WSR 26-17-046
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed August 12, 2026, 10:35 a.m., effective September 12, 2026]

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

Purpose: The office of superintendent of public instruction is adopting rule making regarding how special education staff will apply to K-3 class size; physical, social, and emotional support (PSES); and certificated instructional staff ratio compliance calculations after changes were made to the special education allocation in E2SSB 5263 (2025). Additionally, the rule making being proposed would change the months when K-3 class size and PSES compliances would be calculated and would add a new duty root for PSES compliance.

Citation of Rules Affected by this Order: Amending WAC 392-122-435, 392-122-440, 392-122-455, 392-122-500, 392-122-505, 392-122-510, 392-122-515, 392-122-520, and 392-127-045.

Statutory Authority for Adoption: E2SSB 5263 (chapter 368, Laws of 2025); and RCW 28A.150.260, 28A.150.290, and 28A.300.072.

Adopted under notice filed as WSR 26-13-072 on June 15, 2026.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 9, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: August 12, 2026.

Chris P.S. Reykdal
State Superintendent of Public Instruction

RDS-7239.1

AMENDATORY SECTION (Amending WSR 24-14-074, filed 6/28/24, effective 7/29/24)

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.

AMENDATORY SECTION (Amending WSR 24-14-074, filed 6/28/24, effective 7/29/24)

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;
- Duty roots 91 - 99 - Activity 35 - Pupil safety.

(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~~)) not in the general education classroom as reported from the November special education federal child count.

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

WAC 392-122-455 Physical, social, and emotional support (PSES)—Penalty for noncompliance. (1) Penalty units identified by the calculations will be split between certificated instructional staff and classified staff based on the percentage that each contributes to the combined total of certificated instructional staff and classified staff in the physical, social, and emotional support staff for that school year at the state level.

(2) ((~~Any adjustments to those calculations will be made in January, March, and June apportionment payments.~~)) Calculations will be published in February and April. The final adjustment will be applied to the June apportionment payment.

AMENDATORY SECTION (Amending WSR 24-14-074, filed 6/28/24, effective 7/29/24)

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 RCW 28A.300.072 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.~~)) The final funded class size will be calculated in June apportionment and will be based on the actual average annual FTE enrollment reported in the P-223 as of June, the S275 reporting as of June, and any reported supplemental FTE teachers. Preliminary calculations will be provided in February and April.

(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.

AMENDATORY SECTION (Amending WSR 24-14-074, filed 6/28/24, effective 7/29/24)

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.

AMENDATORY SECTION (Amending WSR 24-14-074, filed 6/28/24, effective 7/29/24)

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~~)) not in the general education classroom as reported from the November special education federal child count.

(4) Teachers coded to program 02 alternative learning experience will be excluded.

AMENDATORY SECTION (Amending WSR 24-14-074, filed 6/28/24, effective 7/29/24)

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~~)) February, April, and June to be considered. Supplemental teacher FTE must be reported by individual grade level K, 1, 2, 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.

AMENDATORY SECTION (Amending WSR 24-14-074, filed 6/28/24, effective 7/29/24)

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.

The final funded class size will be calculated in June apportionment and will be based on the actual average annual FTE enrollment reported in the P-223 as of June, the S275 reporting as of June, and any reported supplemental FTE teachers. Preliminary calculations will be provided in February and April.

RDS-7242.1

AMENDATORY SECTION (Amending WSR 08-04-027, filed 1/29/08, effective 2/29/08)

WAC 392-127-045 FTE basic education certificated instructional employee—Definition. As used in this chapter, "full-time equivalent basic education certificated instructional employee" means the full-time equivalent calculated pursuant to WAC 392-121-215 for:

(1) A basic education certificated instructional employee as defined in WAC 392-121-210; and

(2) A special education certificated instructional employee, in program 21, as determined by the following:

(a) The total special education, program 21, certificated instructional staff assigned to grades kindergarten through ((~~twelve~~)) 12;

(b) ((~~Times the annual percentage used in determination of a district's 3121 revenue the special education cost accounting method required pursuant to section 507 (2)(b) of the 2007 supplemental operating budget~~)) Multiplied by the annual percentage of students receiving special education instruction not in the general education classroom as reported from the November special education federal child count.