

## WSR 21-21-026

## PROPOSED RULES

## EASTERN WASHINGTON UNIVERSITY

[Filed October 11, 2021, 10:21 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-15-004.

Title of Rule and Other Identifying Information: WAC 172-108-110  
Enforcement of immunization requirements.

Hearing Location(s): On December 7, 2021, at 9:00 a.m., 215A Tawanka Commons, Eastern Washington University (EWU), Main Campus, 526 5th Street, Cheney, WA 99004.

Date of Intended Adoption: December 10, 2021.

Submit Written Comments to: Annika Scharosch, EWU, Main Campus, 526 5th Street, 211 Tawanka Hall, Cheney, WA 99004, email ascharosch@ewu.edu, fax 509-359-6724, by December 7, 2021.

Assistance for Persons with Disabilities: Contact Annika Scharosch, phone 509-359-6724, fax 509-359-2874, email ascharosch@ewu.edu, by December 6, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Adds a new section regarding the imposition of fines for students for failing to follow EWU's immunization policies and a process for challenging such fines. This was approved in July 2021 as an emergency regulation.

Reasons Supporting Proposal: EWU has adopted a policy requiring students to provide proof of certain immunizations (MMR and COVID-19) or to seek religious or medical waivers. This regulation gives EWU the ability to fine students for not complying with these requirements and provides students with the opportunity to challenge such fines.

Statutory Authority for Adoption: RCW 28B.35.120(12).

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

Name of Proponent: EWU, governmental.

Name of Agency Personnel Responsible for Drafting: Annika Scharosch, 211 Tawanka Hall, 509-359-6724; Implementation and Enforcement: Dr. David May, 214 Showalter Hall, 509-359-6362.

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. Pursuant to RCW 34.05.328 [34.05.328] (5)(a)(i), this agency is not an agency mandated to comply with RCW 34.05.328. Further, the agency does not voluntarily make that section applicable to the adoption of this rule [rule] pursuant to subsection (5)(a)(ii), and to date, the joint administrative rules review committee has not made the section applicable to the adoption of this rule.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4).

October 11, 2021  
Annika Scharosch  
Associate Vice President

OTS-3186.1

NEW SECTION**WAC 172-108-110 Enforcement of immunization requirements. (1)**

The university may impose a fine on students who fail to provide documentation of an immunization required by the university or obtain a waiver for medical or religious reasons as set forth in EWU Policy 602-02 (Immunizations). The fine may be up to two hundred fifty dollars per term for each academic term a student is enrolled and fails to comply with university requirements. The fine may be waived if the student complies with the immunization requirements within fourteen calendar days from the date notice of the fine is sent to the student as specified below.

(2) The university will provide written notice of the fine to students who fail to comply with the immunization requirements no later than thirty days after the initial date of the academic term. Notice will be sent via email to students' official university emails. Students will be given an opportunity to contest the notice by filing a request for a brief adjudicative hearing within fourteen calendar days of the date when the initial notice is sent to the student's official university email account. To request review of the fine, the student must submit a written request to: Student Rights and Responsibilities, 129 Showalter Hall, Cheney, WA 99004-2496 or via email to srr@ewu.edu. The request must set forth the reasons why the student disagrees with the fine. If a student fails to timely request a brief adjudicative hearing, the fine will become final.

(3) If a student timely files a request for a brief adjudicative hearing, a presiding officer will be appointed and will consider any materials submitted by the student in writing contesting the initial fine. Within ten calendar days of receipt of the request for a hearing, the presiding officer or designee will send an initial order setting forth the officer's decision and the reasons for such decision. The order should also communicate any appeal options available.

(4) The student may appeal the initial order by filing a written appeal with the dean of students within twenty-one calendar days from the date the initial order was sent to their official university email account. To request an appeal, the student must submit a written request to: Dean of Students, 301 Pence Union Building, Cheney, WA 99004-2496 or via email to dos@ewu.edu. The appeal must set forth the reasons why the student believes the initial order was incorrect. If a student fails to timely appeal, the initial order will be final.

(5) If a student timely files a request for an appeal, a presiding officer will be appointed and will consider any materials reviewed by the presiding officer at the initial hearing along with any materials submitted by the student with the appeal. Within twenty calendar days of the receipt of the appeal, the presiding officer or designee will send a final order setting forth the officer's decision and the reasons for such decision. This order will be the university's final decision. The order should communicate that judicial review of the university's decision may be available under chapter 34.05 RCW.

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