OSPI Rule Making Public Hearings

Public Hearings and Comment Period for Rule Making

OSPI will hold a public hearing for proposed changes to rules, also known as Washington Administrative Code (WAC). Changes to the following WAC chapters and sections are being considered:

- chapter 392-341 WAC
- chapter 392-343 WAC
- chapter 392-347 WAC

The purpose of the hearings and comment period is to provide the public with an opportunity to comment on the proposed changes to the WAC/rule language. **Please review the proposed changes before submitting comments or testifying.**

Participating in the Public Hearing and Comment Period

Due to public health concerns caused by the COVID-19 virus, the public hearing will be held online, via Zoom. An in-person hearing (physical location) will not be available.

You can participate in the rules hearing and comment period by:

1. **Submitting written comments by May 27, 2021:**
    - Email: schoolfacilitiesrules@k12.wa.us
    - Mail: OSPI, Attn: Scott Black, PO Box 47200, Olympia, WA 98504
2. **Attend the public hearing (webinar).** Please follow the link below to register to participate in the hearing. Once registered, you will be provided the hearing link.
    - May 27, 2021 at 10:00 a.m.
    - If you plan to testify during the hearing, please indicate that when you register. In order to allow all those interested a chance to testify, each person will have up to five (5) minutes to comment on the proposed WAC language changes during the hearing. Please ensure your comments are specific to the proposal.

AMENDATORY SECTION (Amending WSR 10-09-008, filed 4/8/10, effective 5/9/10)

WAC 392-341-025 State study and survey—Content. The study and survey to be conducted by the superintendent of public instruction with the cooperation of the local school district shall include the following:

(1) An inventory and area analysis of existing school facilities within the district, a description of the types and kinds of systems and subsystems used in those facilities and their physical condition;

(2) A long-range (i.e., minimum of six years) educational and facilities plan setting forth the projected facility needs and priorities of the district based on the educational plan((~~;~~

~~(3)~~)), including a discussion of the need for adjustments of school attendance areas within the district, and supplemented by the following information:

(a) Demographic data including population projections and projected economic growth and development. OSPI shall provide projected enrollment based on most recent October enrollments. District shall provide most recent October enrollments of developmentally disabled students;

((~~(4)~~)) (b) The ability of such district to provide capital funds by local effort;

((~~(5)~~)) (c) The existence of a school housing emergency as defined by RCW 28A.525.166 (5)(a);

((~~(6)~~)) (d) The need to improve racial balance and/or to avoid creation or aggravation of racial imbalance: OSPI shall provide diversity report based on most recent October enrollments and enrollment data reported by district;

((~~(7)~~)) (e) The type and extent of new and/or additions to existing school facilities required and the urgency of need for such facilities;

((~~(8)~~)) (f) A cost/benefit analysis on the need to modernize and/or replace existing school facilities in order to meet current educational needs and the current state building code;

((~~(9) The need and the estimated capital cost to restore, to design specifications, the major systems and subsystems in the facilities that have deteriorated due to deferred maintenance.~~

~~(10)~~)) (g) A determination of the district's time line for completion of the school facilities project(s); and

((~~(11) An inventory of accessible unused or underutilized school facilities in neighboring school districts and the physical condition of such school facilities;~~

~~(12) The need for adjustments of school attendance areas among or within such districts; and~~

~~(13)~~)) (3) Such other matters as the superintendent of public instruction deems pertinent to decision making in the allocation of funds for school facilities, or that the applicant district deems relevant. Cooperation by the applicant school district in conducting the study and survey is a requisite for the superintendent of public instruction to complete the study and survey and to establish the eligibility of the district for state funding assistance in school facility construction.

AMENDATORY SECTION (Amending WSR 10-09-008, filed 4/8/10, effective 5/9/10)

WAC 392-341-045 Approval criteria for state funding assistance. The superintendent of public instruction shall conditionally agree to state funding assistance for a school facility or facilities for a school district that demonstrates the following:

(1) The existence of unhoused students which for the purpose of this section shall mean current or projected enrolled students who are in excess of the capacity calculated for existing facilities within the district pursuant to chapter 392-343 WAC: Provided, That current or projected enrolled students shall not be designated as unhoused for a high school district of application which has a student enrollment of four hundred or less in grades nine through twelve, if the students involved or affected can be served without undue inconvenience in a neighboring school, or schools of larger size and the neighboring school district has indicated a willingness to serve, and has the capacity to house the applying district high school students; and

(2) The ability of the district to obtain capital funds to provide the local share required for state funding assistance: Provided, That the existence of unhoused students provision of subsection (1) of this section shall not be required for approval of the following school facilities projects: Interdistrict cooperative centers authorized by chapter 392-345 WAC, interdistrict transportation cooperatives authorized by chapter 392-346 WAC, and modernization and new-in-lieu of modernization construction authorized by chapter 392-347 WAC.

AMENDATORY SECTION (Amending WSR 10-09-008, filed 4/8/10, effective 5/9/10)

WAC 392-341-200 Applications and forms. Applications and forms applicable to provisions of this chapter for school facilities shall be as follows:

(1) Applications for a state study and survey by a district pursuant to WAC 392-341-020 shall be designated as ((~~SPI Form D-1~~)) OSPI D-1 Application.

(2) State planning grants to districts pursuant to WAC 392-341-030 shall be awarded to such districts through ((~~SPI~~)) OSPI D-2 Form ((~~D-2~~)).

(3) Applications for approval of a school project by a district pursuant to WAC 392-341-040 shall be designated as ((~~SPI Form D-3~~)) OSPI D-3 Application.

(4) Project approval for districts pursuant to WAC 392-341-040 shall be awarded to such district through ((~~SPI~~)) OSPI D-4 Form ((~~D-4~~)).

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 392-341-060	Eligibility for state funding assistance for new construction——Definition——Contiguous school district.
WAC 392-341-065	Eligibility for state funding assistance for new construction——Definition——Negotiate in good faith.
WAC 392-341-070	Eligibility for state funding assistance for new construction——Survey of suitable school facilities in contiguous school districts that are unused or underutilized.
WAC 392-341-075	Eligibility for state funding assistance for new construction——Contents of survey.
WAC 392-341-080	Eligibility for state funding assistance for new construction——Application to superintendent of public instruction——Necessary documentation.
WAC 392-341-085	Eligibility for state funding assistance for new construction——Review of survey of available and suitable school plant facilities in contiguous school districts.
WAC 392-341-090	Eligibility for state funding assistance for new construction——Approval by the superintendent of public instruction of applicant's school district certification.

AMENDATORY SECTION (Amending WSR 06-16-032, filed 7/25/06, effective 8/25/06)

WAC 392-343-040 Square foot area analysis. The square foot area analysis, when submitted for review by the superintendent of public instruction shall be calculated in accordance with ((~~the American Institute of Architects, Document D101, *The Architectural Area and Volume of Buildings*, latest edition, except for the following areas which shall not be counted:~~

~~(1) Exterior covered walkways, cantilevered or supported;~~

~~(2) Exterior porches, including loading platforms; and~~

~~(3) Spaces above occupied areas which are either vacant or primarily housing mechanical and/or electrical equipment~~)) WAC 392-343-019.

The analysis shall be reported on a form prepared by the superintendent of public instruction.

AMENDATORY SECTION (Amending WSR 10-09-008, filed 4/8/10, effective 5/9/10)

WAC 392-343-075 Energy conservation report. In compliance with the provisions of chapter 39.35 RCW, school districts constructing school facilities shall complete an energy conservation report for any new construction or for additions to and modernization of existing school facilities, which will be reviewed ((~~by the Washington state department of general administration~~)) in accordance with chapter 39.35 RCW, and approved by the school district board of directors. One copy of the executive summary of said approved energy conservation report((~~, approved by the district board of directors,~~)) shall be filed with the office of the superintendent of public instruction. The amount of state funding assistance for which a district is eligible for the preparation of the energy conservation report shall be the state funding assistance percentage multiplied ((~~by ten thousand dollars. The amount of state funding assistance for which a district is eligible shall be the state funding assistance percentage multiplied~~)) by the fee charged, up to a maximum of the state funding assistance percentage multiplied by ten thousand dollars.

AMENDATORY SECTION (Amending WSR 10-09-008, filed 4/8/10, effective 5/9/10)

WAC 392-347-015 Eligibility for state funding assistance. (1) In order to be eligible for state funding assistance, a modernization project shall have as its principal purpose one or more of the following:

(a) Bringing a facility into compliance with current building and health codes when so required by state or local health or safety officials;

(b) Changing the grade span grouping by facility by the addition, deletion, or combination thereof of two or more grades within the affected facility;

(c) The reduction of the number of operating school facilities in a district by combining the remaining school facilities through modernization and new capital construction so as to achieve more cost effective and efficient operation in the combined school facility or facilities. In order to be eligible for state funding assistance, such a project shall result in additional space for at least ((~~100~~)) one hundred additional pupils and the following enrollment in any combined facility:

(i) Elementary school facility—((~~500~~)) Five hundred pupils;

(ii) Middle or junior high school facility—((~~700~~)) Seven hundred pupils;

(iii) Senior high school facility—((~~850~~)) Eight hundred fifty pupils:

Provided, That modernization projects in school districts with a high school enrollment of less than ((~~850~~)) eight hundred fifty pupils need not comply with the enrollment figures set forth above: Provided further, That unless the district demonstrates the existence of unhoused students, state funding assistance for the new construction component of a combined modernization and new construction project shall be limited to the provision of WAC 392-347-040; or

(d) Meeting the educational program of the facility.

(2) School districts shall certify that a proposed modernization project will extend the life of the modernized school facility by at least ((~~twenty~~)) thirty years.

(3) School districts shall be ineligible for state funding assistance for modernization of any school facility accepted by the school district board of directors prior to January 1, 1993, where the principal purpose of that modernization project is to:

(a) ((~~Restore building systems and subsystems that have deteriorated due to deferred maintenance;~~

~~(b)~~)) Perform piecemeal work on one section or system of a school facility;

((~~(c)~~)) (b) Modernize a facility or any section thereof which has been constructed within the previous twenty years;

((~~(d)~~)) (c) Modernize a facility or any section thereof which has received state funding assistance under the authority of this chapter within the previous twenty years;

((~~(e) To~~)) (d) Modernize a senior high school facility in a district with a senior high school where there is existing space available to serve the students involved or affected in a neighboring senior high school without, in the judgment of the superintendent of public instruction, an undue increase in the cost of transporting the stu-

dents to and from school, decrease in educational opportunity, or proportional increase in the cost of instruction pursuant to chapter 392-341 WAC.

(4) School facilities accepted by the school district board of directors after January 1, 1993, shall be ineligible for state funding assistance for modernization of the facility or any section thereof where:

(a) The facility was constructed and occupied within the previous thirty years;

(b) The facility received state funding assistance under the authority of this chapter within the previous thirty years.

AMENDATORY SECTION (Amending WSR 10-09-008, filed 4/8/10, effective 5/9/10)

WAC 392-347-035 Minimum project—Forty percent of replacement costs. (1) State funding assistance in modernization of school facilities shall be limited to projects which may include an entire facility or one or more complete buildings within a facility for which the estimated cost of major structural change is not less than forty percent of the estimated cost of replacement. ((~~The estimated cost of major structural change shall not include the estimated capital costs associated with restoring building systems or subsystems due to deterioration as determined in the study and survey to be caused by deferred maintenance.~~)) The estimated cost of replacement shall be derived from multiplication of the total square foot area of the facility or facilities proposed for modernization by the construction cost allocation for the fiscal year funded as in WAC 392-343-045 set forth.

(2) The superintendent of public instruction may grant a waiver from subsection (1) of this section in the event of an unanticipated increase in the construction cost allocation that might cause prior approved projects expecting state funding assistance to become disqualified for such assistance.