

WSR 07-14-157
EXPEDITED RULES
EMPLOYMENT SECURITY DEPARTMENT

[Filed July 5, 2007, 11:04 a.m.]

Title of Rule and Other Identifying Information: Sections within Title 192 WAC pertaining to applying for unemployment benefits (WAC 192-110-005, 192-110-010, 192-110-020, 192-110-050), determining eligibility for benefits (WAC 192-130-080, 192-140-100, 192-150-110, 192-150-150, 192-150-200, 192-150-215, 192-150-220), job search requirements (WAC 192-180-005, 192-180-010, 192-180-015, 192-180-025), educational employees (WAC 192-210-005), regular shareable benefits (WAC 192-240-020, 192-240-025, 192-240-030, 192-240-040), employer reports and records (WAC 192-310-010, 192-310-020, 192-310-055), and calculating wages (WAC 192-310-060 and 192-310-070).

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Juanita Myers, Employment Security Department, P.O. Box 9046, Olympia, WA 98507-9046, AND RECEIVED BY September 17, 2007.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This filing is part of the department's ongoing efforts to review and revise its rules when necessary as required by Executive Order 97-02. The rules are rewritten in clear language to improve their understandability and accessibility. In addition, WAC 192-110-005, 192-110-010, 192-110-020, and 192-110-050 are updated to reflect the current processes for filing an application for benefits or reopening an existing claim. WAC 192-130-080, 192-140-100, 192-150-215, and 192-150-220 are updated to eliminate references to RCW 50.20.060 and 50.20.065, which apply only to claims effective prior to January 4, 2004. WAC 192-150-110 is revised to incorporate statutory changes relating to eligibility of persons whose spouse has been subject to a mandatory military transfer. WAC 192-180-005 and 192-180-010 are updated to incorporate references to recently adopted regulations. WAC 192-210-005 is revised to correct a statutory reference. WAC 192-240-020, 192-240-025, 192-240-030, and 192-240-040 are revised to eliminate references to regular shareable benefits, which are no longer available due to changes in state law. WAC 192-110-210, 192-150-065, 192-240-010, and 192-240-035 are repealed as no longer necessary.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040.

Statute Being Implemented: RCW 50.20.140, 50.20.050 (2)(b)(iii), 50.20.240, and 50.12.070.

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

Name of Proponent: Employment security department, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Juanita Myers, 212 Maple Park, Olympia, (360) 902-9665; and Enforcement: Nan Thomas, 212 Maple Park, Olympia, (360) 902-9303.

July 3, 2007

Karen Lee

Commissioner

AMENDATORY SECTION (Amending WSR 99-08-073, filed 4/5/99, effective 5/6/99)

WAC 192-110-005 Applying for unemployment benefits—General. (1) How do I apply for benefits?

(a) ~~((File your application))~~ You may apply for benefits by:

(i) ~~((placing a telephone e))~~ Calling ~~((to))~~ the unemployment claims telecenter listed in your local telephone directory; or

(ii) Using the department's internet website. However, you must apply by telephone if you worked in any state other than Washington during the previous two years, or you were off work for 13 or more consecutive weeks because of injury or illness.

(b) ~~((In situations involving individuals with))~~ If you have a physical or sensory disability ~~((ies))~~, or are in unusual circumstances that makes filing by telephone or internet difficult, ~~((or in other unusual circumstances,))~~ the commissioner ~~((can))~~ may authorize other methods ~~((for filing an application))~~ of applying for benefits.

(2) When can I apply?

(a) You may apply by telephone at any time between the hours of 8:00 a.m. and 5:00 p.m. (Pacific Time) Monday through Friday (excluding state holidays), even if you are working. To control workload, the department may assign certain days of the week on which you may file your claim by telephone.

(b) You may apply on the internet at any time.

(3) When is my claim effective? Your claim is effective on the Sunday of the week in which you file ~~((your claim))~~ it.

~~((3))~~ **(4) What information am I required to provide?** The minimum information needed to process your application is your:

(a) ~~((Your t))~~ Legal name; and

(b) ~~((Your s))~~ Social security account number.

You should also be prepared to provide the names, addresses, dates worked, and reasons for job separation for all of your employers during the past two years. Other information may be requested in individual circumstances.

~~((3))~~ **(5) Will I receive benefits immediately?** The first week you are eligible for benefits is your waiting week. You will not be paid for this week. However, you must file a claim for this week before we can pay you any benefits for future weeks ~~((can be paid to you))~~.

AMENDATORY SECTION (Amending WSR 99-15-069, filed 7/19/99, effective 8/19/99)

WAC 192-110-010 Applications for benefits by interstate claimants. (1) **What is an "interstate claimant"?** An "interstate claimant" is a person who files a claim for one state's unemployment benefits from another state. The state that pays your claim is called the "liable state." For example:

(a) You are an interstate claimant if you live in Oregon and file a claim from Oregon for benefits that will be paid by Washington.

(b) You are an interstate claimant if you live in Washington and file a claim in Washington for benefits that will be paid by Oregon.

(c) You are NOT an interstate claimant if you live in Oregon but file your claim for Washington benefits in Washington; this is because your claim was filed in the same state that will be paying your benefits.

(2) **Where can I apply for benefits?** You can ~~((file your application))~~ apply for benefits from any state, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or Canada. However, if you served in the military or earned wages in more than one state during the past two years, you must physically be in the state of Washington to apply for benefits against Washington.

(3) **How do I apply for benefits?**

~~((a))~~ ~~((Place a telephone call))~~ Call ~~((to))~~ the unemployment claims telecenter in Washington. ~~((You will be asked whether))~~ If you worked in any state other than Washington within the last two years~~((This will)), an agent will help you decide which state will ((be)) pay((ing)) your claim.~~

~~((a))~~ (i) If Washington will ((be)) pay((ing)) your claim, we will take your application for benefits ~~((will be taken))~~ over the telephone;

~~((b))~~ (ii) If another state will ((be)) pay((ing)) your claim, an agent will tell you ~~((will be told))~~ how to file your claim with that state.

(b) If you worked only in Washington during the previous two years, you may apply for benefits on the internet.

(4) **Who decides if I am eligible for benefits?** Every state has its own laws which control eligibility for benefits. If you file a claim for Washington benefits, your eligibility for benefits will be decided by Washington state law even if you file from another state. If you file for benefits against another state, your eligibility for benefits will be decided under that state's laws.

(5) **When can I apply for benefits?** You can apply for benefits at any time, even if you are working. However, if you already have a valid claim in one state, you must continue with that claim as long as benefits are available before you can establish a new claim against another state ~~((can be established))~~. A "valid" claim is one that has not been denied, terminated, or the benefits exhausted (paid out).

(6) **How do I file an appeal?** If you wish to file an appeal about your claim, ~~((do so by filing))~~ you must file it directly with the state that is paying your claim (liable state):

(a) If Washington is paying your claim, use one of the filing methods listed in WAC 192-04-060. If mailed, your appeal will be considered filed on the postmarked date.

(b) If another state is paying your claim, mail your appeal directly to that state.

All appeal hearings will be conducted by the liable state ~~((by telephone))~~. The liable state will notify you of the date, time, and telephone number or location of the hearing.

AMENDATORY SECTION (Amending WSR 99-08-073, filed 4/5/99, effective 5/6/99)

WAC 192-110-020 How will the department verify my identity? When you ~~((file your application))~~ apply for benefits, we will ask you questions based on information in our records, such as your work history.

(1) If we ~~((are able to))~~ can verify your identity with these questions, we will file your application for benefits ~~((will be filed))~~.

(2) If we ~~((are))~~ cannot ~~((able to))~~ verify your identity through questioning, we will send you a verification ~~((request))~~ form:

(a) If you complete and return the verification form ~~((is completed, returned))~~ to the department, and it provides satisfactory evidence of your identity, your claim will be effective based on the date of your first telephone call;

(b) If you do not complete or return the verification form ~~((is not completed and returned))~~, or it does not satisfy the department of your identity, we will deny your benefits ~~((will be denied))~~.

AMENDATORY SECTION (Amending WSR 99-08-073, filed 4/5/99, effective 5/6/99)

WAC 192-110-050 How do I reopen my claim? (1) If you do not file a claim for one or more weeks, you must reopen your claim.

(a) If it has been fewer than four weeks since you last claimed, you must reopen your claim by ~~((placing a telephone))~~ calling ~~((to))~~ the unemployment claims telecenter and asking an agent to ~~((have))~~ reopen your claim ~~((reopened))~~.

(b) If you have not claimed benefits for four or more weeks, you may reopen your claim on the internet. However, you must do so before the last working day of the week (which is usually Friday). Otherwise you must call the unemployment claims telecenter and speak to an agent to reopen your claim.

(2) Your claim will be reopened effective on Sunday of the week in which you contact the department. ~~((B))~~ You cannot receive benefits ~~((will be denied))~~ for any prior weeks ~~((preceding the week in which you reopened your claim;))~~ unless you can show good cause for not reopening your claim earlier.

AMENDATORY SECTION (Amending WSR 05-01-076, filed 12/9/04, effective 1/9/05)

WAC 192-130-080 Procedure—Separation issues. (1) ~~((No))~~ The department will not make a decision on a separation issue (RCW 50.20.050~~((, 50.20.060;))~~ or 50.20.066) ~~((will be issued))~~ until both ~~((parties to the separation))~~ the employer and the claimant have had an opportunity to present information and rebuttal, if necessary and appropriate, ~~((on the matters at issue))~~ about the separation.

(2) If an employer does not respond (~~((within ten days))~~) to the notice within ten days as required by WAC 192-130-060, the department may make a decision at that time based on available information.

(3) If the employer mails separation information to the unemployment claims telecenter identified on the notice (~~((department receives information from the employer))~~) after the end of the ten day response period, but before the decision has been made, ~~((the))~~ the department will consider that information (~~((provided by the employer will be considered))~~) before making ~~((the))~~ a decision (~~((if the information was mailed to the unemployment claims telecenter identified on the notice))~~).

(4) If the ~~((department receives))~~ employer submits separation information (~~((from the employer after the end of the ten day period and))~~) to the department within thirty days (~~((following the mailing of))~~) after a decision has been mailed, the department will consider that information for the purposes of a redetermination under RCW 50.20.160 or as an appeal of the decision.

(5) Any information received within thirty days of the mailing of the notice required by WAC 192-130-060 will be considered a request for relief of benefit charges under RCW ~~((50.29.020 or))~~ 50.29.021.

AMENDATORY SECTION (Amending WSR 05-01-076, filed 12/9/04, effective 1/9/05)

WAC 192-140-100 What happens if I do not respond to a request for information ((regarding)) about a discharge from work? (1) If you do not respond to a request for information ~~((regarding))~~ about a discharge from work and have not ~~((provided sufficient))~~ given the department enough information to identify or contact the employer, the department will presume ~~((you were))~~ the employer discharged you for misconduct connected with the work. ~~((For claims with an effective date prior to January 4, 2004, benefits will be denied under RCW 50.20.060. For claims with an effective date of January 4, 2004, and later, b))~~ Benefits will be denied under RCW 50.20.066. If you have ~~((provided))~~ given the department ~~((with sufficient))~~ enough information to contact the employer, benefits will not be denied unless the employer ~~((establishes))~~ shows by a preponderance of evidence that you were discharged for misconduct connected with your work.

(2) This denial is for an indefinite period of time and will continue until you meet the requalification provisions of RCW ~~((50.20.060 or))~~ 50.20.066 ~~((, as applicable))~~.

AMENDATORY SECTION (Amending WSR 05-01-076, filed 12/9/04, effective 1/9/05)

WAC 192-150-110 Mandatory military transfers—RCW 50.20.050 (2)(b)(iii). (1) Any military transfer ~~((will be))~~ is considered mandatory if your spouse receives orders from the military to relocate to a new duty station, regardless of whether the transfer is temporary or permanent.

(2) You may ~~((establish))~~ show good cause to quit work if you relocate for your spouse's employment that was due to a mandatory military transfer if:

(a) Your spouse's new duty station is outside your existing labor market. ~~((and))~~ For claims with an effective date prior to July 2, 2006, the new duty station must be in Washington or another state (including the District of Columbia, Puerto Rico, and the U.S. Virgin Islands) that allows benefits to individuals who quit work to accompany their military spouse; and

(b) You continued ~~((to))~~ to work for your previous employer ~~((ment))~~ for as long as was reasonable prior to the move.

(3) For purposes of this section, the term "military" includes the following: U.S. Navy, U.S. Army, U.S. Air Force, U.S. Marine Corps, U.S. Coast Guard, activated reserve members of any of these service branches, activated members of the National Guard, commissioned officers of the National Oceanographic and Atmospheric Administration, and commissioned officers of the regular or reserve corps of the U.S. Public Health Service.

(4) ~~((The department will maintain a list of states that allow unemployment benefits to an individual who quits to accompany a military spouse. This list will be updated at least annually.~~

~~((5))~~ Good cause for quitting work is not established under this section if:

(a) You quit work to return to your home of record or to another location rather than accompanying your spouse to a new duty location; or

(b) Your spouse leaves military service and you elect to relocate to your home of record or elsewhere.

AMENDATORY SECTION (Amending WSR 05-01-076, filed 12/9/04, effective 1/9/05)

WAC 192-150-150 When is a separation considered a refusal of new work? (1) Section 3304 (a)(5) of the Federal Unemployment Tax Act and RCW 50.20.110 ~~((prohibit the denial of))~~ state that you cannot be denied benefits ~~((to individuals who))~~ if you refuse to accept new work when the wages, hours, or other working conditions ~~((of work))~~ are substantially less favorable ~~((to the individual))~~ than those prevailing for similar work in ~~((the locality))~~ your local labor market.

(2) For purposes of this chapter, "new work" includes an offer by your present employer of:

(a) Different duties than those you agreed to perform in your current employment contract or agreement; or

(b) Different terms or conditions of employment from those in the existing contract or agreement.

(3) When your employer changes your pay, hours, or conditions of work in a manner that does not constitute good cause under RCW 50.20.050(2), the department will ~~((determine whether))~~ decide if the change ~~((constitutes))~~ is an offer of new work. If it ~~((does))~~ is, the department will also ~~((determine))~~ decide if the new work is substantially less favorable than similar work in your local labor market ~~((area))~~.

(a) If the department ~~((determines))~~ decides the change constitutes an offer of new work, and the new work is substantially less favorable, the department will treat the separation ~~((will be treated))~~ as a layoff due to lack of work and

adjudicate the issue of the refusal of new work (~~(adjudicated)~~) under RCW 50.20.080.

(i) The department will adjudicate the refusal of new work (~~(will be adjudicated)~~) even if you have not claimed benefits for the week in which ~~(the refusal occurred)~~ you refused the new work; and

(ii) The employer offering the new work is an interested party to the work refusal decision.

(b) If the department (~~(determines)~~) decides the change (~~(does)~~) is not (~~(constitute)~~) an offer of new work, or the new work is not substantially less favorable, it will adjudicate the separation from work (~~(will be adjudicated)~~) as a voluntary quit under RCW 50.20.050(2) or a discharge under RCW 50.04.294, as appropriate.

(4) If the (~~(reduction in)~~) employer reduces your pay or hours (~~(is)~~) by ten percent or less, the department will presume that it is not substantially less favorable and adjudicate the separation under RCW 50.20.050(2) or a discharge under RCW 50.04.294, as appropriate. You can overcome this presumption by providing additional information to the department (~~(to support a finding)~~) that shows the job was not suitable as provided in RCW 50.20.110.

(5) If you continue working for your employer after being notified of the change(s) in working conditions, the department will consider that you have agreed to the new terms and conditions of employment and have accepted the offer of new work. If you (~~(subsequently)~~) later quit work because of these changes, the department will consider that you have voluntarily left work for personal reasons. This provision does not apply when you give notice of your intent to quit work upon being notified of the change(s) in working conditions and simply continue to work during an agreed upon notice period. In addition, you may continue working during an employer-provided grievance or arbitration period in response to the change in working conditions without the department considering that you have accepted the new work.

(6) For purposes of this section, the following definitions apply:

(a) "Conditions of work" includes fringe benefits such as life and health insurance; paid sick, vacation, and annual leave; provisions for leaves of absence and holiday leave; pensions, annuities and retirement provisions; and severance pay. It also includes job security and reemployment rights; training and promotion policies; wage guarantees; unionization; grievance procedures; work rules, including health and safety rules; medical and welfare programs; physical conditions such as heat, light and ventilation; shifts of employment; and permanency of work.

(b) "Prevailing" means the most typical or customary in a particular occupation for a given area. (~~(Whether)~~) The department will decide if a wage rate is prevailing for your labor market area (~~(will be determined)~~) based on information provided by (~~(the department's)~~) its labor market and economic analysis branch.

(c) "Similar work" means similarity of the operations performed, the skill, ability and knowledge required, and the responsibilities involved.

(d) "Substantially less favorable" means the work is materially reduced below the standard under which the majority of individuals in your occupation and labor market

area customarily work, or the work would have a significantly unfavorable impact on you.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending WSR 05-01-076, filed 12/9/04, effective 1/9/05)

WAC 192-150-200 General provisions—Misconduct and gross misconduct—RCW 50.04.294 and 50.20.066.

(1) The action or behavior that resulted in your discharge or suspension from employment must be connected with your work to constitute misconduct or gross misconduct.

(2) (~~(¶)~~) For purposes of this section, the action or behavior (~~(must)~~) is connected with your work if it results in harm or creates the potential for harm to your employer's interests. This harm may be tangible, such as damage to equipment or property, or intangible, such as damage to your employer's reputation or a negative impact on staff morale.

(3) RCW 50.04.294, subsections (1)(c) and (3)(b), will be distinguished as follows:

(a) Subsection (1)(c) "Carelessness or negligence that causes or would likely cause serious bodily harm to your employer or fellow employee" means that your action results in serious bodily injury or a reasonably prudent person would know it is likely to result in serious bodily injury.

(b) Subsection (3)(b) "Inadvertence or ordinary negligence in isolated instances" means that your action is an accident or mistake and is not likely to result in serious bodily injury.

AMENDATORY SECTION (Amending WSR 05-01-076, filed 12/9/04, effective 1/9/05)

WAC 192-150-215 Discharges for (~~(felony or gross misdemeanor or for)~~) gross misconduct—Responsibility for providing information. In any job separation where there is a potential disqualification under RCW (~~(50.20.065 or)~~) 50.20.066(3), the employer is responsible for notifying the department in a timely manner (~~(of any resolution of issues)~~) when the issue is resolved.

If an employer notifies the department of a potential disqualification under RCW (~~(50.20.065 or)~~) 50.20.066(3) within ten days of receiving the notice required by WAC 192-130-060, the department will review the claimant's eligibility for benefits.

AMENDATORY SECTION (Amending WSR 05-01-076, filed 12/9/04, effective 1/9/05)

WAC 192-150-220 Discharges for gross misconduct—Definitions—Canceling wage credits (~~(or for felony or gross misdemeanor)~~). (1) (~~(Effective dates.~~ The provisions of RCW 50.20.065 will apply to claims with an effective date prior to January 4, 2004. The provisions of RCW 50.20.066 will apply to claims with an effective date of January 4, 2004, and thereafter.

(2)) Definitions.

(a) "Criminal act" means every action defined as a crime by the applicable state or federal statutes, including felonies and gross misdemeanors.

(b) "Felony" means every crime that is defined as such by the applicable state or federal statutes.

(c) "Gross misdemeanor" means every crime which is defined as such by the applicable state or federal statutes.

(d) A "competent authority" is:

(i) A court (including magistrate or court commissioner), prosecuting attorney, or law enforcement agency; or

(ii) An administrative law judge; or

(iii) A regulatory agency or professional association charged by law with maintaining professional standards or codes of conduct; or

(iv) Any other person or body, other than your employer, with authority to administer disciplinary action against you.

(e) An admission to your employer or to an employee of the department that you have committed a criminal act is not considered an admission to a competent authority for the purposes of RCW ((50.20.065 and) 50.20.066.

~~((3))~~ (2) Canceling wage credits.

(a) ~~((For claims with an effective date prior to January 4, 2004: If you have been discharged because of a felony or gross misdemeanor connected with your work of which you have been convicted or have admitted committing, all your hourly wage credits based on that employment since the beginning of your base period will be canceled-~~

~~(b) For claims with an effective date of January 4, 2004, and later:))~~ If you have been discharged for gross misconduct connected with your work:

(i) ~~The department will cancel all your hourly wage credits based on that employment since the beginning of your base period ((will be canceled));~~

(ii) If your wage credits with this employer are fewer than 680 hours, the balance of wage credits up to 680 hours will be canceled proportionately among your base period employers according to each employer's share of your base period wages. Wages from each employer will be removed from the most recent quarter in which wages were reported.

~~((e))~~ (b) Wage credits may only be canceled based upon an admission of a criminal act if:

(i) You admit to each and every element of a criminal act which caused you to be discharged; and

(ii) The admission is made to a competent authority.

AMENDATORY SECTION (Amending WSR 99-12-002 [99-13-002], filed 6/3/99, effective 7/4/99)

WAC 192-180-005 Registration for work—RCW 50.20.010(1) and 50.20.230. (1) **Am I required to register for work?** You must register for work unless you are:

(a) Attached to an employer, meaning you are;

~~(i) ((p))~~ Partially unemployed as defined in WAC 192-180-013(1); ~~((or o))~~

~~(ii) On standby as defined by WAC 192-110-015((;));~~

~~(iii) Unemployed because you are on strike or locked out from the worksite as provided in RCW 50.20.090(2); or~~

~~(iv) ((p))~~ Participating in the shared work program under Title 50.60 RCW;

(b) A member of a ~~((full referral))~~ union that participates in the referral union program (see WAC 192-210-110);

(c) Participating in a training program approved by the commissioner; or

(d) The subject of an antiharassment order. This includes any court-issued order providing for your protection, such as restraining orders, no contact orders, domestic violence protective orders, and similar documents.

(2) How soon do I have to register?

(a) If you live within the state of Washington, the department will register you automatically based on information contained in your application for benefits. In unusual circumstances where you are not automatically registered, you must register within one week of the date on which you are notified by the department of the requirement to register for work.

(b) If you live in another state, you must register for work within one week of the date your first payment is issued on your new or reopened claim.

(3) **Where do I register for work?** You will be registered for work with your local ~~((employment center))~~ **WorkSource office**. However, if you live in another state, you must register for work with the equivalent public employment agency in that state.

(4) **What is the penalty if I do not register for work?** You will not be eligible for benefits for any week in which you are not registered for work as required by this section.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

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 05-01-076, filed 12/9/04, effective 1/9/05)

WAC 192-180-010 Job search requirements—Directives—RCW 50.20.010 (1)(c) and 50.20.240. (1) **Do I have to look for work?** You must be actively seeking work unless you are:

(a) Attached to an employer; or

(b) Participating in a training program approved by the commissioner~~((or~~

~~(c) Unemployed due to strike or lockout as provided in RCW 50.20.090(2)).~~

(2) **When should I start my job search?** You must look for work every week that you file a claim for benefits, unless you are exempt under subsection (1).

(3) What are my weekly job search requirements?

(a) At a minimum, you must:

(i) Make job search contacts with at least three employers each week; or

~~(ii) ((If your claim is effective prior to January 4, 2004, participate in an approved in-person job search activity at the WorkSource office or local employment center; or~~

~~(iii) If your claim is effective January 4, 2004 or later, p))~~ Participate in three approved in-person job search activities at the WorkSource office or local employment center, or any combination of employer contacts or in-person job search activities for a total of three.

(b) Based on your individual circumstances, such as your occupation, experience, or labor market area, the department may issue you a directive requiring more than three employer contacts or job search activities each week.

(c) If you are a member of a ~~((full))~~ referral union you must be ~~((in good standing))~~ registered with your union, eligible for and actively seeking dispatch, and comply with your union's dispatch or referral requirements (see WAC 192-210-120). Your benefits may be denied for any weeks in which you fail to meet these requirements and you may be directed to seek work outside of your union.

(4) **What is a "job search contact"?** A job search contact is a contact with an employer to inquire about or apply for a job. You may use job search methods that are customary for your occupation and labor market area, including in-person, telephone, internet, or telefax contacts. The work applied for must be suitable (see RCW 50.20.100) unless you choose to look for work in a lower skill area. A contact does not count if it is made with an employer whom you know is not hiring, or if the department ~~((determines))~~ decides the contact is designed in whole or in part to avoid meeting the job search requirements.

(5) **What is an "in-person job search activity"?** This is an activity provided through the WorkSource office or local employment center that will assist you in your reemployment efforts. It includes, but is not limited to, job search workshops, training classes, or other facilitated services provided by WorkSource staff and approved by the local WorkSource administrator. For claimants residing in Washington State, an in-person job search activity must be documented in the department's services, knowledge and information exchange system (SKIES) to qualify. For interstate claimants, the activity must be documented in the one-stop system in the state in which you reside.

(6) **What is a directive?** A directive is a written notice from the department telling you that specific methods of job search are required in order to meet the job search requirements. A written directive need not have been issued to deny benefits for failure to meet the job search requirements in subsection (3).

(7) **When is a directive issued?** The department can issue a directive to clarify or to increase the job search requirements you must meet. Examples include, but are not limited to, cases in which you need to:

- (a) Increase the number of employer contacts each week;
- (b) Change your method of ~~((seeking))~~ looking for work (such as from resumes to in-person contacts);
- (c) Expand the geographic area in which you ~~((job search is conducted))~~ look for work; or
- (d) ~~((Seek))~~ Look for work in a secondary occupation.

(8) **When is the directive effective?** The directive is effective when it is given in writing by the department. It stays in effect until a new written directive is given, or it is rescinded in writing.

AMENDATORY SECTION (Amending WSR 05-01-076, filed 12/9/04, effective 1/9/05)

WAC 192-180-015 Tracking job search activities—RCW 50.20.240. (1) Do I need to keep track of my job

search activities? You must keep a record or log of your job search contacts and the in-person job search activities you receive through the WorkSource office or local employment center unless you are:

- (a) A member of a full referral union;
- (b) Allowed benefits because you left work to protect yourself or a member of your immediate family from domestic violence or stalking as provided in RCW 50.20.050 ~~((+)(b)(iv) or))~~ (2)(b)(iv); or
- (c) Exempt from job search requirements under WAC 192-180-010(1).

(2) **What information do I need to keep in the log?** Your job search log must contain at least the following information:

(a) For job search contacts, record the date contact was made; the employer's name, address and telephone number; the type of contact (in-person, telephone, etc.); the name of the person you contacted; and the type of work you applied for ~~((; and the results of your contact))~~;

(b) For in-person job search activities at the WorkSource office or local reemployment center, record the date contact was made; and a description of the services you received or the activities in which you participated ~~((; and the results of your contact))~~.

(3) **Is there a specific form I must use?** The department will supply you with a form (EMS 10313) to use in tracking your job search activities. You may use your own form or tracking method as long as you record all information required by this ~~((sub))~~ section ~~((is recorded))~~.

(4) **How long should I keep my log?** Keep your log for at least sixty days after the end of your benefit year or thirty days after receiving your final payment on any extension of benefits, whichever is later.

AMENDATORY SECTION (Amending WSR 05-01-076, filed 12/9/04, effective 1/9/05)

WAC 192-180-025 Job search review interviews. (1) What is a job search review (JSR) interview? The JSR is an interview between you and a representative of the WorkSource office or local employment center. Its purpose is to review your job search documentation, identify any barriers to your reemployment, develop a plan for resolving barriers that may be identified, and provide advice on how to improve your job search efforts. For interstate claimants, this interview may be conducted by telephone or by the local employment center in a contracted state.

(2) **Will my job search activities be reviewed?** Yes, you must bring your job search log to the interview. The interviewer will review your log with you and discuss areas in which your job search can be improved. The employer contacts and job search activities included in your log will be verified at random. The interviewer may further verify any reported contacts at his or her discretion.

(3) **How many weeks will be reviewed?**

(a) The interviewer will review at least one week of your job search documentation. If the job search documentation is unsatisfactory, or you fail to appear for the JSR interview without being excused, you will be scheduled for a second interview in which all weeks claimed will be reviewed.

(b) If you are excused from attending the initial JSR interview, you will be rescheduled for a review of one week of your job search documentation.

~~((e))~~ (4) **When may I be excused from attending the initial JSR?** You may be excused from attending the initial JSR interview (~~as scheduled~~) only for the following reasons:

- ~~((i))~~ (a) Jury duty;
- ~~((ii))~~ (b) National Guard duty;
- ~~((iii))~~ (c) Natural disaster or acts of nature; or
- ~~((iv))~~ (d) Verifiable employment or a job interview.

~~((d))~~ (5) **What does "all weeks" mean?** For purposes of this section, "all weeks" means the latest of the following:

~~((i) Weeks claimed since January 4, 2004;~~

~~((ii))~~ (a) Weeks claimed since you filed your application for benefits; or

~~((iii))~~ (b) Weeks claimed since your last JSR interview, if applicable.

~~((4))~~ (6) **Do I need to bring anything else to the JSR interview?** You must be prepared to present proof of your identity during the JSR interview. This includes:

- (a) State or government issued photo identification; or
- (b) Two of the following government-issued documents:
 - (i) Voter's registration card;
 - (ii) U.S. military identification card or draft record;
 - (iii) Military dependent's identification card;
 - (iv) U.S. Coast Guard merchant mariner card;
 - (v) Native American tribal document;
 - (vi) U.S. social security card;
 - (vii) Certification of birth abroad issued by the U.S. Department of State;

(viii) Original or certified copy of a birth certificate;

(ix) U.S. citizen ID card;

(x) ID card for use of resident citizen in the United States; or

(xi) Unexpired employment authorization document issued by the United States citizenship and immigration services (~~(formerly the Immigration and Naturalization Service))~~ (USCIS).

AMENDATORY SECTION (Amending WSR 02-19-009, filed 9/5/02, effective 10/6/02)

WAC 192-210-005 Definitions—Educational employees. (1) **Contract.** An agreement that is binding on an educational institution to provide work and on an individual to perform services.

(2) **Faculty.** A teacher, counselor, librarian, or other position with similar training, experience and level of responsibility.

(3) **Full-time employment.** Employment designated as full time for or at the educational institution under a collective bargaining agreement, individual hiring contract, or other agreement (including institutional policies), as provided in RCW 50.04.310(2). For faculty at public institutions, the hiring contract, agreement or institutional policy must be consistent with the provisions of RCW 28A.~~(150-220)~~405.210 (kindergarten through twelfth grade), RCW 28B.50.851 (community and technical colleges), RCW

28B.35.120 (regional universities), or RCW 28B.20.130 (other colleges and universities).

(4) **Under the same terms and conditions of employment.** This includes economic conditions of employment such as wages, duration of contract, hours of work, and general nature of the work. It does not include other conditions and details such as the specific work location, duties, or assignment. The position need not be identical to the previous position to meet this test. A position would be considered to be under the same terms and conditions of employment if it is of similar type or classification, with similar pay, fringe benefits, hours of work, general type of work, and duration of employment.

AMENDATORY SECTION (Amending WSR 03-06-038, filed 2/26/03, effective 3/29/03)

WAC 192-240-020 Suitable work provisions—(~~Regular shareable and e~~) Extended benefits—RCW 50.22.020 (3) and (4). (1) An individual receiving benefits must be available for suitable work. Except as provided in subsection (2), any job is considered suitable (~~for an individual~~) if you are receiving (~~regular shareable or~~) extended benefits unless:

(a) It is not within your capabilities;

(b) The position is vacant because of a labor dispute, working conditions are substantially less favorable than similar work in the area, or you would be required to join or resign from a union or labor organization (see RCW 50.20-110);

(c) The gross weekly pay is less than your weekly benefit amount, plus any supplemental unemployment benefits you receive from your former employer; or

(d) The job pays less than the higher of the federal or state minimum wage.

(2) If you can (~~demonstrate~~) show that you have good prospects of returning to work in your customary occupation within a reasonably short period of time, suitable work is considered to be work in keeping with your prior work experience, education, or training. "Good prospects for work" means you have:

(a) A definite recall or hire date within four weeks; or

(b) A probable recall or hire date within four weeks, based on an extremely favorable position on a union out-of-work list, seasonal factors, or historical experience.

AMENDATORY SECTION (Amending WSR 03-06-038, filed 2/26/03, effective 3/29/03)

WAC 192-240-025 Failure to apply for or accept suitable work—RCW 50.22.020 (4)(b)—(~~Regular shareable and e~~) Extended benefits. (1) You will be denied (~~regular shareable or~~) extended benefits if you fail:

(a) To accept any offer of suitable work as defined in WAC 192-240-020; or

(b) To accept a referral, or to apply for suitable work, when referred by your local employment center, if the job was:

(i) Offered to you in writing, or

(ii) Listed with the department.

(2) The denial is for the week in which the refusal occurs and until you work in four weeks and earn four times your weekly benefit amount.

AMENDATORY SECTION (Amending WSR 03-06-038, filed 2/26/03, effective 3/29/03)

WAC 192-240-030 Job search requirements to receive ~~((regular shareable or))~~ extended benefits—RCW 50.22.020(5). (1) To be eligible for ~~((regular shareable or))~~ extended benefits, you must show evidence of a systematic and sustained effort to find work. Your efforts must be of a quality and frequency that clearly indicate you are making sincere efforts to immediately return to gainful employment.

(a) At a minimum, your efforts must include at least four job search contacts with employers during each week you claim benefits.

(b) If you are a registered member ~~((in good standing))~~ of a referral union, you must make three job search contacts each week in addition to contacting your union and complying with the union's requirements.

(i) Registration with another union local can constitute one job search contact if you are willing to travel or relocate to accept work in their jurisdiction.

(ii) You do not have to look for work that would jeopardize your union membership, but must look for other work you are capable of doing.

(iii) If you have been identified by the department as having good prospects of returning to work within four weeks because you have an extremely favorable position on the union out-of-work list, contact with your union each week ~~((fulfills))~~ meets the job search requirements of this section.

(2) Every week you file a claim for ~~((regular shareable or))~~ extended benefits, you must report your job search contacts to the department. For each job search contact you must report the date of the contact, the employer or union involved and its place of business, the method of contact, and the type of work sought ~~((, and the results of the contact))~~.

(3) You must keep a record or log of your job search contacts which contains the information required by WAC 192-180-015.

(4) The department may review your job search activities at any time. You must provide the department with a copy of your job search log upon request. Employer contacts will be verified by the department as needed.

(5) The department will consider you to have met the job search requirements of this section and of RCW 50.22.020(5) for any week in which you participate in a training program that is approved by the commissioner.

(6) The job search requirements under this section and RCW 50.20.020(5) are waived for any week in which you are unable to conduct a job search because you are serving on jury duty. See RCW 50.20.117.

AMENDATORY SECTION (Amending WSR 05-01-076, filed 12/9/04, effective 1/9/05)

WAC 192-240-040 Penalties. (1) If you claim ~~((regular shareable or))~~ extended benefits during a week in which you failed to accept any offer of work, or failed to accept a referral or apply for any work as directed by the department:

(a) Benefits will be denied under RCW 50.20.080 if the work was suitable as defined by RCW 50.20.100 and 50.20.110, and you did not have good cause for failing to apply for or accept work;

(b) If benefits are denied as provided in subsection (1)(a), you will also be denied benefits as provided in RCW 50.22.020;

(c) Benefits will be denied under only RCW 50.22.020 if the work was suitable as provided in that statute and WAC 192-240-020, but did not meet the provisions of RCW 50.20.100 and 50.20.080.

(2) If you claim ~~((regular shareable or))~~ extended benefits during a week in which you failed to meet the job search requirements of WAC 192-240-030, benefits will be denied under RCW 50.22.020, except as provided in subsection (4).

(3) A denial of benefits under RCW 50.22.020 starts the week in which the failure occurs, and continues indefinitely until you show that:

(a) You have worked in at least four weeks; and

(b) You have earned at least four times your weekly benefit amount. The employment does not need to be covered by Title 50 RCW.

(4) If you fail to meet the job search requirements of WAC 192-240-030 because you are hospitalized for treatment of an emergency or life-threatening condition, benefits will be denied under RCW 50.20.010 (1)(c). The denial period is only for the week or weeks in which the hospitalization occurred.

AMENDATORY SECTION (Amending WSR 05-19-017, filed 9/9/05, effective 10/10/05)

WAC 192-310-010 What reports are required from an employer?—RCW 50.12.070. (1) **Master business application.** Every person or unit with one or more individuals performing services for it in the state of Washington must file a master application with the department. The application must be in a format approved by the commissioner.

(2) **Quarterly tax and wage reports:**

(a) **Tax report.** Each calendar quarter, every employer must file a tax report with the commissioner. The report must list the total wages paid to every employee during that quarter.

(b) **Report of employees' wages.** Each calendar quarter, every employer must file a report of employees' wages with the commissioner. This report must list each employee by name, Social Security number, and total hours worked and wages paid during that quarter.

(i) Social Security numbers are required for persons working in the United States;

(ii) If an individual has a Social Security card, he or she must present the card to the employer at the time of hire or shortly after that. This does not apply to agricultural workers who, under federal rules, may show their Social Security card on the first day they are paid;

(iii) If the individual does not have a Social Security card, Internal Revenue Service rules allow an employer to hire the individual with the clear understanding that the individual will apply for a Social Security number within seven calendar days of starting work for the employer. The individ-

ual must give the employer a document showing he or she has applied for a Social Security card. When the card is received, the individual must give the employer a copy of the card itself. An employer should keep copies of the document(s) for his or her records; and

(iv) If the employee does not show his or her Social Security card or application for a card within seven days and the employer continues to employ the worker, the employer does not meet the reporting requirements of this section. The department will not allow waiver of the incomplete report penalty (see WAC 192-310-030).

(c) Format. Employers must file the quarterly tax and wage reports in one of the following formats:

(i) Electronically, using the current version of UIFast-Tax, UIWebTax, or ICESA Washington; or

(ii) Paper forms supplied by the department (or an approved version of those forms).

(d) Due dates. The quarterly tax and wage reports are due by the last day of the month following the end of the calendar quarter being reported. Calendar quarters end on March 31, June 30, September 30 and December 31 of each year. So, reports are due by April 30, July 31, October 31, and January 31, in that order. If these dates fall on a ~~((Saturday-))~~ Sunday~~((;-))~~ or a legal holiday, the reports will be due on the next business day. Reports submitted by mail will be considered filed on the postmarked date. The commissioner must approve exceptions to the time and method of filing in advance.

(e) Termination of business. Each employer who stops doing business or whose account is closed by the department must immediately file:

(i) A tax report for the current calendar quarter which covers tax payments due on the date the account is closed; and

(ii) A report of employees' wages for the current calendar quarter which includes all wages paid as of the date the account is closed.

AMENDATORY SECTION (Amending WSR 98-14-068, filed 6/30/98, effective 7/31/98)

WAC 192-310-020 Tax payments by employers—RCW 50.24.010. (1) Taxes ~~((are payable quarterly))~~ must be paid each quarter. Each quarterly payment must include the taxes ~~((due))~~ owed on all wages paid during that calendar quarter. Payments are due to the department by the last day of the month following the end of the calendar quarter for which ~~((such))~~ taxes ~~((have accrued))~~ are due. Payments made by mail are considered paid on the postmarked date. If the last day of the month falls on a Sunday or a legal holiday, the tax payment must be received or postmarked on the next ~~((working))~~ business day.

(2) Tax payments are due immediately when an employer ~~((ceases))~~ goes out of business or the account is closed by the department. Taxes not paid immediately are delinquent~~((-but)).~~ However, interest will not ~~((accrue))~~ be added until the first day of the second month following the end of the calendar quarter for which ~~((such))~~ the taxes ~~((have accrued))~~ are owed.

AMENDATORY SECTION (Amending WSR 00-01-166, filed 12/21/99, effective 1/21/00)

WAC 192-310-055 Employer records—Farm operator or farm labor contractor—RCW 50.12.070. ~~((The commissioner requires e))~~ Every employer is required to keep true and accurate employment records ((under chapter 50.12 RCW)).

(1) Farm operators~~((-or))~~ and farm labor contractors must ~~((comply with the rules set forth in))~~ keep the records required under WAC 192-310-050.

(2) Farm operators who contract~~((ing))~~ with a crew leader or a farm labor contractor must ~~((make,))~~ keep~~((, and preserve,))~~ original records containing the following information:

(a) The ~~((inclusive))~~ beginning and ending dates of the contract;

(b) The types of services performed;

(c) The number of persons performing such services;

(d) The name of the contractor or crew leader; and

(e) Evidence ~~((of))~~ the farm labor contractor~~((s))~~ is licensed as required ~~((under))~~ by chapter 19.30 RCW.

AMENDATORY SECTION (Amending WSR 99-20-129, filed 10/6/99, effective 11/6/99)

WAC 192-310-060 Tips as wages. ~~((For the department to make timely and accurate employer liability determinations and unemployment insurance payments, t))~~ "Tips as wages"~~((;-))~~ are those tips ~~((that))~~ an employee is required to report to the employer by federal law.

(1) The employer must report tips each quarter on an "as paid" basis. Tips are considered ~~((")~~paid~~((")~~) when the employee reports them to the employer for federal income tax purposes; or when they are distributed by the employer to the employee.

(2) Tips ~~((are not considered wages for benefit calculation purposes when))~~ will not be treated as wages when an individual's benefits are calculated if the individual did not report their value ~~((has not been reported))~~ to the employer.

AMENDATORY SECTION (Amending WSR 99-20-130, filed 10/6/99, effective 11/6/99)

WAC 192-310-070 Value of meals, lodging and in~~((-))~~ kind compensation—Payment by means other than cash—RCW 50.04.320. ~~((Relates to compensation paid for personal services including commissions and bonuses and the cash value of all remuneration paid in any form other than cash-))~~

(1) The employer should not report the value of meals ~~((and/))~~ or lodging provided to an employee for the convenience of the employer ~~((i.e. provided by the employer, on the employer's premises, or as a condition of employment) is not considered reportable compensation,))~~ unless ~~((it comprises))~~ the value equals twenty-five percent~~((;-))~~ or more~~((;-))~~ of the employee's total pay ~~((per))~~ during a pay period. Meals or lodging provided on the employer's premises or as a condition of employment will be considered as provided for the convenience of the employer.

(2) Compensation for personal services paid in((-) kind(~~, or~~)) (in any ((medium)) form other than cash), will be given its current prevailing market value. This value will be ((considered)) treated as wages in computing the unemployment insurance taxes that are due ((under unemployment insurance laws)). If ((any)) the value of an item is set by a hiring contract ((fixes the value of such items)), the ((value)) department will ((be considered)) treat the value set by the contract as the actual value.

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.

REPEALER

The following sections of the Washington Administrative Code are hereby repealed:

- WAC 192-110-210 Claim cancellation.
- WAC 192-150-065 What constitutes an employer-initiated mandatory transfer under RCW 50.20.050 (1)(b)(iii)?
- WAC 192-240-010 Regular shareable benefits defined.
- WAC 192-240-035 How to qualify for regular shareable or extended benefits after leaving work for marital or domestic reasons—RCW 50.22.020(7).

WSR 07-15-045
EXPEDITED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION
 [Filed July 13, 2007, 11:28 a.m.]

Title of Rule and Other Identifying Information: WAC 392-121-107 Definition—Course of study and 392-121-108 Definition—Enrollment exclusions.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Rules Coordinator, Legal Services, Office of Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200, AND RECEIVED BY September 17, 2007.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To change the following WAC references in WAC 392-121-107 and 392-121-

108: From a state board (chapter 180-50 WAC) to the appropriate OSPI WAC (chapter 392-410 WAC); from a state board (WAC 180-50-315) to the appropriate OSPI WAC (WAC 392-410-315); from a state board (WAC 180-50-320) to the appropriate OSPI WAC (WAC 392-410-320); from a state board (WAC 180-40-260) to the appropriate OSPI WAC (WAC 392-400-260); from a state board (WAC 180-40-275) to the appropriate OSPI WAC (WAC 392-400-275); and from a state board (WAC 180-40-290) to the appropriate OSPI WAC (WAC 392-400-290).

Statutory Authority for Adoption: RCW 28A.150.290.

Statute Being Implemented: RCW 28A.150.290.

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

Name of Proponent: Superintendent of public instruction, governmental.

Name of Agency Personnel Responsible for Drafting: Mitch Thompson, 600 South Washington Street, Olympia, (360) 725-6306; Implementation: Calvin W. Brodie, 600 South Washington Street, Olympia, (360) 725-6301; and Enforcement: Jennifer Priddy, 600 South Washington Street, Olympia, (360) 725-6292.

July 13, 2007
Dr. Terry Bergeson
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending Order 99-01, filed 3/25/99, effective 4/25/99)

WAC 392-121-107 Definition—Course of study. As used in this chapter, "course of study" means those activities for which students enrolled pursuant to chapters 180-16, ((180-50,)) 180-51, 392-169 ((and)), 392-134, and 392-410 WAC may be counted as enrolled students for the purpose of full-time equivalent student enrollment counts.

(1) Course of study includes:

(a) Instruction - teaching/learning experiences conducted by school district staff as directed by the administration and the board of directors of the school district, inclusive of intermissions for class changes, recess and teacher/parent-guardian conferences that are planned and scheduled by the district for the purpose of discussing students' educational needs or progress, and exclusive of time for meals.

(b) Alternative learning experience - alternative learning experience provided by the school district in conformance with WAC 392-121-182.

(c) Instruction provided by a contractor - instruction provided by a contractor in conformance with WAC 392-121-188.

(d) National guard - participation in a national guard high school career training program for which credit is being given toward either required or elective high school credits pursuant to RCW 28A.305.170 and WAC ((180-50-320)) 392-410-320. Such participation may be counted as a course of study only by the school district which the individual last attended.

(e) Ancillary service - any cocurricular service or activity, any health care service or activity, and any other services or activities, for or in which enrolled students are served by

appropriate school district staff. The term shall include, but not be limited to, counseling, psychological services, testing, remedial instruction, speech and hearing therapy, health care services, and if such service is provided by the district, certificated contact time pursuant to RCW 28A.225.010 (4)(a) with students who are in a home-based instruction program. The term shall exclude all extracurricular activities and all other courses of study defined in this section. In conformance with WAC 392-134-025, school districts report the actual number of student contact hours of ancillary service for part-time, private school, and home-based students to the superintendent of public instruction.

(f) Work based learning - training provided pursuant to WAC ((180-50-315)) 392-410-315 and reported as provided in WAC 392-121-124.

(g) Running start - attendance at an institution of higher education pursuant to RCW 28A.600.300 through 28A.600.-400, chapter 392-169 WAC.

(h) Transition school - participation in the University of Washington's transition school and early entrance program pursuant to RCW 28A.185.040, and chapter 392-120 WAC. Such participation shall be reported by the University of Washington and shall not be reported by a school district.

(i) Technical college direct funding - enrollment at a technical college pursuant to RCW 28A.150.275 and WAC 392-121-187. Such participation shall be reported by the technical college and shall not be reported by a school district unless the technical college and the school district agree to have the school district report such enrollment.

(2) Course of study does not include:

(a) Home-based instruction pursuant to RCW 28A.225.010(4): Education programs provided by a parent which do not meet the requirements of WAC 392-121-182 cannot be claimed for state funding;

(b) Private school instruction pursuant to chapter 28A.195 RCW;

(c) Adult education as defined in RCW 28B.50.030(12);

(d) Instruction provided to students who do not reside in Washington state (RCW 28A.225.260);

(e) Enrollment in state institutions, i.e., state operated group homes, county juvenile detention centers, state institutions for juvenile delinquents, and state residential habilitation centers;

(f) Instruction preparing a student for the general education development (GED) test if such instruction generates state or federal moneys for adult education;

(g) Enrollment in education centers except as provided under contract with a school district pursuant to RCW 28A.150.305 and WAC 392-121-188;

(h) Enrollment in the Washington state school for the deaf and the Washington state school for the blind;

(i) Extracurricular activities including but not limited to before and after school activities such as classes, sports and other activities offered outside the regular curriculum or for which credit is not earned; or

(j) Attendance at universities, colleges, community colleges, or technical colleges of students not earning high school credit.

AMENDATORY SECTION (Amending WSR 05-19-140, filed 9/21/05, effective 10/22/05)

WAC 392-121-108 Definition—Enrollment exclusions. A person who qualifies for any of the exclusions set forth in this section shall not be counted as an enrolled student pursuant to WAC 392-121-106.

(1) Absences - except as provided in (a) and (b) of this subsection, a student whose consecutive days of absence from school exceed twenty school days shall not be counted as an enrolled student until attendance is resumed.

(a) If there is a written agreement between the appropriate school official and a student's parent or guardian pursuant to RCW 28A.225.010 that the student's temporary absence is not deemed to cause a serious adverse effect upon the student's educational progress, the absent student may be counted as an enrolled student for up to two monthly enrollment count dates as specified in WAC 392-121-122.

(b) A student receiving home and/or hospital service pursuant to WAC 392-172-218 shall be counted as an enrolled student as provided in WAC 392-122-145.

(2) Dropouts - a student for whom the school district has received notification of dropping out of school by the student or the student's parent or guardian shall not be counted as an enrolled student until attendance is resumed.

(3) Transfers - a student who has transferred to another public or private school and for whom the school district has received notification of transfer from the school to which the student has transferred, from the student, or from the student's parent or guardian shall not be counted as an enrolled student unless the student reenrolls in the school district.

(4) Suspensions - a student who has been suspended from school pursuant to WAC ((180-40-260)) 392-400-260, when the conditions of the suspension will cause the student to lose academic grades or credit, shall not be counted as an enrolled student until attendance is resumed.

(5) Expulsions - a student who has been expelled from all school subjects or classes by the school district pursuant to WAC ((180-40-275 or 180-40-290)) 392-400-275 or 392-400-290 shall not be counted as an enrolled student; a student who has been partially expelled, such as from a single school subject or class, by the school district pursuant to WAC ((180-40-275 or 180-40-290)) 392-400-275 or 392-400-290 may be considered a part-time enrolled student.

(6) Graduates - a student who has met the high school graduation requirements of chapter 180-51 WAC by the beginning of the school year.

WSR 07-15-046

EXPEDITED RULES

**SUPERINTENDENT OF
PUBLIC INSTRUCTION**

[Filed July 13, 2007, 11:28 a.m.]

Title of Rule and Other Identifying Information: WAC 392-121-124 Full-time equivalent enrollment for work based learning.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Rules Coordinator, Legal Services, Office Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200, AND RECEIVED BY September 17, 2007.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To change the following WAC reference in WAC 392-121-124, from a state board (WAC 180-50-315) to the appropriate OSPI WAC (WAC 392-410-315).

Reasons Supporting Proposal: Some state board WACs were given to OSPI and they were recodified. This is to change the reference to the OSPI WAC.

Statutory Authority for Adoption: RCW 28A.150.290.

Statute Being Implemented: RCW 28A.150.290.

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

Name of Proponent: Superintendent of public instruction, governmental.

Name of Agency Personnel Responsible for Drafting: Mitch Thompson, 600 South Washington Street, Olympia, (360) 725-6306; Implementation: Calvin W. Brodie, 600 South Washington Street, Olympia, (360) 725-6301; and Enforcement: Jennifer Priddy, 600 South Washington Street, Olympia, (360) 725-6292.

July 13, 2007

Dr. Terry Bergeson
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending WSR 04-14-068, filed 7/2/04, effective 9/1/04)

WAC 392-121-124 Full-time equivalent enrollment for work based learning. For work based learning provided pursuant to WAC ((180-50-315)) 392-410-315, a student's full-time equivalent shall be determined as follows:

(1) For cooperative work based learning experience, in accordance with WAC ((180-50-315)) 392-410-315 (1)(g), divide the student's hours of work experience for the month by two hundred; for example: Forty hours of cooperative work experience equals two tenths of a full-time equivalent ($40 \div 200 = 0.20$). For instructional work based learning experience, in accordance with WAC ((180-50-315)) 392-410-315 (1)(f) and WAC 296-125-043(4), divide the student's enrolled hours of work experience for the month by one hundred; for example: Twenty hours of instructional work experience equals two tenths of a full-time equivalent ($20 \div 100 = 0.20$). Enrollment exclusions in WAC 392-121-108 apply to instructional work based learning enrolled hours.

(2) Estimated or scheduled hours of cooperative work based learning experience may be used in determining a student's full-time equivalent on an enrollment count date: Provided, That the combined monthly hours reported for the school year shall not exceed the student's actual hours of cooperative work based learning experience documented on the student's work records and maintained by the school district for audit purposes. Instructional and cooperative work based learning experience during June of the regular school year shall be included in the May enrollment count.

(3) Work based learning provided as part of a state-approved vocational education program qualifies for enhanced vocational funding and may be included in determining a student's vocational full-time equivalent enrollment.

(4) No more than three hundred sixty hours of cooperative work based learning may be claimed for funding for each credit a student pursues as reported on the student's transcript. No more than one hundred eighty hours of instructional work based learning may be claimed for funding for each credit a student pursues as reported on the student's transcript.

(5) Funding may be claimed only for work based learning hours that occur after the work based learning plan, work based agreement, program orientation and new employee orientation, as defined in WAC ((180-50-315)) 392-410-315, are completed.

WSR 07-15-047

EXPEDITED RULES

SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed July 13, 2007, 11:31 a.m.]

Title of Rule and Other Identifying Information: Definition—State institutional education program—Educational activity, WAC 392-122-212.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Rules Coordinator, Legal Services, Office of Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200, AND RECEIVED BY September 17, 2007.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To correct a spelling error, the word counseling was spelled with two l's and to correct the reference to WAC 18-50-315 by changing it to WAC 392-410-315.

Reasons Supporting Proposal: Some state board WACs were given to OSPI and they were recodified. This is to change the reference to the OSPI WAC.

Statutory Authority for Adoption: RCW 28A.150.290.

Statute Being Implemented: RCW 28A.150.290.

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

Name of Proponent: Superintendent of public instruction, governmental.

Name of Agency Personnel Responsible for Drafting: Mitch Thompson, 600 South Washington Street, Olympia, (360) 725-6306; Implementation: Calvin W. Brodie, 600 South Washington Street, Olympia, (360) 725-6301; and Enforcement: Jennifer Priddy, 600 South Washington Street, Olympia, (360) 725-6292.

July 13, 2007

Dr. Terry Bergeson
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending WSR 05-19-139, filed 9/21/05, effective 10/22/05)

WAC 392-122-212 Definition—State institutional education program—Educational activity. As used in WAC 392-122-200 through 392-122-275, "educational activity" means the following teaching/learning experiences provided by a school district or other education provider:

(1) Instruction, testing, ~~((counseling))~~ counseling, supervision, advising, and other services provided directly by certificated staff or by classified staff who are supervised by certificated staff.

(2) Up to one hour per day of scheduled study time if the study is in conjunction with other educational activity and if the study is monitored by educational staff who are present during the study.

(3) Up to two hours per day of individual study conducted by a student when educational staff are not present if all of the following conditions are met:

(a) The study is in pursuit of high school graduation credit; or the study is in a department of corrections facility and is in pursuit of a certificate of educational competence pursuant to RCW 28B.50.536 and chapter 131-48 WAC;

(b) The study is part of a program of instruction defined by a certificated employee who evaluates the student's progress in that program;

(c) The student is making progress in the program;

(d) The study is not counted as work training experience pursuant to subsection (4) of this section; and

(e) Combined individual study time and scheduled study time pursuant to subsection (2) of this section claimed in determining the student's full-time equivalent pursuant to WAC 392-122-225 do not exceed two hours per day.

(4) Work based learning meeting the requirements of WAC ~~((480-50-315))~~ 392-410-315: Provided, That for work based learning provided pursuant to WAC ~~((480-50-315))~~ 392-410-315, a student's full-time equivalent shall be determined pursuant to WAC 392-121-124.

WSR 07-15-066
EXPEDITED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed July 17, 2007, 8:56 a.m.]

Title of Rule and Other Identifying Information: WAC 296-150C-3000 Commercial coach fees.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Josh Swanson, Legislative Liaison, Department of Labor and Industries, P.O. Box 44001, Olympia, WA 98504-4001, AND RECEIVED BY September 17, 2007.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to correct an error that occurred when adopting the annual fee increase. A fee for electrical plan review was accidentally decreased; this rule making will correct the error. The fee will reflect the 3.38% fee increase, which is the office of financial management's maximum allowable fiscal growth rate factor for fiscal year 2007.

Reasons Supporting Proposal: See purpose above.

Statutory Authority for Adoption: Chapter 43.22 RCW.

Statute Being Implemented: Chapter 43.22 RCW.

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

Name of Proponent: Department of labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting: Pete Schmidt, Tumwater, Washington, (360) 902-5571; Implementation and Enforcement: Patrick Woods, Tumwater, Washington, (360) 902-6348.

July 17, 2007

Judy Schurke
Director

AMENDATORY SECTION (Amending WSR 07-11-128, filed 5/22/07, effective 6/30/07)

WAC 296-150C-3000 Commercial coach fees.

INITIAL FILING FEE	\$34.30
DESIGN PLAN FEES:	
INITIAL FEE - MASTER DESIGN	\$236.70
INITIAL FEE - ONE YEAR DESIGN	\$96.80
RENEWAL FEE	\$40.90
RESUBMIT FEE	\$69.10
ADDENDUM (Approval expires on same date as original plan)	\$69.10
ELECTRONIC PLAN SUBMITTAL FEE \$5.00 per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
ELECTRICAL PLAN REVIEW (Plan review for educational, institutional or health care facilities and other buildings)	
Electrical Plan submission fee	\$69.10
Service/feeder Ampacity:	
0 - 100	\$((27.20)) 30.60
101 - 200	\$38.10
201 - 400	\$71.60
401 - 600	\$84.40
601 - 800	\$108.80
801 - 1000	\$133.20
Over 1000	\$144.60
Over 600 volts surcharge	\$22.80
Thermostats:	
First	\$13.40
Each additional	\$3.10
Low voltage fire alarm and burglar alarm:	
Each control panel and up to four circuits or zones	\$12.30
Each additional circuit or zone	\$2.00
Generators, refer to appropriate service/feeder ampacity fees	
<i>Note: Altered services or feeders shall be charged the above rate per the service/feeder ampacity fees.</i>	
Supplemental submissions of plans (resubmittals, addendums, renewals, code updates, etc.) shall be charged per hour or fraction of an hour*	\$81.80
ELECTRICAL COMMERCIAL/INDUSTRIAL	
Electrical Service/feeders 200 Amperage plus	
Service/feeder	\$201.60
Additional Feeder	\$38.20
ELECTRICAL MULTIFAMILY RESIDENTIAL	
Electrical Service/feeders 200 Amperage plus	
Service/feeder	\$106.90
Additional Feeder	\$27.20
MEDICAL GAS PLAN REVIEW:	
SUBMISSION FEE	\$66.20
FIRST STATION	\$66.20

EACH ADDITIONAL STATION	\$24.10
RECIPROCAL PLAN REVIEW:	
INITIAL FEE - MASTER DESIGN	\$105.50
INITIAL FEE - ONE YEAR DESIGN	\$63.70
RENEWAL FEE	\$63.70
ADDENDUM	\$63.70
PLANS APPROVED BY PROFESSIONALS	
APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS	\$12.90
DEPARTMENT INSPECTION FEES	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	\$69.10
TRAVEL (Per hour)	\$69.10
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
DEPARTMENT AUDIT FEES:	
AUDIT (Per hour*)	\$69.10
TRAVEL (Per hour*)	\$69.10
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
ALTERATION INSPECTION (One hour plus insignia alteration fee)	\$103.40
INSIGNIA FEES:	
FIRST SECTION/ALTERATION	\$20.80
EACH ADDITIONAL SECTION	\$12.90
REISSUED-LOST/DAMAGED	\$12.90
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	\$69.10
PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free copy per year upon request)	\$12.90
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments	
** Per state guidelines	
*** Actual charges incurred	

WSR 07-15-096
EXPEDITED RULES
DEPARTMENT OF REVENUE

[Filed July 18, 2007, 10:47 a.m.]

Title of Rule and Other Identifying Information: Amendatory section WAC 458-18-220 Refunds—Rate of interest.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU

MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Kim M. Qually, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail kimq@dor.wa.gov, AND RECEIVED BY September 17, 2007.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule is to provide the rate of interest that will be included when property taxes paid in 2008 are refunded to taxpayers.

The rates of interest reflected in this rule are used when property taxes are refunded. The rates of interest are shown in chronological order with reference to the year the property taxes were paid. The rule is being amended to provide the rate of interest for treasury bill auction year 2007, which is used as a basis for refunding taxes paid in 2008. This rule is updated annually.

Reasons Supporting Proposal: RCW 84.69.100 requires interest to be paid when property taxes are refunded. It also requires the department to annually adopt a rule that specifies the amount of interest to be collected for each year property taxes were paid.

Copies of draft rules are available for viewing and printing on our web site at <http://dor.wa.gov/content/FindALawOrRule/RuleMaking/default.aspx>.

Statutory Authority for Adoption: RCW 84.69.100.

Statute Being Implemented: RCW 84.69.100.

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

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Kim M. Qually, 1025 Union Avenue S.E., Suite #400, Olympia, WA, (360) 570-6113; Implementation and Enforcement: Brad Flaherty, 1025 Union Avenue S.E., Suite #200, Olympia, WA, (360) 570-5860.

July 17, 2007
 Alan R. Lynn
 Rules Coordinator

Year tax paid	Auction Year	Rate
1987	1986	6.11%
1988	1987	5.95%
1989	1988	7.04%
1990	1989	8.05%
1991	1990	8.01%
1992	1991	5.98%
1993	1992	3.42%
1994	1993	3.19%
1995	1994	4.92%
1996	1995	5.71%
1997	1996	5.22%
1998	1997	5.14%
1999	1998	5.06%
2000	1999	4.96%
2001	2000	5.98%
2002	2001	3.50%
2003	2002	1.73%
2004	2003	0.95%
2005	2004	1.73%
2006	2005	3.33%
2007	2006	5.09%
<u>2008</u>	<u>2007</u>	<u>4.81%</u>

AMENDATORY SECTION (Amending WSR 06-21-059, filed 10/16/06, effective 11/16/06)

WAC 458-18-220 Refunds—Rate of interest. The following rates of interest shall apply on refunds of taxes made pursuant to RCW 84.69.010 through 84.69.090 in accordance with RCW 84.69.100. The following rates shall also apply to judgments entered in favor of the plaintiff pursuant to RCW 84.68.030. The interest rate is derived from the equivalent coupon issue yield of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted after June 30th of the calendar year preceding the date the taxes were paid. The rate thus determined shall be applied to the amount of the judgment or the amount of the refund, until paid:

Year tax paid	Auction Year	Rate
1985	1984	11.27%
1986	1985	7.36%