

WSR 22-18-001
PERMANENT RULES
DEPARTMENT OF
ENTERPRISE SERVICES

[Filed August 24, 2022, 3:03 p.m., effective September 24, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of this update of the rules is to align the existing rules with statutory changes placing health insurance for school employees under the oversight of the school employees benefits board. Other content changes were made to align with recent changes to other self-insurance rules addressing solvency requirements and independent audit requirements.

Citation of Rules Affected by this Order: Amending WAC 200-110-020, 200-110-040, 200-110-090, 200-110-120, 200-110-130, and 200-110-140.

Statutory Authority for Adoption: RCW 48.62.061.

Adopted under notice filed as WSR 22-08-100 on April 5, 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 6, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 6, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: August 24, 2022.

Jack Zeigler
Policy and Rules Manager

OTS-3712.1

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-110-020 Definitions. (1) "Actuary" means any person who is a member of the American Academy of Actuaries.

(2) "Assessment" means the moneys paid by the members to a joint self-insurance program.

(3) "Beneficiary" means any individual entitled to payment of all or part of a covered claim under a local government health and welfare self-insurance program.

(4) "Broker of record" means the insurance producer licensed in the state of Washington who, through a contractual agreement with the self-insurance program, procures insurance on behalf of the self-insurance program.

(5) "Claim" means a demand for payment for the delivery of a covered service or services.

(6) "Claim adjustment expense" means expenses, other than claim payments, incurred in the course of processing and settling claims.

(7) "Claims auditor" means a person who has the following qualifications:

(a) Has experience in auditing the same manner of claims filed against the program being audited;

(b) Provides proof of professional liability insurance; and

(c) Provides a statement that the auditor is independent from the program being audited, its brokers and third-party administrators.

(8) "Competitive solicitation" means a documented competitive selection process providing an equal and open opportunity to qualified parties and culminating in a selection based on criteria which may include such factors as the consultant's fees or costs, ability, capacity, experience, reputation, responsiveness to time limitations, responsiveness to solicitation requirements, quality of previous performance, and compliance with statutes and rules relating to contracts or services.

(9) "Consultant" means an independent individual or firm contracting with a self-insurance program to perform actuarial, claims auditing or third-party administration services, represent the program as broker of record, or render an opinion or recommendation according to the consultant's methods, all without being subject to the control of the program, except as to satisfaction of the contracted deliverables.

~~(10) ("Contingent reserve policy" means a policy adopted by the governing body of an individual or joint program which establishes the amount of money (contingent reserves) necessary to fund the termination costs of the program and to insulate the program against unusual severity or frequency of claims.~~

~~(11) "Contingent reserves" means:~~

~~(a) For joint programs, an amount of money equal to eight weeks of program expenses as stated in the contingent reserve policy established by ordinance or resolution of the governing body;~~

~~(b) For individual programs, an amount of money equal to eight weeks of program expenses as recommended by the state risk manager or equal to a different amount as stated in the contingent reserve policy established by ordinance or resolution of the governing body.~~

~~(12)) "Contribution" means the amount paid or payable by the employee into a health and welfare self-insurance program.~~

~~((13)) (11) "Governing body" means the multimember board, commission, committee, council, or other policy or rule-making body of a public agency, or any committee thereof when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment.~~

~~((14)) (12) "Individual self-insurance program" means a formal program established and maintained by a local government entity, with the exception of public school districts, to provide advance funding to self-insure health and welfare benefits on its own behalf as opposed to risk assumption, which means a decision to absorb the entity's financial exposure to a risk of financial loss without the creation of a formal program of advance funding of anticipated losses.~~

~~((15)) (13) "Interlocal agreement" means an agreement joining local government members of a self-insurance program that is established under the Interlocal Cooperation Act defined in chapter 39.34 RCW.~~

~~((16)) (14) "Joint self-insurance program" means any two or more local government entities which have entered into a cooperative~~

risk sharing agreement pursuant to the provisions of the Interlocal Cooperation Act (chapter 39.34 RCW) and/or subject to regulation under chapter 48.62 RCW.

~~((17))~~ (15) "Member" means a local government entity that:

(a) Is a signatory to a joint insurance program's interlocal agreement;

(b) Agrees to pay assessments as part of the program's joint self-insurance program; and

(c) Is a past or present participant in a joint self-insurance program subject to regulation under chapter 48.62 RCW.

~~((18))~~ (16) "Program liability" means an amount as of fiscal year end determined by each program to be either:

(a) Eight weeks of total program expenses based on total program expenses paid during the previous year; or

(b) The program's liability as determined by an actuary.

~~((19))~~ (17) "Program reserves" means moneys set aside to pay expenses of an individual or joint self-insurance program.

~~((20))~~ (18) "Risk sharing" means a decision by the members of a joint self-insurance program to jointly absorb certain or specified financial exposures to risks of loss through the creation of a formal program of advance funding of anticipated losses; and/or joint purchase of insurance as a member of a joint self-insurance program formed under chapter 48.62 RCW.

~~((21))~~ (19) "Self-insurance program" means any individual or joint local government entity self-insurance program required by chapter 48.62 RCW to comply with this chapter.

~~((22))~~ (20) "Services" means administrative, electronic, management, training, wellness or other ongoing significant support services which do not include the participation in or purchase of the pool's commercial or self-insured insurance programs.

~~((23))~~ (21) "Stop-loss insurance" means a promise by an insurance company that it will cover losses of the entity it insures over and above an agreed-upon individual or aggregated amount.

~~((24))~~ (22) "Termination cost" means an estimate of the program's liabilities at the time the program ceases to operate, which shall include, at a minimum, final claim payments, claim adjustment expenses, unallocated loss adjustment expenses, and costs attributed to increased utilization.

~~((25))~~ (23) "Third-party administrator" means an independent association, agency, entity or enterprise which, through a contractual agreement, provides one or more of the following ongoing services: Program management or administration services, claims administration services, risk management services, or services for the termination of an individual or joint self-insurance program.

~~((26))~~ (24) "Unallocated loss adjustment expense (ULAE)" means costs that cannot be associated with specific claims but are related to the claims adjustment process, such as administrative and internal expenses related to settlement of claims at the termination of the program.

[Statutory Authority: 2011 c 43. WSR 11-23-093, recodified as § 200-110-020, filed 11/17/11, effective 11/17/11. Statutory Authority: RCW 48.62.061. WSR 10-20-102, § 82-65-020, filed 10/1/10, effective 11/1/10.]

AMENDATORY SECTION (Amending WSR 17-22-048, filed 10/25/17, effective 11/25/17)

WAC 200-110-040 Standards for solvency—Program funding requirements. (1) All individual and joint health and welfare programs self-insuring medical benefits shall establish program reserves in an amount equal to (~~sixteen~~) 16 weeks of program expenses. An aggregate stop-loss policy is recommended, but not required.

(2) All individual and joint health and welfare self-insurance programs providing either vision, dental or prescription drug benefits or any combination of programs thereof shall establish and maintain program reserves in an amount not less than eight weeks of program expenses for each program offered. (~~An additional contingency reserve is recommended, but not required.~~)

(3) In lieu of the requirements stated in subsections (1) and (2) of this section, all individual and joint health and welfare self-insurance programs providing either medical, vision, dental or prescription drug benefits or any combination thereof must obtain an independent actuarial study of estimated outstanding program liabilities as of fiscal year ending and maintain funds equal to or greater than the actuarially determined program liability at fiscal year ending.

(4) All programs in existence less than one year shall establish reserves according to the initial plan submitted and approved by the state risk manager.

(5) Self-insurance programs that do not meet requirements for program reserves as of the program's year end shall notify the state risk manager of the condition. The state risk manager shall require the program submit a corrective action plan within (~~sixty~~) 60 days of year end. The state risk manager will notify the program in writing of denial or approval of the corrective action plan within (~~thirty~~) 30 days of submission.

(6) Failure to meet the requirements of the approved corrective action plan may result in further remedial action by the state risk manager, including the service of a cease and desist order upon the program.

[Statutory Authority: RCW 48.62.061. WSR 17-22-048, § 200-110-040, filed 10/25/17, effective 11/25/17. Statutory Authority: 2011 c 43. WSR 11-23-093, recodified as § 200-110-040, filed 11/17/11, effective 11/17/11. Statutory Authority: RCW 48.62.061. WSR 10-20-102, § 82-65-040, filed 10/1/10, effective 11/1/10.]

AMENDATORY SECTION (Amending WSR 17-22-048, filed 10/25/17, effective 11/25/17)

WAC 200-110-090 Standards for management—Standards for operations—Financial plans. (1) All self-insurance programs shall maintain a written plan for managing the financial resources of the program. The financial plan shall include:

(a) A procedure for accounting for moneys received, payments made and liabilities of the joint program which complies with generally accepted accounting principles. For individual programs, a separate fund to account for revenues and expenses associated with the program is recommended, but not required;

(b) An investment policy which conforms to RCW 48.62.111 governing the investments of the program; and

(c) All individual and joint self-insurance programs shall ensure the preparation and submission of accurate and timely annual reports to the state risk manager within (~~one hundred fifty~~) 150 days of fiscal year end.

Joint self-insurance programs providing medical benefits must submit to the state risk manager unaudited financial statements as prescribed by the state auditor's office within (~~one hundred fifty~~) 150 days of fiscal year end. Joint self-insurance programs providing medical benefits must submit to the state risk manager audited financial statements as prescribed by the state auditor's office within one year of the program's fiscal year end.

(2) No financial plan of an individual self-insurance program shall permit interfund loans from assets held against liabilities for unpaid claims and claim adjustment expenses except for those amounts which are clearly inactive or in excess of program reserve (~~and contingency reserve~~) requirements.

(3) No financial plan of a joint self-insurance program shall permit loans to any member.

[Statutory Authority: RCW 48.62.061. WSR 17-22-048, § 200-110-090, filed 10/25/17, effective 11/25/17. Statutory Authority: 2011 c 43. WSR 11-23-093, recodified as § 200-110-090, filed 11/17/11, effective 11/17/11. Statutory Authority: RCW 48.62.061. WSR 10-14-034, § 82-65-090, filed 6/28/10, effective 10/1/10.]

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-110-120 Standards for claims management—Claims administration. (1) (a) All self-insurance programs shall have a written claims administration program which includes, as a minimum, claims filing procedures, internal financial control mechanisms, and claim and claim adjustment expense reports.

(b) All individual and joint health and welfare self-insurance programs shall have a written claim appeal procedure that contains, as a minimum, a time limit for filing an appeal, a time limit for response, and a provision for the second level of review.

(2) All self-insurance programs may perform claims administration services on their own behalf or may contract for claims administration services with a qualified third-party administrator, provided all of the specific requirements under subsection (1) of this section are included in the contract.

(3) All joint self-insurance programs shall maintain a financial system that identifies claim and claim adjustment expenses.

(4) All joint self-insurance programs shall maintain claim expense reports for all claims made against the joint self-insurance program and its members.

(5) All self-insurance programs offering medical coverage shall obtain a claims audit of claim reserving, adjusting and payment procedures every three years at a minimum. A claims audit shall be conducted by a qualified claims auditor not affiliated with the program, its broker of record, or its third-party administrator. Such review shall

be in writing and identify strengths, areas of improvement, findings, conclusions and recommendations. Such review shall be provided to the governing body and retained for a period not less than six years. The scope of the claims audit shall include claims administration procedures listed in subsection (1) of this section. The claims audit may include other self-insured benefits offered to employees, but only self-insured employee medical programs are required to obtain an audit.

(6) The state risk manager may require more frequent claims audits for programs that, in the state risk manager's opinion, are not operationally or financially sound. Failure to obtain the requested independent claims audit when required may result in the procurement of such audit by the state risk manager on behalf of the program. Costs of these services shall be the responsibility of the self-insurance program.

[Statutory Authority: 2011 c 43. WSR 11-23-093, recodified as § 200-110-120, filed 11/17/11, effective 11/17/11. Statutory Authority: RCW 48.62.061. WSR 10-14-034, § 82-65-120, filed 6/28/10, effective 10/1/10.]

AMENDATORY SECTION (Amending WSR 17-22-048, filed 10/25/17, effective 11/25/17)

WAC 200-110-130 Standards for management and operations—State risk manager reports. (1) Every individual and joint health and welfare self-insurance program authorized to transact business in the state of Washington shall electronically submit the annual report to the state risk manager no later than ~~((one hundred fifty))~~ 150 days following the completion of the program's fiscal year. ~~((Programs that terminate operations shall continue to submit annual reports until all claims have been paid.))~~

(2) Joint self-insurance programs offering medical benefits shall electronically submit annual financial statements in the format prescribed by the state auditor's office. All individual and joint self-insurance programs shall electronically submit the revenue, expenses and other financial data on a form provided by the state risk manager.

(3) All individual and joint self-insurance programs providing medical benefits and maintaining reserves of less than ~~((sixteen))~~ 16 weeks of program expenses shall submit a written actuarial estimate of outstanding program liabilities as of fiscal year ending.

(4) All individual and joint self-insurance programs shall submit electronically a list of contracted consultants with the annual report to the state risk manager.

(5) Joint self-insurance programs shall submit electronically the following additional information as part of the annual report to the state risk manager:

(a) Details of changes in articles of incorporation, bylaws or interlocal agreement;

(b) Details of ongoing significant services provided by contract to nonmembers;

(c) List of local government members added to or terminated from the program.

(6) All individual and joint self-insurance programs not meeting reserve requirements as of fiscal year ending as described in WAC 200-110-040 may be required by the state risk manager to submit quarterly reports until notified by the state risk manager that reserving standards have been met.

(7) Failure to provide required financial reports may result in corrective action by the state risk manager. Such actions may include:

- (a) Increase in frequency of examinations;
- (b) On-site monitoring by the state risk manager;
- (c) Service of a cease and desist order upon the program.

[Statutory Authority: RCW 48.62.061. WSR 17-22-048, § 200-110-130, filed 10/25/17, effective 11/25/17. Statutory Authority: 2011 c 43. WSR 11-23-093, recodified as § 200-110-130, filed 11/17/11, effective 11/17/11. Statutory Authority: RCW 48.62.061. WSR 10-20-102, § 82-65-130, filed 10/1/10, effective 11/1/10.]

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-110-140 Standards for operations—Program changes—Notification to the state risk manager. (1) All individual and joint self-insurance programs shall operate in the same form and manner stated in the program's original application approved by the state risk manager. Programs shall submit a written request and receive approval from the state risk manager prior to implementing the following proposed program changes:

- (a) Any change in the terms of the interlocal agreement of a joint self-insurance program;
- (b) ~~((Elimination or reduction of stop-loss insurance;~~
- ~~(e)))~~ Acceptance of any loans or lines of credit;
- ~~((d)))~~ (c) Provision of services to nonmembers;
- ~~((e)))~~ (d) Addition of members of other entity types than those included in original application approved by state risk manager.

(2) The following joint self-insurance program changes require written notification to the state risk manager prior to implementing the following changes:

- (a) Initial contract with a third-party administrator, or change in third-party administrator;
- (b) Any change to bylaws of a joint self-insurance program.

[Statutory Authority: 2011 c 43. WSR 11-23-093, recodified as § 200-110-140, filed 11/17/11, effective 11/17/11. Statutory Authority: RCW 48.62.061. WSR 10-14-034, § 82-65-140, filed 6/28/10, effective 10/1/10.]

WSR 22-18-004
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed August 25, 2022, 8:22 a.m., effective September 25, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is amending the rules due to changes in qualifications for TCARE assessments, to indicate changes made to TCARE screening and assessment process, to modify TCARE screening measures, to indicate changes in the screening scores due to the changed screening measures, and to indicate changes made to the Get-Care screening questions and scores for step three services.

Citation of Rules Affected by this Order: Amending WAC 388-106-1900, 388-106-1905, 388-106-1910, 388-106-1915, 388-106-1931, 388-106-1932, 388-106-1945, and 388-106-1950.

Statutory Authority for Adoption: RCW 74.08.090, 74.39A.030.

Adopted under notice filed as WSR 22-15-025 on July 12, 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 8, 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 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 8, Repealed 0.

Date Adopted: August 25, 2022.

Katherine I. Vasquez
Rules Coordinator

SHS-4937.2

AMENDATORY SECTION (Amending WSR 18-08-033, filed 3/27/18, effective 4/27/18)

WAC 388-106-1900 What definitions apply to MAC and TSOA services? The following definitions apply to MAC and TSOA services:

"**Care plan**" means the plan developed by the department in ((TCARE or)) GetCare that summarizes the services described in WAC 388-106-1915 that you chose to receive.

"**Care receiver**" means an adult age ((fifty-five)) 55 and over who has been authorized for MAC or TSOA services.

"**Caregiver**" means a spouse, relative, or friend (age ((eighteen)) 18 and over) who has primary responsibility for the care or supervision of an adult who meets eligibility criteria and does not receive direct, public, or private payment such as a wage for the caregiving services they provide.

"Caregiver assistance services" are services that take the place of those typically performed by an unpaid caregiver in support of the care receiver's unmet needs for assistance with activities of daily living (ADLs) and instrumental activities of daily living (IADLs).

"Caregiver phases" means the phases a caregiver experiences as the needs of the care receiver change, which in turn changes the responsibilities and tasks of caregiving. The change in responsibilities and tasks impacts the relationship between the caregiver and the care receiver. There are five phases showing the change in relationship roles from primarily family member to primarily caregiver. The five phases are:

(1) Phase one - Acting as a relative/friend almost all of the time;

(2) Phase two - Acting most often as a relative/friend, but sometimes as a caretaker;

(3) Phase three - Acting equally as a relative/friend and as a caregiver;

(4) Phase four - Acting most often as a caregiver, but sometimes you are still a relative/friend; and

(5) Phase five - Acting as a caregiver almost all of the time.

"Family caregiver" means the same as "caregiver."

"GetCare" means a statewide web-based information system that includes a client management component that includes screening and assessment tools for use by area agencies on aging (AAA) and other aging and disability network partners.

"GetCare assessment" is a process during which the department gathers information for an individual without a caregiver in the following areas: Functional needs, diagnoses and conditions, behavior health supports, oral health, and nutritional health to assist the individual with choosing step three services.

"GetCare screening" is a process during which the department gathers information for an individual without a caregiver in order to determine risk scores. The information covers the following areas: Function needs, fall risk, availability of informal help, memory and decision-making issues, and emotional well-being. The risk scores are used to determine if the individual is referred for a full GetCare assessment.

"Health maintenance and therapies" are clinical or therapeutic services that assist the care receiver to remain in their home or the caregiver to remain in their caregiving role and provide high quality care. Services are provided for the purpose of preventing further deterioration, improving, or maintaining current level of functioning.

"Identity discrepancy" means a negative psychological state that occurs when the activities and responsibilities that a caregiver assumes with regard to the care receiver are inconsistent with the caregiver's expectations or personal norms concerning these activities and responsibilities.

"MAC" means medicaid alternative care, which is a federally funded program authorized under section 1115 of the Social Security Act. It enables an array of person-centered services to be delivered to unpaid caregivers caring for a medicaid eligible person who lives in a private residence (such as their own home or a family member's home) and chooses to receive community-based services.

"Medicaid transformation demonstration" refers to the authority granted to the state by the federal government under section 1115 of the Social Security Act. This waiver is a five year demonstration to

support health care systems prepare for and implement health reform and provide new targeted medicaid services to eligible individuals with significant needs. It includes MAC and TSOA programs.

"Personal assistance services" are supports involving the labor of another person to help the care receiver complete activities of daily living and instrumental activities of daily living that they are unable to perform independently. Services may be provided in the care receiver's home or to access community resources.

"RDAD" means reducing disability in Alzheimer's disease. This program is designed to improve the ability of the person with memory problems to complete activities of daily living while also helping caregivers provide assistance to the person.

"Service provider" means an agency or organization contracted with the department.

"Specialized medical equipment and supplies" are goods and supplies needed by the care receiver that are not covered under the medicaid state plan, medicare, or private insurance.

"TCARE" means tailored caregiver assessment and referral, which is an evidence-based caregiver coordination process designed to assist department assessors who work with family caregivers to support adults living with disabilities. TCARE is designed to tailor services to the unique needs of each caregiver to help reduce stress, depression, and burdens associated with caregiving. TCARE was developed by a research team at the University of Wisconsin-Milwaukee led by Dr. Rhonda Montgomery in collaboration with over (~~thirty~~) 30 organizations serving family caregivers. The TCARE process is licensed for use by Tailored Care Enterprises, Inc.

"TCARE assessment" is a part of the TCARE process during which the department assessors gather responses to all of the TCARE screening questions and additional questions focused on both the caregiver's experience and the care receiver's situation, such as memory issues, behavioral needs, assistance needs with activities of daily living and instrumental activities of daily living, and diagnoses/conditions.

"TCARE screening" is a part of the TCARE process during which the department gathers information from the caregiver to determine scores and ranges for the caregiver's identity discrepancy, burdens, uplifts, and depression. The ranges are used to determine if the caregiver is referred for a full TCARE assessment.

"Training and education" are services and supports to help caregivers gain skills and knowledge to implement services and supports needed by the care receiver to remain at home and skills needed by the caregiver to remain in their role.

"TSOA" means tailored supports for older adults, which is a federally-funded program approved under section 1115 of the Social Security Act. It enables the delivery of person-centered services to:

(1) Caregivers who care for an eligible person as defined in WAC 388-106-1910; and

(2) Eligible persons as defined in WAC 388-106-1910, without a caregiver.

[Statutory Authority: RCW 74.08.090. WSR 18-08-033, § 388-106-1900, filed 3/27/18, effective 4/27/18.]

AMENDATORY SECTION (Amending WSR 18-08-033, filed 3/27/18, effective 4/27/18)

WAC 388-106-1905 Am I eligible for MAC services? (1) You are eligible to receive MAC services if you, as a care receiver, meet the following criteria:

- (a) Are age (~~(fifty-five)~~) 55 or older;
- (b) Meet nursing facility level of care as defined in WAC 388-106-0355;
- (c) Meet medicaid financial eligibility requirements as defined in WAC 182-513-1605;
- (d) Have an unpaid caregiver who:
 - (i) Is age (~~(eighteen)~~) 18 or older;
 - (ii) Has participated in the following:
 - (A) Care plan for step one services;
 - (B) TCARE screening and care plan for step two services; or
 - (C) TCARE assessment and care plan for step three services;
 - (e) Live in a private residence (such as your own home or a family member's home) and choose to receive community based services; and
 - (f) Do not receive any other medicaid funded long-term services and supports (LTSS) while receiving MAC services.

(2) The department may use preliminary information you provide through a presumptive eligibility screening to determine if you, as the care receiver, meet the eligibility criteria in subsection (1) of this section in order to receive services while the formal eligibility determination is being completed. This is called presumptive eligibility.

- (a) Your presumptive eligibility period ends with the earlier date of:
 - (i) The date you were confirmed not to meet full functional eligibility criteria; or
 - (ii) The last day of the month following the month when your MAC services were first authorized.
- (b) In the event the department implements a waitlist under WAC 388-106-1970 for MAC services, your presumptive eligibility ends.
- (c) You may only receive services under presumptive eligibility once within a (~~(twenty-four)~~) 24 month period.
- (d) Under presumptive eligibility you may receive services as described in WAC 388-106-1915.

[Statutory Authority: RCW 74.08.090. WSR 18-08-033, § 388-106-1905, filed 3/27/18, effective 4/27/18.]

AMENDATORY SECTION (Amending WSR 18-08-033, filed 3/27/18, effective 4/27/18)

WAC 388-106-1910 Am I eligible for TSOA services? (1) You are eligible to receive TSOA services if you, as a care receiver, meet the following criteria:

- (a) Are age (~~(fifty-five)~~) 55 or older;
- (b) Meet nursing facility level of care as defined in WAC 388-106-0355;
- (c) Meet financial eligibility requirements defined in WAC 182-513-1615 or 182-513-1620;

(d) Live in a private residence (such as your own home or a family member's home) and choose to receive community-based services; and

(e) Meet the criteria in either (e) (i) or (ii) of this subsection:

(i) Have an unpaid caregiver who is age (~~(eighteen)~~) 18 or older and has participated in the following:

(A) A care plan for step one services;

(B) A TCARE screening and care plan for step two services; or

(C) A TCARE assessment and care plan for step three services; or

(ii) You do not have an available caregiver and have participated in the following:

(A) A care plan for step one services;

(B) A GetCare screening and care plan for step two services; or

(C) A GetCare assessment and care plan for step three services.

(2) The department may use preliminary information you provide through a presumptive eligibility screening to determine if you, as the care receiver, meet the eligibility criteria in subsection (1) of this section in order to receive services while the formal eligibility determination is being completed. This is called presumptive eligibility.

(a) Your presumptive eligibility period ends with the earlier date of:

(i) The day the decision was made on your TSOA application;

(ii) The date you were confirmed not to meet full functional eligibility criteria; or

(iii) The last day of the month following the month in which your presumptive eligibility services were authorized if you did not submit your TSOA application.

(b) In the event the department implements a waitlist under WAC 388-106-1970 for TSOA services, your presumptive eligibility ends.

(c) You may only receive services under presumptive eligibility once within a (~~(twenty-four)~~) 24 month period.

(d) Under presumptive eligibility, you may receive services as described in WAC 388-106-1915.

[Statutory Authority: RCW 74.08.090. WSR 18-08-033, § 388-106-1910, filed 3/27/18, effective 4/27/18.]

AMENDATORY SECTION (Amending WSR 18-08-033, filed 3/27/18, effective 4/27/18)

WAC 388-106-1915 What services may I receive in MAC and TSOA?

MAC and TSOA services include the following three benefit levels referred to as steps in subsections (1) through (3) of this section. You and your family caregiver may receive services under any of the three steps depending upon your requests and needs identified in the screening process for step two and the assessment process for step three. Steps do not need to be used in order. For example, you may begin services at step two or three. In general, step one services are used by caregivers or care receivers requesting lesser supports than those using step three services.

(1) Step one: After the department obtains your demographics and approves your program eligibility, you may receive the following services:

- (a) Information and referrals to family caregiver or community resources;
- (b) A selection of the following services up to a one time limit of (~~two hundred and fifty dollars~~) \$250:
 - (i) Training and education, which includes but is not limited to:
 - (A) Support groups;
 - (B) Group training;
 - (C) Caregiver coping and skill building training;
 - (D) Consultation on supported decision making;
 - (E) Caregiver training to meet the needs of the care receiver;
 - (F) Financial or legal consultation; and
 - (G) Health and wellness consultation;
 - (ii) Specialized medical equipment and supplies for the care receiver, which includes but is not limited to:
 - (A) Supplies;
 - (B) Specialized medical equipment, which includes durable medical equipment; and
 - (C) Assistive technology;
 - (iii) Caregiver assistance services, which includes but is not limited to short term respite to allow the caregiver to attend an educational event or training series; and
 - (iv) Health maintenance and therapy supports, which may include but are not limited to:
 - (A) Adult day health;
 - (B) RDAD and evidence based exercise programs;
 - (C) Health promotion and wellness services; and
 - (D) Counseling related to caregiving role.
- (2) Step two: After the department obtains your demographics, approves your program eligibility, and completes a GetCare or TCARE screening, you may receive the following:
 - (a) Information and referrals to family caregiver or community resources;
 - (b) The following services up to an annual limit of (~~five hundred dollars~~) \$500 minus any expenditures for step one services:
 - (i) Training and education, which includes but is not limited to:
 - (A) Support groups;
 - (B) Group training;
 - (C) Caregiver coping and skill building training;
 - (D) Consultation on supported decision making;
 - (E) Caregiver training to meet the needs of the care receiver;
 - (F) Financial or legal consultation; and
 - (G) Health and wellness consultation;
 - (ii) Specialized medical equipment and supplies for the care receiver, which includes but is not limited to:
 - (A) Supplies;
 - (B) Specialized medical equipment, which includes durable medical equipment;
 - (C) Assistive technology; and
 - (D) Personal emergency response system (PERS);
 - (iii) Caregiver assistance services, which include but are not limited to:
 - (A) Short-term respite to allow the caregiver to attend an educational event or training series;
 - (B) Home delivered meals for the care receiver and caregiver;
 - (C) Minor home modifications and repairs to the care receiver's home;
 - (D) Home safety evaluation of the care receiver's home; and

- (E) Transportation, only in conjunction with the delivery of a service; and
- (F) Bath aide;
- (iv) Health maintenance and therapy supports, which include but are not limited to:
 - (A) Adult day health;
 - (B) RDAD and evidence based exercise programs;
 - (C) Health promotion and wellness services such as massage therapy and acupuncture therapy; and
 - (D) Counseling related to the caregiving role; and
 - (v) Personal assistance services for the TSOA without an unpaid caregiver, as described in WAC 388-106-1910 (e) (ii), which include but are not limited to:
 - (A) Adult day care;
 - (B) Transportation, only in conjunction with the delivery of a service;
 - (C) Home delivered meals;
 - (D) Home safety evaluation of the care receiver's home; and
 - (E) Minor home modifications and repairs to the care receiver's home.
- (3) Step three:
 - (a) For MAC and TSOA care receivers with caregivers:
 - (i) You may receive information and referrals to family caregiver or community resources.
 - (ii) After the department has obtained your demographics and approved your program eligibility, your caregiver must complete a TCARE assessment in order to access step three services. In order to qualify for a TCARE assessment, the TCARE screening must result in at least three medium scores or one high score for the TCARE measures described in WAC 388-106-1932. TCARE uses an evidence-based algorithm to identify a primary goal based on your caregiver's answers to the TCARE assessment questions. The department will assist you to develop an individualized care plan containing the services chosen by you and your caregiver up to the limits established in WAC 388-106-1920.
 - (iii) The table below lists the available step three services. The Xs in the table indicate the services that may be recommended by the TCARE strategies, defined in WAC 388-106-1930, from your caregiver's assessment. You may request services in this step that the TCARE assessment does not list as a recommendation.

Services	Strategies				
	A	B	C	D	E
<i>Training and education</i>					
Group training		X			
Caregiver coping and skill building training	X	X	X	X	
Consultation on supported decision making	X	X	X		
Caregiver training to meet needs of care receiver	X	X	X		
Financial or legal consultation		X			
Health and wellness consultation		X			
Support groups	X	X	X		
<i>Specialized medical equipment and supplies</i>					
Supplies		X			
Specialized medical equipment		X			
Assistive technology		X			

Services	Strategies				
Personal emergency response system		X			
Caregiver assistance services					
Home delivered meals		X			
Minor home modifications and repairs		X			
Housework/errands and yard work		X			
In-home respite, including a bath aide		X			
OT/PT evaluation	X	X		X	
Home safety evaluation		X			
Out-of-home respite		X			
Transportation		X			
Health maintenance and therapy supports					
Adult day health		X			
RDAD and evidence based exercise programs		X		X	
Health promotion and wellness services such as acupuncture and massage therapy				X	X
Counseling related to the caregiver role	X		X	X	

(b) For TSOA care receivers who do not have an available caregiver:

(i) You may receive information and referrals to community resources.

(ii) After the department has obtained your demographics and approved your program eligibility, you must complete a GetCare assessment in order to access step three services. In order to qualify for a GetCare assessment, the GetCare screening must result in a risk score of moderate or high as described in WAC 388-106-1933. The department will assist you to develop an individualized care plan that includes the services you have chosen up to the limits established in WAC 388-106-1920.

(iii) The services available include any step one and step two services noted in subsections (1) and (2) of this section (except for respite) and the following personal assistance services:

- (A) Personal care;
- (B) Nurse delegation; and
- (C) Housework/errands and yard work.

[Statutory Authority: RCW 74.08.090. WSR 18-08-033, § 388-106-1915, filed 3/27/18, effective 4/27/18.]

AMENDATORY SECTION (Amending WSR 18-08-033, filed 3/27/18, effective 4/27/18)

WAC 388-106-1931 What are the TCARE screening measures? The following six TCARE screening measures and response options will be presented to your caregiver in order to receive step two services and to determine whether a TCARE assessment is needed for step three services:

(1) Identity discrepancy: (~~How much do you agree or disagree with each statement:~~) The following are some thoughts and feelings that people sometimes experience when they assist their receiver:

~~((a) The things I am responsible for do not fit very well with what I want to do.))~~

~~((b)) (a) I am not always able to be the person I want to be when I am with my care receiver.~~

~~((e)) (b) It is difficult for me to accept all the responsibility for my care receiver.~~

~~((d) I am having trouble accepting the way I relate to my care receiver.))~~

~~((e)) (c) I am not sure that I can accept any more responsibility than I have right now.~~

~~((f) It is difficult for me to accept the responsibilities that I now have to assume.))~~

(2) Relationship burden: Have your caregiving responsibilities:

(a) Caused conflicts with your care receiver?

(b) Increased the number of unreasonable requests made by your care receiver?

(c) Caused you to feel that your care receiver makes demands over and above what they need?

~~((d) Made you feel you were being taken advantage of by your care receiver?~~

~~(e) Increased attempts by your care receiver to manipulate you?))~~

(3) Objective burden: Have your caregiving responsibilities:

~~((a) Decreased time you have to yourself?~~

~~(b) Kept you from recreational activities?~~

~~(c) Caused your social life to suffer?))~~

~~((d)) (a) Changed your routine?~~

~~((e) Given you little time for friends and relatives?))~~

~~((f)) (b) Left you with almost no time to relax?~~

(4) Stress burden: Have your caregiving responsibilities:

~~((a) Created a feeling of hopelessness?~~

~~(b) Made you nervous?))~~

~~((e)) (a) Depressed you?~~

~~((d) Made you anxious?))~~

~~((e)) (b) Caused you to worry?~~

(5) Depression: ~~((How often have you felt this way during the past week?))~~ How many days have you felt this way in the past week?

~~((a) I was bothered by things that usually don't bother me.))~~

~~((b) I had trouble keeping my mind on what I was doing.))~~

(a) Had trouble keeping your mind on what you were doing?

~~((e) I felt) (b) Felt depressed((-))?~~

~~((d) I felt that everything I did was an effort.))~~

~~((e) I felt) (c) Felt hopeful about the future((-))?~~

~~((f) I felt fearful.~~

~~(g) My sleep was restless.~~

~~(h) I was happy.~~

~~(i) I felt lonely.~~

~~(j) I could not "get going.))~~

(d) Had restless sleep?

(6) Uplifts: Have your caregiving responsibilities:

(a) Given your life more meaning?

(b) Made you more satisfied with your relationship?

(c) Given you a sense of fulfillment?

~~((d) Left you feeling good?~~

~~(e) Made you enjoy being with your care receiver more?~~

~~(f) Made you cherish your time with your care receiver?))~~

[Statutory Authority: RCW 74.08.090. WSR 18-08-033, § 388-106-1931, filed 3/27/18, effective 4/27/18.]

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 18-08-033, filed 3/27/18, effective 4/27/18)

WAC 388-106-1932 How is the TCARE screening scored to determine if my caregiver is eligible for a TCARE assessment and related step three services? (1) The TCARE screening measures are scored with a number value of one through six for the measure on identity discrepancy or one through five for the remaining measures based upon the caregiver's responses. Ranges for each measure determine whether the measure score is high, medium, or low. One high or three medium scores from the table in this subsection, except for the uplifts measure, will make a caregiver eligible for a TCARE assessment and step three services as described in WAC 388-106-1915 (3) (a) (ii). The following table indicates the score ranges for each measure:

	High	Medium	Low
Identity discrepancy	((22-36)) 13-18	((14-21)) 8-12	((6-13)) 3-7
Relationship burden	((13-25)) 10-18	((8-12)) 6-9	((5-7)) 3-5
Objective burden	((24-30)) 9-12	((18-23)) 5-8	((6-17)) 2-4
Stress burden	((17-25)) 9-12	((12-16)) 6-8	((5-11)) 2-5
Uplifts	((19-30)) 10-18	((13-18)) 6-9	((6-12)) 3-5
Depression-CESD	((26-40)) 14-16	((19-25)) 7-13	((10-18)) 4-6

(2) The scale used to score the responses within the identity discrepancy, relationship, objective, stress, and uplift measures are ~~((is))~~:

- (a) Strongly disagree = one;
- (b) Disagree = two;
- (c) Disagree a little = three;
- (d) Agree a little = four;
- (e) Agree = five; and
- (f) ~~((Agree-s))~~ Strongly agree = six.

~~((3) The scale used to score the responses to the relationship, objective, stress, and uplift measures are:~~

- ~~(a) Not at all = one;~~
- ~~(b) A little = two;~~
- ~~(c) Moderately = three;~~
- ~~(d) A lot = four; and~~
- ~~(e) A great deal = five.)~~

~~((4))~~ (3) The scale used to score the responses within the depression measures in WAC 388-106-1931 (5) (a), (b), (c), and (d) ~~((f), (g), (i) and (j))~~ are:

- (a) Rarely or none of the time (less than one day in the last week) = one;
- (b) Some or a little of the time (one to two days in the last week) = two;
- (c) Occasionally or a moderate amount of time (three to four days in the last week) = three; and
- (d) All of the time (five to seven days in the last week) = four.

~~((5) The scale used to score the responses within the depression measures in WAC 388-106-1931 (5) (e) and (h) are:~~

~~(a) Rarely or none of the time (less than one day in the last week) = four;~~

~~(b) Some or a little of the time (one to two days in the last week) = three;~~

~~(c) Occasionally or a moderate amount of time (three to four days in the last week) = two; and~~

~~(d) All of the time (five to seven days in the last week) = one.)~~

[Statutory Authority: RCW 74.08.090. WSR 18-08-033, § 388-106-1932, filed 3/27/18, effective 4/27/18.]

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 18-08-033, filed 3/27/18, effective 4/27/18)

WAC 388-106-1945 When do my MAC or TSOA services begin? Your MAC or TSOA services may begin once you have approved your care plan and as early as the date authorized by the department.

[Statutory Authority: RCW 74.08.090. WSR 18-08-033, § 388-106-1945, filed 3/27/18, effective 4/27/18.]

AMENDATORY SECTION (Amending WSR 18-08-033, filed 3/27/18, effective 4/27/18)

WAC 388-106-1950 How do I remain eligible for MAC and TSOA services? (1) In order to remain eligible for MAC and TSOA services, you, as the care receiver must:

(a) Remain functionally eligible as defined in WAC 388-106-0355 and financially eligible as defined in WAC 182-513-1605, 182-513-1615, and 182-513-1620; ~~((and))~~

(b) Have your functional and financial eligibility reviewed at least annually~~((-))~~; and

(c) Have participated in the assessment and care plan process at least annually.

(2) If eligibility laws, regulations, or rules change, and if you as the caregiver or the care receiver do not meet the changed eligibility requirements, the department will terminate services, even if your circumstances have not changed. You will receive advance notice of any termination or change in your services and an opportunity to appeal.

[Statutory Authority: RCW 74.08.090. WSR 18-08-033, § 388-106-1950, filed 3/27/18, effective 4/27/18.]

WSR 22-18-016

PERMANENT RULES

TRANSPORTATION COMMISSION

[Filed August 26, 2022, 11:22 a.m., effective October 1, 2022]

Effective Date of Rule: October 1, 2022.

Purpose: In 2022, the state legislature provided \$130,000,000, as referenced under RCW 47.56.165(1). It is the intent of the legislature that the Washington state transportation commission will adjust tolls on the State Route (SR) 16 Tacoma Narrows Bridge (TNB) accordingly (RCW 47.46.190(4)) in consideration of annual contributions from non-toll sources and the costs required to be covered under RCW 47.46.100. The purpose of this rule is therefore to decrease toll rates for TNB in an amount which maintains financial sufficiency. Toll rates for TNB will decrease \$0.75 for two-axle vehicles, and between \$1.15 for three-axle vehicles to \$2.25 for six+ axle vehicles, effective October 1, 2022.

Citation of Rules Affected by this Order: Amending WAC 468-270-070.

Statutory Authority for Adoption: RCW 47.56.165, 47.46.190, 47.46.100, 47.56.030.

Adopted under notice filed as WSR 22-15-116 on July 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 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 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: August 23, 2022.

Reema Griffith
Executive Director

OTS-3909.2

AMENDATORY SECTION (Amending WSR 21-18-070, filed 8/26/21, effective 9/26/21)

WAC 468-270-070 What are the toll rates on the Tacoma Narrows Bridge? The toll rates for the Tacoma Narrows Bridge are shown in Table 1.

**Table 1, Effective October 1, ((2021)) 2022
Tacoma Narrows Bridge Toll Rates**

Vehicle Axles	Good to Go!™ Pass ¹	Cash ¹	Pay By Mail ¹	Good To Go!™ Pay by Plate ²
2	(\$5.25) <u>\$4.50</u>	(\$6.25) <u>\$5.50</u>	(\$7.25) <u>\$6.50</u>	(\$5.50) <u>\$4.75</u>
3	(\$7.90) <u>\$6.75</u>	(\$9.40) <u>\$8.25</u>	(\$10.90) <u>\$9.75</u>	(\$8.15) <u>\$7.00</u>
4	(\$10.50) <u>\$9.00</u>	(\$12.50) <u>\$11.00</u>	(\$14.50) <u>\$13.00</u>	(\$10.75) <u>\$9.25</u>
5	(\$13.15) <u>\$11.25</u>	(\$15.65) <u>\$13.75</u>	(\$18.15) <u>\$16.25</u>	(\$13.40) <u>\$11.50</u>
6	(\$15.75) <u>\$13.50</u>	(\$18.75) <u>\$16.50</u>	(\$21.75) <u>\$19.50</u>	(\$16.00) <u>\$13.75</u>

Notes:

¹The rate has been rounded to the nearest five cents, as needed.²For this type of payment method, the customer is charged the Good to Go!™ Pass toll rate plus a \$0.25 fee as provided in WAC 468-270-300.

[Statutory Authority: RCW 47.46.100 and 47.56.030. WSR 21-18-070, § 468-270-070, filed 8/26/21, effective 9/26/21. Statutory Authority: RCW 47.46.100, 47.56.030, 47.46.105, 47.56.795, and 47.56.850. WSR 18-17-163, 19-01-066 and 19-10-006, § 468-270-070, filed 8/21/18, 12/14/18 and 4/18/19, effective 8/1/19. Statutory Authority: Chapter 47.46 RCW and RCW 47.56.240. WSR 16-11-092, § 468-270-070, filed 5/18/16, effective 7/1/16. Statutory Authority: Chapter 47.46 RCW and RCW 47.56.165. WSR 15-12-013, § 468-270-070, filed 5/21/15, effective 7/1/15; WSR 13-12-006, § 468-270-070, filed 5/23/13, effective 7/1/13; WSR 12-12-036, § 468-270-070, filed 5/30/12, effective 7/1/12. Statutory Authority: RCW 47.46.100 (1) and (2), 47.46.105(1), 47.56.030 (1)(b), 47.56.795(6), and 47.56.165(4). WSR 11-04-070, § 468-270-070, filed 1/28/11, effective 12/3/11. Statutory Authority: RCW 47.56.240. WSR 09-13-038, § 468-270-070, filed 6/10/09, effective 7/11/09. Statutory Authority: RCW 47.56.030, 47.46.100. WSR 08-12-054, § 468-270-070, filed 6/2/08, effective 7/3/08. Statutory Authority: RCW 47.56.403. WSR 08-06-032, § 468-270-070, filed 2/26/08, effective 4/7/08. Statutory Authority: RCW 47.56.030, 47.46.100. WSR 07-13-010, § 468-270-070, filed 6/8/07, effective 7/9/07.]

WSR 22-18-017

PERMANENT RULES

TRANSPORTATION COMMISSION

[Filed August 26, 2022, 11:27 a.m., effective October 1, 2022]

Effective Date of Rule: October 1, 2022.

Purpose: The purpose of this rule making is to amend WAC 468-300-010 fare tables and policy language to allow children/youth passenger riders 18 years and under to ride free of charge on all Washington state ferries system routes, effective October 1, 2022, at 3:00 a.m.

Citation of Rules Affected by this Order: Amending WAC 468-300-010.

Statutory Authority for Adoption: RCW 47.60.840, 47.60.315, 47.56.030.

Adopted under notice filed as WSR 22-13-129 on June 17, 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: August 23, 2022.

Reema Griffith
Executive Director

OTS-3878.1

AMENDATORY SECTION (Amending WSR 21-18-069, filed 8/26/21, effective 9/26/21)

WAC 468-300-010 Ferry passenger tolls.

EFFECTIVE 03:00 A.M. October 1, 2021

ROUTES	Full Fare ⁹	Senior/ Disabled, Youth ⁹	Multiride Media 20 Rides ^{1,9}	Monthly Pass ^{5,9}	Bicycle Surcharge ²
Via Auto Ferry					
*Fauntleroy-Southworth	7.20	3.60	58.60	93.80	1.00
*Seattle-Bremerton					
*Seattle-Bainbridge Island					
*Edmonds-Kingston	9.25	4.60	75.00	120.00	1.00
Port Townsend-Coupeville	3.85	1.90	63.60	101.80	0.50
*Fauntleroy-Vashon					
*Southworth-Vashon					
*Pt. Defiance-Tahlequah	6.10	3.05	49.80	79.70	1.00
*Mukilteo-Clinton	5.65	2.80	46.20	73.95	1.00
*Anacortes to Lopez, Shaw, Orcas or Friday Harbor	14.85	7.40	98.30	N/A	2.00 ⁶

ROUTES	Full Fare ⁹	Senior/ Disabled, Youth ⁹	Multiride Media 20 Rides ^{1,9}	Monthly Pass ^{5,9}	Bicycle Surcharge ²
Between Lopez, Shaw, Orcas and Friday Harbor ⁴	N/C	N/C	N/C	N/A	N/C
Anacortes to Sidney and Sidney to all destinations	21.80	10.90	N/A	N/A	4.00 ⁷
From Lopez, Shaw, Orcas and Friday Harbor to Sidney	13.70	6.85	N/A	N/A	2.00 ⁸
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ³	26.90	13.20	N/A	N/A	4.00 ⁷

All fares rounded to the nearest multiple of \$0.05.

*These routes operate as a one-point toll collection system with round trip tolls.

¹MULTIRIDE MEDIA - Shall be valid only for 90 days from date of purchase after which time the tickets shall not be accepted for passage. Remaining value will not be eligible for refund or exchange. There shall be no commercial resale of this fare media. For mail order deliveries, WSF may add additional days to allow for delivery times.

²BICYCLE SURCHARGE - Is an addition to the appropriate passenger fare. Customers using multiride media and monthly passes are exempt from the bicycle surcharge. On all routes except Anacortes/San Juan Islands/Sidney, B.C., customers paying with the ePurse or the ORCA card are exempt from the bicycle surcharge. For the purposes of WSF fares determination, the bicycle fare category shall include both bicycles as defined by RCW 46.04.071 and electric-assisted bicycles as defined by RCW 46.04.169. Bicycles towing a kayak or canoe are to be charged the motorcycle/driver (stowage) rate in WAC 468-300-020. This rate includes the fare for the walk on passenger with the bicycle, and the kayak or canoe being towed by the bicycle. This requirement shall not apply to interisland travel in the San Juan Islands. All other bicycles towing trailers are charged the applicable bicycle surcharge.

³ROUND TRIP - Round trip passage for international travel available for trips beginning or ending on one of the Islands served.

⁴INTER-ISLAND FARES - Passenger fares included in Anacortes tolls.

⁵PASSES - Passenger passes are available for all routes except Anacortes/San Juan Islands/Sidney, B.C. Passes are valid for the period printed on the pass and will be presented to Washington state ferries staff or scanned through an automated turnstile whenever a passenger fare is collected. This pass is based on 16 days of passenger travel with a 20% discount. A \$1.00 retail/shipping and handling fee will be added to the price of the pass. A combination ferry-transit pass may be available for a particular route when determined by Washington state ferries and a local public transit agency to be a viable fare instrument. The WSF portion of the fare is based on 16 days of passenger travel per month at a 20% discount. The monthly pass is valid for a maximum of 31 round trips per month, is nontransferable, is nonreproducible, and is intended for a single user. Monthly passes purchased through the regional SmartCard program are also nontransferable and intended for a single user, but allow for unlimited usage.

⁶BICYCLE SURCHARGE - This becomes \$4.00 during peak season (May 1 through September 30).

⁷BICYCLE SURCHARGE - This becomes \$6.00 during peak season (May 1 through September 30).

⁸BICYCLE SURCHARGE - This becomes \$3.00 during peak season (May 1 through September 30).

⁹CAPITAL SURCHARGE - Included is a \$0.50 capital surcharge on each single passenger fare collected. On all multiride cards except for Port Townsend/Coupeville, the included capital surcharge is \$5.00. For Port Townsend/Coupeville, the included capital surcharge is \$10.00 on multiride cards. On all monthly passes except Port Townsend/Coupeville, there is included a \$8.00 capital surcharge. For Port Townsend/Coupeville, the included capital surcharge is \$16.00 on monthly passes. For passenger half fare on Port Townsend/Coupeville the capital surcharge is \$0.40.

CHILDREN/YOUTH - Children under six years of age will be carried free when accompanied by parent or guardian. Children/youths six through (~~(eighteen)~~) 18 years of age will be charged the youth fare, which will be 50% of full fare rounded down to the nearest multiple of \$0.05.

SENIOR CITIZENS - Passengers age 65 and over, with proper identification establishing proof of age, may travel at half-fare passenger tolls on any route where passenger fares are collected, which will be rounded down to the nearest multiple of \$0.05.

PEOPLE WITH DISABILITIES - Any person who has a physical or mental impairment that substantially limits one or more major life activity, upon presentation of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes a disability may travel at half-fare passenger tolls on any route where passenger fares are collected, which will be rounded down to the nearest multiple of \$0.05. In addition, people with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant to travel free as a passenger.

BUS PASSENGERS - Passengers traveling on public transit buses pay the applicable fare. Passengers traveling in private or commercial buses will be charged the half-fare rate, which will be rounded down to the nearest multiple of \$0.05.

MEDICARE CARD HOLDERS - Any person holding a medicare card duly issued to that person pursuant to Title II or Title XVIII of the Social Security Act may travel at half-fare passenger tolls, which will be rounded down to the nearest multiple of \$0.05 on any route upon presentation of a WSF Disability Travel Permit or a Regional Reduced Fare Permit at time of travel.

IN-NEED ORGANIZATIONS - For qualified organizations serving in-need clients by providing tickets for transportation on WSF at no cost to clients, program would offer a monthly discount to approximate appropriate multiride media discount rates. Appointing bodies (those that appoint Ferry Advisory Committees) will nominate to the Washington State Transportation Commission those organizations that meet the criteria of the program. The Commission will review such nominations and certify those organizations that qualify. The following criteria will be used for nominating and certifying in-need organizations: Nongovernmental and not-for-profit organizations whose primary purpose is one or more of the following: Help clients with medical issues; provide clients with low-income social services; help clients suffering from domestic violence; provide clients with employment-seeking services; and/or help clients with Social Security. Travel will be initially charged based on full fare and billed monthly. The credits will be approximately based on the discount rates offered to multiride media users applicable on the date of travel.

PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the WSF Assistant Secretary, Executive Director for a specific discount in order to enhance total revenue and effective only at designated times on designated routes. A promotional fare product may also be established to support tourism or other special events. The promotional fare or product may be bundled and sold as part of a multiparty promotional program.

Special passenger fare rate(s) may be established for a pilot program in conjunction with the Central Puget Sound Regional Fare Integration project on ferry route(s) serving King, Pierce, Snohomish and Kitsap counties. The rate(s) may be established at the discretion of the WSF Assistant Secretary, Executive Director for a specific discount not to exceed (~~(fifty)~~) 50 percent of full fare.

SCHOOL GROUPS - Passengers traveling in authorized school groups, including home-school groups, will be charged a flat rate of \$5.00 per walk-on group or per vehicle of students and/or advisors and staff. All school groups require a letter of authorization and prior notification. In the case of home-school groups, in addition to prior notification, a copy of the filed Declaration of Intent (as outlined in RCW 28A.200.010) shall be submitted to the tollbooth at the time of travel. Notification shall be made no less than 72 hours before the scheduled departure and will include the expected number of school-age children and

adults that will be traveling to ensure WSF can satisfy U.S. Coast Guard lifesaving equipment requirements. Failure to provide adequate notification may result in delayed travel. Vehicles and drivers will be charged the fare applicable to vehicle size. The special school rate is \$10.00 on routes where one-point toll systems are in effect.

BUNDLED SINGLE FARE BOOKS - WSF may bundle single fare types into multiride media as a customer convenience. Remaining value will not be eligible for refund or exchange. For mail order deliveries, WSF may add additional days for delivery times.

FIRE DEPARTMENT AND FIRE DISTRICT FARE CONSIDERATION - At the discretion of the WSF Assistant Secretary, WSF may authorize no-fare or discounted fare passage on scheduled and/or special ferry sailings for fire departments and fire districts that provide contracted fire protection services for WSF ferry terminals and/or other WSF facilities within their jurisdiction. Such passage shall be considered full and complete consideration for such fire protection services, in lieu of annual payments for such services, to be so noted in such fire protection agreements. The scope of such authorization includes designated fire department and fire district vehicles (see below), drivers and passengers en route to and from an emergency call, on ferry routes with a WSF terminal and/or other WSF facility served by a fire department or fire district pursuant to a WSF fire protection service agreement. Authorized vehicles may include public fire department and fire district medical aid units, fire trucks, incident command and/or other vehicles dispatched to and returning from an emergency call.

GROUP OR VOLUME SALES - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiride media or offer passes for high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

SPECIAL EVENTS - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

LOW-INCOME FARE PILOT - Starting no earlier than January 1, 2020, special passenger fare rate(s) may be established for a pilot program offering a low-income fare on any ferry route for riders made eligible through an existing transit agency's low-income fare program. Enactment of this program is dependent upon legislative funding for the pilot project. If funded, Washington State Ferries' Assistant Secretary shall submit a proposal to carry out this pilot program and the Washington State Transportation Commission must approve both the program and the fare schedule before it is implemented. Once implemented, WSF shall provide, at a minimum, updates to the Commission every six months on the pilot. The pilot will conclude no longer than three years from its implementation.

GOOD TO GO! PILOT - Special ferry toll rate(s) may be established for a pilot program of Good to Go! or similar fare collection infrastructure, technology, or ORCA replacement system on any ferry route. Washington State Ferries Assistant Secretary shall design the program and submit a proposed program and fare schedule to the Washington State Transportation Commission. The Commission shall review, modify and approve the proposed fare schedule and fare policies before it is implemented. Once implemented, WSF shall provide, at a minimum, updates to the Commission every six months on the pilot. The pilot will conclude no longer than three years from its implementation.

EFFECTIVE 03:00 A.M. October 1, 2022

ROUTES	Full Fare ⁸	Senior/ Disabled((-Youth)) ⁸	Multiride Media		Bicycle Surcharge ²
			Rides ^{1, 8}	Monthly Pass ^{5, 8}	
Via Auto Ferry					
*Fauntleroy-Southworth	7.40	3.70	60.20	96.35	1.00
*Seattle-Bremerton					
*Seattle-Bainbridge Island					
*Edmonds-Kingston	9.45	4.70	76.60	122.60	1.00

ROUTES	Full Fare ⁸	Senior/ Disabled((-Youth)) ⁸	Multiride Media 20 Rides ^{1, 8}	Monthly Pass ^{5, 8}	Bicycle Surcharge ²
Port Townsend-Coupeville	3.95	1.95	65.20	104.35	0.50
*Fauntleroy-Vashon *Southworth-Vashon *Pt. Defiance-Tahlequah	6.25	3.10	51.00	81.60	1.00
*Mukilteo-Clinton	5.80	2.90	47.40	75.85	1.00
*Anacortes to Lopez, Shaw, Orcas or Friday Harbor	15.20	7.60	100.55	N/A	2.00 ⁶
Between Lopez, Shaw, Orcas and Friday Harbor ⁴	N/C	N/C	N/C	N/A	N/C
Anacortes to Sidney and Sidney to all destinations	22.35	11.15	N/A	N/A	4.00 ⁷
From Lopez, Shaw, Orcas and Friday Harbor to Sidney	14.05	7.00	N/A	N/A	2.00 ⁸
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ³	27.60	13.50	N/A	N/A	4.00 ⁷

All fares rounded to the nearest multiple of \$0.05.

*These routes operate as a one-point toll collection system with round trip tolls.

¹MULTIRIDE MEDIA - Shall be valid only for 90 days from date of purchase after which time the tickets shall not be accepted for passage. Remaining value will not be eligible for refund or exchange. There shall be no commercial resale of this fare media. For mail order deliveries, WSF may add additional days to allow for delivery times.

²BICYCLE SURCHARGE - Is an addition to the appropriate passenger fare. Customers using multiride media and monthly passes are exempt from the bicycle surcharge. On all routes except Anacortes/San Juan Islands/Sidney, B.C., customers paying with the ePurse or the ORCA card are exempt from the bicycle surcharge. For the purposes of WSF fares determination, the bicycle fare category shall include both bicycles as defined by RCW 46.04.071 and electric-assisted bicycles as defined by RCW 46.04.169. Bicycles towing a kayak or canoe are to be charged the motorcycle/driver (stowage) rate in WAC 468-300-020. This rate includes the fare for the walk on passenger with the bicycle, and the kayak or canoe being towed by the bicycle. This requirement shall not apply to interisland travel in the San Juan Islands. All other bicycles towing trailers are charged the applicable bicycle surcharge.

³ROUND TRIP - Round trip passage for international travel available for trips beginning or ending on one of the Islands served.

⁴INTER-ISLAND FARES - Passenger fares included in Anacortes tolls.

⁵PASSES - Passenger passes are available for all routes except Anacortes/San Juan Islands/Sidney, B.C. Passes are valid for the period printed on the pass and will be presented to Washington state ferries staff or scanned through an automated turnstile whenever a passenger fare is collected. This pass is based on 16 days of passenger travel with a 20% discount. A \$1.00 retail/shipping and handling fee will be added to the price of the pass. A combination ferry-transit pass may be available for a particular route when determined by Washington state ferries and a local public transit agency to be a viable fare instrument. The WSF portion of the fare is based on 16 days of passenger travel per month at a 20% discount. The monthly pass is valid for a maximum of 31 round trips per month, is nontransferable, is nonreproducible, and is intended for a single user. Monthly passes purchased through the regional SmartCard program are also nontransferable and intended for a single user, but allow for unlimited usage.

⁶BICYCLE SURCHARGE - This becomes \$4.00 during peak season (May 1 through September 30).

⁷BICYCLE SURCHARGE - This becomes \$6.00 during peak season (May 1 through September 30).

⁸BICYCLE SURCHARGE - This becomes \$3.00 during peak season (May 1 through September 30).

⁹CAPITAL SURCHARGE - Included is a \$0.50 capital surcharge on each single passenger fare collected. On all multiride cards except for Port Townsend/Coupeville, the included capital sur-

charge is \$5.00. For Port Townsend/Coupeville, the included capital surcharge is \$10.00 on multiride cards. On all monthly passes except Port Townsend/Coupeville, there is an included \$8.00 capital surcharge. For Port Townsend/Coupeville, the included capital surcharge is \$16.00 on monthly passes. For passenger half fare on Port Townsend/Coupeville the capital surcharge is \$0.40.

~~CHILDREN/YOUTH - ((Children under six years of age will be carried free when accompanied by parent or guardian. Children/youths six through eighteen years of age will be charged the youth fare, which will be 50% of full fare rounded down to the nearest multiple of \$0.05.))~~
Children/youth passengers 18 years and under will ride free of charge on all system routes.

SENIOR CITIZENS - Passengers age 65 and over, with proper identification establishing proof of age, may travel at half-fare passenger tolls on any route where passenger fares are collected, which will be rounded down to the nearest multiple of \$0.05.

PEOPLE WITH DISABILITIES - Any person who has a physical or mental impairment that substantially limits one or more major life activity, upon presentation of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes a disability may travel at half-fare passenger tolls on any route where passenger fares are collected, which will be rounded down to the nearest multiple of \$0.05. In addition, people with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant to travel free as a passenger.

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[Statutory Authority: RCW 47.56.030 and 47.60.315. WSR 21-18-069, § 468-300-010, filed 8/26/21, effective 9/26/21. Statutory Authority: RCW 47.56.030, 47.60.315, and 2019 c 431. WSR 19-18-004, § 468-300-010, filed 8/22/19, effective 9/22/19. Statutory Authority: RCW 47.56.030 and 47.60.315. WSR 17-18-018, § 468-300-010, filed 8/25/17, effective 9/25/17; WSR 15-18-002, § 468-300-010, filed 8/19/15, effective 10/1/15; WSR 13-18-019, § 468-300-010, filed 8/26/13, effective 9/26/13; WSR 11-18-034, § 468-300-010, filed 8/30/11, effective 10/1/11 and 5/1/12. Statutory Authority: RCW 47.56.030, 47.60.326. WSR 10-24-028, § 468-300-010, filed 11/19/10, effective 1/1/11; WSR 09-19-044, § 468-300-010, filed 9/10/09, effective 10/11/09; WSR 08-08-070, § 468-300-010, filed 3/31/08, effective 5/1/08; WSR 07-08-064, § 468-300-010, filed 3/29/07, effective 5/1/07; WSR 06-08-036, § 468-300-010, filed 3/29/06, effective 5/1/06; WSR 05-10-041, § 468-300-010, filed 4/28/05, effective 6/1/05; WSR 03-08-072, § 468-300-010, filed 4/1/03, effective 5/2/03; WSR 02-09-010, § 468-300-010, filed 4/5/02, effective 5/6/02; WSR 01-11-010, § 468-300-010, filed 5/3/01, effective 6/3/01; WSR 00-24-050, § 468-300-010, filed 11/30/00, effective 12/31/00; WSR 99-08-066, § 468-300-010, filed 4/5/99, effective 5/6/99; WSR 98-08-051, § 468-300-010, filed 3/27/98, effective 4/27/98; WSR 96-05-046 and 96-05-047 (Orders 79 and 80), § 468-300-010, filed 2/16/96, effective 3/19/96; WSR 94-18-014 (Order 77), § 468-300-010, filed 8/25/94, effective 9/25/94; WSR 94-07-104 (Order 75), § 468-300-010, filed 3/18/94, effective 4/18/94; WSR 93-18-005, § 468-300-010, filed 8/19/93, effective 9/19/93; WSR 92-18-005, § 468-300-010, filed 8/20/92, effective 9/20/92; WSR 91-18-022 (Order 72), § 468-300-010, filed 8/27/91, effective 9/27/91; WSR 89-14-052 (Order 67, Resolution No. 354), § 468-300-010, filed 6/30/89; WSR 89-04-014 (Order 66, Resolution No. 343), § 468-300-010, filed 1/23/89, effective 7/1/89; WSR 87-12-005 (Order 61, Resolution No. 298), § 468-300-010, filed 5/21/87. Statutory Authority: RCW 47.60.290, 47.60.300 and 47.60.326. WSR 86-24-009 (Order 59, Resolution No. 287), § 468-300-010, filed 11/21/86. Statutory Authority: RCW 47.60.326. WSR 86-06-010 (Order 54, Resolution No. 263), § 468-300-010, filed 2/21/86; WSR 85-11-007 (Order 44, Resolution No. 241), § 468-300-010, filed 5/3/85; WSR 84-11-052 (Order 42, Resolution Nos. 221 and 222), § 468-300-010, filed 5/17/84; WSR 84-10-002 (Order 41, Resolution No. 218), § 468-300-010, filed 4/20/84; WSR 83-07-062 (Order 33, Resolution No. 175), § 468-300-010, filed 3/22/83; WSR 82-07-063 (Order 28, Resolution No. 143), § 468-300-010, filed 3/22/82. Statutory Authority: RCW 47.60.325 and 47.56.030. WSR 81-15-099 (Order 23, Resolution No. 117), § 468-300-010, filed 7/22/81. Statutory Authority: RCW 47.60.325. WSR 81-08-044 (Order 17, Resolution No. 104), § 468-300-010, filed 3/31/81; WSR 80-16-012 (Order 16, Resolution No. 90), § 468-300-010, filed 10/27/80; WSR 80-04-104 (Order 15, Resolution No. 72), § 468-300-010, filed 4/1/80; WSR 79-09-136 (Order 11, Resolution No. 57), § 468-300-010, filed 9/5/79; WSR 79-04-047 (Order 6, Resolution No. 44), § 468-300-010, filed 3/27/79; WSR 78-06-040 (Order 2, Resolution No. 21), § 468-300-010, filed 5/19/78.]

WSR 22-18-022
PERMANENT RULES
DEPARTMENT OF

CHILDREN, YOUTH, AND FAMILIES

[Filed August 29, 2022, 9:36 a.m., effective September 29, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Establish requirements for participating in a pilot project that will test the feasibility of licensing multisite programs operated by one owner or entity, explain the criteria the department will use to select pilot participants, and clarify hearing rights for pilot participants.

Citation of Rules Affected by this Order: New WAC 110-303-0001, 110-303-0005, 110-303-0010, 110-303-0015, and 110-303-0020.

Statutory Authority for Adoption: Section 229(19), chapter 334, Laws of 2021; section 229(19), chapter 297, Laws of 2022.

Adopted under notice filed as WSR 22-13-183 on June 22, 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 5, 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 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 5, 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: August 29, 2022.

Brenda Villarreal
Rules Coordinator

OTS-3866.4

Chapter 110-303 WAC
ORGANIZATIONAL LICENSE PILOT

NEW SECTION

WAC 110-303-0001 Authority. (1) Chapter 43.216 RCW grants to the department of children, youth, and families the responsibility and authority to establish and enforce licensing requirements and standards for licensed child care programs in Washington state, including the authority to adopt rules to implement chapter 43.216 RCW.

(2) Pursuant to section 229(19), chapter 334, Laws of 2021, and section 229(19), chapter 297, Laws of 2022, DCYF must:

(a) Establish a pilot project to determine the feasibility of a child care license category for multisite programs operating under one owner or one entity; and

(b) Adopt rules to implement the pilot project. DCYF may waive or adapt licensing requirements when necessary to allow for the operation of a new license category.

[]

NEW SECTION

WAC 110-303-0005 Definitions. The following definitions apply to this chapter.

"Applicant" means an individual who has made a formal request for a child care license or organizational license.

"Child care," "early learning program," or **"early learning"** means regularly scheduled care that is licensed by the department for a group of children birth through 12 years of age for periods of less than 24 hours.

"Department" means the Washington state department of children, youth, and families (DCYF).

"Early learning provider" or **"provider"** means an early learning licensee or designee who works in an early learning program during hours when children are or may be present. Designees include center directors, assistant directors, program supervisors, lead teachers, assistants, aides, and volunteers.

"Organizational pilot license" or **"pilot license"** means a permit issued by the department legally authorizing an applicant to operate an early learning program that is authorized under section 229(19), chapter 297, Laws of 2022.

"Pilot project" means the program authorized under section 229(19), chapter 297, Laws of 2022, that requires DCYF to determine the feasibility of a child care license category for multisite programs operating under one owner or entity.

[]

NEW SECTION

WAC 110-303-0010 Pilot project licenses—Licensing rules. (1) To participate in the pilot project, an early learning program must apply to and be granted an organizational pilot license from the department.

(2) To be eligible for an organizational pilot license, a governmental agency, nonprofit organization, or a for-profit private business must:

(a) Operate, oversee, or manage center or school-age child care and early learning programs;

(b) Have a current licensed or certified early learning program site authorized under chapter 43.216 RCW, or submitted an application to obtain a license or certification to provide child care at an early learning program site that is authorized under chapter 43.216 RCW; and

(c) Have the ability to operate, oversee, or manage a minimum of three and maximum of seven distinctly separate child care and early learning program sites that will be subject to the organizational pilot license.

(3) In addition to the eligibility requirements described in subsection (2) of this section, the department will select organizations to participate in the pilot project after considering:

(a) The criteria described in section 229(19), chapter 297, Laws of 2022; and

(b) The characteristics of applicants' identified sites that may contribute to a mixture of diverse statewide locations that participate in the pilot project.

(4) To protect the health and safety of children enrolled in the participating sites, early learning providers who participate in this pilot project must agree, enter into, and comply with the terms and conditions of an organizational license agreement prepared by the department. The organizational license agreement will require compliance with the following minimum terms and conditions:

(a) Applicable background check requirements contained in chapter 110-06 WAC;

(b) Applicable child care and early learning licensing requirements contained in chapter 43.216 RCW and chapter 110-300, 110-300E, or 110-301 WAC;

(c) The organizational license agreement; and

(d) Applicable federal Child Care Development Fund requirements described at Title 42 (chapter 105, subchapter II-B) of the United States Code (U.S.C.), and Title 45, Part 98, of the Code of Federal Regulations (C.F.R.).

(5) Pursuant to RCW 34.05.310 (2)(b), the department will use this pilot project to test the feasibility of complying with or administering draft new rules or draft amendments to existing rules.

(6) To establish a uniform set of requirements for an organizational license, the department may:

(a) Draft new rules or add amendments to existing rules; and

(b) Add or amend current licensed child care rules under chapters 110-300, 110-300E, and 110-301 WAC.

[]

NEW SECTION

WAC 110-303-0015 Denial, modification, suspension, and revocation of a pilot project license—Right of review. (1) A license authorized to be issued under this chapter may be denied pursuant to chapter 43.216 RCW, this chapter, or chapters 110-06, 110-300, 110-300E, and 110-301 WAC.

(2) A license issued under this chapter may be suspended, modified, or revoked if the licensee fails to comply with the requirements contained in chapter 43.216 RCW, this chapter, or chapters 110-06, 110-300, 110-300E, and 110-301 WAC.

[]

NEW SECTION

WAC 110-303-0020 Process of seeking review. (1) Pursuant to RCW 43.216.250 and 43.216.325, the department is authorized to take enforcement action against an applicant or licensee if the applicant or licensee fails to comply with this chapter, applicable rules in chapters 110-06, 110-300, 110-300E, 110-301 WAC, or chapter 43.216 RCW. For purposes of this chapter, enforcement actions include only the denial, summary suspension authorized by RCW 34.05.422(4), suspension, revocation, modification, or nonrenewal of a license to participate in the pilot project.

(2) The department must issue a notice of violation to an early learning provider when taking enforcement actions. A notice of violation must be sent certified mail or personal service and must include:

- (a) The reason why the department is taking the action;
- (b) The rules the provider failed to comply with;
- (c) The provider's right to appeal enforcement actions; and
- (d) How the provider may appeal and request a hearing.

(3) An applicant or licensee has the right to appeal an enforcement action by requesting an adjudicative proceeding, otherwise known as a hearing, pursuant to the hearing rules codified in chapter 110-03 WAC.

[]

WSR 22-18-025

PERMANENT RULES

WASHINGTON STATE UNIVERSITY

[Filed August 29, 2022, 11:00 a.m., effective September 29, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The university is updating the campus parking and traffic regulations for Washington State University.

Citation of Rules Affected by this Order: Amending WAC 504-15-100, 504-15-370, and 504-15-930.

Statutory Authority for Adoption: RCW 28B.30.150.

Adopted under notice filed as WSR 22-13-174 on June 22, 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 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 3, Repealed 0.

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

Date Adopted: August 29, 2022.

Deborah L. Bartlett, Director
Procedures, Records, and Forms
and University Rules Coordinator

OTS-3874.2

AMENDATORY SECTION (Amending WSR 19-11-063, filed 5/15/19, effective 6/15/19)

WAC 504-15-100 Definitions. The definitions in this section are applicable within the context of this chapter.

(1) Campus. Describes all property owned, leased, and/or controlled by the university Pullman campus which is or may hereafter be dedicated mainly to the educational, research, housing, recreational, parking, or other activities of the university.

(2) Commuter student. Any student who does not live in a university residence hall (dormitory). All students living in fraternities, sororities, university-owned housing (other than residence halls), and private housing are considered to be commuter students.

(3) Day. Unless otherwise specified, the term "day" refers to a calendar day.

(4) Disability zone. A parking zone designated for exclusive use by individuals with disability and identified with a sign bearing the associated international symbol.

(5) Electric-assisted bicycle. As defined under RCW 46.04.169.

- (6) Fire zone. An area needed for emergency access to buildings, fire hydrants, or fire equipment. Such areas include, but are not limited to, areas with adjacent curbs or rails painted red.
- (7) Gate card. A plastic card that activates the gates controlling access to certain parking areas.
- (8) Illegal use of permit. A parking violation in which a parking ticket is issued under the following circumstances:
- (a) Use of a parking permit or indicator on a vehicle other than the specified vehicle identified by a license plate number on the permit.
- (b) Use of a parking permit or indicator obtained under false pretenses.
- (c) Use of a modified parking permit or indicator.
- (d) Use and/or retention of a parking permit or indicator by individual(s) ineligible, or no longer eligible, for such a permit as described and authorized in this chapter.
- (9) Impound. To take and hold a vehicle in legal custody by use of a wheel lock and/or towing.
- (10) Indicator. A decal or hanger displayed adjacent to a parking permit which defines additional parking areas available to a permit holder.
- (11) Loading zone. A loading dock, or an area signed "loading zone" adjacent to a facility, in a parking area, or near a residence hall. Such an area is intended for loading and unloading bulky or voluminous material. Loading zones are restricted at all times unless signed otherwise.
- (12) Micromobility device. Bicycles, skateboards, scooters, roller skates/blades, and all other human-powered, motorized, or electrically assisted rolling conveyances.
- (13) Moped. As defined under RCW 46.04.304.
- ~~((13))~~ (14) Motorcycle. As defined under RCW 46.04.330.
- ~~((14))~~ (15) Motorized foot scooter. As defined under RCW 46.04.336.
- ~~((15))~~ (16) Motor vehicle. As defined under RCW 46.04.320.
- ~~((16))~~ (17) No parking zone. Any area not specifically marked and/or signed for parking. Such areas include, but are not limited to, areas with adjacent curbs or rails painted yellow.
- ~~((17))~~ (18) Officer. Any parking or police official employed by the university who is designated by the parking administrator or chief of police to issue parking tickets, to place and remove wheel locks, or to cause vehicles to be towed under this chapter.
- ~~((18))~~ (19) Owner. The individual registered with any state as the present owner of a vehicle in the most current registration records available to the university, the owner's expressed representative, or any transferee not designated in such records, provided that the parking administrator or chief of police has received actual written notice of the transfer.
- ~~((19))~~ (20) Park/parking. This refers to the placement or standing of a vehicle, with or without a driver in attendance, and with or without the engine running.
- ~~((20))~~ (21) Parking administrator. The director in charge of the parking department or designee.
- ~~((21))~~ (22) Parking appeals committee. Any individual or individuals appointed to consider parking violations and the application of fees, fines, and sanctions. Said individual or individuals are appointed by the vice president whose responsibilities include supervision of the parking department or designee.

~~((22))~~ (23) Parking department. The university department which is charged with the responsibility of managing, operating, planning, and maintaining parking facilities; enforcing the parking regulations; and coordinating commute trip reduction efforts for the Pullman campus.

~~((23))~~ (24) Parking meter. A single fixed device that typically requires payment and limits the amount of time a vehicle can park in a single space. Also referred to as "meter" in this chapter. A parking meter is not a parking payment device.

~~((24))~~ (25) Parking payment device. A machine that requires payment and vends a parking permit and/or a paid receipt. Parking payment devices may be located in various places on the campus. A parking payment device is not a parking meter.

~~((25))~~ (26) Parking permit. A vinyl, plastic, paper, or other instrument sanctioned by the parking department that is displayed from a vehicle, and authorizes parking in specified areas. Some parking permits may be purchased online and may be virtual in nature, and identified by other means such as by license plate. (See the definition of "virtual permit" in subsection ~~((46))~~ (47) of this section.) Also referred to as "permit" in this chapter.

~~((26))~~ (27) Parking ticket. The first notice of a parking violation which is usually placed in a visible location on a motor vehicle.

~~((27))~~ (28) Pay parking facility. A location where parking is provided and payment is made on-site via a parking payment device, cashier, or other means other than a parking meter.

~~((28))~~ (29) Pedestrian mall. A space that is designed primarily for pedestrian use, but with limited authorized use of motor vehicle and other motorized and nonmotorized conveyances. These restricted areas are depicted on the Pullman campus map and/or with signing at the entrances to the pedestrian mall areas.

~~((29))~~ (30) Individuals with disability. For the purpose of this chapter, individuals with disability refer to an individual or individuals with disability or disabilities who qualify for a state-issued individual with disabilities parking identification and permit.

~~((30))~~ (31) Resident priority zone. A parking area close to a residence hall (i.e., crimson zone or gray zone) that is typically limited to use by residence hall students.

~~((31))~~ (32) Residence hall student. A student with a current, valid residence hall contract, who lives in a residence hall.

~~((32))~~ (33) Residence hall. Residence hall units (dormitories) that are owned by the university but are not included as university-owned housing apartments. Occupants of residence halls are considered residence hall students and are eligible for parking permits in resident priority zones.

~~((33))~~ (34) Service vehicle. A vehicle used to provide a service for the university or a tenant or contractor of the university (e.g., a university owned vehicle or a privately owned vehicle with a valid service vehicle authorization displayed).

~~((34))~~ (35) Service zone. Parking spaces or area designated for the use of service vehicles, other government-owned vehicles, and vehicles displaying a service indicator or commercial permit. Authorized vehicles may park in these zones on an occasional basis for a maximum of ~~((fifteen))~~ 15 minutes, except for vehicles that display a commercial permit, or a service indicator issued for an extended time. Service zones are restricted at all times unless signed otherwise.

((35)) (36) Staff. For the purposes of these regulations, "staff" includes all nonstudent employees of the university and the nonstudent employees of other entities located on, or regularly doing business on campus. Teaching assistants, research assistants, and other students employed by the university, or other entities located on, or regularly doing business on campus, are not "staff." They are considered to be students for the purpose of these regulations.

((36)) (37) Standing. "Standing" is the stopping of a vehicle with the driver remaining in it.

((37)) (38) Storage of a vehicle. Impounded vehicles are held in storage until released. During such time they are subject to storage fees.

((38)) (39) Student. The term "student" includes all individuals who are not staff who are taking courses at the university, enrolled full-time or part-time, pursuing undergraduate, graduate, professional studies, or auditing one or more classes.

((39)) (40) Summer session. The summer session includes all summer sessions beginning on the first day of the earliest session, and ending on the last day of the latest session.

((40)) (41) University. Refers to Washington State University.

((41)) (42) University holiday. A day regarded by the university as an official university holiday.

((42)) (43) University-owned housing. Housing units or apartments, and their respective parking areas, that are owned by the university, but are not included as residence halls. Occupants of university-owned housing are eligible for housing parking permits issued by the university.

((43)) (44) Unpaid. A full or partial outstanding balance due. This definition includes parking tickets which are pending appeal.

((44)) (45) Vacation. A period of time when classes or final exams are not in session. Except for holidays that fall within this period, the business offices of the university are open during this time.

((45)) (46) Vehicle storage. Vehicle storage means the parking or leaving of any vehicle for a period of more (~~than twenty-four~~) than 24 consecutive hours.

((46)) (47) Virtual permit. A virtual permit is authorization given at the time of vehicle registration with the parking department, allowing the registered vehicle to park in a designated lot, zone, or space. The virtual permit is associated with the vehicle license plate number and is used to identify the parking authorization.

((47)) (48) Visitors. Individuals who are not staff or students and who only visit the campus on an occasional basis.

((48)) (49) Wheel lock. A device used to temporarily immobilize a motor vehicle. Wheel locked vehicles are considered to be impounded in place and subject to storage fees.

((49)) (50) Wheel lock-eligible list. The current list of wheel lock-eligible vehicles as maintained by the parking department. A vehicle remains on the wheel lock-eligible list until all fines and fees related to parking tickets are paid in full or otherwise resolved to include the payment of fines and fees related to parking tickets not yet eligible for late fees.

((50)) (51) Wheel lock-eligible vehicle. Any vehicle on which three or more parking tickets more than (~~thirty~~) 30 days old are unpaid and which parking tickets were issued during the time the vehicle was registered to or otherwise held by the owner. The vehicle remains wheel lock-eligible until all fines and fees related to parking tick-

ets are paid in full or otherwise resolved to include the payment of fines and fees related to parking tickets not yet eligible for late fees.

((51)) (52) WSU disability permit. WSU-issued zone permit displayed with a valid state-issued disability placard or disability license plate.

[Statutory Authority: RCW 28B.30.150. WSR 19-11-063, § 504-15-100, filed 5/15/19, effective 6/15/19; WSR 15-11-036, § 504-15-100, filed 5/14/15, effective 6/14/15; WSR 14-11-024, § 504-15-100, filed 5/12/14, effective 6/12/14; WSR 10-11-083, § 504-15-100, filed 5/17/10, effective 7/1/10; WSR 08-08-050, § 504-15-100, filed 3/27/08, effective 7/1/08; WSR 02-14-071, § 504-15-100, filed 6/28/02, effective 7/29/02. Statutory Authority: RCW 28B.30.095, 28B.30.125 and 28B.30.150. WSR 95-13-003, § 504-15-100, filed 6/8/95, effective 7/9/95. Statutory Authority: RCW 28B.30.125, 28B.30.150, 28B.10.560 and chapter 34.05 RCW. WSR 90-11-078 (Order 90-1), § 504-15-100, filed 5/16/90, effective 7/1/90.]

AMENDATORY SECTION (Amending WSR 15-11-036, filed 5/14/15, effective 6/14/15)

WAC 504-15-370 Vehicle storage and abandonment. (1) The storage of vehicles, including motorcycles and mopeds, is prohibited on campus unless otherwise authorized by the parking department.

(2) No person may use any vehicle parked on campus as a living unit without specific approval from the parking department. Violators may be cited and the vehicle impounded.

(3) Vehicles are to be maintained in operating condition at all times on university property, except those in an automotive shop designated by the parking department for parking such vehicles. Vehicle repairs or maintenance is not done on campus unless authorized in advance by the parking department.

(4) A vehicle which appears to be abandoned, with or without a current parking permit or license plates, may be cited and impounded after an attempt is made to locate and notify the owner of the impending action.

[Statutory Authority: RCW 28B.30.150. WSR 15-11-036, § 504-15-370, filed 5/14/15, effective 6/14/15; WSR 10-11-083, § 504-15-370, filed 5/17/10, effective 7/1/10.]

AMENDATORY SECTION (Amending WSR 19-11-063, filed 5/15/19, effective 6/15/19)

WAC 504-15-930 Bicycles, skateboards, scooters, and ~~(roller skates.)~~ other "micromobility devices." (1) The riding and use of (~~bicycles, skateboards, scooters, and roller skates~~) micromobility devices is restricted as defined in this section. Exemption: Wheel-chairs, "knee walkers," and other mobility aids used because of a disability or injury are exempt from subsections (2) and (4) of this section.

(2) Use of micromobility devices is prohibited on all ((building plazas, all)) pedestrian overpasses, interior building spaces, parking structures, parking structure ramps, all stairways, steps, ledges, benches, planting areas, any other fixtures, and in any other posted area.

((2) Bicycles, skateboards, scooters, and roller skates) (3) Micromobility devices may be ridden and used on sidewalks outside the prohibited areas when a bike path is not provided, subject to the restrictions described in subsection (9) of this section.

((3) Electric-assisted bicycles must be used in a human propulsion only mode on pedestrian malls and sidewalks.)

(4) ((Motorized foot scooters must be used in a human propulsion only mode on sidewalks.)) When operated in high-traffic or congested pedestrian areas, including building plazas, pedestrian malls, and sidewalks, motorized or electric-assisted micromobility devices must:

(a) Respond to automatic controls as described in subsection (9) of this section; or

(b) Be operated only using human propulsion.

(5) Operators must move at a safe speed and yield to pedestrians at all times. Reckless or negligent operation of ((bicycles, skateboards, scooters, and roller skates)) micromobility devices on any part of campus is prohibited.

(6) Bicyclists must obey all traffic laws applying to individuals riding bicycles when operating bicycles on roadways. Micromobility devices other than bicycles are prohibited from use on roadways.

(7) Bicycles and scooters may be secured only at ((university-provided)) bicycle racks and bicycle storage facilities designed for such purpose.

((8)) Bicycles and scooters that are not secured at ((university-provided)) bicycle racks or bicycle storage facilities may be impounded at the owner's expense.

((9)) (8) Abandoned and inoperable ((bicycles)) micromobility devices. Internal policies regarding abandoned and inoperable ((bicycles)) micromobility devices, including the impoundment of ((bicycles at the WSU Pullman campus)) micromobility devices, may be established upon approval by the vice president or designee whose responsibilities include supervision of the parking department.

(9) The campus may implement automatic controls on the operation of certain micromobility devices based on any or all of the following:

(a) Location of the device;

(b) Time of day; and

(c) Weather conditions.

Controls may include speed restriction, shutoff of motorized assist, or complete shutoff of the device.

(10) If there is a conflict between these regulations and on-site signage, the on-site signage takes precedence.

[Statutory Authority: RCW 28B.30.150. WSR 19-11-063, § 504-15-930, filed 5/15/19, effective 6/15/19; WSR 15-11-036, § 504-15-930, filed 5/14/15, effective 6/14/15; WSR 14-11-024, § 504-15-930, filed 5/12/14, effective 6/12/14; WSR 10-11-083, § 504-15-930, filed 5/17/10, effective 7/1/10; WSR 08-08-050, § 504-15-930, filed 3/27/08, effective 7/1/08. Statutory Authority: RCW 28B.30.095, 28B.30.125 and 28B.30.150. WSR 95-13-003, § 504-15-930, filed 6/8/95, effective 7/9/95.]

WSR 22-18-026
PERMANENT RULES
WALLA WALLA
COMMUNITY COLLEGE

[Filed August 29, 2022, 11:12 a.m., effective September 29, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Chapter 132T-04 WAC, Bylaws is being repealed.

Citation of Rules Affected by this Order: [Repealing chapter 132T-04 WAC].

Statutory Authority for Adoption: RCW 28B.19.030; and chapter 28B.50 RCW.

Adopted under notice filed as WSR 22-13-136 on June 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 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 0, Repealed 13.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 13.

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: August 29, 2022.

Dr. Jean Hernandez
Consultant

OTS-3789.1

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 132T-04-001 Promulgation.
- WAC 132T-04-010 Offices.
- WAC 132T-04-020 Meetings.
- WAC 132T-04-030 Executive sessions.
- WAC 132T-04-040 Order of agenda.
- WAC 132T-04-050 Records of board action.
- WAC 132T-04-060 Parliamentary procedure.
- WAC 132T-04-070 Adoption or revision of policies.
- WAC 132T-04-080 Officers of the board.
- WAC 132T-04-090 Committees.
- WAC 132T-04-100 Fiscal year.
- WAC 132T-04-110 Official seal.

WAC 132T-04-120

Changes to bylaws.

WSR 22-18-027
PERMANENT RULES
WALLA WALLA
COMMUNITY COLLEGE

[Filed August 29, 2022, 11:15 a.m., effective September 29, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amending chapter 132T-09 WAC, Practice and procedure, to align with state statutes and college regulations.

Citation of Rules Affected by this Order: [See amended and repealed WAC sections attached].

Statutory Authority for Adoption: Chapters 28B.19, 34.05, and 28B.50 RCW.

Adopted under notice filed as WSR 22-13-137 on June 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 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 8, Repealed 25.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 8, Repealed 25.

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: August 29, 2022.

Dr. Jean Hernandez
Consultant

OTS-3796.1

AMENDATORY SECTION (Amending Order 72-8, filed 5/2/72)

WAC 132T-09-001 ((~~Formal hearing policy.~~) Adoption of model rules of procedure. ~~((In each instance that a formal hearing is required by institutional policy, regulation or chapter 28B.19 RCW, the provisions of WAC 132T-09-001 through 132T-09-480 shall be applicable.))~~ The model rules of procedure adopted by the chief administrative law judge pursuant to RCW 34.05.250, as now or hereby amended, are adopted for use at Walla Walla Community College District 20. Those rules may be found in chapter 10-08 WAC. Other procedural rules adopted in this title are supplementary to the model rules of procedure. In the case of a conflict between the model rules of procedure and procedural rules previously adopted by this college, the model rules prevail.

[Order 72-8, § 132T-09-001, filed 5/2/72.]

AMENDATORY SECTION (Amending Order 72-8, filed 5/2/72)

WAC 132T-09-005 ((Definitions.)) Appointment of presiding officers. ((As used herein, the term "agency" shall mean the board of trustees of Community College District No. 20 and Walla Walla Community College.)) The president or designee shall appoint a presiding officer for an adjudicative proceeding. The presiding officer shall be an administrative law judge, a member in good standing of the Washington State Bar Association, a panel of individuals, the president or designee, or any combination of the above. Where more than one individual is appointed to be the presiding officer, the president or designee shall designate one person to make decisions concerning discovery, closure, means of recording adjudicative proceedings, and similar matters.

[Order 72-8, § 132T-09-005, filed 5/2/72.]

AMENDATORY SECTION (Amending Order 72-8, filed 5/2/72)

WAC 132T-09-010 ((Appearance and practice before agency.)) Method of recording. ((No person may appear in a representative capacity before the agency other than the following:

(1) Attorneys at law duly qualified and entitled to practice before the supreme court of the state of Washington.

(2) Attorneys at law duly qualified and entitled to practice before the highest court of record of any other state, if the attorneys at law of the state of Washington are permitted to appear in a representative capacity before administrative agencies of such other state, and if not otherwise prohibited by our state law.

(3) Persons otherwise qualified as possessing the requisite skill to appear and expertly represent others who have applied to the agency and have been duly authorized by the agency to appear in a representative capacity before the agency.

(4) A bona fide officer, partner, or full time employee of an individual firm, association, partnership, or corporation who appears for such individual firm, association, partnership or corporation.)) Proceedings will be recorded by a method determined by the presiding officer, among those available under the model rules of procedure.

[Order 72-8, § 132T-09-010, filed 5/2/72.]

AMENDATORY SECTION (Amending Order 72-8, filed 5/2/72)

WAC 132T-09-080 ((Notice and opportunity for hearing in contested cases.)) Application for adjudicative proceeding. ((In any contested case all parties shall be served with a notice at least ten days before the date set for the hearing. The notice shall be signed by the president of Walla Walla Community College or his designee and shall state the time, place and issues involved as required by RCW 28B.19.120.)) An application for adjudicative proceeding shall be in writing. Application forms are available at the following address:

Office of the President

Walla Walla Community College
500 Tausick Way
Walla Walla, WA 99362.

Written application for an adjudicative proceeding shall be submitted to the above address within 20 calendar days of the date of the agency action that gave rise to the application, unless provided for otherwise by statute or rule.

[Order 72-8, § 132T-09-080, filed 5/2/72.]

AMENDATORY SECTION (Amending Order 72-8, filed 5/2/72)

WAC 132T-09-090 (~~((Service of process By whom served.))~~) **Brief adjudicative procedures.** ~~((The agency shall cause to be served all orders, notices and other papers issued by it, together with any other papers which it is required by law to serve. Every other paper shall be served by the party filing it.))~~ This rule is adopted in accordance with RCW 34.05.482 through 34.05.494, the provisions of which are adopted by reference. In addition to those proceedings specified elsewhere in college regulations, brief adjudicative procedures shall be used in all matters related to:

- (1) Residency determinations;
- (2) Challenges to content of education records; or
- (3) Outstanding debts owed by students or employees.

[Order 72-8, § 132T-09-090, filed 5/2/72.]

AMENDATORY SECTION (Amending Order 72-8, filed 5/2/72)

WAC 132T-09-100 (~~((Service of process Upon whom served.))~~) **Discovery.** ~~((All papers served by either the agency or any party shall be served upon all counsel of record at the time of such filing and upon parties not represented by counsel or upon their agents designated by them or by law. Any counsel entering an appearance subsequent to the initiation of the proceeding shall notify all other counsel then of record and all parties not represented by counsel of such fact.))~~ Discovery in adjudicative proceedings may be permitted at the discretion of the presiding officer. In permitting discovery, the presiding officer shall refer to the civil rules of procedure. The presiding officer may control the frequency and nature of discovery permitted and order discovery conferences to discuss discovery issues.

[Order 72-8, § 132T-09-100, filed 5/2/72.]

AMENDATORY SECTION (Amending Order 72-8, filed 5/2/72)

WAC 132T-09-110 (~~((Service of process Service upon parties.))~~) **Procedure for closing parts of the hearings.** ~~((The final order, and any other paper required to be served by the agency upon a party, shall be served upon such party or upon the agent designated by him or~~

~~by law to receive service of such papers, and a copy shall be furnished to counsel of record.) Any party may apply for a protective order to close part of the hearing. The party making the request shall state the reasons for making the application to the presiding officer. If the other party opposes the request, a written response to the request shall be made within 10 calendar days of the request to the presiding officer. The presiding officer shall determine which, if any, parts of the proceeding shall be closed and state the reasons in writing within 20 calendar days of receiving the request.~~

[Order 72-8, § 132T-09-110, filed 5/2/72.]

AMENDATORY SECTION (Amending Order 72-8, filed 5/2/72)

WAC 132T-09-120 (~~(Service of process—Method of service.)~~) **Recording devices.** ~~((Service of papers shall be made personally or, unless otherwise provided by law, by first-class, registered, or certified mail or by telegraph.))~~ No cameras or recording devices are allowed in those parts of the proceedings that the presiding officer has determined shall be closed under WAC 132T-09-010, except for the method of official recording selected by the college.

[Order 72-8, § 132T-09-120, filed 5/2/72.]

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 132T-09-130	Service of process—When service complete.
WAC 132T-09-140	Service of process—Filing with agency.
WAC 132T-09-230	Depositions and interrogatories in contested cases—Right to take.
WAC 132T-09-240	Depositions and interrogatories in contested cases—Scope.
WAC 132T-09-250	Depositions and interrogatories in contested cases—Officer before whom taken.
WAC 132T-09-260	Depositions and interrogatories in contested cases—Authorization.
WAC 132T-09-270	Depositions and interrogatories in contested cases—Protection of parties and deponents.
WAC 132T-09-280	Depositions and interrogatories in contested cases—Oral examination and cross-examination.
WAC 132T-09-290	Depositions and interrogatories in contested cases—Recordation.

- WAC 132T-09-300 Depositions and interrogatories in contested cases—Signing attestation and return.
- WAC 132T-09-310 Depositions and interrogatories in contested cases—Use and effect.
- WAC 132T-09-320 Depositions and interrogatories in contested cases—Fees of officers and deponents.
- WAC 132T-09-330 Depositions upon interrogatories—Submission of interrogatories.
- WAC 132T-09-340 Depositions upon interrogatories—Interrogation.
- WAC 132T-09-350 Depositions upon interrogatories—Attestation and return.
- WAC 132T-09-360 Depositions upon interrogatories—Provisions of deposition rule.
- WAC 132T-09-400 Hearing officers.
- WAC 132T-09-410 Hearing procedures.
- WAC 132T-09-420 Duties of hearing officers.
- WAC 132T-09-430 Stipulations and admissions of record.
- WAC 132T-09-440 Definition of issues before hearing.
- WAC 132T-09-450 Continuances.
- WAC 132T-09-460 Rules of evidence—Admissibility criteria.
- WAC 132T-09-470 Tentative admission—Exclusion—Discontinuance—Objections.
- WAC 132T-09-480 Form and content of decisions in contested cases.

WSR 22-18-028
PERMANENT RULES
WALLA WALLA
COMMUNITY COLLEGE

[Filed August 29, 2022, 11:22 a.m., effective September 29, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amending chapter 132T-90 WAC, Family Educational Rights and Privacy Act, to update with current federal laws, state statutes, and college regulations.

Citation of Rules Affected by this Order: [See amended and repealed WAC sections attached].

Statutory Authority for Adoption: RCW 28B.50.140; chapters 34.05 RCW, 42.56 RCW; Washington Higher Education Administrative Procedure Act. Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and its implementing regulation (34 C.F.R. § 99).

Adopted under notice filed as WSR 22-13-138 on June 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 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 10.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 10.

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: August 29, 2022.

Dr. Jean Hernandez
Consultant

OTS-3797.3

Chapter 132T-90 WAC
((IMPLEMENTATION OF THE)) FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT
((OF 1974))

AMENDATORY SECTION (Amending Order 75-5, filed 5/20/75)

WAC 132T-90-010 ((Purpose-)) The Family Educational Rights and Privacy Act (FERPA). ((The purpose of this chapter is to comply)) Walla Walla Community College District 20 complies with the requirements of Public Law 93-380, § 513, of 1974, also annotated as 20 U.S.C.A. 1232, which law represents amendments to the General Education Provisions Act. As ((indication)) indicated in the aforesaid law, its purpose is to assure that students attending institutions of higher education ((such as Walla Walla Community College)) shall have a

right to inspect certain records and files intended for school use or made available to parties outside the college.

The student policy called confidentiality of student records (FERPA) provides additional information on student rights under FERPA, what directory information may be released by the college, and contact information for the U.S. Department of Education. The college catalog has a link for the release of information form and additional information on this student policy. Copies of the catalog and policy are available online at www.wvcc.edu. Questions and inquiries about FERPA policy and procedures should be directed to the college registrar.

[Order 75-5, § 132T-90-010, filed 5/20/75.]

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 132T-90-020	Definitions.
WAC 132T-90-030	Right of inspection.
WAC 132T-90-040	Availability of directory information.
WAC 132T-90-050	Access permitted to college and certain other officials without consent.
WAC 132T-90-060	Distribution of information to others.
WAC 132T-90-070	Notice of rights given under Family Educational Rights and Privacy Act of 1974.
WAC 132T-90-080	Requests for access to student records.
WAC 132T-90-090	Determination regarding records.
WAC 132T-90-100	Hearing procedure.
WAC 132T-90-110	Right of students to register objections.

WSR 22-18-029
PERMANENT RULES
WALLA WALLA
COMMUNITY COLLEGE

[Filed August 29, 2022, 11:39 a.m., effective September 29, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: New chapter 132T-100 WAC, Student code of conduct created to align with state statutes and college regulations.

Citation of Rules Affected by this Order: [New chapter 132T-100 WAC].

Statutory Authority for Adoption: RCW 34.05.250 and 28B.50.140.

Adopted under notice filed as WSR 22-13-139 on June 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 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 41, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 41, 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: August 29, 2022.

Dr. Jean Hernandez
 Consultant

OTS-3834.5

Chapter 132T-100 WAC
STUDENT CODE OF CONDUCT

NEW SECTION

WAC 132T-100-010 Preamble. Walla Walla Community College District 20 is supportive of diversity among ideas, cultures, and student characteristics in the pursuit of advancing one's education. A responsibility to secure, respect, and protect such opportunities and conditions is shared by all members of the academic community. As a member of this community, students are expected to uphold and be accountable for this student code of conduct both on and off campus and acknowledge that the college has the authority to take disciplinary action when a student violates these policies. As an agency of the state of Washington, the college must respect and adhere to all laws established by local, state, and federal authorities. This student code of conduct has been developed to educate students and protect the welfare of the community.

[]

NEW SECTION

WAC 132T-100-020 Statement of student rights. As members of the academic community, students are encouraged to develop the capacity for critical judgment and to engage in an independent search for truth. Freedom to teach and freedom to learn are inseparable facets of academic freedom. The freedom to learn depends upon appropriate opportunities and conditions in the classroom, on the campus, and in the larger community. Students should exercise their freedom with responsibility. The responsibility to secure and to respect general conditions conducive to the freedom to learn is shared by all members of the college community. The following enumerated rights are guaranteed to each student within the limitations of statutory law and college policy, and are deemed necessary to achieve the educational goals of the college, including:

(1) Academic freedom - Students are guaranteed the rights of free inquiry, expression, and assembly upon and within college facilities that are generally open and available to the public. Students are free to pursue appropriate educational objectives from among the college's curricula, programs, and services, subject to the limitations of RCW 28B.50.090 (3)(b). Students shall be protected from academic evaluation which is arbitrary, prejudiced, or capricious, but are responsible for meeting the standards of academic performance established by each of their instructors. Students have the right to a learning environment which is free from unlawful discrimination, inappropriate and disrespectful conduct, and all harassment, including sexual harassment. Individuals shall abide by all college administrative policies and procedures on academic freedom and expressive speech. Chapter 132T-105 WAC describes the college's student conduct procedures for handling Title IX complaints.

(2) Due process - The rights of students to be secure in their persons, quarters, papers, and effects against unreasonable searches and seizures is guaranteed. No disciplinary sanction may be imposed on any student without notice to the accused of the nature of the charges. A student accused of violating this student code of conduct is entitled, upon request, to procedural due process as set forth in this chapter.

[]

NEW SECTION

WAC 132T-100-030 Definitions. The following definitions shall apply for the purpose of this student code of conduct unless such terms are defined otherwise herein:

Advisor - A person of the complainant's or respondent's choosing who can accompany the complainant or respondent to any conduct-related meeting or proceeding. This person cannot be involved in the case either as a witness or a college employee who has been involved in the

matter. Chapter 132T-105 WAC describes the college's student conduct procedures for handling Title IX complaints.

Assembly - Any overt activity engaged in by one or more persons, the object of which is to gain publicity, advocate a view, petition for a cause, or disseminate information to any person, persons, or group of persons.

Board of trustees - The five member governance board appointed by the governor of the state of Washington for Walla Walla Community College District 20.

Business day - A weekday, excluding weekends, college holidays, or other days the college is closed, most often used to represent a timeline of 10 days or less.

Calendar day - A calendar day includes weekdays and weekends, most often used to represent a timeline of more than 10 days.

College - This chapter is specific to Walla Walla Community College District 20.

College employee - Any person employed by the college or volunteering at the college performing assigned duties.

College facilities - Any and all real and personal property controlled, rented, leased, or operated by the college, including all buildings and appurtenances affixed thereon or attached thereto. College facilities extend to distance education classroom environments and agencies or institutions that have educational agreements with the college.

College premises - All campuses of the college, wherever located, and includes all land, buildings, facilities, vehicles, equipment, and other property owned, used, or controlled by the college including parking lots, adjacent streets, and sidewalks.

Complainant - A person who reports that a violation of the student code of conduct has occurred towards themselves, another person, a group of people, or college property. In matters of sexual misconduct outside of the Title IX definition, a complainant is an alleged victim of sexual misconduct. Chapter 132T-105 WAC describes the college's student conduct procedures for handling Title IX complaints.

Complaint - A description of facts that allege a violation of the student code of conduct or other college policy.

Conduct review officer - The vice president of student services or designee responsible for receiving and for reviewing or referring appeals of student disciplinary actions in accordance with the procedures of this code.

Controlled substance - Any drug or substance as defined in chapter 69.50 RCW as now law or hereafter amended.

Disciplinary action - The process by which the student conduct officer imposes discipline against a student for a violation of the student code of conduct. Disciplinary action does not include instructional decisions and actions that are under the authority of faculty members and instructional administrators, such as determination of academic credit and grading. These determinations and any review or appeal of these are outside the scope of this chapter.

Disciplinary appeal - The process by which an aggrieved student can appeal the discipline imposed by the student conduct officer. Disciplinary appeals from a suspension in excess of 10 business days or an expulsion or dissolution of a student organization are heard by the student conduct board. Appeals of all other appealable disciplinary action shall be reviewed by the conduct review officer through brief adjudicative proceedings.

Policy - The written regulations of the college as found in, but not limited to, the student code of conduct and any other official regulation written or in electronic form.

Preponderance of the evidence - The standard of proof used with all student disciplinary matters at the college that are within the jurisdiction of the student code of conduct, which means that the amount of evidence must be at 51 percent or more likely than not before a student is found responsible for a violation.

President - The chief executive officer of the college appointed by the board of trustees or, in such president's absence, the acting president or designee. The president is authorized to delegate any of their responsibilities and reassign any and all duties and responsibilities as set forth in this chapter as may be reasonably necessary.

RCW - Revised Code of Washington can be accessed at <http://apps.leg.wa.gov/rcw/>.

Respondent - The student(s) or student organization alleged to have violated a college policy, including this student code of conduct, and against whom disciplinary action is being taken or initiated. Chapter 132T-105 WAC describes the college's student conduct procedures for handling Title IX complaints.

Rules of the student code of conduct - The rules contained herein as now exist or which may be hereafter amended.

Service or filing - The process by which a document is officially delivered to a party. Service or filing is deemed complete and computation of time for deadlines begins upon personal delivery of the document or upon the date the document is electronically mailed and/or deposited into the mail. Documents required to be filed with the college such as requests for appeals, are deemed filed upon actual receipt by the office as designated herein during office hours.

Student - Any person taking courses at or through the college, whether on a full-time or part-time basis, and whether such courses are credit courses, noncredit courses, online courses, continuing education courses, contract courses, or otherwise. Persons are considered students for purposes of this chapter who withdraw after allegedly violating the student code of conduct, including individuals who are:

- (a) Not officially enrolled for a particular term but who have a continuing relationship with the college; or
- (b) Who have been notified of their acceptance for admission.

Student conduct board - Also referred to as the SCB is a three member panel which presides over cases that could result in a sanction of expulsion, suspension for more than 10 business days, withholding or revocation of a degree or certificate, and/or loss of recognition of a student organization using the full adjudicative process pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

Student conduct meeting - The conduct meeting with the student conduct officer using the brief adjudicative process to determine responsibility for violations of the student code of conduct.

Student conduct officer - Referred to as SCO, is the person designated by the college president to be responsible for the administration of the student code of conduct or designee. The SCO is authorized to delegate their responsibilities as may be reasonably necessary.

Student organization - Any number of persons who have complied with the formal requirements for college recognition, such as clubs and associations, and are recognized by the college as such.

Visitors - Guests, applicants, contractors, vendors, advisory board members, foundation board members, and members of the public on college premises.

WAC - The Washington Administrative Code can be accessed at <http://app.leg.wa.gov/wac/>.

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NEW SECTION

WAC 132T-100-040 Authority. The board of trustees, acting pursuant to RCW 28B.50.140(13), delegates to the president of the college the authority to administer disciplinary action. Administration of the disciplinary procedures may be delegated by the president. Unless otherwise specified, the student conduct officer or designee shall serve as the principal investigator and administrator for alleged violations of this code.

[]

NEW SECTION

WAC 132T-100-045 Statement of jurisdiction. Refer to chapter 132T-105 WAC for Title IX violations and jurisdiction as it applies to student conduct procedures related to Title IX.

(1) The student code of conduct shall apply to student conduct that occurs on college premises; at or in connection with college-sponsored activities; or to off-campus conduct that in the judgment of the college adversely affects the college community or the pursuit of its objectives.

(2) Jurisdiction extends to, but is not limited to, locations in which students are engaged in official college activities including, but not limited to, foreign or domestic travel, activities funded by the associated students, athletic events, training internships, cooperative and distance education, online education, practicums, supervised work experiences, or any other college-sanctioned social or club activities. Students are responsible for their conduct from notification of acceptance at the college through the actual receipt of a degree or certificate, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment. These standards shall apply to a student's conduct even if the student withdraws from the college while a disciplinary matter is pending. The student conduct officer has sole discretion, on a case-by-case basis, to determine whether the student code of conduct will be applied to conduct that occurs off campus.

(3) In addition to initiating disciplinary proceedings for violation of the student code of conduct, the college may refer any violations of federal, state, or local laws to civil and criminal authorities for disposition. The college may continue with student disciplinary proceedings regardless of whether the underlying conduct is subject to civil proceedings or criminal prosecution.

[]

NEW SECTION

WAC 132T-100-050 Good standing. The award of a degree or certificate is conditioned upon the student's good standing in the college and satisfaction of all program requirements. Good standing means the student has resolved any acts of academic or behavioral misconduct and has complied with all sanctions imposed because of any misconduct. The college shall deny award of a degree or certificate if the student is dismissed from the college based on their misconduct. The college may withhold awarding a degree or certificate until the completion of the process set forth in the student code of conduct, including the completion of all sanctions imposed, if any.

[]

NEW SECTION

WAC 132T-100-060 Student conduct board. The college will have a student conduct board (SCB) composed of three members who shall be vice presidents, deans, or directors as designated by the college and trained to conduct the full adjudicative process. The SCB will serve as a standing committee until a final decision is made regarding the student conduct matter for which it was convened. Any SCB member who has a personal relationship with either party or any personal or other interest which would prevent a fair and impartial review and decision, will be recused from the proceedings. One member, acting as the chair, will preside at the disciplinary hearing and will provide administrative oversight throughout the hearing process. Any three members constitute a quorum of the student conduct board and may act accordingly. The college may retain an advisor to the SCB, including an assistant attorney general. The conduct review officer (CRO) will convene the members of the SCB when necessary to adjudicate student code of conduct decisions. All SCB members will receive annual training in investigating and adjudicating student conduct matters in a manner that protects the safety and due process rights of the parties.

[]

NEW SECTION

WAC 132T-100-070 Decisions. All student conduct decisions in this chapter are made using the preponderance of evidence standard of proof. These decisions become final after 21 calendar days from the date of notification to the student unless a written appeal is filed prior to that final date. Decisions to document a complaint without a sanction are not eligible for appeal. All decision notifications by the student conduct officer, student conduct board, conduct review officer, or president will include a statement of the decision, a summary of relevant facts upon which the decision was based, and the procedures for appealing that decision if applicable. The notification will be personally delivered, sent electronically to the student's college email address, or by mail to the student's most recent address on file with the college within 21 calendar days of the student conduct pro-

ceeding. Students are responsible for promptly notifying the college of changes to their mailing address.

(1) Decisions of findings or sanctions by the student conduct officer (SCO) which do not include sanctions of expulsion, suspension for more than 10 business days, withholding or revocation of a degree or certificate, or loss of recognition of a student organization may be appealed to the conduct review officer (CRO).

(2) Decisions of findings on all violations of the student code of conduct which include sanctions of expulsion, suspension for more than 10 business days, withholding or revocation of a degree or certificate, or loss of recognition of a student organization can be appealed to the student conduct board (SCB).

(3) Decisions of findings or sanctions from the CRO or SCB may be appealed to the college president. Decisions made by the college president are final.

[]

NEW SECTION

WAC 132T-100-100 Conduct—Rules and regulations. The attendance of a student at the college is a voluntary entrance into the academic community. By such entrance, the student assumes obligations of performance and behavior reasonably imposed by the college relevant to its lawful missions, processes, and functions. It is the college's expectation that students will:

(1) Conduct themselves in a responsible manner;

(2) Comply with rules and regulations of the college and its departments;

(3) Respect the rights, privileges, and property of other members of the academic community;

(4) Maintain a high standard of integrity and honesty; and

(5) Not interfere with legitimate college business appropriate to the pursuit of educational goals.

A student or student organization is responsible for the conduct of their invited guests, advisors, and representatives on or in college-owned or controlled property and at activities sponsored by the college or sponsored by any recognized college organization. All student clubs or organizations shall comply with the student code of conduct. When a member or members of a student club or organization violate the student code of conduct, the members and/or individual member may be subject to appropriate sanctions authorized by this student code of conduct. Any student or student organization that, either as a principal or participator or by aiding or abetting, commits or attempts to commit or who incites, encourages, or assists another person to commit a violation of any of the prohibited conduct, rules and regulations, or college policies will be subject to disciplinary action.

[]

NEW SECTION

WAC 132T-100-105 Abusive conduct. Physical and/or verbal abuse, threats, intimidation, harassment, online harassment, coercion, bullying, cyberbullying, retaliation, stalking, cyberstalking, and/or other conduct which threatens or endangers the health or safety of any person or which has the purpose or effect of creating a hostile or intimidating environment.

[]

NEW SECTION

WAC 132T-100-108 Abuse of the student conduct process. Abuse of the student conduct process which includes, but is not limited to:

- (1) Failure to comply with any notice from a college employee to appear for a meeting or hearing as part of the student conduct process.
- (2) Willful falsification, distortion, or misrepresentation of information during the conduct process.
- (3) Disruption or interference with the orderly conduct of a college conduct proceeding.
- (4) Filing fraudulent charges or initiating a college conduct proceeding in bad faith.
- (5) Attempting to discourage an individual's proper participation in, or use of, the student conduct process.
- (6) Attempting to influence the impartiality of a member of the college conduct process prior to, during, and/or after any college conduct proceeding.
- (7) Harassment (written, verbal, or physical), retaliation, and/or intimidation of any person or persons involved in the conduct process prior to, during, or after any college conduct proceeding.
- (8) Failure to comply with the sanction(s) imposed under the student code of conduct.

[]

NEW SECTION

WAC 132T-100-111 Academic integrity. Walla Walla Community College District 20 has adopted administrative policy 6010 - academic integrity and administrative procedure 6010 - academic integrity to enforce the institution's academic integrity rules. Please refer to them for additional information on the college's processes for handling academic integrity violations.

[]

NEW SECTION

WAC 132T-100-114 Dishonesty. Any acts of dishonesty include, but are not limited to:

- (1) Forgery, alteration, submission of falsified documents, or misuse of any college document, record, or instrument of identification;
- (2) Tampering with an election conducted by or for college students; or
- (3) Furnishing false information, or failing to furnish correct information, in response to the request or requirement of a college employee.

[]

NEW SECTION

WAC 132T-100-117 Obstructive or disruptive conduct. Conduct that is disorderly, lewd, indecent, or assisting or encouraging another person to obstruct or disrupt, not otherwise protected by law, that interferes with, impedes, or otherwise unreasonably hinders:

- (1) Instruction, research, administration, disciplinary proceeding, or other college activities, including the obstruction of the free flow of pedestrian or vehicular movement on college property or at a college activity; or
- (2) Any activity that is authorized to occur on college property, whether or not actually conducted or sponsored by the college.

[]

NEW SECTION

WAC 132T-100-120 Assault, intimidation, harassment. Unwanted touching, physical abuse, verbal (written or oral) abuse, threat(s), intimidation, harassment, bullying, or other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person or another person's property. For purposes of this code, bullying is defined as repeated or aggressive unwanted behavior, not otherwise protected by law that intentionally humiliates, harms, or intimidates the victim.

[]

NEW SECTION

WAC 132T-100-123 Cyber misconduct. Cyberstalking, cyberbullying, or online harassment. Use of electronic communications including, but not limited to, electronic mail, instant messaging, electronic bulletin boards, and social media sites, to harass, abuse, bully, or engage in other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person. Prohibi-

ted activities include, but are not limited to, unauthorized monitoring of another's email communications directly or through spyware, sending threatening emails, disrupting electronic communications with spam or by sending a computer virus, sending false messages to third parties using another's email identity, nonconsensual recording of sexual activity, and nonconsensual distribution of a recording of sexual activity.

[]

NEW SECTION

WAC 132T-100-126 Property violation. Damage to, theft, misappropriation of, unauthorized use or possession of, vandalism, or other nonaccidental damaging or destruction of college property or the property of another person. Property for purposes of this section includes computer passwords, access codes, identification cards, personal financial account numbers, other confidential personal information, intellectual property, and college trademarks.

[]

NEW SECTION

WAC 132T-100-129 Failure to comply with directive. Failure to comply with the directive of a college employee who is acting in the legitimate performance of their duties, including conduct directives contained in a program student handbook, and failure to properly identify oneself to such a college employee when requested to do so.

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NEW SECTION

WAC 132T-100-132 Weapons violations. A weapons violation includes the possession, exhibiting, displaying, or use of any firearm, explosive, dangerous chemical, knife, or other instrument capable of inflicting serious bodily harm in circumstances that are reasonably perceived as causing alarm for the safety of any person. The term weapons violation includes any threat to use a weapon to harm any person and the use of any fake weapon or replica to cause the apprehension of harm. Weapons violation does not include the lawful possession of any personal protection spray device authorized under RCW 9.91.160. The term weapons violation further includes possession on college premises of any firearm or other dangerous weapon in violation of public law, this chapter, or college policy. Examples include, but are not limited to:

(1) Firearms, explosives, dangerous chemicals, or other dangerous weapons or instrumentalities not permitted on campus premises, except for authorized campus purposes, or unless prior written approval has

been obtained from the college president or designee. Exceptions include:

- (a) Commissioned law enforcement personnel or legally authorized military personnel acting within the scope of their employment;
 - (b) Private contracted security with expressed prior written permission from the college president or designee to possess firearms or dangerous weapons while employed by the college or for a permitted or contracted event;
 - (c) Students with legally issued concealed weapons permits may store their weapons in vehicles that are parked on campus in accordance with RCW 9.41.050 provided the vehicle is locked and the weapon is concealed from view. In addition, the owner of the weapon must adhere to RCW 9.41.360 whereby a prohibited person(s) may not gain access to the weapon;
 - (d) Knives, tools, and other objects that are being used for a legitimate educational purpose as part of a college instructional program; or
 - (e) The president or designee may authorize permission of a weapon on campus upon a determination that the weapon is reasonably related to a legitimate pedagogical purpose. Such permission shall be in writing and shall be subject to such terms or conditions incorporated in the written permission.
- (2) Firearms include, but are not limited to, what are commonly known as air guns or rifles, BB guns, and pellet guns, and any instrument used in the propulsion of shot, shell, bullets, or other harmful objects by:
- (a) The action of gunpowder or other explosives;
 - (b) The action of compressed air; or
 - (c) The power of springs or other forms of propulsion.
- (3) The exhibition or display of a replica or a dangerous weapon also is prohibited under this subsection if done in a manner, and at a time or place that either manifests an intent to intimidate another or that warrants alarm for the safety of other persons.

[]

NEW SECTION

WAC 132T-100-135 Hazing. Walla Walla Community College District 20 complies with RCW 28B.10.900 through 28B.10.903 and Sam's Law, the name of the new antihazing legislation adopted in Washington state. Sam's Law updates the definition of hazing and requires institutions of higher education to implement antihazing programs for their students and employees. It also requires institutions of higher education to publish an annual report identifying student organizations, athletic teams, and living groups found responsible for engaging in hazing.

The act defines hazing to include any act committed as part of a person's recruitment, initiation, pledging, admission into, or affiliation with a student organization, athletic team, or living group, or any pastime or amusement engaged in with respect to such an organization, athletic team, or living group that causes, or is likely to cause, bodily danger or physical harm, or serious psychological or emotional harm, to any student or other person attending a public institution of higher education in the state of Washington, including causing, directing, coercing, or forcing a person to consume any food,

liquid, alcohol, drug, or other substance which subjects the person to the risk of such harm, regardless of the person's willingness to participate.

The college prohibits any hazing activities on or off the college premises. Refer to college administrative policies and procedures on anti-hazing for additional information on the anti-hazing penalties and education programs for students and employees. Refer to RCW 28B.10.900 through 28B.10.903 for additional information on definitions of hazing and penalties under Washington state law.

[]

NEW SECTION

WAC 132T-100-138 Alcohol, drug, and tobacco violations. (1) Alcohol. The use, possession, delivery, sale of any alcoholic beverage except as permitted by law and applicable college policies, or being observably under the influence of any alcoholic beverage.

(2) Marijuana. The use, possession, delivery, or sale of marijuana or the psychoactive compounds found in marijuana intended for human consumption, regardless of form, or being observably under the influence of marijuana or the psychoactive compounds found in marijuana. While state law permits the recreational use of marijuana, federal law prohibits such use on college premises or in connection with college activities.

(3) Drugs. The use, possession, delivery, sale, or being observably under the influence of any legend drug, including anabolic steroids, androgens, or human growth hormones as defined in chapter 69.41 RCW, or any other controlled substance under chapter 69.50 RCW, except as prescribed for a student's use by a licensed practitioner.

(4) Tobacco, electronic cigarettes, and related products. The use of tobacco, electronic cigarettes, smoking devices, and related products on or in any college facility is prohibited. Related products include, but are not limited to, cigarettes, pipes, bidi, clove cigarettes, water pipes, hookahs, smokeless tobacco, vaporizers, and snuff.

[]

NEW SECTION

WAC 132T-100-144 Discriminatory conduct. Conduct which harms or adversely affects any member of the college community or visitor because of the person's race; color; national origin; sensory, mental, or physical disability; use of a service animal; gender, including pregnancy; marital status; age; religion; creed; sexual orientation; gender identity; veteran's status; or any other legally protected classification as defined by the college's policies or local, state, or federal laws and regulations.

[]

NEW SECTION

WAC 132T-100-147 Sexual misconduct. The term sexual misconduct includes sexual harassment, sexual intimidation, and sexual violence. For a description of prohibited sexual conduct under Title IX refer to WAC 132T-105-020.

(1) Sexual harassment. Sexual harassment outside of the Title IX definition or is a one-time offense is included in this chapter. For this chapter, the term sexual harassment means:

(a) Unwelcome conduct of a sexual nature that is sufficiently serious as to deny or limit, or that does deny or limit based on sex, the ability of a student to participate in or benefit from the college's educational or social programs;

(b) Unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature or that creates an intimidating, hostile, or offensive environment for students, employees, or visitors; and/or

(c) Alters the terms or conditions of employment for a college employee.

(2) Sexual intimidation. The term sexual intimidation outside of the Title IX definition means threatening or emotionally distressing conduct based on sex and including, but not limited to, nonconsensual recording of sexual activity or the distribution of such recording.

(3) Sexual violence. Sexual violence outside of the Title IX definition is a type of sexual discrimination and sexual harassment. Nonconsensual sexual intercourse, nonconsensual sexual contact, domestic violence, intimate partner violence, and stalking are all types of sexual violence.

(a) Nonconsensual sexual intercourse outside of the Title IX definition is any sexual intercourse (anal, oral, or vaginal), however slight, that is without consent and/or by force by a person upon another person or with any object. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

(b) Nonconsensual sexual contact outside of the Title IX definition is any intentional sexual touching, however slight, by a person upon another person or with an object that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, other bodily orifice of another individual, or any other bodily contact in a sexual manner.

(c) Domestic violence outside of the Title IX definition includes asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under the domestic or family violence laws of the state of Washington, or anyone else protected under the domestic or family violence laws of the state of Washington, RCW 26.50.010.

(d) Intimate partner violence outside of the Title IX definition is violence by a person who is or has been in a dating, romantic, or intimate relationship with the victim.

(e) Stalking outside of the Title IX definition is intentional and repeated harassment or following another person which places that person in reasonable fear that the perpetrator intends to injure, intimidate, or harass that person. Stalking also includes instances where the perpetrator knows or reasonably should know that the person is frightened, intimidated, or harassed even if the perpetrator lacks such intent.

[]

NEW SECTION

WAC 132T-100-150 Harassment. Unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct, that is directed at a person because of such person's protected status and that is sufficiently serious as to deny or limit, or that does deny or limit, the ability of a student to participate in or benefit from the college's educational or social programs; that changes the terms or conditions of employment for a college employee; or that creates an intimidating, hostile, or offensive environment for students, employees, or visitors.

Protected status includes a person's race; color; national origin; sensory, mental, or physical disability; use of a service animal; gender, including pregnancy; marital status; age; religion; creed; sexual orientation; gender identity; veteran's status; or any other legally protected classification. Harassing conduct may include, but is not limited to, physical conduct, verbal, written, social media, and electronic communications.

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NEW SECTION

WAC 132T-100-153 Retaliation. Harming, threatening, intimidating, coercing, or taking adverse action of any kind against a person or their property as reprisal because such person reported an alleged violation of this code or college policy, provided information about an alleged violation, or participated as a witness or in any other capacity in a college investigation or disciplinary proceeding. Retaliation may include adverse educational or employment consequences, ridicule, intimidation, bullying, or ostracism.

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NEW SECTION

WAC 132T-100-156 Misuse of electronic resources. Theft or other misuse of computer time or other electronic information resources of the college. Such misuse includes, but is not limited to:

- (1) Unauthorized use of such resources or opening of a file, message, or other item;
- (2) Unauthorized duplication, transfer, or distribution of a computer program, file, message, or other item;
- (3) Unauthorized use or distribution of someone else's password or other identification;
- (4) Use of such time or resources to interfere with someone else's work;

(5) Use of such time or resources to send, display, or print an obscene or abusive message, text, or image;

(6) Use of such time or resources to interfere with normal operation of the college's computing system or other electronic information resources;

(7) Use of such time or resources in violation of applicable copyright or other laws;

(8) Adding to or altering the infrastructure of the college's electronic information resources without authorization; or

(9) Failure to comply with the college's electronic use policy.

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NEW SECTION

WAC 132T-100-159 Unauthorized access. Unauthorized possession, duplication, or other use of a key, keycard, or other restricted means of access to college property, or unauthorized entry onto or into college property.

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NEW SECTION

WAC 132T-100-162 Safety violations. Nonaccidental conduct that interferes with or compromises any college policy, equipment, or procedure relating to the safety and security of the campus community or visitors, including tampering with fire safety equipment and triggering false alarms or other emergency response systems.

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NEW SECTION

WAC 132T-100-165 Violation of other laws or policies. Violation of any federal, state, or local law, rule, or regulation or college rules or policies, including college traffic and parking rules.

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NEW SECTION

WAC 132T-100-168 Ethical violation. The breach of any generally recognized and published code of ethics or standards of professional practice that governs the conduct of a particular profession for which the student is taking a course or is pursuing as an educational goal or program.

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NEW SECTION

WAC 132T-100-200 Student conduct process. As an agency of the state of Washington, the college's student conduct officer (SCO), student conduct board (SCB), conduct review officer (CRO), or president may be advised or represented by an assistant attorney general in any student code of conduct proceeding.

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NEW SECTION

WAC 132T-100-210 Violation of law and college discipline. College disciplinary proceedings may be used to determine a student's responsibility for conduct that potentially violates criminal law and this student code of conduct (that is, if both alleged violations result from the same factual situation) without regard to the pendency of civil or criminal litigation in court or criminal arrest and prosecution. Proceedings under this student code of conduct may be carried out prior to, simultaneously with, or following civil or criminal proceedings. Determinations made or sanctions imposed under this student code of conduct will not be subject to change because criminal charges arising out of the same facts that gave rise to violation of college rules were dismissed, reduced, or resolved in favor of or against the criminal law defendant. In addition to initiating discipline proceedings for violation of the student code of conduct, the college may refer any violations of federal, state, or local laws to civil and criminal authorities for disposition. The college reserves the right to pursue student disciplinary proceedings regardless of whether the underlying conduct is subject to civil or criminal prosecution.

(1) Initiation of disciplinary action. A request for disciplinary action for violation(s) of the student code of conduct must be made to the student conduct officer (SCO) as soon as possible following the violation. Conduct proceedings may be initiated when the SCO receives any direct or indirect report of conduct that may violate this code, which includes, but is not limited to, a police report, an incident report, a witness statement, other documentation, or a verbal or written report from a complainant, witness, or other third party.

(a) The college may initiate disciplinary action under the student code of conduct regardless of whether or not the incident in question is the subject of criminal or civil proceedings.

(b) Any member of the college's administration, faculty, staff, or any student or nonstudent may make a request for disciplinary action, and it must be a good faith claim.

(c) Formal rules of evidence, such as are applied in criminal or civil court, are not used in conduct proceedings. Relevant evidence, including hearsay, is admissible if it is the type of evidence that reasonable persons would rely upon in the conduct of their affairs. Unduly repetitious or irrelevant evidence may be excluded.

(2) The student conduct officer (SCO), student conduct board (SCB), or college vice president of student services or designee will determine the admissibility of evidence and may seek clarification from witnesses as needed.

(a) If the complaint indicates that the matter involves sexual misconduct as defined by chapter 132T-105 WAC, the SCO will forward

the complaint to the Title IX coordinator for review in accordance with chapter 132T-105 WAC.

(b) The SCO or designee will conduct an initial investigation of a complaint to determine whether it alleges conduct that may be prohibited by the student code of conduct. If it is determined through the initial investigation that the report has merit, the SCO will investigate to determine responsibility.

(c) Except in cases of sexual assault or sexual violence outside of the Title IX definition, the parties may elect to mediate the dispute, which shall be facilitated by the SCO or designee.

(d) If the SCO has a conflict of interest or is the subject of a complaint by the student, the president or designee shall, upon request and at their discretion, designate another person to fulfill any such disciplinary responsibilities relative to the request for disciplinary action.

(3) Notification requirements.

(a) If it is determined through the initial investigation that an alleged violation of the student code of conduct might have occurred and which is not eligible for referral to the Title IX coordinator, the SCO will provide the following written notification:

(i) That a report has been submitted alleging conduct which violates the student code of conduct and that a conduct investigation has been initiated to determine responsibility;

(ii) The specific sections of the student code of conduct which are alleged to have been violated;

(iii) That the student may either accept responsibility for the alleged violations or request a conduct meeting with the SCO to present evidence to refute the report;

(iv) That the student may provide evidence such as names and contact information of witnesses to aid in the conduct investigation;

(v) That lists the range of possible sanctions, including the actual sanctions which are issued based on the results of the investigation; and

(vi) That if the student fails to participate in any stage of the conduct proceedings or to request a conduct meeting within 14 calendar days from the date of the notice, the college may move forward with the conduct proceeding without their participation.

(b) If the student requests a conduct meeting within 14 calendar days of the notice, the student will be provided a written notice to appear for a conduct meeting. The notice to appear will be personally delivered, sent electronically to the student's college email address or sent by mail to the most recent address in the student's record on file with the college, not later than 14 calendar days after the request for a conduct meeting. The notice will not be ineffective if presented later due to the student's absence. Such notice will:

(i) Set forth the specific provisions of the student code of conduct and the specific acts which are alleged to be violations, as well as the date(s) of the violation(s), and a description of evidence, if any, of the violation.

(ii) Notify the student of the SCO's investigation and possible sanctions, if any.

(iii) Specify the time, date, and location where the student is required to meet with the SCO. The meeting will be scheduled no earlier than three business days, but within 30 calendar days of the date on the notice that was sent to the student to appear before the SCO. The SCO may modify the time, date, and location of the meeting, either at the student's or college's request, for reasonable cause.

(iv) Inform the student that failure to attend the conduct meeting will not stop the disciplinary process and may result in a transcript/registration hold being placed on the student's account and disciplinary action(s).

(v) Inform the student that they may be accompanied at the meeting by an advisor at their expense. The advisor cannot be a college employee or witness. If the student or their advisor is found to have tampered with witnesses or evidence, or destroyed evidence, the student will be held accountable in the conduct process for their acts and those of their advisor.

(vi) Inform the student that they may present evidence to support their assertions during the meeting.

(4) Student conduct meeting - Brief adjudicative process will follow WAC 132T-100-230.

(a) During the student conduct meeting, the student will be informed of the following:

(i) The specific acts and the provision(s) of this chapter and college policy that the student is alleged to have violated;

(ii) The disciplinary process;

(iii) The range of sanctions which might result from the disciplinary process and that the actual sanctions will depend on the findings of responsibility; and

(iv) The student's right to appeal.

(b) The student will have the opportunity to review and respond to the allegation(s) and evidence and provide the SCO with relevant information, evidence and/or witnesses to the alleged violation(s), and/or explain the circumstances surrounding the alleged violation(s).

(c) The advisor may assist the student during the conduct meeting; however, the student is responsible for presenting their own information and evidence. The advisor may only communicate with the student they are advising. Any disruptions or failure to follow the conduct process and/or directions of the SCO may result in the advisor being excused from the meeting.

(5) Decision by the SCO.

(a) After interviewing the student or students involved and/or other individuals as appropriate, and considering the evidence, the SCO may take any of the following actions:

(i) Determine that the student is not responsible for a violation of the student code of conduct and thereby terminate the student conduct process;

(ii) Determine that the student is responsible for a violation of the student code of conduct and impose disciplinary sanctions as provided herein; or

(iii) Determine that further inquiry is necessary and schedule another meeting for reasonable cause.

(b) Notification of the decision by the SCO will be issued pursuant to WAC 132T-100-070 within 30 calendar days of the final student conduct meeting. Due to federal privacy law, the college may not disclose to the complainant any sanctions imposed on the responding student unless the complainant was the alleged victim of a violent crime as defined under the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99), this chapter, and the college's administrative policies and procedures, or the responding student consents to such disclosure. A copy of the decision notification will be filed with the office of the SCO.

(c) Disciplinary action taken by the SCO is final unless the student exercises the right of appeal as provided herein.

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NEW SECTION

WAC 132T-100-220 Appeal process. The student may appeal a disciplinary action by filing a written notice of appeal with the conduct review officer (CRO) within 10 business days of service of the student conduct officer's decision. Failure to timely file a notice of appeal constitutes a waiver of the right to appeal, and the student conduct officer's decision shall be deemed final.

(1) The request for appeal must include a brief statement explaining the grounds for the appeal or why the student is seeking review. Disagreement with the finding and/or with the sanction(s) does not, by itself, represent grounds for appeal. Decisions may be appealed for one or more of the following:

(a) To determine whether there was a procedural error that substantially affected the outcome of the finding or sanctioning. Deviation from designated procedures is not a basis for sustaining an appeal unless significant prejudice results.

(b) To determine whether the sanction(s) imposed was appropriate and not excessively lenient or excessively severe for the violation of the student code of conduct for which the student was found responsible.

(c) To consider new information, sufficient to alter a decision, or other relevant facts not brought during fact finding, because such information and/or facts were not known, and the student bringing the appeal had no duty to discover or could not have reasonably discovered facts giving rise to the issues during investigation or fact-finding. The notice of appeal must include a brief statement explaining why the respondent is seeking review.

(2) The parties to an appeal shall be the respondent and the conduct review officer.

(3) A student who timely appeals a disciplinary action has a right to a prompt, fair, and impartial hearing as provided for in these procedures.

(4) On appeal, the college bears the burden of establishing the evidentiary facts underlying the imposition of a disciplinary sanction by a preponderance of the evidence.

(5) Imposition of disciplinary action for violation of the student code of conduct shall be stayed pending appeal unless the respondent has been summarily suspended.

(6) The student conduct board shall hear appeals from:

(a) The imposition of disciplinary suspension in excess of 10 business days;

(b) Dismissal;

(c) Withholding or revocation of a degree or certificate; or

(d) Loss of recognition of a student organization.

(7) Student conduct appeals from the imposition of the following disciplinary sanctions shall be reviewed through a brief adjudicative proceeding:

(a) Suspensions of 10 business days or less;

(b) Disciplinary probation;

(c) Written reprimands; and

(d) Any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions.

(8) Except as provided elsewhere in these rules, disciplinary warnings and dismissals of disciplinary actions are final actions and are not subject to appeal.

(9) Disciplinary decisions of the student conduct officer (SCO) may be appealed for review by the conduct review officer (CRO) using the brief adjudicative process. Disciplinary decisions of the CRO may be appealed for review by the college president using the brief adjudicative process.

(10) Appeals of disciplinary decisions of the SCO pursuant to sexual misconduct that is outside of the Title IX definition will be referred to the student conduct board (SCB) for a full adjudicative process in accordance with WAC 132T-100-240. The sanctions considered for appeal are:

(a) Suspension for more than 10 business days;

(b) Expulsion;

(c) Withholding or revocation of a degree or certificate; or

(d) Loss of recognition of a student organization.

(11) Disciplinary decisions by the SCB may be appealed for review by the college president using the brief adjudicative process.

(12) The college president's decision(s) is final.

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NEW SECTION

WAC 132T-100-230 Brief adjudicative process. (1) The brief adjudicative process is conducted in accordance with RCW 34.05.482 through 34.05.494.

(2) The student conduct officer (SCO) and conduct review officer (CRO) will use the brief adjudicative process to make decisions of findings of responsibility as provided in this code of conduct.

(3) The president will use the brief adjudicative process to review appeals of all disciplinary decisions made by the student conduct board (SCB).

(4) Within 21 calendar days of filing the appeal, the CRO or president, as applicable, shall review the record of the preceding conduct decision and all relevant information provided by the parties. Based on a preponderance of the evidence, the CRO or president shall decide to affirm, reverse, or modify the findings and/or sanctions. The CRO and president shall have the discretion to seek clarification from witnesses as needed.

(5) Notification of the decision will be issued pursuant to WAC 132T-100-070.

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NEW SECTION

WAC 132T-100-240 Full adjudicative process. The student conduct board (SCB) will use the following full adjudicative process to determine responsibility for serious violations which include sanctions of

suspension for more than 10 business days, expulsion, withholding or revocation of a degree or certificate, or loss of recognition of a student organization.

(1) The parties will be sent written notification of the SCB adjudication proceedings within 90 calendar days from the date of the filing of the appeal. The notification will contain the following:

(a) The time, date, and location of the hearing, which shall not be less than seven business days from the date of the notice of the hearing;

(b) The specific acts alleged and the provision(s) of college policy which those acts violated;

(c) The SCB procedures;

(d) The name and contact information for the SCB and their advisor, if any, representing the college. The notice will include the official title, work mailing address, work telephone number of each member of the student conduct board, the complainant's advisor, and the respondent's advisor; and

(e) A statement that if a party fails to attend or participate in a hearing or other stage of this adjudicative proceeding, they may be held in default in accordance with chapter 34.05 RCW and/or the college may continue the student conduct process, including the hearing, despite the party's absence.

(2) The respondent and complainant have the right to be assisted by one advisor of their choice and at their own expense. The advisor must be someone who is not employed by the college. If the respondent chooses to have an attorney serve as their advisor, the student must provide notice to the SCB no less than five business days prior to the hearing.

(a) The SCB hearing may not be delayed due to the scheduling conflicts of an advisor and such requests will be subject to the discretion of the SCB chair.

(b) If the student or their advisor is found to have tampered with witnesses or evidence, or destroyed evidence, the student will be held accountable in the conduct process for their acts and those of their advisor.

(c) The respondent and/or complainant are responsible for presenting their own information, and therefore, during the hearing, advisors are not permitted to address the SCB, witnesses, the SCO, or any party or advisor invited by the parties to the hearing.

(d) An advisor may communicate with their advisee and recesses may be allowed for this purpose at the discretion of the SCB chair. The advisor may not disrupt or interfere with any aspect of the proceeding. The SCB chair shall have the right to impose reasonable conditions upon the participation of the advisor.

(3) The SCB and the parties will be provided reasonable access to the documentation and evidence which will be reviewed by the SCB, as well as the case file that will be retained by the SCO in accordance with applicable privacy laws.

(4) Any SCB member who has a personal relationship with either party or any personal or other interest which would prevent a fair and impartial review and decision will be recused from the proceedings. A party may make a written request to the SCB chair for the recusal of a SCB member no less than five business days prior to the hearing. The request must be for good cause, which must be shown by the party making the request. The SCB chair will consider the request and notify the student of their decision regarding the recusal prior to the hear-

ing. If the SCB chair grants the recusal, a replacement for the recused SCB member will be made without unreasonable delay.

(5) The parties involved in the hearing will be required to submit their witness list and any evidence to be discussed at the hearing to the SCB chair no less than five business days prior to the hearing.

(a) Each party is allowed a maximum of three character witnesses to appear on their behalf.

(b) The parties must submit a witness list which contains a written statement from each witness that includes a brief description of the relevant information the witness will provide during the hearing.

(c) Witnesses not listed will not participate in the hearing.

(6) Discovery in the form of depositions, interrogatories, and medical examinations of parties are not permitted in student conduct adjudications. Other forms of discovery which ensure the prompt and thorough completion of the adjudication process may be permitted at the discretion of the SCB chair.

(7) Hearings will be closed to the public except if consented to by all parties and at the discretion of the SCB chair. Witnesses may be allowed in the hearing room only during the time in which they provide their statements to the SCB. The complainant and respondent, depending on their preference and subject to orders of a court of law, such as protection orders, may be present for and observe the entire hearing. At the discretion of the SCB chair, and where the rights of the parties will not be prejudiced, all or part of the hearing may be conducted by telephone, video conference, or other electronic means. Each party shall have the opportunity to hear and, if technically and economically feasible, to see the entire hearing while it is taking place. At all times, however, all parties, their advisors, the witnesses, and the public will be excluded during the deliberations of the student conduct board (SCB).

(8) The SCB chair will exercise control over the hearing to avoid needless consumption of time and to prevent the harassment or intimidation of witnesses. Any person, including the respondent and complainant, who disrupts a hearing or who fails to follow the directions of the SCB chair, may be excluded from the proceedings and may be subject to disciplinary action.

(9) Questions posed by any party to be answered by each other or by witnesses must be appropriate and respectful. The SCB chair may require any participant of the hearing to provide all questions in writing to the SCB chair. The SCB chair, if appropriate and at their sole discretion, will read the question to the individual to whom it is directed. Any question which the SCB chair has chosen not to read will be documented on record and kept within the case file. The SCB chair will decide matters related to the order of the proceedings.

(10) In order that a complete record of the proceeding can be made to include all evidence presented, hearings will be recorded or transcribed, except for the deliberations of the SCB. The record will be the property of the college.

(11) After weighing and considering the evidence, the SCB will decide by majority vote whether the respondent is responsible or not responsible for a violation of the student code of conduct. If there is a finding of responsibility for a violation, the SCB shall impose sanctions as set forth herein.

(12) The SCB's decision is made based on a preponderance of the evidence standard of proof, that is, whether it is more likely than not that the respondent violated the student code of conduct.

(13) The notice of decision of the SCB will be issued pursuant to WAC 132T-100-070. A copy of the SCB's decision will also be filed with the office of the SCO.

(14) Disciplinary action taken by the SCB is final unless the student exercises their right of appeal to the college president as provided herein.

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NEW SECTION

WAC 132T-100-290 Disciplinary sanctions and terms and conditions. The following disciplinary sanctions may be imposed upon students found to have violated the student code of conduct. If the respondent is found responsible for any violation, the student's past disciplinary record may be considered in determining an appropriate sanction.

(1) Sanctions.

(a) Disciplinary warning. A verbal statement to a student that there is a violation and that continued violation may be cause for further disciplinary action.

(b) Written reprimand. Notice in writing that the student has violated one or more terms of this code of conduct and that continuation of the same or similar behavior may result in more severe disciplinary action.

(c) Loss of privileges. Denial of specified privileges for a designated period of time. Services and approval to be withdrawn may include, but are not limited to, intramural sports, information technology services, library and/or tutoring services, club activities, student leadership roles, college facility use and rental, and involvement in organizational activities.

(d) Loss of recognition. A student organization's recognition may be withheld permanently or for a specific period of time. Loss of recognition is defined as withholding college services or administrative approval from a student organization. Services and approval to be withdrawn may include, but are not limited to, funding, information technology services, college facility use, and involvement in organizational activities.

(e) Disciplinary probation. Formal action placing specific conditions and restrictions upon the student's continued attendance depending upon the seriousness of the violation and which may include a deferred disciplinary sanction. If the student subject to a deferred disciplinary sanction is found in violation of any college rule during the time of disciplinary probation, the deferred disciplinary sanction, which may include, but is not limited to, a suspension or a dismissal from the college, shall take effect immediately without further review. Any such sanction shall be in addition to any sanction or conditions arising from the new violation. Probation may be for a limited period of time or may be for the duration of the student's attendance at the college. Written notice of disciplinary probation will specify the period of probation and any condition(s) upon which their continued enrollment is contingent.

(i) Such conditions may include, but not be limited to, adherence to terms of a behavior contract or limiting the student's participa-

tion in extracurricular activities or access to specific areas of the college's facilities.

(ii) Disciplinary probation may be for a specified term or for a period which may extend to graduation or award of a degree or certificate or other termination of the student's enrollment in the college.

(f) Removal from class. Behavior which has been disruptive to a class to the extent that the continued presence of the student in that class will impair, interrupt, or interfere with the instructor's ability to deliver instruction or other students' abilities to obtain instruction, will result in a withdrawal from that class without a refund or grade penalty.

(g) Disciplinary suspension. Separation of the student from the college for a definite period of time, after which the student is eligible to return. Conditions for readmission may apply. Students who are suspended may be denied access to all or any part of the campus or other facilities for the duration of the period of suspension. There will be no refund of tuition or fees for the quarter in which the action is taken.

(h) Expulsion. Permanent separation of the student from the college. Students who are expelled may be permanently denied access to all or any part of the campus or other facilities. The revocation of all rights and privileges of membership in the college community and exclusion from the campus and college-owned or controlled facilities without any possibility of return. There will be no refund of tuition or fees for the quarter in which the action is taken.

(i) Not in good standing. A student may be deemed not in good standing with the college. If so, the student shall be subject to the following restrictions:

(i) Ineligible to hold an office in any student organization recognized by the college or to hold any elected or appointed office of the college.

(ii) Ineligible to represent the college to anyone outside the college community in any way, including representing the college at any official function or any forms of intercollegiate competition or representation.

(j) Revocation of admission and/or degree or certificate. Admission to the college or a degree or certificate awarded from the college may be revoked for fraud, misrepresentation, or other violation of college standards in obtaining admission or the degree or certificate, or for other serious violations committed by a student prior to the award of a degree or certificate.

(2) Disciplinary terms and conditions that may be imposed alone or in conjunction with the imposition of a disciplinary sanction include, but are not limited to, the following:

(a) Restitution. A student may be required to make restitution for damage, loss, injury, or reasonable costs incurred by the college in pursuing an investigation or disciplinary proceeding. This may take the form of appropriate service and/or monetary or material replacement. Failure to make restitution within 30 calendar days or any period set by the SCO, CRO, SCB, or president will result in an administrative hold being placed on the student's registration, which will prevent future enrollment until the restitution is complete.

(b) Discretionary conditions. Work assignments, essays, service to the college, or other related discretionary assignments.

(c) Professional evaluation. Referral for drug, alcohol, psychological, or medical evaluation by an appropriately certified or licensed professional may be required. The student may choose the pro-

fessional within the scope of practice and with the professional credentials as defined by the college. The student will sign all necessary releases to allow the college access to any such evaluation. The student's return to college may be conditioned upon compliance with recommendations set forth in such a professional evaluation. If the evaluation indicates that the student is not capable of functioning within the college community, the student will remain suspended until a future evaluation recommends that the student can reenter the college and comply with the rules of conduct.

(d) No contact order. An order that prohibits direct or indirect physical, verbal, written, and/or any other form of communication or contact with an individual or group. Direct and indirect contact includes, but is not limited to, phone calls, texting, letters, going within sight of places of work or residence, email, social media, and modes of transportation.

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NEW SECTION

WAC 132T-100-292 Failure to comply. A student who fails to complete a sanction within the specified time frame may be charged with the student code of conduct violation named failure to comply. It is the student's responsibility to notify the student conduct officer if there are mitigating circumstances that prevent the student from completing the sanction(s) by a specified time frame. The student conduct officer (SCO) may extend the deadline time, at the SCO's discretion. It is the student's responsibility to complete all sanctions within the specified time frame to avoid a hold and/or a charge of failure to comply.

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NEW SECTION

WAC 132T-100-295 Disciplinary holds. A disciplinary hold will be placed on the records and registration of any student who:

(1) Fails to respond to a disciplinary notice by a judicial body. Any pending disciplinary matters must be resolved prior to reregistration or a student's graduation. No student will be allowed to register, graduate, obtain transcripts, or receive financial aid until the pending disciplinary case is completed;

(2) Is under an interim suspension from the college. The disciplinary hold will not be removed until the pending disciplinary case is completed;

(3) Is under suspension from the college. The disciplinary hold will not be removed until the student's suspension status has expired and/or the requirements as set forth by the judicial/appellate body for readmission have been successfully met; or

(4) Is under expulsion from the college. The disciplinary hold will only be removed, upon written request, for a student to obtain their transcript.

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NEW SECTION

WAC 132T-100-300 Interim measures. (1) Interim measures may be taken pending an investigation or adjudication if there is cause to believe that a student or student organization poses an imminent risk of harm to anyone in the college community; to property; or if the misconduct is so severe, persistent, or pervasive as to substantially disrupt or materially interfere with the college's operations and/or activities or with an individual's education/work activities. Interim measures may include counseling, extensions of time or other course related adjustments, modifications of class schedules, campus escort services, restrictions on contact between the parties, increased security and monitoring of certain areas of campus, restrictions on access to college-owned or operated property and/or events (notice of trespass), including classes, activities, and privileges, or any similar measures while the conduct process is pending.

(2) The student must adhere to the conditions of the interim restriction. If an interim restriction includes campus wide restricted access, the SCO may provide written permission for the student to enter campus for specific purposes such as meeting with the SCO or designee, faculty, staff, witnesses to prepare for an appeal, or to participate in the student conduct process.

(3) Notice of interim measure. The student will be provided written notice of the interim measure(s), stating:

(a) The time, date, place, and nature of the circumstances which created the need for interim measures.

(b) A description of any relevant evidence.

(c) The interim measure.

(d) The possible sanctions that could result from violation of the interim measure including arrest for criminal trespass if the student has been trespassed from campus.

(e) The student's right to either accept the interim measure or submit a written appeal of the interim measure within three business days to the conduct review officer (CRO). An appeal is waived if not submitted within the prescribed time. If the student appeals within the time frame, the interim measure shall remain in place during the appeal process. The CRO will provide written notification to the student of the decision to either maintain or discontinue the interim measure within five business days of receipt of the appeal.

(f) If the student has been trespassed from the campus, a notice against trespass shall be included that warns the student that their privilege to enter or remain on college premises has been withdrawn, that they shall be considered trespassing and subject to arrest for criminal trespass if they enter the college campus other than to meet with the SCO as arranged by an appointment, or to attend a disciplinary hearing. The interim measure shall not replace the regular discipline process which shall proceed as quickly as feasible considering the interim restriction.

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NEW SECTION

WAC 132T-100-350 Summary suspension. Summary suspension is a temporary exclusion from specified college premises or denial of access to all activities or privileges for which a respondent might otherwise be eligible, while an investigation and/or formal disciplinary procedures are pending. The conduct review officer may impose a summary suspension if there is probable cause to believe that the respondent has violated any provision of the student code of conduct; presents an immediate danger to the health, safety, or welfare of members of the college community; or poses an ongoing threat of substantial disruption of, or interference with, the operations of the college.

(1) Notice. Any respondent who has been summarily suspended shall be served by the conduct review officer with oral or written notice of the summary suspension. If oral notice is given, a written notification shall be served on the respondent within two business days of the oral notice. The written notification shall be entitled notice of summary suspension and shall include the reasons for imposing the summary suspension, including a description of the conduct giving rise to the summary suspension and reference to the provisions of the student code of conduct or the law allegedly violated; the date, time, and location when the respondent must appear before the conduct review officer for a hearing on the summary suspension; and the conditions, if any, under which the respondent may physically access the campus or communicate with members of the campus community. If the respondent has been trespassing from the campus, a notice against trespass shall be included warning the respondent that their privilege to enter into or remain on college premises has been withdrawn, and that the respondent shall be considered trespassing and subject to arrest for criminal trespass if they enter the college campus other than to meet with the student conduct officer, conduct review officer, or to attend a disciplinary hearing.

(2) Hearing. The conduct review officer (CRO) shall conduct a hearing on the summary suspension as soon as practicable after imposition of the summary suspension. During the summary suspension hearing, the issue before the conduct review officer is whether there is probable cause to believe that the summary suspension should be continued pending the conclusion of disciplinary proceedings and/or whether the summary suspension should be less restrictive in scope. The respondent shall be afforded an opportunity to explain why summary suspension should not be continued while disciplinary proceedings are pending or why the summary suspension should be less restrictive in scope. If the respondent fails to appear at the designated hearing time, the CRO may order that the summary suspension remain in place pending the conclusion of the disciplinary proceedings. As soon as practicable following the hearing, the CRO shall issue a written decision which shall include a brief explanation for any decision continuing and/or modifying the summary suspension and notice of any right to appeal. To the extent permissible under applicable law, the CRO shall provide a copy of the decision to all persons or offices who may be bound or protected by it.

(3) Sexual misconduct. In cases involving allegations of sexual misconduct outside of the Title IX definition, the complainant shall be notified by the conduct review officer that a summary suspension has been imposed on the same day that the summary suspension notice is served on the respondent. The college will also provide the complai-

nant with timely notice of any subsequent changes to the summary suspension order.

[]

NEW SECTION

WAC 132T-100-400 Records of disciplinary action. (1) Records of all disciplinary actions will become part of the student's disciplinary record and kept by the office of the SCO. Disciplinary records are education records as defined by the Family Educational Rights and Privacy Act (FERPA) and shall be maintained and disclosed consistent with federal, state, and local laws; chapter 132T-90 WAC; college administrative policies, and the college's educational records retention policies.

(a) All documentation of the student conduct proceedings will be preserved for at least seven years.

(b) In disciplinary actions where no violation(s) of the student code of conduct was found, only a record of the finding of no violation shall be maintained in the student's file or other college repository until:

(i) After the date of the student's graduation or award of a degree or certificate; or

(ii) For one calendar year, whichever is shorter.

(c) All records of expulsion will be kept for 25 years from the date of the decision.

(2) The office of the SCO will keep accurate records of all disciplinary actions taken by that office. Such records will be placed in the student's disciplinary records. A student has a disciplinary record only after notification of a decision is made, and the student is found responsible for a violation of the student code of conduct. A case that is currently under investigation or is classified as documentation only is not a disciplinary record.

(3) The Family Educational Rights and Privacy Act provides that an educational institution may notify a student's parent or legal guardian if the student is under the age of 21 and has violated a federal, state, or local law involving the use or possession of alcohol or a controlled substance.

[]

WSR 22-18-033

PERMANENT RULES

CHARTER SCHOOL COMMISSION

[Filed August 29, 2022, 2:32 p.m., effective September 29, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The commission proposes to update procedural and administrative rule changes in order to clarify existing language and timelines and provide more detailed information about standards set out by the commission in adopted policies. The changes in existing rules include:

- Changing to a term from "school specific goals" to "mission specific goals";
- Updating of the process to better assist the charter public schools in navigating a renewal charter application and contract;
- Updating timeline associated with the updated renewal process;
- Updating terminology to align with state standards from "achievement index" to "school improvement framework"; and
- Updating performance ratings for the organizational and financial performance frameworks to include an "approaching standard" rating.

Citation of Rules Affected by this Order: Amending WAC 108-30-020, 108-30-030, 108-40-070, and 108-40-090.

Statutory Authority for Adoption: Chapter 108-30 WAC: RCW 28A.710.070, 28A.710.100. Chapter 108-40 WAC: RCW 28A.710.070, 28A.710.170, 28A.710.190.

Adopted under notice filed as WSR 22-12-000A on June 1, 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 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 4, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 4, 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: August 18, 2022.

Jessica de Barros
Interim Executive Director

OTS-3033.1

AMENDATORY SECTION (Amending WSR 15-10-070, filed 5/1/15, effective 6/1/15)

WAC 108-30-020 Performance framework. (1) "Performance framework" means the standards that will be used by the commission to eval-

uate the performance of each charter school. The performance framework will be a source of information used by the commission to make decisions involving corrective action, renewal, modification, revocation, and/or termination of a charter school.

(2) The performance framework evaluates charter school performance and compliance in the areas of academic, financial, organizational, legal and mission specific performance and compliance. The commission will develop and post performance framework guidance for charter schools on the commission website.

(3) Academic performance and compliance. Academic performance and compliance measures whether the charter school meets or is making sufficient progress towards academic performance expectations. Academic performance and compliance includes, but is not limited to:

(a) Student achievement. Evaluation of student achievement includes evaluation of student academic proficiency in English language arts, science, and mathematics; evaluation of student achievement gaps in both proficiency and growth. In addition to overall data, this information must be disaggregated by major student subgroups including gender, race and ethnicity, poverty status, special education status, English language learner status, and highly capable status.

(b) Comparative performance. Comparative performance is evaluated by comparing charter school students' performance on required state and federal assessments to performance of students in traditional public schools and charter schools with similar demographics. This is a comparison of overall student performance in English language arts (reading and writing), math, and science, as well as any other subjects that will in the future be tested. To the extent data is available comparison schools may include, but are not limited to, district-of-residence schools and peer or comparable schools whether charter or noncharter. As additional data for comparisons become available, the comparative performance evaluation will be adjusted. In addition to aggregate data, when available, this information must be disaggregated by major student subgroups including gender, race and ethnicity, poverty status, special education status, English language learner status, and highly capable status.

(c) Student progress. Student progress is evaluated using the school's median student growth percentile in reading and mathematics. As additional growth-related data become available, this evaluation will be adjusted. In addition to aggregate data, when available, this information must be disaggregated by major student subgroups including gender, race and ethnicity, poverty status, special education status, English language learner status, and highly capable status.

(d) Post secondary readiness (high school evaluation). Evaluation of post secondary readiness includes overall graduation rates in accordance with the state of Washington reporting requirements; comparison of charter school to district-of-residence graduation rates; comparison of charter school to peer or similar school graduation rates; and enrollment in post secondary institutions. As additional comparison data such as dual credit accrual, industry certification, 11th grade assessments, or others, become available, this evaluation will be adjusted. In addition to aggregate data, this information must be disaggregated by major student subgroups including gender, race and ethnicity, poverty status, special education status, English language learner status, and highly capable status.

(e) State and federal accountability. Evaluation of the charter school's compliance with state and federal accountability rules, regulations, and laws and whether the school has met the targets set forth

by the state accountability system including, but not limited to, provision of basic education, instruction in the essential academic learning requirements, statewide student assessments, performance improvement goals. In addition to overall data, this information must be disaggregated by major student subgroups including gender, race and ethnicity, poverty status, special education status, English language learner status, and highly capable status.

(f) (~~Mission~~) School specific accountability. Evaluation of whether the charter school has met (~~mission~~) school specific goals identified in its contract.

(4) Financial performance and compliance. Financial performance and compliance measures the financial health and viability of a charter school. Financial performance and compliance includes, but is not limited to:

(a) Near term indicators. Evaluation of financial performance and compliance includes evaluation of charter school's assets and liabilities, available cash; actual enrollment as compared to enrollment projection and associated budget; loan and grant status.

(b) Sustainability indicators. Evaluation of sustainability indicators includes evaluation of net income and revenue; debt to asset ratio; cash flow; debt service ratio.

(c) Audit and accounting indicators. Evaluation of audit and accounting indicators includes evaluation of the charter school's compliance with generally accepted accounting principles; audit results and findings, if any.

(5) Organizational performance and compliance. Organizational performance and compliance measures compliance with specific terms and provisions of the charter contract and state and federal legal requirements. Organizational performance and compliance includes, but is not limited to:

(a) Education program. Evaluation of the education program includes evaluation of the charter school's education program in terms of compliance with specific performance expectations set forth in the charter contract; compliance with requirements of local education agencies and public schools under those federal laws and regulations including, but not limited to, compliance with the Individuals With Disabilities Education Act, the Rehabilitation Act, the Federal Educational Rights Privacy Act, the Elementary And Secondary Education Act, McKinney-Vento Act, and any other applicable education laws or regulations.

(b) Charter school law compliance. Evaluation of charter school law compliance includes evaluation of the charter school's compliance with chapter 28A.710 RCW. This includes review of policies and practices related to admissions, waiting lists, recruitment, security and privacy.

(c) Safety and welfare compliance. Evaluation of student and employee compliance includes evaluation of the charter school's compliance with laws concerning employment of faculty and staff including, but not limited to, certification requirements and background checks; evaluation of student and employee disciplinary policies and procedures and application of associated legal and constitutional protections; evaluation of compliance with health and safety laws and regulations.

(d) Board performance and stewardship. Evaluation of board performance and stewardship will include evaluation of compliance with all applicable laws, rules, and terms of the charter contract as well as willingness and skill in identifying issues with management of the

school and taking corrective action and in implementing any corrective actions imposed by the commission.

(e) Student involvement and retention. Evaluation of student involvement and retention will include evaluation of attendance and re-current enrollment.

(f) Mission specific accountability. Evaluation of whether the charter school has met mission specific goals identified in its contract including, but not limited to, proactive public engagement in student recruitment and demonstrated execution of a mission appropriate enrollment plan.

(6) Other. The commission may also include additional rigorous, valid, and reliable indicators to augment evaluations of the charter school's performance.

[Statutory Authority: RCW 28A.710.070. WSR 15-10-070, § 108-30-020, filed 5/1/15, effective 6/1/15; WSR 13-18-017, § 108-30-020, filed 8/23/13, effective 9/23/13.]

AMENDATORY SECTION (Amending WSR 13-18-017, filed 8/23/13, effective 9/23/13)

WAC 108-30-030 Rating categories. Unless otherwise deemed appropriate, academic measures will be rated using the following categories: Exceeds standard; meets standard; does not meet standard; falls far below standard. Financial and organizational measures will be rated using the following categories: Meets standard (~~(\oplus)~~); approaching standard; does not meet standard. Each of these ratings will be defined in relation to the measure being evaluated.

[Statutory Authority: RCW 28A.710.070. WSR 13-18-017, § 108-30-030, filed 8/23/13, effective 9/23/13.]

OTS-3052.1

AMENDATORY SECTION (Amending WSR 17-08-011, filed 3/24/17, effective 4/24/17)

WAC 108-40-070 Renewal process. (1) No later than six months before the expiration of the charter school contract, the commission will issue a written performance report addressing the information outlined in WAC 108-40-080. The performance report will be sent to the school and posted on the commission's website.

(2) The school may submit a response to the performance report that corrects or clarifies information contained in the report. If the school is subject to the ineligibility presumptions enumerated in WAC 108-40-090, then the school must rebut those presumptions by demonstrating exceptional circumstances that justify renewal in the response to the performance report. If the school submits a response, it must be received by the commission within thirty days of issuance of the performance report.

(3) In conjunction with the performance report, the commission will issue renewal application guidance. The renewal application guidance will, at a minimum, provide the charter school with an opportunity to:

(a) Present additional evidence, beyond the data contained in the performance report, supporting its case for charter contract renewal;

(b) Describe improvements undertaken or planned for the school;
and

(c) Detail the school's plans for the next charter contract term. The renewal application guidance will also contain the criteria that will guide the commission's renewal decisions.

(4) For those renewal applications deemed eligible for renewal consideration, individuals designated by the commission may conduct a school site visit (renewal inspection) during the renewal applicant school's final school year under the existing charter contract. The renewal inspection may serve as one of the mechanisms for the commission to evaluate and document the charter school's performance and representations to inform the commission's renewal decision. The renewal inspection will include a review of the school's performance and satisfaction of its obligations under the charter contract, with specific focus on any concerns identified in the performance report. Within fourteen days following the renewal inspection, a renewal inspection report will be issued. The school will have ten days to submit a written response to the renewal inspection report.

(5) Those renewal applications deemed ineligible for renewal consideration may appeal this determination in accordance with the procedures outlined in WAC 108-40-100.

(6) Interested parties, including members of the public, may submit written comments to the commission regarding the potential renewal of a school's charter contract. The deadline for submitting comments will be posted on the commission's website.

(7) No later than ((May 1st, one school year before the expiration of the charter school contract)) thirty days after receiving a performance report, the charter school must notify the commission in writing of its decision to either:

(a) Apply for renewal of the contract; or

(b) Cease operation at the expiration of the contract term.

((+2)) (8) If the school has decided to cease operation at the expiration of the contract term, a termination protocol shall be implemented.

((+3)) (9) If the school is requesting renewal under the existing contract, ((it must submit a renewal application before the final school year begins.)) the renewal application must be submitted no later than ((June)) September 1st and must be received by the commission by 5:00 p.m.; if ((June)) September 1st falls on a weekend, the renewal application must be received by the commission no later than 5:00 p.m. on the Monday following ((June)) September 1st.

((+4) Within ninety days of receiving a renewal application, the commission will issue a written performance report addressing the information outlined in WAC 108-40-080. The performance report will be sent to the school seeking renewal and posted on the commission's web site.

(5) The school may submit a response to the performance report that corrects or clarifies information contained in the report. If the school is subject to the ineligibility presumptions enumerated in WAC 108-40-090, then the school must rebut those presumptions by demonstrating exceptional circumstances that justify renewal in the re-

~~sponse to the performance report. If the school submits a response, it must be received by the commission within thirty days of issuance of the performance report.~~

~~(6) In conjunction with the performance report, the commission will issue renewal application guidance. The renewal application guidance will, at a minimum, provide the charter school with an opportunity to:~~

~~(a) Present additional evidence, beyond the data contained in the performance report, supporting its case for charter contract renewal;~~

~~(b) Describe improvements undertaken or planned for the school; and~~

~~(c) Detail the school's plans for the next charter contract term. The renewal application guidance will also contain the criteria that will guide the commission's renewal decisions.~~

~~(7) For those renewal applications deemed eligible for renewal consideration, individuals designated by the commission may conduct a school site visit (renewal inspection) during the renewal applicant school's final school year under the existing charter contract. The renewal inspection may serve as one of the mechanisms for the commission to evaluate and document the charter school's performance and representations to inform the commission's renewal decision. The renewal inspection will include a review of the school's performance and satisfaction of its obligations under the charter contract, with specific focus on any concerns identified in the performance report. Within fourteen days following the renewal inspection, a renewal inspection report will be issued. The school will have ten days to submit a written response to the renewal inspection report.~~

~~(8) Those renewal applications deemed ineligible for renewal consideration may appeal this determination in accordance with the procedures outlined in WAC 108-40-100.~~

~~(9) Interested parties, including members of the public, may submit written comments to the commission regarding the potential renewal of a school's charter contract. The deadline for submitting comments will be posted on the commission's web site.)~~

~~(10) For applications deemed eligible for renewal consideration, commission staff will review renewal applications, the renewal inspection report, and other relevant information, and make a recommendation, based on the renewal criteria, to approve, deny, or conditionally approve the renewal application. This recommendation will be provided to the school and commissioners. This recommendation shall serve as notice of the prospect of and reasons for nonrenewal. Within twenty days of issuance of this recommendation, the school may request an opportunity to respond to the recommendation in accordance with the procedures outlined in WAC 108-40-100; failure to make such a request shall constitute a waiver of the school's right to respond.~~

~~(11) The commission will pass a resolution approving, denying, or conditionally approving the renewal application. Renewal may be for a term of up to five years. This term may be shorter depending on the school's performance, demonstrated capacities and particular circumstances.~~

~~(12) Upon approval of a school's renewal application, the school must execute a new charter contract (~~within ninety days of the approval decision~~) before the expiration of the existing charter contract. The charter contract must include specific conditions that the commission determines are required for necessary improvements to the school; provided, however, if approval of the renewal application is condi-~~

tional, the renewal conditions must be included in the charter contract.

(13) If circumstances warrant it, the commission may alter time frames within these rules.

[Statutory Authority: RCW 28A.710.070, 28A.710.180, 28A.710.190, and 28A.710.200. WSR 17-08-011, § 108-40-070, filed 3/24/17, effective 4/24/17; WSR 14-12-065, § 108-40-070, filed 6/2/14, effective 7/3/14.]

AMENDATORY SECTION (Amending WSR 17-08-011, filed 3/24/17, effective 4/24/17)

WAC 108-40-090 Renewal decision and presumptions. (1) In making charter contract renewal decisions, the commission will:

(a) Ground its decisions in evidence of the school's performance over the term of the charter contract in accordance with the performance framework set forth in the charter contract;

(b) Ensure that data used in making renewal decisions are available to the school and the public; and

(c) Provide a public report summarizing the evidence that forms the basis for its decision. Specific criteria guiding the commission's renewal decisions will be set out in the commission's renewal application guidance.

(2) Schools are presumed to be ineligible for renewal if they have:

(a) Committed a material and substantial violation of any of the terms, conditions, standards, or procedures required under this chapter or the charter contract;

(b) Failed to meet or make sufficient progress toward the performance expectations set forth in the charter contract;

(c) Failed to meet generally accepted standards of fiscal management;

(d) Substantially violated any material provision of law from which the charter school is not exempt;

(e) Fallen in the bottom quartile of schools on the state board of education's Washington (~~(achievement index)~~) school improvement framework at the time of the renewal application; and

(f) Are subject to an active corrective action plan for the failures or violations listed in (a) through (f) of this subsection.

(3) The presumption of ineligibility can be rebutted if the school demonstrates exceptional circumstances that the authorizer finds justifiable. The school must satisfy this burden in its application and response to the performance report.

(4) A decision to renew, conditionally renew, or nonrenew a school's charter contract will be memorialized in a resolution that sets forth the action taken, the reasons for the decision, and assurances of compliance with the commission's procedural requirements. A report of action, with the resolution attached, must be submitted to the renewal applicant and the state board of education within ten days of the decision.

[Statutory Authority: RCW 28A.710.070, 28A.710.180, 28A.710.190, and 28A.710.200. WSR 17-08-011, § 108-40-090, filed 3/24/17, effective 4/24/17; WSR 14-12-065, § 108-40-090, filed 6/2/14, effective 7/3/14.]

WSR 22-18-035
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed August 29, 2022, 3:32 p.m., effective October 1, 2022]

Effective Date of Rule: October 1, 2022.

Purpose: The department of social and health services (DSHS) division of child support (DCS) is amending the following sections in chapter 388-14A WAC to clarify applicable lookback periods and statutes of limitations for daycare expenses under *In re the Marriage of Blackburn*, 12 Wn.App.2d. 798, 460 P.3d 202 (2020). DCS is also making other changes regarding the circumstances in which a daycare overpayment hearing is applicable, various hearing procedures, and how notices are sent by DCS and the office of administrative hearings.

Citation of Rules Affected by this Order: Amending WAC 388-14A-4300, 388-14A-4302, 388-14A-4303, and 388-14A-4304.

Statutory Authority for Adoption: RCW 26.23.035, 26.23.110, 34.05.220.

Adopted under notice filed as WSR 22-15-057 on July 15, 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 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 4, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 4, 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 4, Repealed 0.

Date Adopted: August 29, 2022.

Katherine I. Vasquez
Rules Coordinator

SHS-4936.2

AMENDATORY SECTION (Amending WSR 01-03-089, filed 1/17/01, effective 2/17/01)

WAC 388-14A-4300 What can I do if I think I'm paying more than the custodial parent is spending for day care or other special expenses for my child? (1) When a court or administrative child support order requires a ((A)) noncustodial parent (NCP) to pay a fixed monthly amount for day care or special child rearing expenses, an NCP who has paid child support under a court or administrative order and believes that day care or special child rearing expenses were not actually incurred in the amount of the order may file ((an application for)) a petition for reimbursement. This petition requests the division of child support (DCS) set an administrative hearing to determine

if an overpayment of at least ~~((twenty))~~ 20 ~~((per cent))~~ percent has occurred and how the overpayment should be reimbursed.

~~((a))~~ (2) A petition for reimbursement ~~((may))~~ must cover a ~~((twelve))~~ 12-month period ~~((; and))~~.

~~((b))~~ (a) The ~~((twelve))~~ 12-month period may be:

(i) A calendar year; or

(ii) The ~~((twelve))~~ 12-month period following the anniversary date of the support order; or

(iii) The ~~((twelve))~~ 12-month period following an adjudication under this section.

~~((e))~~ (b) ~~((Twelve))~~ 12-month periods under this section may not overlap.

~~((2))~~ (3) The ~~((application))~~ petition must be in writing and at a minimum state:

(a) The ~~((twelve))~~ 12-month time period to be considered;

(b) The date of the order requiring the payment of day care or special child rearing expenses;

(c) The amounts required by the court or administrative order for day care or special child rearing expenses for that time period;

(d) The amounts actually paid by the NCP for that time period;

(e) The total amount of day care or special child rearing expenses which the NCP claims the custodial parent (CP) actually incurred for that time period;

(f) The NCP's proportionate share of the expenses actually incurred; and

(g) The amount of reimbursement for overpayment to which the NCP claims to be entitled for that time period.

(4) An NCP must file a petition for reimbursement within two years of the alleged overpayment in order to be entitled to reimbursement under WAC 388-14A-4300 through 388-14A-4304 and RCW 4.16.130. The effective date of the petition is the date DCS receives the written request.

~~((3) The effective date of a hearing request is the date DCS receives the written request.)~~

~~((4) WAC 388-14A-4300 through 388-14A-4304 apply only to amounts paid during the twelve month period ending May 31, 1996 or later.)~~

(5) When a court or administrative child support order requires an NCP to pay variable day care or special child rearing expenses and the fixed monthly amount of day care or special child rearing expenses was calculated in a notice of support owed, an NCP who believes they overpaid such expenses:

(a) May request an annual review of the notice of support owed under WAC 388-14A-3330; and

(b) Is not entitled to a hearing on a petition for reimbursement under WAC 388-14A-4300 through 388-14A-4304.

[Statutory Authority: RCW 74.08.090, 34.05.220, 26.23.035, 74.20A.310. WSR 01-03-089, § 388-14A-4300, filed 1/17/01, effective 2/17/01. Formerly WAC 388-14-376.]

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 01-03-089, filed 1/17/01, effective 2/17/01)

WAC 388-14A-4302 Who participates in a hearing on petition for reimbursement? (1) The ~~((division of child support (DCS)))~~ office of administrative hearings (OAH) sends notice of a hearing under this subsection to the noncustodial (NCP) and to the custodial parent (CP).

(2) The NCP and the CP participate in the hearing as independent parties with the same procedural rights.

[Statutory Authority: RCW 74.08.090, 34.05.220, 26.23.035, 74.20A.310. WSR 01-03-089, § 388-14A-4302, filed 1/17/01, effective 2/17/01. Formerly WAC 388-14-376.]

AMENDATORY SECTION (Amending WSR 01-03-089, filed 1/17/01, effective 2/17/01)

WAC 388-14A-4303 What happens at a hearing on petition for reimbursement? (1) The noncustodial parent (NCP) has the burden of proving the amounts actually paid by the NCP under the order.

(2) The custodial parent (CP) has the burden of proving the amounts actually incurred for day care and special child rearing expenses.

(3) The CP is not required to provide the address of the day care provider unless the administrative law judge (ALJ) finds that the information may be disclosed under the standards set forth in WAC 388-14A-2105 for the disclosure of the address of the CP.

(4) The division of child support (DCS) and the parties may enter a consent order or agreed settlement instead of proceeding to hearing any time a parent has requested a hearing on a petition for reimbursement. See WAC 388-14A-3600 for the rules regarding consent orders and agreed settlements.

~~((4))~~ (5) If the NCP fails to appear for the hearing, upon proof of service of the notice of hearing the ALJ issues an order of default against the NCP and dismisses the petition for reimbursement.

~~((5))~~ (6) If the CP fails to appear for the hearing, upon proof of service of the notice of hearing the ALJ issues an order of default against the CP and may either hold((s)) a hearing on the merits of the petition for reimbursement or issue a consent order.

~~((6))~~ (7) A hearing under this subsection is for the limited purpose of determining whether the amount paid by the NCP exceeds the NCP's proportionate share of the amount actually incurred for day care and special child rearing expenses.

(a) If the ALJ determines that the overpayment amounts to ~~((twenty))~~ 20 percent or more of the NCP's share of annual day care and special child rearing expenses, the ALJ enters an order stating:

(i) The ~~((twelve))~~ 12-month time period in question;

(ii) The amount of the overpayment; and

(iii) The method ~~((by which the overpayment shall be reimbursed by the CP))~~ of reimbursement as set forth at WAC 388-14A-4304.

(b) If the ALJ determines that the overpayment amounts to less than ~~((twenty))~~ 20 percent of the NCP's share of annual day care and child rearing expenses, the ALJ enters an order stating:

(i) Whether the NCP has overpaid or underpaid the day care and special child rearing expenses;

(ii) If an overpayment has occurred, by what percentage of the annual proportionate share; and

(iii) That reimbursement under this section is denied for that (~~twelve~~) 12-month period.

[Statutory Authority: RCW 74.08.090, 34.05.220, 26.23.035, 74.20A.310. WSR 01-03-089, § 388-14A-4303, filed 1/17/01, effective 2/17/01. Formerly WAC 388-14-376.]

AMENDATORY SECTION (Amending WSR 05-07-087, filed 3/16/05, effective 4/16/05)

WAC 388-14A-4304 What happens if the judge determines that I have paid too much for day care and special expenses? (1) If at a hearing under WAC 388-14A-4303, the administrative law judge (ALJ) decides that the custodial parent (CP) has not incurred costs in the amount paid by the noncustodial parent (NCP), any ordered overpayment reimbursement may be applied (~~an as~~) as an offset to any nonassistance child support arrears owed by the NCP on that case only. If there is no nonassistance debt owed on the case, the reimbursement must be in the form of a credit against the NCP's future child support obligation:

(a) Spread equally over (~~a twelve~~) one 12-month period starting the month after the administrative order becomes final; or

(b) When the future support obligation will end under the terms of the order in less than (~~twelve~~) 12 months, spread equally over the life of the order; or

(c) With the consent of the CP, in the form of a direct reimbursement by the CP to the NCP.

(2) The NCP may not pay more than his or her proportionate share of day care or other special child rearing expenses in advance and then deduct the overpayment from future support transfer payments unless:

(a) Specifically agreed to by the CP; and

(b) Specifically agreed to in writing by DCS for periods when the CP or the dependent child receives public assistance.

[Statutory Authority: RCW 26.19.080, 34.05.220, 74.08.090, 74.20A.310. WSR 05-07-087, § 388-14A-4304, filed 3/16/05, effective 4/16/05. Statutory Authority: RCW 74.08.090, 34.05.220, 26.23.035, 74.20A.310. WSR 01-03-089, § 388-14A-4304, filed 1/17/01, effective 2/17/01. Formerly WAC 388-14-376.]

WSR 22-18-036

PERMANENT RULES

DEPARTMENT OF HEALTH

(Board of Psychology)

[Filed August 29, 2022, 4:19 p.m., effective September 29, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 246-924-493, the examining board of psychology amended the probationary licensure requirements for psychologists by removing a reference to AIDS education. This amendment aligns the rule with statutory amendments under ESHB 1551 (chapter 76, Laws of 2020), which repealed the statutory requirement for health care professionals to complete AIDS education and training.

Citation of Rules Affected by this Order: Amending WAC 246-924-493.

Statutory Authority for Adoption: RCW 18.83.050.

Other Authority: ESHB 1551 (chapter 76, Laws of 2020).

Adopted under notice filed as WSR 22-11-009 on May 6, 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 1, Repealed 0.

Date Adopted: July 22, 2022.

Florence Katz Burstein, Chair
Examining Board of Psychology

OTS-3685.1

AMENDATORY SECTION (Amending WSR 20-12-076, filed 6/1/20, effective 7/2/20)

WAC 246-924-493 Probationary license. (1) The department shall issue a probationary license to out-of-state applicants seeking licensure in Washington state as a psychologist according to the conditions and restrictions of the reciprocity program established in RCW 18.83.170 and this chapter.

(2) The out-of-state license must be from a state or territory identified on a list published by the department as eligible for reciprocity for the purposes of a probationary license for the practice of psychology.

(3) An initial probationary license is valid for one year. To receive an initial probationary license, an applicant must submit to the department a completed application to include:

(a) Verification of their out-of-state license;

(b) Proof of passing the jurisprudence exam according to WAC 246-924-070; and

(c) The fee according to WAC 246-924-990.

(4) A probationary license may be renewed a single time and is valid for one year after the date of renewal. To renew a probationary license, an applicant must submit to the department a completed application to include:

(a) Completion of four hours of education in ethics according to WAC 246-924-240;

(b) Training in suicide assessment, treatment, and management according to WAC 246-924-990; and

(c) (~~(AIDS education according to WAC 246-924-110; and~~

~~(d))~~) The fee according to WAC 246-924-990.

(5) Continuing education. With the exception of the requirements in subsection (4) of this section, continuing education requirements will apply once a probationary licensee transitions to a full license.

(6) Supervised experience. If it is determined additional supervised experience is required for full licensure, the supervised experience hours must meet the requirements for postdoctoral supervised experience in WAC 246-924-059.

[Statutory Authority: 2019 c 351, 2019 c 444 and RCW 18.83.050. WSR 20-12-076, § 246-924-493, filed 6/1/20, effective 7/2/20.]

WSR 22-18-047
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)
 [Filed August 30, 2022, 10:49 a.m., effective September 30, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The intent of this rule change is to amend new freedom WAC that have not been updated since 2013. The department is updating language that will enable participants on the new freedom program to receive covered goods and services timelier, to clarify goods and service items that cannot be purchased under the new freedom program, and other minor language updates.

Citation of Rules Affected by this Order: Amending WAC 388-106-1400, 388-106-1405, 388-106-1422, 388-106-1455, 388-106-1458, and 388-106-1475.

Statutory Authority for Adoption: RCW 74.08.090 and 74.09.520.

Adopted under notice filed as WSR 22-14-059 on June 29, 2022.

Changes Other than Editing from Proposed to Adopted Version: Only editorial edits were made; the "." at the end of WAC 388-106-1405(1) was not underlined.

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 6, 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 6, 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 6, Repealed 0.

Date Adopted: August 30, 2022.

Katherine I. Vasquez
 Rules Coordinator

SHS-4926.5

AMENDATORY SECTION (Amending WSR 13-18-039 and 13-17-125, filed 8/29/13 and 8/21/13, effective 10/1/13)

WAC 388-106-1400 What services may I receive under New Freedom consumer directed services (NFCDS)? (1) In order for services, supports, (~~and~~) or items to be purchased under New Freedom, they must:

- (a) Be for your sole benefit;
- (b) Be at a reasonable cost;
- (c) Meet your identified needs and outcomes in the CARE assessment and address your health, safety, and welfare; and
- (d) Be documented on your New Freedom spending plan defined in WAC 388-106-0010. The spending plan, which is established with the

Care Consultant, documents how you will spend your service budget dollars.

(2) Your consultant may require a physician or other licensed professional, such as an occupational or physical therapist to recommend a specific purchase in writing. This recommendation is needed to ensure the service, support, ~~((and/))~~ or item will increase, maintain, or delay decline of functional abilities, and to ensure the purchase supports your health and welfare.

(3) Medicare or medicaid state plan benefits or other insurance must be used prior to using New Freedom funds if the goods or services are covered under these programs.

(4) You may use your individual budget to purchase services, supports, ~~((and/))~~ or items that fall into the following service categories:

(a) **Personal assistance services**, defined as supports involving the labor of another person to assist you to carry out activities you are unable to perform independently. Services may be provided in your home or in the community and may include:

(i) Direct personal care services defined as assistance with activities of daily living, as defined in WAC 388-106-0010. These must be provided by a qualified individual provider or AAA-contracted home-care agency as described in WAC 388-106-0040 (1) and (2);

(ii) Delegated nursing tasks, per WAC 246-841-405 and 388-71-05830. Providers of direct personal care services may be delegated by a registered nurse to provide nurse delegated tasks according to RCW 18.79.260 and WAC 246-840-910 through 246-840-970;

(iii) Other tasks or assistance with activities that support independent functioning, and are necessary due to your functional disability;

(iv) Personal assistance with transportation or assistance with instrumental activities of daily living (essential shopping, housework, and meal preparation).

(b) **Treatment and health maintenance**, defined as treatments or activities that are beyond the scope of the medicaid state plan that are necessary to promote your health and ability to live independently in the community and:

(i) Are provided for the purpose of preventing further deterioration of your level of functioning, or improving or maintaining your current level of functioning; and

(ii) Are performed or provided by people with specialized skill, registration, certification, or licenses as required by state law.

(c) **Individual directed goods, services and supports**, defined as services, equipment or supplies not otherwise provided through this waiver or through the medicaid state plan; and

(i) Will allow you to function more independently; or

(ii) Increase your safety and welfare; or

(iii) Allow you to perceive, control, or communicate with your environment; or

(iv) Assist you to transition from an institutional setting to your home. Transition services may include safety deposits, utility set-up fees or deposits, health and safety assurances such as pest eradication, allergen control or one-time cleaning prior to occupancy, moving fees, furniture, essential furnishings and basic items essential for basic living outside the institution. Transition services do not include rent, recreational or diverting items such as TV, cable or VCR/DVDs.

(d) **Environmental or vehicle modifications**, defined as alterations to your residence or vehicle that are necessary to accommodate your disability and promote your functional independence, health, safety, and ~~((or))~~ welfare.

(i) Environmental modifications cannot be adaptations or improvements that are of general utility or merely add to the total square footage of the home.

(ii) Vehicles subject to modification must be owned by you or a member of your family who resides with you; must be in good working condition, licensed, and insured according to Washington state law; and be cost effective when compared to available alternative transportation.

(e) **Training and educational supports**, defined as supports beyond the scope of medicaid state plan services that are necessary to promote your health and ability to live and participate in the community and maintains, slows decline, or improves functioning and adaptive skills. Examples include:

(i) Training or education on your health issues, or personal skill development;

(ii) Training or education to paid or unpaid caregivers related to your needs.

(5) You may receive comprehensive adult dental services as defined in WAC 388-106-0300(15) through December 31, 2013. The cost of the dental services will not be deducted from your individual budget.

[Statutory Authority: RCW 74.08.090 and 74.09.520. WSR 13-18-039 and 13-17-125, § 388-106-1400, filed 8/29/13 and 8/21/13, effective 10/1/13; WSR 10-08-074, § 388-106-1400, filed 4/6/10, effective 5/7/10. Statutory Authority: RCW 74.08.090, 74.09.520, 74.39A.030. WSR 06-16-035, § 388-106-1400, filed 7/25/06, effective 8/25/06.]

AMENDATORY SECTION (Amending WSR 13-18-039 and 13-17-125, filed 8/29/13 and 8/21/13, effective 10/1/13)

WAC 388-106-1405 What services are not covered under New Freedom consumer directed services (NFCDS)? (1) Goods, services, and supports that are not consistent with the description in WAC 388-106-1400.

~~((Services, supports and/or items that cannot be purchased within New Freedom budgets, including, but not limited to:))~~

~~((1))~~ (2) Services, supports ~~((and/))~~ or items covered by the state plan, medicare, or other programs or services.

~~((2))~~ (3) Any fees related to health or long-term care incurred by you, including co-pays, waiver cost of care (participation), or insurance.

~~((3))~~ (4) Home modifications that merely add square footage to your home.

~~((4))~~ (5) Vacation or travel expenses other than the direct cost of provision of personal care services while on vacation ~~((but))~~ and you may not use New Freedom funds to pay travel expenses for your provider).

~~((5))~~ (6) Rent or room and board.

~~((6))~~ (7) Tobacco or alcohol products ~~((+))~~.

~~((7))~~ (8) Lottery tickets.

~~((8))~~ (9) Entertainment-related items such as televisions, cable, DVD players, stereos, radios, ~~((computers))~~ and other electronics, that are nonadaptive in nature.

~~((9))~~ (10) Vehicle purchases, maintenance, or upgrades that do not include maintenance to modifications related to disability.

~~((10))~~ (11) Tickets and related costs to attend sporting or other recreational events.

~~((11)) Standard household supplies, furnishings, equipment, and maintenance, such as cleaning supplies, beds/mattresses, chairs, vacuum cleaners, outside window cleaning, and major household appliances, such as washing machines or refrigerators (unless purchased while transitioning from an institution to home).)~~

(12) Pets, therapy animals and their related costs (including food and veterinary services).

(13) Postage outside of shipping costs related to approved spending plan items.

(14) Experimental or investigational services, procedures, treatments, devices, drugs, or application of associated services, except when the individual factors of an individual client's condition justify a determination of medical necessity under WAC 182-500-0070.

~~((15)) Gym equipment or exercise equipment over one hundred dollars per year.)~~

~~((16))~~ (15) Monthly service fees for utilities.

~~((17))~~ (16) Warranties (for equipment, furnishings, or installations).

~~((18))~~ (17) Cosmetic services and treatments (i.e. manicures, pedicures, ~~((hair services,))~~ face lifts, etc).

~~((19))~~ (18) Basic groceries, clothing, and footwear.

~~((20)) Travel-related expenses.)~~

~~((21))~~ (19) Any item previously purchased through medicaid funding that is within the health care authority replacement period.

(20) Any goods, services, or supports that are considered of general utility, meaning the service/good/support is not specific to the individuals' needs based on their disabilities or health conditions.

[Statutory Authority: RCW 74.08.090 and 74.09.520. WSR 13-18-039 and 13-17-125, § 388-106-1405, filed 8/29/13 and 8/21/13, effective 10/1/13; WSR 10-08-074, § 388-106-1405, filed 4/6/10, effective 5/7/10.]

AMENDATORY SECTION (Amending WSR 13-18-039 and 13-17-125, filed 8/29/13 and 8/21/13, effective 10/1/13)

WAC 388-106-1422 What happens to my New Freedom service dollar budget if I am temporarily hospitalized, placed in a nursing facility, or intermediate care facilities for ~~((the mentally retarded))~~ Intellectual Disability ~~((ICF/MR))~~ (ICF/ID)? If you are admitted to a hospital, nursing home, or ~~((ICF/MR))~~ ICF/ID, you cannot access or accumulate funds to your New Freedom service budget during your stay.

If you are institutionalized for ~~((forty-five))~~ 30 days or less and you intend to return to New Freedom when discharged, your service budget will be temporarily suspended while you are temporarily hospitalized for up to 30 days. Upon discharge home, if within 30 days, your service budget will be reinstated if you are still eligible for New Freedom services.

[Statutory Authority: RCW 74.08.090 and 74.09.520. WSR 13-18-039 and 13-17-125, § 388-106-1422, filed 8/29/13 and 8/21/13, effective 10/1/13; WSR 10-08-074, § 388-106-1422, filed 4/6/10, effective 5/7/10.]

AMENDATORY SECTION (Amending WSR 13-18-039 and 13-17-125, filed 8/29/13 and 8/21/13, effective 10/1/13)

WAC 388-106-1455 What happens to individual budget funds when I don't use them? (1) The balance of individual budget funds that were not allocated for purchase of personal care may be used to purchase other goods and services in accordance with the approved New Freedom spending plan or saved for future purchase as described in (2) below.

(2) Up to (~~three thousand five hundred dollars~~) \$3,500 may be held in savings for future purchases documented in the New Freedom spending plan.

(3) Reserves in excess of (~~three thousand five hundred dollars~~) \$3,500 may only be maintained for exceptional, planned purchases with preapproval from the department.

(4) Unused funds will revert back to the department under the following circumstances:

(a) You have savings funds in excess of (~~three thousand five hundred dollars~~) \$3,500 that are not identified for exceptional, pre-approved purchases in your spending plan;

(b) You disenroll from New Freedom;

(c) You lose eligibility for New Freedom;

(d) You are hospitalized, (~~and/or placed~~) in a nursing home, or (~~ICM/FR~~) ICF/ID for over (~~forty-five~~) 30 days; or

(e) You have personal care funds not used in the month for which you allocated them.

[Statutory Authority: RCW 74.08.090 and 74.09.520. WSR 13-18-039 and 13-17-125, § 388-106-1455, filed 8/29/13 and 8/21/13, effective 10/1/13; WSR 10-08-074, § 388-106-1455, filed 4/6/10, effective 5/7/10. Statutory Authority: RCW 74.08.090, 74.09.520, 74.39A.030. WSR 06-16-035, § 388-106-1455, filed 7/25/06, effective 8/25/06.]

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

WAC 388-106-1458 How do I create and use my spending plan? (1) You create your spending plan in collaboration with (~~the assistance of the~~) your care consultant using the (~~new freedom self-assessment and the~~) CARE (~~assessment~~) tool.

(2) The spending plan must be approved by both you and the care consultant.

(3) You, as the participant, (~~and your care consultant~~) must identify how many personal care service units you intend to purchase prior to the month you plan to use them (service month).

(4) The value of those units is deducted from your new freedom budget.

(5) The rest of the funds can be used for other covered goods and services or saved.

(6) Once a service month begins, the number of personal care units may not be altered during that month.

(7) The maximum number of personal care units that can be purchased from the monthly budget is calculated from the individual budget as described in WAC 388-106-1445, divided by the individual provider average wage including mileage.

(8) Prior to the service month, you may elect to use savings funds to buy additional personal care.

(9) You may choose to have your personal care provided by an individual provider (IP) or a home care agency.

(10) Each unit will be deducted from your new freedom budget at the average IP wage rate including mileage.

(11) The balance of your individual new freedom budget will be available in your NFSP to save or purchase other goods and services up to the limit described in WAC 388-106-1455(2).

(12) If you have a change of condition or situation and your new freedom budget increases due to a new assessment or exception to rule, you may purchase additional personal care from an IP or home care agency mid-month at the average IP rate, including mileage during the month your budget changed.

(13) You may assign your predetermined personal care units to a different provider during the month of service.

(14) Under chapter 388-114 WAC, individual providers for one or more department clients who work more than (~~forty~~) 40 hours in a work week, are entitled to overtime and the responsibility for paying the extra cost as follows:

(a) If the individual provider is contracted with the department and approved to work more than (~~forty~~) 40 hours per week as described in WAC 388-114-0080, the department will pay the extra cost for overtime up to the number of service hours the individual provider is approved to work and the payment for these extra costs will not be charged to your budget; and

(b) If you assign more overtime hours to your individual provider than the department approved, you must pay the extra costs for the unapproved overtime hours and the additional cost will impact your monthly budget and may reduce the number of service hours you are able to purchase from it.

[Statutory Authority: RCW 74.08.090, 74.09.520, 43.43.832, 74.39A.270, 74.39A.056, 74.39A.074, 43.20A.710, 74.39A.525, 43.43.842, 74.39A.326, 74.39A.515, 74.39A.505, 18.88B.021, 43.43.837 and 2018 c 278. WSR 21-18-081, § 388-106-1458, filed 8/30/21, effective 10/1/21. Statutory Authority: RCW 74.08.090, 74.09.520, 74.39A.270, and 2016 1st sp.s. c 30. WSR 17-08-065, § 388-106-1458, filed 3/31/17, effective 5/1/17. Statutory Authority: RCW 74.08.090 and 74.09.520. WSR 13-18-039 and 13-17-125, § 388-106-1458, filed 8/29/13 and 8/21/13, effective 10/1/13.]

AMENDATORY SECTION (Amending WSR 13-18-039 and 13-17-125, filed 8/29/13 and 8/21/13, effective 10/1/13)

WAC 388-106-1475 How do I end enrollment in New Freedom consumer directed services (NFCDS)? (1) You may choose to voluntarily end your

enrollment from NFCDS without cause at any time. To do so, you must give notice to the department. If you give notice:

(a) Before the (~~fifteenth~~) 15th of the month, the department will end your enrollment at the end of the month; or

(b) After the (~~fifteenth~~) 15th, the department will end your enrollment the end of the following month.

(2) Your enrollment may also end involuntarily if you:

(a) Move out of the designated service area or are out of the service area for more than (~~thirty~~) 30 consecutive days, unless you have documented the purpose of the longer absence in the NFSP; or

(b) Do not meet the terms for consumer direction of services outlined in the (~~NFCDS enrollment a~~) New Freedom Participant Responsibility Agreement when:

(i) Even with (~~help from a representative~~) coaching and collaboration, you are unable to develop a NFSP or self-direct services or manage your individual budget or NFSP;

(ii) Any one factor or several factors of such a magnitude jeopardize the health, welfare, and safety of you and others, requiring termination of services under WAC 388-106-0047;

(iii) You become financially ineligible for medicaid services;

(iv) You no longer meet the nursing facility level of care requirement as defined in WAC 388-106-0355; (~~or~~)

(v) You misuse program funds and services as determined by the department (~~or~~); or

(vi) You are unable to follow the responsibilities of a participant on the New Freedom program as determined by the department.

[Statutory Authority: RCW 74.08.090 and 74.09.520. WSR 13-18-039 and 13-17-125, § 388-106-1475, filed 8/29/13 and 8/21/13, effective 10/1/13. Statutory Authority: RCW 74.08.090, 74.09.520, 74.39A.030. WSR 06-16-035, § 388-106-1475, filed 7/25/06, effective 8/25/06.]

WSR 22-18-051
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed August 30, 2022, 2:57 p.m., effective September 30, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The rule change removes the requirement concerning re-viewing remote and necessary small school plants every four years to determine if the school can continue to keep their remote and necessary status. Existing statutes and rules establish the conditions necessary to become a remote and necessary district and further define conditions when a school would lose its remote and necessary status. The conditions that designate the remote and necessary status do not change due to the remoteness of the schools. The change will save administrative time and effort.

Citation of Rules Affected by this Order: Amending WAC 392-349-015.

Statutory Authority for Adoption: RCW 28A.525.020

Adopted under notice filed as WSR 22-15-102 on July 19, 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 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: August 30, 2022.

Chris P. S. Reykdal
State Superintendent of Public Instruction

OTS-3972.1

AMENDATORY SECTION (Amending WSR 15-17-074, filed 8/17/15, effective 9/17/15)

WAC 392-349-015 Remote and necessary small school plants—Review committee. (1) There is hereby established by the superintendent of public instruction a remote and necessary review committee comprised of at least the following five members:

(a) One member of the state board of education selected by the president of the board;

(b) Two staff members from the office of the superintendent of public instruction, one who is knowledgeable about finance issues and one who is knowledgeable about curriculum issues, both selected by the state superintendent;

(c) One school director selected by the Washington State School Directors' Association;

(d) One school district administrator selected by the Washington Association of School Administrators.

(2) Vacancies on the review committee shall be filled by the person or organization responsible for appointments.

(3) At the discretion of the superintendent of public instruction, other members may be added to the review committee.

(4) It is the responsibility of the review committee to receive and review all applications from school districts requesting the superintendent of public instruction to grant remote and necessary status to a small school plant located in the district. Following the review of applications, the review committee shall recommend to the superintendent of public instruction whether such designation should be granted. Recommendations of the review committee shall be advisory only. The final determination rests solely with the superintendent of public instruction.

~~(5) ((Every small school plant with remote and necessary status beginning 1996, shall be reviewed every four years by the review committee and the superintendent of public instruction. The review committee shall submit its findings and recommendations to the superintendent of public instruction. The review committee may conduct the review on-site, with the number of members participating determined by the committee, or may conduct the review by other means as determined by the committee.~~

~~(6))~~ A small school plant shall lose its remote and necessary status if the number of students exceeds the enrollment requirements set forth in the state Operating Appropriations Act for three consecutive years. The loss of remote and necessary status shall take effect the immediate ensuing school year. If a small school site should lose its remote and necessary status, the local serving school district may continue to maintain and operate the school site. When the enrollment of such small school plant again meets the requirements of the state Operating Appropriations Act, the school district may apply to the superintendent of public instruction for redesignation as a remote and necessary plant.

~~((7))~~ (6) A small school plant shall lose its remote and necessary status if a local school district closes the small school plant. If the small school plant is reopened by the district, or a new small school plant is opened, the school district may apply to the superintendent of public instruction for remote and necessary designation for the small school plant. If such designation is granted, the remote and necessary status shall take effect as determined by the superintendent of public instruction.

[Statutory Authority: RCW 28A.315.175. WSR 15-17-074, § 392-349-015, filed 8/17/15, effective 9/17/15. Statutory Authority: RCW 28A.305.130 (5), (10), 28A.315.015 (2) (e), 28A.315.175, 28A.315.195(4), 28A.315.205(3). WSR 06-17-038, amended and recodified as § 392-349-015, filed 8/8/06, effective 9/8/06. WSR 05-13-061, recodified as § 180-16-243, filed 6/10/05, effective 6/10/05. Statutory Authority: 1994 sp.s. c 6 § 502 (i) (e). WSR 02-14-113, § 180-24-415, filed 7/2/02, effective 8/2/02. Statutory Authority: 1994 1st sp.s. c 6 § 502 (1) (e). WSR 97-21-069, § 180-24-415, filed 10/15/97, effective 11/15/97. Statutory Authority: 1994 sp.s. c 6 § 502(i) (e). WSR 95-20-055, § 180-24-415, filed 10/2/95, effective 11/2/95.]

WSR 22-18-052
PERMANENT RULES
WALLA WALLA
COMMUNITY COLLEGE

[Filed August 30, 2022, 3:35 p.m., effective September 30, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: New chapter 132T-105 WAC, Supplemental Title IX student conduct rules, created to align with federal laws, state statutes, and college regulations.

Citation of Rules Affected by this Order: [See new WAC sections attached].

Statutory Authority for Adoption: Chapter 34.05 RCW; RCW 28B.50.140; 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq.

Adopted under notice filed as WSR 22-13-140 on June 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 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 9, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 9, 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: August 29, 2022.

Dr. Jean Hernandez
Consultant

OTS-3855.3

Chapter 132T-105 WAC
SUPPLEMENTAL TITLE IX STUDENT CONDUCT RULES

NEW SECTION

WAC 132T-105-010 Order of precedence. This supplemental chapter applies to allegations of sexual harassment subject to Title IX jurisdiction pursuant to regulations promulgated by the United States Department of Education. See 34 C.F.R. Part 106. To the extent these supplemental hearing procedures conflict with Walla Walla Community College District 20's standard disciplinary procedures, WAC 132T-100-200 through 132T-100-350, the supplemental procedures in this chapter shall take precedence. Walla Walla Community College District 20 may, at its discretion, contract with an administrative law judge or other person to act as presiding officer and assign such presiding

officer to exercise any or all of the duties in lieu of the student conduct committee and committee chair.

[]

NEW SECTION

WAC 132T-105-015 Student conduct committee. The student conduct committee is a three-member panel designated by the college to preside over cases involving Title IX allegations. The student conduct committee will serve as a standing committee until a final decision is made regarding the student conduct matter for which it was convened. Any student conduct committee member who has a personal relationship with either party or any personal or other interest which could prevent a fair and impartial review and decision, will be recused from the proceedings.

(1) One member, acting as the chair, will preside at the disciplinary hearing and will provide administrative oversight throughout the hearing process.

(2) Any three members constitute a quorum of the student conduct committee and may act accordingly. The college may retain an advisor to the student conduct committee, including an assistant attorney general.

(3) The student conduct officer will convene the members of the student conduct committee when necessary to adjudicate Title IX conduct decisions.

(4) All student conduct committee members will receive annual training in investigating and adjudicating student conduct matters in a manner that protects the safety and due process rights of the parties.

[]

NEW SECTION

WAC 132T-105-020 Prohibited conduct under Title IX. Pursuant to RCW 28B.50.140(13) and Title IX of the Education Act Amendments of 1972, 20 U.S.C. Sec. 1681, the college may impose disciplinary sanctions against a student who commits, attempts to commit, or aids, abets, incites, encourages, or assists another person to commit an act(s) of sexual harassment.

For purposes of this supplemental chapter, sexual harassment encompasses the following conduct:

(1) Quid pro quo harassment. A college employee conditioning the provision of an aid, benefit, or service of Walla Walla Community College District 20 on an individual's participation in unwelcome sexual conduct.

(2) Hostile environment. Unwelcome conduct that a reasonable person would find to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the college's educational programs or activities, or employment.

(3) Sexual assault. Sexual assault includes the following conduct:

(a) Nonconsensual sexual intercourse. Any actual or attempted sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

(b) Nonconsensual sexual contact. Any actual or attempted sexual touching, however slight, with any body part or object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

(c) Incest. Sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren and adopted children under the age of 18.

(d) Statutory rape. Consensual intercourse between a person who is 18 years of age or older and a person who is under the age of 16.

(4) Domestic violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Washington, RCW 26.50.010.

(5) Dating violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person:

(a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(b) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship;

(ii) The type of relationship; and

(iii) The frequency of interaction between the persons involved in the relationship.

(6) Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.

[]

NEW SECTION

WAC 132T-105-030 Title IX jurisdiction. (1) This supplemental chapter applies only if the alleged misconduct:

(a) Occurred in the United States;

(b) Occurred during a college educational program or activity; and

(c) Meets the definition of sexual harassment as that term is defined in this supplemental chapter.

(2) For purposes of this supplemental chapter, an educational program or activity is defined as locations, events, or circumstances over which the college exercised substantial control over both the respondent and the context in which the alleged sexual harassment occurred. This definition includes any building owned or controlled by a student organization that is officially recognized by the college.

(3) Proceedings under this supplemental chapter must be dismissed if the Title IX coordinator determines that one or all of the requirements under subsection (1) of this section have not been met. Dismissal under this supplemental chapter does not prohibit the college from pursuing other disciplinary action based on allegations that the respondent violated other provisions of the college's student code of conduct, chapter 132T-100 WAC.

(4) If the Title IX coordinator determines the facts in the investigation report are not sufficient to support Title IX jurisdiction and/or pursuit of a Title IX violation, the student conduct officer will issue a notice of dismissal in whole or part to both parties explaining why some or all of the Title IX claims have been dismissed.

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NEW SECTION

WAC 132T-105-040 Initiation of discipline. (1) Upon receiving the Title IX investigation report from a Title IX investigator, the Title IX coordinator will independently review the report to determine whether there are sufficient grounds to pursue a disciplinary action against the respondent for engaging in prohibited conduct under Title IX.

(2) If the Title IX coordinator determines that there are sufficient grounds to proceed under the supplemental procedures of this chapter, the student conduct officer will initiate a Title IX disciplinary proceeding by filing a written disciplinary notice with the chair of the student conduct committee and serving the notice on the respondent and the complainant, and their respective advisors. The notice must:

- (a) Set forth the basis for the Title IX jurisdiction;
 - (b) Identify the alleged Title IX violation(s);
 - (c) Set forth the facts underlying the allegation(s);
 - (d) Identify the range of possible sanctions that may be imposed if the respondent is found responsible for the alleged violation(s);
 - (e) Explain that the parties are entitled to be accompanied by their chosen advisors during the hearing and that:
 - (i) The advisors will be responsible for questioning all witnesses on the party's behalf;
 - (ii) An advisor may be an attorney; and
 - (iii) The college will appoint the party an advisor of the college's choosing at no cost to the party if the party fails to do so.
- (3) Explain that if a party fails to appear at the hearing, a decision of responsibility may be made in their absence.

[]

NEW SECTION

WAC 132T-105-050 Prehearing procedure. (1) Upon receiving the disciplinary notice, the chair of the student conduct committee will send a hearing notice to all parties, in compliance with WAC 10-08-040. In no event will the hearing date be set less than 10 business days after the Title IX coordinator provided the final investigation report to the parties.

(2) A party may choose to have an attorney serve as their advisor at the party's own expense. This right will be waived unless, at least five business days before the hearing, the attorney files a notice of appearance with the student conduct committee chair with copies to all parties and the student conduct officer.

(3) In preparation for the hearing, the parties will have equal access to all evidence gathered by the investigator during the investigation, regardless of whether the college intends to offer the evidence at the hearing.

[]

NEW SECTION

WAC 132T-105-060 Rights of parties. (1) The college's student code of conduct, chapter 132T-100 WAC, and this supplemental chapter shall apply equally to all parties.

(2) The college bears the burden of offering and presenting sufficient testimony and evidence to establish that the respondent is responsible for a Title IX violation by a preponderance of the evidence.

(3) The respondent will be presumed not responsible until such time as the disciplinary process has been finally resolved.

(4) During the hearing, each party shall be represented by an advisor. These parties are entitled to an advisor of their own choosing, and the advisor may be an attorney. If a party does not choose an advisor, then the Title IX coordinator will appoint an advisor of the college's choosing on the party's behalf at no expense to the party.

[]

NEW SECTION

WAC 132T-105-070 Evidence. The introduction and consideration of evidence during the hearing is subject to the following procedures and restrictions:

(1) Relevance. The student conduct committee chair shall review all questions for relevance and shall explain on the record their reasons for excluding any question based on lack of relevance.

(2) Relevance means that information elicited by the question makes facts in dispute more or less likely to be true.

(3) Questions or evidence about a complainant's sexual predisposition or prior sexual behavior are not relevant and must be excluded, unless such question or evidence:

(a) Is asked or offered to prove someone other than the respondent committed the alleged misconduct; or

(b) Concerns specific incidents of prior sexual behavior between the complainant and the respondent, which are asked or offered on the issue of consent.

(4) Cross-examination required. If a party or witness does not submit to cross-examination during the live hearing, the student conduct committee must not rely on any statement by that party or witness in reaching a determination of responsibility.

(5) No negative inference. The student conduct committee may not make an inference regarding responsibility solely on a witness' or party's absence from the hearing or refusal to answer questions.

(6) Privileged evidence. The student conduct committee shall not consider legally privileged information unless the holder has effectively waived the privilege. Privileged information includes, but is not limited to, information protected by the following:

(a) Spousal/domestic partner privilege;

(b) Attorney-client and attorney work product privileges;

(c) Privileges applicable to members of the clergy and priests;

(d) Privileges applicable to medical providers, mental health therapists, and counselors;

(e) Privileges applicable to sexual assault and domestic violence advocates; and

(f) Other legal privileges identified in RCW 5.60.060.

[]

NEW SECTION

WAC 132T-105-080 Initial order. (1) In addition to complying with WAC 132T-100-070 and 132T-100-210, the student conduct committee will be responsible for conferring and drafting an initial order that:

(a) Identifies the allegations of sexual harassment;

(b) Describes the grievance and disciplinary procedures, starting with filing of the formal complaint through the determination of responsibility, including notices to parties, interviews with witnesses and parties, site visits, methods used to gather evidence, and hearings held;

(c) Makes findings of fact supporting the determination of responsibility;

(d) Reaches conclusions as to whether the facts establish whether the respondent is responsible for engaging in sexual harassment in violation of Title IX;

(e) Contains a statement of, and rationale for, the student conduct committee's determination of responsibility for each allegation;

(f) Describes any disciplinary sanction(s) or condition(s) imposed against the respondent, if any;

(g) Describes to what extent, if any, complainant is entitled to remedies designed to restore or preserve complainant's equal access to the college's education programs or activities; and

(h) Describes the process for appealing the initial order to the college president.

(2) The student conduct committee chair will serve the initial order on the parties simultaneously.

[]

NEW SECTION

WAC 132T-105-090 Appeals. (1) The parties shall have the right to appeal from the initial order's determination of responsibility and/or dismissal of an allegation(s) of sexual harassment in a formal complaint. The right to appeal will be subject to the same procedures and time frames set forth in WAC 132T-100-070 and 132T-100-220.

(2) The president or designee will determine whether the grounds for appeal have merit, provide the rationale for this conclusion, and state whether the disciplinary sanction(s) and condition(s) imposed in the initial order are affirmed, vacated, or amended, and if amended, set forth any new disciplinary sanction(s) and/or condition(s).

(3) The president's decision is final. The office of the president shall serve the final decision on the parties simultaneously.

[]

WSR 22-18-053
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Filed August 30, 2022, 4:02 p.m., effective October 1, 2022]

Effective Date of Rule: October 1, 2022.

Purpose: The proposed rule changes add "location services" and "terms of use" to the commercial fish receiving ticket definitions and require location services on a user's mobile computing device (specifically, but not limited to, smartphone or tablet) be enabled when required by the terms of use of a department-approved mobile catch reporting software or application. Location services allows the geolocation of a user's mobile device be automatically determined at the time an electronic fish receiving ticket is submitted.

Enabling location services when required by the terms of use of a department-approved electronic catch reporting software or application so that a geolocation can be determined is a necessary tool to strengthen enforceability of deliveries when submitting an electronic fish receiving ticket. Paper fish tickets require the original receiver be present at the location and time of the purchase or delivery. When submitting an electronic fish receiving ticket using a mobile catch reporting software like the Washington department of fish and wildlife-developed WA-tix application, there is a potential loophole for users to not be physically present at the location of purchase or delivery. This could be problematic if there are requirements relative to the location where deliveries are allowed. Requiring that location services is enabled so that a geolocation can be determined when completing an electronic fish ticket when using a mobile application will address this enforcement challenge.

Citation of Rules Affected by this Order: Amending WAC 220-352-010 Fish receiving tickets definitions and 220-352-040 Required information for Washington state nontreaty fish receiving tickets.

Statutory Authority for Adoption: RCW 77.04.020, 77.12.045, and 77.12.047.

Adopted under notice filed as WSR 22-11-084 on May 17, 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 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 2, 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: August 26, 2022.

B. Baker
Chair

OTS-3803.2

AMENDATORY SECTION (Amending WSR 18-11-052, filed 5/10/18, effective 6/10/18)

WAC 220-352-010 Fish receiving ticket definitions. The following definitions apply to this chapter:

(1) "Department" means the Washington Department of Fish and Wildlife, Fish Program - Commercial Harvest Data Team, 600 Capitol Way North, Olympia, Washington 98501-1091.

(2) "Fish" means food fish classified under WAC 220-300-370, game fish classified under WAC 220-300-380, and any other fish species subject to catch or harvest reporting requirements under state or federal law.

(3) "Fish broker" means a person who facilitates the sale or purchase of raw or frozen fish or shellfish on a fee or commission basis, without assuming title to the fish or shellfish and is required to have a fish dealer license.

A broker is not required to have a fish dealer license if the fish or shellfish only transit the state of Washington, and no storage, handling, processing, or repackaging occurs within the state.

(4) "Fish buyer," "buyer," or "wholesale fish buyer" means a person who:

(a) Takes first possession or ownership of fish or shellfish directly from a commercial fisher that is landed into the state of Washington; or

(b) Takes first possession or ownership of raw or frozen fish or shellfish in the state of Washington from interstate or foreign commerce; or

(c) Engages in the wholesale buying or selling of fish or shellfish harvested by fishers exercising treaty rights; or

(d) Acts as an agent for a wholesale fish buyer, to include purchasing or receiving fish or shellfish on a contractual basis.

(5) "Fish receiving ticket" is an official department document, available in paper or electronic form, for recording the delivery of commercial fish and shellfish and related transactions identified in WAC 220-352-020.

(6) "Fisher" means a person engaged in commercial fishing activities.

(7) "Fresh" or "raw" means unprocessed and unfrozen, regardless of whether the fish or shellfish are in the round, cleaned, or packaged for retail sale.

(8) "Frozen" means completely frozen throughout. Flash frozen and surface glaze frozen fish and shellfish are unfrozen fish and shellfish.

(9) "Groundfish" refers to the flatfish, rockfish, and roundfish species managed under the Pacific Fishery Management Council's Pacific Coast Groundfish Fishery Management Plan and equivalent management plans in British Columbia and Alaska. The term is largely synonymous with the definition of "bottomfish" at WAC 220-300-040 but identifies a more limited subset of species.

(10) For deliveries made from the groundfish fisheries operating under 50 C.F.R., Part 660, the terms "to land((=)),", "landing((=)),", and "landed" are equivalent to the term "to deliver" as defined under RCW 77.15.630 (4) (b).

(11) "Location services" is a feature of an electronic computing device which enables applications and websites to automatically generate a geographic location of a person or device.

(12) "Nontreaty" means all entities not qualified by definition as "treaty."

~~((12))~~ (13) Except as provided, "original receiver" or "receiver" means a person who holds a wholesale fish buyer endorsement or a limited fish seller endorsement. Except as provided, an original receiver means the first person in possession of fish or shellfish in the state of Washington who is acting in the capacity of a buyer:

(a) A fisher who is not the holder of a limited fish seller endorsement and who sells fish or shellfish to anyone other than a wholesale fish buyer, or a fisher who delivers fish or shellfish and places the fish or shellfish into interstate or foreign commerce, is the original receiver of the fish or shellfish;

(b) A cold storage facility that holds fish or shellfish for a fisher is not an original receiver, provided that the facility does not process, package, or otherwise handle the fish or shellfish;

(c) A person transporting fish or shellfish on behalf of a fisher, and who is in possession of an accurately completed commercial food fish and shellfish transportation ticket, is not an original receiver, provided that the fish or shellfish are transported only to a cold storage facility or to a wholesale fish buyer.

~~((13))~~ (14) "Processed" means preparing and preserving and requires a fish buyer's license. Preserving includes treating with heat, including smoking and kippering. Cooked crab is processed. Preserving also includes freezing fish and shellfish.

~~((14))~~ (15) "Shellfish" means shellfish classified under WAC 220-320-010 and any other marine invertebrate species subject to catch or harvest reporting requirements under state or federal law.

~~((15))~~ (16) "Terms of use" are the rules, specifications, and requirements for the use of department-approved electronic catch reporting software or applications.

(17) "Treaty" and "treaty Indian," for purposes of fish receiving tickets only, means persons who are members of federally recognized Indian tribes who harvest fish or shellfish in Washington pursuant to an Indian treaty, whether such harvest is on or off reservation.

~~((16))~~ (18) "Working day" means Monday through Friday, exclusive of a Washington state or federal holiday.

[Statutory Authority: RCW 77.04.090 and 77.04.130. WSR 18-11-052 (Order 18-92), § 220-352-010, filed 5/10/18, effective 6/10/18. Statutory Authority: RCW 77.04.090, 77.04.130, 77.15.568, 77.08.010, 77.65.510, 77.65.515, and 77.65.520. WSR 17-22-100, § 220-352-010, filed 10/30/17, effective 1/1/18. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-352-010, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, 77.12.047, and 50 C.F.R. Part 660. WSR 17-03-006 (Order 17-04), § 220-69-210, filed 1/4/17, effective 1/4/17. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.055, 77.12.045, and 77.12.047. WSR 14-02-013 (Order 13-304), § 220-69-210, filed 12/19/13, effective 1/19/14. Statutory Authority: RCW 77.04.020, 77.12.045, 77.12.047, and 50 C.F.R. 660. WSR 12-04-028 (Order 12-09), § 220-69-210, filed 1/26/12, effective 2/26/12. Statutory Authority: RCW 77.12.047. WSR 04-17-096 (Order 04-210), § 220-69-210, filed 8/17/04, effective 9/17/04. Statutory Authority: RCW 75.08.080. WSR 00-01-145 (Order

99-221), § 220-69-210, filed 12/20/99, effective 1/20/00; Order 76-153, § 220-69-210, filed 12/17/76.]

AMENDATORY SECTION (Amending WSR 18-11-052, filed 5/10/18, effective 6/10/18)

WAC 220-352-040 Required information for Washington state non-treaty fish receiving tickets. (1) The following information is required to be reported on all nontreaty fish receiving ticket forms for all deliveries except imports (WAC 220-352-020 (1)(b)):

(a) Fisher identification: The name and license number of the licensed deliverer.

(b) Address: The address of the licensed deliverer.

(c) Boat name: The name or Coast Guard number of the landing vessel, unless the fishery does not require a vessel.

(d) WDFW boat registration: The Washington department of fish and wildlife boat registration number, unless the fishery does not require a vessel.

(e) Gear: The code number or name of the specific type of gear used.

(f) Fisher's signature: The signature of the licensed deliverer as required in WAC 220-352-140.

(g) Date: Date of landing.

(h) Original receiver: Name of original receiver and the department number assigned to original receiver.

(i) Buyer identification: The name of buyer and the department number assigned to buyer.

(j) Receiver's signature: The signature of the original receiver as required in WAC 220-352-140.

(k) Number of days fished: Days spent catching fish.

(l) Fish or shellfish caught inside or outside 3-mile limit: Check one box.

(m) Catch area:

(i) The salmon catch area code if salmon are caught.

(ii) The marine fish/shellfish catch area code if marine fish are caught or shellfish are caught or harvested.

(n) Port: Port or landing location of delivery using the relevant location code in use by the department.

(o) Species description: Species must be reported using the relevant species or species category code in use by the department.

(p) Delivery amounts:

(i) Number of individuals caught: Deliveries of salmon and sturgeon and all species landed as part of an incidental catch allowance or catch ratio restriction that is expressed in numbers of fish must be reported as counts of individuals.

(ii) The number of ghost shrimp in dozens, the number of oysters in dozens or gallons.

(iii) The original total weight in round pounds of all shellfish or fish, except that pounds of legally dressed fish and shellfish may be recorded in original dressed weight so long as dressed fish and shellfish are designated as dressed on the fish receiving ticket.

(q) Value of fish and shellfish sold or purchased.

(i) Summary information for species or species groups landed: Price per pound or per unit and total value for the line.

(ii) Total amount: Total value of landing.

(r) Take-home fish: Species, number, and pounds of fish or shellfish retained for personal use.

(s) Crew: The name and signature of crew members who take home fish for personal use.

(t) Fish ticket number: Alphanumeric or numeric code assigned to uniquely identify the fish ticket.

(u) Any other fishery specific requirements under this chapter.

(2) For deliveries reported using paper fish receiving ticket forms:

(a) A valid license card or duplicate license card issued by the department used with an approved mechanical imprinter satisfies the requirements in subsection (1)(a) through (e) of this section except as provided in WAC 220-352-150.

(b) A valid dealer or buyer card issued by the department used with an approved mechanical imprinter satisfies the requirements in subsection (1)(h) and (i) of this section.

(3) For import deliveries under WAC 220-352-020 (1)(b), the receiver must:

(a) Report the following information on the fish receiving ticket form:

(i) Place of origin: Area of harvest using the department provided area code.

(ii) Date of import: Date the fish or shellfish entered Washington state.

(iii) Buyer or broker name.

(iv) Fisher or harvester name.

(v) Deliverer name.

(vi) Delivery amount: Species description and weights.

(b) Attach any previously completed fish receiving ticket, or equivalent document, or the bill of lading to the receiver's retained copy of the paper or electronic fish receiving ticket form.

(4) For deliveries reported using electronic fish receiving tickets: If required by the terms of use of a department-approved electronic catch reporting software or application, the receiver must enable location services so that geolocation may be automatically determined during completion and submission of a fish receiving ticket in accordance with WAC 220-352-060.

[Statutory Authority: RCW 77.04.090 and 77.04.130. WSR 18-11-052 (Order 18-92), § 220-352-040, filed 5/10/18, effective 6/10/18. Statutory Authority: RCW 77.04.090, 77.04.130, 77.15.568, 77.08.010, 77.65.510, 77.65.515, and 77.65.520. WSR 17-22-100, § 220-352-040, filed 10/30/17, effective 1/1/18. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-352-040, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.055, 77.12.045, and 77.12.047. WSR 14-02-013 (Order 13-304), § 220-69-230, filed 12/19/13, effective 1/19/14. Statutory Authority: RCW 77.04.020, 77.12.047, 50 C.F.R. § 660.370, and 50 C.F.R. § 300.63. WSR 10-02-002 (Order 09-262), § 220-69-230, filed 12/23/09, effective 1/23/10. Statutory Authority: RCW 77.12.047. WSR 07-23-002 (Order 07-279), § 220-69-230, filed 11/7/07, effective 12/8/07; WSR 07-04-030, § 220-69-230, filed 1/29/07, effective 3/1/07. Statutory Authority: RCW 75.08.080. WSR 00-01-145 (Order 99-221), § 220-69-230, filed 12/20/99, effective 1/20/00; WSR 85-11-020 (Order 85-43), § 220-69-230, filed 5/10/85; WSR 84-08-014 (Order 84-24), § 220-69-230, filed 3/27/84; WSR 83-24-049 (Order 83-203), § 220-69-230, filed

12/2/83; WSR 80-05-093 (Order 80-27), § 220-69-230, filed 5/2/80; WSR 78-03-031 (Order 78-7), § 220-69-230, filed 2/17/78; Order 76-153, § 220-69-230, filed 12/17/76.]

WSR 22-18-059

PERMANENT RULES

DEPARTMENT OF

CHILDREN, YOUTH, AND FAMILIES

[Filed August 31, 2022, 12:03 p.m., effective October 1, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Repeal chapter 110-300D WAC, Outdoor preschool pilot project.

Citation of Rules Affected by this Order: Repealing WAC 110-300D-0001, 110-300D-0005, 110-300D-0010, 110-300D-0015, 110-300D-0020, and 110-300D-0025.

Statutory Authority for Adoption: RCW 43.216.740.

Adopted under notice filed as WSR 22-13-022 on June 3, 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 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 0, Repealed 6.

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: August 31, 2022.

Brenda Villarreal
Rules Coordinator

OTS-3222.1

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 110-300D-0001 Authority.
- WAC 110-300D-0005 Findings and intent.
- WAC 110-300D-0010 Definitions.
- WAC 110-300D-0015 Pilot project licenses—Licensing rules.
- WAC 110-300D-0020 Denial, modification, suspension, and revocation of a pilot project license—Right of review.
- WAC 110-300D-0025 Process of seeking review.

WSR 22-18-065
PERMANENT RULES
WALLA WALLA
COMMUNITY COLLEGE

[Filed September 1, 2022, 9:40 a.m., effective October 2, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amending chapter 132T-190 WAC, Use of the college facilities, to align with state statutes and college regulations.

Citation of Rules Affected by this Order: [See amended and new sections attached.]

Statutory Authority for Adoption: Chapter 34.05 RCW; RCW 28B.50.140.

Adopted under notice filed as WSR 22-13-141 on June 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 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 4, Amended 5, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 4, Amended 5, 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: September 1, 2022.

Dr. Jean Hernandez
Consultant

OTS-3805.4

Chapter 132T-190 WAC
((POLICY ON THE)) USE OF THE COLLEGE FACILITIES

AMENDATORY SECTION (Amending Order 78-6, filed 10/24/77)

WAC 132T-190-010 Use of college facilities. ~~((Because the))~~ Walla Walla Community College ~~((is an educational institution provided and maintained by the people of the state, its campus, buildings, properties, and facilities shall be reserved at all times for those activities which either))~~ District 20 provides continued educational opportunities that are related directly to its educational mission or are justifiable on the basis of their contributions to the cultural, social, or economic development of ((the state)) its service district. In keeping with this general purpose, the college believes that facilities should be available for a variety of uses that are of benefit to the general public, provided said uses do not interfere with the educational mission of the college. However, a state agency is under

no obligation to make its public facilities available to the community for private purposes.

[Order 78-6, § 132T-190-010, filed 10/24/77.]

AMENDATORY SECTION (Amending Order 78-6, filed 10/24/77)

WAC 132T-190-020 Limitations ((ef)) on the use ((te)) of college facilities for school activities. The college buildings, properties, grounds, athletic fields, parking lots, and facilities, including those of the associated student body, may be used only for:

(1) The regularly established teaching, research, or public service activities of the college and its departments or related agencies.

(2) Cultural, educational, or recreational activities of the students (~~or of the~~), faculty, (~~or~~) staff, or contracted partners.

(3) Short courses, conferences, seminars, or similar events, conducted either in the public service or for the advancement of specific departmental professional interests, when arranged under the official sponsorship of the college ((or)), its departments, associated student body, or contracted partners.

(4) Public events of a cultural or professional nature brought to the campus at the request of college departments or committees (~~and presented with their active~~), official sponsorship, and active participation.

(5) Activities or programs sponsored by educational institutions, by state or federal agencies, by charitable agencies (~~or~~), civic groups, or community organizations whose activities are of widespread public service and of a character appropriate to the college.

(6) College facilities may be assigned to college recognized student organizations for regular business meetings, social functions, and for programs open to the public. Any college recognized student organization may invite speakers from outside the college community to speak on campus, subject to the availability of facilities and in compliance with administrative policies and procedures on the use of college facilities and expressive speech. The appearance of an invited speaker on campus does not represent an endorsement by the college, its students, employees, or board of trustees, implicitly or explicitly, of the speaker's views.

(7) Reasonable conditions may be imposed to regulate the appropriateness of requests, of space assigned, time of use, and to ensure the proper maintenance of the facilities. Subject to the same limitations, individuals or groups within the college community may request use of college facilities. Arrangements by both organizations and individuals must be made through the designated administrative officer per the college's administrative policies and procedures.

(8) The college may restrict an individual's or group's use of college facilities if that person or group has, in the past, damaged or destroyed college facilities. Charges may be imposed for any damage or theft during the use of the facilities. The individual, group, or organization requesting space will be required to state in advance the general purpose of any meeting.

[Order 78-6, § 132T-190-020, filed 10/24/77.]

NEW SECTION

WAC 132T-190-025 Statement of intentions. The college neither intends nor desires to compete with any local agency or private enterprise in making its facilities available to the community. Privately operated facilities exist which are well qualified to best meet many community needs. The college encourages the community to patronize local businesses or agencies. With this approach, the college will work cooperatively with local private enterprise to the mutual benefit of all concerned.

[]

AMENDATORY SECTION (Amending WSR 82-24-021, filed 11/22/82)

WAC 132T-190-030 (~~(Limitation of use.)~~) Restrictions on the use of college facilities. (1) Primary consideration shall always be given (~~(at all times)~~) to activities specifically related to the college's mission (~~(, and)~~). No arrangements shall be made that may interfere with, or operate to the detriment of, the college's own teaching, research, or public service programs.

(2) (~~(In general, the)~~) College facilities (~~(of the college)~~) shall not be rented to (~~(,)~~) or used by (~~(,)~~) private or commercial organizations or associations, nor shall the facilities be rented to persons or organizations conducting programs for private gain unless their use aligns with the college mission.

(3) (~~(College facilities may not be used for commercial sales, advertising or promotional activities except when such activities clearly serve educational objectives (as in display of books of interest to the academic community or in the display or demonstration of technical or research equipment) and when they are conducted under the sponsorship or at the request of a college department or office or of the associated student body.~~)

~~(4))~~ College facilities may not be used for purposes of political campaigning by or for candidates who have filed for public office except (~~(for student-sponsored activities)~~) in cases of sponsored public forums. (~~(Rules, regulations, policies, procedures and practices regarding the use of college facilities shall not discriminate or promote discrimination among political parties, groups or candidates solely on the basis of their particular political viewpoint.~~)

~~(5) Activities of commercial or political nature will not be approved if they involve the use of promotional signs or posters on buildings, trees, walls, or bulletin boards, or the distribution of samples outside rooms or facilities to which access by be granted.~~

~~(6) Because of limitations imposed by the constitution of the state of Washington, the facilities of the college may not be used for the purpose of religious worship, exercise or instruction, except as provided in WAC 132T-190-030(7).~~

~~(7) College facilities are available to all recognized student groups and faculty or staff organizations, subject to these general policies, except as provided in WAC 132T-190-030(6), and to the rules and regulations of the college governing student, faculty and staff affairs.~~

~~(8) Handbills, leaflets and similar materials, except those which are commercial, obscene, or unlawful in character, may be distributed~~

on the campus by regularly enrolled students, members of recognized student organizations or college personnel.)

(4) Religious groups shall not use college facilities as a permanent meeting place. Use may be intermittent only.

(5) These rules shall apply to students, employees, recognized student groups, contracted partners, and visitors using college facilities.

(6) Materials may be distributed only in designated areas on the campus where, and at times when, such distribution shall not interfere with the orderly administration of the ((college)) college's affairs or the free flow of traffic. Any distribution of materials as authorized by the designated administrative officer shall not be construed as support or approval of the content by the college community or board of trustees. Persons and organizations not connected with the college may not distribute handbills ((and)) or similar materials. The use of posters or any other materials that could leave permanent physical markings or damage facilities must be preapproved by the designated administrative officer and in compliance with the college's administrative policies and procedures.

((+9)) (7) Exterior audio amplifying equipment is permitted only in locations and at times that will not interfere with the normal conduct of college affairs as determined by the appropriate administrative officer. All sound amplification devices must be used at a volume that does not disrupt the normal use of classrooms, offices, laboratories, or any previously scheduled college event or activity.

((+10)) (8) No person or group may use or enter onto college facilities having in their possession firearms, even though licensed to do so, except commissioned police officers as prescribed by law, this chapter, and WAC 132T-100-132.

(9) The right of peaceful dissent within the college community will be preserved. The college retains the right to take steps to ensure the safety of individuals, the continuity of the educational process, and the protection of property. While peaceful dissent is acceptable, violence or disruptive behavior is not a legitimate means of dissent. Should any person, group, or organization attempt to resolve differences by means of violence, the college and its officials need not negotiate while such methods are employed.

(10) Orderly picketing and other forms of peaceful dissent are protected activities on and about the college premises; however, interference with free passage through areas where members of the college community have a right to be, interference with ingress and egress to college facilities, interruption of classes, injury to persons, or damage to property exceeds permissible limits.

(11) Where college space is used for an authorized function (such as a class or a public or private meeting under approved sponsorship, administrative functions, or service related activities), groups must obey and comply with the directions of the designated administrative officer, campus public safety officer, or individual in charge of the meeting.

(12) If a college facility abuts a public area or street, and if an activity, although on public property, unreasonably interferes with ingress and egress to college property, the college may choose to impose its own sanctions on any individual on college property who violates this chapter, although remedies might be available through local law enforcement agencies.

(13) Walla Walla Community College District 20 shall be open to the public between the hours of 7:00 a.m. and 10:00 p.m., Monday

through Friday, except for holidays or other announced closures of the college and in accordance with the college's administrative policies and procedures on use of college facilities and expressive speech. Individual building hours may vary due to scheduled functions or activities. Employees of the college who have college-related business may be in the college facilities outside of these hours.

[Statutory Authority: RCW 28B.50.140 and chapter 28B.19 RCW. WSR 82-24-021 (Resolution No. 83-4), § 132T-190-030, filed 11/22/82; Order 78-6, § 132T-190-030, filed 10/24/77.]

NEW SECTION

WAC 132T-190-035 Use of facilities for expressive activities.

Walla Walla Community College District 20 provides guidelines for expressive activity on the college premises within this chapter and through its administrative policies and procedures on use of college facilities and for expressive speech.

Students, employees, student organizations, and the public may use prespecified locations on college facilities for expressive activities during the college's hours of operation as stated in WAC 132T-190-033 and in accordance with the college's administrative policies and procedures on the use of college facilities and for expressive speech.

(1) The activity must be conducted in accordance with any other applicable board policies, college policies, and regulations at the college, including at the local, state, and federal levels.

(2) Expressive activities do not include obscene, lewd, or indecent conduct. Expressive speech or actions that use abusive language or conduct, and thereby intentionally create a risk of assault or disrupt any college function is disorderly conduct.

[]

AMENDATORY SECTION (Amending Order 78-6, filed 10/24/77)

WAC 132T-190-040 Administrative control. The board hereby delegates to the president authority to set up administrative policies and procedures for ((proper review of)) the use of college facilities; to establish, within the framework of these policies, regulations governing such use; and to establish rental schedules where appropriate. The college reserves the right to determine if an infraction of these rules has been committed.

[Order 78-6, § 132T-190-040, filed 10/24/77.]

AMENDATORY SECTION (Amending Order 78-6, filed 10/24/77)

WAC 132T-190-050 Trespass. (1) Individuals who are not students ((~~or~~)), members of the faculty or staff, or contracted partners and who violate these regulations will be advised of the specific nature

of the violation, and if they persist in the violation, they will be requested by the ((campus)) president((7)) or ((his)) designee((7)) to leave the college property. Such a request ((will be deemed to)) prohibits the entry of, withdraws the license or privilege to enter onto, or remain upon any portion of the college facilities by the person or group of persons requested to leave, and subject such individuals to arrest under the provisions of chapter 9A.52 RCW ((9.88.080)).

(2) Members of the college community (students, faculty ((and)), and staff, and contracted partners) who do not comply with these regulations will be reported to the appropriate college office or agency for action in accord with established regulations in Title 132T WAC and college policies.

(3) Any person who violates or is in violation of a ((district)) college policy may have the license or privilege to be on ((district)) college property revoked and ordered to withdraw from and refrain from entering upon any ((district)) college property. Remaining on or reentering ((district)) college property after one's license or privilege to be on ((district)) college property has been revoked shall constitute trespass and such individual shall be subject to arrest for criminal trespass.

[Order 78-6, § 132T-190-050, filed 10/24/77.]

NEW SECTION

WAC 132T-190-060 Control of pets on college facilities. Pets on the grounds of Walla Walla Community College District 20 shall be in the physical control of their owner in accordance with local and state laws, on a leash, and all waste must be removed from the college premises. Animals are prohibited from entering buildings operated by the college, except for service animals as an accommodation for a disability in accordance with state laws, Walla Walla municipal codes, and the college's administrative policies and procedures.

[]

NEW SECTION

WAC 132T-190-070 Fee schedule and application process. The college's fee schedule for use of facilities and application process are available on its website.

[]

WSR 22-18-068
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Filed September 1, 2022, 2:02 p.m., effective October 2, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of this rule making is to modify the current rule governing free fishing weekend. The rule, as adopted, restricts the waiver of a license requirement on free fishing weekend to fish that do not require a catch record card (CRC). This eliminates the waiver for shellfish and species requiring a CRC on free fishing weekend unless the angler/harvester is otherwise lawfully allowed to harvest those species (i.e., is in possession of a valid license appropriate for those species and, if required, is also in possession of the appropriate CRC).

Citation of Rules Affected by this Order: Amending WAC 220-220-230.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.055, 77.12.047, 77.32.010, 77.32.025, 77.32.090.

Adopted under notice filed as WSR 22-07-098 on March 22, 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 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 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: July 15, 2022.

B. Baker
Commission Chair

OTS-3693.1

AMENDATORY SECTION (Amending WSR 19-20-074, filed 9/27/19, effective 10/28/19)

WAC 220-220-230 Free fishing weekend. The Saturday and Sunday following the first Monday in June is declared to be free fishing weekend in Washington. On this weekend a fishing license is not required for any person, regardless of age or residency, to fish for or possess fish ((and shellfish and a fish and wildlife lands vehicle use permit is not required to utilize department parking facilities except that it is unlawful to fish for or possess any species for which a catch record is required without a valid catch record card in possession-)) for which a catch record card is not required. On free fishing weekend, anglers may fish with two poles in all lakes where it is le-

gal to do so without purchasing a two-pole endorsement (~~(. During free fishing weekend)~~), and a fish and wildlife lands vehicle access pass is not required to use department parking facilities. Only the license, endorsements, and permit provided for in this section are affected, and all other rules ((including the catch record card requirement)) remain in effect.

Free fishing weekend does not apply to fish that require a catch record card or shellfish, and any licensure requirements otherwise provided for by rule continue to apply to those species.

[Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.240, 77.12.800, 77.32.090 and 77.32.470. WSR 19-20-074 (Order 19-240), § 220-220-230, filed 9/27/19, effective 10/28/19. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-220-230, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.04.020 and 77.12.047. WSR 11-16-103 (Order 11-184), § 220-55-160, filed 8/3/11, effective 9/3/11. Statutory Authority: RCW 77.12.047. WSR 06-13-023 (Order 06-135), § 220-55-160, filed 6/13/06, effective 7/14/06. Statutory Authority: RCW 75.08.080 and 77.12.040. WSR 99-08-029 (Order 99-13), § 220-55-160, filed 3/30/99, effective 5/1/99.]

WSR 22-18-080
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed September 6, 2022, 8:30 a.m., effective October 7, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of this rule making is to create chapter 296-801 WAC, Protecting temporary workers, to implement requirements from SHB 1206, passed by the Washington state legislature in 2021, codified as RCW 49.17.490. RCW 49.17.490 requires staffing agencies to assess the employer's safety and health practices at the workplace that the employee will be working. They must assess the safety conditions, the tasks the employee will be completing, as well as the safety program that the employer has in place. These inquiries are required to take place at the start of the contract, and it may involve the staffing agency visiting the actual work site. The adopted rule making incorporates the statutory language passed by the legislature and includes requirements for staffing agencies and worksite employers. Please see below for an overview of the adopted language.

New sections:

WAC 296-801-098 Purpose and scope

- Indicates this new chapter applies to the safety and health requirements for staffing agencies and worksite employers consistent with RCW 49.17.490, Temporary workers—Safety—Staffing agency and worksite employer duties.

WAC 296-801-099 Definitions

- Adds definitions for "staffing agency" and "worksite (also referred to as host) employer."

WAC 296-801-100 Staffing agency requirements

- Indicates the requirements a staffing agency must follow before there is an employee assigned to a worksite.

WAC 296-801-110 Worksite employer requirements

- Indicates the requirements a worksite employer must follow before all temporary employees perform worksite duties for the employer.

Citation of Rules Affected by this Order: New WAC 296-801-098, 296-801-099, 296-801-100, and 296-801-110.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060, and 49.17.490.

Other Authority: RCW 49.17.490.

Adopted under notice filed as WSR 22-13-150 on June 21, 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 4, 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 4, 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: September 6, 2022.

Joel Sacks
Director

OTS-3761.2

Chapter 296-801 WAC
PROTECTING TEMPORARY WORKERS

NEW SECTION

WAC 296-801-098 Purpose and scope. Chapter 296-801 WAC provides health and safety requirements for staffing agencies and worksite (or host) employers consistent with RCW 49.17.490 Temporary workers—Safety—Staffing agency and worksite employer duties. The requirements in this chapter are limited to employers classified under the North American Industry Classification System (NAICS) in Sectors 31 through 33 (manufacturing), and code 561320 (temporary help services).

Notes:

1. The NAICS is maintained by the U.S. Census Bureau (<https://www.census.gov/naics/>).
2. Washington state employers can typically find their NAICS code, by using the business lookup tool on the Washington state department of revenue's website (<https://dor.wa.gov/>).

[]

NEW SECTION

WAC 296-801-099 Definitions. Staffing agency. An employer whose business is classified under the North American Industry Classification System (NAICS) 561320 industry sector. In general, these organizations recruit and hire employees and temporarily assigns those employees to perform work or services for another organization, under such other organization's supervision, to:

- (a) Support or supplement the other organization's workforce;
- (b) Provide assistance in special work situations including, but not limited to, employee absences, skill shortages, or seasonal workloads; or
- (c) Perform special assignments or projects.

Worksite (also referred to as host) employer. An employer with which a staffing agency contracts or otherwise agrees to furnish persons for temporary employment in the industries described in NAICS sectors 23 (construction industry sector), and 31 through 33 (manufacturing industry sector).

[]

NEW SECTION

WAC 296-801-100 Staffing agency requirements. Before the assignment of an employee to a worksite employer, a staffing agency must:

(1) Inquire about the worksite employer's safety and health practices and hazards at the actual workplace where the employee will be working to assess the safety conditions, workers tasks, and the worksite employer's safety program; these activities are required at the start of any contract to place workers and may include visiting the actual worksite. If, during the inquiry or anytime during the period of the contract, the staffing agency becomes aware of existing job hazards that are not mitigated by the worksite employer, the staffing agency must make the host employer aware, urge the host employer to correct it, and document these efforts, otherwise the staffing agency must remove the temporary workers from the worksite;

(2) Provide training to the employee for general awareness safety training for recognized industry hazards the employee may encounter at the worksite. Industry hazard training must be completed, in the preferred language of the employee, and must be provided at no expense to the employee. The training date and training content must be maintained by the staffing agency and provided to the employee upon request;

(3) Transmit a general description of the training program including topics covered to the worksite employer, whether electronically or on paper, at the start of the contract with the worksite employer;

(4) Provide the department's hotline number (1-800-4BS-SAFE, or 1-800-423-7233 and using option 2, then option 2 again to report unsafe working conditions) for the employee to call to report safety hazards and concerns as part of the employment materials provided to the employee; and

(5) Inform the employee who the employee should report safety concerns to at the workplace.

Note: A staffing agency or employee may refuse a new job task at the worksite when the task has not been reviewed or if the employee has not had appropriate training to do the new task.

[]

NEW SECTION

WAC 296-801-110 Worksite employer requirements. (1) Before each temporary employee engages in work for the worksite employer, the worksite employer must:

(a) Document and inform the staffing agency about anticipated job hazards likely encountered by the staffing agency employee/temporary employee;

(b) Review the safety and health awareness training provided by the staffing agency to determine if it addresses recognized hazards for the worksite employer's industry;

(c) Provide specific training tailored to the particular hazards at their workplaces; and

(d) Document and maintain records of site-specific training and provide confirmation that the training occurred to the staffing agency within three business days of providing the training.

(2) If at any time during the period of the contract the staffing agency notifies the worksite employer of job hazards that are not mitigated, the worksite employer must address them and ensure correction.

(3) If the worksite employer changes the job tasks or work location and new hazards may be encountered, the worksite employer must:

(a) Inform both the staffing agency and the employee; and

(b) Inform both the staffing agency and the employee of job hazards not previously covered before the employee undertakes the new tasks and update personal protective equipment and training for the new job tasks, if necessary.

[]

WSR 22-18-091
PERMANENT RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed September 7, 2022, 8:10 a.m., effective October 8, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 192-150-180 currently references RCW 50.20.050(3). Section 4, chapter 251, Laws of 2021 (ESSB 5190), added a new subsection (3) to RCW 50.20.050 and renumbered the previous subsection (3) as subsection (4). This amendment to WAC 192-150-180 will replace the reference to RCW 50.20.050(3) with a reference to RCW 50.20.050(4).

Citation of Rules Affected by this Order: Amending WAC 192-150-180.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040 provide general rule-making authority to the employment security department. RCW 50.20.050 addresses disqualifications for quitting part-time work when an individual was simultaneously employed in a part-time job and a full-time job.

Adopted under notice filed as WSR 22-13-014 on June 2, 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 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 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: September 7, 2022.

Dan Zeitlin
Employment System Policy Director

OTS-3804.1

AMENDATORY SECTION (Amending WSR 17-17-129, filed 8/22/17, effective 9/22/17)

WAC 192-150-180 Quitting part-time work—RCW 50.20.050(~~(3)~~)

(4). (1) **Definitions.** For purposes of this section:

(a) "Part-time work" means fewer than (~~(35)~~) thirty-five hours of work per week.

(b) "Full-time work" means work of (~~(35)~~) thirty-five or more hours per week.

(2) If you are simultaneously employed in a part-time job and a full-time job, you will not be denied benefits for quitting the part-time job under the following circumstances:

(a) You quit the part-time job before losing your full-time job;

(b) You did not know in advance that your full-time job would be ending; and

(c) You are eligible for benefits based on the separation from your full-time job.

(3) If you are denied benefits under RCW 50.20.050(~~(+3)~~) (4), the period of denial is the same as that under RCW 50.20.050 (2)(a). This means you will be denied for a period of seven weeks and until you earn at least seven times your weekly benefit amount in covered employment.

(4) **Examples.** The following are examples only and do not mean that the department would rule the same in similar situations.

(a) *You quit a part-time job two weeks before being laid off from your full-time job.* Benefits are allowed because you meet the criteria of subsection (2) of this section.

(b) *You quit a part-time job before the hours at your full-time job were reduced.* Benefits are allowed because you meet the criteria of subsection (2) of this section.

(c) *You quit a part-time job two weeks before the end of a temporary full-time job.* You had prior knowledge that the full-time job was ending. Benefits would be denied unless you had good cause for quitting the part-time job under RCW 50.20.050(2).

(d) *You quit a part-time job two weeks before being discharged from the full-time job.*

(i) If the separation from the full-time job was for misconduct, benefits would be denied for quitting the part-time job because you are not eligible for benefits based on the separation from the full-time job.

(ii) If the separation from the full-time job was not misconduct, benefits would be allowed because you meet the criteria of subsection (3).

(e) *You quit the part-time job and the full-time job on the same day.* The department will determine if you had good cause to quit both jobs under RCW 50.20.050(2).

(f) *You quit a part-time job but are still employed full-time at your other job.* The department will determine if you had good cause to quit under RCW 50.20.050(2).

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 17-17-129, § 192-150-180, filed 8/22/17, effective 9/22/17. Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. WSR 09-24-008, § 192-150-180, filed 11/20/09, effective 12/21/09.]