

WSR 23-16-113
EMERGENCY RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed July 31, 2023, 4:46 p.m., effective July 31, 2023, 4:46 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: In alignment with SHB 1550, passed by the Washington state legislature in 2023, the emergency rules establish the transition to kindergarten program. The rules provide for the administration of, the allocation of state funding for, and minimum standards and requirements for the transition to kindergarten program for the 2023-24 school year.

The office of superintendent of public instruction will also conduct permanent rule making concerning transition to kindergarten programs. The permanent rules are anticipated to be effective by the 2024-25 school year.

Citation of Rules Affected by this Order: New chapter 392-425 WAC; and amending WAC 392-121-106, 392-121-107, 392-121-122, 392-121-137, 392-121-182, 392-122-430, 392-122-435, 392-122-440, 392-122-450, 392-122-500, 392-122-505, 392-122-510, 392-122-515, 392-122-520, 392-122-605, 392-122-805, and 392-122-810.

Statutory Authority for Adoption: 2SHB 1550 (chapter 420, Laws of 2023); and RCW 28A.150.290.

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 emergency rules are necessary to establish the transition to kindergarten program for the 2023-24 school year, as directed by SHB 1550, passed by the Washington state legislature in 2023. The emergency rules establish expectations and requirements for local education agencies in implementing and administering transition to kindergarten programs for the 2023-24 school year.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 11, Amended 17, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: July 31, 2023.

Chris P.S. Reykdal
State Superintendent of Public Instruction

OTS-4751.1

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

WAC 392-121-106 Definition—Enrolled student. As used in this chapter, "enrolled student" means a person residing in Washington state who:

(1) Is eligible to enroll in the school district's education programs because he or she:

(a) Resides in the school district with or without an address (RCW 28A.225.010, 28A.225.160 and 28A.225.215);

(b) Resides on a United States reservation, national park, national forest, or Indian reservation contiguous to the school district (RCW 28A.225.170);

(c) Resides in a school district not offering the grade for which they are eligible to enroll such as a nonhigh district (RCW 28A.225.210);

(d) Has been released from the school district he or she resides in and has been accepted by the school district claiming enrollment (RCW 28A.225.225 and 28A.225.230);

(e) Will be attending the school district as part of an interdistrict cooperative program (RCW 28A.225.250);

(f) Will be attending school in a school district in another state per a reciprocity agreement pursuant to RCW 28A.225.260; or

(g) Will be attending a public charter school, as defined by RCW 28A.710.010, located within Washington state.

(2) After the close of the prior school year has presented himself or herself, or has been presented, to the school district's or charter school's appropriate official to be entered on the school district's or charter school's rolls for the purpose of attending school in grades kindergarten through ~~((twelve))~~ 12 and transition to kindergarten program;

(3) Is under ~~((twenty-one))~~ 21 years of age at the beginning of the school year;

(4) Actually participated on a school day during the first four school days of the current school term (semester or quarter), or on a school day during the current school year on or prior to the date being counted, in a course of study offered by the school district or charter school as defined in WAC 392-121-107; and

(5) Does not qualify for any of the enrollment exclusions set forth in WAC 392-121-108.

[Statutory Authority: RCW 28A.150.290 and 28A.710.220. WSR 15-18-078, § 392-121-106, filed 8/28/15, effective 9/28/15. Statutory Authority: RCW 28A.150.290(1). WSR 09-21-019, § 392-121-106, filed 10/9/09, effective 11/9/09. Statutory Authority: RCW 28A.150.290. WSR 95-10-011 (Order 95-03), § 392-121-106, filed 4/25/95, effective 5/26/95; WSR 95-01-013, § 392-121-106, filed 12/8/94, effective 1/8/95. Statutory Authority: RCW 28A.41.055 and 28A.41.170. WSR 88-03-013 (Order 88-8), § 392-121-106, filed 1/11/88.]

AMENDATORY SECTION (Amending WSR 16-11-104, filed 5/18/16, effective 6/18/16)

WAC 392-121-107 Definition—Course of study. As used in this chapter, "course of study" means those activities for which students enrolled pursuant to chapters 180-16, 180-51, 392-169, 392-134, and 392-410 WAC may be counted as enrolled students for the purpose of full-time equivalent student enrollment counts.

(1) Course of study includes:

(a) Instruction - Teaching/learning experiences conducted by school district staff as directed by the administration and the board of directors of the school district, or teaching/learning experiences conducted by charter school staff as directed by the charter school administration and charter school board, inclusive of intermissions for class changes, recess and teacher/parent-guardian conferences that are planned and scheduled by the district or charter school for the purpose of discussing students' educational needs or progress, and exclusive of time for meals.

(b) Alternative learning experience - Alternative learning experience provided by the school district or charter school in conformance with WAC 392-121-182.

(c) Instruction provided by a contractor - Instruction provided by a contractor in conformance with WAC 392-121-188 or 392-121-1885.

(d) National guard - Participation in a national guard high school career training program for which credit is being given toward either required or elective high school credits pursuant to RCW 28A.300.165 and WAC 392-410-320.

(e) Ancillary service - Any cocurricular service or activity, any health care service or activity, and any other services or activities, for or in which enrolled students are served by appropriate school district or charter school staff. The term shall include, but not be limited to, counseling, psychological services, testing, remedial instruction, speech and hearing therapy, health care services, and if such service is provided by the district or charter school, certificated contact time pursuant to RCW 28A.225.010 (4) (a) with students who are in a home-based instruction program. The term shall exclude all extracurricular activities and all other courses of study defined in this section. In conformance with WAC 392-134-025, school districts and charter schools report the actual number of student contact hours of ancillary service for part-time, private school, and home-based students to the superintendent of public instruction.

(f) Work based learning - Training provided pursuant to WAC 392-410-315 and reported as provided in WAC 392-121-124.

(g) Running start - Attendance at an institution of higher education pursuant to RCW 28A.600.300 through 28A.600.400, chapter 392-169 WAC.

(h) Transition school - Participation in the University of Washington's transition school and early entrance program pursuant to RCW 28A.185.040, and chapter 392-120 WAC. Such participation shall be reported by the University of Washington and shall not be reported by a school district or charter school.

(i) Technical college direct funding - Enrollment at a technical college pursuant to RCW 28A.150.275 and WAC 392-121-187. Such participation shall be reported by the technical college and shall not be reported by a school district unless the technical college and the

school district agree to have the school district report such enrollment.

(j) Dropout reengagement program - Enrollment in a state approved dropout reengagement program pursuant to RCW 28A.175.100 and chapter 392-700 WAC.

(k) Paid work experience - Training provided in accordance with WAC 392-410-316 and reported as provided in WAC 392-121-139.

(l) Transition to kindergarten under Second Substitute House Bill No. 1550 (chapter 420, Laws of 2023) and chapter 392-425 WAC.

(2) Course of study does not include:

(a) Home-based instruction pursuant to RCW 28A.225.010(4): Education programs provided by a parent which do not meet the requirements of WAC 392-121-182 cannot be claimed for state funding;

(b) Private school instruction pursuant to chapter 28A.195 RCW;

(c) Adult education as defined in RCW 28B.50.030(12);

(d) Instruction provided to students who do not reside in Washington state (RCW 28A.225.260);

(e) Enrollment in state institutions, i.e., state operated group homes, county juvenile detention centers, state institutions for juvenile delinquents, county and city adult jails, and state residential habilitation centers;

(f) Instruction preparing a student for the general education development (GED) test if such instruction generates state or federal moneys for adult education;

(g) Enrollment in education centers except as provided under contract with a school district pursuant to RCW 28A.150.305 and WAC 392-121-188 or 392-121-1885;

(h) Enrollment for residents of the Washington state school for the deaf and the Washington state school for the blind;

(i) Extracurricular activities including but not limited to before and after school activities such as classes, sports and other activities offered outside the regular curriculum or for which credit is not earned; or

(j) Attendance at universities, colleges, community colleges, or technical colleges of students not earning high school credit.

[Statutory Authority: RCW 28A.150.290. WSR 16-11-104, § 392-121-107, filed 5/18/16, effective 6/18/16. Statutory Authority: RCW 28A.150.290 and 28A.710.220. WSR 15-18-078, § 392-121-107, filed 8/28/15, effective 9/28/15. Statutory Authority: RCW 28A.150.305. WSR 13-02-004, § 392-121-107, filed 12/19/12, effective 1/19/13. Statutory Authority: RCW 28A.150.290. WSR 09-06-038, § 392-121-107, filed 2/25/09, effective 3/28/09; WSR 07-23-008, § 392-121-107, filed 11/8/07, effective 12/9/07. Statutory Authority: 1997 c 265 § 6 and RCW 28A.150.290. WSR 99-08-008 (Order 99-01), § 392-121-107, filed 3/25/99, effective 4/25/99. Statutory Authority: RCW 28A.150.290. WSR 97-22-013 (Order 97-06), § 392-121-107, filed 10/27/97, effective 11/27/97; WSR 95-18-097, § 392-121-107, filed 9/6/95, effective 10/7/95; WSR 95-01-013, § 392-121-107, filed 12/8/94, effective 1/8/95. Statutory Authority: 1990 c 33. WSR 90-16-002 (Order 18), § 392-121-107, filed 7/19/90, effective 8/19/90. Statutory Authority: RCW 28A.41.055 and 28A.41.170. WSR 88-03-013 (Order 88-8), § 392-121-107, filed 1/11/88.]

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

WAC 392-121-122 Definition—Full-time equivalent student. As used in this chapter, "full-time equivalent student" means each enrolled student in the school district or charter school as of one of the enrollment count dates for at least the minimum number of hours set forth in subsection (1) of this section, inclusive of class periods and normal class change passing time, but exclusive of meal intermissions: Provided, That each hour counted shall contain at least 50 minutes of instruction or supervised study provided by appropriate instructional staff. The purpose of recognizing "50 minute hours" is to provide flexibility to school districts and charter schools which utilize block periods of instruction so long as students are ultimately under the jurisdiction of school staff for the equivalent of 60 minute hours: Provided further, That the hours set forth below shall be construed as annual average hours for the purposes of compliance with this chapter.

(1)(a) Prior to the 2018-19 school year, the minimum hours for each grade are as follows:

(i) Kindergarten: 20 hours each week, or 4 hours (240 minutes) for each scheduled school day;

(ii) Primary (grades 1 through 3): 20 hours each week, or 4 hours (240 minutes) each scheduled school day;

(iii) Elementary (grades 4 through 6): 25 hours each week, or 5 hours (300 minutes) each scheduled school day;

(iv) Secondary (grades 7 through 12): 25 hours each week, or 5 hours (300 minutes) each scheduled school day.

(b) Beginning with the 2018-19 school year, the minimum hours for all grades and transition to kindergarten programs are 27 hours and 45 minutes each week (1,665 weekly minutes), or 5 hours and 33 minutes (333 minutes) for each scheduled school day.

(2) Except as limited by WAC 392-121-136, a student enrolled for less than the minimum hours shown in subsection (1) of this section shall be counted as a partial full-time equivalent student.

(a) Prior to the 2018-19 school year, a student's partial full-time equivalent is the student's weekly enrolled hours divided by the minimum hours for the student's grade level set forth in subsection (1)(a) of this section.

(b) Beginning with the 2018-19 school year, a student's partial full-time equivalent is the student's weekly enrolled minutes divided by 1,665.

(3) The full-time equivalent of a student's running start enrollment pursuant to RCW 28A.600.300 through 28A.600.400 shall be determined pursuant to chapter 392-169 WAC. If a running start student is enrolled both in high school courses provided by the school district or charter school and in running start courses provided by the college, the high school full-time equivalent and the running start full-time equivalent shall be determined separately.

(4) The full-time equivalent of University of Washington transition school students shall be determined pursuant to chapter 392-120 WAC.

(5) The full-time equivalent of a student's alternative learning experience shall be determined pursuant to WAC 392-121-182.

[Statutory Authority: RCW 28A.150.290. WSR 17-16-162, § 392-121-122, filed 8/2/17, effective 9/2/17. Statutory Authority: RCW 28A.150.290 and 28A.710.220. WSR 15-18-078, § 392-121-122, filed 8/28/15, effective 9/28/15. Statutory Authority: RCW 28A.150.305. WSR 13-02-004, § 392-121-122, filed 12/19/12, effective 1/19/13. Statutory Authority: RCW 28A.150.290. WSR 08-04-009, § 392-121-122, filed 1/24/08, effective 2/24/08; WSR 97-22-013 (Order 97-06), § 392-121-122, filed 10/27/97, effective 11/27/97; WSR 95-01-013, § 392-121-122, filed 12/8/94, effective 1/8/95. Statutory Authority: RCW 28A.41.055 and 28A.41.170. WSR 88-03-013 (Order 88-8), § 392-121-122, filed 1/11/88.]

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

WAC 392-121-137 Full-time equivalent enrollment of students with a disability. In determining the full-time equivalent enrollment of students reported as students with a disability pursuant to chapter 392-172A WAC, the following rules apply:

(1) If the student is enrolled exclusively in an ungraded special education program, the student's grade level shall be based on the typical grade level of students of the same age (e.g., a student who is six years old at the beginning of the school year shall be counted as a first grader).

(2) If the student is enrolled in a grade level below the typical grade level of students of the same age, the school district or charter school shall have the option of counting the student in the grade enrolled or the typical grade level of students of the same age.

(3) A student with a disability who is five years old at the beginning of the school year may be counted as a kindergarten student only if the student is enrolled in a kindergarten program and is provided special education services in addition to the kindergarten program.

(4) A student with a disability and enrolled in a transition to kindergarten program may be counted for transition to kindergarten funding.

[Statutory Authority: RCW 28A.150.290. WSR 17-16-162, § 392-121-137, filed 8/2/17, effective 9/2/17. Statutory Authority: RCW 28A.150.290 and 28A.710.220. WSR 15-18-078, § 392-121-137, filed 8/28/15, effective 9/28/15. Statutory Authority: RCW 28A.150.290. WSR 09-06-038, § 392-121-137, filed 2/25/09, effective 3/28/09; WSR 97-22-013 (Order 97-06), § 392-121-137, filed 10/27/97, effective 11/27/97; WSR 95-01-013, § 392-121-137, filed 12/8/94, effective 1/8/95.]

AMENDATORY SECTION (Amending WSR 20-15-062, filed 7/10/20, effective 8/10/20)

WAC 392-121-182 Alternative learning experience requirements.

(1) **Scope.** This section applies solely to school districts and charter schools claiming state funding pursuant to WAC 392-121-107 for an alternative learning experience.

(2) **Requirements.** A school district or charter school must meet the requirements of this section and chapter 392-550 WAC to count an alternative learning experience as a course of study pursuant to WAC 392-121-107.

(3) **Student eligibility.** A student enrolled in an alternative learning experience course must meet the following conditions:

(a) The student must meet the definition of an enrolled student under WAC 392-121-106;

(b) The student is enrolled in grades K-12;

(c) The student must not meet any of the enrollment exclusions in WAC 392-121-108;

~~((e))~~ (d) The student's residence must be in Washington state as provided in WAC 392-137-115; and

~~((d))~~ (e) For students whose residence is not located in the school district providing an alternative learning experience course (nonresident student), the district must:

(i) Document the school district in which the nonresident student's residence is located;

(ii) Establish procedures that address, at a minimum, the coordination of student counting for state funding so that no enrolled student is counted for more than one full-time equivalent in the aggregating. The procedure must include, but not be limited to, the following:

(A) When a resident district and one or more nonresident district(s) will each be claiming basic education funding for a student in the same month or months, the districts must execute a written agreement that at minimum identifies the maximum aggregate basic education funding each district may claim for the duration of the agreement. A nonresident district may not claim funding for a student until after the effective date of the agreement.

(B) When a district is providing alternative learning experiences to nonresident students under the school choice enrollment provisions of RCW 28A.225.200 through 28A.225.230 and chapter 392-137 WAC, the district may not claim funding for the student until after a release transfer is completed by the resident district and the nonresident serving district.

(4) **Enrollment count dates.**

(a) Alternative learning experience enrollment is claimed based on the monthly count dates as defined in WAC 392-121-119.

(b) For alternative learning experience programs that end prior to June 1st, the June enrollment count date may be the last school day in May and include students whose written student learning plan pursuant to WAC 392-550-025(1) has an ending date that is the last school day in May.

(c) Graduating alternative learning experience students whose last school day is in May may be included in the June enrollment count if the following conditions are met:

(i) The alternative learning experience program calendar identifies that the last day of school for the graduating students is in May; and

(ii) The student's written student learning plan pursuant to WAC 392-550-025(1) includes an end date that is the last day of school for graduating students in May.

(5) **Reporting of student enrollment.**

(a) For the first time a student's alternative learning experience enrollment is claimed for state funding, the following requirements must be met:

(i) A completed written student learning plan pursuant to WAC 392-550-025(1) is in place with a start date that is before the monthly count day; and

(ii) There is documented evidence of student participation as required by WAC 392-121-106(4).

(b) On subsequent monthly count dates, a student's alternative learning experience course(s) can be claimed for state funding if the following requirements are met:

(i) A completed written student learning plan pursuant to WAC 392-550-025(1) is in place on the monthly count date;

(ii) The contact requirement pursuant to WAC 392-550-025(2) was met in the prior month;

(iii) The monthly progress evaluation requirement pursuant to WAC 392-550-025(3) was met in the prior month; and

(iv) If the monthly progress evaluation showed unsatisfactory progress, the intervention plan requirement pursuant to WAC 392-550-025(4) is met.

(c) Students must be excluded from the monthly count including students who have not had contact with a certificated teacher for (~~twenty~~) 20 consecutive school days. Any such student must be excluded from the monthly count until the student has met with a certificated teacher and resumed participation in their alternative learning experience or is participating in another course of study as defined in WAC 392-121-107.

(d) The student count must exclude students who as of the enrollment count date have completed the requirements of the written student learning plan prior to ending date specified in the plan and who have not had a new written student learning plan established with a new beginning and ending date that encompasses the count date.

(6) Student full-time equivalency.

(a) The full-time equivalency of students enrolled in alternative learning experiences is based on the estimated average weekly hours of learning activity described in the written student learning plan.

(b) Pursuant to WAC 392-121-122, (~~twenty-seven~~) 27 hours and (~~forty-five~~) 45 minutes each week (~~((one thousand six hundred sixty-five)) 1,665~~ weekly minutes) equal one full-time equivalent.

(c) Enrollment of part-time alternative learning experience students is subject to the provisions of chapter 392-134 WAC and generates a pro rata share of full-time funding based on the estimated average weekly minutes of learning activity described in the written student learning plan divided by (~~((one thousand six hundred sixty-five)) 1,665~~ weekly minutes).

(d) Kindergarten students claimed for more than a 0.50 full-time equivalent must meet the state-funded full-day kindergarten requirements, as provided for in RCW 28A.150.315.

(e) The full-time equivalent limitations outlined in WAC 392-121-136 and the nonstandard school year limitations outlined in WAC 392-121-123 apply to alternative learning enrollment.

[Statutory Authority: Chapter 28A.232 RCW and RCW 28A.232.030. WSR 20-15-062, § 392-121-182, filed 7/10/20, effective 8/10/20. Statutory Authority: RCW 28A.150.290, 28A.710.220, 28A.232.010, and 28A.150.315. WSR 18-19-040, § 392-121-182, filed 9/13/18, effective 10/14/18; WSR 18-10-045, § 392-121-182, filed 4/26/18, effective 5/27/18. Statutory Authority: RCW 28A.150.290 and 28A.710.220. WSR 15-18-078, § 392-121-182, filed 8/28/15, effective 9/28/15. Statutory Authority: RCW 28A.150.290. WSR 15-03-056, § 392-121-182, filed 1/14/15, effec-

tive 2/14/15. Statutory Authority: RCW 28A.150.290(1). WSR 13-22-076, § 392-121-182, filed 11/5/13, effective 12/6/13. Statutory Authority: RCW 28A.150.305. WSR 12-17-107, § 392-121-182, filed 8/20/12, effective 9/20/12. Statutory Authority: 2011 c 34 § 2(5). WSR 11-17-147, § 392-121-182, filed 8/24/11, effective 9/1/11. Statutory Authority: RCW 28A.150.305. WSR 11-12-022, § 392-121-182, filed 5/24/11, effective 9/1/11. Statutory Authority: RCW 28A.150.290. WSR 09-06-038, § 392-121-182, filed 2/25/09, effective 3/28/09. Statutory Authority: RCW 28A.150.290 and 2005 c 356. WSR 05-13-154, § 392-121-182, filed 6/21/05, effective 7/22/05. Statutory Authority: 1997 c 265 § 6 and RCW 28A.150.290. WSR 99-08-008 (Order 99-01), § 392-121-182, filed 3/25/99, effective 4/25/99. Statutory Authority: RCW 28A.150.290. WSR 95-18-097, § 392-121-182, filed 9/6/95, effective 10/7/95; WSR 95-01-013, § 392-121-182, filed 12/8/94, effective 1/8/95. Statutory Authority: RCW 28A.150.290, 28A.150.250 and 28A.150.260. WSR 91-02-096 (Order 50), § 392-121-182, filed 1/2/91, effective 2/2/91. Statutory Authority: RCW 28A.41.055 and 28A.41.170. WSR 88-03-013 (Order 88-8), § 392-121-182, filed 1/11/88.]

OTS-4752.1

AMENDATORY SECTION (Amending WSR 22-24-029, filed 11/30/22, effective 12/31/22)

WAC 392-122-430 Physical, social, and emotional support (PSES) staff—Apportionment of state moneys. (1) State moneys for PSES staff shall be allocated as provided in this chapter.

(2) PSES staff allocations based on the prototypical school formula provided in RCW 28A.150.260 and the Omnibus Appropriations Act for PSES staff will be based upon budgeted assumptions as provided 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 PSES staffing penalty units, if applicable, for purposes of funding from September through December.

(4) Enrollment will only include student full-time equivalent (FTE) enrolled in the general education program 01 as defined in RCW 28A.150.260 and transition to kindergarten program 09 as defined in Second Substitute House Bill No. 1550 (chapter 420, Laws of 2023) and chapter 392-425 WAC.

(5) Funded ratios starting with January apportionment will be based on 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 PSES staffing to generate the full allotment.

[Statutory Authority: RCW 28A.150.260. WSR 22-24-029, § 392-122-430, filed 11/30/22, effective 12/31/22.]

AMENDATORY SECTION (Amending WSR 22-24-029, filed 11/30/22, effective 12/31/22)

WAC 392-122-435 Physical, social, and emotional support (PSES)—Student enrollment. (1) Grade level and transition to kindergarten enrollment reported on the P-223 will be considered in the compliance calculations for January, March, and June.

(2) Only students in program 01 - Basic education and program 09 - Transition to kindergarten will be included in the calculation. Enrollment in career and technical education, skill center, alternative learning experience, open doors, and running start programs will be excluded from the calculation.

[Statutory Authority: RCW 28A.150.260. WSR 22-24-029, § 392-122-435, filed 11/30/22, effective 12/31/22.]

AMENDATORY SECTION (Amending WSR 22-24-029, filed 11/30/22, effective 12/31/22)

WAC 392-122-440 Physical, social, and emotional support (PSES)—Staff. (1) The superintendent of public instruction will include in the calculation of PSES compliance of those staff that are coded in programs 01, 09, or 97 to one of the following duty root and activity code combinations:

- Duty root 39 - All activities - Orientation and mobility specialist;
- Duty root 42 - All activities - Counselor;
- Duty root 43 - All activities - Occupational therapist;
- Duty root 44 - All activities - Social worker;
- Duty root 45 - All activities - Speech, language pathology/ audio;
- Duty root 46 - All activities - Psychologists;
- Duty root 47 - All activities - Nurse;
- Duty root 48 - All activities - Physical therapist;
- Duty root 49 - All activities - Behavior therapist;
- Duty root 64 - All activities - Contractor ESA;
- Duty root 96 - Activity 24 - Family engagement coordinator;
- Duty roots 91 - 99 - Activity 25 - Pupil management and safety;
- Duty roots 91 - 99 - Activity 26 - Health/related services.

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

(3) Districts must prioritize funding allocated for PSES staff to staff who hold a valid ESA certificate appropriate for that role.

(4) Staff coded to the above duty roots and activity codes in program 21 will be multiplied by the annual percentage of students receiving special education instruction used in the determination of 3121 revenue for inclusion in the compliance calculation.

[Statutory Authority: RCW 28A.150.260. WSR 22-24-029, § 392-122-440, filed 11/30/22, effective 12/31/22.]

AMENDATORY SECTION (Amending WSR 22-24-029, filed 11/30/22, effective 12/31/22)

WAC 392-122-450 Physical, social, and emotional support (PSES) compliance—Calculations. (1) Funded staffing units will be calculated using each grade level and transition to kindergarten funding formula calculations.

(2) Staffing units will be combined at the district level and compared to the staffing units generated using the prototypical funding model.

(3) Penalty units are determined by subtracting the prototypical funded staff units from the district's actual funded units.

(4) Staff in the S-275 or the supplemental tool not assigned to a valid grade grouping will be included into the high school funding formula.

[Statutory Authority: RCW 28A.150.260. WSR 22-24-029, § 392-122-450, filed 11/30/22, effective 12/31/22.]

AMENDATORY SECTION (Amending WSR 21-04-039, filed 1/26/21, effective 2/26/21)

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

(1) State moneys for K-3 class size including transition to kindergarten program 09 as defined in Second Substitute House Bill No. 1550 (chapter 420, Laws of 2023) and chapter 392-425 WAC 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 and transition to kindergarten program (grade T) will be based upon budgeted grades K-3 and grade T 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 grades K-3 and grade T 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.

[Statutory Authority: RCW 28A.150.290 and 28A.710.040(5). WSR 21-04-039, § 392-122-500, filed 1/26/21, effective 2/26/21.]

AMENDATORY SECTION (Amending WSR 21-04-039, filed 1/26/21, effective 2/26/21)

WAC 392-122-505 K-3 class size—Student enrollment. (1) Grade level K-3 and transition to kindergarten program 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.

[Statutory Authority: RCW 28A.150.290 and 28A.710.040(5). WSR 21-04-039, § 392-122-505, filed 1/26/21, effective 2/26/21.]

AMENDATORY SECTION (Amending WSR 21-04-039, filed 1/26/21, effective 2/26/21)

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 program 09 for transition to kindergarten (grade T), 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, and grade T 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.

[Statutory Authority: RCW 28A.150.290 and 28A.710.040(5). WSR 21-04-039, § 392-122-510, filed 1/26/21, effective 2/26/21.]

AMENDATORY SECTION (Amending WSR 21-04-039, filed 1/26/21, effective 2/26/21)

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, and transition to kindergarten (grade T).

(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.

[Statutory Authority: RCW 28A.150.290 and 28A.710.040(5). WSR 21-04-039, § 392-122-515, filed 1/26/21, effective 2/26/21.]

AMENDATORY SECTION (Amending WSR 21-04-039, filed 1/26/21, effective 2/26/21)

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 and transition to kindergarten (grade T) collectively as provided in WAC 392-122-510 into the calculated combined total enrollment in grade levels of T, K, 1, 2, or 3.

[Statutory Authority: RCW 28A.150.290 and 28A.710.040(5). WSR 21-04-039, § 392-122-520, filed 1/26/21, effective 2/26/21.]

AMENDATORY SECTION (Amending WSR 21-04-039, filed 1/26/21, effective 2/26/21)

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, charter school, or 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 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 and transition to kindergarten program 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~~) 50 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 and transition to kindergarten program for the prior year.

[Statutory Authority: RCW 28A.150.290 and 28A.710.040 (5). WSR 21-04-039, § 392-122-605, filed 1/26/21, effective 2/26/21. 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.]

AMENDATORY SECTION (Amending WSR 21-04-039, filed 1/26/21, effective 2/26/21)

WAC 392-122-805 Formula for distribution of state moneys for the state highly capable students education program. 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:

(1) Multiplying the reporting district's or charter school's average annual full-time equivalent students, as defined in WAC 392-121-133, excluding enrollment reported for transition to kindergarten program by the per pupil allocation established in the State Operating Appropriations Act in effect at the time the apportionment is due; and

(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.710.040 (5). WSR 21-04-039, § 392-122-805, filed 1/26/21, effective 2/26/21. 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 21-04-039, filed 1/26/21, effective 2/26/21)

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 average annual full-time equivalent students as reported on the P223, monthly report of school district enrollment form, excluding enrollment reported for transition to kindergarten program.

[Statutory Authority: RCW 28A.150.290 and 28A.710.040(5). WSR 21-04-039, § 392-122-810, filed 1/26/21, effective 2/26/21. 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.]

OTS-4726.2

**Chapter 392-425 WAC
TRANSITION TO KINDERGARTEN**

NEW SECTION

WAC 392-425-005 Purpose and authority. The purpose of this chapter is to provide minimum standards and requirements for transition to kindergarten programs. The chapter is intended to ensure that transition to kindergarten programs serve eligible students of all abilities who need additional preparation to be successful in kindergarten and who lack access to other early learning group settings. The rules in this chapter establish expectations and requirements for local education agencies in implementing and administering transition to kindergarten programs.

The authority for this chapter is under Second Substitute House Bill No. 1550 (chapter 420, Laws of 2023), which requires the office

of superintendent of public instruction to establish rules concerning transition to kindergarten programs.

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NEW SECTION

WAC 392-425-010 Applicability. This chapter establishes the minimum administrative requirements and program standards for implementing and administering quality transition to kindergarten programs under Second Substitute House Bill No. 1550 (chapter 420, Laws of 2023) and this chapter.

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NEW SECTION

WAC 392-425-015 Eligibility. A transition to kindergarten program may be implemented and administered by the following local education agencies, in accordance with Second Substitute House Bill No. 1550 (chapter 420, Laws of 2023):

- (1) Common school districts;
- (2) State tribal compact schools authorized under chapter 28A.715 RCW;
- (3) For school years 2023-24 and 2024-25, only charter schools authorized under RCW 28A.710.080(2) may implement and administer a transition to kindergarten program.

[]

NEW SECTION

WAC 392-425-020 Definitions. "Eligible local education agency" means a local education agency authorized to administer a transition to kindergarten program under WAC 392-425-015.

"Screening process and tool" means using one or more instruments or methods of assessing and measuring the ability and need of an individual student.

[]

NEW SECTION

WAC 392-425-025 Notification of intent to offer a transition to kindergarten program. For the 2023-24 school year, an eligible local education agency planning to implement and administer a transition to kindergarten program during the 2023-24 school year, must notify the office of superintendent of public instruction. The notice must be

provided through a process established by the office of superintendent of public instruction.

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NEW SECTION

WAC 392-425-030 Local area early learning coordination. For the 2023-24 school year, an eligible local education agency administering a transition to kindergarten program must make a best effort to coordinate with local childcare and early learning providers.

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NEW SECTION

WAC 392-425-035 Staff qualifications. A person serving as a teacher in a transition to kindergarten program must hold a valid teaching certificate in accordance with Title 181 WAC. Certificated educators with an early childhood education endorsement are strongly recommended. Paraeducators for transition to kindergarten programs must have met the minimum hiring requirements and must make progress on the paraeducator certificate program in accordance with Title 179 WAC.

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NEW SECTION

WAC 392-425-040 Student eligibility. (1) Children meeting the following criteria are eligible to participate in a transition to kindergarten program offered by an eligible local education agency:

(a) A child who has been determined, by the local education agency, to benefit from additional preparation for kindergarten through a screening process and tool; and

(b) A child who is at least four years old by August 31st of the school year in which they enroll in a transition to kindergarten program.

(2) In determining student eligibility and admitting students to a transition to kindergarten program, local education agencies must:

(a) Give priority to children most in need of additional preparation to be successful in kindergarten, as demonstrated through a screening process and tool.

(b) Give priority to children with the lowest family income not otherwise participating in another local program.

(c) Not exclude, nor establish a policy to prohibit from participation, an eligible child due only to the presence of a disability.

(d) Not charge tuition or other fees from state-funded eligible students for enrollment in a transition to kindergarten program.

[]

NEW SECTION

WAC 392-425-045 Minimum instructional requirements (school year, days, and hours). (1) Eligible local education agencies offering a transition to kindergarten program must offer the program during the local education agency's school year.

(a) The program may begin after the first day of the local education agency's school year.

(b) If a partial-year program is being offered, it must begin by January 31st of the school year.

(c) The program must conclude by the end of the school year.

(2) Transition to kindergarten programs must be offered as an all-day program.

Based on family choice, a child may participate in a transition to kindergarten program as a part-time student (partial day). A part-time student will be counted as a partial full-time equivalent student in accordance with WAC 392-121-122.

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NEW SECTION

WAC 392-425-050 Transition to kindergarten apportionment procedures. The local education agency administering a transition to kindergarten program is subject to the apportionment procedures under chapters 392-121 and 392-122 WAC.

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NEW SECTION

WAC 392-425-055 Assessment for transition to kindergarten students. For the 2023-24 school year only, the Washington kindergarten inventory of developing skills (WaKIDS) must be administered at the beginning of the program. Additionally, it is recommended that the WaKIDS whole-child assessment be administered at least one more time during the school year. A student's parent or guardian has the option to decline or excuse their student from the assessment.

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