

AMENDATORY SECTION (Amending WSR 07-13-035, filed 6/13/07, effective 7/22/07)

WAC 392-501-600 General description. RCW 28A.655.065 directs the superintendent of public instruction to develop guidelines and appeal processes for waiving specific requirements in RCW 28A.655.061 pertaining to the certificate of academic achievement and RCW 28A.155.045 pertaining to the certificate of individual achievement for students who have special, unavoidable circumstances.

[Statutory Authority: RCW 28A.655.061 and 28A.655.065. 07-13-035, § 392-501-600, filed 6/13/07, effective 7/22/07.]

AMENDATORY SECTION (Amending WSR 07-13-035, filed 6/13/07, effective 7/22/07)

WAC 392-501-601 Eligibility and application requirements.

(1) A student, or a student's parent or guardian may file an appeal to the superintendent of public instruction if the student has special, unavoidable circumstances that prevented the student, during the student's twelfth grade year, from successfully demonstrating his or her skills and knowledge on the Washington assessment of student learning (WASL), on an objective alternative assessment authorized in RCW 28A.655.061 or 28A.655.065, or on a Washington alternate assessment available to students eligible for special education services.

(2) Special, unavoidable circumstances shall include the following:

(a) Not being able to take or complete an assessment because of:


(i) The death of a parent, guardian, sibling or grandparent;


(ii) An unexpected and severe medical condition. The condition must be documented by a medical professional and included with the application; ~~((or))~~


(iii) Another unavoidable event of a similarly compelling magnitude that reasonably prevented the student from sitting for or completing the assessment; or


(iv) A student's cognitive development being identified at the


awareness level. Students with cognitive development at the awareness level exhibit behaviors that include, but are not limited to, the following:


 Having limited intentionality and being unable to communicate using presymbolic strategies.

 Reactions to environmental stimuli are limited to crying, opening eyes, movement, etc.

 Behavior not under the student's control but reflects a general physical state (e.g., hungry, wet, sleepy).

 Being conscious (awake) during limited times each day.

 Requiring parents, teachers, or other adults to interpret the child's state from behaviors such as sounds, body movements, and facial expressions.

 Other criteria as defined by the superintendent of public instruction's guidelines posted to the agency web site.

Research defining cognitive development at the awareness level continues to be refined and detailed. Outcomes from continued research will translate to the criteria and guidelines referenced above.

(b) A major irregularity in the administration of the assessment;

(c) Loss of the assessment material;

(d) Failure to receive an accommodation during administration of the assessment that was documented in the student's individualized education program that is required in the federal Individuals with Disabilities Education Act, as amended, or in a plan required under in Section 504 of the Rehabilitation Act of 1973;

(e) For students enrolled in the state transitional bilingual instructional program, failure to receive an accommodation during the administration of the assessment that was scheduled to be provided by the school district; or

(f) Students who transfer from an out-of-state or out-of-country school to a Washington public school in the twelfth grade year after March 1.

(3) To file an appeal, the student or the student's parent or guardian, with appropriate assistance from school staff, must complete and submit to the principal of the student's school (~~(an)~~) one of two appeal application (~~(en-a)~~) forms developed by the superintendent of public instruction. A specific appeal application form is provided for students falling under the criteria of subsection (2)(a)(iv) of this section.

(4) For all criteria other than that in subsection (2)(a)(iv) of this section, the application shall require that the following be submitted: All available score reports from prior standardized assessments taken by the student, the medical condition report (if applicable), and the student's transcript. The principal of the school shall review the application and accompanying material and certify that, to the best of his or her knowledge, the information in the application is accurate and complete. For students under the criteria of subsection (2)(a)(iv) of this section the following steps are required to be documented on the appeal form and may be applied for in all or a single tested content area of study:

(a) The student is in high school and is designated as being in the 11th or 12th grade.

(b) The individualized education program (IEP) team as identified under WAC 392-172A-03095, through an evaluation of the student's behaviors and educational history, determines that the student is functioning at the awareness level (as defined above).

(c) The special education teacher responsible for the individualized education program or IEP of the student completes and signs an awareness waiver application form and documents the student's nonparticipation in the state assessment system in the student's IEP.

(d) The waiver application form is submitted to the district's special education director for review, verification, and signature.

(e) Upon verification, the district special education director files the waiver application form with the district assessment coordinator.

(f) The district assessment coordinator signs and faxes the waiver application form to the superintendent of public instruction.

~~((4))~~ (5) Once the principal certifies that the application and accompanying material is accurate and complete, the principal shall transmit the application to the state superintendent of public instruction.

~~((5))~~ (6) Applications must be received by the superintendent of public instruction on or before May 1 ~~((or))~~, August 1, or October 1. The May 1 deadline is intended primarily for students who were not able to participate in the spring assessment, ~~((while))~~ the August deadline is intended primarily for students who decide to file an appeal after receiving their scores in June, and the October deadline is intended for students who were not able to participate

or may have experienced testing irregularities in the August assessment.

[Statutory Authority: RCW 28A.655.061 and 28A.655.065.
07-13-035, § 392-501-601, filed 6/13/07, effective 7/22/07.]

AMENDATORY SECTION (Amending WSR 07-13-035, filed 6/13/07,
effective 7/22/07)

WAC 392-501-602 High school graduation certificate appeals review board and approval criteria. (1) The high school graduation certificate appeals review board shall be created to review and make recommendations to the superintendent of public instruction on all special, unavoidable circumstance appeal applications except those covered under WAC 392-501-601 (2)(a)(iv).

(2) The superintendent of public instruction shall appoint ~~((five))~~ eight members total to the board, five voting members and three alternates (for cases of unanticipated absenteeism or potential conflict of interest on the part of a regular voting member). The board shall be chaired by a current or former high school principal and shall consist of current or former teachers, department heads, and/or school district assessment directors with experience and expertise in the Washington essential academic learning requirements. Each member shall be appointed for a three-year term, provided that the initial terms may be staggered as the superintendent deems appropriate.

(3) The high school graduation certificate appeals review board shall review applicable special, unavoidable circumstance appeal applications submitted to it by the superintendent of public instruction. The board shall:

(a) Review the written information submitted to the superintendent to determine whether sufficient evidence was presented that the student has the required knowledge and skills; and

(b) Make a recommendation to the superintendent, based on the criteria in subsection (6) of this section, regarding whether or not the appeal should be granted.

(4) Staff from the office of (~~the~~) superintendent of public instruction (OSPI) shall coordinate and assist the work of the board. In this capacity, staff from the OSPI shall prepare a preliminary analysis of each application and accompanying information that evaluates the extent in which the criteria in subsection (6) of this section have been met.

(5) If the board determines that additional information on a particular student is needed in order to fulfill its duties, the chair of the board shall contact the OSPI staff to request the information.

(6) The board shall recommend to the superintendent of public instruction that the appeal be granted if it finds that:

(a) The student, due to special, unavoidable circumstances as defined in WAC 392-501-601(2), was not able to successfully demonstrate his or her skills on the WASL, on an objective alternative assessment, or on a Washington alternate assessment available to students eligible for special education services;

(b) No other recourse or remedy exists to address the special, unavoidable circumstance prior to the student's expected graduation date;

(c) The student has met, or is on track to meet, all other state and local graduation requirements; and

(d) After considering the criteria below, in the board's best judgment, the student more likely than not possesses the skills and knowledge required to meet the state standard. The board shall consider the following criteria:

(i) Trends indicated by prior WASL or alternate assessment results;

(ii) How near the student has been in achieving the standard;

(iii) Scores on other assessments, as available;

(iv) Participation and successful completion of remediation courses and other academic assistance opportunities;

(v) Cumulative grade point average;

(vi) Whether the student has taken advanced placement, honors, or other higher-level courses; and

(vii) Other available information deemed relevant by the board.

(7) Based upon the recommendation of the high school graduation appeals board and any other information that the superintendent deems relevant, the superintendent of public instruction shall decide, based on the criteria established in subsection (6) of this section, whether to:

(a) Grant the appeal and waive the requirement that a student earn a certificate to graduate;

(b) Deny the appeal and not waive the certificate; or

(c) Remand the appeal back to the appeals board for further information or deliberation.

(8) The superintendent of public instruction shall act upon the student's application and notify the student, the student's school principal or designee, and the school district assessment coordinator whether the application was approved or denied within thirty days of the deadline for receiving the recommendation from the certificate appeals review board. This deadline for acting on the application may be extended if additional information is required from the student or the school district.

(9) For students appealing under the criteria of WAC 392-501-601 (2)(a)(iv):

(i) Staff from the office of superintendent of public instruction shall record a status of "waived" for the student followed by a confirmation e-mail to the student's high school principal and the district assessment coordinator.

(ii) The school shall complete all necessary school and district documentation, including but not limited to, IEP documentation.

(10) If approved, the student's transcript shall indicate that the applicable certificate was waived.

~~((10))~~ (11) School staff shall include a copy of the application, supporting information, and the superintendent's decision in the student's cumulative folder.

[Statutory Authority: RCW 28A.655.061 and 28A.655.065.
07-13-035, § 392-501-602, filed 6/13/07, effective 7/22/07.]