

**WSR 16-13-058**  
**EXPEDITED RULES**  
**DEPARTMENT OF AGRICULTURE**

[Filed June 13, 2016, 8:45 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-390 WAC, WSDA fruit and vegetable inspection districts, inspection fees, and other charges. The department is proposing to:

1. Repeal WAC 16-390-010 to correspond with the repeal of the statutes upon which it was based under SB 6345, effective June 9, 2016;
2. Amend WAC 16-390-025 and 16-390-030 to change the respective fee increase dates from January 1, 2017, to January 1, 2019; and
3. Amend the title of chapter 16-390 WAC to delete the reference to "inspection districts."

**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 Henri Gonzales, Rules Coordinator, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, AND RECEIVED BY August 23, 2016.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 16-390-010, the rule identifying two inspection districts, is to be repealed consistent with the 2016 legislation (SB 6345; chapter 229, Laws of 2016) repealing the statutory authority in chapter 15.17 RCW that established two inspection districts. SB 6345 took effect on June 9, 2016, at which time WAC 16-390-010 also became ineffective.

WAC 16-390-025 and 16-390-030 established fee increases to take effect January 1, 2017. The department has determined that current revenue projections support extending the effective date of the fee increases under each rule from January 1, 2017, to January 1, 2019.

Reasons Supporting Proposal: The repeal of WAC 16-390-010 is necessary to conform to the repeal of the statutory authority for two fruit and vegetable inspection districts under SB 6345. The two year extension of the effective date is necessary to reflect current revenue projections based on the current fees established in these two rules. These projections support the conclusion that deferring for two years the fee increase will meet the program requirements to recover the costs incurred in providing inspection services (RCW 15.17.150) and the revenue needed to maintain the inspection account at the required level (RCW 15.17.240, as amended by SB 6345).

Statutory Authority for Adoption: RCW 15.17.030, 15.17.150; chapter 229, Laws of 2016; chapter 34.05 RCW.

Statute Being Implemented: RCW 15.17.030, 15.17.150; chapter 229, Laws of 2016.

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

Name of Proponent: Washington state department of agriculture, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Jim Nelson, 270 9th Street N.E., Suite 101-A, East Wenatchee, WA 98802, (509) 662-6161.

June 13, 2016  
 Jason Ferrante  
 Assistant Director

**Chapter 16-390 WAC**

**~~((WSDA)) FRUIT AND VEGETABLE ((INSPECTION DISTRICTS,)) INSPECTION FEES AND OTHER CHARGES~~**

AMENDATORY SECTION (Amending WSR 14-24-086, filed 12/1/14, effective 1/1/15)

**WAC 16-390-025 Hourly inspection fee.** (1) Effective January 1, 2015, the hourly inspection fee is \$65.00 per hour for regular hours and \$97.50 for overtime and holiday hours for any inspection service that is not covered by CWT fees.

(2) Effective January 1, (~~2017~~) 2019, the hourly inspection fee is \$75.00 per hour for regular hours and \$112.50 per hour for overtime and holiday hours for any inspection service that is not covered by CWT fees.

(3) An additional fee amounting to three regular hours, plus the inspection fees for time worked, at the applicable hourly fee specified in this section will be charged when inspection service notification is not given prior to the end of normal business hours on the day preceding any weekend or holiday inspection work.

AMENDATORY SECTION (Amending WSR 14-24-086, filed 12/1/14, effective 1/1/15)

**WAC 16-390-030 Fruit and vegetable CWT fees.** The following inspection and certification services are charged fees based on the stated CWT fee, provided that if the applied CWT fee would result in a charge less than the applicable hourly fee under WAC 16-390-025 for the staff hours worked, the applicable hourly fee will be assessed.

(1) Effective January 1, 2015, the fee for federal-state grade and condition certification for all fresh and processing fruits, vegetables, and nuts, except in-state processing potatoes, is \$0.175 per CWT or fraction thereof.

(2) Effective January 1, (~~2017~~) 2019, the fee for federal-state grade and condition certification for all fresh and processing fruits, vegetables, and nuts, except in-state processing potatoes, is \$0.185 per CWT or fraction thereof.

(3) In-state processing potatoes are charged the following fees:

(a) Effective January 1, 2015, the fee to determine the percentage of potatoes meeting U.S. No. 1 or U.S. No. 2 fresh potato grades as listed in the United States Grades for Potatoes (U.S. Potato Standards) is \$0.038 per CWT or fraction thereof.

(b) Effective January 1, ((2017)) 2019, the fee to establish a percentage of potatoes meeting U.S. No. 1 or U.S. No. 2 fresh potato grades as listed in the United States Grades for Potatoes (U.S. Potato Standards) is \$0.043 per CWT or fraction thereof.

(c) Effective January 1, 2015, the fee to establish a percentage of dirt, rot, and green is \$0.021 per CWT or fraction thereof.

(d) Effective January 1, ((2017)) 2019, the fee to determine the percentage of dirt, rot, and green is \$0.023 per CWT or fraction thereof.

(e) Contracts may be negotiated with the potato processing industry for inspection services to meet specific inspection requests, but not for less than the equivalent hourly fee specified in WAC 16-390-025 for the staff hours worked.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-390-010 Inspection districts.

**WSR 16-13-139**  
**EXPEDITED RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed June 22, 2016, 8:32 a.m.]

Title of Rule and Other Identifying Information: WAC 392-139-310 Determination of excess levy base.

#### 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 Melissa Jarmon, Office of the Superintendent of Public Instruction (OSPI), P.O. Box 47200, Olympia, WA 98504-7200, AND RECEIVED BY August 22, 2016.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Subsection (9) of WAC 392-139-310 currently provides that school districts must include state and federal allocations received by an approved public charter school in the levy base of the school district in which the charter school is located when the charter school is eligible to receive levy moneys from that levy. This proposed rule would eliminate subsection (9).

Reasons Supporting Proposal: Prior to the passage of E2SSB 6194 (2016), state law required that charter schools must be included in school district levy planning, budgets, and funding distribution. Subsection 122(5) of E2SSB 6194 repealed that provision. Because the statute on which WAC

392-139-310(9) is based has been repealed and has not been replaced by another statute providing statutory authority for the rule, subsection (9) must be stricken.

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 Agency Personnel Responsible for Drafting: Melissa Jarmon, OSPI, (360) 725-6307; Implementation: T. J. Kelly, OSPI, (360) 725-6301; and Enforcement: Ken Kanikeberg, OSPI, (360) 725-6114.

June 21, 2016

Randy Dorn  
Superintendent of  
Public Instruction

AMENDATORY SECTION (Amending WSR 14-17-009, filed 8/7/14, effective 9/7/14)

#### **WAC 392-139-310 Determination of excess levy base.**

The superintendent of public instruction shall calculate each school district's excess levy base as provided in this section.

(1) Sum the following state and federal allocations from the prior school year(s) as determined in subsections (4) and (5) of this section:

(a) The basic education allocation as defined in WAC 392-139-115 and as reported on the August Report 1191;

(b) The state and federal categorical allocations for the following:

(i) Pupil transportation. Allocations for pupil transportation include allocations for the following accounts:

4199 Transportation - Operations;

4399 Transportation - Operations;

4499 Transportation - Depreciation;

6199 Transportation - Operations;

6299 Transportation - Operations; and

6399 Transportation - Operations.

(ii) Special education. Allocations for special education include allocations for the following accounts:

4121 Special education;

4122 Special education - Infants and toddlers - State;

4321 Special education;

4322 Special education - Infants and toddlers - State;

6114 Federal Stimulus - IDEA;

6124 Special education supplemental;

6125 Special education - Infants and toddlers - Federal;

6214 Federal Stimulus - IDEA;

6224 Special education supplemental;

6225 Special education - Infants and toddlers - Federal;

6314 Federal Stimulus - IDEA;

6324 Special education supplemental; and

6325 Special education - Infants and toddlers - Federal.

(iii) Education of highly capable students. Allocations for education of highly capable students include allocations identified by account 4174 Highly capable.

(iv) Compensatory education. Allocations for compensatory education include allocations identified by the following accounts:

3100 Barrier reduction;

4155 Learning assistance;

4165 Transitional bilingual;  
 4365 Transitional bilingual;  
 6111 Federal Stimulus - Title 1;  
 6151 Disadvantaged;  
 6153 Migrant;  
 6164 Limited English proficiency;  
 6211 Federal Stimulus - Title 1;  
 6251 Disadvantaged;  
 6253 Migrant;  
 6264 Limited English proficiency;  
 6267 Indian education - JOB;  
 6268 Indian education - ED;  
 6311 Federal Stimulus - Title 1;  
 6351 Disadvantaged;  
 6353 Migrant;  
 6364 Limited English proficiency;  
 6367 Indian education - JOM; and  
 6368 Indian education - ED.

(v) Food services. Allocations for food services include allocations identified by the following accounts:

4198 School food services (state);  
 4398 School food services;  
 6198 School food services (federal);  
 6298 School food services;  
 6398 School food services; and  
 6998 USDA commodities.

(vi) Statewide block grant programs. Allocations for statewide block grant programs include allocations identified by the following accounts:

6113 Federal Stimulus - State Fiscal Stabilization Fund;  
 6176 Targeted assistance;  
 6213 Federal Stimulus - State Fiscal Stabilization Fund;  
 6276 Targeted assistance;  
 6313 Federal Stimulus - State Fiscal Stabilization Fund;

and

6376 Targeted assistance.

(c) General federal programs. Allocations for general federal programs identified by the following accounts:

5200 General purpose direct federal grants - Unassigned;

6100 Special purpose - OSPI - Unassigned;  
 6112 Federal Stimulus - School Improvement;  
 6118 Federal Stimulus - Competitive Grants;  
 6119 Federal Stimulus - Other;  
 6121 Special education - Medicaid reimbursement;  
 6138 Secondary vocational education;  
 6146 Skills center;  
 6152 School improvement;  
 6154 Reading first;  
 6162 Math and science - Professional development;  
 6200 Direct special purpose grants;  
 6212 Federal Stimulus - School Improvement;  
 6218 Federal Stimulus - Competitive Grants;  
 6219 Federal Stimulus - Other;  
 6221 Special education - Medicaid reimbursement;  
 6238 Secondary vocational education;  
 6246 Skills center;  
 6252 School improvement;  
 6254 Reading first;  
 6262 Math and science - Professional development;

6300 Federal grants through other agencies - Unassigned;

6310 Medicaid administrative match;  
 6312 Federal Stimulus - School Improvement;  
 6318 Federal Stimulus - Competitive Grants;  
 6319 Federal Stimulus - Other;  
 6321 Special education - Medicaid reimbursement;  
 6338 Secondary vocational education;  
 6346 Skills center;  
 6352 School improvement;  
 6354 Reading first; and  
 6362 Math and science - Professional development.

(2) Increase the result obtained in subsection (1) of this section by the percentage increase per full-time equivalent student in the state basic education appropriation between the prior school year and the current school year as stated in the state Operating Appropriations Act divided by 0.55.

(3) Revenue accounts referenced in this section are defined in the accounting manual for public school districts in the state of Washington.

(4) The dollar amount of revenues for state and federal categorical allocations identified in this section shall come from the following sources:

(a) The following state and federal categorical allocations are taken from the Report 1197 Column A (Annual Allotment Due):

3100 Barrier reduction;  
 4121 Special education;  
 4122 Special education - Infants and toddlers - State;  
 4155 Learning assistance;  
 4165 Transitional bilingual;  
 4174 Highly capable;  
 4198 School food services (state);  
 4199 Transportation - Operations;  
 4499 Transportation - Depreciation;  
 6111 Federal Stimulus - Title 1;  
 6112 Federal Stimulus - School Improvement;  
 6113 Federal Stimulus - State Fiscal Stabilization Fund;  
 6114 Federal Stimulus - IDEA, one-half the August

2010 amount will be used in the 2011 calculation, and one-half in the 2012;

6118 Federal Stimulus - Competitive Grants;  
 6119 Federal Stimulus - Other;  
 6121 Special education - Medicaid reimbursements;  
 6124 Special education - Supplemental; however, for the federal safety net portion, the amount awarded rather than the amount included on report 1197 will be used;

6125 Special education - Infants and toddlers - Federal;  
 6138 Secondary vocational education;  
 6146 Skills center;  
 6151 Disadvantaged;  
 6152 School improvement;  
 6153 Migrant;  
 6154 Reading first;  
 6162 Math and science - Professional development;  
 6164 Limited English proficiency;  
 6176 Targeted assistance;  
 6198 School food services (federal); and  
 6199 Transportation - Operations.

(b) For the 2004 calendar year, the following state and federal allocations are taken from the F-195 budget including budget extensions.

For the 2005 calendar year and thereafter, the following federal allocations shall be taken from the school district's second prior year F-196 annual financial report:

- 4321 Special education;
- 4322 Special education - Infants and toddlers - State;
- 4365 Transitional bilingual;
- 4398 School food services;
- 4399 Transportation - Operations;
- 5200 General purpose direct federal grants - Unassigned;
- 6100 Special purpose - OSPI - Unassigned;
- 6200 Direct special purpose grants;
- 6211 Federal Stimulus - Title 1;
- 6212 Federal Stimulus - School Improvement;
- 6213 Federal Stimulus - State Fiscal Stabilization Fund;
- 6214 Federal Stimulus - IDEA;
- 6218 Federal Stimulus - Competitive Grants;
- 6219 Federal Stimulus - Other;
- 6221 Special education - Medicaid reimbursement;
- 6224 Special education supplemental;
- 6225 Special education - Infants and toddlers - Federal;
- 6238 Secondary vocational education;
- 6246 Skills center;
- 6251 Disadvantaged;
- 6252 School improvement;
- 6253 Migrant;
- 6254 Reading first;
- 6262 Math and science - Professional development;
- 6264 Limited English proficiency;
- 6267 Indian education - JOM;
- 6268 Indian education - ED;
- 6276 Targeted assistance;
- 6298 School food services;
- 6299 Transportation - Operations;
- 6300 Federal grants through other agencies - Unassigned;
- 6310 Medicaid administrative match;
- 6311 Federal Stimulus - Title 1;
- 6312 Federal Stimulus - School Improvement;
- 6313 Federal Stimulus - State Fiscal Stabilization Fund;
- 6314 Federal Stimulus - IDEA;
- 6318 Federal Stimulus - Competitive Grants;
- 6319 Federal Stimulus - Other;
- 6321 Special education - Medicaid reimbursement;
- 6324 Special education supplemental;
- 6325 Special education - Infants and toddlers - Federal;
- 6338 Secondary vocational education;
- 6346 Skills center;
- 6351 Disadvantaged;
- 6352 School improvement;
- 6353 Migrant;
- 6354 Reading first;
- 6362 Math and science - Professional development;
- 6364 Limited English proficiency;
- 6367 Indian education - JOM;
- 6368 Indian education - ED;
- 6376 Targeted assistance;

- 6398 School food services;
- 6399 Transportation - Operations; and
- 6998 USDA commodities.

(5) Effective for levy authority and local effort assistance calculations for the 2005 calendar year and thereafter:

(a) District revenues determined in subsection (4) of this section shall be reduced for revenues received as a fiscal agent. School districts shall report fiscal agent revenues pursuant to instructions provided by the superintendent of public instruction.

(b) The amount determined in subsection (4)(b) of this section, after adjustment for fiscal agent moneys, shall be inflated for one year using the percentage change in the implicit price deflator for personal consumption expenditures for the United States as published for the most recent twelve-month period by the Bureau of Economic Analysis of the Federal Department of Commerce.

(6) State and federal moneys generated by a school district's students and redirected by the superintendent of public instruction to an educational service district at the request of the school district shall be included in the district's levy base.

(7) State basic education moneys generated by a school district's students and allocated directly to a technical college shall be included in the district's levy base.

(8) Funding which the district would have received calculated pursuant to RCW 84.52.0531 shall be included in the district's levy base.

~~((9) Allocations referenced above received by a charter school shall be included in the school district's levy base for the calendar year for which levy authority is being calculated only if the charter school is eligible to receive levy moneys from that levy.))~~

**WSR 16-13-144**  
**EXPEDITED RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed June 22, 2016, 9:56 a.m.]

Title of Rule and Other Identifying Information: Chapter 392-400 WAC, Pupils.

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 Joshua Lynch, Office of Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200, AND RECEIVED BY August 22, 2016.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed

revisions to chapter 392-400 WAC adopt, without material change, changes to student discipline laws under 4SHB 1541, effective June 9, 2016, including:

1. The maximum length for a long-term suspension or expulsion;
2. Restrictions on the use of long-term suspension or expulsion as a form of discretionary discipline, as defined under 4SHB 1541;
3. Provision of educational services during a period of suspension or expulsion;
4. Student reengagement meetings and reengagement plans for long-term suspensions and expulsions; and
5. School district discipline policies and procedures.

Reasons Supporting Proposal: The proposed revisions are necessary to align chapter 392-400 WAC with changes to student discipline laws under 4SHB 1541. Expedited rule making will ensure chapter 392-400 WAC complies with 4SHB 1541 for the upcoming school year. Additional rule making during the 2016-17 school year may be necessary to provide further guidance.

Statutory Authority for Adoption: RCW 28A.600.015.

Statute Being Implemented: 4SHB 1541 (chapter 72, Laws of 2016); chapters 28A.320, 28A.345, and 28A.415 RCW; RCW 28A.600.015, 28A.600.020, and 28A.600.022.

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

Name of Agency Personnel Responsible for Drafting and Implementation: Joshua Lynch, P.O. Box 47200, Olympia, WA 98504-7200, (360) 725-6100; and Enforcement: Paula Moore, P.O. Box 47200, Olympia, WA 98504-7200, (360) 725-6100.

June 21, 2016  
Randy Dorn  
State Superintendent  
of Public Instruction

AMENDATORY SECTION (Amending WSR 14-15-153, filed 7/23/14, effective 8/23/14)

**WAC 392-400-205 Definitions.** As used in this chapter the term:

(1) "Discipline" shall mean all forms of corrective action other than emergency removal from a class, subject, or activity, suspension, or expulsion and shall include the exclusion of a student from a class by a teacher or administrator for a period of time not exceeding the balance of the immediate class period: Provided that the student is in the custody of a school district employee for the balance of such period. Discipline shall also mean the exclusion of a student from any other type of activity conducted by or on behalf of a school district.

(2) "Suspension" shall mean a denial of attendance (other than for the balance of the immediate class period for "discipline" purposes) for any single subject or class, or for any full schedule of subjects or classes for a stated period of time. A suspension also may include a denial of admission to, or entry upon, real and personal property that is owned, leased, rented, or controlled by the school district.

(3) "Short-term suspension" shall mean a suspension for any portion of a calendar day up to and not exceeding ten consecutive school days.

(4) "Long-term suspension" shall mean a suspension that:

(a) Exceeds ten school days and has an end date of not more than the length of an academic term, as defined by the school board, from the time of corrective action;

(b) Cannot be imposed in such a manner that causes the student to lose academic grades or credit in excess of one semester or trimester during the same school year; and

(c) Cannot be imposed beyond the school year in which the alleged misbehavior occurs.

(5) "Emergency expulsion" shall mean an emergency removal from school for up to, and not exceeding, ten consecutive school days from the student's current school placement by a school district superintendent or a designee of the superintendent. The superintendent or designee must have good and sufficient reason to believe that the student's presence poses an immediate and continuing danger to other students or school staff or an immediate and continuing threat of substantial disruption of the educational process. An emergency expulsion must end or be converted to another form of corrective action within ten school days from the date of the emergency removal from school.

(6) "Expulsion" shall mean a denial of attendance for a period of time up to, but not longer than, ~~((one calendar year))~~ the length of an academic term, as defined by the school board, from the time a student is removed from his or her current school placement by a school district superintendent or a designee of the superintendent. An expulsion also may include a denial of admission to, or entry upon, real and personal property that is owned, leased, rented, or controlled by the school district.

(7) "School business day" shall mean any calendar day, exclusive of Saturdays, Sundays, and any federal and school holidays, upon which the office of the superintendent of the school district is open to the public for the conduct of business. A school business day shall be concluded or terminated upon the closure of said office for the calendar day.

(8) "School day" shall mean a calendar day except school holidays on which students enrolled in the school district are afforded the opportunity to be engaged in educational activity which is planned, supervised, and conducted by or under the supervision of the school district certificated staff, and on which day all or any portion of the students enrolled in the program actually participate in such educational activity.

(9) "Reengagement meeting" shall mean a meeting held between the school district and the student and parent and/or guardian to discuss how to return a long-term suspended or expelled student to an education setting as soon as possible.

(10) "Reengagement plan" shall mean a written plan developed between a school district and a student and his/her parent or guardian designed to aid the student in taking the necessary steps to remedy the situation that led to the student's suspension or expulsion and return the student to the educational setting as soon as possible.

(11) "Discretionary discipline" shall mean a disciplinary action taken by a school district for student behavior that vio-

lates rules of student conduct adopted by a school district board of directors under RCW 28A.600.010 and 28A.600.-015, but does not constitute action taken in response to any of the following:

- (a) A violation of RCW 28A.600.420;
- (b) An offense in RCW 13.04.155;
- (c) Two or more violations of RCW 9A.46.120, 9.41.-280, 28A.600.455, 28A.635.020, or 28A.635.060 within a three-year period; or
- (d) Behavior that adversely impacts the health or safety of other students or educational staff.

AMENDATORY SECTION (Amending WSR 06-14-009, filed 6/22/06, effective 6/22/06)

**WAC 392-400-225 School district rules defining misconduct—Distribution of rules.** (1) It shall be the responsibility and duty of each school district to adopt, publish, and make available to all students and parents written rules which state with reasonable clarity the types of misconduct for which discipline, suspension, and expulsion may be imposed. In addition, written procedures for administering corrective action shall be developed and reviewed periodically as follows:

(a) Each school district shall provide for the development with parent and community participation of written procedures for administering corrective action at each school as required by RCW 28A.600.020(3).

(b) In a manner consistent with the district procedures developed pursuant to (a) above, the principal and certificated employees in each school building shall confer at least annually for the purpose of developing, or reviewing, or both, building discipline standards and the uniform enforcement of those standards, as required by RCW 28A.400.110.

(c) School districts shall use disaggregated data collected pursuant to RCW 28A.300.042 to monitor the impact of the school district's discipline policies and procedures, as required by WAC 392-190-048.

(d) School districts, in consultation with school district staff, students, families, and the community, shall periodically review and update their discipline rules, policies, and procedures.

(2) Rules that establish types of misconduct pursuant to this section must have a real and substantial relationship to the lawful maintenance and operation of the school district including, but not limited to, the preservation of the health and safety of students and employees and the preservation of an educational process which is conducive to learning.

(3) The rules set forth in this chapter, the rules of a school district that establish types of misconduct pursuant to subsection (1) above, and the written procedures of a district for administering corrective action adopted pursuant to subsection (1)(a) ~~((above))~~ and (d) of this subsection, shall be published and made available to all students and parents on an annual basis. ~~((If a school district chooses not to distribute such rules to all students and parents, then notice which describes the contents of such rules and specifies the person(s) to contact for a copy thereof shall be provided to students and parents on an annual basis in a manner reasonably calculated to come to their attention.))~~ School districts shall

annually disseminate discipline policies and procedures to students, families, and the community.

AMENDATORY SECTION (Amending WSR 14-15-153, filed 7/23/14, effective 8/23/14)

**WAC 392-400-235 Discipline—Conditions and limitations.** Discipline may be imposed upon any student for violation of the rules of the school district that have been established pursuant to this section, subject to the following limitations and conditions and the grievance procedure set forth in WAC 392-400-240:

(1) No form of discipline shall be enforced in such a manner as to prevent a student from accomplishing specific academic grade, subject, or graduation requirements.

(2) School districts may not suspend the provision of educational services to a student as a disciplinary action.

(3) Corporal punishment which is defined as any act which willfully inflicts or willfully causes the infliction of physical pain on a student is prohibited.

Corporal punishment does not include:

(a) The use of reasonable physical force by a school administrator, teacher, school employee or volunteer as necessary to maintain order or to prevent a student from harming him/herself, other students and school staff or property;

(b) Physical pain or discomfort resulting from or caused by training for or participation in athletic competition or recreational activity voluntarily engaged in by a student; or

(c) Physical exertion shared by all students in a teacher directed class activity, which may include, but is not limited to, physical education exercises, field trips or vocational education projects.

~~((3) Nothing herein shall be construed as limiting or otherwise modifying provisions governing aversive interventions set forth in WAC 392-172A-03120 through 392-172A-03135.))~~

AMENDATORY SECTION (Amending WSR 14-15-153, filed 7/23/14, effective 8/23/14)

**WAC 392-400-245 Short-term suspension—Conditions and limitations.** A short-term suspension may be imposed upon a student for violation of school district rules adopted pursuant to WAC 392-400-225, subject to the following limitations or conditions, the prior informal conference procedures set forth in WAC 392-400-250, and the grievance procedures set forth in WAC 392-400-255:

(1) The nature and circumstances of the violation must be considered and must reasonably warrant a short-term suspension and the length of the suspension imposed. This requirement does not preclude the boards of directors of school districts from establishing the nature and extent of the corrective actions which, as a general rule, must be imposed as a consequence of proscribed misconduct. Such advance notice to students is advisable, and the imposition of such preestablished corrective action is permissible as long as (a) disciplinarians and hearing officers are allowed to grant exceptions in cases involving extenuating or exceptional circumstances, and (b) short-term suspension is not established as the corrective action for a student's first time offense other

than for offenses involving exceptional misconduct as defined in subsection (2) of this section.

(2) As a general rule, no student shall be suspended for a short term unless another form of corrective action reasonably calculated to modify his or her conduct has previously been imposed upon the student as a consequence of misconduct of the same nature. A school district may, however, elect to adopt rules providing for the immediate resort to short-term suspension in cases involving exceptional misconduct as long as disciplinarians and hearing officers may grant exceptions in cases involving extenuating or exceptional circumstances, notwithstanding the fact prior alternative corrective action has not been imposed upon the student(s) involved. For the purpose of this rule, "exceptional misconduct" means misconduct other than absenteeism which a school district has judged, following consultation with an ad hoc citizens committee, to (a) be of such frequent occurrence, notwithstanding past attempts of district staff to control such misconduct through the use of other forms of corrective action, as to warrant an immediate resort to short-term suspension, or (b) be so serious in nature or so serious in terms of the disruptive effect upon the operation of the school(s) as to warrant an immediate resort to short-term suspension. The ad hoc citizens committee required by this section shall be composed of three or more persons chosen by the school district or the administrative designee(s) of the district, and shall be constituted with the intent and purpose of representing various socioeconomic, minority and majority populations of the school district to the extent deemed practical.

(3) No student in grades kindergarten through grade four shall be subject to short-term suspensions for more than a total of ten school days during any single semester or trimester as the case may be, and no loss of academic grades or credit shall be imposed by reason of the suspension of such a student.

(4) No student in the grade five and above program shall be subjected to short-term suspensions for more than a total of fifteen school days during any single semester or ten school days during any single trimester, as the case may be.

(5) A student may be excluded from a particular classroom or instructional or activity area for the period of suspension, but the school district must provide an opportunity for a student to receive educational services during a period of suspension. Any student subject to a short-term suspension shall be provided the opportunity upon his or her return to make up assignments and tests missed by reason of the short-term suspension if:

(a) Such assignments or tests have a substantial effect upon the student's semester or trimester grade or grades; or

(b) Failure to complete such assignments or tests would preclude the student from receiving credit for the course or courses.

(6) Any student who has been suspended shall be allowed to make application for readmission at any time. Each school district board of directors shall adopt written rules which provide for such an application for readmission and set forth the procedures to be followed.

AMENDATORY SECTION (Amending WSR 14-15-153, filed 7/23/14, effective 8/23/14)

**WAC 392-400-260 Long-term suspension—Conditions and limitations.** A long-term suspension may be imposed upon a student for violation of school district rules adopted pursuant to WAC 392-400-225, subject to the following limitations or conditions and the notice requirements set forth in WAC 392-400-265 and the hearing requirements set forth in WAC 392-400-270:

(1) School districts may not impose long-term suspension as a form of discretionary discipline as defined in WAC 392-400-205(11).

(2) A student may be excluded from a particular classroom or instructional or activity area for the period of suspension, but the school district must provide an opportunity for a student to receive educational services during a period of suspension.

(3) The nature and circumstances of the violation must be considered and must reasonably warrant a long-term suspension and the length of the suspension imposed. This requirement does not preclude the boards of directors of school districts from establishing the nature and extent of the corrective actions which, as a general rule, must be imposed as a consequence of proscribed misconduct. Such advance notice to students is advisable, and the imposition of such preestablished corrective action is permissible as long as (a) disciplinarians and hearing officers are allowed to grant exceptions in cases involving extenuating or exceptional circumstances, and (b) long-term suspension is not established as the corrective action for a student's first time offense other than for offenses involving exceptional misconduct as defined in subsection ((2)) (4) of this section.

((2)) (4) As a general rule, no student shall be suspended for a long term unless another form of corrective action reasonably calculated to modify his or her conduct has previously been imposed upon the student as a consequence of misconduct of the same nature. A school district may, however, elect to adopt rules providing for the immediate resort to long-term suspension in cases involving exceptional misconduct as long as disciplinarians and hearing officers are allowed to grant exceptions in cases involving extenuating or exceptional circumstances, notwithstanding the fact prior alternative corrective action has not been imposed upon the student(s) involved. For the purpose of this rule, "exceptional misconduct" means misconduct other than absenteeism which a school district has judged following consultation with an ad hoc citizens committee to (a) be of such frequent occurrence, notwithstanding past attempts of district staff to control such misconduct through the use of other forms of corrective action, as to warrant an immediate resort to long-term suspension, or (b) be so serious in nature or so serious in terms of the disruptive effect upon the operation of the school(s) as to warrant an immediate resort to long-term suspension. The ad hoc citizens committee required by this section shall be composed of three or more persons chosen by the school district or the administrative designee(s) of the district, and shall be constituted with the intent and purpose of representing various socioeconomic, minority and majority populations of the school district to the extent deemed practical.

~~((3))~~ (5) No student in grades kindergarten through four shall be subject to long-term suspension during any single semester or trimester, as the case may be, and no loss of academic grades or credit shall be imposed by reason of the suspension of such a student.

~~((4))~~ (6) No single long-term suspension shall be imposed upon a student in the grade five and above program in a manner which causes the student to lose academic grades or credit for in excess of one semester or trimester, as the case may be, during the same school year.

~~((5))~~ (7) Any student who has been suspended shall be allowed to make application for readmission at any time. Each school district board of directors shall adopt written rules which provide for such an application for readmission and set forth the procedures to be followed.

~~((6))~~ (8) All long-term suspensions and the reasons therefor shall be reported in writing to the superintendent of the school district or his or her designee within twenty-four hours after the imposition of the suspension.

AMENDATORY SECTION (Amending WSR 14-15-153, filed 7/23/14, effective 8/23/14)

**WAC 392-400-275 Expulsion—Conditions and limitations.** A student may be expelled for violation of school district rules adopted pursuant to WAC 392-400-225, subject to the following limitations or conditions, the notice requirements set forth in WAC 392-400-280, and the hearing requirements set forth in WAC 392-400-285:

(1) School districts may not impose expulsion as a form of discretionary discipline as defined in WAC 392-400-205(11).

(2) A student may be excluded from a particular classroom or instructional or activity area for the period of suspension or expulsion, but the school district must provide an opportunity for a student to receive educational services during a period of suspension or expulsion.

(3) The nature and circumstances of the violation must reasonably warrant the harshness of expulsion.

~~((2))~~ (4) No student shall be expelled unless other forms of corrective action reasonably calculated to modify his or her conduct have failed or unless there is good reason to believe that other forms of corrective action would fail if employed.

~~((3))~~ (5) An expulsion may not be for an indefinite period of time. An expulsion may not exceed ~~((one calendar year))~~ the length of an academic term, as defined by the school board, from the date of the corrective action unless:

(a) The school petitions the district superintendent for an extension; and

(b) The district superintendent authorizes the extension in compliance with the superintendent of public instruction's rules adopted for this purpose.

~~((4))~~ (6) The district shall make reasonable efforts to assist students in returning to an educational setting prior to, and no later than, the end date of the corrective action.

~~((5))~~ (7) Once a student has been expelled in compliance with this chapter, the expulsion shall be brought to the attention of appropriate local and state authorities including, but not limited to, juvenile authorities acting pursuant to

chapter 13.04 RCW in order that such authorities may address the student's educational needs.

~~((6))~~ (8) Any student who has been expelled shall be allowed to make application for readmission at any time. Each school district board of directors shall adopt written rules which provide for such an application for readmission and set forth the procedures to be followed.

~~((7))~~ (9) All expulsions and the reasons therefor shall be reported in writing to the superintendent of the school district or his or her designee within twenty-four hours after the imposition of the expulsion.

AMENDATORY SECTION (Amending WSR 14-15-153, filed 7/23/14, effective 8/23/14)

**WAC 392-400-410 Appeal for extension of ~~((a one-year))~~ an expulsion.** When warranted because of risk to the public health and safety, the principal or the principal's designee may petition the district's superintendent for authorization to exceed the ~~((one calendar year))~~ academic term limitation on an expulsion. The superintendent may exercise his/her discretion to grant the petition in limited circumstances, on a case-by-case basis, so long as there is evidence that, if the student were to return at or before ~~((one calendar year))~~ the length of an academic term, as defined by the school board, he/she would pose a risk to public health or safety.

(1) The petition to exceed the ~~((one-year))~~ academic term limit shall include, at least, the following:

(a) A detailed description of the student's misconduct, the school rules which were violated, and the public health and/or safety concerns of the district;

(b) A detailed description of the student's academic, attendance, and discipline history, if any;

(c) A description of the lesser forms of corrective actions which were considered and reasons why those were rejected;

(d) A description of all alternative learning experiences, vocational programs, and/or other educational services which may be available to the student;

(e) The proposed extended length of the expulsion;

(f) Identification of special education services or accommodations pursuant to Section 504 of the Rehabilitation Act of 1973, if appropriate; and

(g) A proposed date for the reengagement meeting.

(2) Designated staff shall submit the petition at any time after final imposition of ~~((a one-year))~~ an academic term expulsion and prior to the end of that expulsion.

(3) A copy of the petition shall be delivered in person or by certified mail to the student and his/her parent(s)/guardian(s).

(4) The petition shall be provided in the predominant language of the student and/or parent(s)/guardian(s) who speak a language, other than English, in accordance with Title VI of the Civil Rights Act of 1964.

(5) The student and/or parent(s)/guardian(s) may submit a written or verbal response to the petition within ten school business days of the recorded receipt of the petition.

(6) Within eleven school business days, but no later than twenty school business days of the date of the petition's recorded delivery to the student/parent(s)/guardian(s), the



district superintendent shall issue a written decision indicating whether the petition is granted or denied. The written decision shall also include a description of all rights and procedures for appeal.

(7) If the petition is granted, within ten school business days of the receipt of the decision, the student and/or parent(s)/guardian(s) may appeal the decision to the district's school board in accordance with WAC 392-400-310 and 392-400-315.

Annually, all school districts shall report the number of petitions submitted, approved and denied to the office of the superintendent of public instruction.

AMENDATORY SECTION (Amending WSR 14-15-153, filed 7/23/14, effective 8/23/14)

**WAC 392-400-420 Reengagement meetings and plans.** (1) School districts should make efforts to have suspended or expelled students return to an educational setting as soon as possible. School districts (~~should~~) must convene a meeting with the student and the student's parents or guardians within twenty days of the student's long-term suspension or expulsion, but no later than five days before the student's reentry or enrollment, to discuss a plan to reengage the student in a school program. Families must have access to, provide meaningful input on, and have the opportunity to participate in a culturally sensitive and culturally responsive reengagement plan.

(2) In developing a reengagement plan, school districts should consider shortening the length of time that the student is suspended or expelled, other forms of corrective action, and supportive interventions that aid in the student's academic success and keep the student engaged and on track to graduate. School districts must create a reengagement plan tailored to the student's individual circumstances, including consideration of the incident that led to the student's long-term suspension or expulsion. The plan should aid the student in taking the necessary steps to remedy the situation that led to the student's suspension or expulsion.

(3) Any reengagement meetings conducted by the school district involving the suspended or expelled student and his or her parents or guardians are not intended to replace a petition for readmission.

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, Department of Social and Health Services, P.O. Box 45850, Olympia, WA 98504-5850, or deliver to 1115 Washington, Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, AND RECEIVED BY 5:00 p.m., August 22, 2016.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department proposes to repeal WAC 388-865-0260 which was inadvertently left off the list of repealed sections proposed under WSR 16-07-152, filed on March 23, 2016, and implementing 2SSB 6312 (chapter 225, Laws of 2014). The language in this repealed section was updated and is found in WAC 388-877-0410, 388-877-0420, 388-877-0500, and other sections in chapter 388-877 WAC, Behavioral health services administrative requirements. The rest of the regional support network rules were repealed under WSR 16-13-087.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 71.24.035 (5)(c).

Statute Being Implemented: RCW 71.24.035 (5)(c).

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

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kathy Sayre, P.O. Box 45330, Olympia, WA 98504-5330, (360) 725-1342.

June 16, 2016  
Katherine I. Vasquez  
Rules Coordinator

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-865-0260 Mental health professionals and specialists.

**WSR 16-13-154**

**EXPEDITED RULES**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Behavioral Health Administration)

[Filed June 22, 2016, 11:52 a.m.]

Title of Rule and Other Identifying Information: The department proposes to repeal WAC 388-865-0260 Mental health professionals and specialists.

**NOTICE**

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL