

WSR 22-10-088
EMERGENCY RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed May 3, 2022, 2:53 p.m., effective May 3, 2022, 2:53 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To allow school free and reduced price meal counts taken from the October 1, 2019, high poverty schools annual report to carry over to the 2021-22 school year for the purpose of the high poverty schools national board certified teacher (NBCT) bonus. This rule change only affects schools who lost high poverty school eligibility between the October 1, 2019, and October 1, 2020, free and reduced price meal counts. Schools that are eligible as high poverty in 2021-22 per the October 1, 2020, count will not carry over the October 1, 2019, count. Schools that are eligible as high poverty per participation in the community eligibility provision or Provision 2 federal meal programs will also not be affected by this change.

Citation of Rules Affected by this Order: Amending WAC 392-140-973.

Statutory Authority for Adoption: RCW 28A.150.290 and 28A.405.415.

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 global COVID-19 pandemic, many Washington state schools and districts were able to provide free meals to all enrolled students. As a result, collecting family income information that would typically drive free and reduced meal counts was significantly reduced. The remote learning environment that most schools operated in also heavily impacted their capacity to collect family income information. These factors affected the free and reduced meal counts as of October 1, 2020, that are used to determine high poverty schools eligibility in 2021-22. Consequently, many schools that had historically been eligible for high poverty schools NBCT bonuses have lost eligibility due to underreporting free and reduced price meal counts in 2020.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.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 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, 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: May 3, 2022.

Chris P. S. Reykdal
State Superintendent
of Public Instruction

OTS-3608.1

AMENDATORY SECTION (Amending WSR 20-03-150, filed 1/21/20, effective 2/21/20)

WAC 392-140-973 Salary bonus for teachers and other certificated instructional staff who hold current certification by the national board—Eligibility. Staff that are eligible for the bonus shall be limited to those meeting the following requirements:

(1) Hold current certification by the national board for professional teaching standards during the entire school year, unless otherwise specified in the state Biennial Operating Appropriations Act; and

(2) Who are:

(a) Teachers and other certificated instructional staff employed full time or part time under written contract by Washington public school districts or educational service districts pursuant to RCW 28A.405.210;

(b) Teachers and other certificated instructional staff employed full time or part time by a contractor pursuant to WAC 392-121-188 and 392-121-206 (2) (a);

(c) Teachers and other certificated instructional staff employed full time or part time by the Washington school for the deaf or Washington school for the blind;

(d) Teachers and other certificated instructional staff employed full time or part time by a charter school; or

(e) Teachers and other certificated instructional staff employed full time or part time by a tribal compact school.

(3) In addition to bonuses provided by subsection (2) of this section, teachers and other certificated instructional staff shall be eligible for additional bonuses if in an instructional assignment in high poverty schools, subject to the following conditions and limitations:

(a) High poverty schools are schools where, for the prior year, the student headcount enrollment eligible for the federal free or reduced price lunch program was at least:

(i) Seventy percent for elementary schools;

(ii) Sixty percent for middle schools; or

(iii) Fifty percent for high schools; as determined by the October 1st count of the comprehensive education data and research system (CEDARS) or successor data collection and reporting systems, of the office of superintendent of public instruction, on March 31st of that prior year: Provided, That schools operating during the current school year as their first year may qualify as high poverty schools based upon current year data, as determined by the October 1st count on March 31st of the current year.

(b) For purposes of the national board high poverty schools bonus, a school shall be categorized based upon the highest grade served as follows:

(i) A school whose highest grade served is 6th grade or lower shall be considered an elementary school;

(ii) A school whose highest grade served is either 7th, 8th, or 9th grade shall be considered a middle school;

(iii) A school whose highest grade served is either 10th, 11th, or 12th grade shall be considered a high school.

(c) A school shall be considered only if it serves (~~(thirty)~~) 30 or more students, or is the largest school in the district serving its designated category.

(d) Schools that provide institutional education programs pursuant to WAC 392-122-205 shall be designated as high poverty schools with the student headcount enrollment eligible for the federal free or reduced price lunch program at (~~(one hundred)~~) 100 percent and shall not be subject to the requirement in this subsection of serving (~~(thirty)~~) 30 or more students.

(e) The student enrollment data used shall include the state-funded students in kindergarten through (~~(twelfth)~~) 12th grade, plus pre-kindergarten students in special education.

(f) Teachers and other certificated instructional staff that meet the qualifications for the high poverty schools bonus under this subsection who are assigned for less than one full school year or less than full time for the school year shall receive the high poverty schools bonus in a prorated manner, subject to the following conditions and limitations:

(i) The portion of the employee's assignment to high poverty schools shall be determined as of the last day of school, or June 30th of the school year, whichever occurs first.

(ii) If the employee's assignment to high poverty schools is less than 1.0 full-time equivalent, the proration shall use the methodology in WAC 392-121-212 and shall be rounded to three decimal places.

(g) A school participating in the community eligibility provision or provision 2 as authorized by section 11 (a)(1) of the Richard B. Russell National School Lunch Act may be designated as a high poverty school if the school was a high poverty school based on the student headcount enrollment eligible for the federal free or reduced price lunch program in either of the two school years immediately prior to the school's participation in the community eligibility provision.

(h) For the 2021-22 school year, high poverty school eligibility will be based on the student headcount enrollment eligible for the federal free or reduced price lunch program as of the October 1, 2019, or October 1, 2020, count on March 31st of that school year, whichever percentage is greater for high poverty school designation. Schools participating in the community eligibility provision or provision 2 federal meal programs in the 2021-22 school year shall continue to be designated as high poverty schools per (g) of this subsection.

[Statutory Authority: RCW 28A.150.290(1) and 28A.405.415. WSR 20-03-150, § 392-140-973, filed 1/21/20, effective 2/21/20; WSR 19-02-067, § 392-140-973, filed 12/28/18, effective 1/28/19; WSR 18-14-103, § 392-140-973, filed 7/3/18, effective 8/3/18. Statutory Authority: RCW 28A.150.290(1). WSR 16-23-102, § 392-140-973, filed 11/17/16, effective 12/18/16. Statutory Authority: RCW 28A.150.290 and 28A.710.220. WSR 15-18-078, § 392-140-973, filed 8/28/15, effective 9/28/15. Statutory Authority: RCW 28A.150.290(1) and 28A.405.415. WSR 14-04-002, § 392-140-973, filed 1/22/14, effective 2/22/14; WSR 11-23-116, § 392-140-973, filed 11/21/11, effective 12/22/11. Statutory Authority: RCW 28A.150.290(1). WSR 11-02-054, § 392-140-973, filed 1/3/11, effective 2/3/11; WSR 10-12-020, § 392-140-973, filed 5/21/10, effective 6/21/10; WSR 09-07-043, § 392-140-973, filed 3/11/09, effective 4/11/09; WSR 08-17-013, § 392-140-973, filed 8/8/08, effective 9/8/08. Statutory Authority: RCW 28A.150.290(2) and 2001 c 7 § 514(12). WSR 02-15-023, § 392-140-973, filed 7/9/02, effective 8/9/02.]