

**WSR 21-20-136**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Developmental Disabilities Administration)  
[Filed October 6, 2021, 10:43 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-17-045.

Title of Rule and Other Identifying Information: WAC 388-823-0500  
How do I show that I have autism as an eligible condition?, and  
388-823-0720 What evidence do I need of my FSIQ?

Hearing Location(s): On November 9, 2021, at 10:00 a.m., at Of-  
fice Building 2, Department of Social and Health Services (DSHS) Head-  
quarters, 1115 Washington [Street S.E.], Olympia, WA 98504. Public  
parking at 11th and Jefferson. A map is available at [https://  
www.dshs.wa.gov/office-of-the-secretary/driving-directions-office-  
bldg-2](https://www.dshs.wa.gov/office-of-the-secretary/driving-directions-office-bldg-2). Hearing will be held virtually. Due to the COVID-19 pandemic,  
hearings are being held virtually. Please see the DSHS website for the  
most current information.

Date of Intended Adoption: Not earlier than November 10, 2021.

Submit Written Comments to: DSHS Rules Coordinator, email  
DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6158, by 5:00 p.m.  
on November 9, 2021.

Assistance for Persons with Disabilities: Contact Shelley Tencza,  
phone 360-664-6100, fax 360-664-6185, email  
shelley.tencza@dshs.wa.gov, by 5:00 p.m. on October 26, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including  
Any Changes in Existing Rules: Amendments to WAC 388-823-0500 estab-  
lish criteria for an acceptable diagnostic report. Amendments to WAC  
388-823-0720 replace the Woodcock-Johnson Test of Achievement with the  
Woodcock-Johnson Test of Cognitive Abilities.

Reasons Supporting Proposal: These changes are necessary to cor-  
rect errors recently adopted under WSR 21-13-164. Specifically, sub-  
section (2) was erroneously left off WAC 388-823-0500, and "test of  
achievement" in WAC 388-823-0720 should have been "test of cognitive  
abilities."

Statutory Authority for Adoption: RCW 71A.12.030.

Statute Being Implemented: RCW 71A.12.020, 71A.16.020.

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

Name of Proponent: DSHS, developmental disabilities administra-  
tion, governmental.

Name of Agency Personnel Responsible for Drafting: Chantelle Di-  
az, P.O. Box 45310, Olympia, WA 98504-5310, 360-407-1575; Implementa-  
tion and Enforcement: Will Nichol, P.O. Box 45310, Olympia, WA  
98504-5310, 360-407-1583.

A school district fiscal impact statement is not required under  
RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A pre-  
liminary cost-benefit analysis may be obtained by contacting Chantelle  
Diaz, P.O. Box 45310, Olympia, WA 98504-5310, fax 360-407-0955, TTY  
1-800-833-6388, email Chantelle.Diaz@dshs.wa.gov.

This rule proposal, or portions of the proposal, is exempt from  
requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4) because the rules do not affect small businesses, they relate to determining client eligibility for services.

Explanation of exemptions: The proposed amendments impose no new or disproportionate costs on small businesses so a small business economic impact statement is not required

October 5, 2021  
Katherine I. Vasquez  
Rules Coordinator

## SHS-4880.2

AMENDATORY SECTION (Amending WSR 21-13-164, filed 6/23/21, effective 8/1/21)

**WAC 388-823-0500 How do I show that I have autism as an eligible condition?** (1) To be considered for eligibility under the condition of autism:

- (a) You must be age four or older;
- (b) You must have been diagnosed with:
  - (i) Autism spectrum disorder 299.00 under the diagnostic and statistical manual of mental disorders, fifth edition (DSM-5); or
  - (ii) Autistic disorder 299.00 under the diagnostic and statistical manual of mental disorders, fourth edition, text revision (DSM-IV-TR) before February 1, 2022;
- (c) You must have been diagnosed by:
  - (i) A board-certified neurologist;
  - (ii) A board-certified psychiatrist;
  - (iii) A licensed psychologist;
  - (iv) An advanced registered nurse practitioner (ARNP) associated with an autism center, developmental center, or center of excellence;
  - (v) A licensed physician associated with an autism center, developmental center, or center of excellence; or
  - (vi) A board certified developmental and behavioral pediatrician.
- (d) The condition must be expected to continue indefinitely; and
- (e) You must provide evidence of onset before age five.

(2) An acceptable diagnostic report includes documentation of diagnostic criteria specified in:

- (a) The DSM-5; or
- (b) DSM-IV-TR for a diagnostic report dated before February 1, 2022.

[Statutory Authority: RCW 71A.12.030, 71A.12.020 and 71A.16.020. WSR 21-13-164, § 388-823-0500, filed 6/23/21, effective 8/1/21. Statutory Authority: RCW 71A.16.020. WSR 19-19-061, § 388-823-0500, filed 9/16/19, effective 10/17/19. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-0500, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0500, filed 6/1/05, effective 7/2/05.]

AMENDATORY SECTION (Amending WSR 21-13-164, filed 6/23/21, effective 8/1/21)

**WAC 388-823-0720 What evidence do I need of my FSIQ?** Evidence of a qualifying FSIQ is derived from one of the tests listed in the table below.

Assessment	Qualifying score at more than 2 standard deviations	Qualifying score at more than 1.5 standard deviations	Qualifying score at more than 1 standard deviation
Stanford-Binet 4th edition or earlier editions	67 or less	75 or less	83 or less
Stanford-Binet 5th edition	69 or less	77 or less	84 or less
Wechsler intelligence scales (Wechsler)	69 or less	77 or less	84 or less
Differential abilities scale (DAS)	69 or less	77 or less	84 or less
Kaufman assessment battery for children (K-ABC)	69 or less	77 or less	84 or less
Das-Naglieri cognitive assessment system (CAS)	69 or less	77 or less	84 or less
Woodcock-Johnson-Test of ((achievement)) cognitive abilities III, III-R, or IV	69 or less	77 or less	84 or less
Reynolds intellectual assessment scales, 2nd edition (RIAS 2)	69 or less	77 or less	84 or less

(1) The test must be administered by a licensed psychologist or Washington certified school psychologist or other school psychologist certified by the National Association of School Psychologists.

(2) The FSIQ score cannot be attributable to mental illness or other psychiatric condition occurring at any age; or other illness or injury occurring after age eighteen:

(a) If you are dually diagnosed with a qualifying condition and mental illness, other psychiatric condition, or other illness or injury, you must provide acceptable documentation that your intellectual impairment, measured by a FSIQ test, would meet the requirements for DDA eligibility without the influence of the mental illness, other psychiatric condition, or other illness or injury.

(b) "Acceptable documentation" means written reports or statements that are directly related to the subject at issue, reasonable in light of all the evidence, and from a source of appropriate authority. The determination of whether a document is acceptable is made by DDA.

(c) If no documentation is provided or DDA determines that the documentation is not acceptable DDA will deny eligibility. The determination may be challenged through an administrative appeal.

(3) If you have a vision impairment that prevents completion of the performance portion of the IQ test, the administering professional may estimate an FSIQ using only the verbal IQ score of the appropriate Wechsler.

(4) If you have a significant hearing impairment, English is not your primary language, or you are nonverbal your FSIQ may be estimated using one of the tests shown in the table below.

Assessment	Qualifying score at more than 2 standard deviations	Qualifying score at 1.5 or more standard deviations	Qualifying score more than 1 standard deviation
Wechsler intelligence scales (WISC, WAIS, WNV)	69 or less on the performance scale, or, on both the perceptual reasoning index and processing speed index	77 or less on the performance scale, or, on both the perceptual reasoning index and the processing speed index	84 or less on the performance scale, or, on both the perceptual reasoning index and the processing speed index
Leiter international performance scale-revised (Leiter-R)	69 or less	77 or less	84 or less
Comprehensive test of nonverbal intelligence (C-TONI)	69 or less on full scale (NVIQ)	77 or less on full scale (NVIQ)	84 or less on full scale (NVIQ)
Kaufman assessment battery for children (K-ABC)	Nonverbal scale index of 69 or less	Nonverbal scale index of 77 or less	Nonverbal scale index of 84 or less

(5) If you are over the age of nineteen at the time of your determination you must have a valid FSIQ obtained at age thirteen or older.

[Statutory Authority: RCW 71A.12.030, 71A.12.020 and 71A.16.020. WSR 21-13-164, § 388-823-0720, filed 6/23/21, effective 8/1/21. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-0720, filed 5/29/14, effective 7/1/14.]