

**WSR 22-09-084
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION**

[Filed April 20, 2022, 11:12 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-05-034.

Title of Rule and Other Identifying Information: WAC 392-401-020

Excused absences.

Hearing Location(s): On May 24, 2022, at 3:00 p.m., webinar via Zoom. Due to [the] 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 (OSPI)'s website at <https://www.k12.wa.us/policyfunding/ospi-rulemaking-activity>. For questions, please email Kristin.murphy@k12.wa.us.

Date of Intended Adoption: May 26, 2022.

Submit Written Comments to: Bridget Underdahl, OSPI, P.O. Box 47200, Olympia, WA 98504, email bridget.underdahl@k12.wa.us, by May 24, 2022.

Assistance for Persons with Disabilities: Contact Kristin Murphy, phone 360-725-6133, fax 360-753-4201, TTY 360-664-3631, email Kristin.murphy@k12.wa.us, by May 17, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: OSPI is proposing amendments to WAC 392-401-020 to include absences due to mental and behavioral health as excusable absences in compliance with HB 1834 (2022).

Reasons Supporting Proposal: The proposed amendments are intended to include absences due to mental health reasons as excused absences. Including language specifying mental health would make clear that mental health has as much significance as physical health and is similarly important to one's overall well-being. In addition, the ability to compile data concerning absences due to mental health will provide important information in developing and improving strategies for student support systems. OSPI has engaged, and will continue to engage, student advisory groups and Graduation: A Team Effort (GATE) in developing and implementing the proposed rule change.

Statutory Authority for Adoption: RCW 28A.300.046.

Statute Being Implemented: RCW 28A.300.046.

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

Name of Agency Personnel Responsible for Drafting: Bridget Underdahl, OSPI, 600 South Washington Street, Olympia, WA; Implementation: Krissy Johnson, OSPI, 600 South Washington Street, Olympia, WA; and Enforcement: OSPI, 600 South Washington Street, Olympia, WA.

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.

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).

April 20, 2022
Chris P. S. Reykdal
State Superintendent of Public Instruction

OTS-3701.2

AMENDATORY SECTION (Amending WSR 21-17-088, filed 8/13/21, effective 9/13/21)

WAC 392-401-020 Excused absences. (1) Absences due to the following reasons must be excused:

(a) Physical health or mental health symptoms, illness, health condition or medical appointment ((including, but)) for the student or person for whom the student is legally responsible. Examples of symptoms, illness, health conditions, or medical appointments include, but are not limited to, medical, counseling, mental health wellness, dental, optometry, pregnancy, and behavioral health treatment (which can include in-patient or out-patient treatment for chemical dependency or mental health) ((for the student or person for whom the student is legally responsible));

(b) Family emergency including, but not limited to, a death or illness in the family;

(c) Religious or cultural purpose including observance of a religious or cultural holiday or participation in religious or cultural instruction;

(d) Court, judicial proceeding, court-ordered activity, or jury service;

(e) Post-secondary, technical school or apprenticeship program visitation, or scholarship interview;

(f) State-recognized search and rescue activities consistent with RCW 28A.225.055;

(g) Absence directly related to the student's homeless or foster care/dependency status;

(h) Absences related to deployment activities of a parent or legal guardian who is an active duty member consistent with RCW 28A.705.010;

(i) Absences due to suspensions, expulsions or emergency expulsions imposed pursuant to chapter 392-400 WAC if the student is not receiving educational services and is not enrolled in qualifying "course of study" activities as defined in WAC 392-121-107;

(j) Absences due to student safety concerns, including absences related to threats, assaults, or bullying;

(k) Absences due to a student's migrant status;

(l) Absences due to an approved activity that is consistent with district policy and is mutually agreed upon by the principal or designee and a parent, guardian, or emancipated youth; and

(m) Absences due to the student's lack of necessary instructional tools, including internet access or connectivity.

(2) In the event of emergency school facility closure due to COVID-19, other communicable disease outbreak, natural disaster, or other

event when districts are required to provide synchronous and asynchronous instruction, absences due to the following reasons must be excused:

- (a) Absences related to the student's illness, health condition, or medical appointments due to COVID-19 or other communicable disease;
 - (b) Absences related to caring for a family member who has an illness, health condition, or medical appointment due to COVID-19, other communicable disease, or other emergency health condition related to school facility closures;
 - (c) Absences related to the student's family obligations during regularly scheduled school hours that are temporarily necessary because of school facility closures, until other arrangements can be made; and
 - (d) Absences due to the student's parent's work schedule or other obligations during regularly scheduled school hours, until other arrangements can be made.
- (3) Districts may define additional categories or criteria for excused absences. A school principal or designee has the authority to determine if an absence meets the criteria in subsections (1) and (2) of this section and school district policy for an excused absence.

[Statutory Authority: RCW 28A.300.046 and 2021 c 119 § 3. WSR 21-17-088, § 392-401-020, filed 8/13/21, effective 9/13/21. Statutory Authority: RCW 28A.300.046. WSR 18-11-011, § 392-401-020, filed 5/3/18, effective 8/1/18.]