

WSR 22-07-077
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Developmental Disabilities Administration)
[Filed March 18, 2022, 6:04 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-24-062.

Title of Rule and Other Identifying Information: WAC

388-101D-0030 Staffing requirements.

Hearing Location(s): On April 26, 2022, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington [Street S.E.], Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/office-of-the-secretary/driving-directions-office-bldg-2>; or virtually. Due to the COVID-19 pandemic, hearings are being held virtually. Please see the DSHS website for the most current information.

Date of Intended Adoption: Not earlier than April 27, 2022.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m. on April 26, 2022.

Assistance for Persons with Disabilities: Contact Shelley Tencza, rules consultant, phone 360-664-6036, fax 360-664-6185, TTY 711 relay service, email tencza@dshs.wa.gov [tencza@dshs.wa.gov], by 5:00 p.m. on April 12, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Developmental disabilities administration (DDA) is amending this rule to allow providers to hire an employee without a high school diploma or GED.

Reasons Supporting Proposal: These amendments are intended to help providers of residential habilitation services address staffing crises.

Statutory Authority for Adoption: RCW 71A.12.030.

Statute Being Implemented: RCW 71A.12.040, 71A.12.110.

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

Name of Proponent: DSHS, DDA, governmental.

Name of Agency Personnel Responsible for Drafting: Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, 360-407-1500; Implementation and Enforcement: Megan Kwak, P.O. Box 45310, Olympia, WA 98504-5310, 360-764-9909.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, phone 360-407-1500, fax 360-407-0955, TTY 1-800-833-6388, email Chantelle.Diaz@dshs.wa.gov.

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).

Explanation of exemptions: The proposed amendments impose no costs on small businesses so a small business economic impact statement is not required.

March 18, 2022
Katherine I. Vasquez
Rules Coordinator

SHS-4900.3

AMENDATORY SECTION (Amending WSR 16-14-058, filed 6/30/16, effective 8/1/16)

WAC 388-101D-0030 Staffing requirements. (1) The ((service)) provider must ensure each ((staff meets the following minimum requirements)) of its employees:

((1) Have) (a) Has a high school diploma or GED equivalent, unless the ((employees were)) employee was hired before September 1, 1991, or is exempt under subsection (2) of this section;

((2) Be at least eighteen years of age) (b) Is age 18 or older when employed as a direct ((care staff, or at least twenty-one years of age)) support professional who provides support services to a client;

(c) Is age 21 or older when employed as an administrator;

((3) Have) (d) Has a clear understanding of job responsibilities and knowledge of individual support plans and client needs; and

((4) Passed) (e) Passes the department background check ((as)) required ((by)) under WAC 388-101-3250.

(2) The provider may hire a person without a high school diploma or GED if while working directly with clients the employee has access to another employee or a volunteer who:

(a) Has a high school diploma or GED; or

(b) Was hired before September 1, 1991.

(3) If the provider hires a person under subsection (2) of this section, the provider must have a written plan that states when and how the person must contact another employee for assistance.

[WSR 16-14-058, recodified as § 388-101D-0030, filed 6/30/16, effective 8/1/16. Statutory Authority: Chapter 71A.12 RCW. WSR 08-02-022, § 388-101-3200, filed 12/21/07, effective 2/1/08.]