out-of-state employment; and~~

~~(B) While holding a valid physical therapist license, or other comparable physical therapist credential.~~

~~(v) Employment as nurses shall be limited to the following:~~

~~(A) In positions requiring licensure as a registered nurse under Title 18 RCW, or comparable out-of-state employment; and~~

~~(B) While holding a valid registered nurse license, or other comparable registered nurse credential.~~

~~(vi) Employment as speech-language pathologists or audiologists shall be limited to the following:~~

~~(A) In positions requiring the same or similar duties and responsibilities as are performed by speech-language pathologists or audiologists regulated under Title 18 RCW; and~~

~~(B) After completion of the minimum requirements for conditional certification as a school speech-language pathologist or audiologist established in WAC 181-79A-231 (1) (e) (iv).~~

~~(vii) Employment as counselors shall be limited to the following:
(A) In positions requiring the same or similar duties and responsibilities as are performed by counselors regulated under Title 18 RCW; and~~

~~(B) After completion of the minimum requirements for emergency certification as a school counselor established in WAC 181-79A-231(3).~~

~~(viii) Employment as psychologists shall be limited to the following:~~

~~(A) In positions requiring the same or similar duties and responsibilities as are performed by psychologists regulated under Title 18 RCW; and~~

~~(B) After completion of the minimum requirements for emergency certification as a school psychologist established in WAC 181-79A-231(3).~~

~~(ix) Employment as social workers shall be limited to the following:~~

~~(A) In positions requiring the same or similar duties and responsibilities as are performed by social workers regulated under Title 18 RCW; and~~

~~(B) After completion of the minimum requirements for emergency certification as a school social worker established in WAC 181-79A-231(3).~~

~~(x) Certificated years of experience as occupational therapists, physical therapists, nurses, speech-language pathologists, audiologists, counselors, psychologists, and social workers, determined pursuant to this subsection and reported on Report S-275, by teachers and other certificated staff who are no longer employed as occupational therapists, physical therapists, nurses, speech-language pathologists, audiologists, counselors, psychologists, and social workers, shall continue to be reported but shall not increase).~~

~~(2) Years of full-time and part-time ((professional education)) certificated employment prior to the current reporting school year are accumulated as follows:~~

~~(a) For each ((professional education)) certificated employment which is not employment as a casual substitute pursuant to subsection (1)((a)) of this section;~~

~~(i) Determine the total number of hours, or other unit of measure, per year for an employee working full-time with each employer;~~

~~(ii) Determine the number of hours, or other unit of measure, per year with each employer, including paid leave and excluding unpaid leave;~~

~~(iii) Calculate the quotient of the hours, or other unit of measure, determined in (a)(ii) of this subsection divided by the hours, or other unit of measure, in (a)(i) of this subsection rounded to ((two)) one decimal place((s)) for each year.~~

~~(b) For ((professional education)) certificated employment as a casual substitute pursuant to subsection (1)((a)) of this section:~~

~~(i) Determine the total number of full-time equivalent substitute days per year;~~

~~(ii) Calculate the quotient of full-time equivalent days determined in (b)(i) of this subsection divided by ((180)) one hundred eighty rounded to ((two)) one decimal place((s)) for each year.~~

~~(c) No more than 1.0 year may be accumulated in any traditional nine-month academic year or any twelve-month period.~~

~~(i) Accumulate, for each year, ((professional education)) certificated employment calculated in (a)(iii) and (b)(ii) of this subsection.~~

(ii) Determine the smaller of the result in (c) (i) of this subsection or ~~((1.00))~~ 1.0 for each year.

(d) Determine certificated years of experience as the accumulation of all years of ~~((professional education))~~ certificated employment calculated in (c) (ii) of this subsection and report such years rounded to one decimal place.

[Statutory Authority: RCW 28A.150.290 and 28A.710.220. WSR 15-18-078, § 392-121-264, filed 8/28/15, effective 9/28/15. Statutory Authority: RCW 28A.150.290(1). WSR 10-07-141, § 392-121-264, filed 3/23/10, effective 4/23/10. Statutory Authority: RCW 28A.150.290. WSR 09-06-038, § 392-121-264, filed 2/25/09, effective 3/28/09. Statutory Authority: RCW 28A.150.290(1). WSR 08-03-086, § 392-121-264, filed 1/16/08, effective 2/16/08; WSR 07-23-041, § 392-121-264, filed 11/14/07, effective 12/15/07; WSR 06-19-045, § 392-121-264, filed 9/15/06, effective 10/16/06. Statutory Authority: RCW 28A.150.290(1) and section 503 (1)(b) of the 2002 supplemental budget. WSR 02-22-065, amended and recodified as § 392-121-264, filed 11/1/02, effective 12/2/02. Statutory Authority: RCW 28A.150.290 and chapter 28A.415 RCW. WSR 97-22-106 (Order 97-07), § 392-121-245, filed 11/5/97, effective 12/6/97. Statutory Authority: RCW 28A.150.290. WSR 95-21-096 (Order 95-09), § 392-121-245, filed 10/18/95, effective 11/18/95. Statutory Authority: RCW 28A.150.290, 28A.150.400 and the Biennial Operating Appropriations Act. WSR 94-01-190, § 392-121-245, filed 12/22/93, effective 1/22/94. Statutory Authority: RCW 28A.41.055 and 28A.41.170. WSR 88-03-013 (Order 88-8), § 392-121-245, filed 1/11/88.]

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 392-121-255	Definition—Academic credits.
WAC 392-121-257	Definition—In-service credits.
WAC 392-121-259	Definition—Nondegree credits.
WAC 392-121-261	Definition—Total eligible credits.
WAC 392-121-262	Definition—Additional criteria for all credits.
WAC 392-121-266	Definition—LEAP salary allocation documents.
WAC 392-121-270	Placement of certificated instructional employees on LEAP salary allocation documents.
WAC 392-121-280	Placement on LEAP salary allocation documents—Documentation required.
WAC 392-121-295	Definition—District average certificated instructional staff mix factor.
WAC 392-121-299	Determination of district average certificated instructional staff salary for the purpose of apportionment.