WSR 26-10-094
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed May 6, 2026, 9:39 a.m., effective June 6, 2026]

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

Purpose: The office of superintendent of public instruction is adopting rule making, based on SSB 5072 passed by the Washington state legislature in 2023, concerning universal screening to identify students needing highly capable services, including focusing on equitable identification of low-income and underserved students. The adopted rule making clarifies identification of students who require service in a single content domain (math or reading), as well as establishing that assessments for highly capable identification are to be administered in the home school during school hours, with limited exceptions.

Citation of Rules Affected by this Order: New WAC 392-170-016, 392-170-031, 392-170-034, 392-170-039, 392-170-041, 392-170-043, 392-170-046, 392-170-057, 392-170-077, and 392-170-097; repealing WAC 392-170-036, 392-170-042, 392-170-047, and 392-170-078; and amending WAC 392-170-005, 392-170-012, 392-170-025, 392-170-030, 392-170-035, 392-170-038, 392-170-045, 392-170-055, 392-170-060, 392-170-070, 392-170-075, 392-170-076, 392-170-080, 392-170-083, 392-170-087, and 392-170-090.

Statutory Authority for Adoption: SSB 5072 (chapter 265, Laws of 2023); and RCW 28A.185.010 and 28A.185.030.

Adopted under notice filed as WSR 26-06-047 on February 25, 2026.

Changes Other than Editing from Proposed to Adopted Version: Minor grammatical changes were made to WAC 392-170-046: "… and advance equitable enrollment practices, so that all students, especially students from historically underrepresented and low-income groups, …" Additionally, WAC 392-170-070(1) was revised to read: "A highly capable specialist, or if a highly capable specialist is not available, a classroom teacher shall be appointed."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 10, Amended 16, Repealed 4.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.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: May 6, 2026.

Chris P.S. Reykdal
State Superintendent of Public Instruction

RDS-7009.2

AMENDATORY SECTION (Amending WSR 19-03-152, filed 1/22/19, effective 2/22/19)

WAC 392-170-005 Authority. The authority for this chapter is RCW 28A.150.290, 28A.185.030, ((~~and~~)) 28A.185.050, and 28A.300.770, which authorize the superintendent of public instruction to adopt rules and regulations for the administration of a program for highly capable students in kindergarten through ((~~twelfth~~)) 12th grade, including the screening, referral, assessment, identification, and ((~~selection~~)) placement of such students.

AMENDATORY SECTION (Amending WSR 13-07-020, filed 3/12/13, effective 4/12/13)

WAC 392-170-012 Funds. For highly capable students, access to accelerated learning and enhanced instruction is access to a basic education. Highly capable students are basic education students first. School districts may ((~~access~~)) use basic education funds, which support all students, to provide appropriate highly capable student services in addition to highly capable categorical funds((~~, to provide appropriate highly capable student programs~~)). Categorical funds are supplemental and must be used during the funding period for supplemental activities to support the identification of highly capable students and the delivery of highly capable services, in accordance with the district's annual highly capable program plan. There is no carryover for highly capable apportionment.

NEW SECTION

WAC 392-170-016 Purpose of highly capable program services. For highly capable students, access to accelerated learning and enhanced instruction is access to a basic education. The highly capable program should provide a variety and array of services that match the needs of identified students. The purpose of highly capable identification is for inclusion of students, not exclusion. Schools should recognize students who need accelerated learning and enhanced instruction as part of the academic diversity their schools serve on their campuses. District practices must seek to expand access to accelerated learning and enhanced instruction at elementary and secondary schools. The goal is to advance equitable enrollment practices so that all students, especially students from historically underserved and low-income groups who are ready to engage in more rigorous coursework can benefit from accelerated learning and enhanced instruction. Districts may identify more than five percent of their enrollment as highly capable, pursuant to RCW 28A.185.020.

AMENDATORY SECTION (Amending WSR 13-07-020, filed 3/12/13, effective 4/12/13)

WAC 392-170-025 Board approval. The district's plan for ((~~students who are~~)) operation of the highly capable program shall be annually approved by formal action of the district's board of directors.

AMENDATORY SECTION (Amending WSR 18-03-012, filed 1/5/18, effective 2/5/18)

WAC 392-170-030 Substance of annual school district plan. The school district's annual plan shall contain the following:

(1) ((~~A report of the number of K-12 students who are highly capable that the district expects to serve by grade level;~~

~~(2) A description of the district's plan to identify students; consistent with RCW 28A.185.020, district practices for identifying the most highly capable students must prioritize equitable identification of low-income students;~~

~~(3) A description of the highly capable program goals;~~

~~(4)~~)) Consistent with RCW 28A.185.030 and 28A.300.770, a description of the district's plan to identify students, including universal screening strategies at two grade levels;

(2) Consistent with RCW 28A.185.020 and 28A.300.770, district practices for identifying students who need accelerated learning and enhanced instruction must prioritize equitable identification of low-income students;

(3) A description of the variety and array of instructional services the highly capable program will ((~~offer~~)) provide and how they match the identified needs of highly capable students in academic subjects in their domain(s) of strength; and

((~~(5) A description of the instructional program the highly capable program will provide;~~

~~(6) A description of ongoing professional development for educators of students who are highly capable and general education staff;~~

~~(7) A description of how the highly capable program will be evaluated that includes information on how the district's highly capable program goals and student achievement outcomes will be measured;~~

~~(8) A fiscal report; and~~

~~(9)~~)) (4) Assurances signed by the school district's authorized representative that the district will comply with all applicable statutes and regulations.

NEW SECTION

WAC 392-170-031 Definition—Objective and subjective criteria. Objective criteria are student data points that come from either research-based or norm-referenced assessments, such as standardized, cognitive, or achievement assessments; or may include performance on classroom curriculum-based assessments. Local norms should be calculated for all objective criteria, when appropriate to address equitable identification of underrepresented populations. Objective criteria must be recent. Data may include any recent, applicable student data

from the sending school for transfer students, including student records from prior placement in advanced services. Administration of student assessments must include accommodations required by the student's IEP or section 504 plan.

Subjective criteria are measures which may include data such as classroom artifacts, student products, teacher recommendations, report card grades, and research-based rating scales (nonresearch-based rating scales may not be used). Subjective data points may be used alongside other criteria during placement to support identification, but must not be used to disqualify a student from identification.

NEW SECTION

WAC 392-170-034 Definition—Accelerated learning and enhanced instruction. Accelerated learning means accessing new content at a faster pace, as well as reaching higher standards and/or higher grade levels. Enhanced instruction means guided instruction with increased complexity, abstraction, and depth of curriculum that is advanced beyond the general education curriculum. Both accelerated learning and enhanced instruction shall be provided to highly capable students in academic subjects based on a student's domain(s) of strength. Accelerated learning and enhanced instruction require different approaches, strategies, and curriculum, not simply more of the same classwork.

AMENDATORY SECTION (Amending WSR 13-07-020, filed 3/12/13, effective 4/12/13)

WAC 392-170-035 Definition—Students who ((~~are~~)) require accelerated learning and enhanced instruction are identified as highly capable. ((~~As used in this chapter, highly capable students are students who perform or show potential for performing at significantly advanced academic levels when compared with others of their age, experiences, or environments. Outstanding abilities are seen within students' general intellectual aptitudes, specific academic abilities, and/or creative productivities within a specific domain. These students are present not only in the general populace, but~~)) Highly capable students are students in grades K-12 who demonstrate readiness and/or potential to benefit from advanced grade level curriculum in one or more subject areas and require accelerated learning and enhanced instruction beyond the general education curriculum to achieve academic growth. Highly capable students may have advanced learning abilities in general intellectual aptitude, in all academic subjects, or in one academic subject area such as reading or mathematics. Highly capable students are not uncommon. Districts should not limit access for students who show readiness for accelerated learning and enhanced instruction.

Highly capable students are found in all demographic groups; however, not all students have had equitable access to the accelerated learning and enhanced instruction needed to develop their academic skills. Multilingual learners, highly mobile students, students receiving foster care, and students who receive McKinney-Vento services are often underserved and require careful collection of data about

academic strengths. Attention should be paid to students with disabilities who also need accelerated learning and enhanced instruction in their domain(s) of strength, and are known as twice exceptional (2e) students. Highly capable students are present within all protected classes according to chapters 28A.640 and 28A.642 RCW.

AMENDATORY SECTION (Amending WSR 13-07-020, filed 3/12/13, effective 4/12/13)

WAC 392-170-038 Definition—((~~Special teacher~~)) Highly capable specialist. As used in this chapter, a ((~~special teacher is a teacher who~~)) highly capable specialist has training, experience, advanced skills, and knowledge in the education of highly capable students. The district must provide professional learning opportunities to support these areas of competence ((~~should include knowledge of the following~~)): Identification procedures, academic((~~, social and emotional~~)) characteristics, program design and delivery, instructional practices, student assessment, and program evaluation.

NEW SECTION

WAC 392-170-039 Definition—Students who are twice exceptional (2e). Students who are twice exceptional (2e) are students with disabilities who also need accelerated learning and enhanced instruction in their domain(s) of strength. Students who are twice exceptional have an IEP or a section 504 accommodation plan in addition to qualifying for highly capable services in one or more subject domains. Students who are twice exceptional must be provided accelerated learning and enhanced instruction in their domain(s) of strength, in addition to receiving specially designed instruction and/or accommodations required by their IEP or section 504 plan, to ensure the student has full access to their basic education.

NEW SECTION

WAC 392-170-041 Universal screening. Districts must create and publish a procedure for universally screening students in two grade levels. All students in the chosen grade levels must be screened for identification of learning needs and placement for highly capable services. The first universal screening must occur in grades K-2 and the second screening must occur in grades 3-6. Districts may choose to conduct universal screening at additional grade levels, and, if so, must conduct a complete universal screening process for every student in that grade level.

Universal screening is the process of collecting and examining appropriate data for all students in a grade level to determine if each student is performing or shows the potential to perform above grade level and requires accelerated learning and enhanced instruction.

The purpose of universal screening is to include students who traditionally are not referred for highly capable services. Districts must determine whether screened students belong to a protected class, receive special services, or move frequently to ensure that students receive fair accommodations and consideration in their screening process. The special services include, but are not limited to, those provided under a section 504 plan, an IEP, multilingual services, the McKinney-Vento Homeless Assistance Act, highly mobile, and/or foster care.

No single criterion may prevent a student's identification for highly capable. However, any single criterion, objective or subjective, if strong enough, may indicate a need for services and be sufficient to qualify a student in that subject domain. No student may be excluded from highly capable placement without at least two objective data points demonstrating that the student would not benefit from accelerated learning and enhanced instruction. Districts may qualify students directly for highly capable services using screening data. Alternatively, districts may conduct further assessment for students discovered during universal screening to determine placement. Universal screening is not used to exit a student who has qualified for highly capable services.

Districts must collect adequate data from every student in a grade level being universally screened, and students must not be disqualified for missing data. There are multiple approaches to implementing universal screening and the use of multiple criteria. School districts must use screening tools and resources that exemplify best practices and must use objective student data points during universal screening. There is no requirement to administer a new assessment for the purpose of universal screening, however, districts may do so if they deem appropriate.

NEW SECTION

WAC 392-170-043 Parent/guardian notification and permission. Notification shall be made at the following times:

(1) **Universal screening.** Prior to the start of universal screening, notice shall be made in a timely manner to parents/guardians whose students will be universally screened for possible inclusion in the highly capable program. This notice must provide information on the district's highly capable program and the service options that will be available to identified students. Additionally, the notice must include information on how parents/guardians may opt out of the universal screening process for their student(s).

(2) **Identification.** Prior to the start of any major identification activity, annual notification of the highly capable identification process and available highly capable services shall be made in a timely manner. The notice shall be published or announced in multiple ways in appropriate languages to each community in school and district publications or other media, and posted on the district website, with circulation adequate to notify parents/guardians and students throughout the district, to include data points and test scores that will be considered.

(3) Prior to administering any additional group or individual assessments, other than universal screening or for parent-referred students, individual notice shall be made to parents/guardians of affec-

ted students in a timely manner. This notice must provide information about the district's highly capable program and the service options that will be available to identified students, provide a way for parents/guardians to opt out of further assessment for their student, and how parent/guardian can receive more information about services.

(4) At the conclusion of the identification process, individual notice shall be made to parents/guardians of students who have been screened or referred. This notice must include:

(a) The identification decision;

(b) The data points and test scores that were considered for that student;

(c) An explanation of the district procedures for identification of a student for placement for highly capable services;

(d) An explanation of the district procedures to exit a student from the program;

(e) Information on the district's highly capable program and the service options that are available to identified students and the specific services that will be offered to that student. Additionally, information must be provided to parents/guardians on how to have qualifying students opt out of receiving those services in each subject area; and

(f) If the student did not qualify for highly capable services in one or more domains, the notice must also include an explanation of the appeal process including timeline and link to submit the appeal form.

(5) If the student placement offered requires a change in school building or classroom placement, parent/guardian permission is required prior to starting service. Otherwise, parent/guardian must be notified of the start of service, but parent/guardian permission is not required prior to providing services.

AMENDATORY SECTION (Amending WSR 18-03-012, filed 1/5/18, effective 2/5/18)

WAC 392-170-045 Referral process for ((~~highly capable students~~)) grade levels not being universally screened. Each school district shall establish written procedures for the referral of students to participate in programs for highly capable students. Referrals must be available for all grade levels K-12 not universally screened. Such procedures shall permit referrals based on data or evidence from teachers, other staff, parents/guardians, students, and members of the community. The referral process shall include options to check if the student has a section 504 plan, IEP, or receives multilingual services. The referral process must include information about the timeline for the highly capable identification process. Districts must determine whether screened students belong to a protected class or receive special services to ensure that students receive fair accommodations and consideration. The special services include, but are not limited to, those provided by a section 504 plan, an IEP, multilingual services, the McKinney-Vento Homeless Assistance Act, low-income, highly mobile, and/or foster care.

((~~A district's referral procedure for students who are highly capable may include screening procedures to eliminate students who, based on clear, current evidence, do not qualify for eligibility under WAC 392-170-055.~~

~~Consistent with RCW 28A.185.020, district practices for identifying the most highly capable students must prioritize equitable identification of low-income students.~~))

NEW SECTION

WAC 392-170-046 Prioritize identification of historically underrepresented student groups. District practices for identifying highly capable students must seek to expand access to accelerated learning and enhanced instruction at elementary and secondary schools and advance equitable enrollment practices, so that all students, especially students from historically underrepresented and low-income groups, who are ready to engage in more rigorous coursework can benefit from accelerated learning and enhanced instruction. (RCW 28A.185.030) Consistent with RCW 28A.185.020 and 28A.300.770, district practices for identifying highly capable students must prioritize identification of low-income students.

Multilingual learners (ML), highly mobile students, students receiving foster care, and students who receive McKinney-Vento services are often underserved and require careful collection of data about academic strengths. Attention must also be paid to include students who have been identified as twice exceptional students (IEP or section 504 plan) according to chapter 28A.642 RCW.

Assessment tools for multilingual learners should reduce the impact of language on the skills being assessed. ML students must be assessed in their first language. If that is not possible, they are to be assessed with a nonverbal instrument. Highly mobile students require consideration to ensure timely identification and provision of services. Professional judgment should be used to expand identification of historically underrepresented student groups.

AMENDATORY SECTION (Amending WSR 19-03-152, filed 1/22/19, effective 2/22/19)

WAC 392-170-055 ((~~Assessment process for selection as highly capable student.~~)) Process for assessment and identification of students who require accelerated learning and enhanced instruction (highly capable). (1) The superintendent of public instruction must require school districts to have identification and placement procedures for ((~~their highly capable programs~~)) services that ((~~are~~)) match student learning needs for accelerated and enhanced instruction. They must be clearly stated and implemented by school districts using the following ((~~criteria~~)) process:

(a) ((~~Districts must use multiple objective criteria to identify students who are among the most highly capable.~~)) Multiple pathways for ((~~qualifications~~)) qualification must be available ((~~and~~)) to allow students to qualify for different services using different criteria, as appropriate. Districts must use multiple criteria to assess and identify students' advanced learning needs in math and language arts. Multiple criteria means that multiple data points must be considered. However, any single criterion, if strong enough, may be sufficient to qualify a student for services, but no single criterion ((~~may disqualify~~)) can exclude a student from ((~~identification~~)) serv-

ices. If a student is excluded from highly capable services, there must be evidence of at least two objective data points demonstrating that a student would not benefit from accelerated learning and enhanced instruction. Students must not be disqualified or otherwise penalized for missing data;

(b) Highly capable ((~~selection~~)) placement decisions must be based on consideration of criteria benchmarked on local norms, when appropriate, but local norms may not be used as ((~~a~~)) more restrictive criteria than national norms;

(c) Subjective measures such as teacher, parent, community member recommendations, or report card grades may not be used to ((~~screen out~~)) exclude a student ((~~from assessment~~)) who otherwise qualifies for placement. These data points may be used alongside other criteria during ((~~selection~~)) placement to support identification, but may not be used to disqualify a student from being identified. Subjective measures shall be considered supplemental data, and must not be required for identification; and

(d) To the extent practicable, screening and assessments must be given in the native language of the student. If native language screening and assessments are not available, ((~~a~~)) nonverbal screening and assessment must be used.

(2) ((~~Students referred for selection as a highly capable student, unless eliminated through screening as provided in WAC 392-170-045, shall be assessed by qualified district personnel;~~)) Districts must consider at least two student data points during universal screening, which may include previously administered standardized, classroom-based, performance, cognitive, achievement assessments, or research-based behavior ratings scales. There is no requirement to administer a new assessment for the purpose of universal screening, however districts may do so if they desire.

(3) There is no single prescribed method for identification of students ((~~among the most~~)) for highly capable((~~,~~)) services.

(4) Districts shall have a clearly defined and written assessment process((~~; and~~)).

(5) Consistent with RCW 28A.185.020, district practices for identifying ((~~the most~~)) highly capable students must prioritize equitable identification of low-income students. Districts must use multiple pathways for identification, local norms, and other equitable identification strategies per WAC 392-170-046.

(6) Any screenings or additional assessment must be conducted within the school day at the school that the student attends. Exceptions may occur on a case-by-case basis with consent of the parent or guardian. Exceptions may include additional assessment opportunities during the summer, outside of school hours, or at an alternative site. Districts must provide transportation for all exceptions. If a district conducts assessments at an alternative site during the regular school year, in addition to securing parent permission, district transportation must take place within the regular school day. Any assessments administered as part of universal screening during the regular school year must be given in the student's regular classroom.

NEW SECTION

WAC 392-170-057 Use of local norms. Highly capable screening, identification, and placement decisions must be based on consideration

of criteria benchmarked on local norms, when appropriate. Local norms may not be used as more restrictive criteria than national norms at the same percentile and must never be used to limit the number of students identified for highly capable services.

One purpose of local norms is to help districts identify the strengths and potential of historically underrepresented students, and to interpret scores on standardized assessments that reduce test bias from lack of exposure to what is measured by the assessment instrument. Local norms should increase the number of students identified from historically underrepresented groups.

Local norms may be calculated based on an entire school district, an individual school building, an underrepresented demographic group such as low-income students, or multilingual students; a combination of these methods may be used. Local norms are not to be calculated for racial groups or gender. Local norms shall be used when appropriate for all standardized, objective data points when a sufficient local reference group is available.

AMENDATORY SECTION (Amending WSR 13-07-020, filed 3/12/13, effective 4/12/13)

WAC 392-170-060 Nondiscrimination in the use of tests. All ((~~tests and other evaluation materials used in the assessment shall have been validated for the specific purpose for which they are used and shall accurately reflect whatever factors the tests purport to measure. If properly validated tests are not available, the professional judgment of the qualified district personnel shall determine eligibility of the student based upon evidence of cognitive ability and/or academic achievement. This professional judgment shall be documented in writing.~~)) objective assessments used to determine placement in highly capable programs must be validated for measuring the abilities and skills they are intended to measure. Districts are to use appropriate instruments designed to reveal the advanced performance or potential of students.

All assessments shall be conducted by qualified district personnel who receive training to administer the assessment. Assessments must be given in an appropriate environment approved by the district assessment coordinator, following the protocol for proper administration using the assessment manual. If ratings scales are used, they must be validated by published, peer-reviewed research.

All IEP and/or section 504 plan accommodations shall be followed during the collection of data considered during the screening, identification, or placement process. Dyslexia screening measures may not be used to exclude students from highly capable services. Highly capable students may also have dyslexia. Be aware that dyslexia screening measures may inappropriately exclude students with disabilities from needed highly capable services, pursuant to chapter 28A.642 RCW. Dyslexia screening measures may be considered during identification to inform professional judgment for the purpose of including twice exceptional students.

If properly validated assessments are not available or student data are not conclusive, the professional judgment of the multidisciplinary placement committee shall determine eligibility of the student based on evidence of cognitive ability and/or academic achievement. This professional judgment shall be documented in writing. Professio-

nal judgment should be used to further equitable identification of historically underrepresented groups. Professional judgment may not be used to disqualify a student who is otherwise eligible for highly capable services.

AMENDATORY SECTION (Amending WSR 13-07-020, filed 3/12/13, effective 4/12/13)

WAC 392-170-070 Multidisciplinary ((~~selection~~)) placement committee. The multidisciplinary ((~~selection~~)) placement committee makes decisions for the ((~~final selection~~)) placement of ((~~the most highly capable~~)) students ((~~for participation~~)) in the district's highly capable program ((~~for highly capable students shall consist of the following professionals~~)). Members of the multidisciplinary placement committee shall have orientation on current research about the equitable identification of highly capable students (including twice exceptional, multilingual, low-income, and other historically underrepresented groups); validity, reliability, calibration, and interpretation of assessment results (including local norms); and understanding of the highly capable services available for student placement. The multidisciplinary placement committee shall consist of the following professionals:

(1) A ((~~special teacher: Provided, that if a special teacher~~)) highly capable specialist or, if a highly capable specialist is not available, a classroom teacher shall be appointed;

(2) A psychologist or other qualified practitioner with the training to interpret cognitive and achievement test results;

(3) A certificated coordinator/administrator with responsibility for the supervision of the district's program for highly capable students; and

(4) Such additional professionals, if any, the district deems desirable.

AMENDATORY SECTION (Amending WSR 18-03-012, filed 1/5/18, effective 2/5/18)

WAC 392-170-075 ((~~Selection of most highly capable.~~)) Placement of highly capable students for service. Each school district's board of directors shall adopt ((~~a selection~~)) an identification and placement policy, and ((~~school district~~)) shall establish written procedures ((~~for the selection of the most highly capable students~~)) to be used by the multidisciplinary ((~~selection~~)) placement committee for the placement of students who need accelerated learning and enhanced instruction. Such policy and ((~~selection~~)) placement procedures:

(1) Shall not violate federal and state civil rights laws including, without limitation, chapters 28A.640 and 28A.642 RCW;

(2) Shall ((~~be based on professional judgment as to which students will benefit the most from inclusion in the district's program~~)) place students into appropriate services in academic subjects based on the student's domain(s) of strength, to ensure that identification is aligned with services;

(3) Shall ((~~be based on a selection system that determines which students are the most highly capable as defined under WAC 392-170-055,~~

~~and other data collected in the assessment process~~)) identify students based on consideration of multiple data points to determine which students require accelerated learning and enhanced instruction, per WAC 392-170-055. At a minimum, districts must identify students in the domains of language arts and math; districts may identify in additional domains if they desire. No student may be excluded without at least two objective data points demonstrating that the student would not benefit from accelerated learning and enhanced instruction in a domain (i.e., language arts and/or math). Districts must collect adequate data for every student, and students must not be disqualified or otherwise penalized for missing data;

(4) Shall facilitate students receiving needed services as soon as possible after data is collected. For incoming transfer students with prior placement in accelerated services, the multidisciplinary placement committee must consider any recent, applicable student data, as well as records from the sending school to enable prompt, appropriate placement in the receiving school;

(5) Shall be based on the professional judgment of the multidisciplinary placement committee to determine which students require service, and include a written record of identification and services for students who are placed; and

((~~(4)~~)) (6) Consistent with RCW 28A.185.020, district practices for identifying ((~~the most highly capable~~)) students who need accelerated learning and enhanced instruction must prioritize equitable identification of low-income students.

AMENDATORY SECTION (Amending WSR 15-14-034, filed 6/23/15, effective 7/24/15)

WAC 392-170-076 Process for appeal. Each district shall have a ((~~clear and~~)) clearly written procedure for appealing the multidisciplinary ((~~selection~~)) placement committee's ((~~decision~~)) decisions and publicly disseminate this procedure ((~~to the public~~)), including a link to the appeal form when a student decision is communicated to a parent/guardian. Appeals shall be available for students considered during universal screening procedures, as well as via referrals.

NEW SECTION

WAC 392-170-077 Exit procedures. Students who are identified as highly capable must be provided opportunities for accelerated learning and enhanced instruction until they graduate from K-12 education. Districts must develop and publish a procedure for exiting students from highly capable services. Behavior, disabilities, lack of work completion, and poor attendance are not sufficient reasons to exit a student from highly capable services.

The exit procedure must include:

(1) A meeting with the parent/guardian of the student to discuss adjusting the highly capable service model to better match student needs;

(2) Discussion about possible disabilities to ensure that the student does not have an unrecognized or unsupported disability that impacts their access to highly capable services;

(3) Compelling student data that demonstrates that the student would no longer benefit from highly capable services. At least two objective data points in each area of highly capable qualification must be presented to exit a student in that subject domain;

(4) A multidisciplinary placement committee review of all available data to determine continued service placement for the student. Data points considered during this review must be documented in writing and shared with the parent/guardian prior to the multidisciplinary placement committee meeting; and

(5) A meeting with the parent/guardian of the student to communicate the outcome.

AMENDATORY SECTION (Amending WSR 13-07-020, filed 3/12/13, effective 4/12/13)

WAC 392-170-080 Educational program for highly capable students. Districts shall make a variety of appropriate services available to students who are placed in the district's program for highly capable students. Once services are started, a continuum of services shall be provided to the student at all grade levels K-12 from identification through graduation. Teachers shall be informed of the outcome of highly capable identification. Districts may begin to provide differentiated services as soon as possible following identification. If the student placement is offered and requires a change in school building or classroom placement, parent/guardian permission is required prior to starting service. Otherwise, a parent/guardian will be notified, but permission is not required prior to providing services to identified students.

Each student identified as a highly capable student shall be provided educational opportunities which ((~~take into account~~)) match such student's unique needs and capabilities((~~. Such program shall recognize the limits of the resources provided by the state and the program options available to the district, including programs in adjoining districts and public institutions of higher education.~~)), recognizing that students may have specific academic abilities within a single domain, such as in language arts, mathematics, or other content areas. Students shall be provided accelerated learning and enhanced instruction in academic subjects based on their identified domain(s) of strength. Students identified for reading strengths must receive accelerated learning and enhanced instruction in reading. Students identified for math must receive accelerated learning and enhanced instruction in math.

Students with disabilities who have an IEP or section 504 plan must have full access to accelerated learning and enhanced instruction in their identified domain(s) of strength, in addition to their indicated accommodations or specially designed instruction. Districts shall keep ((~~on file~~)) a description of the educational services/programs provided for students ((~~selected~~)) identified for placement. Consistent with WAC 392-170-077, districts shall not remove a student from accelerated learning and enhanced instruction services without conducting a formal exit process.

AMENDATORY SECTION (Amending WSR 19-03-152, filed 1/22/19, effective 2/22/19)

WAC 392-170-083 Guidance aligned with evidence-based practices. The superintendent of public instruction must disseminate guidance on best practices for highly capable programs that includes: Referral, screening, assessment, ((~~selection~~)) identification, and placement. The guidance must be regularly updated and aligned with evidence-based practices.

AMENDATORY SECTION (Amending WSR 06-18-105, filed 9/6/06, effective 10/7/06)

WAC 392-170-087 Program review and monitoring. ((~~In order~~)) To ensure that school districts are meeting the requirements of this chapter, the superintendent of public instruction shall monitor district services/programs no less than once every five years. Monitoring under this section may be conducted concurrently with other program reviews. The reviews shall include the previous five years of end of year reports and monitor additional program components including:

(1) The process used by the district to identify ((~~highly capable~~)) students who need accelerated learning and enhanced instruction;

(2) The number of students who have been identified as highly capable, as well as the number of students who have been placed in highly capable services, disaggregated by demographic groups and grade levels, pursuant to RCW 28A.185.050;

(3) Assessment data and other indicators to determine the degree to which districts are meeting the academic needs of identified students; and

((~~(3) Highly capable program expenditures~~)) (4) Professional learning opportunities provided.

AMENDATORY SECTION (Amending WSR 13-07-020, filed 3/12/13, effective 4/12/13)

WAC 392-170-090 End of year report. Districts shall submit to the superintendent of public instruction at the close of each fiscal year an end of ((~~the~~)) year report on forms provided by the superintendent of public instruction, which includes:

(1) ((~~Number of students served by grade level (K-12)~~)) A summary of the number of students served by grade level, level of service, and demographic group, in order to determine if the district's equitable identification goals have been met;

(2) ((~~Student demographic information;~~

~~(3)~~)) Data to determine if students ((~~who are~~)) receiving highly capable services met the goals set and if the ((~~programs~~)) services provided met the academic needs of these students;

((~~(4)~~)) (3) Number and content of professional development activities provided for special teachers and general education staff working with highly capable students, and the number of educators who attended; and

((~~(5)~~)) (4) Program evaluation data and, if needed, program changes that will be made based upon this information((~~; and~~

~~(6) Final fiscal report that reports on activities and staff funded by this program~~)).

NEW SECTION

WAC 392-170-097 Enabling OSPI data reporting. Districts shall provide up-to-date student placement information via comprehensive education data and research system (CEDARS), so that accurate disaggregated demographic information for each district can be generated.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 392-170-036	Definition—Learning characteristics.
WAC 392-170-042	Annual notification.
WAC 392-170-047	Parental/legal guardian permission.
WAC 392-170-078	Program services.