

WSR 21-04-039
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed January 26, 2021, 4:55 p.m., effective February 26, 2021]

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

Purpose: The purpose of these rule amendments is to make house-keeping and other technical changes to chapter 392-122 WAC, Finance—Categorical apportionment, and WAC 392-140-916 through 392-140-939. The amendments update the chapter to align with state and federal statutes, simplify the language for clarity and readability, and make other technical revisions.

Citation of Rules Affected by this Order: New WAC 392-122-015, 392-122-500 through 392-122-520; repealing WAC 392-122-100, 392-122-105, 392-122-107, 392-122-110, 392-122-120, 392-122-130, 392-122-131, 392-122-132, 392-122-135, 392-122-200, 392-122-201, 392-122-202, 392-122-206, 392-122-208, 392-122-210, 392-122-213, 392-122-230, 392-122-420, 392-122-421, 392-122-422, 392-122-423, 392-122-424, 392-122-425, 392-122-426, 392-122-600, 392-122-700, 392-122-800, 392-140-916, 392-140-923, 392-140-932, 392-140-934 and 392-140-939; and amending WAC 392-122-005, 392-122-010, 392-122-106, 392-122-140, 392-122-145, 392-122-150, 392-122-155, 392-122-160, 392-122-165, 392-122-166, 392-122-205, 392-122-211, 392-122-212, 392-122-220, 392-122-221, 392-122-225, 392-122-228, 392-122-270, 392-122-275, 392-122-605, 392-122-705, 392-122-710, 392-122-805, 392-122-810, and 392-122-900.

Statutory Authority for Adoption: RCW 28A.150.290, 28A.710.040(5).

Adopted under notice filed as WSR 20-23-088 on November 17, 2020.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 6, Amended 25, Repealed 32.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: January 26, 2021.

Chris P.S. Reykdal
State Superintendent
of Public Instruction

OTS-1971.4

PURPOSE AND DEFINITIONS

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

WAC 392-122-005 Authority. The authority for this chapter is RCW 28A.150.290, which authorizes the superintendent of public instruction to adopt rules and regulations for the implementation of chapter 28A.150 RCW. This chapter is further authorized under RCW 28A.710.040(5), which provides that ((public)) charter schools are subject to the supervision of the superintendent of public instruction to the same extent as other public schools.

[Statutory Authority: RCW 28A.150.290 and 28A.710.220. WSR 15-18-078, § 392-122-005, filed 8/28/15, effective 9/28/15. Statutory Authority: 1990 c 33. WSR 90-16-002 (Order 18), § 392-122-005, filed 7/19/90, effective 8/19/90. Statutory Authority: RCW 28A.41.170. WSR 84-13-020 (Order 84-10), § 392-122-005, filed 6/13/84.]

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

WAC 392-122-010 Purpose. The purpose of this chapter is to establish policies and procedures for the distribution of state moneys to school districts and charter schools for ~~((programs authorized by RCW 28A.150.370 other than basic education apportionment, special allocations pursuant to chapter 392-140 WAC, and transportation allocations))~~ the state special education program, the institutional education program, K-3 class size, the learning assistance program, the transitional bilingual program, and the highly capable students education program.

[Statutory Authority: RCW 28A.150.290 and 28A.710.220. WSR 15-18-078, § 392-122-010, filed 8/28/15, effective 9/28/15. Statutory Authority: RCW 28A.150.290, 1989 1st ex.s. c 19 and 1990 1st ex.s. c 16. WSR 91-03-118 (Order 2), § 392-122-010, filed 1/23/91, effective 2/23/91. Statutory Authority: 1990 c 33. WSR 90-16-002 (Order 18), § 392-122-010, filed 7/19/90, effective 8/19/90. Statutory Authority: RCW 28A.41.170. WSR 84-13-020 (Order 84-10), § 392-122-010, filed 6/13/84.]

NEW SECTION

WAC 392-122-015 Definitions. The following terms apply in this chapter:

(1) "Charter school" means a public school that is established in accordance with chapter 28A.710 RCW, governed by a charter school

board, and operated according to the terms of a charter contract executed under chapter 28A.710 RCW.

(2) "School day" means the same as defined in WAC 392-121-033.

(3) "School year" means the same as defined in WAC 392-121-031.

(4) "Student eligible for special education services" means the same as defined in WAC 392-172A-01035.

(5) "Tribal compact school" means a school operated according to the terms of a state-tribe education compact authorized under chapter 28A.710 RCW.

[]

STATE SPECIAL EDUCATION PROGRAM

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

WAC 392-122-106 ((Definition Form P-223H.)) State special education program—Enrollment reporting. (("Form P-223H" means the report of)) (1) School districts and charter schools must submit monthly special education headcount enrollment reports for (eligible special education students as defined in WAC 392-122-135 submitted monthly by the school districts and charter schools) students eligible for special education services to the superintendent of public instruction for the school year on Form P-223H for the purpose of calculating the special education program allocations.

((1)) (2) The count dates for (special education student) the enrollment(s) of students eligible for special education services shall be the same as specified in WAC 392-121-122.

((2)) (3) This report shall indicate the (special education) enrollment of students eligible for special education services by resident school district and serving school district.

[Statutory Authority: RCW 28A.150.290 and 28A.710.220. WSR 15-18-078, § 392-122-106, filed 8/28/15, effective 9/28/15. Statutory Authority: RCW 28A.150.290. WSR 96-03-002, § 392-122-106, filed 1/3/96, effective 2/3/96. Statutory Authority: RCW 28A.150.290, 1989 1st ex.s. c 19 and 1990 1st ex.s. c 16. WSR 91-03-118 (Order 2), § 392-122-106, filed 1/23/91, effective 2/23/91. Statutory Authority: RCW 28A.41.170. WSR 86-01-021 (Order 85-16), § 392-122-106, filed 12/9/85.]

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

WAC 392-122-140 State special education program—Home and/or hospital care. State special education program moneys shall be allo-

cated to school districts and charter schools for students eligible for home/hospital instruction under WAC 392-172A-02100 (~~temporarily requiring home and/or hospital care~~) at the maximum rate provided annually by the superintendent of public instruction for the purpose of distributing home and/or hospital care allocations.

[Statutory Authority: RCW 28A.150.290 and 28A.710.220. WSR 15-18-078, § 392-122-140, filed 8/28/15, effective 9/28/15. Statutory Authority: RCW 28A.150.290. WSR 09-04-082, § 392-122-140, filed 2/3/09, effective 3/6/09; WSR 96-03-002, § 392-122-140, filed 1/3/96, effective 2/3/96. Statutory Authority: RCW 28A.41.170. WSR 84-20-078 (Order 84-36), § 392-122-140, filed 10/2/84.]

AMENDATORY SECTION (Amending WSR 09-04-082, filed 2/3/09, effective 3/6/09)

WAC 392-122-145 State special education program—Home and/or hospital care—Extended absences. Students eligible under WAC 392-172A-02100 (~~temporarily requiring home and/or hospital care~~) for home/hospital instruction shall be counted as enrolled students pursuant to WAC 392-121-106 as follows:

(1) (~~Students not deemed eligible special education students pursuant to WAC 392-122-135 whose absence from the regular attendance continues through two consecutive monthly enrollment report days shall be dropped from the rolls and shall not be counted as an enrolled student on the next monthly enrollment report day unless attendance has resumed. Such students shall only be eligible for home and/or hospital care allocations until attendance in the regular program is resumed.~~) A student who began the school year participating in classroom instruction but who has been absent and receiving home/hospital instruction may be claimed for basic education funding on Form P-223 for up to two months pursuant to WAC 392-121-108 (1) (a), provided the student returns to school prior to the end of the school year.

(2) A student(~~s deemed~~) eligible for special education (~~students pursuant to WAC 392-122-135 shall be reported as enrolled students for the duration of the home and/or hospital care~~) services who receives home/hospital instruction on or before the monthly count date may be reported as an enrolled student on Form P-223H. The student may be claimed for funding for the duration of the receipt of home/hospital instruction, provided the student remains eligible for special education services.

[Statutory Authority: RCW 28A.150.290. WSR 09-04-082, § 392-122-145, filed 2/3/09, effective 3/6/09; WSR 05-15-126, § 392-122-145, filed 7/18/05, effective 8/18/05; WSR 96-03-002, § 392-122-145, filed 1/3/96, effective 2/3/96. Statutory Authority: RCW 28A.150.290, 1989 1st ex.s. c 19 and 1990 1st ex.s. c 16. WSR 91-03-118 (Order 2), § 392-122-145, filed 1/23/91, effective 2/23/91. Statutory Authority: RCW 28A.41.170. WSR 84-20-078 (Order 84-36), § 392-122-145, filed 10/2/84.]

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

WAC 392-122-150 State special education program—Hospital educational program. (1) State special education program moneys shall be allocated by the superintendent of public instruction to school districts and charter schools operating a hospital educational program for the exclusive purpose of maintaining and operating the hospital educational program.

(2) School districts and charter schools shall be allocated funds for hospital educational programs at the maximum rate provided annually by the superintendent of public instruction for the purpose of distributing hospital educational program allocations.

[Statutory Authority: RCW 28A.150.290 and 28A.710.220. WSR 15-18-078, § 392-122-150, filed 8/28/15, effective 9/28/15. Statutory Authority: RCW 28A.150.290. WSR 96-03-002, § 392-122-150, filed 1/3/96, effective 2/3/96. Statutory Authority: RCW 28A.41.170. WSR 84-20-078 (Order 84-36), § 392-122-150, filed 10/2/84.]

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

WAC 392-122-155 State special education program—Board and room cost. (1) State special education program moneys shall be allocated to school districts and charter schools for the cost of approved board and room for students eligible (~~((handicapped students served and requiring board and room,))~~) for special education services who are deemed in need of board and room by the superintendent of public instruction but not eligible under programs of the department of social and health services (~~(, but deemed in need of the board and room by the superintendent of public instruction)~~).

(2) These moneys are in lieu of transportation costs.

(3) School districts and charter schools shall be allocated moneys for board and room of students eligible (~~((special education students))~~) for special education services at the maximum rate provided annually by the superintendent of public instruction for the purpose of distributing board and room allocations.

[Statutory Authority: RCW 28A.150.290 and 28A.710.220. WSR 15-18-078, § 392-122-155, filed 8/28/15, effective 9/28/15. Statutory Authority: RCW 28A.150.290. WSR 96-03-002, § 392-122-155, filed 1/3/96, effective 2/3/96. Statutory Authority: RCW 28A.41.170. WSR 84-20-078 (Order 84-36), § 392-122-155, filed 10/2/84.]

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

WAC 392-122-160 State special education program—Reporting. (1) (a) At such times as are designated by the superintendent of public instruction, each school district and charter school shall report the number of students eligible (~~((special education students receiving~~

special education)) for special education services according to instructions provided by the superintendent of public instruction.

(b) The ((disability condition shall)) reported eligibility categories must be one of ((such conditions)) the categories identified in WAC ((392-122-135. The age for the purpose of determining the special education program allocation calculated in WAC 392-122-105 shall be the age of the student on the monthly enrollment count date as defined by WAC 392-121-119. The age reported by the school district or charter school shall be for apportionment purposes only and not for determination of a child's eligibility for access to a special education program)) 392-172A-01035.

(2) Each school district and charter school shall provide, upon request, such additional data as are necessary to enable the superintendent of public instruction to allocate and substantiate the school district's or charter school's allocation of state special education moneys.

[Statutory Authority: RCW 28A.150.290 and 28A.710.220. WSR 15-18-078, § 392-122-160, filed 8/28/15, effective 9/28/15. Statutory Authority: RCW 28A.150.290. WSR 14-10-009, § 392-122-160, filed 4/24/14, effective 5/25/14; WSR 96-03-002, § 392-122-160, filed 1/3/96, effective 2/3/96. Statutory Authority: RCW 28A.41.170. WSR 84-20-078 (Order 84-36), § 392-122-160, filed 10/2/84.]

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

WAC 392-122-165 State special education program—Apportionment of state special education program moneys. (1) From moneys appropriated by the legislature, the superintendent of public instruction shall apportion state special education program moneys to each school district and charter school based on the criteria cited in the State Operating Appropriations Act for the respective school year for state special education program allocation and on the provisions of ((WAC 392-122-100 through 392-122-166)) this chapter.

(2) The superintendent of public instruction shall make payments of state special education program moneys in the same manner as provided in WAC 392-121-400.

[Statutory Authority: RCW 28A.150.290 and 28A.710.220. WSR 15-18-078, § 392-122-165, filed 8/28/15, effective 9/28/15. Statutory Authority: RCW 28A.150.290. WSR 96-03-002, § 392-122-165, filed 1/3/96, effective 2/3/96. Statutory Authority: RCW 28A.150.290, 1989 1st ex.s. c 19 and 1990 1st ex.s. c 16. WSR 91-03-118 (Order 2), § 392-122-165, filed 1/23/91, effective 2/23/91.]

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

WAC 392-122-166 State special education program allocation. (1) The board of directors of a school district or charter school may request the superintendent of public instruction to pay a portion of the

district's or charter school's special education allocation to another school district, charter school, or an educational service district.

(2) The request must be submitted on Form 1295 and must state the dollar amount of the transfer. The board (~~can~~) may modify the dollar amount of the transfer by submitting another Form 1295 to the superintendent of public instruction.

(3) Unless the form requesting a transfer states a timeline for making the transfer, the superintendent of public instruction shall execute the transfer pursuant to the provisions of WAC 392-121-400.

[Statutory Authority: RCW 28A.150.290 and 28A.710.220. WSR 15-18-078, § 392-122-166, filed 8/28/15, effective 9/28/15. Statutory Authority: RCW 28A.150.290. WSR 09-04-082, § 392-122-166, filed 2/3/09, effective 3/6/09; WSR 96-03-002, § 392-122-166, filed 1/3/96, effective 2/3/96.]

STATE INSTITUTIONAL EDUCATION PROGRAM

AMENDATORY SECTION (Amending WSR 10-20-055 and 10-20-127, filed 9/27/10 and 10/5/10, effective 10/28/10 and 11/5/10)

WAC 392-122-205 State institutional education program—Eligible programs. Programs supported as state institutional education programs include those provided in the following facilities:

(1) **State operated (~~(group homes i.e.,)~~) community facilities.** State operated community facilities are group home facilities maintained by the division of juvenile rehabilitation of the department of (~~social and health services~~) children, youth, and families to house adjudicated youth twenty-four hours a day(~~(†)~~).

(2) **County juvenile detention centers (~~(i.e., facilities meeting the definition of)~~).** A county juvenile detention center is a "detention facility" as defined in RCW 13.40.020.

(3) (~~(Institutions for juvenile delinquents i.e.,)~~) **State long-term juvenile institution.** State operated long-term juvenile institutions are facilities maintained by the division of juvenile rehabilitation of the department of (~~social and health services~~) children, youth, and families for the diagnosis, confinement, and rehabilitation of juveniles committed by the courts.

(4) **Residential habilitation centers (~~(i.e.,)~~).** Residential habilitation centers are facilities maintained by the (~~division of~~) developmental disabilities administration of the department of social and health services for care and treatment of persons with exceptional needs by reason of (~~mental and/or physical deficiency~~) intellectual and developmental disabilities.

Programs providing educational services to youth in a residential (~~rehabilitation~~) habilitation center may include services provided at facilities controlled and operated by the school district providing those services.

(5) **Adult jails and correctional facilities housing juveniles** (~~(—i.e.,)~~). Adult correctional facilities housing juveniles are facilities maintained by the state department of corrections for (~~(juvenile)~~) inmates under eighteen years of age. Adult jail facilities housing juveniles are any jail operated under the authority of chapter 70.48 RCW in which inmates under eighteen years of age are incarcerated.

[Statutory Authority: RCW 28A.150.290. WSR 10-20-055 and 10-20-127, § 392-122-205, filed 9/27/10 and 10/5/10, effective 10/28/10 and 11/5/10; WSR 07-23-023, § 392-122-205, filed 11/9/07, effective 12/10/07; WSR 05-15-127, § 392-122-205, filed 7/18/05, effective 8/18/05; WSR 01-24-002, § 392-122-205, filed 11/21/01, effective 12/22/01. Statutory Authority: 1998 c 244 § 9(2) and RCW 28A.150.290. WSR 98-21-065 (Order 98-09), § 392-122-205, filed 10/20/98, effective 11/20/98. Statutory Authority: RCW 28A.150.290. WSR 95-08-025, § 392-122-205, filed 3/29/95, effective 4/29/95; WSR 92-03-045 (Order 92-03), § 392-122-205, filed 1/10/92, effective 2/10/92. Statutory Authority: RCW 28A.41.170. WSR 84-20-078 (Order 84-36), § 392-122-205, filed 10/2/84.]

AMENDATORY SECTION (Amending WSR 92-03-045, filed 1/10/92, effective 2/10/92)

WAC 392-122-211 ((Definition—)) State institutional education program—Institution enrollment count dates. ((^u)) Institution enrollment count dates ((^u means)) are the fourth school day of September and the first school day of each of the ten subsequent months of the school year.

[Statutory Authority: RCW 28A.150.290. WSR 92-03-045 (Order 92-03), § 392-122-211, filed 1/10/92, effective 2/10/92.]

AMENDATORY SECTION (Amending WSR 07-23-022, filed 11/9/07, effective 12/10/07)

WAC 392-122-212 ((Definition—)) State institutional education program—Educational activity. ((As used in WAC 392-122-200 through 392-122-275, ^u)) (1) State institutional education program educational activity ((^u means)) must consist of the following teaching/learning experiences provided by a school district or other education provider:

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

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

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

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

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

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

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

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

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

(2) Other education providers under this section must be:

(a) An educational service district, institution of higher education, private contractor (including charter school), or any combination thereof providing an institutional education program in an adult correctional facility operated by the department of corrections under contract with the superintendent of public instruction and the department of corrections; or

(b) An educational service district providing an institutional education program pursuant to a contract with a school district in a state operated community facility, state long-term juvenile institution, residential habilitation center, or county juvenile detention center.

[Statutory Authority: RCW 28A.150.290. WSR 07-23-022, § 392-122-212, filed 11/9/07, effective 12/10/07; WSR 05-19-139, § 392-122-212, filed 9/21/05, effective 10/22/05. Statutory Authority: 1998 c 244 § 9(2) and RCW 28A.150.290. WSR 98-21-065 (Order 98-09), § 392-122-212, filed 10/20/98, effective 11/20/98. Statutory Authority: RCW 28A.150.290. WSR 92-03-045 (Order 92-03), § 392-122-212, filed 1/10/92, effective 2/10/92.]

AMENDATORY SECTION (Amending WSR 01-24-002, filed 11/21/01, effective 12/22/01)

WAC 392-122-220 ~~((Definition—))~~ **State institutional education program—Enrolled institutional education program student.** ~~(("Enrolled institutional education program student" means a person who:))~~ A student may be counted as an enrolled institutional education program student under the following conditions:

(1) (a) The student is in a program in a department of corrections facility and is either:

(i) Under eighteen years of age; or ~~((is))~~

(ii) Eighteen years of age and is continuing in the institutional education program with the permission of the department of corrections and the education provider; or

(b) The student is under twenty-one years of age at the beginning of the school year and is either:

(i) In a residential school as defined in RCW 28A.190.020; or

(ii) Confined in a county juvenile detention center within the meaning of confinement provided in RCW 13.40.020;

(2) The student is scheduled to engage in educational activity in the institutional education program during the current week under WAC 392-122-212;

(3) During the current school year, the student has engaged in educational activity in the institutional education program provided or supervised by educational certificated staff under WAC 392-122-212; and

(4) The student does not qualify for any of the enrollment exclusions in WAC 392-122-221.

[Statutory Authority: RCW 28A.150.290. WSR 01-24-002, § 392-122-220, filed 11/21/01, effective 12/22/01. Statutory Authority: 1998 c 244 § 9(2) and RCW 28A.150.290. WSR 98-21-065 (Order 98-09), § 392-122-220, filed 10/20/98, effective 11/20/98. Statutory Authority: RCW 28A.150.290. WSR 92-03-045 (Order 92-03), § 392-122-220, filed 1/10/92, effective 2/10/92.]

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

WAC 392-122-221 ((Definition—)) State institutional education program—Enrollment exclusions. (1) The following may not be counted as an enrolled institutional education program student:

~~((1))~~ (a) A person whose educational activity under WAC 392-122-212 has terminated.

~~((2))~~ (b) A person who has transferred to another institution, school district, or charter school.

~~((3) An institution student who:~~

~~(a))~~ (c) A person residing in a state institution who:

(i) Has not engaged in educational activity under WAC 392-122-212 in the past five school days, excluding days of excused absence;

~~((b))~~ (ii) Has not engaged in educational activity in the past ten school days under WAC 392-122-212, including days of excused absence; or

~~((c))~~ (iii) Is claimed by any school district or charter school as an enrolled student eligible for state basic education support pursuant to chapter 392-121 WAC where the school district's count date occurs prior to the institution's count date for the month.

(2) When the institution's count date and the school district's or charter school's count date are on the same date, institutions shall have priority for counting the student.

(3) As used in this section, "excused absence" means an absence from scheduled educational activity which certificated staff determine to be due to one or more of the following:

(a) Illness;

(b) Attendance in court; or

(c) Meeting with a lawyer, case worker, counselor, physician, dentist, nurse, or other professional service provider.

[Statutory Authority: RCW 28A.150.290 and 28A.710.220. WSR 15-18-078, § 392-122-221, filed 8/28/15, effective 9/28/15. Statutory Authority: RCW 28A.150.290. WSR 08-24-029, § 392-122-221, filed 11/24/08, effective 12/25/08; WSR 01-24-002, § 392-122-221, filed 11/21/01, effective 12/22/01. Statutory Authority: 1998 c 244 § 9(2) and RCW 28A.150.290. WSR 98-21-065 (Order 98-09), § 392-122-221, filed 10/20/98, effective 11/20/98. Statutory Authority: RCW 28A.150.290. WSR 95-08-025, § 392-122-221, filed 3/29/95, effective 4/29/95; WSR 92-03-045 (Order 92-03), § 392-122-221, filed 1/10/92, effective 2/10/92.]

AMENDATORY SECTION (Amending WSR 17-16-162, filed 8/2/17, effective 9/2/17)

WAC 392-122-225 ((Definition—)) State institutional education program—Institutional education full-time equivalent (FTE) students.

((“Institutional education full-time equivalent (FTE) students” means)) The sum of institutional education full-time equivalent (FTE) students on an enrollment count date shall be determined as follows:

(1) ((Prior to the 2018-19 school year, FTE shall be calculated as follows:

(a) ~~An enrolled institutional education program student who is three to eight years of age and scheduled to engage in a minimum of twenty hours of educational activity per week shall be counted as one FTE.~~

(b) ~~An enrolled institutional education program student who is nine years of age or older and scheduled to engage in a minimum of twenty-five hours of educational activity per week shall be counted as one FTE.~~

(2) ~~Beginning with the 2018-19 school year,~~) An enrolled institutional education program student scheduled to engage in a minimum of twenty-seven hours and forty-five minutes of educational activity per week shall be counted as one FTE.

((3)) (2) An enrolled institutional education program student who is scheduled to engage in less than the minimum hours for one FTE shall be counted as a partial FTE, determined by dividing the scheduled hours of educational activity by the minimum hours for one FTE.

((4)) (3) In determining a student's FTE, educational activity under WAC 392-122-212 may include up to ten minutes of class transition time between classes but shall not include time for meals.

((5)) (4) No student shall be counted as more than one FTE.

(5) The school district's annual average full-time equivalent for institutional education students shall be the average of institutional education FTE students on the eleven institution enrollment count dates of the school year.

[Statutory Authority: RCW 28A.150.290. WSR 17-16-162, § 392-122-225, filed 8/2/17, effective 9/2/17. Statutory Authority: 1998 c 244 § 9(2) and RCW 28A.150.290. WSR 98-21-065 (Order 98-09), § 392-122-225, filed 10/20/98, effective 11/20/98. Statutory Authority: RCW 28A.150.290. WSR 92-03-045 (Order 92-03), § 392-122-225, filed 1/10/92, effective 2/10/92.]

AMENDATORY SECTION (Amending WSR 10-20-055 and 10-20-127, filed 9/27/10 and 10/5/10, effective 10/28/10 and 11/5/10)

WAC 392-122-228 Alternative learning experiences for juvenile students incarcerated in adult jail facilities. (1) ~~((A school district alternative learning experience for juvenile students incarcerated in adult jail facilities may make use of digital and/or online curricula, and may be delivered over the internet or using other electronic means. A school district alternative learning experience for juvenile students incarcerated in adult jail facilities may also include participation by students and parents in the design and implementation of a student's learning experience.))~~ **General.**

(a) This section provides an alternative method of determining full-time equivalent enrollment and claiming state funding for public school learning experiences that are:

~~((a))~~ (i) Individual courses of study for ~~((juvenile))~~ students ~~((incarcerated))~~ in adult jail facilities ~~((. "Adult jail facility" means any jail operated under the authority of chapter 70.48 RCW;~~

~~(b))~~ (ii) housing juveniles;
(ii) Supervised, monitored, assessed, and evaluated by school staff. As used in this section, "school staff" means certificated instructional staff of the school district according to the provisions of chapter 181-82 WAC, or a contractor pursuant to WAC 392-121-188;

~~((e))~~ (iii) Provided in accordance with a written alternative learning experience plan that is implemented pursuant to the school district board's policy for alternative learning experiences; and

~~((d))~~ (iv) Provided in whole or part, outside the regular classroom setting, including those learning experiences provided digitally via the internet or other electronic means.

(b) This section sets forth the standards, procedures, and requirements for state funded alternative learning experiences for juvenile students incarcerated in adult jail facilities. This section is not intended to prevent or limit alternative education programs provided by a school district with federal or local resources.

(2) Requirements. An alternative learning experience for a juvenile student incarcerated in adult jail facilities may be counted as a course of study pursuant to WAC 392-121-107 if ~~((the following requirements are met:~~

~~(2))~~ the alternative learning experience meets the requirements of this section.

(3) School district board policies for alternative learning experiences ~~((+))~~. The board of directors of a school district claiming state funding for alternative learning experiences for juvenile students incarcerated in adult jail facilities shall adopt and annually review written policies for each alternative learning experience program and program provider that:

(a) Require a written plan for each student participating in an alternative learning experience for juvenile students incarcerated in adult jail facilities that meets the minimum criteria pursuant to subsection ~~((4))~~ (5) of this section;

(b) Describe how student performance will be supervised, monitored, assessed, evaluated, and recorded by school staff. Such description shall include methods for periodic grade reporting, if different from existing school district policy;

(c) (i) Require each juvenile student who is incarcerated in an adult jail facility and enrolled in an alternative learning experience to have direct personal contact with school staff at least weekly, un-

til the student completes the course objectives or the requirements of the learning plan.

(ii) Such direct personal contact must be for a period not less than thirty minutes per week.

(iii) Direct personal contact shall be for the purposes of instruction, review of assignments, testing, reporting of student progress, or other learning activities.

(iv) Direct personal contact (~~(means)~~) must be a face-to-face meeting with the student;

(d) Require that each student's educational progress be reviewed at least monthly and that the results of each review be communicated to the student;

(e) (i) Designate one or more school district official(s) responsible for approving specific alternative learning experience programs or courses, monitoring compliance with this section, and reporting at least annually to the school district board of directors on the program. (~~(This)~~)

(ii) The annual report shall include at least the following:

(~~(i)~~) (A) Documentation of alternative learning experience student headcount and full-time equivalent enrollment claimed for basic education funding;

(~~(ii)~~) (B) A description of how certificated and classified staff are assigned program management and instructional responsibilities that maximize student learning, including the ratio of certificated instructional staff to full-time equivalent students;

(~~(iii)~~) (C) A description of how a written student learning plan pursuant to subsection (~~(4)~~) (5) of this section, is developed, and student performance supervised and evaluated, by certificated staff;

(~~(iv)~~) (D) A description of how the program supports the district's overall goals and objectives for student academic achievement; and

(~~(v)~~) (E) Results of any self-evaluations conducted pursuant to subsection (~~(7)~~) (8) of this section(~~(7)~~).

(f) Satisfy the office of superintendent of public instruction's requirements for courses of study and equivalencies (~~(4)~~) under chapter 392-410 WAC(~~(7)~~); and

(g) For alternative learning experience courses offering credit, or for alternative learning experience programs issuing a high school diploma, satisfy the state board of education's high school graduation requirements (~~(4)~~) under chapter 180-51 WAC(~~(7)~~).

(~~(3)~~) (4) **Alternative learning experience implementation standards** (~~(7)~~).

(a) Alternative learning experiences shall be accessible to all juveniles incarcerated in adult jail facilities, including those with disabilities. Alternative learning experiences for (~~special education~~) students eligible for special education services shall be provided in accordance with chapter 392-172A WAC.

(b) It is the responsibility of the school district or school district contractor to ensure that enrolled juvenile students incarcerated in adult jail facilities have all curricula, course content, instructional materials, and other learning resources essential to successfully complete the requirements of the written student learning plan.

(c) Contracting for alternative learning experiences shall be subject to the provisions of WAC 392-121-188 and RCW 28A.150.305.

(d) (i) The school district shall institute reliable methods to verify a student is doing his or her own work. The methods may include proctored examinations or projects, including the use of web cams or other technologies. (~~"Proctored" means~~)

(ii) Proctored examinations or projects must be directly monitored by an adult authorized by the school district.

~~((4))~~ (e) A school district alternative learning experience for juvenile students incarcerated in adult jail facilities may make use of digital and/or online curricula, and may be delivered over the internet or using other electronic means.

(f) A school district alternative learning experience for juvenile students incarcerated in adult jail facilities may include participation by students and parents in the design and implementation of a student's learning experience.

(5) Written student learning plan ~~((+))~~.

(a) Each juvenile student incarcerated in an adult jail facility who is enrolled in an alternative learning experience course of study shall have a written student learning plan designed to meet the student's individual educational needs. The written student learning plan may be developed in partnership with the student, with recognition that school staff has the primary responsibility and accountability for the plan, including supervision and monitoring, and evaluation and assessment of the student's progress.

(b) The written student learning plan shall include, but not be limited to, the following elements:

~~((a))~~ (i) A beginning and ending date for the learning experience;

~~((b))~~ (ii) An estimate of the average number of hours per week that the student will engage in learning activities to meet the requirements of the student learning plan. This estimate may be used in reporting enrollment in compliance with subsection ~~((5))~~ (6) of this section and must be based upon the criteria in subsection ~~((6))~~ (7) of this section;

~~((e))~~ (iii) A description of how weekly contact requirements will be fulfilled;

~~((d))~~ (iv) A description of the specific learning goals and performance objectives of the alternative learning experience. This requirement may be met through the use of course syllabi or other similarly detailed descriptions of learning requirements. The description shall clearly identify the requirements a student must meet to successfully complete the course or program;

~~((e))~~ (v) Identification of instructional materials essential to successful completion of the learning plan; and

~~((f))~~ (vi) A description of the timelines and methods for evaluating student progress toward the learning goals and performance objectives specified in the learning plan.

(c) (i) The written student learning plan shall identify whether the alternative learning experience meets one or more of the state essential academic learning requirements or any other academic goals, objectives, and learning requirements defined by the school district.

(ii) For a high school alternative learning experience, the plan shall also specify whether the experience meets state and district graduation requirements.

~~((5))~~ (6) Enrollment reporting ~~((: Effective the 2009-10 school year,))~~. The full-time equivalency of juvenile students incarcerated in adult jail facilities who are enrolled in alternative learning experience programs shall be determined as follows:

(a) Using the definition of full-time equivalent student in WAC 392-122-225(1) and the estimated average weekly hours of learning activity described in the written student learning plan on the first enrollment count date on or after the start date specified in the written student learning plan; and

(b) The enrollment count shall exclude students meeting the definition of enrollment exclusions in WAC 392-121-108 or students who have not had direct personal contact with school staff for ten consecutive school days. Any such student shall not be counted as an enrolled student until the student has met with appropriate school staff and resumed participation in his or her alternative learning experience or participated in another course of study as defined in WAC 392-121-107.

~~((6))~~ **(7) Accountability for student performance**~~((+))~~.

(a) At minimum, juvenile students incarcerated in adult jails who are enrolled in alternative learning experiences shall have their educational performance evaluated according to the following process and schedule:

(i) Each student's educational progress shall be reviewed at least once per month. The progress review shall be based on the learning goals and performance objectives defined in the written student learning plan.

(ii) The progress review shall be conducted by school staff and shall include direct personal contact with the student. The results of the review shall be communicated to the student.

(iii) Based on the progress review, school staff shall determine and document whether the student is making satisfactory progress in completing the learning activities and reaching the learning goals and performance objectives defined in the written plan.

(iv) If the student fails to make satisfactory progress for no more than two consecutive evaluation periods or if the student fails to follow the written student learning plan, an intervention plan designed to improve student progress shall be developed and implemented. This intervention plan shall be developed by school staff in conjunction with the student.

(v) If, after no more than three subsequent evaluation periods, the student still is not making satisfactory progress, a plan designed to more appropriately meet the student's educational need shall be developed and implemented by school staff.

(b) The educational progress of juvenile students incarcerated in adult jail facilities who are enrolled in alternative learning experiences shall be assessed at least annually, using, for full-time students, the state assessment for the student's grade level and using any other annual assessments required by the school district.

~~((7))~~ **(8) Program evaluation**~~((+))~~. School districts offering alternative learning experiences to juvenile students incarcerated in adult jail facilities shall engage in periodic self-evaluation of these learning experiences in a manner designed to objectively measure their effectiveness, including the impact of the experiences on student learning and achievement. Self-evaluation shall follow a continuous improvement model, and may be implemented as part of the school district's school improvement planning efforts.

~~((8))~~ **(9) Annual reporting**~~((+))~~.

(a) Each school district offering alternative learning experiences shall report annually to the superintendent of public instruction on the types of programs and course offerings subject to this section,

including student headcount and full-time equivalent enrollment claimed for basic education funding.

(b) The report shall identify the ratio of certificated instructional staff to full-time equivalent students enrolled in alternative learning experience courses or programs.

(c) The report shall separately identify alternative learning experience enrollment of students provided under contract pursuant to RCW 28A.150.305 and WAC 392-121-188.

~~((9))~~ (10) **Documentation**~~((+))~~. In accordance with required records retention schedules, a school district claiming state funding for alternative learning experiences shall maintain the following written documentation available for audit:

(a) School board policy for alternative learning experiences pursuant to this section;

(b) Annual reports to the school district board of directors as required by subsection ~~((+2))~~ (3)(g) of this section;

(c) Annual reports to the superintendent of public instruction as required by subsection ~~((+8))~~ (9) of this section;

(d) The written student learning plans required by subsection ~~((+4))~~ (5) of this section, including documentation of required weekly direct personal contact;

(e) Student progress reviews, evaluations, and assessments required by subsection ~~((+6))~~ (7) of this section; and

(f) Student enrollment detail substantiating full-time equivalent enrollment reported to the state, including estimated total hours of participation in educational activities, and any actual documentation of hours of learning for those students failing to make satisfactory progress.

[Statutory Authority: RCW 28A.150.290. WSR 10-20-055 and 10-20-127, § 392-122-228, filed 9/27/10 and 10/5/10, effective 10/28/10 and 11/5/10.]

AMENDATORY SECTION (Amending WSR 98-21-065, filed 10/20/98, effective 11/20/98)

WAC 392-122-270 State institutional education program—Apportionment of state moneys. (1) From the state institutional education program moneys appropriated to the superintendent of public instruction, the superintendent shall make allocations to school districts and other education providers based on the institutional education program's annual average full-time equivalent institutional education students and as provided in the state Operating Appropriations Act and WAC 392-122-200 through 392-122-275.

~~((+1))~~ (2) Institutional education program allocations shall be based on a two hundred twenty-day school year. Allocations to a school district or other education provider offering less than two hundred twenty school days shall be reduced pro rata as provided in WAC 392-122-910.

~~((+2))~~ (3) The superintendent of public instruction shall make payments in the same manner as provided in WAC 392-121-400.

~~((+3))~~ (4) The superintendent of public instruction may reduce or delay payment of institutional education program moneys pursuant to chapter 392-117 WAC ~~((, Timely reporting))~~.

[Statutory Authority: 1998 c 244 § 9(2) and RCW 28A.150.290. WSR 98-21-065 (Order 98-09), § 392-122-270, filed 10/20/98, effective 11/20/98. Statutory Authority: RCW 28A.150.290. WSR 92-03-045 (Order 92-03), § 392-122-270, filed 1/10/92, effective 2/10/92. Statutory Authority: RCW 28A.150.290, 1989 1st ex.s. c 19 and 1990 1st ex.s. c 16. WSR 91-03-118 (Order 2), § 392-122-270, filed 1/23/91, effective 2/23/91. Statutory Authority: RCW 28A.41.170. WSR 84-20-078 (Order 84-36), § 392-122-270, filed 10/2/84.]

AMENDATORY SECTION (Amending WSR 98-21-065, filed 10/20/98, effective 11/20/98)

WAC 392-122-275 State institutional education program—Reporting requirements. Each school district or other education provider operating an institutional education program shall report to the superintendent of public instruction as follows:

(1) (a) (i) The district or provider shall report on Form E-672 the number of individual enrolled institutional education program students and the number of institutional education full-time equivalent students on each institution enrollment count date.

(ii) Form E-672 is the form distributed by the superintendent of public instruction on which school districts, or other education providers operating institutional education programs report eligible institutional education students enrolled on the enrollment count dates specified in WAC 392-122-211.

(b) Report forms shall be signed by the school district superintendent or a designated official of the school district or other education provider.

(2) Each school district or other education provider operating an institutional education program shall provide, upon request, such additional data as are necessary to enable the superintendent of public instruction to allocate and substantiate the program's allocation of state institutional education program moneys.

(3) Institutional enrollment reporting shall be subject to chapter 392-117 WAC (~~(, Timely reporting)~~).

(4) Each school district or other education provider shall report personnel data pursuant to instructions provided by the superintendent of public instruction.

(5) By August 15th of each year, each other education provider shall provide a budget showing the anticipated activities and objects of expenditures for the institutional education program for the ensuing school year.

(6) By December 15th following the end of the school year, each other education provider shall provide an annual financial summary of the actual activities and objects of expenditures for the institutional education program for the preceding school year.

(7) Information required by this section shall be reported pursuant to instructions provided by the superintendent of public instruction.

[Statutory Authority: 1998 c 244 § 9(2) and RCW 28A.150.290. WSR 98-21-065 (Order 98-09), § 392-122-275, filed 10/20/98, effective 11/20/98. Statutory Authority: RCW 28A.150.290. WSR 95-08-025, §

392-122-275, filed 3/29/95, effective 4/29/95; WSR 92-03-045 (Order 92-03), § 392-122-275, filed 1/10/92, effective 2/10/92. Statutory Authority: RCW 28A.41.170. WSR 84-20-078 (Order 84-36), § 392-122-275, filed 10/2/84.]

K-3 CLASS SIZE

NEW SECTION

WAC 392-122-500 K-3 class size—Apportionment of state moneys.

(1) State moneys for K-3 class size shall be allocated as provided in this chapter.

(2) Elementary teacher allocations based on the prototypical schools formula provided in RCW 28A.150.260 and the Omnibus Appropriations Act for grades K-3 will be based upon budgeted K-3 enrollment as stated in the F-203 revenue estimate from September through December for the year budgeted.

(3) School districts, charter schools, and tribal compact schools must input their estimated K-3 class size for purposes of funding from September through December.

(4) K-3 enrollment will not include student full-time equivalent (FTE) enrolled in alternative learning experience programs that meet the requirements of WAC 392-121-182.

(5) Funded class size starting with January apportionment will be based on the actual average annual FTE enrollment reported in the P-223.

(6) School districts, charter schools, and tribal compact schools must meet the legislative compliance requirements of K-3 class size funding in order to generate the full allotment.

[]

NEW SECTION

WAC 392-122-505 K-3 class size—Student enrollment. (1) Grade level K-3 enrollment reported on the P-223 will be considered in the compliance calculations for the months of January, March, and June.

(2) All students in alternative learning experience programs that meet the requirements of WAC 392-121-182 will be excluded from the compliance calculation.

[]

NEW SECTION

WAC 392-122-510 K-3 class size—Teachers. (1) The superintendent of public instruction will include in the calculation of K-3 class size compliance those teachers reported on the S-275 that are coded in programs 01 to grade group K, 1, 2, or 3, and are reported in one of the following duty roots:

- Duty root 31 - Elementary homeroom teacher;
- Duty root 33 - Other teacher;
- Duty root 34 - Elementary specialist teacher;
- Duty root 52 - Substitute teacher;
- Duty root 63 - Contractor teacher.

(2) S-275 data as of the published apportionment cutoff dates in January, March, and June will be considered in the calculation.

(3) Program 21 special education teachers coded to grade K, 1, 2, or 3 multiplied by the annual percentage of students receiving special education instruction used in determination of a district's, tribal compact school's, or charter school's 3121 revenue will be included.

(4) Teachers coded to program 02 alternative learning experience will be excluded.

[]

NEW SECTION

WAC 392-122-515 K-3 class size compliance—Supplemental FTE teachers. (1) Supplemental teacher full-time equivalent (FTE) teachers must be reported to the superintendent of public instruction prior to the published S-275 apportionment cutoff dates in January, March, and June to be considered. Supplemental teacher FTE must be reported by individual grade level K, 1, 2, and 3.

(2) Supplemental FTE teacher reporting shows the net change in full-time equivalent teachers after October 1st of the school year not reflected in report S-275 under WAC 392-122-510. Supplemental full-time equivalent teachers are determined as follows:

(a) Determine the teacher FTE that would be reported for each employee for the school year on report S-275 if the current data were submitted for the October 1st snapshot as required in the S-275 instructions and subtract the teacher FTE as of October 1st actually reported for the employee on the most current report S-275.

(b) Include decreases as well as increases in staff after October 1st and not reflected in report S-275. Decreases include terminations, retirements, unpaid leave, and reassignment of staff.

[]

NEW SECTION

WAC 392-122-520 K-3 class size—Calculation. Funded class size will be calculated by dividing the total teachers and supplemental teacher FTE across all grades K-3 collectively as provided in WAC

392-122-510 into the calculated combined total enrollment in grade levels of K, 1, 2, or 3.

[]

STATE LEARNING ASSISTANCE PROGRAM

AMENDATORY SECTION (Amending WSR 19-04-097, filed 2/5/19, effective 3/8/19)

WAC 392-122-605 Apportionment of state moneys for the state learning assistance program. (1) (a) State learning assistance program moneys shall be allocated as provided in the state Operating Appropriations Act in effect at the time the apportionment is due.

(b) The superintendent of public instruction may withhold the monthly learning assistance program apportionment payment to a school district, ~~((public)) charter school, or ((school-operated pursuant to a state-tribe education))~~ tribal compact school if the school district, charter school, or tribal compact school fails to submit its annual report for the prior school year to the superintendent of public instruction by the established due date. The first learning assistance program apportionment payment of the school year and subsequent allocations may be withheld until the annual reports are completed in approvable form.

(2) Learning assistance program moneys include ~~((two allocations:))~~ a district learning assistance program base allocation and a learning assistance program high-poverty based school allocation for eligible schools.

(a) A school district's funded students for the learning assistance program base allocation shall be the sum of the district's annual average full-time equivalent enrollment in grades K-12 for the prior school year multiplied by the district's percentage of October headcount enrollment in grades K-12 eligible for free or reduced-price lunch in the prior school year. The prior school year's October headcount enrollment for free and reduced-price lunch shall be as reported in the comprehensive education data and research system as of March 31st of the prior school year.

(b) (i) A school is eligible for the learning assistance program high-poverty based school allocation if it is funded through the prototypical model and has at least fifty percent of its students eligible for free and reduced-price meals in the prior school year. The percentage is determined by the school's percentage of October headcount enrollment in grades K-12 for free and reduced-price lunch as reported in the comprehensive education data and research system as of March 31st of the prior school year.

(ii) An eligible school's funded students for the learning assistance high-poverty based allocation shall be the sum of the school's annual average full-time enrollment in grades K-12 for the prior year.

[Statutory Authority: RCW 28A.150.290 and 28A.155.075. WSR 19-04-097, § 392-122-605, filed 2/5/19, effective 3/8/19. Statutory Authority: RCW 28A.165.075 and 28A.150.290. WSR 18-02-082, § 392-122-605, filed 1/2/18, effective 2/2/18; WSR 16-16-078, § 392-122-605, filed 7/29/16, effective 9/1/16. Statutory Authority: RCW 28A.150.290, 1989 1st ex.s. c 19 and 1990 1st ex.s. c 16. WSR 91-03-118 (Order 2), § 392-122-605, filed 1/23/91, effective 2/23/91. Statutory Authority: RCW 28A.41.170. WSR 87-09-018 (Order 87-2), § 392-122-605, filed 4/6/87; WSR 86-01-021 (Order 85-16), § 392-122-605, filed 12/9/85; WSR 84-20-078 (Order 84-36), § 392-122-605, filed 10/2/84; WSR 84-13-020 (Order 84-10), § 392-122-605, filed 6/13/84.]

STATE TRANSITIONAL BILINGUAL PROGRAM

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

WAC 392-122-705 Formula for the distribution of state moneys for the state transitional bilingual program. ~~((1) As used in this section the term "eligible student" shall mean those students defined under WAC 392-160-005(3) and 392-150-015.~~

~~(2))~~ A school district's or charter school's entitlement for state moneys for the state transitional bilingual program shall be calculated as follows:

~~((a))~~ (1) Multiplying the number of eligible students under WAC 392-160-005(3) and 392-160-015 by the per pupil allocation established in the State Appropriation Act for the state transitional bilingual program.

~~((b))~~ (2) The result of the calculation provided in ~~((a))~~ subsection (1) of this ~~((subsection))~~ section is the district's or charter school's entitlement subject to WAC 392-122-710 and its provision for enrollment adjustment.

[Statutory Authority: RCW 28A.150.290 and 28A.710.220. WSR 15-18-078, § 392-122-705, filed 8/28/15, effective 9/28/15. Statutory Authority: RCW 28A.150.290. WSR 09-04-082, § 392-122-705, filed 2/3/09, effective 3/6/09. Statutory Authority: RCW 28A.41.170. WSR 84-20-078 (Order 84-36), § 392-122-705, filed 10/2/84; WSR 84-13-020 (Order 84-10), § 392-122-705, filed 6/13/84.]

AMENDATORY SECTION (Amending WSR 16-10-116, filed 5/4/16, effective 6/4/16)

WAC 392-122-710 Distribution of state moneys for the state transitional bilingual program. (1) The superintendent of public instruction shall apportion to school districts or charter schools for the

state transitional bilingual program the amount calculated per district in WAC 392-122-705 according to the apportionment schedule provided in RCW 28A.510.250.

(2) Monthly payments to districts and charter schools shall be adjusted during the year to reflect changes in the district's or charter school's reported eligible students under WAC 392-160-005(3) and 392-160-015 as reported on the P223, monthly report of school district enrollment form.

(3) For the purpose of transitional bilingual allocations, the school district's or charter school's nine-month average annual head-count enrollment of eligible students (~~as defined in~~) under WAC 392-160-005(3) and 392-160-015 shall be the average of such enrollment for the first school day of October through June.

[Statutory Authority: RCW 28A.150.290. WSR 16-10-116, § 392-122-710, filed 5/4/16, effective 6/4/16. Statutory Authority: RCW 28A.150.290 and 28A.710.220. WSR 15-18-078, § 392-122-710, filed 8/28/15, effective 9/28/15. Statutory Authority: RCW 28A.150.290. WSR 09-04-082, § 392-122-710, filed 2/3/09, effective 3/6/09; WSR 96-03-002, § 392-122-710, filed 1/3/96, effective 2/3/96. Statutory Authority: 1990 c 33. WSR 90-16-002 (Order 18), § 392-122-710, filed 7/19/90, effective 8/19/90. Statutory Authority: RCW 28A.41.170. WSR 86-01-021 (Order 85-16), § 392-122-710, filed 12/9/85; WSR 84-20-078 (Order 84-36), § 392-122-710, filed 10/2/84; WSR 84-13-020 (Order 84-10), § 392-122-710, filed 6/13/84.]

STATE HIGHLY CAPABLE STUDENTS EDUCATION PROGRAM

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

WAC 392-122-805 Formula for distribution of state moneys for the state highly capable students education program. (~~((1) As used in this section, the term "average annual full-time equivalent students" or AAFTE shall be defined as that term defined in WAC 392-121-133.~~

~~((2))~~) A school district's or charter school's entitlement for state moneys for the state highly capable students education program shall be calculated as follows:

~~((a))~~) (1) Multiplying the (~~AAFTE of the reporting district or charter school~~) reporting district's or charter school's average annual full-time equivalent students, as defined in WAC 392-121-133, by the per pupil allocation established in the State Operating Appropriations Act in effect at the time the apportionment is due; and

~~((b))~~) (2) The product is the district's or charter school's entitlement subject to WAC 392-122-810 and its provision for enrollment adjustment.

[Statutory Authority: RCW 28A.150.290 and 28A.710.220. WSR 15-18-078, § 392-122-805, filed 8/28/15, effective 9/28/15. Statutory Authority:

RCW 28A.150.290. WSR 09-04-082, § 392-122-805, filed 2/3/09, effective 3/6/09; WSR 96-03-002, § 392-122-805, filed 1/3/96, effective 2/3/96. Statutory Authority: RCW 28A.150.290, 1989 1st ex.s. c 19 and 1990 1st ex.s. c 16. WSR 91-03-118 (Order 2), § 392-122-805, filed 1/23/91, effective 2/23/91. Statutory Authority: RCW 28A.41.170. WSR 84-20-078 (Order 84-36), § 392-122-805, filed 10/2/84; WSR 84-13-020 (Order 84-10), § 392-122-805, filed 6/13/84.]

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

WAC 392-122-810 Distribution of state moneys for the state highly capable students education program. The superintendent of public instruction shall apportion to districts and charter schools for the state highly capable student education program the amount calculated per district or charter school in WAC 392-122-805 according to the apportionment schedule provided in RCW 28A.510.250. The amount apportioned may be adjusted intermittently to reflect changes in the district's or charter school's (~~AAFTTE~~) average annual full-time equivalent students as reported on the P223, monthly report of school district enrollment form.

[Statutory Authority: RCW 28A.150.290 and 28A.710.220. WSR 15-18-078, § 392-122-810, filed 8/28/15, effective 9/28/15. Statutory Authority: 1990 c 33. WSR 90-16-002 (Order 18), § 392-122-810, filed 7/19/90, effective 8/19/90. Statutory Authority: RCW 28A.41.170. WSR 84-20-078 (Order 84-36), § 392-122-810, filed 10/2/84; WSR 84-13-020 (Order 84-10), § 392-122-810, filed 6/13/84.]

GENERAL PROVISIONS

AMENDATORY SECTION (Amending WSR 18-20-023, filed 9/24/18, effective 10/25/18)

WAC 392-122-900 General provision—Indirect cost limitations, carryover limitations and recoveries. (1) Categorical apportionment moneys shall be expended for allowable categorical program costs. Indirect cost charges to categorical programs are limited as provided in this section. Categorical moneys may be carried over from one school district or charter school fiscal year to another only as provided in this section.

~~((1))~~ (2) The superintendent of public instruction shall recover categorical program allocations made pursuant to this chapter if not expended by the school district or charter school during the school year for allowable program costs.

~~((2) For the 2000-01 school year and thereafter, "))~~ (3) Allowable program costs (~~" means~~) are direct program expenditures plus allowable indirect program charges.

(a) Direct program expenditures are expenditures directly traceable to the program for the school year reported consistent with the *Accounting Manual for Public School Districts in the State of Washington* and instructions provided by the superintendent of public instruction including the *Administrative Budgeting, and Financial Reporting Handbook*.

(b) For the purposes of this section, special education program expenditures shall be reduced (abated) by revenues to account 7121 special education revenues from other districts or charter schools.

(c) For special education, highly capable, and transitional bilingual, allowable indirect program charges equal direct program expenditures times the percentage calculated from the school district's or charter school's annual financial statements (Report F-196) for two school years prior as follows:

(i) Divide direct expenditures for program 97 district-wide support by;

(ii) Total general fund direct expenditures for all programs minus direct expenditures for program 97 district-wide support; and

(iii) Round to three decimal places.

(d) For the learning assistance program, allowable indirect program charges equal the direct program expenditures times the federal restricted indirect rate calculated by the superintendent of public instruction.

(e) For the institutional education program, allowable indirect program charges equal the state institutional education program allocation times the percentage allocated for indirect costs pursuant to the biennial operating appropriations act and the state funding formula.

~~((3) Commencing with the 1994-95 school year allocation,))~~ (4) A school district or charter school may carry over from one school district fiscal year to the next up to ten percent of the state learning assistance program allocation. ~~((For the 2017-18 school year only, a school district or charter school may carry over all unspent learning assistance program high poverty allocations to the 2018-19 school year.))~~ Carryover moneys shall be expended solely for allowable learning assistance program costs.

~~((4) Commencing with the 1997-98 school year allocation,))~~ (5) A school district or charter school may carry over from one school fiscal year to the next up to ten percent of state special education program allocation. Carryover moneys shall be expended solely for allowable state special education program costs.

~~((5) Commencing with the 1998-99 school year allocation,))~~ (6) A school district may carry over from one school district fiscal year to the next up to ten percent of the state institutional education program allocation. Carryover moneys shall be expended solely for allowable state institutional education program costs.

~~((6))~~ (7) The amount recovered pursuant to this section for special education, highly capable, bilingual, and learning assistance programs shall be determined as follows:

(a) Sum the state allocation for the categorical program for the school year and any carryover from the prior school year if applicable;

(b) Determine the district's or charter school's allowable program costs for the school year pursuant to this section;

(c) If the result of (a) of this subsection exceeds the result of (b) of this subsection, the difference less any allowable carryover shall be recovered.

~~((7) For the 2017-18 school year only, learning assistance program high poverty allocations are not subject to the recovery provisions outlined in WAC 392-122-900 (6) (a) through (e).))~~

(8) The amount recovered pursuant to this section for the institutional education program shall be determined as follows:

(a) Sum the state allocation for the institutional education program for the school year excluding any amount provided for indirect costs, and any carryover from the prior school year if applicable;

(b) Determine the school district's direct expenditures for the institutional education program as reported on Report F-196 or such other document filed pursuant to instructions provided by the superintendent of public instruction;

(c) If the amount of (a) of this subsection exceeds the amount of (b) of this subsection, the difference less any allowable carryover shall be recovered.

(9) This section applies to categorical program allocations to school districts, charter schools, educational service districts and, in the case of institutional education programs, entities contracting to provide an institutional education program funded under this chapter.

[Statutory Authority: RCW 28A.150.290 and 28A.710.220. WSR 18-20-023, § 392-122-900, filed 9/24/18, effective 10/25/18; WSR 15-18-078, § 392-122-900, filed 8/28/15, effective 9/28/15. Statutory Authority: RCW 28A.150.290. WSR 09-04-082, § 392-122-900, filed 2/3/09, effective 3/6/09. Statutory Authority: RCW 28A.150.290 and 1999 c 309 § 512. WSR 02-04-023, § 392-122-900, filed 1/24/02, effective 1/24/02. Statutory Authority: RCW 28A.150.290. WSR 96-03-002, § 392-122-900, filed 1/3/96, effective 2/3/96. Statutory Authority: 1995 2nd sp.s. c 18 § 519. WSR 95-18-074, § 392-122-900, filed 9/1/95, effective 10/2/95. Statutory Authority: RCW 28A.150.290. WSR 92-19-125 (Order 92-08), § 392-122-900, filed 9/21/92, effective 10/22/92. Statutory Authority: RCW 28A.41.170. WSR 86-01-021 (Order 85-16), § 392-122-900, filed 12/9/85; WSR 84-20-078 (Order 84-36), § 392-122-900, filed 10/2/84; WSR 84-13-020 (Order 84-10), § 392-122-900, filed 6/13/84.]

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 392-122-100 State special education program—
Applicable code provisions.
- WAC 392-122-105 Definition—LEAP document for state
special education program allocation.
- WAC 392-122-107 Definition—Report 1220.

- WAC 392-122-110 Definition—State special education program—Special education program certificated instructional staff salary and mix factor variables for the allocation formula for the 1994-95 school year.
- WAC 392-122-120 State special education program—Determination of district average state special education program certificated instructional staff salary for the purpose of apportionment.
- WAC 392-122-130 State special education program—Nonemployee related cost.
- WAC 392-122-131 State special education program—Basic education backout.
- WAC 392-122-132 State special education program—Substitute teacher pay allocations.
- WAC 392-122-135 State special education program—Eligible special education students.
- WAC 392-122-200 State institutional education program—Applicable code provisions.
- WAC 392-122-201 Definition—State institutional education program—School day.
- WAC 392-122-202 Definition—State institutional education program—School year.
- WAC 392-122-206 Definition—State institutional education program—Form E-672.
- WAC 392-122-208 Definition—State institutional education program—Other education provider.
- WAC 392-122-210 Definition—State institutional education program—Certificated instructional staff and mix factor variables for the purpose of apportionment.
- WAC 392-122-213 Definition—State institutional education program—Excused absence.
- WAC 392-122-230 Definition—State institutional education program—Annual average full-time equivalent (AAFTE) institutional education students.
- WAC 392-122-420 Full-day kindergarten program—Authority.
- WAC 392-122-421 Full-day kindergarten program—Definitions.
- WAC 392-122-422 Full-day kindergarten program—Applicable provisions.
- WAC 392-122-423 Full-day kindergarten program—Determination of eligibility.

WAC 392-122-424	Full-day kindergarten program—Letter of acceptance and approvals.
WAC 392-122-425	Full-day kindergarten program—Subsequent determination of eligible schools.
WAC 392-122-426	Full-day kindergarten program—Apportionment of state moneys.
WAC 392-122-600	State learning assistance program—Applicable code provisions.
WAC 392-122-700	State transitional bilingual program—Applicable code provisions.
WAC 392-122-800	State highly capable students education program—Applicable code provisions.

OTS-2062.1REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 392-140-916	K-3 class size funding.
WAC 392-140-923	K-3 class size compliance—Enrollment.
WAC 392-140-932	K-3 class size compliance—Teachers.
WAC 392-140-934	K-3 class size compliance—Supplemental FTE teachers.
WAC 392-140-939	K-3 funded class size.