

WSR 22-13-056
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed June 8, 2022, 12:57 p.m., effective August 1, 2022]

Effective Date of Rule: August 1, 2022.

Purpose: The office of superintendent of public instruction amended WAC 392-401-020 to include absences due to mental and behavioral health as excusable absences in compliance with HB 1834 (2022). Previously, WAC only included physical health illnesses, appointments, and treatments. Including language specifying mental health makes clear that mental health has as much significance as physical health and is similarly important to one's overall well-being. Including language concerning behavioral health further clarifies the intent.

Citation of Rules Affected by this Order: Amending WAC 392-401-020.

Statutory Authority for Adoption: RCW 28A.300.046.

Adopted under notice filed as WSR 22-09-084 on April 20, 2022.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: June 8, 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.]