

**WSR 24-22-004**  
**EMERGENCY RULES**  
**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Aging and Long-Term Support Administration)

[Filed October 23, 2024, 3:25 p.m., effective October 26, 2024]

Effective Date of Rule: October 26, 2024.

Purpose: The department of social and health services (department) is amending WAC 388-71-0523, 388-71-0880, 388-71-0888, 388-71-0890, 388-71-0977, and 388-115-0523. The purpose of these changes is to bring rules into compliance with SB 5811 (chapter 322, Laws of 2024). This rule making expands the definition of individual provider.

Permanent rules are in process. The proposed rule hearing is scheduled for November 5, 2024. Permanent rules will supersede the emergency rule when adopted.

Citation of Rules Affected by this Order: Amending WAC 388-71-0523, 388-71-0880, 388-71-0888, 388-71-0890, 388-71-0977, and 388-115-0523.

Statutory Authority for Adoption: RCW 18.88B.010, 18.88B.041, 74.08.090, 74.39A.076, 74.39A.341.

Other Authority: Chapter 18.80 RCW.

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

Reasons for this Finding: Permanent rules are in process, but will not be adopted before the current emergency rule filed as WSR 24-14-083 expires on October 26, 2024. This emergency rule will replace the emergency rule.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 6, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 6, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 6, Repealed 0.

Date Adopted: October 23, 2024.

Katherine I. Vasquez  
Rules Coordinator

**SHS-5041.1**

AMENDATORY SECTION (Amending WSR 24-05-003, filed 2/8/24, effective 3/10/24)

**WAC 388-71-0523 What are the training and certification requirements for individual providers and home care agency long-term care workers?** The following chart provides a summary of the training and certification requirements for individual providers and home care agency long-term care workers. This includes criteria for those providers working limited hours for one person, caring only for one's child, parent, sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild including when related by marriage or domestic partnership, providing respite services, or providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs:

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Required credential
(1) An individual provider or home care agency long-term care worker who is a licensed, certified health care professional in good standing through the Washington state department of health, or an individual provider or home care agency long-term care worker with special education training who meets the criteria in RCW 18.88B.041 (1)(a)(i)(A).	ARNP, RN, LPN, HCA, CN-A, or other professionals listed in WAC 388-71-0839.	Not required.	Not required.	Not required.	Not required of ARNPs, RNs, or LPNs in chapter 388-71 WAC. Required 12 hours under WAC 388-71-0990 and 388-71-0991 of NA-Cs, HCAs, and other professionals listed in WAC 388-71-0839, such as an individual with special education training with an endorsement granted by the superintendent of public instruction under RCW 28A.300.010. For NA-C and those with special education training 12 hours is required for each year worked in long-term care.	Required under chapter 246-980 WAC.
(2) An individual provider or home care agency long-term care worker with specific employment history.	A long-term care worker employed at some point between January 1, 2011, and January 6, 2012, and has completed the basic training requirements in effect on the date of hire. WAC 388-71-0839.	Not required.	Not required.	Not required.	12 hours is required for each year worked in long-term care under WAC 388-71-0990 and 388-71-0991.	Not required.

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Required credential
(3) An individual provider or home care agency long-term care worker.	Hired by a licensed home care agency or the consumer directed employer to provide personal care service as defined in WAC 388-71-0836 and is not exempt under subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 70 hours under WAC 388-71-0870 and 388-71-0875.	Required. 12 hours under WAC 388-71-0990 and 388-71-0991.	Required under chapter 246-980 WAC.
(4) An individual provider who works limited hours for one person.	An individual provider employed by the consumer directed employer providing 20 hours or less of nonrespite care for one person per calendar month and does not meet the criteria in subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 30 hours under WAC 388-71-0880.	Not required.	Not required.
[[ <del>(5)</del> ]] (5) An individual who provides respite services and works 300 hours or less in any calendar year.	(a) An individual providing respite care who works no more than 300 hours in the calendar year, is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection (6) of this section. (b) Individual providing respite services for individuals with developmental disabilities that receive services under Title 71A RCW and for individuals that receive services under chapter 74.39A, that is working 300 hours or less in any calendar year, and that is not exempt in subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. Nine hours under WAC 388-71-0890.	Not required.	Not required.

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Required credential
(6) An individual provider caring only for the provider's <del>(biological, step, or adoptive)</del> adult child.	An individual providing care only for the provider's adult child <b>that receives services through the developmental disabilities</b> administration and not exempt under subsection (1) or (2) of this section.	Required. Two hours <del>(per)</del> <u>under WAC 388-71-0895.</u>	Required. Three hours under WAC 388-71-0895.	Required. Seven hours under WAC 388-71-0890.	Not required.	Not required.
<del>((7) An individual provider caring only for the provider's biological, step, or adoptive child, or parent.</del>	An individual providing care <b>only</b> to the individual's child or parent, who is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection (6) of this section.	Required. Two hours under <del>WAC 388-71-0860.</del>	Required. Three hours under <del>WAC 388-71-0860.</del>	Required. 30 hours under <del>WAC 388-71-0880.</del>	12 hours is required for each year worked in long-term care for an individual provider caring only for the provider's biological, step, or adoptive parent under <del>WAC 388-71-0990 and 388-71-0991.</del> Not required for an individual provider caring only for the provider's biological, step, or adoptive child under <del>WAC 388-71-1001.</del>	Not required:))
<del>((8)) (7) An individual provider caring only for the provider's <u>parent, child, sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership.</u></del>	An individual providing care only for the individual provider's <u>parent, child, sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership,</u> who is not exempt in subsection (1) or (2) of this section, and does not meet the criteria in subsection (6) of this section.	Required. Two hours under <del>WAC 388-71-0860.</del>	Required. Three hours under <del>WAC 388-71-0860.</del>	Required. 30 hours under <del>WAC 388-71-0880.</del>	Not required.	Not required.

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Required credential
<del>((9))</del> (8) A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs.	A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs who is not exempt in subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 30 hours under WAC 388-71-0880.	12 hours is required for each year worked in long-term care under WAC 388-71-0990 and 388-71-0991.	Not required.

AMENDATORY SECTION (Amending WSR 24-05-003, filed 2/8/24, effective 3/10/24)

**WAC 388-71-0880 Who must complete the 30-hour basic training and by when must it be completed?** Unless exempt from the basic training requirements under WAC 388-71-0839 (1) through (7), the following individuals must complete the 30-hour basic training under WAC 388-71-0885 within 120 days of the date of hire as described in WAC 388-71-0837:

- (1) An individual provider who only cares for that provider's ~~((+))~~
  - ~~((a) biological, step, or adoptive))~~ child, or parent ~~((+ or))~~, ~~((b))~~ sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or
- (2) A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs; or
- (3) A long-term care worker who provides no more than 20 hours of nonrespite care for one person who is not the individual provider's ~~((+))~~
  - ~~((a) biological, step, or adoptive))~~ child, ~~((or))~~ parent ~~((+ or))~~, ~~((b))~~ sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership.

AMENDATORY SECTION (Amending WSR 24-05-003, filed 2/8/24, effective 3/10/24)

**WAC 388-71-0888 When do the 70-hour basic training and certification requirements apply to an individual whose required basic training was previously less than 70 hours?** (1) The following individual

providers must complete 70 hours of basic training and become a certified home care aide under WAC 388-71-0523:

(a) Individual providers who previously provided no more than 20 hours of nonrespite care in any calendar month for one person who is not the provider's:

(i) ~~((biological, step, or adoptive))~~ child, ~~((~~☒~~))~~ parent ~~((~~☒~~))~~, ~~((~~☒~~))~~ sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or

~~((~~☒~~))~~ (ii) spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs;

(A) who continue to work for one unrelated client whose authorized monthly hours fluctuate above 20 hours per month; or

(B) who begin to work for a second client.

(b) Individual providers who provide respite services and worked more than 300 respite hours in any calendar year;

(c) Individual providers who begin working for an unrelated client who previously only provided personal care to the provider's:

(i) ~~((biological, step, or adoptive))~~ child, ~~((~~☒~~))~~ parent ~~((~~☒~~))~~, ~~((~~☒~~))~~

~~((~~☒~~))~~ sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or

~~((~~☒~~))~~ (ii) spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs.

(2) When an IP described in subsection (1) of this section is required to complete the 70-hour basic training and become a certified home care aide, the IP will:

(a) Have 120 days from the date of the change to complete the 70-hour basic training and 200 days from the date of the change to become certified; and

(b) Be required to complete continuing education under WAC 388-71-0990.

(3) For the purpose of this section, the date of the change means the date on which the IP:

(a) Began working for a client that is not the individual's:

(i) ~~((biological, step, or adoptive))~~ child, ~~((~~☒~~))~~ parent ~~((~~☒~~))~~, ~~((~~☒~~))~~

~~((~~☒~~))~~ sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or

~~((~~☒~~))~~ (ii) spouse or registered domestic partner receiving approved services funded through the United States department of veterans' affairs home and community-based programs.

(b) Exceeded 20 hours of work in one month; or

(c) Exceeded 300 respite hours in one calendar year.

(4) If an IP is required to or chooses to become a certified home care aide and completes the 70-hour training requirements under this section, the individual will be required to continue to comply with these requirements to maintain the credential and complete continuing education requirements even if:

(a) The monthly authorized hours are later reduced to 20 or fewer hours;

(b) The individual no longer works for more than one unrelated client; or

(c) The individual works 300 or fewer respite hours in a calendar year.

(5) The training and certification requirements for an individual that met the criteria in subsection (4) of this section does not apply if the individual returns to work only for the individual's:

(a) ~~((biological, step, or adoptive))~~ parent, ~~((or))~~ adult child, ~~((b))~~ sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or

~~((e))~~ (b) spouse or registered domestic partner receiving approved services funded through the United States department of veterans' affairs home and community-based programs.

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

**WAC 388-71-0890 What are the training requirements for parent providers who are individual providers for their adult children through DDA?** Unless exempt from the basic training requirements as defined in WAC 388-71-0839 (1) through (7), a ~~((biological, step, or adoptive))~~ parent, including when related by marriage or domestic partnership, who is the individual provider for his or her adult child receiving services through the DSHS developmental disabilities administration must complete the ~~((twelve))~~ 12-hour parent provider training, as described in WAC 388-71-0895, within ~~((one hundred twenty))~~ 120 days from the begin date of the authorization to provide department paid, in-home services.

AMENDATORY SECTION (Amending WSR 24-05-003, filed 2/8/24, effective 3/10/24)

**WAC 388-71-0977 Once an individual is required to obtain certification as a home care aide, may that individual revert to exempt status?** (1) If an individual is required to or chooses to become a certified home care aide and completes the 70-hour training requirements under this section, the individual will be required to continue to comply with these requirements to maintain the credential and complete continuing education requirements even if:

(a) The monthly authorized hours are later reduced to 20 or fewer hours;

(b) The individual no longer works for a second unrelated client; or

(c) The individual works 300 respite hours or less in a calendar year.

(2) The training and certification requirements for an individual that met the criteria in subsection (1) of this section does not apply when the individual returns to work only for the individual's:

(a) ~~((biological, step, or adoptive))~~ parent, ~~((or))~~ adult child~~((or))~~,

~~((b))~~ sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or

((e)) (b) spouse or registered domestic partner receiving approved services funded through the United States department of veterans' affairs home and community-based programs.

AMENDATORY SECTION (Amending WSR 24-05-003, filed 2/8/24, effective 3/10/24)

**WAC 388-115-0523 What are the training and certification requirements for individual providers?** The following chart provides a summary of the training and certification requirements for individual providers. This includes criteria for those providers working limited hours for one person, caring only for one's child, parent, sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild including when related by marriage or domestic partnership, providing respite services, or providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs:

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Required credential
(1) An individual provider who is a licensed, certified health care professional in good standing through the Washington state department of health, or an individual provider or home care agency long-term care worker with special education training who meets the criteria in RCW 18.88B.041 (1)(a)(i)(A).	ARNP, RN, LPN, HCA, NA-C, or other professionals listed in WAC 388-71-0839.	Not required.	Not required.	Not required.	Not required of ARNPs, RNs, or LPNs in chapter 388-71 WAC. Required 12 hours under WAC 388-71-0990 and 388-71-0991 of NA-Cs, HCAs, and other professionals listed in WAC 388-71-0839, such as an individual with special education training with an endorsement granted by the superintendent of public instruction under RCW 28A.300.010. For NA-C and those with special education training, 12 hours is required for each year worked in long-term care.	Required under chapter 246-980 WAC.



Who	Status	Orientation training	Safety training	Basic training	Continuing education	Required credential
(2) An individual provider with specific employment history.	A long-term care worker employed at some point between January 1, 2011, and January 6, 2012, and has completed the basic training requirements in effect on the worker's date of hire. WAC 388-71-0839.	Not required.	Not required.	Not required.	12 hours is required for each year worked in long-term care under WAC 388-71-0990 and 388-71-0991.	Not required.
(3) An individual provider.	Hired by the consumer directed employer to provide personal care service as defined in WAC 388-71-0836 and is not exempt under subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 70 hours under WAC 388-71-0870 and 388-71-0875.	Required. 12 hours under WAC 388-71-0990 and 388-71-0991.	Required under chapter 246-980 WAC.
(4) An individual provider who works limited hours for one person.	An individual provider employed by the consumer directed employer providing 20 hours or less of nonrespite care for one person per calendar month and does not meet the criteria in subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 30 hours under WAC 388-71-0880.	Not required.	Not required.

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Required credential
(5) An individual who provides respite services and works 300 hours or less in any calendar year.	(a) An individual providing respite care and works no more than 300 hours in the calendar year, is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection (7) of this section. (b) An individual providing respite services for individuals with developmental disabilities that receive services under Title 71A RCW and for individuals that receive services under chapter 74.39A, that is working 300 hours or less in any calendar year, and that is not exempt in subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. Nine hours under WAC 388-71-0890.	Not required.	Not required.
(6) An individual provider caring only for the provider's ((biological, step, or adoptive)) adult child.	An individual providing care only for the provider's adult child that receives services through the developmental disabilities administration and not exempt under subsection (1) or (2) of this section.	Required. Two hours ( <del>per</del> ) under WAC 388-71-0895.	Required. Three hours under WAC 388-71-0895.	Required. Seven hours under WAC 388-71-0890.	Not required.	Not required.

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Required credential
<p><del>((7))</del> An individual provider caring only for the provider's biological, step, or adoptive child, or parent.</p>	<p>An individual providing care <b>only</b> to the provider's child or parent, who is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection (6) of this section.</p>	<p>Required. Two hours under WAC 388-71-0860.</p>	<p>Required. Three hours under WAC 388-71-0860.</p>	<p>Required. 30 hours under WAC 388-71-0880.</p>	<p>12 hours is required for each year worked in long-term care for an individual provider caring only for the individual's biological, step, or adoptive parent under WAC 388-71-0990 and 388-71-0991. Not required for an individual provider caring only for the individual's biological, step, or adoptive child under WAC 388-71-1001.</p>	<p>Not required.))</p>
<p><del>((8))</del> (7) An individual provider caring only for the individual provider's <u>parent, child, sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild</u>, including when related by marriage or domestic partnership.</p>	<p>An individual providing care only for the individual provider's <u>parent, child, sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild</u>, including when related by marriage or domestic partnership, who is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection (6) of this section.</p>	<p>Required. Two hours under WAC 388-71-0860.</p>	<p>Required. Three hours under WAC 388-71-0860.</p>	<p>Required. 30 hours under WAC 388-71-0880.</p>	<p>Not required.</p>	<p>Not required.</p>
<p><del>((9))</del> (8) A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs.</p>	<p>A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs who is not exempt in subsection (1) or (2) of this section.</p>	<p>Required. Two hours under WAC 388-71-0860.</p>	<p>Required. Three hours under WAC 388-71-0860.</p>	<p>Required. 30 hours under WAC 388-71-0880.</p>	<p>12 hours is required for each year worked in long-term care under WAC 388-71-0990 and 388-71-0991.</p>	<p>Not required.</p>

**WSR 24-22-008**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-243—Filed October 23, 2024, 4:38 p.m., effective October 23, 2024, 4:38 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This emergency rule adjusts the Puget Sound purse seine test fishing schedule for week 43.

Citation of Rules Affected by this Order: Repealing WAC 220-354-12000M; and amending WAC 220-354-120.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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

Reasons for this Finding: This emergency rule is needed to adjust the preseason purse seine vessel test fishing schedule for the following vessels (F/V), the F/V Harbor Gem, the F/V Lisa Marie, and the F/V Tradition in week 43 from Thursday to Friday, to conduct test fisheries in the waters of Puget Sound Salmon Management and Catch Reporting Areas 9, 10, and 11. The schedule adjustment is necessary to accommodate changes to openings in Puget Sound commercial fisheries. These test fisheries are necessary to collect genetic stock identification data and to inform the in-season update models, and have been agreed to by comanagers. This information is necessary to sustainably manage Puget Sound chum fisheries. There is insufficient time to adopt permanent rules.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

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

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

Date Adopted: October 23, 2024.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-354-12000N Puget Sound salmon—Purse seine—Open periods.** Effective October 25 through November 27, 2024, the purse seine vessels the F/V Harbor Gem, the F/V Lisa Marie and the F/V Tradition may

carry out purse seine test fishery operations within Puget Sound Salmon Management and Catch Reporting Areas 9, 10 and 11.

(1) Allowed fishing period is from October 25 through November 27, 2024.

(2) Area 11: Only chum salmon may be retained. All other salmon species must be released. WDFW staff must be onboard vessel while fishing.

(3) Area 9/10 Apple Cove Test Fishery: Administered by Northwest Indian Fisheries Commission staff. All salmon species may be retained.

(4) Weekly schedule by Area and vessel:

Week	F/V Harbor Gem Apple Cove/Kingston Area 9/10	F/V Tradition Command Point; Area 11; West Pass	F/V Lisa Marie Point Beals; Area 11; East Pass
43	Friday 10/25/2024	Friday 10/25/2024	Friday 10/25/2024
44	Wed 10/30/2024	Wed 10/30/2024	Wed 10/30/2024
45	Wed 11/06/2024	Wed 11/06/2024	Wed 11/06/2024
46	Wed 11/13/2024	Wed 11/13/2024	Wed 11/13/2024
47	Wed 11/20/2024		

REPEALER

The following section of Washington Administrative Code is repealed, effective October 24, 2024:

WAC 220-354-12000M Puget Sound salmon—Purse seine—Open periods. (24-241)

## WSR 24-22-013

## EMERGENCY RULES

## DEPARTMENT OF HEALTH

(Pharmacy Quality Assurance Commission)

[Filed October 25, 2024, 9:18 a.m., effective October 25, 2024, 9:18 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Medication assistance in community-based and in-home care settings. As provided in RCW 69.41.010(15), the pharmacy quality assurance commission (commission) and department of health (department) are filing jointly to reinstate medication assistance rules as permitted under chapter 69.41 RCW by adopting new rules in WAC 246-945-710, 246-945-712, 246-945-714, 246-945-716, 246-945-718, 246-945-720, 246-945-722, 246-945-724, 246-945-726, and 246-945-728.

This adopted emergency rule will extend WSR 24-14-078 filed on June 28, 2024, without change.

This rule establishes criteria for medication assistance in community-based and in-home care settings in accordance with chapter 69.41 RCW. The definition for medication assistance provided in RCW 69.41.010(15) states:

"Medication assistance" means assistance rendered by a nonpractitioner to an individual residing in a community-based care setting or in-home care setting to facilitate the individual's self-administration of a legend drug or controlled substance. It includes reminding or coaching the individual, handing the medication container to the individual, opening the individual's medication container, using an enabler, or placing the medication in the individual's hand, and such other means of medication assistance as defined by rule adopted by the department.

These emergency rules provide further definitions for terms used within this definition such as "enabler" and establish those "other means of medication assistance as defined by rule adopted by the department." These rules help impacted individuals retain their independence and live in the least restrictive setting, such as their own home, longer by providing means and guidance for medication assistance.

Citation of Rules Affected by this Order: New WAC 246-945-710, 246-945-712, 246-945-714, 246-945-716, 246-945-718, 246-945-720, 246-945-722, 246-945-724, 246-945-726, and 246-945-728.

Statutory Authority for Adoption: RCW 18.64.005, 69.41.010(15), and 69.41.075.

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

Reasons for this Finding: The commission's new chapter 246-945 WAC became effective in July 2020. The old rules, including the former rules on medication assistance (chapter 246-888 WAC), were repealed in March 2021. The commission's repeal of chapter 246-888 WAC has resulted in unintended disruptions for medication assistance in the community-based and in-home care settings permitted under chapter 69.41 RCW. Emergency rule making is necessary to immediately restore medication assistance regulations to preserve patient safety and welfare while the commission and the department work on permanent rules. The CR-101 was filed on December 27, 2021, under WSR 22-02-015. Permanent rule

making was originally delayed due to the novel coronavirus COVID-19 pandemic but is still in progress. Commission staff collaborated with the department of social and health services in the rule language drafting process. At the May 2, 2024, business meeting the rule language was approved by the commission and staff were authorized to file a CR-102. The CR-102 for the permanent rule-making project has been drafted and is under review.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 10, Amended 0, Repealed 0.

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 10, Amended 0, Repealed 0.

Date Adopted: October 25, 2024.

Hawkins DeFrance, PharmD, Chair  
Pharmacy Quality Assurance Commission  
and Kristin Peterson, JD  
Chief of Policy  
for Umair A. Shah MD, MPH  
Secretary of Health

**OTS-2998.2**

## **PART 5 - MEDICATION ASSISTANCE**

### NEW SECTION

**WAC 246-945-710 Scope and applicability.** (1) This section through WAC 246-945-728 only apply to medication assistance provided in community-based care settings and in-home care settings.

(2) The following definitions apply to this section through WAC 246-945-728 unless the context requires otherwise:

(a) "Medication" means legend drugs and controlled substances;  
and

(b) "Practitioner" has the same meaning as in RCW 69.41.010(17).

NEW SECTION

**WAC 246-945-712 Self-administration with assistance, independent self-administration, and medication administration.** (1) Self-administration with assistance means assistance with legend drugs and controlled substances rendered by a nonpractitioner to an individual residing in a community-based care setting or an in-home care setting. It includes reminding or coaching the individual to take their medication, handing the medication container to the individual, opening the medication container, using an enabler, or placing the medication in the hand of the individual/resident. The individual/resident must be able to put the medication into their mouth or apply or instill the medication. The individual/resident does not necessarily need to state the name of the medication, intended effects, side effects, or other details, but must be aware that they are receiving medication. Assistance may be provided by a nonpractitioner with prefilled insulin syringes. Assistance is limited to handing the prefilled insulin syringe to an individual/resident. Assistance with the administration of any other intravenous or injectable medication is specifically excluded. The individual/resident retains the right to refuse medication. Self-administration with assistance shall occur immediately prior to the ingestion or application of a medication.

(2) Independent self-administration occurs when an individual/resident is independently able to directly apply a legend drug or controlled substance by ingestion, inhalation, injection or other means. In licensed assisted living facilities, self-administration may include situations in which an individual cannot physically self-administer medications but can accurately direct others. These regulations do not limit the rights of people with functional disabilities to self-direct care according to chapter 74.39 RCW.

(3) If an individual/resident is not able to physically ingest or apply a medication independently or with assistance, then the medication must be administered to the individual/resident by a person legally authorized to do so (e.g., physician, nurse, pharmacist). All laws and regulations applicable to medication administration apply. If an individual/resident cannot safely self-administer medication or self-administer with assistance or cannot indicate an awareness that they are taking a medication, then the medication must be administered to the individual/resident by a person legally authorized to do so.

NEW SECTION

**WAC 246-945-714 Self-administration with assistance in a community-based care setting or an in-home setting.** (1) An individual/resident, or their representative, in a community-based care setting or an in-home setting may request self-administration with assistance.

(2) No additional separate assessment or documentation of the needs of the individual/resident are required in order to initiate self-administration with assistance. It is recommended that providers document their decision-making process in the health record of the individual or resident health record.

(3) A nonpractitioner may help in the preparation of legend drugs and controlled substances for self-administration where a practitioner has determined and communicated orally or by written direction that such medication preparation assistance is necessary and appropriate.



NEW SECTION

**WAC 246-945-716 Enabler.** (1) Enablers are physical devices used to facilitate an individual's/resident's self-administration of a medication. Physical devices include, but are not limited to, a medicine cup, glass, cup, spoon, bowl, prefilled syringes, syringes used to measure liquids, specially adapted table surface, straw, piece of cloth, or fabric.

(2) An individual's hand may also be an enabler. The practice of "hand-over-hand" administration is not allowed. Medication administration with assistance includes steadying or guiding an individual's hand while he or she applies or instills medications such as ointments, eye, ear, and nasal preparations.

NEW SECTION

**WAC 246-945-718 Alteration of medication for self-administration with assistance.** Alteration of a medication for self-administration with assistance includes, but is not limited to, crushing tablets, cutting tablets in half, opening capsules, mixing powdered medications with foods or liquids, or mixing tablets or capsules with foods or liquids. Individuals/residents must be aware that the medication is being altered or added to their food.

NEW SECTION

**WAC 246-945-720 Medication alteration.** A practitioner practicing within their scope of practice must determine that it is safe to alter a legend drug or controlled substance. If the medication is altered, and a practitioner has determined that such medication alteration is necessary and appropriate, the determination shall be communicated orally or by written direction. Documentation of the appropriateness of the alteration must be on the prescription container, or in the individual's/resident's record.

NEW SECTION

**WAC 246-945-722 Types of assistance provided by nonpractitioner.** A nonpractitioner can transfer a medication from one container to another for the purpose of an individual dose. Examples include: Pouring a liquid medication from the medication container to a calibrated spoon or medication cup.

NEW SECTION

**WAC 246-945-724 Oxygen order/prescription requirements.** Under state law, oxygen is not a medication and is not covered under this rule. While oxygen is not considered a medication under state law, oxygen does require an order/prescription from a practitioner.

NEW SECTION

**WAC 246-945-726 Self-administration with assistance of medication through a gastrostomy or "g-tube."** If a prescription is written as an oral medication via "g-tube," and if a practitioner has determined that the medication can be altered, if necessary, for use via "g-tube," the rules as outlined for self-administration with assistance would also apply.

NEW SECTION

**WAC 246-945-728 Other medication assistance requirements.** A practitioner, nonpractitioner, and an individual/resident or their representative should be familiar with the rules specifically regulating the residential setting. The department of social and health services has adopted rules relating to medication services in assisted living facilities and adult family homes.

## WSR 24-22-014

## EMERGENCY RULES

## DEPARTMENT OF HEALTH

[Filed October 25, 2024, 9:24 a.m., effective October 25, 2024, 9:24 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Reduce barriers to licensure and streamline the credentialing process for the mental health counselor, marriage and family therapist, and social worker professions.

Amending WAC 246-809-110, 246-809-130, 246-809-220, 246-809-221, 246-809-230, 246-809-330, and 246-809-990 in chapter 246-809 WAC, Licensure for mental health counselors, marriage and family therapists, and social workers. The department of health (department) is continuing emergency rules, without changes, to implement parts of 2SHB 1724 (chapter 425, Laws of 2023) and E2SHB 2247 (chapter 371, Laws of 2024).

These emergency rules: (1) Allow professional experience to substitute for practicum requirements for mental health counselors; (2) lower requirements for licensure by endorsement to one year of licensure in a substantially equivalent state; (3) align the definition of "equally qualified licensed mental health practitioner" for marriage and family therapists more closely with other master-level counselor professions; and (4) remove the limit on the number of credential renewals authorized for associate credentials.

The department is adopting and continuing these amendments through emergency rule to meet the requirements of 2SHB 1724 and E2SHB 2247. These emergency rules continue emergency rules initially filed under WSR 24-14-080, on June 28, 2024. The emergency rules will be renewed while permanent rule making is in progress under WSR 24-10-012, filed April 18, 2024.

Citation of Rules Affected by this Order: Amending WAC 246-809-110, 246-809-130, 246-809-220, 246-809-221, 246-809-230, 246-809-330, and 246-809-990.

Statutory Authority for Adoption: 2SHB 1724 (chapter 425, Laws of 2023), E2SHB 2247 (chapter 371, Laws of 2024); RCW 18.130.800 and 18.225.040.

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

Reasons for this Finding: Continuing this emergency rule is necessary to support the Washington state behavioral health workforce, which is increasingly strained. By implementing the new standards through emergency rules, it will reduce barriers to entering and remaining in the behavioral health care workforce, streamline the credentialing process, and increase access to behavioral health care.

These emergency rules are also being adopted to comply with 2SHB 1724 and E2SHB 2247. In 2023, section 5 of 2SHB 1724 required the department, in consultation with the workforce training and education coordinating board, to recommend changes to statutes and rules that would remove barriers to joining the health care workforce and streamline the credentialing process. Section 6 required the department to adopt emergency rules implementing these recommendations by July 1, 2024. In 2024, E2SHB 2247 amended a statute to align with the department's recommendation to remove renewal limits on associate creden-

tials. Pursuant to these bills, amendments to chapter 246-809 WAC include:

- (1) Allowing professional experience to substitute for practicum requirements for mental health counselors;
- (2) Lowering requirements for licensure by endorsement to one year of licensure in a substantially equivalent state;
- (3) Aligning the definition of "equally qualified licensed mental health practitioner" for marriage and family therapists more closely with other master-level counselor professions; and
- (4) Removing limits on the number of renewals for associate credentials.

By continuing these emergency rules, the department will continue to implement sections of 2SHB 1724 and E2SHB 2247 and fulfill the legislature's plan to effectively reduce barriers to licensure in these professions.

These emergency rules will be continued, as permanent rule making is in progress under WSR 24-10-012, filed April 18, 2024.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 7, Repealed 0.

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

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 7, Repealed 0.

Date Adopted: October 22, 2024.

Kristin Petersen, JD  
Chief of Policy  
for Umair A. Shah, MD, MPH  
Secretary of Health

## OTS-5405.2

AMENDATORY SECTION (Amending WSR 23-23-150, filed 11/20/23, effective 1/1/24)

**WAC 246-809-110 Definitions.** The following terms apply to the licensure of marriage and family therapists and marriage and family therapist associates, in WAC 246-809-100 through 246-809-140.

(1) "Approved educational program" means:

(a) Any college or university accredited by a national or regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation or its successor; or

(b) A program accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE), at the time the applicant completed the required education.

(2) "Approved supervisor" means a licensed marriage and family therapist, or an equally qualified licensed mental health practitioner.

(3) "Equally qualified licensed mental health practitioner" means a licensed mental health counselor, licensed clinical social worker, licensed psychologist, licensed physician practicing as a psychiatrist, or licensed psychiatric nurse practitioner (~~, who has completed:~~

~~(a) Three hundred clock hours in graduate or postgraduate marriage and family education, or continuing education in marriage and family therapy or supervision by an approved marriage and family therapist supervisor in marriage and family therapy or any combination of these; and~~

~~(b) Five years of clinical practice that includes the equivalent of one year of clinical practice working with couples and families).~~

(4) "Group supervision" means face-to-face supervision with an approved supervisor, involving one supervisor and no more than six licensure candidates.

(5) "Licensure candidate" means an individual who is accruing supervised clinical experience required for licensure.

(6) "One-on-one supervision" means face-to-face supervision with an approved supervisor, involving one supervisor and no more than two licensure candidates.

(7) "Peer" means a coworker who is not the licensure candidate's employer or supervisor.

(8) "Supervised experience requirement" means experience that is obtained under an approved supervisor who meets the requirements described in WAC 246-809-134.

(9) "Supervision of supervision" means supervision by an approved supervisor for the purpose of training and qualifying a license holder to act as an approved supervisor for purposes of chapter 18.225 RCW and WAC 246-809-134.

AMENDATORY SECTION (Amending WSR 23-23-150, filed 11/20/23, effective 1/1/24)

**WAC 246-809-130 Supervised postgraduate experience.** (1) The experience requirements for the marriage and family therapist applicant's practice area include successful completion of a supervised experience requirement. Applicants who have held an active marriage and family therapy license for the past (~~(five consecutive years or more)~~) year in another state or territory, without a disciplinary record or disqualifying criminal history, are deemed to have met the supervised experience requirements for Washington state licensure in subsection (3) of this section.

(2) In accordance with RCW 18.225.090 and 18.225.095, for applicants who can demonstrate they have practiced as a substance use disorder professional for at least three years within 10 years from the date their application for a marriage and family therapist license is submitted to the department, the department shall reduce the total required supervised hours from 3,000 hours to 2,700 hours. The requirements in subsection (3)(a) through (e) of this section shall apply regardless of the reduction of total required hours.

(3) Total experience requirements include a minimum of 3,000 hours to include the following:

(a) One thousand hours of direct client contact with at least 500 hours gained in diagnosing and treating couples and families;

(b) At least 200 hours of qualified supervision with an approved supervisor.

(i) Of the 200 hours, 100 hours must be with a licensed marriage and family therapist with at least five years of clinical experience; the other 100 hours may be with an equally qualified licensed mental health practitioner;

(ii) At least 100 of the 200 hours must be one-on-one supervision; and

(iii) The remaining hours may be in one-on-one or group supervision.

(c) Applicants who have completed a master's program accredited by the Commission on Accreditation for Marriage and Family Therapy Education of the American Association for Marriage and Family Therapy boards will be credited with 500 hours of direct client contact and 100 hours of qualified supervision with an approved supervisor;

(d) Licensed marriage and family therapist associate applicants are not required to have supervised postgraduate experience prior to becoming an associate; and

(e) Licensed marriage and family therapist associate applicants must declare they are working towards full licensure.

AMENDATORY SECTION (Amending WSR 17-13-082, filed 6/16/17, effective 7/17/17)

**WAC 246-809-220 Education requirements.** (1) To meet the education requirement for licensure as a mental health counselor or mental health counselor associate, an applicant must have a master's or doctoral degree in mental health counseling or a master's or doctoral degree in a behavioral science field relating to mental health counseling from an approved school. Fields recognized as relating to mental health counseling include counseling, psychology, social work, nursing, education, pastoral counseling, rehabilitation counseling, or social sciences. Any field of study qualifying as related to mental health counseling must satisfy course work equivalency requirements included in WAC 246-809-221. An official transcript must be provided as evidence of fulfillment of the course work required.

(2) Any supplemental course work must be from an approved school.

(3) Applicants who hold a behavioral science master's or doctoral degree in a related field may complete supplemental course work through an approved educational program to satisfy any missing program equivalencies. Postgraduate experience hours acquired concurrently with the additional course work counts toward the supervised postgraduate experience under WAC 246-809-230.

(4) A person who is a Nationally Certified Counselor (NCC) or a Certified Clinical Mental Health Counselor (CCMHC) through the National Board of Certified Counselors (NBCC) is considered to have met the education requirements of this chapter. Verification must be received by the department directly from NBCC.

(5) An applicant is considered to have met the counseling practicum component of the educational requirements if they:

(a) Have held an agency affiliated counselor credential for the past year in good standing; and

(b) Demonstrate 600 hours of clinical experience under the supervision of a mental health professional. Experience must include demonstrated competence in the application of the principles of human development, learning theory, psychotherapy, group dynamics, or dysfunctional behavior in the delivery of direct clinical care.

AMENDATORY SECTION (Amending WSR 17-13-082, filed 6/16/17, effective 7/17/17)

**WAC 246-809-221 Behavioral sciences—Program equivalency.** (1)

Behavioral science in a field relating to mental health counseling includes a core of study relating to counseling theory and counseling philosophy.

(2) Either a counseling practicum, or a counseling internship, or both, must be included in the core of study unless otherwise permitted in WAC 246-809-220(5). Exclusive use of an internship or practicum used for qualification must have incorporated supervised direct client contact.

(3) This core of study must include seven of the content areas listed in (a) through (q) of this subsection. Five of the content areas must be from (a) through (h) of this subsection:

- (a) Assessment/diagnosis.
- (b) Ethics/law.
- (c) Counseling individuals.
- (d) Counseling groups.
- (e) Counseling couples and families.
- (f) Developmental psychology (may be child, adolescent, adult or life span).
- (g) Psychopathology/abnormal psychology.
- (h) Research and evaluation.
- (i) Career development counseling.
- (j) Multicultural concerns.
- (k) Substance/chemical abuse.
- (l) Physiological psychology.
- (m) Organizational psychology.
- (n) Mental health consultation.
- (o) Developmentally disabled persons.
- (p) Abusive relationships.
- (q) Chronically mentally ill.

AMENDATORY SECTION (Amending WSR 20-12-074, filed 6/1/20, effective 7/2/20)

**WAC 246-809-230 Supervised postgraduate experience.** (1) The experience requirements for the mental health counselor applicant's practice area include successful completion of a supervised experience requirement. Applicants who have held an active mental health counselor license for the past (~~five consecutive years or more~~) year in another state or territory, without a disciplinary record or disqualifying criminal history, are deemed to have met the supervised experience requirements for Washington state licensure in subsection (3) of this section.

(2) In accordance with RCW 18.225.090 and 18.225.095, for applicants who can demonstrate they have practiced as a substance use disorder professional for at least three years within ~~((ten))~~ 10 years from the date their application for mental health counselor license is submitted to the department, the department shall reduce the minimum total required supervised hours from ~~((three thousand hours to two thousand seven hundred))~~ 3,000 hours to 2,700 hours. The requirements in subsection (3)(b)(i) and (ii) of this section shall apply regardless of the reduction of total required hours.

(3)(a) The experience requirement consists of a minimum of ~~((thirty-six))~~ 36 months full-time counseling or ~~((three thousand))~~ 3,000 hours of postgraduate mental health counseling under the supervision of a qualified licensed mental health counselor or equally qualified licensed mental health practitioner in an approved setting.

(b) Of the ~~((three thousand))~~ 3,000 hours:

(i) One hundred hours spent in immediate supervision with the qualified licensed mental health counselor or equally qualified licensed mental health practitioner; and

(ii) At least ~~((one thousand two hundred))~~ 1,200 hours must be direct counseling with individuals, couples, families, or groups.

(4) Applicants who have completed a master's or doctoral program accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP) will be credited with ~~((fifty))~~ 50 hours of postgraduate supervision and ~~((five hundred))~~ 500 hours of postgraduate experience.

(5) Applicants for licensed mental health counselor associate are not required to have supervised postgraduate experience prior to becoming an associate.

(6) Licensed mental health counselor associate applicants must declare they are working toward full licensure.

AMENDATORY SECTION (Amending WSR 23-23-150, filed 11/20/23, effective 1/1/24)

**WAC 246-809-330 Supervised postgraduate experience requirements.**

(1) Licensed advanced social worker.

(a) Applicants who have held an active advanced social worker license for the past ~~((five consecutive years or more))~~ year in another state or territory, without a disciplinary record or disqualifying criminal history, are deemed to have met the supervised experience requirements for Washington state licensure in subsection (1)(c) of this section.

(b) In accordance with RCW 18.225.090 and 18.225.095, for applicants who can demonstrate they have practiced as a substance use disorder professional for at least three years within 10 years from the date their application for an advanced social worker license is submitted to the department, the department shall reduce the total required supervised hours from 3,200 hours to 2,880 hours. The requirements in subsection (3)(c)(i) through (iii) of this section shall apply regardless of the reduction of total required hours.

(c) The supervised experience requirement consists of a minimum of 3,000 hours with 90 hours of supervision by a licensed independent clinical social worker or a licensed advanced social worker who has been licensed or certified for at least two years. Of those hours:

(i) Eight hundred hours must be in direct client contact; and



(ii) Ninety hours must be in direct supervision under the supervision of a licensed independent clinical social worker, a licensed advanced social worker, or an equally qualified licensed mental health professional. Of those hours of direct supervised experience at least:

- (A) Forty hours must be in one-to-one supervision; and
- (B) Fifty hours may be in one-to-one or group supervision.

(2) Licensed independent clinical social worker.

(a) Applicants who have held an active independent clinical social worker license for the past ~~((five consecutive years or more))~~ year in another state or territory, without a disciplinary record or disqualifying criminal history, are deemed to have met the supervised experience requirements for Washington state licensure in (c) of this subsection.

(b) In accordance with RCW 18.225.090 and 18.225.095, for applicants who can demonstrate they have practiced as a substance use disorder professional for at least three years within 10 years from the date their application for an independent clinical social worker license is submitted to the department, the department shall reduce the total required supervised hours from 3,000 hours to 2,600 hours. The requirements in subsection (2)(c)(i) and (ii) of this section shall apply regardless of the reduction of total required hours.

(c) The experience requirement consists of a minimum of 3,000 hours of experience, over a period of not less than two years. Of those 3,000 hours:

(i) One thousand hours must be direct client contact supervised by a licensed independent clinical social worker;

(ii) One hundred hours of direct supervision as follows:

(A) Seventy hours must be with an independent clinical social worker;

(B) The remaining hours may be with an equally qualified licensed mental health practitioner as defined in WAC 246-809-310(3); and

(C) Sixty hours of the 100 hours of direct supervision must be in one-to-one supervision. The remaining hours may be in one-to-one supervision or group supervision.

(3) Licensed social worker associate-advanced and licensed social worker associate-independent clinical applicants are not required to have supervised postgraduate experience prior to becoming an associate.

(4) Licensed social worker associate-advanced and licensed social worker associate-independent clinical applicants must declare they are working toward full licensure.

AMENDATORY SECTION (Amending WSR 23-07-057, filed 3/9/23, effective 6/1/23)

**WAC 246-809-990 Licensed counselor, and associate—Fees and renewal cycle.** (1) Except for a probationary license as described in WAC 246-809-095, a license must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC.

(2) Associate licenses are valid for one year and must be renewed every year on the date of issuance. ~~((The associate license may be renewed no more than six times, except as provided in RCW 18.225.145.))~~

(3) The following nonrefundable fees will be charged:

<b>Title</b>	<b>Fee</b>
<b>Licensed marriage and family therapist</b>	
<b>Original application</b>	
Application and initial license	\$290.00
UW online access fee (HEAL-WA)	16.00
<b>Active license renewal</b>	
Renewal	180.00
Late renewal penalty	90.00
Expired license reissuance	85.00
UW online access fee (HEAL-WA)	16.00
<b>Retired active license renewal</b>	
Renewal	70.00
Late renewal penalty	35.00
UW online access fee (HEAL-WA)	16.00
<b>Duplicate license</b>	10.00
<b>Verification of license</b>	25.00
<b>Licensed marriage and family therapy associate</b>	
<b>Original application</b>	
Application	65.00
UW online access fee (HEAL-WA)	16.00
<b>Renewal</b>	
Renewal	50.00
UW online access fee (HEAL-WA)	16.00
Late renewal penalty	50.00
Expired license reissuance	40.00
<b>Duplicate license</b>	10.00
<b>Verification of license</b>	25.00
<b>Licensed mental health counselor</b>	
<b>Original application</b>	
Application	95.00
Initial license	80.00
UW online access fee (HEAL-WA)	16.00
<b>Active license renewal</b>	
Renewal	125.00
Late renewal penalty	65.00
Expired license reissuance	65.00
UW online access fee (HEAL-WA)	16.00
<b>Retired active license renewal</b>	
Renewal retired active	70.00
Late renewal penalty	35.00
UW online access fee (HEAL-WA)	16.00
<b>Duplicate license</b>	10.00
<b>Verification of license</b>	25.00
<b>Licensed mental health counselor associate</b>	
<b>Original application</b>	
Application	35.00
<b>Renewal</b>	
Renewal	25.00

<b>Title</b>	<b>Fee</b>
Late renewal penalty	25.00
Expired license reissuance	40.00
<b>Duplicate license</b>	10.00
<b>Verification of license</b>	25.00
<b>Licensed advanced social worker and licensed independent clinical social worker</b>	
<b>Original application</b>	
Application and initial license	170.00
UW online access fee (HEAL-WA)	16.00
<b>Active license renewal</b>	
Renewal	70.00
Late renewal penalty	50.00
Expired license reissuance	72.50
UW online access fee (HEAL-WA)	16.00
<b>Retired active license renewal</b>	
Renewal retired active	65.00
Late renewal penalty	30.00
UW online access fee (HEAL-WA)	16.00
<b>Duplicate license</b>	10.00
<b>Verification of license</b>	25.00
<b>Licensed advanced social worker associate and licensed independent clinical social worker associate</b>	
<b>Original application</b>	
Application	35.00
UW online access fee (HEAL-WA)*	16.00
<b>Renewal</b>	
Renewal	25.00
Late renewal penalty	25.00
UW online access fee (HEAL-WA)*	16.00
Expired license reissuance	40.00
<b>Duplicate license</b>	10.00
<b>Verification of license</b>	25.00

\* Surcharge applies to independent clinical social worker associate only.

(4) For a probationary license as described under WAC 246-809-095, the following nonrefundable fees will be charged:

<b>Title</b>	<b>Fee</b>
<b>Licensed marriage and family therapist</b>	
<b>Original application</b>	
Application and initial license	\$290.00
<b>Active license renewal</b>	
Renewal	180.00
Late renewal penalty	90.00
Expired license reissuance	85.00
<b>Duplicate license</b>	10.00
<b>Verification of license</b>	25.00
<b>Licensed mental health counselor</b>	

<b>Title</b>	<b>Fee</b>
<b>Original application</b>	
Application and initial license	175.00
<b>Active license renewal</b>	
Renewal	90.00
Late renewal penalty	50.00
Expired license reissuance	65.00
<b>Duplicate license</b>	10.00
<b>Verification of license</b>	25.00
<b>Licensed advanced social worker and licensed independent clinical social worker</b>	
<b>Original application</b>	
Application and initial license	200.00
<b>Active license renewal</b>	
Renewal	100.00
Late renewal penalty	50.00
Expired license reissuance	72.50
<b>Duplicate license</b>	10.00
<b>Verification of license</b>	25.00

## WSR 24-22-015

## EMERGENCY RULES

## DEPARTMENT OF HEALTH

(Examining Board of Psychology)

[Filed October 25, 2024, 9:27 a.m., effective October 25, 2024, 9:27 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To reduce barriers to licensure and streamline the credentialing process for psychologists.

Adopting emergency rules to amend WAC 246-924-010, 246-924-046, 246-924-053, 246-924-095, and 246-924-100; establish WAC 246-924-048 and 246-924-0481; and repeal WAC 246-924-047 in chapter 246-924 WAC, Psychologists. The examining board of psychology (board) is adopting emergency rules to implement parts of 2SHB 1724 (chapter 425, Laws of 2023).

The legislature passed 2SHB 1724 in 2023 to reduce barriers to entering and remaining in the behavioral health workforce and to streamline the credentialing process. To implement 2SHB 1724, the board is adopting emergency rules that:

- Update required curriculum content areas to more closely align with current American Psychological Association (APA) standards and correct the minimum credit hour requirements;
- Allow all graduate level courses completed prior to conferral of a doctoral degree to be accepted as fulfilling the required curriculum content areas;
- Add the Psychological Clinical Science Accreditation System (PCSAS) as an approved educational accrediting body;
- Clarify the two residency pathways and what qualifies as residency hours;
- Reduce the number of educational meeting hours required in lieu of a full-time academic residency;
- Reduce the minimum requirement for preinternship direct contact hours and individual supervision;
- Reduce the waiting period for an applicant to retake the national examination and require applicants taking their third or subsequent reexamination to submit an action plan to the board; and
- Update the rule to include all current licensing pathways for providers credentialed in another jurisdiction.

These emergency rules continue emergency rules initially filed on June 18, 2024, under WSR 24-14-079. The rules also incorporate an additional amendment, reducing the minimum amount of direct, face-to-face individual supervision from two hours per 20 hours of preinternship experience to one hour per 20 hours.

These emergency rules will be continued while permanent rules are in progress under WSR 24-11-005, filed on May 2, 2024.

Citation of Rules Affected by this Order: New WAC 246-924-048 and 246-924-0481; repealing WAC 246-924-047; and amending WAC 246-924-010, 246-924-046, 246-924-053, 246-924-095, and 246-924-100.

Statutory Authority for Adoption: RCW 18.83.050 and 18.130.800.

Other Authority: 2SHB 1724 (chapter 425, Laws of 2023).

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

Reasons for this Finding: Rule making is necessary to implement recent legislation. During the 2023 legislative session, 2SHB 1724 specifically directed the board to complete emergency rule making by July 1, 2024, to remove barriers to entering and remaining in the health care workforce and to streamline and shorten the credentialing process. These emergency rules are the board's response to this legislative direction. Emergency rule making is necessary to amend existing licensure requirements and comply with new legislation.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 5, Repealed 1.

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

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 5, Repealed 1.

Date Adopted: October 25, 2024.

Cedar O'Donnell, Ph.D., Chair  
Examining Board of Psychology

### OTS-5467.3

AMENDATORY SECTION (Amending WSR 20-12-076, filed 6/1/20, effective 7/2/20)

**WAC 246-924-010 Definitions.** The definitions in this section apply throughout this chapter unless the context clearly states otherwise.

(1) "Acquired immunodeficiency syndrome" or "AIDS" means the clinical syndrome of HIV-related illness as defined by the board of health by rule.

(2) "APA" means American Psychological Association.

(3) "APPIC" means Association of Psychology Postdoctoral and Internship Centers.

(4) "CPA" means Canadian Psychological Association.

(5) "Endorsement" means licensing of applicants who are licensed as psychologists outside of Washington state and meet applicable requirements.

(6) "Face to face" means in-person contact in the same physical space not assisted by technology.

~~((6))~~ (7) "Office on AIDS" means that section within the department of social and health services or any successor department with jurisdiction over public health matters as defined in chapter 70.24 RCW.

~~((7))~~ (8) "Out-of-state" means any state or territory of the United States.

~~((8))~~ (9) "PCSAS" means Psychological Clinical Science Accreditation System.

(10) "Probationary license" means a temporary license issued to out-of-state applicants qualifying for licensure reciprocity in Washington state based on substantial equivalence in scope of practice under the restrictions and conditions of RCW 18.225.140 and this chapter.

~~((9))~~ (11) "Reciprocity" means licensure of out-of-state licensed psychologists based on substantial equivalence between Washington state scope of practice and the scope of practice of the other state or territory, subject to a probationary licensure period to complete outstanding Washington state licensure requirements as determined necessary to gain full licensure.

AMENDATORY SECTION (Amending WSR 16-16-026, filed 7/22/16, effective 8/22/16)

**WAC 246-924-046 Doctoral degree program.** To meet the education requirements of RCW 18.83.070, an applicant must possess a doctoral degree from a regionally accredited institution. ~~((Regional accreditation is awarded to an institution by one of the regional accrediting agencies, each of which covers a specified portion of the United States and its territories, or equivalent accreditation in another country, upon approval by the board.))~~

(1) The doctoral degree program must encompass a minimum of three academic years of full-time graduate study or the equivalent and must include:

(a) At least ~~((forty))~~ 51 semester credits, or ~~((sixty))~~ 85 quarter credits, of graduate courses in curriculum areas described in subsection ~~((3))~~ (2) of this section.

(i) Courses must be clearly identified by title and course content as being part of an integrated psychology program.

(ii) Master's and doctoral level graduate courses taken ~~((before))~~ prior to the conferral of the doctoral degree ~~((program))~~ may be accepted if ~~((the doctoral degree program accepted the course(s)))~~ they:

(A) Were completed at a regionally accredited graduate program in psychology;

(B) Are reflected on a transcript; and

(C) Align with the requirements in subsection (2) of this section.

(iii) Up to two graduate courses taken after the doctoral degree program may be accepted if they:

(A) Were completed at a regionally accredited graduate program in psychology;

(B) Are reflected on a transcript; and

(C) Align with the requirements in subsection (2) of this section.

(iv) If more than two courses are needed to meet the requirements in subsection (2) of this section, they must be part of a respecialization program.

(b) ~~((year in residency as described in subsection (4) of this section))~~ of the following:

(i) Academic residency that meets the requirements under WAC 246-924-048; or

(ii) Educational meetings that meet the requirements under WAC 246-924-0481;

(c) Submission of an original dissertation which is psychological in nature and endorsed by the program; and

(d) An organized, sequential and coordinated practicum and internship experience as described in WAC 246-924-049 and 246-924-056.

(2) The applicant must complete the curriculum (~~requirements:~~ The doctoral degree program must encompass a minimum of three academic years of full-time graduate study or the equivalent.) content areas described in Table 1 - Curriculum Content Areas:

**Table 1 - Curriculum Content Areas**

<b>Unless otherwise indicated, applicant must complete three or more semester credits, or five or more quarter credits, of core study in each of the content areas.</b>	
<i>Category 1 - History of Systems of Psychology</i>	
<b>a. History and Systems of Psychology (this is the only content area that may be completed at the undergraduate-level)</b>	Includes the origins and development of major ideas in the discipline of psychology.
<i>Category 2 - Basic Content Areas in Scientific Psychology</i>	
<b>b. Affective Aspects of Behavior</b>	Includes topics such as affect, mood, and emotion. Psychopathology and mood disorders do not by themselves fulfill this category.
<b>c. Biological Aspects of Behavior</b>	Includes multiple biological underpinnings of behavior, such as neural, physiological, anatomical, and genetic aspects of behavior. Although neuropsychological assessment and psychopharmacology can be included in this category, they do not, by themselves, fulfill this category.
<b>d. Cognitive Aspects of Behavior</b>	Includes topics such as learning, memory, thought processes, and decision-making. Cognitive testing and cognitive therapy do not, by themselves, fulfill this category.
<b>e. Developmental Aspects of Behavior</b>	Includes transitions, growth, and development across an individual's life. A coverage limited to one developmental period (e.g., infancy, childhood, adolescence, adulthood, or late life) is not sufficient.
<b>f. Social Aspects of Behavior</b>	Includes topics such as group processes, attributions, discrimination, and attitudes. Individual and cultural diversity and group or family therapy do not, by themselves, fulfill this category.
<i>Category 3 - Advanced Integrative Knowledge in Scientific Psychology</i>	
<b>g. Advanced Integrative Knowledge of Basic Discipline-Specific Content Areas (minimum of two courses)</b>	Includes graduate-level scientific knowledge that entails integration of multiple basic discipline-specific content areas identified in Category 2 (i.e., integration of at least two of: Affective, biological, cognitive, social, or developmental aspects of behavior).
<i>Category 4 - Research Methods, Statistical Analysis, and Psychometrics</i>	
<b>h. Research Methods</b>	Includes topics such as strengths, limitations, interpretation, and technical aspects of rigorous case study; correlational, experimental, and other quantitative research designs; measurement techniques; sampling; replication; theory testing; qualitative methods; mixed methods; meta-analysis; and quasi-experimentation.
<b>i. Statistical Analysis</b>	Includes topics such as quantitative, mathematical modeling and analysis of psychological data, statistical description and inference, univariate and multivariate analysis, null hypothesis testing and its alternatives, power, and estimation.
<b>j. Psychometrics</b>	Includes topics such as theory and techniques of psychological measurement, scale and inventory construction, reliability, validity, evaluation of measurement quality, classical and contemporary measurement theory, and standardization.
<i>Category 5 - Profession-Wide Competencies</i>	
<b>k. Psychological Assessment (minimum of two courses)</b>	Evidence-based assessment consistent with the scope of health service psychology. This includes applying empirically supported assessment methods, interpreting assessment results following current research and professional standards and guidelines, case conceptualization, classification, and recommendations.



<p><b><u>I. Psychological Interventions (minimum of two courses)</u></b></p>	<p><u>Evidence-based interventions consistent with the scope of health service psychology. "Intervention" is defined broadly to include, but not be limited to, psychotherapy. Interventions may be derived from a variety of theoretical orientations or approaches. The level of intervention may include those directed at an individual, a family, a group, an organization, a community, a population, or other systems.</u></p>
<p><b><u>m. Ethical and Legal Standards</u></b></p>	<p><u>Current ethical and legal standards of the field; relevant laws, regulations, rules, and policies governing health service psychology at the organizational, local, state, regional, and federal levels; and relevant professional standards and guidelines.</u></p>
<p><b><u>n. Special Population Issues (accessibility; disability; diversity; health equity, socio-economic, cultural, and linguistic differences)</u></b></p>	<p><u>Includes courses that involve: Awareness of history/culture/attitudes/biases; current theory and science as it relates to addressing diversity in psychological practice; applying a framework for effective psychological practice with diversity not previously encountered or which might create conflict with one's own worldview.</u></p>

~~(3) ((The applicant must complete three or more semester credits, or five or more quarter credits, of core study in each of the following content areas:~~

- ~~(a) Biological bases of behavior. For example: Physiological psychology, comparative psychology, neural bases of behavior, sensation and perception, and biological bases of development;~~
- ~~(b) Cognitive-affective bases of behavior. For example: Learning, thinking, motivation, emotion, and cognitive development;~~
- ~~(c) Social bases of behavior. For example: Social psychology, organizational theory, community psychology, and social development;~~
- ~~(d) Individual differences. For example: Personality theory and psychopathology;~~
- ~~(e) Scientific and professional ethics;~~
- ~~(f) History and systems of psychology;~~
- ~~(g) Statistics and psychometrics;~~
- ~~(h) Research design and methodology;~~
- ~~(i) Techniques of data analysis;~~
- ~~(j) Human development. For example: Developmental psychology, child development, adult development and aging;~~
- ~~(k) Cultural and individual differences and diversity;~~
- ~~(l) Psychopathology and dysfunctional behaviors;~~
- ~~(m) Theories and methods of assessment and diagnosis-minimum of two courses;~~
- ~~(n) Effective psychological intervention and evaluation of the efficacy of interventions-minimum of three courses; and~~
- ~~(o) Psychopharmacology.~~

~~(4)) Doctoral degree programs accredited by the American Psychological Association ((~~AP~~)), the Canadian Psychological Association, or the Psychological Clinical Science Accreditation System are recognized as having met the minimum education requirements.~~

~~((5) Residency requirement:~~

~~(a) The doctoral degree program must involve at least one continuous year of full-time residency at the institution which grants the degree or a minimum of seven hundred fifty hours of student-faculty contact involving face-to-face individual or group educational meetings.~~

~~(b) Educational meetings:~~

~~(i) Must include both faculty-student and student-student interaction;~~

~~(ii) Be conducted by the psychology faculty of the institution at least seventy-five percent of the time;~~

~~(iii) Be fully documented by the institution and the applicant;  
and  
(iv) Relate substantially to the program components specified.)~~

NEW SECTION

**WAC 246-924-048 Academic residency.** To meet the doctoral degree program requirements in WAC 246-924-046 (1)(b), an applicant may choose to complete academic residency. An academic residency is a residency that exists for the purpose of acculturation in the profession, involves the full participation and integration of the individual in the educational and training experience, and includes faculty-student interaction.

An applicant who chooses to complete an academic residency must complete at least a one-year continuous full-time academic residency at the institution that grants the doctoral degree. The applicant must be physically present, in-person at the educational institution providing the residency and granting the doctoral degree.

For the purposes of this section, continuous means full-time enrollment over the course of the defined academic year. Multiple long weekends or summer intensive sessions do not meet the definition of continuous.

NEW SECTION

**WAC 246-924-0481 Educational meetings.** To meet the doctoral degree program requirement in WAC 246-924-046 (1)(b) an applicant may choose to complete educational meetings. Educational meetings are graduate-level classes, courses, seminars, or symposia that are substantially related to acquiring academic knowledge and clinical skills related to psychology.

(1) An applicant who chooses to complete educational meetings must complete a minimum of 500 hours of educational meetings involving student-faculty contact and face-to-face individual or group interaction.

(2) In order to qualify, an educational meeting must:

(a) Include both faculty-student and student-student interaction;

(b) Be conducted by the psychology faculty of the institution at least 75 percent of the time. Faculty are direct employees of the institution, contractors, guest speakers, or lecturers authorized by a faculty member;

(c) Be fully documented by the institution and the applicant;

(d) Relate substantially to the program components specified;

(e) Be substantially related to acquiring the academic knowledge and clinical skills essential to successfully practicing clinical psychology after graduation; and

(f) Be documented on an academic transcript including graduate-level classes, courses, seminars, or symposia.

(3) The doctoral program must provide directly to the board on the program's letterhead the following information about every component of each educational meeting:

(a) Date(s) (month, day, year);

(b) Start and end time;

(c) Name and title of faculty teaching or leading the educational meeting;

(d) Name of educational meeting, including class name and number on transcript;

(e) For multiday educational meetings, a daily agenda for each day of the event with the above detail.

(4) Meetings that are conducted remotely, are noneducational, or do not substantially relate to a doctoral psychology curriculum do not qualify as educational meetings. This includes conferences, networking activities, receptions, nonpsychology trainings, professional association events, and any other activities that do not meet the requirements of subsection (2) of this section.

AMENDATORY SECTION (Amending WSR 07-24-093, filed 12/5/07, effective 9/1/09)

**WAC 246-924-053 Preinternship.** A preinternship experience occurs between the practicum required by WAC 246-924-049 and internship required by WAC 246-924-056. A preinternship can include up to 1500 hours of supervised experience, but is not required. If preinternship experience is used to satisfy the experience requirement of WAC 246-924-043 (1)(c), it must meet the following requirements:

(1) Before beginning the program, the student, the doctoral program, and the preinternship program must agree on and document the goals, the student's expectations, and the methods of the preinternship experience. The goals must meet the requirements of this section.

(2) Every 20 hours of preinternship experience must include the following:

(a) At least (~~(2 hours)~~) one hour of regularly scheduled, formal, face-to-face individual supervision that addresses the direct psychological services provided by the student; and

(b) At least (~~(2)~~) two hours of other learning activities such as case conferences, seminars on applied issues, conducting cotherapy with a staff person including discussion of the case, and group supervision.

(3) At least (~~(sixty)~~) 25 percent of the preinternship experience must be direct client contact providing assessment and intervention services.

(4) The preinternship experience must be supervised by the person(s) responsible for the assigned casework.

(a) At least (~~(seventy-five)~~) 75 percent of the supervision must be by a licensed psychologist with two years post-license experience.

(b) Up to (~~(twenty-five)~~) 25 percent of the supervision may be completed by the following:

(i) A psychiatrist(s) with three years experience beyond residency;

(ii) A licensed mental health counselor(s) with five years post-license experience;

(iii) A licensed marriage and family therapist(s) with at least five years post-license experience;

(iv) A licensed advanced social worker(s) or licensed independent clinical social worker(s) with five years post-license experience; or

(v) A doctoral level psychologist(s) with three years post-doctoral experience who is exempt from licensure under RCW 18.83.200 (1), (2), (3) or (4), if the supervision occurs in the exempt setting.

- (c) Supervision of the preinternship experience must include the following:
- (i) Discussion of services provided by the student;
  - (ii) Selection of service plan for and review of each case or work unit of the student;
  - (iii) Discussion of and instruction in theoretical concepts underlying the work;
  - (iv) Discussion of the management of professional practice and other administrative or business issues;
  - (v) Evaluation of the supervisory process by the student and the supervisor;
  - (vi) Discussion of coordination of services among the professionals involved in the particular cases or work units;
  - (vii) Discussion of relevant state laws and rules;
  - (viii) Discussion of ethical principles including principles applicable to the work;
  - (ix) Review of standards for providers of psychological services;
- and
- (x) Discussion of reading materials relevant to cases, ethical issues and the supervisory process.

AMENDATORY SECTION (Amending WSR 20-12-076, filed 6/1/20, effective 7/2/20)

**WAC 246-924-095 Failure of ~~((written examinations))~~ the examination for professional practice in psychology.** An applicant who fails the examination for professional practice in psychology (EPPP) required under WAC 246-924-070 may sit for reexamination as follows:

- (1) First reexamination: At any following examination administration date;
- (2) Second or subsequent reexamination: A minimum waiting period of ~~((two))~~ one month~~((s))~~ after the failure of the previous examination.
- (3) Third or subsequent reexamination: Applicant must submit an action plan for board review in order to take the exam again. The action plan must include how the applicant plans to prepare for future retakes. The applicant must receive board approval of the action plan before taking the exam again.

AMENDATORY SECTION (Amending WSR 16-16-026, filed 7/22/16, effective 8/22/16)

**WAC 246-924-100 ~~((Qualifications for granting of license by))~~ Endorsement—Applying for licensure for non-Washington licensed and nationally-certified applicants.** ~~((1) Applicants applying for licensure by endorsement shall:~~

- ~~(a) Submit official transcripts documenting the completion of a doctoral degree with a primary emphasis on psychology from a regionally accredited institution, or equivalent accreditation from another country.~~
- ~~(b) Document that he or she has been credentialed as a psychologist in another state or country for at least two years, or is a cur-~~

~~rent member of a professional organization identified in subsection (3) of this section.~~

~~(c) Document that he or she has an active credential as a psychologist in another state or country deemed by the board as essentially equivalent, or is a current member of a professional organization identified in subsection (3) of this section.~~

~~(d) All application documents submitted in a foreign language shall be accompanied by an accurate translation of those documents into English. Translated documents shall bear a notarized affidavit certifying that the translator is competent in both the language of the document and the English language and that the translation is a true and complete translation of the foreign language original. Costs of all documents shall be at the expense of the applicant.~~

~~(e) Successfully pass the jurisprudence examination required by WAC 246-924-070.~~

~~(2-)) An individual may apply for licensure by endorsement if the individual:~~

~~(1) (a) Is licensed in another state whose licensing requirements are deemed by the board to be substantially equivalent to Washington's;~~

~~(b) Has been licensed for at least two years immediately preceding their application without interruption in licensure lasting more than 90 days; and~~

~~(c) Otherwise meets the requirements of RCW 18.130.077; or~~

~~(2) (a) Is licensed in another state or country whose licensing requirements are deemed by the board to be essentially equivalent to Washington's;~~

~~(b) Has been licensed for a period of at least two years; and~~

~~(c) Otherwise meets the requirements of RCW 18.83.170 (1) (a) and (b) (i).~~

~~(3) The board shall recognize psychologists as having met the requirements of this chapter who, at the time of application, provide documentation of current membership in any of the following professional organizations:~~

~~(a) Health service psychologist credentialed by the National Register of Health Service Psychologists;~~

~~(b) Diplomate from the American Board of Examiners in Professional Psychology;~~

~~(c) Certificate of Professional Qualification in Psychology from the Association of State and Provincial Psychology Boards; or~~

~~(d) Diplomate of the American Board of Professional Neuropsychology.~~

~~(4) Applicants seeking licensure by endorsement under subsections (2) and (3) of this section must successfully pass the jurisprudence exam.~~

~~(5) If the board determines that the applicant's other state or country's credentialing requirements are not essentially equivalent under subsection (2) of this section, the applicant must:~~

~~(a) Provide documentation of meeting Washington state's credentialing requirements in the area(s) the board has determined a state or country of endorsement's requirements are not essentially equivalent.~~

~~(b) Ensure documents submitted in a foreign language ((meet the requirements of subsection (1)(d) of this section)) are accompanied by an accurate translation of those documents into English. Translated documents shall bear a notarized affidavit certifying that the translator is competent in both the language of the document and the Eng-~~

lish language and that the translation is a true and complete translation of the foreign language original. Costs of all documents shall be at the expense of the applicant.

(c) If the board determines that the applicant's state or country of endorsement's credentialing requirements are not essentially equivalent, the applicant will be provided due process under RCW 18.130.055.

~~((3) The board shall recognize psychologists as having met the requirements of this chapter who, at the time of application, provide documentation of current membership in any of the following professional organizations:~~

~~(a) Health service psychologist credentialed by the National Register of Health Service Psychologists;~~

~~(b) Diplomate from the American Board of Examiners in Professional Psychology;~~

~~(c) Certificate of Professional Qualification in Psychology from the Association of State and Provincial Psychology Boards; or~~

~~(d) Diplomate of the American Board of Professional Neuropsychology.~~

~~(e) The board may recognize additional professional organizations deemed to meet the essential standards of this chapter.)~~

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-924-047      Courses completed outside the doctoral degree granting program.

WSR 24-22-018  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE

[Order 24-244—Filed October 25, 2024, 9:46 a.m., effective November 1, 2024]

Effective Date of Rule: November 1, 2024.

Purpose: This emergency rule opens recreational razor clam seasons.

Citation of Rules Affected by this Order: Repealing WAC 220-330-16000V; and amending WAC 220-330-160.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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

Reasons for this Finding: Survey results show that adequate clams are available in Razor Clam Areas 1, 3, 4, and 5 for recreational harvest. Washington department of health has certified clams from these Razor Clam Areas 1, 3, 4, and 5 to be safe for human consumption. There is insufficient time to adopt permanent rules.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

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

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

Date Adopted: October 25, 2024.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-330-16000V Razor clams—Areas and seasons.** Notwithstanding the provisions of WAC 220-330-160, it is unlawful to take, dig for or possess razor clams taken for personal use from any beaches in any razor clam area except as provided for in this section:

(1) Effective November 1 through November 5, 2024, razor clam digging is permissible in Razor Clam Areas defined in WAC 220-330-160 on dates and times listed below:

Razor Clam Area	Date	Time
Area 1	November 1 through November 5	From 12:01 p.m. to 11:59 p.m.
Area 2	Closed	Closed

Razor Clam Area	Date	Time
Area 3	November 1 through November 5	From 12:01 p.m. to 11:59 p.m.
Area 4	November 3 and 4	From 12:01 p.m. to 11:59 p.m.
Area 5	November 1, 2, and 5	From 12:01 p.m. to 11:59 p.m.
Area 6	Closed	Closed
Area 7	Closed	Closed

(2) It is unlawful to dig for razor clams at any time in the Long Beach and Copalis Beach Clam sanctuaries defined in WAC 220-320-130.

REPEALER

The following section of the Washington Administrative Code is repealed effective November 6, 2024:

WAC 220-330-16000V Razor clams—Areas and seasons.



**WSR 24-22-020**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-245—Filed October 25, 2024, 3:21 p.m., effective October 28, 2024]

Effective Date of Rule: October 28, 2024.

Purpose: This emergency rule closes commercial purse seine seasons in Puget Sound Salmon Management and Catch Reporting Areas 10, 11, 12, and 12B on October 28, 2024.

Citation of Rules Affected by this Order: Amending WAC 220-354-120.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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

Reasons for this Finding: This emergency rule is needed to close scheduled openings for commercial purse seine fisheries in Puget Sound Management and Catch Reporting Areas 10, 11, 12, and 12B on October 28. To date, Puget Sound commercial chum catch and landings have been higher than expected. Additional time between openings is necessary to assess catch and other in-season information to determine whether additional fishery openings can be offered in these areas. There is insufficient time to adopt permanent rules.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 0.

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

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

Date Adopted: October 25, 2024.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-354-12000P Puget Sound salmon—Purse seine—Open periods.** Effective for the day of October 28, 2024, the following provisions of WAC 220-354-120 regarding commercial purse seine open periods in Puget Sound Salmon Management and Catch Reporting areas 10, 11, 12 and 12B shall be as follows. All other provisions of WAC 220-354-120 not contained herein remain in effect unless otherwise altered by emergency rule:

Area(s)	Date(s)	Open/Closed	Daily open period
10, 11, 12, and 12B	10/28	Closed	NA

**WSR 24-22-055**  
**EMERGENCY RULES**  
**DEPARTMENT OF**

**CHILDREN, YOUTH, AND FAMILIES**

[Filed October 28, 2024, 2:06 p.m., effective October 28, 2024, 2:06 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The early learning division is revising the infant enhancement rate and nonstandard hours bonus rate to align with legislative requirements required by July 1, 2024. This emergency filing has been in effect since July 1, 2024, under WSR 24-14-035.

Citation of Rules Affected by this Order: Amending WAC 110-15-0215 and 110-15-0249.

Statutory Authority for Adoption: Chapter 34.05 RCW; RCW 43.216.020, 43.216.065; ESSB 5950.

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

Reasons for this Finding: These emergency rules are needed to comply with ESSB 5950, section 229, chapter 376, Laws of 2024, which go into effect July 1, 2024.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 0.

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

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

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

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

Date Adopted: October 28, 2024.

Brenda Villarreal  
Rules Coordinator

**OTS-5517.1**

AMENDATORY SECTION (Amending WSR 22-12-072, filed 5/27/22, effective 7/1/22)

**WAC 110-15-0215 Infant enhanced rate.** Licensed and certified child care providers accepting state subsidy may receive an infant enhancement payment of (~~(\$90)~~) \$300 per month for each infant who is enrolled in their child care and attends at least one day per month.

AMENDATORY SECTION (Amending WSR 23-23-083, filed 11/13/23, effective 12/14/23)

**WAC 110-15-0249 Nonstandard hours bonus.** (1) Consumers' providers may receive a nonstandard hours bonus (NSHB) payment(~~(s)~~) per child per month for care provided if:

(a) The providers are licensed or certified;

(b) They provide at least 30 hours of nonstandard hours care during one month; and

(c) The total cost of the state's NSHB payments do not exceed the amount appropriated for this purpose by the legislature for the current fiscal year.

(2) Nonstandard hours are defined as:

(a) Before 6 a.m. or after 6 p.m.;

(b) Any hours on Saturdays and Sundays; and

(c) Any hours on legal holidays, as defined in RCW 1.16.050.

(3) NSHB amounts are:

(a) One hundred (~~(thirty-five)~~) fifty dollars for family homes; and

(b) One hundred (~~(thirty-five)~~) fifty dollars for centers.

**WSR 24-22-071**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-247—Filed October 29, 2024, 2:17 p.m., effective November 4, 2024]

Effective Date of Rule: November 4, 2024.

Purpose: The purpose of this emergency rule is to open green urchin harvest in District 2, and close harvest in Districts 6 and 7.

Citation of Rules Affected by this Order: Repealing WAC 220-340-75000H; and amending WAC 220-340-750.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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

Reasons for this Finding: This emergency rule opens commercial harvest of green sea urchins in District 2, and closes harvest in Districts 6 and 7, on November 4, 2024. There is insufficient time to adopt permanent rules.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

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

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

Date Adopted: October 29, 2024.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-340-75000I Commercial sea urchin fisheries.** Effective November 4, 2024, until further notice, the provisions of WAC 220-340-750 regarding commercial harvest of sea urchins shall be modified as described below. All other provisions of WAC 220-340-750 not addressed herein remain in effect unless otherwise amended by emergency rule:

(1) It is unlawful for any person to fish for, take, or possess for commercial purposes any green sea urchins less than 2.25 inches; or red sea urchins measuring less than 3.25 inches or greater than 5 inches. All measurements are caliper measurements of the largest shell (test) diameter, exclusive of the spines.

(2) The following areas are open for green sea urchin harvest only, seven days-per-week: Sea Urchin District 1, District 2, District 3, District 4, District 5.

(3) It is unlawful for any harvester to fish for, take, or possess for commercial purposes more than 1,500 pounds of green sea urchin per license for each weekly fishery opening period.

REPEALER

The following section of Washington Administrative Code is repealed, effective November 4, 2024:

WAC 220-340-75000H Commercial sea urchin fisheries.  
(24-214)

**WSR 24-22-072**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-248—Filed October 29, 2024, 2:32 p.m., effective November 1, 2024]

Effective Date of Rule: November 1, 2024.

Purpose: The purpose of this emergency rule is to open chum salmon retention in portions of Marine Area 13 and Kennedy Creek.

Citation of Rules Affected by this Order: Amending WAC 220-312-040 and 220-313-060.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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

Reasons for this Finding: This emergency rule is necessary to open chum retention in portions of Marine Areas 13 and Kennedy Creek.

In-season estimates of chum returns to Puget Sound indicate that there are sufficient returning numbers to allow for limited recreational harvest in the areas listed and presents low risk of negatively impacting natural stocks returning to South Sound.

These actions have been agreed to with comanagers. There is insufficient time to adopt permanent rules.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 2, Amended 0, Repealed 0.

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

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

Date Adopted: October 29, 2024.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-313-06000I Puget Sound salmon—Saltwater seasons and daily limits.** Effective November 1 through December 7, 2024, salmon rules for Catch Record Card Area 13 shall be modified as described herein. All other provisions of WAC 220-313-060 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

(a) Catch Record Card Area 13 waters northerly and westerly of a line projected from the Johnson Point (47°10'40.8"N, 122°48'53.3"W) to Devil's Head (47°10'01.2"N, 122°46'01.5"W):

Salmon: Daily limit 2. Release wild coho and wild Chinook.

(b) Catch Record Card Area 13 waters of Carr Inlet northerly of a line projected from Penrose Point (47°15'53.6"N, 122°44'11.5"W) to Green Point (47°16'55.2"N, 122°41'41.8"W):

Salmon: Daily limit 2. Release wild coho and wild Chinook.

NEW SECTION

**WAC 220-312-04000B Freshwater exceptions to statewide rules—Puget Sound.** Effective November 1 through December 7, 2024, recreational salmon fishing seasons for Kennedy Creek shall be modified as follows, during dates listed below. All other provisions of WAC 220-312-040 not addressed herein, or unless otherwise amended, remain in effect:

Kennedy Creek from mouth (an arc 500 yards east of the midpoint of the northbound Hwy. 101 Bridge) to the northbound Hwy. 101 Bridge:

- (a) Salmon daily limit 2. Release wild Chinook and wild coho.
- (b) Night closure and Selective gear rules in effect.



**WSR 24-22-073**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-250—Filed October 29, 2024, 5:04 p.m., effective October 29, 2024, 5:04 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This rule modifies the preseason commercial gillnet fishery openings targeting chum salmon in Puget Sound Salmon Management and Catch Reporting Areas 10, 11, 12, and 12B.

Citation of Rules Affected by this Order: Amending WAC 220-354-120 and 220-354-160.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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

Reasons for this Finding: This rule is necessary because the latest in-season runsize estimate for South Sound chum salmon based on test fishing is large enough to allow limited purse seine commercial opportunity in Catch Reporting Areas 10 and 11, full fleet gillnet commercial opportunity in Catch Reporting Areas 10 and 11, and full fleet opportunity for both purse seines and gillnets in Catch Reporting Areas 12 and 12B. Additionally, adjustments to avoid gear conflicts and additional time between openings is necessary to accommodate landing and processing capacity for the fleet. There is insufficient time to adopt permanent rules.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 2, Amended 0, Repealed 0.

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

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

Date Adopted: October 29, 2024.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-354-12000Q Puget Sound salmon—Purse seine—Open periods.** Effective 7:00 a.m. until 6:00 p.m., October 31, 2024, the following provisions of WAC 220-354-160 regarding commercial Purse Seine open periods in Puget Sound Salmon Management and Catch Reporting Areas 10, 11, 12, and 12B shall be as follows. All other provisions of WAC

220-351-210 not contained herein remain in effect unless otherwise altered by emergency rule:

Areas	Open/Closed	Time	Date(s)
10, 11	Open	7 AM - 6 PM	10/31
12, 12B	Open	7 AM - 6 PM	10/31

(a) For week 44 the following participants that have been selected and notified by the Department, or their designated alternate operator, are permitted to participate in the Puget Sound Salmon Management and Catch Reporting Areas 10 and 11 Purse Seine fisheries:

- (i) FV Finley Vern
- (ii) FV New Oregon
- (iii) FV Lisa Marie
- (iv) FV Gjoa
- (v) FV Champion
- (vi) FV Tradition
- (vii) FV Halcyon
- (viii) FV Sea Fury
- (ix) FV Silver Wave
- (x) FV Freeland
- (xi) FV Harbor Gem
- (xii) FV St. Dominick
- (xiii) FV Equator
- (xiv) FV Jean D
- (xv) FV Sofia Lynn
- (xvi) FV Sydney Jane
- (xvii) FV Julie Ann
- (xviii) FV Voyager
- (xix) FV Lady Brenda
- (xx) FV Paragon

(b) It is unlawful to land more than 3,000 chum per license during open periods listed herein.

(c) It is unlawful to possess salmon caught in other Marine Areas while participating in this fishery.

(d) All salmon caught in Marine Area 10 and 11 must be offloaded prior to fishing in additional open areas.

(e) Agreement to participate in this fishery will require that a department observer be allowed on board the vessel while fishing if requested by department staff.

NEW SECTION

**WAC 220-354-16000V Puget Sound salmon—Gillnet—Open periods.**

Effective immediately, through November 1, 2024, the following provisions of WAC 220-354-160 regarding commercial Gillnet open periods for Puget Sound Salmon Management and Catch Reporting Areas 10, 11, 12 and 12B shall be as described below. All other provisions of WAC 220-354-120 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

Area	Open/Closed	Time	Date(s)
10, 11	Open	5 PM - 9 AM	Opening 10/29
12, 12B	Open	7 AM - 8 PM	Opening 10/29 and 11/1

**WSR 24-22-074**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-246—Filed October 29, 2024, 5:12 p.m., effective November 1, 2024]

Effective Date of Rule: November 1, 2024.

Purpose: This emergency rule will open recreational salmon seasons in Snohomish, Skykomish, and Wallace rivers and close recreational fishing in Snoqualmie River.

Citation of Rules Affected by this Order: Amending WAC 220-312-040.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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

Reasons for this Finding: This rule is necessary to extend the recreational salmon seasons in the Snohomish, Skykomish, and Wallace rivers. Additionally, this rule will also temporarily close recreational fishing in the Snoqualmie River. Snohomish basin coho runsize in-season update indicates a low risk of exceeding management objectives for coho. Chinook salmon are nearing the end of their spawning run, and the risk of incidental sport fishery encounters of natural Chinook salmon is reduced in Snohomish, Snoqualmie, and Wallace rivers, allowing for salmon season openings targeting coho. Chinook spawning activity still present in Snoqualmie River necessitates a temporary closure until they are clear of the system. There is insufficient time to adopt permanent rules.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 0.

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

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

Date Adopted: October 29, 2024.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-04000A Freshwater exceptions to statewide rules—Puget Sound.** Effective November 1 through December 31, 2024, provisions of WAC 220-312-040 regarding salmon seasons for Snohomish, Skykomish

and Wallace rivers shall be as described herein. Additionally, recreational fishing seasons for Snoqualmie River for all species shall be modified as described herein. All other provisions of WAC 220-312-040 not addressed herein, or unless otherwise amended by emergency rule remain in effect:

(1) **Skykomish River (Snohomish County)**: From the mouth to confluence of North and South Forks:

Salmon: Daily limit 2. Release Chinook and chum.

(2) **Snohomish River (Snohomish County)**: From mouth (Burlington-Northern Railroad bridges) (including all channels, sloughs, and interconnected waterways, but excluding all tributaries) to confluence of the Skykomish and Snoqualmie rivers (all channels).

Salmon: Daily limit 2. Release Chinook and chum.

(3) **Snoqualmie River (Snohomish County)**: From mouth to Snoqualmie Falls, including all tributaries:

All species: Closed.

(4) **Wallace River (Snohomish County)**: From the mouth to 200 feet upstream of water intake of salmon hatchery:

Salmon: Daily limit 2. Release Chinook and chum.

## WSR 24-22-077

## EMERGENCY RULES

## BELLINGHAM TECHNICAL COLLEGE

[Filed October 30, 2024, 11:36 a.m., effective December 2, 2024]

Effective Date of Rule: December 2, 2024.

Purpose: To bring Bellingham Technical College's (college) student conduct code, chapter 485B-121 WAC, into compliance with a new final rule governing sex discrimination grievance procedures recently adopted by the United States Department of Education, and to update the code to ensure its prohibited conduct and procedures adequately protect the interests of the college community and the constitutional and procedural rights of individual students.

Citation of Rules Affected by this Order: Repealing WAC 495B-121-350, 495B-121-355, 495B-121-360, 495B-121-365, 495B-121-370, 495B-121-375, 495B-121-380, 495B-121-385 and 495B-121-390; and amending WAC 495B-121-235, 495B-121-245, 495B-121-265, 495B-121-280, 495B-121-285, 495B-121-300, 495B-121-315, 495B-121-320, 495B-121-325, 495B-121-330, and 495B-121-335.

Statutory Authority for Adoption: RCW 28B.50.140(13).

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

Reasons for this Finding: On April 19, 2024, the United States Department of Education released its final rule under Title IX. This rule requires institutions of higher education to adopt student disciplinary procedures addressing sex discrimination, including sex-based harassment. The deadline for implementing this new rule is August 1, 2024.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 11, Repealed 9; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 11, Repealed 9.

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

Date Adopted: July 22, 2024.

Ronda Laughlin  
Executive Assistant to the President

OTS-5611.3

AMENDATORY SECTION (Amending WSR 22-22-002, filed 10/20/22, effective 11/20/22)

**WAC 495B-121-235 Statement of jurisdiction.** (1) The student conduct code shall apply to conduct by students and student groups that occurs:

(a) On ~~((Bellingham Technical))~~ college premises ~~((and facilities))~~;

(b) At or in connection with ~~((college-sponsored))~~ college programs or activities; or

(c) ~~((To off-campus conduct that in the judgment of the college, adversely affects))~~ Off college premises, if in the judgment of the college, the conduct has an adverse impact on the college community ~~((or)),~~ the pursuit of its objectives, or the ability of a student or employee to participate in the college's programs and activities.

(2) Jurisdiction extends to ~~((, but is not limited to,))~~ locations in which students ~~((or student groups))~~ are engaged in ~~((official))~~ college programs or activities including, but not limited to, college-sponsored housing, foreign or domestic travel, activities funded by the ~~((associated))~~ students, ~~((athletic events))~~ student government, student clubs or organizations, training internships, cooperative and distance education, online education, practicums, supervised work experiences or any other college-sanctioned social or club activities.

(3) Students are responsible for their conduct from ~~((notification of))~~ the time they gain admission ~~((at))~~ to the college through the ~~((actual receipt of a))~~ last day of enrollment or award of any degree certificate ~~((or degree))~~, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment.

(4) These standards shall apply to a student's conduct even if the student withdraws from college while a disciplinary matter is pending. The college has sole discretion, on a case-by-case basis, to determine whether the student conduct code will be applied to conduct ~~((by students or student groups))~~ that occurs off campus.

(5) The student conduct officer or their designee has sole discretion, on a case-by-case basis, to bring a student conduct proceeding under this code for academic dishonesty. Nothing in this code precludes instructors and/or academic divisions or departments from imposing an academic sanction, up to and including a failing grade in an academic course or dismissal from an academic program, in response to academic dishonesty. Policies and procedures governing the imposition of academic sanctions for academic dishonesty can be found in the college's academic integrity policy, the course syllabus, and any applicable program handbook.

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

AMENDATORY SECTION (Amending WSR 21-07-085, filed 3/18/21, effective 4/18/21)

**WAC 495B-121-240 Statement of purpose.** The purpose of these rules is to prescribe standards of conduct for students of Bellingham Technical College. Violations of these standards may be cause for disciplinary action as described in this code.

(1) Bellingham Technical College is maintained by the state of Washington for the provision of programs of instruction in higher education and related community services. Like any other institution having its own special purposes, the college must maintain conditions conducive to the effective performance of its functions. Consequently, it has special expectations regarding the conduct of the various participants in the college community.

(2) Admission to the college carries with it the prescription that the student will conduct themselves as a responsible member of the college community. This includes an expectation that the student will obey appropriate laws, will comply with the rules of the college and its departments, and will maintain a high standard of integrity and honesty.

(3) Sanctions for violations of college rules or conduct that interferes with the operation of college affairs may be applied by the college, and the college may impose sanctions independently of any action taken by civil or criminal authorities. In the case of minors, misconduct may be referred to parents or legal guardians.

(4) The rules and regulations prescribed in this title shall be observed by guests and visitors while on campus, at all college functions and events, and on or within any other college-controlled or college-owned property. Guests and visitors who willfully refuse to obey college ((security)) administration or other duly designated college authorities to desist from conduct prohibited by such rules and regulations may be ejected from the premises. Refusal to obey such an order may subject the person to arrest under the provisions of the Washington criminal trespass law, in addition to such other sanctions as may be applicable.

AMENDATORY SECTION (Amending WSR 22-22-002, filed 10/20/22, effective 11/20/22)

**WAC 495B-121-245 Definitions.** The following definitions shall apply for the purpose of this student conduct code.

(1) "Board" means the board of trustees of Bellingham Technical College.

(2) ("~~College~~") means ~~Bellingham Technical College.~~

(3) "~~Student conduct officer~~" is a Bellingham Technical College employee designated by the president to be responsible for implementing and enforcing the student conduct code. The president or vice president of student services is authorized to reassign any and all of the student conduct officer's duties or responsibilities as set forth in this chapter as may be reasonably necessary.

(4) "~~Student group~~" for purposes of this code is a student organization or living group including, but not limited to, student clubs and organizations, members of a class or student cohort, and student performance groups.

~~(5) "Conduct review officer" is the vice president of student services or other college administrator designated by the president to be responsible for receiving and for reviewing or referring appeals of student disciplinary actions in accordance with the procedures of this code. The president is authorized to reassign any and all of the conduct review officer's duties or responsibilities as set forth in this chapter as may be reasonably necessary.~~

~~(6) "The president" is the president of Bellingham Technical College. The president is authorized to:~~

~~(a) Delegate any of their responsibilities as set forth in this chapter as may be reasonably necessary; and~~

~~(b) Reassign any and all duties and responsibilities as set forth in this chapter as may be reasonably necessary.~~

~~(7)) "Business day" means a weekday, excluding weekends and college holidays.~~

~~(3) "College premises" includes all campuses of the college, wherever located, and includes all land, buildings, facilities, vehicles, equipment, and other property owned, used, or controlled by the college.~~

~~(4) "Complainant" means the following individuals who are alleged to have been subjected to conduct that would constitute sex discrimination.~~

~~(a) A student or employee; or~~

~~(b) A person other than a student or employee who was participating or attempting to participate in the college's education program or activity at the time of the alleged discrimination.~~

~~(5) "Conduct review officer" is a college administrator designated by the president and is responsible for reviewing or referring appeals of student disciplinary actions as specified in this code.~~

~~(6) "Disciplinary action" is the process by which the student conduct officer or their designee imposes discipline against a student for a violation of the student conduct code. A written or verbal warning is not a disciplinary action.~~

~~((8)) (7) "Disciplinary appeal" is the process by which an aggrieved ((student)) party can appeal the discipline imposed or recommended by the student conduct officer or their designee. Disciplinary appeals from a suspension in excess of ((ten)) 10 instructional days or ((an expulsion)) a dismissal from the college are heard by the student conduct committee. Appeals of all other appealable disciplinary action shall be reviewed by a conduct review officer through brief adjudicative proceedings.~~

~~((9) "Respondent" is the student against whom disciplinary action is initiated.~~

~~(10) "Service" is the process by which a document is officially delivered to a party. Unless otherwise provided, service upon a party shall be accomplished by:~~

~~(a) Hand delivery of the document to the party; or~~

~~(b) By sending the document by email and by certified mail, or first-class mail, to the party's last known address.~~

~~Service is deemed complete upon hand delivery of the document or upon the date the document is emailed and deposited in the mail.~~

~~((11)) (8) "Filing" is the process by which a document is officially delivered to a college official responsible for facilitating a disciplinary review. Unless otherwise provided, filing shall be accomplished by:~~

~~(a) Hand delivery of the document to the specified college official or college official's assistant; or~~



(b) By sending the document by email and first-class mail to the specified college official's office and college email address.

Papers required to be filed shall be deemed filed upon actual receipt during office hours at the office of the specified college official.

~~((12) "College premises" includes all campuses of Bellingham Technical College, wherever located, and includes all land, buildings, facilities, vehicles, equipment, and other property owned, used, or controlled by the college.~~

~~(13) "Student" includes all persons taking courses at or through the college, whether on a full-time or part-time basis, and whether such courses are credit courses, noncredit courses, online courses, or otherwise. Persons who withdraw after allegedly violating the code, who are not officially enrolled for a particular term but who have a continuing relationship with the college, and persons who have been notified of their acceptance for admission are considered "students" for purposes of this chapter.~~

~~(14) "Day" means a calendar day, except when a "business day" is specified. "Business day" means a weekday, excluding weekends and college holidays.~~

~~(15) A "complainant" is an alleged victim of sexual misconduct.~~

~~(16) "Sexual misconduct" has the meaning ascribed to this term in WAC 495B-121-265(13).)~~ (9) "Pregnancy or related conditions" means:

(a) Pregnancy, childbirth, termination of pregnancy, or lactation;

(b) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or

(c) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related conditions.

(10) "President" is the president of the college. The president is authorized to:

(a) Delegate any of their responsibilities as set forth in this chapter as may be reasonably necessary; and

(b) Reassign any and all duties and responsibilities as set forth in this chapter as may be reasonably necessary.

(11) "Program" or "programs and activities" means all operations of the college.

(12) "Relevant" means related to the allegations of sex discrimination under investigation. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decision maker in determining whether the alleged sex discrimination occurred.

(13) "Remedies" means measures provided to a complainant or other person whose equal access to the college's educational programs and activities has been limited or denied by sex discrimination. These measures are intended to restore or preserve that person's access to educational programs and activities after a determination that sex discrimination has occurred.

(14) "Respondent" is a student who is alleged to have violated the student conduct code.

(15) "Service" is the process by which a document is officially delivered to a party. Unless otherwise provided, service upon a party shall be accomplished by:

(a) Hand delivery of the document to the party; or

(b) By sending the document by email and by certified mail or first-class mail to the party's last known address.

Service is deemed complete upon hand delivery of the document or upon the date the document is emailed and deposited in the mail, whichever is first.

(16) "Student" includes all persons taking courses at or through the college, whether on a full-time or part-time basis, and whether such courses are credit courses, noncredit courses, online courses, or otherwise. Persons who withdraw after allegedly violating the code, who are not officially enrolled for a particular term but who have a continuing relationship with the college, or who have been notified of their acceptance for admission are considered a "student" for purposes of this chapter.

(17) "Student conduct officer" is a college administrator designated by the president to be responsible for implementing and enforcing the student conduct code.

(18) "Student employee" means an individual who is both a student and an employee of the college. When a complainant or respondent is a student employee, the college must make a fact-specific inquiry to determine whether the individual's primary relationship with the college is to receive an education and whether any alleged student conduct code violation including, but not limited to, sex-based harassment, occurred while the individual was performing employment-related work.

(19) "Student group" is a student organization including, but not limited to, student clubs and organizations, members of a class or student cohort, and student performance groups.

(20) "Supportive measures" means reasonably available, individualized and appropriate, nonpunitive and nondisciplinary measures offered by the college to the complainant or respondent without unreasonably burdening either party, and without fee or charge for purposes of:

(a) Restoring or preserving a party's access to the college's educational program or activity, including measures that are designed to protect the safety of the parties or the college's educational environment; or providing support during the college's investigation and disciplinary procedures, or during any informal resolution process; or

(b) Supportive measures may include, but are not limited to: Counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of campus; restriction on contact applied to one or more parties; a leave of absence; change in class, work, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; and training and education programs related to sex-based harassment.

(21) "Title IX coordinator" is the administrator responsible for processing complaints of sex discrimination, including sex-based harassment, and overseeing investigations and informal resolution processes in accordance with college policy.

AMENDATORY SECTION (Amending WSR 21-07-085, filed 3/18/21, effective 4/18/21)

**WAC 495B-121-260 Statement of student rights.** As members of the Bellingham Technical College academic community, students are encouraged to develop the capacity for critical judgment and to engage in an independent search for truth. Freedom to teach and freedom to learn are inseparable facets of academic freedom. The freedom to learn de-

depends upon appropriate opportunities and conditions in the classroom, on the campus, and in the larger community. Students should exercise their freedom with responsibility. The responsibility to secure and to respect general conditions conducive to the freedom to learn is shared by all members of the college community.

The following enumerated rights are guaranteed to each student within the limitations of statutory law and college policy, which are deemed necessary to achieve the educational goals of the college.

(1) Academic freedom.

(a) Students are guaranteed the rights of free inquiry, expression, and assembly upon and within college facilities that are generally open and available to the public.

(b) Students are free to pursue appropriate educational objectives from among the college's curricula, programs, and services, subject to the limitations of RCW 28B.50.090 (3)(b).

(c) Students shall be protected from academic evaluation which is arbitrary, prejudiced, or capricious, but are responsible for meeting the standards of academic performance established by each of their instructors.

(d) Students have the right to a learning environment that is free from unlawful discrimination, inappropriate and disrespectful conduct, and any and all harassment, including ~~((sexual))~~ sex-based harassment.

(2) Due process.

(a) The rights of students to be secure in their persons, quarters, papers, and effects against unreasonable searches and seizures is guaranteed.

(b) No disciplinary sanction may be imposed on any student without notice to the accused of the nature of the charges.

(c) A student accused of violating this code of student conduct is entitled, upon request, to procedural due process as set forth in this chapter.

(d) Students have the right to request disability-related accommodations through accessibility resources.

AMENDATORY SECTION (Amending WSR 22-22-002, filed 10/20/22, effective 11/20/22)

**WAC 495B-121-265 Prohibited student conduct.** The college may impose disciplinary sanctions against a student, student group, or a college-sponsored student ~~((group))~~ organization who commits, attempts to commit, aids, abets, incites, encourages ~~((7))~~ or assists another person to commit, an act(s) of misconduct, which include, but are not limited to, ~~((any of))~~ the following:

(1) Abuse of others. Assault, physical abuse, verbal abuse, threat(s), intimidation, or other conduct that harms, threatens, or is reasonably perceived as threatening the health or safety of another person or another person's property unless otherwise protected by law.

(2) Abuse in later life.

(a) Neglect, abandonment, economic abuse, or willful harm of an adult aged 50 or older by an individual in an ongoing relationship of trust with the victim; or

(b) Domestic violence, dating violence, sexual assault, or stalking of an adult aged 50 or older by any individual; and

(c) Does not include self-neglect.

(3) Academic dishonesty. Any act of academic dishonesty including ~~(, but not limited to, cheating, plagiarism, and fabrication.)~~:

(a) Cheating ~~((includes))~~ - Any attempt to give or obtain unauthorized assistance relating to the completion of an academic assignment.

(b) Plagiarism ~~((includes))~~ - Taking and using as one's own, without proper attribution, the ideas, writings, or work of another person in completing an academic assignment. Prohibited conduct may also include the unauthorized submission for credit of academic work that has been submitted for credit in another course.

(c) Fabrication ~~((includes))~~ - Falsifying data, information, or citations in completing an academic assignment and also includes providing false or deceptive information to an instructor concerning the completion of an assignment.

(d) Deliberate damage - Taking deliberate action to destroy or damage another's academic work or college property in order to gain an advantage for oneself or another.

(e) Academic consequences for academic dishonesty or abetting in academic dishonesty may be imposed at the discretion of a faculty member up to and including a failing grade for the course or dismissal from an academic program. Policies and procedures governing the imposition of academic sanctions for academic dishonesty can be found in the college's academic integrity policy, the course syllabus, and any applicable program handbook. Incidents of academic dishonesty may also be referred to the student conduct officer or their designee for disciplinary action consistent with this chapter in addition to the academic consequences identified above.

~~((2) Other))~~ (4) Acts of dishonesty. ~~((Any other))~~ Acts of dishonesty ~~((Such acts))~~ include, but are not limited to:

(a) Forgery, alteration, and/or submission of falsified documents or misuse of any college document, record, or instrument of identification;

~~((Tampering with an election by or for college students; or (e)))~~ (b) ~~((e))~~ Furnishing false information, or failing to furnish correct information, in response to the request or requirement of a college officer or employee.

~~((3) Obstruction or disruptive conduct. Conduct, not otherwise protected by law, that interferes with, impedes, or otherwise unreasonably hinders:~~

~~((a) Any instruction, research, administration, disciplinary proceeding, or other college activities, including the obstruction of the free flow of pedestrian or vehicular movement on campus property or at a college activity; or~~

~~((b) Any activity that is authorized to occur on college property, whether or not actually conducted or sponsored by the college.~~

~~(4) Assault, intimidation, harassment. Unwanted touching, physical abuse, verbal abuse, threat(s), intimidation, harassment, bullying, or other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person or another person's property. For purposes of this code, "bullying" is defined as repeated or aggressive unwanted behavior, not otherwise protected by law, that intentionally humiliates, harms, or intimidates the victim.~~

~~(5) Cyber misconduct. Cyberstalking, cyberbullying or online harassment. Use of electronic communications including, but not limited to, electronic mail, instant messaging, electronic bulletin boards, and social media sites, to harass, abuse, bully or engage in other~~

conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person. Prohibited activities include, but are not limited to, unauthorized monitoring of another's email communications directly or through spyware, sending threatening emails, disrupting electronic communications with spam or by sending a computer virus, sending false messages to third parties using another's email identity, nonconsensual recording of sexual activity, and nonconsensual distribution of a recording of sexual activity.

~~(6) Property violation. Damage to, misappropriation of, unauthorized use or possession of, vandalism, or other nonaccidental damaging or destruction of college property or the property of another person. Property for purposes of this subsection includes computer passwords, access codes, identification cards, personal financial account numbers, other confidential personal information, intellectual property, and college trademarks.~~

~~(7) Failure to comply with directive. Failure to comply with the direction of a college officer or employee who is acting in the legitimate performance of their duties, including failure to properly identify oneself to such person when requested to do so.~~

~~(8) Weapons. Possession, holding, wearing, transporting, storage or presence of any firearm, dagger, sword, knife or other cutting or stabbing instrument, club, explosive devices, or any other weapon apparently capable of producing bodily harm is prohibited on the college campus, subject to the following exceptions:~~

~~(a) Commissioned law enforcement personnel or legally authorized military personnel while in performance of their duties;~~

~~(b) A student with a valid concealed weapons permit may store a pistol in their vehicle parked on campus in accordance with RCW 9.41.050 (2) or (3), provided the vehicle is locked and the weapon is concealed from view;~~

~~(c) The president may grant permission to bring a weapon on campus upon a determination that the weapon is reasonably related to a legitimate pedagogical purpose. Such permission shall be in writing and shall be subject to such terms or conditions incorporated in the written permission; or~~

~~(d) This policy does not apply to the possession and/or use of disabling chemical sprays when possessed and/or used for self-defense.~~

~~(9) Hazing.~~

~~(a) Hazing is any act committed as part of:~~

~~(i) A person's recruitment, initiation, pledging, admission into, or affiliation with a student group; or~~

~~(ii) Any pastime or amusement engaged in with respect to such a student group; and~~

~~(iii) That causes, or is likely to cause, bodily danger or physical harm, or serious psychological or emotional harm, to any student.~~

~~(b) Examples of hazing include, but are not limited to:~~

~~(i) Causing, directing, coercing, or forcing a person to consume any food, liquid, alcohol, drug, or other substance which subjects the person to risk of such harm;~~

~~(ii) Humiliation by ritual act;~~

~~(iii) Striking another person with an object or body part;~~

~~(iv) Causing someone to experience excessive fatigue, or physical and/or psychological shock; or~~

~~(v) Causing someone to engage in degrading or humiliating games or activities that create a risk of serious psychological, emotional, and/or physical harm.~~

~~(c) "Hazing" does not include customary athletic events or other similar contests or competitions.~~

~~(d) Consent is not a valid defense against hazing.~~

~~(10) Alcohol, drug, and tobacco violations.~~

~~(a) Alcohol. The use, possession, delivery, sale, or being observably under the influence of any alcoholic beverage, except as permitted by law and applicable college policies.~~

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

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

~~(d) Tobacco, electronic cigarettes, and related products. The use of tobacco, electronic cigarettes, and related products in any building owned, leased, or operated by the college or in any location where such use is prohibited, including 25 feet from entrances, exits, windows that open, and ventilation intakes of any building owned, leased, or operated by the college, except in designated areas. The use of tobacco, electronic cigarettes, and related products on the college campus is restricted to designated smoking areas. "Related products" include, but are not limited to, cigarettes, cigars, pipes, bidi, clove cigarettes, waterpipes, hookahs, chewing tobacco, personal vaporizers, vape pens, electronic nicotine delivery systems, and snuff.~~

~~(11) Lewd conduct. Conduct which is lewd or obscene that is not otherwise protected under the law.~~

~~(12) Discriminatory conduct. Conduct which harms or adversely affects any member of the college community because of their race; color; national origin; sensory, mental, or physical disability; use of a service animal; gender, including pregnancy; marital status; age; religion; creed; sexual orientation; gender identity; veteran's status; or any other legally protected classification.~~

~~(13) Sexual misconduct. The term "sexual misconduct" includes sexual harassment, sexual intimidation, and sexual violence. Sexual harassment prohibited by Title IX is defined in the supplemental procedures to this code. See WAC 495B-121-355 (supplemental Title IX student conduct procedures).~~

~~(a) Sexual harassment. The term "sexual harassment" means unwelcome sexual or gender-based conduct, including unwelcome sexual advances, requests for sexual favors, quid pro quo harassment, and other verbal, nonverbal, or physical conduct of a sexual or a gendered nature that is sufficiently severe, persistent, or pervasive as to:~~

~~(i) Deny or limit the ability of a student to participate in or benefit from the college's educational programs;~~

~~(ii) Alter the terms or conditions of employment for a college employee(s); and/or~~

~~(iii) Create an intimidating, hostile, or offensive environment for other campus community members.~~

~~(b) Sexual intimidation. The term "sexual intimidation" incorporates the definition of "sexual harassment" and means threatening or emotionally distressing conduct based on sex including, but not limi-~~

ted to, nonconsensual recording of sexual activity or the distribution of such recording.

~~(c) Sexual violence. "Sexual violence" is a type of discrimination and harassment. Nonconsensual sexual intercourse, nonconsensual sexual contact, domestic violence, dating violence, and stalking are all types of sexual violence.~~

~~(i) Nonconsensual sexual intercourse. Any actual or attempted sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.~~

~~(ii) Nonconsensual sexual contact. Any actual or attempted sexual touching, however slight, with any body part or object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any bodily contact in a sexual manner.~~

~~(iii) Incest. Sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren and adopted children under the age of 18.~~

~~(iv) Statutory rape. Consensual intercourse between a person who is 18 years of age or older, and a person who is under the age of 16.~~

~~(v) Domestic violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under domestic or family violence laws of the state of Washington, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Washington, RCW 26.50.010.~~

~~(vi) Dating violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person:~~

~~(A) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and~~

~~(B) Where the existence of such a relationship shall be determined based on a consideration of the following factors:~~

~~(I) The length of the relationship;~~

~~(II) The type of relationship; and~~

~~(III) The frequency of interaction between the persons involved in the relationship.~~

~~(vii) Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:~~

~~(A) Fear for their safety or the safety of others; or~~

~~(B) Suffer substantial emotional distress.~~

~~(d) For the purposes of this code, "consent" means knowing, voluntary, and clear permission by word or action, to engage in mutually agreed upon sexual activity. Each party has the responsibility to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be at the time of the act of sexual intercourse or sexual contact actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.~~

A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has engaged in nonconsensual conduct.

Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.

(14) Harassment. Unwelcome conduct, including verbal, nonverbal, or physical conduct, that is directed at a person because of such person's protected status and that is sufficiently serious as to deny or limit, and that does deny or limit, the ability of a student to participate in or benefit from the college's educational program, that changes the terms or conditions of employment for a college employee, or that creates an intimidating, hostile, or offensive environment for other campus community members. Protected status includes a person's race; color; national origin; sensory, mental, or physical disability; use of a service animal; gender, including pregnancy; marital status; age; religion; creed; sexual orientation; gender identity; veteran's status, or any other legally protected classification. See "sexual misconduct" for the definition of "sexual harassment." Harassing conduct may include, but is not limited to, physical conduct, verbal, written, social media and electronic communications.

(15) Retaliation. Harming, threatening, intimidating, coercing, or taking adverse action of any kind against a person because such person reported an alleged violation of this code or college policy, provided information about an alleged violation, or participated as a witness or in any other capacity in a college investigation or disciplinary proceeding.

(16)) (c) Knowingly making a false statement or submitting false information in relation, or in response, to a college academic or disciplinary investigation or process.

(5) Alcohol. Use, possession, manufacture, or distribution of alcoholic beverages or paraphernalia (except as expressly permitted by college policies and federal, state, and local laws), or public intoxication on college premises or at college-sponsored events. Alcoholic beverages may not, in any circumstance, be used by, possessed by, or distributed to any person not of legal age.

(6) Cannabis, drug, and tobacco violations.

(a) Cannabis. The use, possession, growing, delivery, sale, or being visibly under the influence of cannabis or the psychoactive compounds found in cannabis and intended for human consumption, regardless of form, or the possession of cannabis paraphernalia on college premises or college-sponsored events. While state law permits the recreational use of cannabis, federal law prohibits such use on college premises or in connection with college activities.

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

(c) Tobacco, electronic cigarettes, and related products. The use of tobacco, electronic cigarettes, and related products in any building owned, leased or operated by the college or in any location where such use is prohibited, including 25 feet from entrances, exits, windows that open, and ventilation intakes of any building owned, leased



or operated by the college. The use of tobacco, electronic cigarettes, and related products on the college campus is restricted to designated smoking areas. "Related products" include, but are not limited to, cigarettes, pipes, bidi, clove cigarettes, waterpipes, hookahs, chewing tobacco, vaporizers, and snuff.

(7) Cyber misconduct. Use of electronic communications, including, but not limited to, electronic mail, instant messaging, electronic bulletin boards, applications (apps), and social media sites, to harass, abuse, bully or engage in other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person. Prohibited activities include, but are not limited to, unauthorized monitoring of another's email communications directly or through spyware, sending threatening emails, disrupting electronic communications with spam or by sending a computer virus, sending false messages to third parties using another's email identity, nonconsensual recording of sexual activity, and nonconsensual distribution of a recording of sexual activity.

(8) Disruption or obstruction. Disruption or obstruction of instruction, research, administration, disciplinary proceeding, or other college activity, including the obstruction of the free flow of pedestrian or vehicular movement on college premises or at a college activity, or any activity that is authorized to occur on college premises, whether or not actually conducted or sponsored by the college.

(9) Discriminatory harassment.

(a) Unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct, not otherwise protected by law, that is directed at a person because of such person's protected status and that is sufficiently severe, persistent, or pervasive so as to:

(i) Limit the ability of a student to participate in or benefit from the college's educational and/or social programs;

(ii) Alter the terms of an employee's employment; or

(iii) Create an intimidating, hostile, or offensive environment for other campus community members.

(b) Protected status includes a person's race, ethnicity, creed, color, sex, gender identity or expression, citizenship or immigration status, national origin, age, religion, disability, veteran or military status, sexual orientation, genetic information, the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, pregnancy, marital status, or any other characteristic protected by federal, state, or local law.

(c) Discriminatory harassment may be physical, verbal, or nonverbal conduct and may include written, social media, and electronic communications not otherwise protected by law.

(10) Ethical violation. The breach of any generally recognized and published code of ethics or standards of professional practice that governs the conduct of a particular profession for which the student is taking a course or is pursuing as an educational goal or major.

(11) Failure to comply with directive. Failure to comply with the direction of a college officer or employee who is acting in the legitimate performance of their duties, including failure to properly identify oneself to such a person when requested to do so.

(12) Harassment or bullying. Conduct unrelated to a protected class that is unwelcome and sufficiently severe, persistent, or pervasive such that it could reasonably be expected to create an intimidating, hostile, or offensive environment, or has the purpose or effect

of unreasonably interfering with a person's academic or work performance, or a person's ability to participate in or benefit from the college's programs, services, opportunities, or activities.

(a) Harassing conduct may include, but is not limited to, physical, verbal, or nonverbal conduct, including written, social media, and electronic communications not otherwise protected by law.

(b) For purposes of this code, "bullying" is defined as repeated or aggressive unwanted behavior not otherwise protected by law when a reasonable person would feel humiliated, harmed, or intimidated.

(c) For purposes of this code, "intimidation" is an implied threat. Intimidation exists when a reasonable person would feel threatened or coerced even though an explicit threat or display of physical force has not been made. Intimidation is evaluated based on the intensity, frequency, context, and duration of the comments or actions.

(13) Hazing. Hazing is any act committed as part of a person's recruitment, initiation, pledging, admission into, or affiliation with a college-sponsored student organization, or any pastime or amusement engaged in with respect to such an organization that causes, or is likely to cause, bodily danger or physical harm, or serious psychological or emotional harm, to any student, including causing, directing, coercing, or forcing a person to consume any food, liquid, alcohol, drug, or other substance which subjects the person to risk of such harm, regardless of the person's willingness to participate. "Hazing" does not include customary athletic events or other similar contests or competitions. Consent is not a valid defense against hazing. Examples of hazing include, but are not limited to:

(a) Causing, directing, coercing, or forcing a person to consume any food, liquid, alcohol, drug, or other substance which subjects the person to risk of such harm;

(b) Humiliation by ritual act;

(c) Striking another person with an object or body part;

(d) Causing someone to experience excessive fatigue, or physical and/or psychological shock; or

(e) Causing someone to engage in degrading or humiliating games or activities that create a risk of serious psychological, emotional, and/or physical harm.

(14) Indecent exposure. The intentional or knowing exposure of a person's genitals or other private body parts when done in a place or manner in which such exposure is likely to cause affront or alarm. Breastfeeding or expressing breast milk is not indecent exposure.

(15) Misuse of electronic resources. Theft or misuse of computer time or other electronic information resources of the college. Such misuse includes, but is not limited to:

(a) Unauthorized use of such resources or opening of a file, message, or other item;

(b) Unauthorized duplication, transfer, or distribution of a computer program, file, message, or other item;

(c) Unauthorized use or distribution of someone else's password or other identification;

(d) Use of such time or resources to interfere with someone else's work;

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

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

(g) Use of such time or resources in violation of applicable copyright or other law;

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

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

~~((17) Unauthorized access. Unauthorized possession, duplication, or other use of a key, keycard, or other restricted means of access to college property, or unauthorized entry onto or into college property.~~

~~(18) Procedural interference. Abuse or misuse of any of the procedures relating to student complaints or misconduct including, but not limited to:~~

~~(a) Disruption or interference with the orderly conduct of a proceeding;~~

~~(b) Interfering with someone else's proper participation in a proceeding;~~

~~(c) Destroying or altering potential evidence, or attempting to intimidate or otherwise improperly pressure a witness or potential witness; or~~

~~(d) Attempting to influence the impartiality of, or harassing or intimidating, a student conduct committee member.~~

~~(19))~~ (16) Property violation. Damage to, misappropriation of, unauthorized use or possession of, vandalism, theft, or other nonaccidental damaging or destruction of college property or the property of another person. Property for purposes of this subsection includes computer passwords, access codes, identification cards, personal financial account numbers, other confidential personal information, intellectual property, and college trademarks.

(17) Retaliation. Harming, threatening, intimidating, coercing, or other adverse action taken against any individual for reporting, providing information, exercising one's rights or responsibilities, participating, or refusing to participate, in the process of responding to, investigating, or addressing allegations or violations of federal, state, or local law, or college policies.

(18) Safety violations. Nonaccidental reckless, or unsafe conduct that interferes with or otherwise compromises any college policy, equipment, or procedure relating to the safety and security of the campus community, including tampering with fire safety equipment, triggering false alarms or other emergency response systems (~~, or operating a motor vehicle on college property in a manner which is reasonably perceived as threatening the health or safety of another person.~~

~~(20) Violation of other laws or policies. Violation of any federal, state, or local law, rule, or regulation or other college rules or policies, including college traffic and parking rules.~~

~~(21) Ethical violation. The breach of any generally recognized and published code of ethics or standards of professional practice that governs the conduct of a particular profession for which the student is taking a course or is pursuing as an educational goal or major.~~

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

(19) Sex discrimination. The term "sex discrimination" includes sex-based harassment, and may occur when a respondent causes more than

de minimis harm to an individual by treating them different from a similarly situated individual on the basis of: Sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Conduct that prevents an individual from participating in an education program or activity consistent with the person's gender identity subjects a person to more than de minimis (insignificant) harm on the basis of sex.

(a) Sex-based harassment. "Sex-based harassment" is a form of sex discrimination and means sexual harassment or other harassment on the basis of sex, including the following conduct:

(i) Quid pro quo harassment. A student, employee, agent, or other person authorized by the college to provide an aid, benefit, or service under the college's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.

(ii) Hostile environment. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

(A) The degree to which the conduct affected the complainant's ability to access the college's education program or activity;

(B) The type, frequency, and duration of the conduct;

(C) The parties' ages, roles within the college's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;

(D) The location of the conduct and the context in which the conduct occurred; and

(E) Other sex-based harassment in the college's education program or activity.

(iii) Sexual violence. "Sexual violence" includes nonconsensual sexual intercourse, nonconsensual sexual contact, domestic violence, incest, statutory rape, domestic violence, dating violence, and stalking.

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

(B) Nonconsensual sexual contact (fondling) is any actual or attempted sexual touching, however slight, with any body part or object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

(C) Incest is sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren and adopted children under the age of 18.

(D) Statutory rape (rape of a child) is nonforcible sexual intercourse with a person who is under the statutory age of consent.

(E) Domestic violence is physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual as-

sault, coercive control, damage or destruction of personal property, stalking or any other conduct prohibited under RCW 10.99.020, committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Washington.

(F) Dating violence is physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

(I) The length of the relationship;

(II) The type of relationship; and

(III) The frequency of interaction between the persons involved in the relationship.

(G) Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or to suffer substantial emotional distress.

(b) Consent. For purposes of this code "consent" means knowing, voluntary and clear permission by word or action, to engage in mutually agreed upon sexual activity.

(i) Each party has the responsibility to make certain that the other has consented before engaging in the activity.

(ii) For consent to be valid, there must be at the time of the act of sexual intercourse or sexual contact actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.

(iii) A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has engaged in nonconsensual conduct.

(iv) Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.

(c) Title IX retaliation means intimidation, threats, coercion, or discrimination against any person by a student, for the purpose of interfering with any right or privilege secured by Title IX, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in a sex discrimination investigation, proceeding, or hearing, including during an informal resolution process, during a Title IX investigation, or during any disciplinary proceeding involving allegations of sex discrimination.

(20) Unauthorized access. Unauthorized possession, duplication, or other use of a key, keycard, or other restricted means of access to college property, or unauthorized entry onto or into college property.

(21) Violation of other laws or policies. Violation of any federal, state, or local law, rule, or regulation, or other college rules or policies, including college housing, traffic, and parking rules.

(22) Weapons. Possession, holding, wearing, transporting, storage or presence of any firearm, dagger, sword, knife or other cutting or

stabbing instrument, club, explosive devices, or any other weapon apparently capable of producing bodily harm is prohibited on the college campus, and during college programming and activities, subject to the following exceptions:

(a) Commissioned law enforcement personnel or legally authorized military personnel while in performance of their duties;

(b) A student with a valid concealed weapons permit may store a pistol in their vehicle parked on campus in accordance with RCW 9.41.050 (2) or (3), provided the vehicle is locked and the weapon is concealed from view;

(c) The president may grant permission to bring a weapon on campus upon a determination that the weapon is reasonably related to a legitimate pedagogical purpose. Such permission shall be in writing and shall be subject to such terms or conditions incorporated in the written permission; or

(d) This policy does not apply to the possession and/or use of disabling chemical sprays when possessed and/or used for self-defense.

AMENDATORY SECTION (Amending WSR 21-07-085, filed 3/18/21, effective 4/18/21)

**WAC 495B-121-270 Disciplinary sanctions.** (1) Administration of the disciplinary procedure is the responsibility of the vice president of student services. The student conduct officer, or designee, shall serve as the principle investigator and prosecutor for alleged violations of this code.

(2) Faculty members have the authority to take appropriate action to maintain order and proper conduct in the classroom and to maintain the effective cooperation of students in fulfilling the objectives of the course.

(3) Bringing any person, thing, or object to a teaching and learning environment that may disrupt the environment or cause a safety or health hazard, without the express approval of the faculty member is expressly prohibited.

(4) Faculty members or college administrators have the right to suspend any student from any single class or related activity for no more than one day, if the student's misconduct creates disruption to the point that it is difficult or impossible to maintain the decorum of the class, related activity, or the learning and teaching environment. The faculty member or college administrator shall report this suspension to the student conduct officer or designee on the same day of the suspension. In consultation with the faculty member or college administrator, the student conduct officer or designee may set conditions for the student upon return to the class or activity.

(5) The student has the right to appeal any disciplinary action of an instructor or college employee to the student conduct officer or designee in accordance with the procedures set forth in this code.

(6) A student formally charged or under investigation for a violation of this code may not excuse themselves from disciplinary hearings by withdrawing from the college.

(7) In addition to initiating discipline proceedings for the violation of the student conduct code, the college may refer any violations of federal, state, or local laws to civil and criminal authorities for disposition. The college shall proceed with student discipli-

nary proceedings regardless of whether the underlying conduct is subject to civil or criminal prosecution.

AMENDATORY SECTION (Amending WSR 21-07-085, filed 3/18/21, effective 4/18/21)

**WAC 495B-121-280 Initiation of disciplinary action.** (1) ~~((All disciplinary actions will be initiated by the student conduct officer. If that officer is the subject of a complaint initiated by the respondent, the president shall, upon request and when feasible, designate another person to fulfill any such disciplinary responsibilities relative to the complainant.))~~ Any member of the college community may file a complaint against a student or student group for possible violations of the student conduct code.

(2) The student conduct officer, or designee, may review and investigate any complaint to determine whether it appears to state a violation of the student conduct code.

(a) Sex discrimination, including sex-based harassment. The college's Title IX coordinator or designee shall review, process, and, if applicable, investigate complaints or other reports of sex discrimination, including sex-based harassment. Allegations of sex discrimination, including sex-based harassment, by a student shall be addressed through the student conduct code. Allegations involving employees or third parties associated with the college will be handled in accordance with college policies.

(b) Hazing by student groups. A student conduct officer, or designee, may review and investigate any complaint or allegation of hazing by a student group. A student group will be notified through its named officer(s) and address on file with the college. A student group may designate one representative who may speak on behalf of a student group during any investigation and/or disciplinary proceeding. A student group will have the rights of a respondent as set forth below.

(3) Investigations will be completed in a timely manner and the results of the investigation shall be referred to the student conduct officer or designee for disciplinary action.

(4) If a student conduct officer or designee determines that a complaint appears to state a violation of the student conduct code, the student conduct officer or designee will consider whether the matter might be resolved through agreement with the respondent or through alternative dispute resolution proceedings involving the parties.

(a) Informal dispute resolution shall not be used to resolve sex discrimination complaints without written permission from both the complainant and the respondent.

(b) If the parties elect to mediate a dispute through informal dispute resolution, either party shall be free to discontinue mediation at any time.

(5) If the student conduct officer or designee has determined that a complaint has merit and if the matter is not resolved through agreement or informal dispute resolution, the student conduct officer or designee may initiate disciplinary action against the respondent.

(6) Both the respondent and the complainant in cases involving allegations of sex discrimination shall be provided the same procedural rights to participate in student discipline matters, including the right to participate in the disciplinary process and to appeal any disciplinary decision.

(7) All disciplinary actions will be initiated by the student conduct officer or their designee. If that officer is the subject of a complaint, the president shall, upon request and when feasible, designate another person to fulfill any such disciplinary responsibilities relative to the complainant.

(8) The student conduct officer or their designee shall initiate disciplinary action by serving the respondent with written notice directing them to attend a disciplinary meeting. The notice shall briefly describe the factual allegations, the provision(s) of the conduct code the respondent is alleged to have violated, the range of possible sanctions for the alleged violation(s), and specify the time and location of the meeting.

(9) At the meeting, the student conduct officer or designee will present the allegations to the respondent and the respondent shall be afforded an opportunity to explain what took place. If the respondent fails to attend the meeting after proper service of notice the student conduct officer or designee may take disciplinary action based upon the available information.

~~((3) The student conduct officer, prior to taking disciplinary action in a case involving allegations of sexual misconduct, will make a reasonable effort to contact the complainant to discuss the results of the investigation and possible disciplinary sanctions and/or conditions, if any, that may be imposed upon the respondent if the allegations of sexual misconduct are found to have merit.~~

~~(4))~~ (10) Within ((ten)) 10 business days of the initial disciplinary meeting, and after considering the evidence in the case, including any facts or argument presented by the respondent, the student conduct officer or designee shall serve the respondent with a written decision setting forth the facts and conclusions supporting their decision, the specific student conduct code provisions found to have been violated, the discipline imposed((7)) (if any), and a notice of any appeal rights with an explanation of the consequences of failing to file a timely appeal. This period may be extended at the sole discretion of the student conduct officer or designee, if additional information is necessary to reach a determination. The student conduct officer or their designee will notify the parties of any extension period and the reason therefore.

~~((5))~~ (11) The student conduct officer or designee may take any of the following disciplinary actions:

(a) Exonerate the respondent and terminate the proceedings;

(b) Impose a disciplinary sanction(s), with or without conditions, as described in WAC 495B-121-265; or

(c) Refer the matter directly to the student conduct committee for such disciplinary action as the committee deems appropriate. Such referral shall be in writing, to the attention of the chair of the student conduct committee, with a copy served on the respondent.

~~((6))~~ (12) In cases involving allegations of ((sexual misconduct)) sex discrimination, the student conduct officer or their designee, ((on the same date that the disciplinary decision is served on the respondent, will serve a written notice informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including disciplinary suspension or dismissal of the respondent. The notice will also inform the complainant of their appeal rights. If protective sanctions and/or conditions are imposed, the student conduct officer shall make a reasonable effort to contact the complainant to ensure prompt



notice of the protective disciplinary sanctions and/or conditions.) shall review the investigation report provided by the Title IX coordinator, and determine whether, by a preponderance of the evidence, there was a violation of the student conduct code; and if so, what disciplinary sanction(s) and/or remedies will be recommended. The student conduct officer or their designee shall, within five business days of receiving the investigation report, serve respondent, complainant, and the Title IX coordinator with a written recommendation, setting forth the facts and conclusions supporting their recommendation. The time for serving a written recommendation may be extended by the student conduct officer or their designee for good cause.

(a) The complainant and respondent may either accept the student conduct officer's or their designee's recommended disciplinary sanction(s) or request a hearing before a student conduct committee.

(b) The complainant and respondent shall have 21 calendar days from the date of the written recommendation to request a hearing before a student conduct committee.

(c) The request may be verbal or written, but must be clearly communicated to the student conduct officer or their designee.

(d) The student conduct officer or designee shall promptly notify the other party of the request.

(e) In cases involving sex discrimination, the student conduct officer or designee may recommend dismissal of the complaint if:

(i) The college is unable to identify respondent after taking reasonable steps to do so;

(ii) Respondent is not participating in the college's educational programs or activities;

(iii) The complainant has voluntarily withdrawn any or all of the allegations in the complaint, and the Title IX coordinator has declined to initiate their own complaint;

(iv) The college determines that, even if proven, the conduct alleged by the complainant would not constitute sex discrimination; or

(v) The conduct alleged by the complainant falls outside the college's disciplinary jurisdiction.

(f) In cases involving allegations of sex-based harassment, the college must obtain the complaint's voluntary withdrawal in writing before the matter can be dismissed.

(g) If no request for a full hearing is provided to the student conduct officer or their designee, the student conduct officer's or their designee's written recommendation shall be final and implemented immediately following the expiration of 21 calendar days from the date of the written recommendation.

(h) Upon receipt of the student conduct officer's or their designee's written recommendation, the Title IX coordinator or their designee shall review all supportive measures and, within five business days, provide written direction to the complainant and respondent as to any supportive measures that will be implemented, continued, modified, or terminated. If either party is dissatisfied with the supportive measures, the party may seek review in accordance with the college's Title IX investigation procedure.

(i) If respondent is found responsible for engaging in sex discrimination, the Title IX coordinator or their designee shall also take prompt steps to coordinate and implement any necessary remedies to ensure that sex discrimination does not recur and that complainant has equal access to the college's programs and activities.

AMENDATORY SECTION (Amending WSR 21-07-085, filed 3/18/21, effective 4/18/21)

**WAC 495B-121-285 Appeal from disciplinary action.** (1) Except as specified for cases involving allegations of sex-based harassment, as set forth in WAC 495B-121-280, the respondent may appeal a disciplinary action by filing a written notice of appeal with the conduct review officer within ((ten business)) 21 calendar days of service of the student conduct officer's decision. Failure to timely file a notice of appeal constitutes a waiver of the right to appeal and the student conduct officer's decision shall be deemed final.

(2) The notice of appeal must include a brief statement explaining why the respondent is seeking review.

(3) The parties to an appeal shall be the respondent, complainant if any, and the conduct review officer.

(4) A respondent, who timely appeals a disciplinary action or whose case is referred to the student conduct committee, has a right to a prompt, fair, and impartial hearing as provided for in these procedures.

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

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

(7) A conduct review officer shall conduct a brief adjudicative proceeding for appeals of:

(a) Suspensions of 10 instructional days or less;

(b) Disciplinary probation; and

(c) Written reprimands; and

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

(8) The student conduct committee shall hear appeals from:

(a) ~~((The imposition of))~~ Disciplinary suspensions in excess of ((ten)) 10 instructional days;

(b) Dismissals; ~~((and))~~

(c) Sex discrimination, including sex-based harassment cases; and

(d) Discipline cases referred to the committee by the student conduct officer or their designee, ((the)) a conduct review officer, or the president.

~~((8) Student conduct appeals from the imposition of disciplinary sanctions shall be reviewed through a brief adjudicative proceeding subject to the procedures outlined in WAC 495B-121-290 through 495B-121-305.~~

~~(9) Except as provided elsewhere in these rules, disciplinary warnings and dismissals of disciplinary actions are final actions and not subject to appeal.~~

~~(10) In cases involving allegations of sexual misconduct, the complainant has the right to appeal the following actions by the student conduct officer following the same procedures as set forth above for the respondent:~~

~~(a) The dismissal of a sexual misconduct complaint; or~~

~~(b) Any disciplinary sanction(s) and conditions imposed against a respondent for a sexual misconduct violation, including a disciplinary warning.~~

~~(11) If the respondent timely appeals a decision imposing discipline for a sexual misconduct violation, the college shall notify the~~

complainant of the appeal and provide the complainant an opportunity to intervene as a party to the appeal.

~~(12) Except as otherwise specified in this chapter, a complainant who timely appeals a disciplinary decision or who intervenes as a party to a respondent's appeal of disciplinary decisions shall be afforded the same procedural rights as are afforded the respondent.~~

~~(13) Except as provided elsewhere in these rules, disciplinary warnings and dismissals of disciplinary actions are final actions and are not subject to appeal.)~~

(9) The college may, in its sole discretion, contract with an administrative law judge or other qualified person(s) to act as the conduct review officer, authorized to exercise any or all duties of the conduct review officer.

AMENDATORY SECTION (Amending WSR 22-22-002, filed 10/20/22, effective 11/20/22)

**WAC 495B-121-286 Hazing prohibited—Sanctions.** (1) Hazing by a student or a student group is prohibited pursuant to WAC 495B-121-265(~~(+9)~~) (13).

(2) No student may conspire to engage in hazing or participate in hazing of another. State law provides that hazing is a criminal offense, punishable as a misdemeanor.

(3) Washington state law provides that:

(a) Any student group that knowingly permits hazing is strictly liable for harm caused to persons or property resulting from hazing. If the organization(~~(r)~~) or association(~~(r, or student living group)~~) is a corporation whether for profit or nonprofit, the individual directors of the corporation may be held individually liable for damages.

(b) Any person who participates in the hazing of another shall forfeit any entitlement to state-funded grants, scholarships, or awards for a period of time determined by the college.

(c) Student groups that knowingly permit hazing to be conducted by its members or by others subject to its direction or control shall be deprived of any official recognition or approval granted by the college.

(d) Student groups found responsible for violating the (~~code~~ ~~of~~) student conduct code, college (~~(anti-hazing)~~) antihazing policies, or state or federal laws relating to hazing or offenses related to alcohol, drugs, sexual assault, or physical assault will be disclosed in a public report issued by the college setting forth the name of the student group, the date the investigation began, the date the investigation ended, a finding of responsibility, a description of the incident(s) giving rise to the finding, and the details of the sanction(s) imposed.

AMENDATORY SECTION (Amending WSR 21-07-085, filed 3/18/21, effective 4/18/21)

**WAC 495B-121-295 Brief adjudicative proceedings—Initial hearing.** (1) Brief adjudicative proceedings shall be conducted by a con-

duct review officer. The conduct review officer shall not participate in any case in which they are a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(2) The parties to a brief adjudicative proceeding are the respondent ~~((7))~~ and the student conduct officer ~~((, and in cases involving sexual misconduct, the complainant))~~. Before taking action, the conduct review officer shall conduct an informal hearing and provide each party:

(a) An opportunity to be informed of the college's view of the matter; and

(b) An opportunity to explain the party's view of the matter.

(3) The conduct review officer shall serve an initial decision upon the respondent and the student conduct officer within ~~((ten))~~ 10 business days of consideration of the appeal. The initial decision shall contain a brief written statement of the reasons for the decision and information about how to seek administrative review of the initial decision. If no request for review is filed within ~~((ten))~~ 10 business days of service of the initial decision, the initial decision shall be deemed the final decision.

~~(4) ((In cases involving allegations of sexual misconduct, the conduct review officer, on the same date as the initial decision is served on the respondent, will serve a written notice upon the complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection. The notice will also inform the complainant of their appeal rights.~~

~~(5))~~ If the conduct review officer upon review determines that the respondent's conduct may warrant imposition of a disciplinary suspension ~~((of more than ten))~~ in excess of 10 instructional days or expulsion, the matter shall be referred to the student conduct committee for a disciplinary hearing.

AMENDATORY SECTION (Amending WSR 21-07-085, filed 3/18/21, effective 4/18/21)

**WAC 495B-121-300 Brief adjudicative proceedings—Review of an initial decision.** (1) An initial decision is subject to review by the president, provided a party files a written request for review with the conduct review officer within ~~((ten))~~ 10 business days of service of the initial decision.

(2) The president shall not participate in any case in which they are a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(3) During the review, the president shall give all parties an opportunity to file written responses explaining their view of the matter and shall make any inquiries necessary to ascertain whether the sanctions should be modified or whether the proceedings should be referred to the student conduct committee for a formal adjudicative hearing.

(4) The decision on review must be in writing and must include a brief statement of the reasons for the decisions and must be served on

the parties within (~~twenty business~~) 20 calendar days of the initial decision or of the request for review, whichever is later. The decision on review will contain a notice that (~~committee~~) judicial review may be available. A request for review may be deemed to have been denied if the president does not make a disposition of the matter within (~~twenty business~~) 20 calendar days after the request is submitted.

(5) If the president(~~(7)~~) upon review(~~(7)~~) determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than (~~ten~~) 10 instructional days or expulsion, the matter shall be referred to the student conduct committee for a disciplinary hearing.

~~((6) In cases involving allegations of sexual misconduct, the president, on the same date as the final decision is served on the respondent, will serve a written notice upon the complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent. The notice will also inform the complainant of their appeal rights.))~~

AMENDATORY SECTION (Amending WSR 21-07-085, filed 3/18/21, effective 4/18/21)

**WAC 495B-121-310 Student conduct committee.** (1) The student conduct committee shall consist of five members:

(a) Two full-time students appointed by the student government;  
 (b) Two faculty members appointed by the president;  
 (c) One administrative employee (other than an administrator serving as a student conduct or conduct review officer) appointed by the president at the beginning of the academic year.

(2) The administrative employee appointed on a yearly basis shall serve as the chair of the committee and may act on preliminary hearing matters prior to convening the committee. (~~The chair shall receive annual training on protecting victims and promoting accountability in cases involving allegations of sexual misconduct.~~)

(3) Hearings may be heard by a quorum of three members of the committee so long as the chair, one faculty member, and one student are included on the hearing panel. Committee action may be taken upon a majority vote of all committee members attending the hearing.

(4) Members of the student conduct committee shall not participate in any case in which they are a party, complainant, or witness; in which they have direct or personal interest, prejudice, or bias; or in which they have acted previously in an advisory capacity. Any party may petition for disqualification of a committee member (~~pursuant to RCW 34.05.425(4)~~).

(5) For cases involving allegations of sex discrimination, including sex-based harassment, members of the student conduct committee must receive training on serving impartially, avoiding prejudgment of facts at issue, conflicts of interest, and bias. The chair shall receive training on the student conduct process for sex discrimination cases, as well as the meaning and application of the term, "relevant," in relations to questions and evidence, and the types of evidence that are impermissible, regardless of relevance in accordance with 34 C.F.R. §§ 106.45 and 106.46.

(6) The college may, in its sole discretion, contract with an administrative law judge or other qualified person(s), to act as presiding officer, authorized to exercise any or all duties of the student conduct committee and/or committee chair.

AMENDATORY SECTION (Amending WSR 21-07-085, filed 3/18/21, effective 4/18/21)

**WAC 495B-121-315 Student conduct committee—(~~Procedure and evidence~~) Prehearing.** (1) Proceedings of the student conduct committee shall be governed by the Administrative Procedure Act, chapter 34.05 RCW.

(2) The student conduct committee chair shall serve all parties with written notice of the hearing not less than seven business days in advance of the hearing date. The chair may shorten this notice period if both parties agree, and may also continue the hearing to a later time for good cause shown. The notice must include:

- (a) A copy of the student conduct code;
- (b) The basis for jurisdiction;
- (c) The alleged violation(s);
- (d) A summary of facts underlying the allegations;
- (e) The range of possible sanctions that may be imposed; and
- (f) A statement that retaliation is prohibited.

(3) The (~~committee~~) chair is authorized to conduct prehearing conferences and/or to make prehearing decisions concerning the extent and form of any discovery, issuance of protective decisions, and similar procedural matters.

(4) (~~If a~~) Upon request for a document exchange (~~is~~) filed at least five business days before the hearing by any party or at the direction of the (~~committee~~) chair, the parties shall exchange, no later than the third business day prior to the hearing, lists of potential witnesses and copies of potential exhibits that they reasonably expect to present to the committee. Failure to participate in good faith in such a requested exchange may be cause for exclusion from the hearing of any witness or exhibit not disclosed, absent a showing of good cause for such failure.

(5) The committee chair may provide to the committee members in advance of the hearing copies of:

- (a) The conduct officer's notification of imposition of discipline (or referral to the committee); and
- (b) The notice of appeal (or any response to referral) by the respondent. If doing so, however, the chair should remind the members that these "pleadings" are not evidence of any facts they may allege.

(6) The parties may agree before the hearing to designate specific exhibits as admissible without objection and, if they do so, whether the committee chair may provide copies of these admissible exhibits to the committee members before the hearing.

(7) The student conduct officer or their designee, upon request, shall provide reasonable assistance to the respondent (~~in obtaining relevant and admissible evidence that is within the college's control~~) and complainant in procuring the presence of college students, employees, staff, and volunteers to appear at a hearing, provided the respondent and complainant provide a witness list to the student conduct officer or designee no less than three business days in advance

of the hearing. The student conduct officer or their designee shall notify the respondent and complainant no later than 24 hours in advance of the hearing if they have been unable to contact any prospective witness to procure their appearance at the hearing. The committee chair will determine how to handle the absence of a witness and shall describe on the record their rationale for any decision.

(8) Communications between committee members and other hearing participants regarding any issue in the proceeding, other than procedural communications that are necessary to maintain an orderly process, are generally prohibited without notice and opportunity for all parties to participate, and any improper "ex parte" communication shall be placed on the record, as further provided in RCW 34.05.455.

(9) In cases heard by the committee, each party may be accompanied at the hearing by ~~((a nonattorney assistant))~~ an advisor of their choice ~~((. A respondent in all appeals before the committee, or a complainant in an appeal involving allegations of sexual misconduct before the committee, may elect to be represented by an attorney at their own cost, but will be deemed to have waived that right unless, at least four business days before the hearing, written notice of the attorney's identity and participation is filed with the committee chair with a copy to the student conduct officer)), which may be an attorney retained at the student's expense.~~

(10) For any matters involving a disciplinary sanction of suspension of more than one quarter, dismissal, or sex-based harassment, the college shall provide an advisor to the respondent and any complainant, if they have not otherwise identified an advisor to assist them during the hearing. The committee will ordinarily be advised by an assistant attorney general or their designee. If the respondent and/or complainant is represented by an attorney, the student conduct officer or their designee may also be represented by ((a second, appropriately screened)) an assistant attorney general.

~~((10) At the option of the college president, the college may appoint an administrative law judge as a hearing officer responsible for handling procedural matters otherwise assigned to the chair and to conduct the hearing on behalf of the student conduct committee.))~~ (11) Attorneys for students must file a notice of appearance with the committee chair at least four business days before the hearing. Failure to do so may, at the discretion of the committee chair, result in a waiver of the attorney's ability to represent the student at the hearing, although an attorney may still serve as an advisor to the student.

(12) In cases involving allegations of sex discrimination, the complainant has a right to participate equally in any part of the disciplinary process, including appeals.

(a) Notice. The college must provide a notice that includes all information required in subsection (2) of this section, and a statement that the parties are entitled to an equal opportunity to access relevant and permissible evidence, or a description of the evidence upon request.

(b) Advisors. The complainant and respondent are both entitled to have an advisor present, who may be an attorney retained at the party's expense.

(c) Extensions of time. The chair may, upon written request of any party and a showing of good cause, extend the time for disclosure of witness and exhibit lists, accessing and reviewing evidence, or the hearing date, in accordance with the procedures set forth in subsection (13)(b) of this section.

(d) Evidence. In advance of the hearing, the student conduct officer, or designee, shall provide reasonable assistance to the respondent and complainant in accessing and reviewing the investigative report and relevant and not otherwise impermissible evidence that is within the college's control.

(e) Confidentiality. The college shall take reasonable steps to prevent the unauthorized disclosure of information obtained by a party solely through the disciplinary process, which may include, but are not limited to, directives by the student conduct officer, their designee, or chair issuing directives pertaining to the dissemination, disclosure, or access to evidence outside the context of the disciplinary hearing.

(13) In cases involving allegations of sex-based harassment, the following additional procedures apply:

(a) Notice. In addition to all information required in subsection (2) of this section, the notice must also inform the parties that:

(i) The respondent is presumed not responsible for the alleged sex-based harassment;

(ii) That the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial student conduct committee;

(iii) That they may have an advisor of their choice, who may be an attorney, assist them during the hearing;

(iv) They are entitled to an equal opportunity to access relevant and not otherwise impermissible evidence in advance of the hearing; and

(v) The student conduct code prohibits knowingly making false statements or knowingly submitting false information during a student conduct proceeding.

(b) Extensions of time. The chair may, upon written request of any party and a showing of good cause, extend the time for disclosure of witness and exhibit lists, accessing and reviewing evidence, or the hearing date. The party requesting an extension must do so no later than 48 hours before any date specified in the notice of hearing or by the chair in any prehearing conference. The written request must be served simultaneously by email to all parties and the chair. Any party may respond and object to the request for an extension of time no later than 24 hours after service of the request for an extension. The chair will serve a written decision upon all parties, to include the reasons for granting or denying any request. The chair's decision shall be final. In exceptional circumstances, for good cause shown, the chair may, in their sole discretion, grant extensions of time that are made less than 48 hours before any deadline.

(c) Advisors. The college shall provide an advisor to the respondent and any complainant, if the respondent or complainant has not otherwise identified an advisor to assist during the hearing.

(d) Evidence. In advance of the hearing, the student conduct officer or their designee shall provide reasonable assistance to the respondent and complainant in accessing and reviewing the investigative report and relevant and not otherwise impermissible evidence that is within the college's control.

(e) Confidentiality. The college shall take reasonable steps to prevent the unauthorized disclosure of information obtained by a party solely through the disciplinary process, which may include, but are not limited to, directives by the student conduct officer, their designee, or chair issuing directives pertaining to the dissemination,



disclosure, or access to evidence outside the context of the disciplinary hearing.

(f) Separate locations. The chair may, or upon the request of any party, must conduct the hearing with the parties physically present in separate locations, with technology enabling the committee and parties to simultaneously see and hear the party or the witness while that person is speaking.

(g) Withdrawal of complaint. If a complainant wants to voluntarily withdraw a complaint, they must provide notice to the college in writing before a case can be dismissed.

AMENDATORY SECTION (Amending WSR 21-07-085, filed 3/18/21, effective 4/18/21)

**WAC 495B-121-320 Student conduct committee (~~hearing procedures~~)—Presentation of evidence.**

(1) Upon the failure of any party to attend or participate in a hearing, the student conduct committee may either:

(a) Proceed with the hearing and issuance of its decision; or

(b) Serve a decision of default in accordance with RCW 34.05.440.

(2) The hearing will ordinarily be closed to the public. However, if all parties agree on the record that some or all of the proceedings be open, the chair shall determine any extent to which the hearing will be open. If any person disrupts the proceedings, the chair may exclude that person from the hearing (~~location~~) room.

(3) The chair shall cause the hearing to be recorded by a method that they select, in accordance with RCW 34.05.449. That recording, or a copy, shall be made available to any party upon request. The chair shall assure maintenance of the record of the proceeding that is required by RCW 34.05.476, which shall also be available upon request for inspection and copying by any party. Other recording shall also be permitted, in accordance with WAC 10-08-190.

(4) The chair shall preside at the hearing and decide procedural questions that arise during the hearing, except as overridden by majority vote of the committee.

(5) The student conduct officer or designee (unless represented by an assistant attorney general) shall present the college's case (~~for imposing disciplinary sanctions~~).

(6) All testimony shall be given under oath or affirmation. Except as otherwise provided in this section, evidence shall be admitted or excluded in accordance with RCW 34.05.452.

(7) In cases involving allegations of (~~sexual misconduct, no party shall directly question or cross-examine the other. Attorneys for the parties are also prohibited from questioning the opposing party absent express permission from the committee chair. Subject to this exception, all cross-examination questions shall be directed to the committee chair, who in their discretion shall pose the questions on the party's behalf.~~) sex-based harassment, the complainant and respondent may not directly question one another. In such circumstances, the chair will determine whether the questions will be submitted to the chair, who will then ask questions of the parties and witnesses, or allow questions to be asked directly of any party or witness by a party's attorney or advisor. The committee chair may revise this proc-

ess if, in the chair's determination, the questioning by any party, attorney, or advisor, becomes contentious or harassing.

(a) The chair must determine whether any proposed question is relevant and not otherwise impermissible prior to the question being posed; and must explain any decision to exclude a question that is deemed not relevant, or is otherwise impermissible. The chair will retain for the record copies of any written questions provided by any party.

(b) The chair must not permit questions that are unclear or harassing; but shall give the party an opportunity to clarify or revise such a question.

(c) The chair shall exclude and the committee shall not consider legally privileged information unless the individual holding the privilege has waived the privilege. Privileged information includes, but is not limited to, information protected by the following:

(i) Spousal/domestic partner privilege;

(ii) Attorney-client communications and attorney work product privilege;

(iii) Clergy privileges;

(iv) Medical or mental health providers and counselor privileges;

(v) Sexual assault and domestic violence advocate privileges; and

(vi) Other legal privileges set forth in RCW 5.60.060 or federal law.

(d) The chair shall exclude and the committee shall not consider questions or evidence that relate to the complainant's sexual interests or prior sexual conduct, unless such questions or evidence is offered to prove someone other than the respondent committed the alleged conduct, or is evidence of specific instances of prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

(e) The committee may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The committee must not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions.

(8) Except in cases involving allegations of sex-based harassment, the chair has the discretion in all cases to determine whether a respondent may directly question any witnesses; and if not, to determine whether questions must be submitted to the chair to be asked of witnesses, or to allow questions to be asked by an attorney or advisor for the respondent.

AMENDATORY SECTION (Amending WSR 21-07-085, filed 3/18/21, effective 4/18/21)

**WAC 495B-121-325 Student conduct committee—Initial decision.**

(1) At the conclusion of the hearing, the (~~student conduct~~) committee chair shall permit the parties to make closing arguments in whatever form (~~it~~), written or verbal, the committee wishes to receive them. The committee also may permit each party to propose findings, conclusions, and/or a proposed decision for its consideration.

(2) Within (~~ten business~~) 20 calendar days following the latter of the conclusion of the hearing or the committee's receipt of closing arguments, the committee shall issue (~~an initial~~) a decision in accordance with RCW 34.05.461 and WAC 10-08-210. The initial decision shall include findings on all material issues of fact and conclusions on all material issues of law, including which, if any, provisions of the student conduct code were violated. Any findings based substantially on the credibility of evidence or the demeanor of witnesses shall so be identified.

(3) The committee's initial order shall also include a determination on appropriate (~~discipline~~) sanctions, if any. If the matter was referred to the committee by the student conduct officer or their designee, the committee shall identify and impose disciplinary sanction(s) or conditions(~~(r)~~) (if any), as authorized in the student code. If the matter is an appeal by a party, the committee may affirm, reverse, or modify the disciplinary sanction(~~(s)~~) and/or conditions imposed by the student conduct officer or designee, and/or impose additional disciplinary sanction(s) or conditions as authorized herein.

(4) The committee chair shall cause copies of the initial decision to be served on the parties and their (~~legal counsel of record~~) attorney, if any. The notice will inform the parties of their appeal rights. The committee chair shall also promptly transmit a copy of the decision and the record of the committee's proceedings to the president.

(5) In cases involving allegations of (~~sexual misconduct, the chair of the student conduct committee, on the same date as~~) sex-based harassment, the initial decision (~~is~~) shall be served on (~~the respondent, will serve a written notice upon the complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent. The complainant may appeal the student conduct committee's initial decision to the president subject to the same procedures and deadlines applicable to the respondent. The notice will also inform the complainant of their appeal rights~~) all parties simultaneously, as well as the Title IX coordinator.

AMENDATORY SECTION (Amending WSR 21-07-085, filed 3/18/21, effective 4/18/21)

**WAC 495B-121-330 (~~Appeal from student conduct committee initial decision~~) Student conduct committee—Review of initial decision.**

(1) (~~A party who is aggrieved by the findings or conclusions issued by the student conduct committee~~) Any party, including a complainant in sex-based harassment cases, may appeal the committee's (~~initial~~) decision to the president by filing a (~~notice of~~) written appeal with the president's office within (~~ten business~~) 21 calendar days of service of the committee's (~~initial~~) decision. Failure to file a timely appeal constitutes a waiver of the right and the initial decision shall be deemed final.

(2) The (~~notice of~~) written appeal must identify the specific findings of fact and/or conclusions of law in the initial decision

that are challenged and must contain an argument as to why the appeal should be granted. Appeals may be based upon, but are not limited to:

(a) Procedural irregularity that would change the outcome;

(b) New evidence that would change the outcome and that was not reasonably available when the initial decision was made; and

(c) The investigator, decision maker, or Title IX coordinator had a conflict of interest or bias for or against a respondent or complainant individually or respondents or complainants generally.

(3) Upon receiving a timely appeal, the president or a designee will promptly serve a copy of the appeal on all nonappealing parties, who will have 10 business days from the date of service to submit a written response addressing the issues raised in the appeal to the president or a designee, and serve it on all parties. Failure to file a timely response constitutes a waiver of the right to participate in the appeal.

(4) If necessary((7)) to aid review((7)) the president may ask for additional briefing from the parties on issues raised on appeal. The president's review shall be restricted to the hearing record made before the student conduct committee and will normally be limited to a review of those issues and arguments raised in the ((notice of)) appeal.

((3)) (5) The president shall provide a written decision to all parties and their attorneys, if any, within ((twenty-one business)) 20 calendar days after receipt of the notice of appeal. The president's decision shall be final and ((shall include a notice of any rights to request reconsideration and/or)) subject to judicial review pursuant to chapter 34.05 RCW, Part V.

((4)) (6) In cases involving allegations of ((sexual misconduct, the president, on the same date that the final decision is served upon the respondent, shall serve a written notice informing the complainant of the final decision. This notice shall inform the complainant whether the sexual misconduct allegation was found to have merit and describe any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent.

(5)) sex-based harassment, the president's decision must be served simultaneously on the complainant, respondent, and Title IX coordinator.

(7) The president shall not engage in any "ex parte" communication with any of the parties regarding an appeal.

AMENDATORY SECTION (Amending WSR 21-07-085, filed 3/18/21, effective 4/18/21)

**WAC 495B-121-335 Summary suspension.** (1) Summary suspension is a temporary exclusion from specified college premises ((and/)) or denial of access to all activities or privileges for which a respondent might otherwise be eligible, while an investigation and/or formal disciplinary procedures are pending.

(2) The student conduct officer or their designee may impose a summary suspension if there is probable cause to believe that the respondent:

(a) Has violated any provision of the code of conduct; and

(b) Presents an immediate danger to the health, safety or welfare of members of the college community; or

(c) Poses an ongoing threat of substantial disruption of, or interference with, the operations of the college.

(3) Notice. Any respondent who has been summarily suspended shall be served with oral or written notice of the summary suspension. If oral notice is given, a written notification shall be served on the respondent within two business days of the oral notice.

(4) The written notification shall be entitled "Notice of Summary Suspension" and shall include:

(a) The reasons for imposing the summary suspension, including a description of the conduct giving rise to the summary suspension and reference to the provisions of the student conduct code or the law allegedly violated;

(b) The date, time, and location when the respondent must appear before the conduct review officer for a hearing on the summary suspension; and

(c) The conditions, if any, under which the respondent may physically access the campus or communicate with members of the campus community. If the respondent has been trespassed from the campus, a notice against trespass shall be included (~~(that warns)~~) warning the student that their privilege to enter into or remain on college premises has been withdrawn, that the respondent shall be considered trespassing and subject to arrest for criminal trespass if the respondent enters the college campus other than to meet with the student conduct officer, their designee, or conduct review officer, or to attend a disciplinary hearing.

(5) (a) The conduct review officer shall conduct a hearing on the summary suspension as soon as practicable after imposition of the summary suspension. (~~(At the hearing the review officer will:~~

~~(a) Determine)~~)

(b) During the summary suspension hearing, the issue before the conduct review officer is whether there is probable cause to believe that the summary suspension should be continued pending the conclusion of disciplinary proceedings and/or whether the summary suspension should be less restrictive in scope (~~(; and~~

~~(b) Provide)~~).

(c) The respondent ((the)) shall be afforded an opportunity to explain why summary suspension should not be continued while disciplinary proceedings are pending or why the summary suspension should be less restrictive in scope.

~~((6))~~ (d) If the respondent fails to appear at the designated hearing time, the conduct review officer may order that the summary suspension remain in place pending the conclusion of the disciplinary proceedings.

~~((7))~~ (e) As soon as practicable following the hearing, the conduct review officer shall issue a written decision which shall include a brief explanation for any decision continuing and/or modifying the summary suspension and notice of any right to appeal.

~~((8))~~ (f) To the extent permissible under applicable law, the conduct review officer shall provide a copy of the decision to all persons or offices who may be bound or protected by it.

~~((9))~~ (6) In cases involving allegations of (~~(sexual misconduct)~~) sex-based harassment, the complainant shall be notified that a summary suspension has been imposed on the same day that the summary suspension notice is served on the respondent. The college will also provide the complainant with timely notice of any subsequent changes to the summary suspension order.

AMENDATORY SECTION (Amending WSR 21-07-085, filed 3/18/21, effective 4/18/21)

**WAC 495B-121-340 Readmission after dismissal.** A student dismissed due to a code of conduct violation from the college may be re-admitted only on written petition to the president. Petitions must indicate reasons that support reconsideration. The president may use whatever review procedures are at the president's disposal in consideration of readmission. The president shall convey a decision in writing to the student within (~~thirty~~) 30 calendar days after completion of the review process.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 495B-121-290	Brief adjudicative proceedings authorized.
WAC 495B-121-350	Order of precedence.
WAC 495B-121-355	Prohibited conduct under Title IX.
WAC 495B-121-360	Title IX jurisdiction.
WAC 495B-121-365	Initiation of discipline.
WAC 495B-121-370	Prehearing procedure.
WAC 495B-121-375	Rights of parties.
WAC 495B-121-380	Evidence.
WAC 495B-121-385	Initial order.
WAC 495B-121-390	Appeals.

**WSR 24-22-081**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-249—Filed October 30, 2024, 3:53 p.m., effective November 1, 2024]

Effective Date of Rule: November 1, 2024.

Purpose: This emergency rule opens hatchery steelhead retention in the Columbia River from The Dalles Dam to Highway 395 at Pasco.

Citation of Rules Affected by this Order: Repealing WAC 220-312-06000Z; and amending WAC 220-312-060.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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

Reasons for this Finding: The Columbia River technical advisory committee (TAC) provided in-season run size updates for the upriver summer steelhead return to Bonneville Dam. Sufficient steelhead Endangered Species Act (ESA) impacts remain available which allows for hatchery steelhead retention from The Dalles Dam upstream to Highway 395 Bridge in Pasco. Staff will continue to monitor progress of ongoing fisheries. This rule conforms Washington state rules with Oregon state rules and is consistent with compact action on September 10, September 18, September 25, and October 10, and joint state action on October 30, 2024.

Washington and Oregon jointly regulate Columbia River fisheries under the congressionally ratified Columbia River Compact. Four Indian tribes have treaty fishing rights in the Columbia River. The treaties preempt state regulations that fail to allow the tribes an opportunity to take a fair share of the available fish, and the states must manage other fisheries accordingly. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2018-2027 *United States v. Oregon* Management Agreement (February 26, 2018) (Doc. No. 2607-1). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under ESA. On February 23, 2018, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in the fisheries as described in the 2018-2027 *U.S. v. Oregon* Management Agreement. The Washington and Oregon fish and wildlife commissions have developed policies to guide the implementation of such biological opinions in the states' regulation of nontreaty fisheries.

Columbia River nontreaty fisheries are monitored very closely to ensure compliance with federal court orders, ESA, and commission guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. Representatives from the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and take public testimony when considering proposals for new emergency rules. WDFW and ODFW then adopt regulations reflecting agreements reached.

There is insufficient time to promulgate permanent rules.

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

Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

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

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

Date Adopted: October 30, 2024.

Kelly Susewind  
Director

#### NEW SECTION

**WAC 220-312-06000B Freshwater exceptions to statewide rules—Columbia River.** Effective November 1 through December 31, 2024, the provisions of WAC 220-312-060 regarding recreational salmon and steelhead seasons from a true north-south line through Buoy 10 upstream to Highway 395 Bridge at Pasco, shall be modified during the dates listed and as described below. All year-round Closed Waters areas remain in effect. Other provisions of WAC 220-312-060 not addressed herein remain in effect unless otherwise amended by emergency rule:

**(1) From a true north-south line through Buoy 10 upstream to Beacon Rock:**

Effective immediately through December 31, 2024: Salmon and steelhead: Daily limit 6. Up to 2 adults including no more than 1 Chinook may be retained. Release all salmon and steelhead other than Chinook, hatchery coho and hatchery steelhead.

**(2) From Beacon Rock upstream to a line from the Hamilton Island boat ramp to an Oregon boundary marker on the westernmost point of Robins Island to a marker on the Oregon mainland shore:**

Closed to salmon and steelhead angling.

**(3) From a line from the Hamilton Island boat ramp to an Oregon boundary marker on the westernmost point of Robins Island to a marker on the Oregon mainland shore upstream to a point 600 feet below the fish ladder at the new Bonneville Dam Powerhouse:**

Effective immediately through December 31, 2024: Salmon and steelhead: Daily limit 6. Up to 2 adults including no more than 1 Chinook may be retained. Release all salmon and steelhead other than Chinook, hatchery coho and hatchery steelhead.

**(4) From Bonneville Dam upstream to Hood River Bridge:**

Effective immediately through December 31, 2024: Salmon and steelhead: Daily limit 6. Up to 2 adults including no more than 1 Chinook may be retained. Release all salmon and steelhead other than Chinook, hatchery coho and hatchery steelhead.

**(5) From Hood River Bridge upstream to Highway 395 Bridge at Pasco:**

Effective immediately through December 31, 2024: Salmon and steelhead: Daily limit 6. Up to 2 adults including no more than 1 Chi-



nook may be retained. Release all salmon and steelhead other than Chinook, coho and hatchery steelhead.

REPEALER

The following section of Washington Administrative Code is repealed, effective November 1, 2024:

WAC 220-312-06000Z Freshwater exceptions to statewide rules—Columbia River. (24-231)

## WSR 24-22-089

## EMERGENCY RULES

## DEPARTMENT OF TRANSPORTATION

[Filed October 31, 2024, 2:37 p.m., effective October 31, 2024, 2:37 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purposes of the proposed WAC rule amendments are as follows: (i) WAC 468-310-020(6) is revised to raise the threshold for the requirement of submitting audited financial statements in connection with a contractor requesting prequalification certification to perform vessel repair and preservation work for department of transportation ferries division (WSF) from \$10 million to \$20 million; (ii) a new section (10) is added to WAC 468-310-020 to set forth the terms and conditions for the submittal of reviewed financial statements by contractors in connection with prequalification requirements for WSF's hybrid-electric 160-auto ferries construction contract(s); (iii) WAC 468-310-050 (2) and (3) are revised to raise the threshold for the requirement of submitting audited financial statements in connection with a contractor requesting prequalification certification to perform vessel repair and preservation work for WSF from \$10 million to \$20 million; and (iv) a new subsection (10) is added to WAC 468-310-050 to set forth specific prequalification requirements for WSF's hybrid-electric 160 auto ferries construction contract(s). These amendments will help maximize competition for the contracts specified. In recent years, WSF implemented similar WAC rule amendments for certain prior vessel construction and preservation contracts.

Citation of Rules Affected by this Order: Amending WAC 468-310-020 and 468-310-050.

Statutory Authority for Adoption: RCW 47.60.680 through 47.60.760.

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

Reasons for this Finding: The existing WAC rules limit the maximum capacity rating to \$10 million for contractors not submitting audited financial statements for purposes of prequalification. The existing WAC rules restrict some shipyards' ability to submit bids for WSF's preservation and repair contracts because the shipyards may use reviewed, rather than audited, financial statements.

The time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest since the hybrid-electric 160-auto ferries construction contract(s) is currently on-ad nationally with bids due in early 2025. There are three shipyards (one local and two on the east coast) seeking prequalification for the contract(s).

Also, WSF has at least one vessel preservation project to be advertised within the next few months, with an estimated value substantially in excess of \$10 million. The existing WAC rules inhibit full competition for such contracts, eliminating one-third of potential shipyard bidders.

In sum, the current WAC rules cited above are restrictive of competition for the referenced vessel contracts. The general welfare is best served when WSF can maximize competition for its contracts without compromising the scope of a project. These proposed changes serve

this stated purpose. WSF successfully implemented similar WAC rule amendments for prior vessel construction, repair and preservation contracts.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 2, Repealed 0.

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 2, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 31, 2024.

Sam Wilson, Director  
Business Support Services

## OTS-5907.2

AMENDATORY SECTION (Amending WSR 08-19-004, filed 9/4/08, effective 10/5/08)

**WAC 468-310-020 Contents of standard prequalification questionnaire and financial statement.** The standard prequalification questionnaire and financial statement shall be transmitted to the (~~director of~~) designated office at Washington state ferries per the transmittal instructions. The contractor shall provide the following information:

(1) The name, address, phone number, contractor registration number and type of organization (corporation, copartnership, individual, etc.) of the contractor seeking prequalification.

(2) The contract size in dollars and the class or classes of work for which the contractor seeks prequalification (such as vessel dry-docking and hull repairs, vessel electrical repairs, etc.) as enumerated in WAC 468-310-050(6).

(3) Ownership of the contractor and if a corporation, the name of the parent corporation (if any) and any affiliated companies or subsidiaries.

(4) An accurate and complete record of the (~~fifteen~~) 15 largest contracts in excess of (~~ten thousand dollars~~) \$10,000 performed by the contractor in whole or in part within the preceding three years both in Washington and elsewhere, including subcontracts, giving the contract amount, the date completed, the class of work, the name, address and phone number of the owner/agency representative, and any liquidated damages assessed against the contractor by an owner arising out of the performance of the contract.

(5) The principal officers and key employees showing the number of years each engaged in the class or classes of work for which the

contractor seeks prequalification. The department may require resumes of such personnel as deemed proper for making its determination.

(6) Except as otherwise provided in this section or WAC 468-310-050(~~(+8)~~), a contractor requesting prequalification certification to perform work in excess of (~~ten million dollars~~) \$20,000,000 shall submit copies of its audited annual statements for the previous three years as audited by an independent certified public accountant which shall include comparative balance sheets and income statements, a statement of retained earnings, supporting schedules and notes attached thereto, and the opinion of the independent auditor. The financial statement shall not be more than (~~twelve~~) 12 months old when submitted. Any wholly owned subsidiary corporation may file the latest consolidated financial statement of its parent corporation in lieu of a financial statement prepared solely for such subsidiary providing the financial statement otherwise meets the requirements of the preceding two sentences. If a consolidated financial statement is filed on behalf of a subsidiary corporation, a bid of the subsidiary corporation will be considered only if there is on file with the department a letter from the parent corporation guaranteeing performance by the subsidiary corporation of its contract with the department of transportation in an amount at least equal to the amount of the bid. A letter of guarantee by a parent corporation may cover a specific contract bid by its subsidiary or all contracts bid by its subsidiary within a stated period of time.

(7) A list of all major items of equipment to be used in those classes of work for which prequalification certification is requested including the original cost, age, location and condition of such equipment. The schedule shall show whether the equipment is owned, leased or rented. All major items of useful equipment should be listed even though fully depreciated but no obsolete or useless equipment should be included. In the event the contractor seeks prequalification certification to perform work on ferry vessels, the schedule shall also describe plant facilities of the contractor including shipyards, dry docks, repair facilities and other plant facilities.

(8) Such other information as may be required by the prequalification questionnaire.

(9) Notwithstanding the provisions of this section, a contractor who wishes to prequalify for the department's procurement of new auto ferries for the Port Townsend/Keystone ferry route, pursuant to the department's 2008 invitation for bids, shall submit a reviewed financial statement for at least one year in the previous three years, plus annual financial statements for two additional years in the previous three years. The reviewed financial statement shall be prepared by an independent certified public accountant which shall include comparative balance sheets and income statements, a statement of retained earnings, supporting schedules and notes attached thereto, and the opinion of the independent auditor. The form and quantity of financial statements shall be specified in the department's invitation for bids and is subject to modification by addendum during the bid process. This subsection applies in lieu of the form and quantity of audited financial statements specified in subsection (6) of this section for the Port Townsend/Keystone vessel procurement only. It does not replace or modify any other provisions in this chapter or governing prequalification statutes that authorize the department to evaluate a contractor's financial ability to perform the contract.

(10) Notwithstanding the provisions of this section, a contractor who wishes to prequalify for the department's hybrid-electric 160 auto

ferries construction contract(s) shall submit a reviewed financial statement for at least one year in the previous three years, plus annual financial statements for two additional years in the previous three years. The reviewed financial statement shall be prepared by an independent certified public accountant which shall include comparative balance sheets and income statements, a statement of retained earnings, supporting schedules and notes attached thereto, and the opinion of the independent auditor. The form and quantity of financial statements shall be specified in the department's invitation for bids or request for proposals and is subject to modification by addendum during the bid or proposal process. This subsection applies in lieu of the form and quantity of audited financial statements specified in subsection (6) of this section, for the contracts listed in this subsection only. It does not replace or modify any other provisions in this chapter or governing prequalification statutes that authorize the department to evaluate a contractor's financial ability to perform a contract.

AMENDATORY SECTION (Amending WSR 08-19-004, filed 9/4/08, effective 10/5/08)

**WAC 468-310-050 Classification and capacity rating.** (1) Except as otherwise specified in this section, each contractor seeking prequalification under these rules will be classified for one or more of the classes of work listed in subsection (6)(a) of this section and will be given a maximum capacity rating in accordance with its financial ability, the adequacy of its equipment and plant facilities to perform the class or classes of work for which it has sought prequalification, the extent of the contractor's experience in performing contracts of the class or classes for which prequalification is sought, and the adequacy of the experience and capability of the contractor's officers and key employees in performing contracts of the class or classes for which prequalification is sought. The maximum capacity rating will limit the quantity of uncompleted work which the contractor shall have under contract at any one time either as a prime contractor or a subcontractor.

(2) Except as provided in subsections (7) through ~~((9))~~ (10) of this section, the maximum capacity rating for a contractor applying for a rating in excess of ~~((fifty thousand dollars))~~ \$50,000 will be ~~((ten))~~ 10 times the contractor's net worth as set forth in the standard prequalification questionnaire and financial statement. A properly executed letter of credit from an acceptable financial institution may be considered as an asset increasing the contractor's maximum capacity rating by the amount of the credit, but without the use of a multiplier. The maximum capacity rating for a contractor not submitting an audited financial statement as provided in WAC 468-310-020(6) will be ~~((ten million dollars))~~ \$20,000,000: Provided, that in all cases the contractor's maximum capacity rating may be reduced to an amount considered by the department to be within the contractor's actual capacity based upon its organization, personnel, equipment and plant, and experience.

(3) Consideration will be given to raising, by an amount not to exceed ~~((fifty))~~ 50 percent, the maximum capacity rating of a contractor who qualifies with respect to actual capacity based upon organization, personnel, equipment and plant facilities, and experience, upon

receipt of evidence of a current bonding capacity of such additional amount with a corporate surety. Such evidence shall be in the form of a letter of commitment executed by an officer of the surety who is authorized to bind the surety. Notwithstanding the provisions of this subsection, the maximum capacity rating for a contractor not submitting an audited financial statement as provided in WAC 468-310-020(6) will be (~~ten million dollars~~) \$20,000,000.

(4) The certificate of prequalification issued by the department will establish a contractor's maximum capacity rating which will be subject to reduction by the total value of its current uncompleted work regardless of its location and with whom it may be contracted to determine the contractor's bidding capacity at the particular time.

(5) Notwithstanding the provisions of this section, a contractor will be allowed to submit a bid for an amount up to \$50,000 on a class or classes of work for which it is prequalified without regard to any financial maximum capacity rating or financial current capacity rating: Provided, that the contractor's current capacity may be reduced to an amount considered by the department to be within the contractor's actual capacity based upon its organization, personnel, equipment and plant facilities, and experience.

(6) (a) Construction, repair, and maintenance work on ferry vessels for which prequalification certification under these rules may be granted are classified as follows:

Class 81	Vessel construction and renovation;
Class 82	Dry-docking and hull repairs;
Class 83	Vessel metal fabrication repairs;
Class 84	Vessel electrical repairs;
Class 85	Vessel miscellaneous repairs;

(b) A contractor currently prequalified under RCW 47.28.070 to perform those classes of work required in the construction, improvement and repair of ferry terminal facilities will initially be deemed prequalified under these rules to perform such classes of work with the same capacity rating as approved by the department for highway related work.

(7) Notwithstanding the provisions of this section, proposers who wish to prequalify for the department's construction of new 130-auto ferries, pursuant to the department's 2003 request for proposals, must submit evidence of their ability, if awarded the contract, to obtain contract security in the amount of (~~thirteen million dollars~~) \$13,000,000. The department estimates such amount to be adequate to protect (~~one hundred~~) 100 percent of the department's estimated exposure to loss on the vessel construction contract, as calculated by the department prior to issuance of the request for proposals. Such amount shall be specified in the project request for proposals and is subject to modification by addendum during the request for proposals process. The actual contract security amount for the project construction contract will be a percentage of the successful proposer's total bid price. Such percentage shall be specified in the construction contract within the request for proposals. For the new 130-auto ferries contract, this provision applies in lieu of the maximum capacity rating formula specified in subsection (2) of this section.

(8) Notwithstanding the provisions of this section or WAC 468-310-020, proposers who wish to prequalify for the department's construction of new 130-auto ferries, pursuant to the department's 2003 request for proposals, shall, in addition to the evidence of con-

tract security required in subsection (7) of this section, submit an audited financial statement for at least one year in the previous three years, plus annual financial statements for two additional years in the previous three years. The audited financial statement shall be performed by an independent certified public accountant which shall include comparative balance sheets and income statements, a statement of retained earnings, supporting schedules and notes attached thereto, and the opinion of the independent auditor. The form and quantity of financial statements shall be specified in the project request for proposals and is subject to modification by addendum during the request for proposals process. For the new 130-auto ferries contract, this provision applies in lieu of the quantity of audited financial statements specified in WAC 468-310-020.

(9) This subsection shall apply to the Port Townsend/Keystone vessel procurement only and shall be used in lieu of the requirements of subsections (1) through (5) of this section. It does not replace or modify any other provisions in this chapter or governing prequalification statutes. The department may prequalify a contractor under a Class 81 classification to bid on the Port Townsend/Keystone vessel procurement pursuant to this section based on the department's evaluation of the following criteria:

(a) Whether the contractor has adequate equipment and plant facilities available to accomplish the work;

(b) Whether the contractor has trained personnel available to perform the work;

(c) Whether the contractor has demonstrated experience in the type of work;

(d) Whether the contractor has an organization and technical staff with the size, training, experience and capability to accomplish the work;

(e) Whether the contractor has adequate financial resources to perform the type and size of work, or the ability to timely secure such resources. In evaluating such financial resources, the department may consider the contractor's overall financial condition including, but not limited to:

(i) Level of capitalization;

(ii) Cash flow;

(iii) Level of business activity;

(iv) Credit history;

(v) Debts;

(vi) Assets; and

(vii) Ability to obtain financing, including but not limited to, irrevocable lines of credit, and parent company guarantees.

A contractor does not have adequate financial resources when, based upon the totality of the circumstances, it lacks the financial resources reasonably expected of a contractor capable of performing the work on time and without interruption.

(10) This subsection shall apply to the department's hybrid-electric 160-auto ferries construction contract(s) only and shall be used in lieu of the requirements of subsections (1) through (5) of this section. It does not replace or modify any other provisions in this chapter or governing prequalification statutes. The department may prequalify a contractor under applicable classes of work to bid or propose on one or more of the contracts listed in this subsection based on the department's evaluation of the following criteria:

(a) Whether the contractor has adequate equipment and plant facilities available to accomplish the work;

(b) Whether the contractor has trained personnel available to perform the work;

(c) Whether the contractor has demonstrated experience in the type of work;

(d) Whether the contractor has an organization and technical staff with the size, training, experience, and capability to accomplish the work;

(e) Whether the contractor has adequate financial resources to perform the type and size of work, or the ability to timely secure such resources. In evaluating such financial resources, the department may consider the contractor's overall financial condition including, but not limited to:

(i) Level of capitalization;

(ii) Cash flow;

(iii) Level of business activity;

(iv) Credit history;

(v) Debts;

(vi) Assets; and

(vii) Ability to obtain financing including, but not limited to, irrevocable lines of credit, and parent company guarantees.

A contractor does not have adequate financial resources when, based upon the totality of the circumstances, it lacks the financial resources reasonably expected of a contractor capable of performing the work on time and without interruption.



**WSR 24-22-094**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-252—Filed October 31, 2024, 3:55 p.m., effective October 31, 2024, 3:55 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This emergency rule increases the pot limit in Crab Management Region 3-2 to 60 pots per license.

WAC 220-340-45500L (1) allows continued commercial harvest in Crab Management Regions 1, 2-East, 3-1, 3-2, 3-3, and 3-4 until further notice; and (2) maintains closure of Port Angeles Harbor to commercial crab harvest due to public health decrees.

WAC 220-340-47000I increases the pot limit in Crab Management Region 3-2 to 60 pots per license.

Citation of Rules Affected by this Order: Repealing WAC 220-340-45500K and 220-340-47000J; and amending WAC 220-340-455 and 220-340-470.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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

Reasons for this Finding: This rule is necessary to increase the pot limit in Region 3-2 to 60 pots per license. There is sufficient allocation remaining to allow continued harvest in Puget Sound commercial crab fishery in Regions 1, 3-1, 3-2, 3-3, and 3-4 until further notice. These provisions are in conformity with agreed management plans with applicable tribes. Comanagement plans are entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in the management plans. There is insufficient time to adopt permanent rules. Further adjustment of season structure may be made pending updated harvest data.

There is insufficient time to adopt permanent rules.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 2, Amended 0, Repealed 2.

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

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

Date Adopted: October 31, 2024.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-340-45500L Commercial crab fishery—Seasons and areas—Puget Sound.** Notwithstanding the provisions of WAC 220-340-455, effective immediately, until further notice:

Harvest of Dungeness crab in Puget Sound is permitted during the "Open period" indicated in the following table. Harvest for these areas is permitted starting one hour before official sunrise until further notice. Any closures will take effect one hour after official sunset unless otherwise indicated.

<b>Geographical Management Unit (WAC 220-320-110)</b>	<b>Open Period</b>
Region 1, MFSF Catch Areas 21A, 21B, and 22B	Immediately, until further notice.
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	Immediately, until further notice.
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3))	Immediately, until further notice.
Region 2E, Everett Flats CSMA (WAC 220-320-120(3))	Immediately, until further notice.
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5))	Closed, until further notice.
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5))	Immediately, until further notice.
Subregion 3-1	Immediately, until further notice.
Subregion 3-2, not including Discovery Bay CSMA (WAC 220-230-120 (1)(a)), Sequim Bay CSMA (WAC 220-320-120(6)), or the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	Immediately, until further notice.
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	Immediately, until further notice.
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120(6))	Immediately, until further notice.
Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	Closed, due to on-going public health concerns.
Subregion 3-3	Immediately, until further notice.
Subregion 3-4	Immediately, until further notice.

**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.

NEW SECTION

**WAC 220-340-47000I Commercial crab fishery—Gear limits—Puget Sound and Marine Fish-Shellfish Management and Catch Reporting Areas** Notwithstanding the provisions of 220-340-470, effective Immediately, until further notice:

Effective during the "Open period" listed in amended section of WAC 220-340-455 above it will be unlawful for any person to harvest crabs with more than the "Pot limit" per license per buoy tag number indicated within each "geographical management unit".

<b>Geographical Management Unit (WAC 220-320-110)</b>	<b>Pot limit</b>
Region 1, MFSF Catch Areas 21A, 21B, and 22B	40
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	40
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3))	35

<b>Geographical Management Unit (WAC 220-320-110)</b>	<b>Pot limit</b>
Region 2E, Everett Flats CSMA (WAC 220-320-120(3))	35
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5))	25
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5))	20
Subregion 3-1	50
Subregion 3-2, not including Discovery Bay CSMA (WAC 220-230-120 (1)(a)), Sequim Bay CSMA (WAC 220-320-120(6)), or the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	60
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	20
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120(6))	20
Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	0
Subregion 3-3	50
Subregion 3-4	50

**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.

REPEALER

The following sections of Washington Administrative Code are repealed, effective immediately:

- WAC 220-340-45500K Commercial crab fishery—Seasons and areas—Puget Sound. (24-227)
- WAC 220-340-47000H Commercial crab fishery—Gear limits—Puget Sound and Marine Fish-Shellfish Management and Catch Reporting Areas. (24-227)

**WSR 24-22-095**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-251—Filed November 1, 2024, 8:56 a.m., effective November 1, 2024, 8:56 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Current emergency wildfire rules in effect for Eastern Washington in Lincoln, Whitman, and Spokane counties need to be repealed due to the reduced threat of fire danger.

Citation of Rules Affected by this Order: Repealing WAC 220-500-03000G, 220-500-04000P, and 220-500-11000G.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.055, 77.12.047, and 77.12.240.

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

Reasons for this Finding: Because of the risk of fire danger in parts of Eastern Washington, the department of fish and wildlife previously adopted emergency wildlife rules for Whitman, Lincoln, and Spokane counties on September 9, 2024. The environmental conditions that gave rise to these emergency rules are no longer present and the emergency rules are no longer needed.

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

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

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

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

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

Date Adopted: October 31, 2024.

Kelly Susewind  
Director

REPEALER

The following sections of Washington Administrative Code are repealed, effective immediately:

WAC 220-500-03000G Behavior and conduct. (24-216)

WAC 220-500-04000P Regulating public access. (24-216)

WAC 220-500-11000G Fires and campfires. (24-216)

**WSR 24-22-098**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-253—Filed November 1, 2024, 4:02 p.m., effective November 4, 2024]

Effective Date of Rule: November 4, 2024.

Purpose: This emergency rule opens the winter recreational crab season in Marine Area 11 and maintains previously announced winter recreational crab seasons in Puget Sound.

Citation of Rules Affected by this Order: Repealing WAC 220-330-04000Q; and amending WAC 220-330-040.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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

Reasons for this Finding: This rule is needed to open recreational crab seasons in Marine Area 11. Preliminary summer recreational harvest estimates indicate that sufficient quota remains in Marine Area 11 to open recreational crab harvest beginning November 1. Marine Areas 4 East of the Bonilla-Tatoosh line, 5, 6, 7, 8-1, 8-2, 9, and 12 north of a line projected true east from Ayock Point have been open since October 1, 2024, and will remain open. Marine Area 12 south of a line projected due east from Ayock Point, Marine Area 10, and Marine Area 13 will remain closed until further notice. This rule is necessary to ensure an orderly fishery, manage the fishery within court-ordered sharing requirements, and meet conservation objectives. There is insufficient time to adopt permanent rules.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

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

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

Date Adopted: November 1, 2024.

Amy H. Windrope  
for Kelly Susewind  
Director

NEW SECTION

**WAC 220-330-04000R Crab—Areas and seasons—Personal use.** Notwithstanding the provisions of WAC 220-330-040, effective November 4

through December 31, 2024, it is unlawful to fish for crab for personal use in Puget Sound in all waters of Marine Areas, 4 east of the Bonilla-Tatoosh line, 5, 6, 7, 8-1, 8-2, 9, 10, 11, 12 and 13, except as provided herein:

(1) **Marine areas 4 east of the Bonilla-Tatoosh line, 5, 6, 8-1, 8-2, and 9:** Effective 12:01 a.m. November 4, through 11:59 p.m. December 31, 2024, it is permissible to fish for crab for personal use seven days a week.

(2) **Those waters of Marine Area 7 south** and west of a line projected from Village Point, Lummi Island, through the navigation buoy just east of Matia Island, thence to the buoy at Clements Reef, thence to the easternmost point of Patos Island, thence running along the northern shore of Patos Island to the westernmost point of Patos Island, thence true west to the international boundary and south of a line that extends from Point Francis on Portage Island, through the marker just north of Inati Bay on Lummi Island to Lummi Island: Effective 12:01 a.m. November 4, through 11:59 p.m. December 31, 2024, it is permissible to fish for crab for personal use seven days a week.

(3) **Those waters of Marine Area 7 north** and east of a line projected from Village Point, Lummi Island through the navigation buoy just east of Matia Island thence to the buoy at Clements Reef thence to the easternmost point of Patos Island, running along the northern shoreline of Patos Island and from the westernmost point of Patos Island true west to the international boundary and north of a line that extends from Point Francis on Portage Island, through the marker just north of Inati Bay on Lummi Island to Lummi Island: Effective 12:01 a.m. November 4, through 11:59 p.m. December 31, 2024, it is permissible to fish for crab for personal use seven days a week.

(4) **Marine Area 10:** Closed until further notice.

(5) **Marine Area 11:** Effective 12:01 a.m. November 4, through 11:59 p.m. December 31, 2024, it is permissible to fish for crab for personal use seven days a week.

(6) **The portion of Marine Area 12 north of a line projected due east from Ayock Point:** Effective 12:01 a.m. November 4, through 11:59 p.m. December 31, 2024, it is permissible to fish for crab for personal use seven days a week.

(7) **The portion of Marine Area 12 south of a line projected due east from Ayock Point:** Closed until further notice.

(8) **Marine Area 13:** Closed until further notice.

#### REPEALER

The following section of Washington Administrative Code is repealed, effective November 4, 2024:

WAC 220-330-04000Q Crab—Areas and seasons—Personal use.  
(24-210)

**WSR 24-22-099**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-254—Filed November 1, 2024, 4:10 p.m., effective November 4, 2024]

Effective Date of Rule: November 4, 2024.

Purpose: This rule modifies the preseason commercial purse seine fishery openings targeting chum salmon in Puget Sound Salmon Management and Catch Reporting Areas 10, 11, 12, and 12B.

Citation of Rules Affected by this Order: Amending WAC 220-354-120.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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

Reasons for this Finding: This rule is necessary to modify the preseason planned schedule of the commercial purse seine openings targeting chum salmon in Puget Sound Salmon Management and Catch Reporting Areas 10, 11, 12, and 12B. The latest in-season runsize estimate for South Sound chum salmon based on test fishing is large enough to allow limited purse seine commercial opportunity in Areas 10 and 11. The purse seine fishery in Areas 10 and 11 is being delayed by one day from the preseason plan to accommodate landing and processing capacity for the fleet. The purse seine opening scheduled for November 4 in Catch Areas 12 and 12B is being cancelled to allow additional time to assess catch to date and remaining nontreaty share of chum salmon.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 0.

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

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

Date Adopted: November 1, 2024.

Amy H. Windrope  
for Kelly Susewind  
Director

NEW SECTION

**WAC 220-354-12000R Puget Sound salmon—Purse seine—Open periods.** Effective November 4 through November 5, 2024, the following provisions of WAC 220-354-160 regarding commercial Purse Seine open periods

in Puget Sound Salmon Management and Catch Reporting Areas 10, 11, 12, and 12B shall be as follows. All other provisions of WAC 220-354-160 not contained herein remain in effect unless otherwise altered by emergency rule:

Areas	Open/Closed	Time	Date(s)
10, 11	Closed	NA	11/4
10, 11	Open	7 AM - 5 PM	11/5
12, 12B	Closed	NA	11/4

(a) For week 45 the following participants that have been selected and notified by the Department, or their designated alternate operator, are permitted to participate in the Puget Sound Salmon Management and Catch Reporting Areas 10 and 11 Purse Seine fisheries:

- (i) FV Zealot
- (ii) FV Maren E
- (iii) FV Anita
- (iv) FV Western Surf
- (v) FV Finley Vern
- (vi) FV New Oregon
- (vii) FV Alaskan Rose

(b) It is unlawful to land more than 3,000 chum per license during open periods listed herein.

(c) It is unlawful to possess salmon caught in other Marine Areas while participating in this fishery.

(d) All salmon caught in Marine Area 10 and 11 must be offloaded prior to fishing in additional open areas.

(e) Agreement to participate in this fishery will require that a department observer be allowed on board the vessel while fishing if requested by department staff.



## WSR 24-22-103

## EMERGENCY RULES

## WASHINGTON STATE UNIVERSITY

[Filed November 4, 2024, 8:12 a.m., effective November 4, 2024, 8:12 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Washington State University (university) is updating the rules regarding the standards of conduct for students to comply with new Title IX requirements effective August 1, 2024.

Note: This emergency rule-making order was originally filed on August 7, 2024, as WSR 24-16-143. A preproposal for permanent rules for chapter 504-26 WAC, including similar permanent rules for WAC 504-26-403, was filed on July 3, 2024, as WSR 24-14-139, with a proposal filed on September 4, 2024, as WSR 24-18-118, and intended for adoption on November 25, 2024.

Citation of Rules Affected by this Order: Amending WAC 504-26-403.

Statutory Authority for Adoption: RCW 28B.30.150.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The United States Department of Education (DOE) promulgated regulations updating the requirements regarding university hearings related to students that went into effect on August 1, 2024. The new rules codified in 34 C.F.R. § 106.46 (f) (3) change how complainants, respondents, and universities are allowed to question all witnesses in cases that involve sexual harassment and discrimination. Specifically, all parties to a case must provide the question to the decision maker who must make a determination regarding its relevance and permissibility under the new regulations before that question is posed to the witness. The university can lose federal funding from DOE if it does not comply with the new regulation.

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

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

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: November 4, 2024.

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

OTS-5716.1

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

**WAC 504-26-403 Conduct board hearings (full adjudications).** (1)

Conduct board hearings are used in matters in which the respondent faces possible sanctions of suspension for more than 10 instructional days, expulsion, or revocation of degree and matters in which a recognized or registered student organization faces possible loss of recognition. In addition, conduct board hearings are generally used to adjudicate matters in which the respondent faces allegations of sexual misconduct, as that term is defined in WAC 504-26-221. Other matters may be referred to a conduct board at the discretion of CCS.

(2) Adoption of model rules of procedure. Conduct board hearings are full adjudications governed by the Administrative Procedure Act, RCW 34.05.413 through 34.05.476, and chapter 10-08 WAC, Model rules of procedure, except as otherwise provided in this chapter. In the event of a conflict between the rules in this chapter and the model rules, this chapter governs.

(3) Notice of hearing. Notice to the parties of a conduct board hearing must comply with model rule WAC 10-08-040 and standards of conduct rule WAC 504-26-035. In addition, information regarding the student conduct process and student rights, as required by WAC 504-26-401 must be provided.

(4) Time for conduct board hearings. The conduct board hearing is scheduled not less than seven calendar days after the parties have been sent notice of the hearing.

In accordance with WAC 10-08-090, requests to extend the time and/or date for hearing must be addressed to the presiding officer. A request for extension of time is granted only upon a showing of good cause.

(5) Subpoenas. Subpoenas may be issued and enforced in accordance with model rule WAC 10-08-120. In determining whether to issue, quash, or modify a subpoena, the presiding officer must give due consideration to state and federal legal requirements including, but not limited to, Title IX, its implementing regulations, and guidance issued by the federal Office for Civil Rights. The party requesting the subpoena has the burden of showing that a subpoena is necessary for full disclosure of all the relevant facts and issues.

(6) Discovery. Depositions, interrogatories, and physical or medical examinations of parties are not permitted in adjudications of student conduct matters. Other forms of discovery may be permitted at the discretion of the presiding officer; however, discovery should be limited to help ensure the prompt completion of the adjudication process.

(7) Direct questioning and cross-examination. As required by RCW 34.05.449, direct and cross-examination of witnesses is permitted to the extent necessary for full disclosure of all relevant facts and issues.

(a) For hearings involving allegations where EP15 is implicated, parties and/or their advisors or representatives may submit direct and cross-examination ((is conducted orally through the party's advisor or representative. If a party does not have an advisor or representative, an advisor is provided by the university free of charge to conduct cross-examination on that party's behalf. Advisors and representatives are required to engage in cross-examination questioning in a respectful manner. In no circumstance may the complainant or respondent be permitted to cross-examine each other directly. Before any witness or

party may answer a)) questions to the presiding officer who asks relevant, permissible, clear, and nonharassing questions. Prior to asking any direct and cross-examination question, the presiding officer must first determine whether the question is relevant, permissible, clear, and nonharassing. If a presiding officer excludes a question, the presiding officer must explain the rationale for exclusion and provide the party and/or advisor an opportunity to clarify or revise their question.

(b) For hearings involving allegations where EP15 is not implicated, cross-examination is conducted orally through the party's advisor or representative. If a party does not have an advisor or representative, an advisor is provided by the university free of charge to conduct cross-examination on that party's behalf. Advisors and representatives are required to engage in cross-examination questioning in a respectful manner. In no circumstance may the complainant or respondent be permitted to cross-examine each other directly. Before any witness or party may answer a cross-examination question, the presiding officer must first determine whether the question is relevant. The presiding officer must instruct parties or witnesses not to answer cross-examination questions that are irrelevant, immaterial, or unduly repetitious.

(8) Decision requirements. Decisions regarding responsibility and sanctions are made by a majority of the conduct board hearing the matter.

(9) Notice of decision and right to appeal. Within 10 calendar days of the completion of the hearing, the conduct board must issue a decision simultaneously to all parties, which is the initial order of the university and must contain the following:

(a) Description of the allegations that initiated the community standards process;

(b) Description of procedural steps taken from the receipt of the formal complaint up to and including the university conduct board hearing;

(c) Appropriately numbered findings of fact and conclusions;

(d) The sanction(s) and/or remedy(ies) to be assigned, if any, and the rationale for the sanction(s) and/or remedy(ies);

(e) Information regarding the parties' right to appeal according to WAC 504-26-420, including the time frame for seeking review; and

(f) Notice that the initial order becomes final unless an appeal is filed within 20 calendar days of the date the initial order is sent to the parties.

**WSR 24-22-120**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-255—Filed November 5, 2024, 12:25 p.m., effective November 5, 2024, 12:25 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This emergency rule closes commercial crab harvest in Crab Management Region 2E.

WAC 220-340-45500M (1) closes Crab Management Region 2E one hour after official sunset on Wednesday, November 6, due to quota attainment. Crab Management Regions 1, 3-1, 3-2, 3-3, and 3-4 will remain open until further notice; (2) maintains closure of Port Angeles Harbor to commercial crab harvest due to public health decrees.

WAC 220-340-47000J maintains current pot limit levels in all open Crab Management Areas.

Citation of Rules Affected by this Order: Repealing WAC 220-340-45500L and 220-340-47000I; and amending WAC 220-340-455 and 220-340-470.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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

Reasons for this Finding: Crab Management Region 2-East will close one hour after official sunset on Wednesday, November 6, 2024, due to quota attainment. This rule maintains current pot limit levels in all crab management areas. There is sufficient allocation remaining to allow continued harvest in Puget Sound commercial crab fishery in Regions 1, 2-East, 3-1, 3-2, 3-3, and 3-4, until further notice. These provisions are in conformity with agreed management plans with applicable tribes. Comanagement plans are entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in the management plans. There is insufficient time to adopt permanent rules. Further adjustment of season structure may be made pending updated harvest data.

There is insufficient time to adopt permanent rules.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 2, Amended 0, Repealed 2.

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

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

Date Adopted: November 5, 2024.

Amy H. Windrope  
for Kelly Susewind

NEW SECTION

**WAC 220-340-45500M Commercial crab fishery—Seasons and areas—Puget Sound.** Notwithstanding the provisions of WAC 220-340-455, effective immediately, until further notice:

Harvest of Dungeness crab in Puget Sound is permitted during the "Open period" indicated in the following table. On the opening date, harvest will be permitted starting at 8:00 a.m. Harvest for these areas after the opening date is permitted starting one hour before official sunrise until further notice. Any closures will take effect one hour after official sunset unless otherwise indicated.

<b>Geographical Management Unit (WAC 220-320-110)</b>	<b>Open Period</b>
Region 1, MFSF Catch Areas 21A, 21B, and 22B	Immediately, until further notice.
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	Immediately, until further notice.
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3))	Immediately, through November 6, 2024.
Region 2E, Everett Flats CSMA (WAC 220-320-120(3))	Immediately, through November 6, 2024.
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5))	Closed, until further notice.
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5))	Immediately, until further notice.
Subregion 3-1	Immediately, until further notice.
Subregion 3-2, not including Discovery Bay CSMA (WAC 220-230-120 (1)(a)), Sequim Bay CSMA (WAC 220-320-120(6)), or the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	Immediately, until further notice.
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	Immediately, until further notice.
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120(6))	Immediately, until further notice.
Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	Closed, due to on-going public health concerns.
Subregion 3-3	Immediately, until further notice.
Subregion 3-4	Immediately, until further notice.

**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.

NEW SECTION

**WAC 220-340-47000J Commercial crab fishery—Gear limits—Puget Sound and Marine Fish-Shellfish Management and Catch Reporting Areas** Notwithstanding the provisions of 220-340-470, effective Immediately, until further notice:

Effective during the "Open period" listed in amended section of WAC 220-340-455 above it will be unlawful for any person to harvest crabs with more than the "Pot limit" per license per buoy tag number indicated within each "geographical management unit".

<b>Geographical Management Unit (WAC 220-320-110)</b>	<b>Pot limit</b>
Region 1, MFSF Catch Areas 21A, 21B, and 22B	40
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	40
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3))	35
Region 2E, Everett Flats CSMA (WAC 220-320-120(3))	35
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5))	0
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5))	20
Subregion 3-1	50
Subregion 3-2, not including Discovery Bay CSMA (WAC 220-230-120 (1)(a)), Sequim Bay CSMA (WAC 220-320-120(6)), or the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	60
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	20
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120(6))	20
Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	0
Subregion 3-3	50
Subregion 3-4	50

**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.

#### REPEALER

The following sections of Washington Administrative Code are repealed, effective immediately:

- WAC 220-340-45500L Commercial crab fishery—Seasons and areas—Puget Sound. (24-252)
- WAC 220-340-47000I Commercial crab fishery—Gear limits—Puget Sound and Marine Fish-Shellfish Management and Catch Reporting Areas. (24-252)

**WSR 24-22-121**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-256—Filed November 5, 2024, 12:29 p.m., effective November 7, 2024]

Effective Date of Rule: November 7, 2024.

Purpose: This rule modifies the preseason commercial purse seine fishery openings targeting chum salmon in Puget Sound Salmon Management and Catch Reporting Areas 12 and 12B.

Citation of Rules Affected by this Order: Amending WAC 220-354-120.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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

Reasons for this Finding: This rule is necessary to modify the preseason planned schedule of the commercial purse seine openings targeting chum salmon in Puget Sound Salmon Management and Catch Reporting Areas 12 and 12B. The purse seine opening scheduled for November 7 in Catch Areas 12 and 12B is being cancelled to allow additional time to assess catch to date and remaining nontreaty share of chum salmon while accommodating the landing and processing capacity for the fleet.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 0.

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

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

Date Adopted: November 5, 2024.

Amy H. Windrope  
for Kelly Susewind  
Director

NEW SECTION

**WAC 220-354-12000S Puget Sound salmon—Purse seine—Open periods.** Effective 7:00 a.m. November 7 through 5 p.m. November 7, 2024, the following provisions of WAC 220-354-120 regarding commercial Purse Seine open periods in Puget Sound Salmon Management and Catch Reporting Areas 12, and 12B shall be as follows. All other provisions of WAC 220-354-120 not contained herein remain in effect unless otherwise altered by emergency rule:

Areas	Open/Closed	Time	Date(s)
12, 12B	Closed	NA	11/7