

**WSR 22-14-036
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION**

[Filed June 27, 2022, 11:03 a.m., effective July 28, 2022]

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

Purpose: The office of superintendent of public instruction (OSPI) revised chapter 392-162 WAC concerning the learning assistance program (LAP) to (1) align the rules with the amended requirements under chapter 28A.165 RCW through the passage of HB 1208; (2) clarify requirements in HB 1208, including specific guidance on the timeline and use of the Washington integrated student supports protocol for determining LAP services; and (3) provide regulatory guidelines to districts who choose to use learning assistance program funds to implement the K-2 literacy screening and intervention requirements under RCW 28A.320.260.

Citation of Rules Affected by this Order: New WAC 392-162-016 and 392-162-120; repealing WAC 392-162-020, 392-162-023, 392-162-025, 392-162-032, 392-162-033, 392-162-036, 392-162-041 and 392-162-080; and amending WAC 392-162-005, 392-162-010, 392-162-015, 392-162-054, 392-162-110, and 392-162-112.

Statutory Authority for Adoption: RCW 28A.165.075.

Adopted under notice filed as WSR 22-09-081 on April 20, 2022.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 6, Repealed 8.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: June 27, 2022.

Chris P. S. Reykdal
State Superintendent
of Public Instruction

OTS-3068.2

AMENDATORY SECTION (Amending WSR 18-02-082, filed 1/2/18, effective 2/2/18)

WAC 392-162-005 Authority. The authority for this chapter is RCW 28A.165.075, which authorizes the superintendent of public instruction to adopt rules ((and regulations)) for the administration of the learning assistance program.

[Statutory Authority: RCW 28A.165.075 and 28A.150.290. WSR 18-02-082, § 392-162-005, filed 1/2/18, effective 2/2/18; WSR 16-16-078, § 392-162-005, filed 7/29/16, effective 9/1/16. Statutory Authority: RCW 28A.165.075. WSR 14-08-067, § 392-162-005, filed 3/31/14, effective 5/1/14; WSR 08-21-053, § 392-162-005, filed 10/9/08, effective 11/9/08. Statutory Authority: RCW 28A.300.070. WSR 07-02-015, § 392-162-005, filed 12/21/06, effective 1/21/07. Statutory Authority: 1987 c 478. WSR 87-22-001 (Order 87-14), § 392-162-005, filed 10/22/87. Statutory Authority: RCW 28A.41.408. WSR 84-14-038 (Order 84-21), § 392-162-005, filed 6/28/84.]

AMENDATORY SECTION (Amending WSR 18-02-082, filed 1/2/18, effective 2/2/18)

WAC 392-162-010 Purpose. The learning assistance program requirements in this chapter are designed to:

(1) ~~((Guide school districts in addressing the needs of students in grades kindergarten through four who are deficient in reading or reading readiness skills to improve reading literacy;~~

~~(2))~~ Promote the use of data when developing programs to assist students who are not meeting academic standards ~~((and reduce disruptive behaviors in the classroom)); and~~

~~((3))~~ (2) Guide school districts in providing the most effective and efficient practices when implementing supplemental instruction and services to assist students who are not meeting academic standards ~~((and reduce disruptive behaviors in the classroom; and~~

~~(4) Guide school districts in providing extended learning opportunities to assist K-12 students who are not meeting academic standards in English language arts or mathematics, students identified in eighth grade in need of high school transition services which could continue up through the end of ninth grade, and students in grades eleven and twelve who are at risk of not meeting state and local graduation requirements)).~~

[Statutory Authority: RCW 28A.165.075 and 28A.150.290. WSR 18-02-082, § 392-162-010, filed 1/2/18, effective 2/2/18; WSR 16-16-078, § 392-162-010, filed 7/29/16, effective 9/1/16. Statutory Authority: RCW 28A.165.075. WSR 14-08-067, § 392-162-010, filed 3/31/14, effective 5/1/14; WSR 09-24-075, § 392-162-010, filed 11/30/09, effective 12/31/09; WSR 08-21-053, § 392-162-010, filed 10/9/08, effective 11/9/08. Statutory Authority: RCW 28A.300.070. WSR 07-02-015, § 392-162-010, filed 12/21/06, effective 1/21/07. Statutory Authority: 1987 c 478. WSR 87-22-001 (Order 87-14), § 392-162-010, filed 10/22/87. Statutory Authority: RCW 28A.41.408. WSR 84-14-038 (Order 84-21), § 392-162-010, filed 6/28/84.]

AMENDATORY SECTION (Amending WSR 16-16-078, filed 7/29/16, effective 9/1/16)

WAC 392-162-015 Definitions ~~((Basic skills))~~. As used in this chapter, the ~~((term "basic skills" means English language arts or~~

mathematics, as well as readiness associated with these skills.))
terms:

(1) "District" means a school district, public charter school, or school authorized to operate as a state-tribal education compact school in accordance with chapter 28A.715 RCW.

(2) "Literacy screening tool" means one of the literacy screening tools identified and approved by the dyslexia advisory council and the office of the superintendent of public instruction in accordance with RCW 28A.300.700.

[Statutory Authority: RCW 28A.165.075 and 28A.150.290. WSR 16-16-078, § 392-162-015, filed 7/29/16, effective 9/1/16. Statutory Authority: RCW 28A.300.070. WSR 07-02-015, § 392-162-015, filed 12/21/06, effective 1/21/07. Statutory Authority: 1987 c 478. WSR 87-22-001 (Order 87-14), § 392-162-015, filed 10/22/87. Statutory Authority: RCW 28A.41.408. WSR 84-14-038 (Order 84-21), § 392-162-015, filed 6/28/84.]

NEW SECTION

WAC 392-162-016 Application. As described in RCW 28A.165.057, two application periods exist:

(1) The first timeline applies immediately and continues through the later of:

(a) The expiration or termination of Proclamation 20-05, and any subsequent orders extending or amending the proclamation, declaring a state of emergency on February 29, 2020, for all counties in Washington due to COVID-19; or September 1, 2025, whichever is later.

(b) During the first timeline described in subsection (1)(a) of this section, school districts must budget and expend the appropriations for the learning assistance program, under RCW 28A.165.005 through 28A.165.065, to identify students who are not meeting academic standards and address their academic and nonacademic needs resulting from and exacerbated by the COVID-19 pandemic.

(c) During the first timeline described in subsection (1)(a) of this section, school districts are encouraged to budget and expend the appropriations for the learning assistance program, under RCW 28A.165.005 through 28A.165.065, using the framework of the Washington integrated student supports protocol, established under RCW 28A.300.139.

(2) The second timeline applies after the first timeline expires as described in subsection (1)(a) of this section. During the second timeline, school districts must budget and expend the appropriations for the learning assistance program, under RCW 28A.165.005 through 28A.165.065, using the framework of the Washington integrated student supports protocol, established under RCW 28A.300.139.

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AMENDATORY SECTION (Amending WSR 18-02-082, filed 1/2/18, effective 2/2/18)

WAC 392-162-054 Allocation, supplement not supplant, and use of funds. (1) The funds for the learning assistance program shall be allocated according to WAC 392-122-605 for the learning assistance program base allocation and the learning assistance program high poverty-based school allocation.

(2) The learning assistance high poverty-based school allocation must be ~~((distributed to))~~ expended by the district for the schools ((building)) that generated the funding and may not supplant the learning assistance program base allocation expenditures for those schools.

(3) All learning assistance program funds must be expended for the purposes of RCW 28A.165.005 through 28A.165.065.

[Statutory Authority: RCW 28A.165.075 and 28A.150.290. WSR 18-02-082, § 392-162-054, filed 1/2/18, effective 2/2/18; WSR 16-16-078, § 392-162-054, filed 7/29/16, effective 9/1/16. Statutory Authority: RCW 28A.165.075. WSR 14-08-067, § 392-162-054, filed 3/31/14, effective 5/1/14; WSR 09-24-075, § 392-162-054, filed 11/30/09, effective 12/31/09; WSR 08-21-053, § 392-162-054, filed 10/9/08, effective 11/9/08. Statutory Authority: RCW 28A.300.070. WSR 07-02-015, § 392-162-054, filed 12/21/06, effective 1/21/07.]

AMENDATORY SECTION (Amending WSR 16-16-078, filed 7/29/16, effective 9/1/16)

WAC 392-162-110 Program requirements—~~((District))~~ Reporting.

~~((1)) Individual student records shall be recorded, beginning with the 2014-15 school year, in the statewide individual student data system annual entrance and exit performance data for each student participating in the learning assistance program according to specifications established by the office of the superintendent of public instruction's CEDARS manual.~~

~~(2) Districts shall submit to the superintendent of public instruction by the established due date an annual report in the electronic format provided by the superintendent of public instruction. The report must include the following:~~

~~(a) The amount of academic growth gained by students participating in the learning assistance program;~~

~~(b) The number of students who gain at least one year of academic growth;~~

~~(c) The specific practices, activities, and programs used by each school building that received learning assistance program funds; and~~

~~(d) The number of students served by the learning assistance program during the school year who were able to exit the program because student academic growth resulted in meeting the academic standard for grade level.~~

~~(3)) The superintendent of public instruction ((will)) may withhold the monthly learning assistance program apportionment payment to a school district, public charter school, or state-tribal education compact school ~~((operated pursuant to a state-tribe education compact))~~ if the school district, charter school, or state-tribal educa-~~

tion 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.

[Statutory Authority: RCW 28A.165.075 and 28A.150.290. WSR 16-16-078, § 392-162-110, filed 7/29/16, effective 9/1/16. Statutory Authority: RCW 28A.165.075. WSR 14-08-067, § 392-162-110, filed 3/31/14, effective 5/1/14. Statutory Authority: RCW 28A.300.070. WSR 07-02-015, § 392-162-110, filed 12/21/06, effective 1/21/07. Statutory Authority: 1987 c 478. WSR 95-19-031 (Order 95-08), § 392-162-110, filed 9/12/95, effective 10/13/95; WSR 87-22-001 (Order 87-14), § 392-162-110, filed 10/22/87. Statutory Authority: RCW 28A.41.408. WSR 84-14-038 (Order 84-21), § 392-162-110, filed 6/28/84.]

AMENDATORY SECTION (Amending WSR 18-02-082, filed 1/2/18, effective 2/2/18)

WAC 392-162-112 Carry over of funds. (1) Districts may carry over from one year to the next up to ten percent of the learning assistance program base allocation provided (~~(allocated)~~) under WAC 392-122-605 (~~(; however,)~~). Carry-over funds ((shall)) must be expended solely for the ((learning assistance program)) purposes of RCW 28A.165.005 through 28A.165.065.

(2) Districts may carry over from one year to the next up to ten percent of the learning assistance program high poverty-based school allocation provided under WAC 392-122-605. Carry-over funds must be expended solely for the ((learning assistance program)) purposes of RCW 28A.165.005 through 28A.165.065 and for the specific schools ((generating)) that generated the ((allocation)) funding.

[Statutory Authority: RCW 28A.165.075 and 28A.150.290. WSR 18-02-082, § 392-162-112, filed 1/2/18, effective 2/2/18. Statutory Authority: RCW 28A.300.070. WSR 07-02-015, § 392-162-112, filed 12/21/06, effective 1/21/07.]

NEW SECTION

WAC 392-162-120 Implementation of K-2 literacy screening requirements—Use of funds. (1) A school district that chooses to expend learning assistance program funds to implement the screening and intervention requirements under RCW 28A.320.260 may use the district's learning assistance program base allocation under WAC 392-122-605 to fund the purchase of a literacy screening tool as defined under this chapter.

(2) A school district that chooses to expend learning assistance program funds as permitted under this section must submit data according to specifications established by the office of the superintendent of public instruction in accordance with RCW 28A.165.100 and 28A.320.270.

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REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 392-162-020	Definition—Learning assistance program (LAP).
WAC 392-162-023	Definition—District.
WAC 392-162-025	Definition—Statewide student assessments.
WAC 392-162-032	Definition—Participating student.
WAC 392-162-033	Definition—Students who are not meeting academic standards.
WAC 392-162-036	Definition—Extended learning opportunities.
WAC 392-162-041	Best practices.
WAC 392-162-080	Program requirement—Selection of students.