

Chapter 392-901 WAC
SPECIAL RULES FOR EMERGENCY SCHOOL CLOSURES IN THE 2019-20 SCHOOL YEAR

NEW SECTION

WAC 392-901-005 Authority. (1) The authority for this chapter is RCW 28A.150.290(2), which authorizes the superintendent of public instruction to make rules establishing the terms and conditions for allowing a school district to receive state basic education moneys when, due to an emergency school closure, the district is unable to fulfill the following statutory requirements:

(a) One hundred eighty days of operation; or

(b) The total program hour offerings or teacher contact hours requirements imposed by law.

(2) This chapter is further authorized by RCW 28A.150.290(1), which provides that the superintendent has the power and duty to make such rules and regulations as are necessary for the proper administration of, among other things, chapter 28A.150 RCW and RCW 28A.300.170 not inconsistent with the provisions thereof, and in addition to require such reports as may be necessary to carry out the superintendent's duties under chapter 28A.150 RCW and RCW 28A.300.170.

(3) This chapter is further authorized by RCW 28A.230.100, which provides that the superintendent shall adopt rules to implement the course requirements set forth in RCW 28A.230.090. The rules shall include, as the superintendent deems necessary, granting equivalencies for and temporary exemptions from the course requirements in RCW 28A.230.090 and special alterations of the course requirements in RCW 28A.230.090.

(4) This chapter is further authorized by RCW 28A.230.125, which provides that the superintendent shall develop for use by all public school districts a standardized high school transcript.

(5) This chapter is further authorized under RCW 28A.710.040(5), which provides that public charter schools are subject to the supervision of the superintendent of public instruction to the same extent as other public schools.

NEW SECTION

WAC 392-901-010 Purpose. The purpose of this chapter is to establish the terms and conditions governing local education agencies' entitlement to receive state basic education apportionment allocations during the 2019-20 school year when the local education agencies could not offer the statutory minimum number of school days or annual average total instructional hour offerings due to emergency school closures caused by the COVID-19 epidemic and other unforeseen events.

NEW SECTION

WAC 392-901-015 Application. (1) Unless provided otherwise herein, this chapter supersedes chapter 392-129 WAC when chapter 392-129 WAC and this chapter are in conflict.

(2) This chapter applies to common school districts, charter public schools, and state-tribal education compact schools.

(3) This chapter shall be effective only for the 2019-20 school year.

NEW SECTION

WAC 392-901-020 Definitions. As used in this chapter, the term:

(1) "Continuous learning" means establishing and maintaining connections with students and families to provide learning materials and supports using a variety of modalities including, but not limited to, email, telephone, printed learning materials, or available online platforms, taking into account recommendations provided by the office of the superintendent of public instruction in its published guidance and as required under this chapter and applicable state and federal law.

(2) "Emergency school closure" means:

(a) An unforeseen natural event including, but not necessarily limited to, a fire, flood, explosion, storm, earthquake, epidemic, or volcanic eruption that has the direct or indirect effect of rendering one or more local education agency facilities unsafe, unhealthy, inaccessible, or inoperable; and

(b) An unforeseen mechanical failure or an unforeseen action or inaction by one or more persons, including negligence and threats, that:

(i) Is beyond the control of a local education agency; and

(ii) Has the direct or indirect effect of rendering one or more school facilities unsafe, unhealthy, inaccessible, or inoperable. Such actions, inactions or mechanical failures may include, but are not necessarily limited to, arson, vandalism, riots, insurrections, bomb threats, bombings, delays in the scheduled completion of construction projects, and the discontinuance or disruption of utilities such as heating, lighting and water.

An unforeseen action or inaction shall not include any labor dispute between a local education agency governing board and any of its employees.

(3) "Instructional hour" means the same as defined in RCW 28A.150.205.

(4) "Local education agency" means a common school district, charter school established under chapter 28A.710 RCW, or state-tribal education compact school operated according to the terms of a state-tribal education compact authorized under chapter 28A.715 RCW.

(5) "School day" means the same as defined in WAC 392-121-033.

(6) "School year" means the same as defined in WAC 392-121-031.

NEW SECTION

WAC 392-901-025 Emergency school closure waiver—Terms and conditions. (1) The superintendent of public instruction will waive the school days and instructional hours statutory requirements that a local education agency was unable to meet in the 2019-20 school year due to an emergency school closure if:

(a) The local education agency implemented a plan that meets the minimum standards for continuous learning for the 2019-20 school year as provided under WAC 392-901-030;

(b) The local education agency's governing board adopts a resolution approving the continuous learning plan no later than May 29, 2020;

(c) The local education agency extends the school year by a minimum of an additional five school days beyond the final regularly scheduled school day of the school calendar previously adopted by the local education agency for the 2019-20 school year. Provided, nothing herein requires a local education agency to extend its school year beyond June 19, 2020. Provided further, that, pursuant to RCW 28A.150.220 (5)(c), nothing herein precludes local educational agencies from scheduling the last five school days of the school calendar for noninstructional purposes including, but not limited to, the observance of graduation and early release from school for students who are graduating from high school;

(d) The local education agency's governing board supports the emergency waiver request; and

(e) The local education agency submits an application to the superintendent requesting an emergency waiver in accordance with WAC 392-901-035.

(2) If the superintendent waives the statutory school days and average annual instructional hour offerings requirements pursuant to this chapter, the local education agency shall receive its full annual allocation of state basic education apportionment.

NEW SECTION

WAC 392-901-030 Plan for continuous learning for all students—Minimum standards. (1) **Opportunity to learn.** A local education agency's plan for continuous learning must make available to all enrolled students the opportunity to engage in educational opportunities planned by and under the direction of local education agency staff, as directed by its administration and governing board.

(2) **Learning standards.**

(a) Under the local education agency's plan for continuous learning, administrators, principals, and teachers must determine which Washington state student learning standards, skills, and knowledge are most essential for success in students' next courses, content, grade level or post-secondary pursuit.

(b) In accordance with RCW 28A.150.240, teachers must continue to evaluate and communicate student educational growth and progress to families and school administrators on a periodic basis based on the learning standards that are taught in accordance with this subsection.

(3) **Record of student engagement.**

(a) The local education agency's plan for continuous learning must establish a district- or school-based system of collecting information regarding student engagement daily or weekly to determine if students are responding to district- or school-initiated communication and participating in continuous learning. Local education agencies are not required to collect student attendance information for the purpose of reporting student enrollment pursuant to chapter 392-121 WAC.

(b) Local education agencies must not file truancy petitions with the juvenile court under RCW 28A.225.030 for any absences occurring on or after March 17, 2020.

(4) **Academic grading.** When providing continuous learning to students, local education agencies shall award grades for assessment of student learning during school facilities closures after March 17, 2020. In awarding grades, local education agencies must meet the following standards:

(a) Local education agencies must continue using grades as a means of communicating student academic progress and determining high school credit in accordance with chapter 392-415 WAC, unless otherwise provided in this section.

(b) Local educational agencies shall not:

(i) Award a letter grade to a student that is less than the letter grade the student had earned in the course as of March 17, 2020; or

(ii) Award a numerical or nonnumerical fail or "F" grade to a student in any course completed after March 17, 2020.

(c) Local education agencies may award a nonnumerical grade of incomplete "I" to a student if:

(i) (A) The student was engaged in continuous learning after March 17, 2020, but did not meet learning standards expectations established by the teacher prior to the close of the 2019-20 school year;

(B) The local education agency was unable to establish reliable and ongoing contact with the student after March 17, 2020; or

(C) The student declined to engage in continuous learning opportunities made available by the teacher under subsection (2) of this section and RCW 28A.150.240 after March 17, 2020.

(ii) The local education agency has developed a plan for students who receive an incomplete "I" to complete the course or demonstrate proficiency against identified learning standards at a future time.

(d) Local education agencies must provide parents an opportunity to request an incomplete for students who could not engage in continuous learning after March 17, 2020.

(e) Local education agencies must provide students multiple opportunities to demonstrate their proficiency in order to earn a passing grade.

(f) (i) A grade of "I" shall be used to indicate an incomplete course.

(ii) An incomplete "I" grade shall not be included in the calculation of a student's grade point average.

(iii) High school transcripts issued for a grading term, semester, quarter, or trimester subject to this chapter must have a notation that the grading term, semester, quarter, or trimester occurred during a school facilities closure related to the COVID-19 epidemic.

(g) (i) Local education agencies that used nonnumerical passing grades in courses or programs that began prior to March 17, 2020, may continue to use nonnumerical passing grades in those courses or programs.

(ii) A local education agency that is a party to an agreement with an institution of higher education or statewide dropout reengagement program approved under RCW 28A.175.105 regarding the awarding of credits to students may follow the grading policies in those agreements.

(iii) Under no circumstances may a student be awarded a numerical or nonnumerical fail or "F" grade for courses under this subsection.

(h) For purposes of this section, "nonnumerical grades" are marks/grades earned by students in courses that are not factored into the student's grade point average as provided in WAC 392-415-050 and 392-415-055. "Numerical grades" are letter marks/grades earned by students in courses as provided in WAC 392-415-050.

(5) **All student groups.** The local education agency plan for continuous learning must identify the local education agency's strategies for providing learning opportunities for all students, including students of color, English language learners, students in foster care, students who are low-income, students who are mobile, students experiencing homelessness, students who are migratory, students with a military parent(s), students receiving Section 504 services, students with disabilities, and students who are highly capable.

NEW SECTION

WAC 392-901-035 Emergency school closure waiver—Application to superintendent. A local education agency applying for continuation of state apportionment under this section must submit the following information on a form provided by the office of the superintendent of public instruction:

- (1) The name of the local education agency;
- (2) The name of the lead administrator of the local education agency;
- (3) A statement that the governing board of the local education agency has reviewed the application and supports its submittal;
- (4) A statement that the local education agency has implemented a plan for continuous learning for all students;
- (5) A statement that the plan for continuous learning implemented by the local education agency meets the minimum standards for continuous learning as provided in this chapter; and
- (6) Any other information as prescribed in the application form.

NEW SECTION

WAC 392-901-040 Emergency school closure—Documentation and reporting requirements. Local education agencies must:

- (1) Retain any documentation required by this chapter, including the local education agency's continuous learning plan, in accordance with established records retention schedules; and
- (2) Timely submit all data, reports, and other information requested by the superintendent of public instruction regarding the local education agency's compliance with this chapter.