

**WSR 24-10-006
EMERGENCY RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION**

[Filed April 18, 2024, 10:40 a.m., effective April 18, 2024, 10:40 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule making is to extend the apportionment advance request and payout periods for school districts and charter schools, and to establish requirements for repayment assurance and apportionment advance repayment schedules for funds received. As a result of enrollment declines, expiring access to federal COVID[-19] relief, unanticipated rise in uncontrollable costs, and other unforeseen events, many districts have experienced unprecedented financial difficulties. Extending the apportionment request, payout, and repayment periods would allow districts to access funds that are essential for the continuity of operations, maintenance, and other education services.

Citation of Rules Affected by this Order: Amending WAC 392-121-436, 392-121-438, and 392-121-443.

Statutory Authority for Adoption: RCW 28A.150.290, 28A.710.220.

Other Authority: RCW 28A.510.250.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Given the unprecedented financial effects of enrollment declines, expiring access to federal COVID[-19] relief, unanticipated rise in uncontrollable costs, and other unforeseen events, the immediate adoption of this emergency rule to extend districts' and charter schools' access to apportionment advances is necessary for the preservation of public health, safety, and the general welfare.

The office of superintendent of public instruction will also conduct permanent rule making concerning the extension of apportionment advance request, payout, and repayment periods.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 3, Repealed 0.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 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: April 16, 2024.

Chris P. S. Reykdal
State Superintendent of Public Instruction

OTS-5363.1

AMENDATORY SECTION (Amending WSR 15-18-078, filed 8/28/15, effective 9/28/15)

WAC 392-121-436 Emergency advance payments—School district application. The board of directors of a school district or a charter school board may apply for any emergency advance on the school district's or charter school's basic education allocation. The application shall take the form of a resolution adopted by the board setting forth the following:

- (1) The nature of the unforeseen condition requiring the advance;
- (2) The amount requested to be advanced;
- (3) The net cash and investment balance of the general fund as of the date of the resolution;
- (4) A forecast of the general fund receipts, disbursements, and net cash and investment balance for each month remaining in the fiscal year; ~~((and))~~
- (5) A disclosure of any existing or planned general fund revenue anticipation notes ~~((-))~~;
- (6) A disclosure of any existing or planned general fund loan to or from another fund of the school district or charter school; and
- (7) A written acknowledgment that funds advanced will be repaid in accordance with WAC 392-121-443, subject to approval by the superintendent of public instruction.

AMENDATORY SECTION (Amending WSR 15-18-078, filed 8/28/15, effective 9/28/15)

WAC 392-121-438 Emergency advance payments—Approval criteria. The superintendent of public instruction shall approve requests for an emergency advance if the following conditions are met:

- (1) The unforeseen condition causing the need for the emergency advance could not have been anticipated by a reasonably prudent person.
- (2) It is probable that if the emergency advance is not made that the school district or charter school will be on:
 - (a) An interest-bearing, warrant-issuing basis within two months following the receipt of the resolution; and
 - (b) Warrant interest for at least three months from September through June.
- (3) The school district or charter school shall not have:
 - (a) Cash investments of the general fund during the months it estimates that it would pay warrant interest except for the emergency advance; or
 - (b) Inter-fund loans from the general fund to any other funds during the months it estimates that it would pay warrant interest; or
 - (c) Any existing or anticipated general fund revenue anticipated notes.

Applications and payouts for apportionment advances can be processed only during the months of October through July. Advance requests for the months of May and June shall not be approved if the superintendent of public instruction determines that the school district

or charter school would be short paid at the end of the fiscal year due to lack of appropriation of funds after considering transfer authority.

AMENDATORY SECTION (Amending WSR 15-18-078, filed 8/28/15, effective 9/28/15)

WAC 392-121-443 Emergency advance payments—Repayment of advances. Repayments of advances will be accomplished by a reduction in the school district's or charter school's apportionment payments ~~((~~en~~))~~. Under RCW 28A.510.250, all apportionment advances must be repaid during the apportionment year in which the funds are advanced. The repayment requirements are defined as follows:

(1) For advances received before June, at least 50 percent of the amount advanced must be repaid in or before June ~~((in))~~ of the current school year, with the remaining balance repaid no later than August of the current school year.

(2) For advances received in June, at least 50 percent of the amount advanced must be repaid in July of the current school year, with the remaining balance paid in August of the current school year.

(3) For advances received in July, the full balance must be repaid in August of the current school year.

(4) In no instance can an apportionment advance be repaid and re-approved in the subsequent month.