

**WSR 21-10-014
EMERGENCY RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION**

[Filed April 23, 2021, 11:08 a.m., effective April 23, 2021, 11:08 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to amend WAC 392-410-135(1) for the 2020-21 school year only. The amendment allows that instructional minutes for physical education can be less than the regularly required one hundred instructional minutes per week for students in grades 1-8. Physical education instruction must still be provided to students in grades 1-12, unless otherwise waived per RCW 28A.230.040.

Citation of Rules Affected by this Order: Amending WAC 392-410-135(1).

Statutory Authority for Adoption: RCW 28A.230.040.

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: The COVID-19 pandemic has required many school districts to provide instruction remotely in school year 2020-21, either completely or partially, in order to ensure the safety of their students, staff, and communities. The immediate adoption of this emergency rule is therefore necessary for the preservation of the public health, safety, and general welfare in order to provide flexibility for school districts to offer physical education instructional time for all students in grades 1-8. This change does not remove the requirement for all students in grades 1-8 to receive instruction in physical education, per RCW 28A.230.040.

On October 7, 2020, the office of superintendent of public instruction initiated permanent rule making to amend WAC 392-410-135(1) for the remainder of the 2020-21 school year. The CR-102 was filed on February 17, 2021 (WSR 21-05-072), and a public hearing was held on March 23, 2021.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 23, 2021.

Chris P. S. Reykdal
State Superintendent
of Public Instruction

OTS-2517.2

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

WAC 392-410-135 Physical education—Grade school and high school requirement. (1) Grades (~~(1-8)~~) 1 through 8. Pursuant to RCW 28A.230.040, an average of at least one hundred instructional minutes per week per year in physical education shall be required of all pupils in the common schools in the grade school program (grades (~~(1-8)~~) 1 through 8) unless waived pursuant to RCW 28A.230.040. For the 2020-21 school year only, the instructional minutes can be less than one hundred instructional minutes per week; however, physical education instruction must be provided to all pupils in the common schools in the grade school program (grades 1 through 8) unless waived pursuant to RCW 28A.230.040.

(2) Grades (~~(9-12)~~) 9 through 12. Pursuant to RCW 28A.230.050, a one credit course or its equivalent shall be offered in physical education for each grade in the high school program (grades (~~(9-12)~~) 9 through 12).

[Statutory Authority: 2006 c 263. WSR 06-14-009, recodified as § 392-410-135, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.04.120. WSR 00-23-031, § 180-50-135, filed 11/8/00, effective 12/9/00. Statutory Authority: 1990 c 33. WSR 90-17-009, § 180-50-135, filed 8/6/90, effective 9/6/90. Statutory Authority: RCW 28A.04.120 (6) and (8) and 28A.05.060. WSR 85-20-026 (Order 19-85), § 180-50-135, filed 9/24/85. Statutory Authority: RCW 28A.04.120 (6) and (8). WSR 84-21-004 (Order 12-84), § 180-50-135, filed 10/4/84.]