

OSPI Rule Making Public Hearing

Public Hearing 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 or sections are being considered:

- **Chapter 392-162 WAC, re: Learning Assistance Program (LAP)**

The purpose of the hearing 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 ongoing 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 Wednesday, May 25, 2022:

- **Email:** annie.pennell@k12.wa.us (please include "Rules" in email subject line)
- **Mail:** OSPI, Attn: Annie Pennell, 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 receive the hearing link via email.

- [Wednesday, May 25, 2022 at 1:00 p.m. \(hearing registration link\)](#)
- If you plan to testify during the hearing, please indicate that when you register. For those testifying, each person will have up to five (5) minutes to comment during the hearing. Please ensure your comments are specific to the proposed WAC language.

For questions about the rules hearing process, please contact the OSPI Rules Coordinator, Kristin Murphy, at Kristin.murphy@k12.wa.us.



AMENDATORY SECTION (Amending WSR 18-02-082, filed 1/2/18, effective 2/2/18)

WAC 392-162-005 Authority. The authority for this chapter is RCW 28A.165.075, which authorizes the superintendent of public instruction to adopt rules (~~and regulations~~) for the administration of the learning assistance program.

AMENDATORY SECTION (Amending WSR 18-02-082, filed 1/2/18, effective 2/2/18)

WAC 392-162-010 Purpose. The learning assistance program requirements in this chapter are designed to:

~~(1) ((Guide school districts in addressing the needs of students in grades kindergarten through four who are deficient in reading or reading readiness skills to improve reading literacy;~~

~~(2)) Promote the use of data when developing programs to assist students who are not meeting academic standards ((and reduce disruptive behaviors in the classroom)); and~~

~~((3)) (2) Guide school districts in providing the most effective and efficient practices when implementing supplemental instruction and services to assist students who are not meeting academic standards ((and reduce disruptive behaviors in the classroom; and~~

~~(4) Guide school districts in providing extended learning opportunities to assist K-12 students who are not meeting academic standards in English language arts or mathematics, students identified in eighth grade in need of high school transition services which could continue up through the end of ninth grade, and students in grades eleven and twelve who are at risk of not meeting state and local graduation requirements)).~~

AMENDATORY SECTION (Amending WSR 16-16-078, filed 7/29/16, effective 9/1/16)

WAC 392-162-015 Definitions(~~(Basic skills)~~). As used in this chapter, the ~~((term "basic skills" means English language arts or mathematics, as well as readiness associated with these skills.))~~ terms:

(1) "District" means a school district, public charter school, or school authorized to operate as a state-tribal education compact school in accordance with chapter 28A.715 RCW.

(2) "Literacy screening tool" means one of the literacy screening tools identified and approved by the dyslexia advisory council and the office of the superintendent of public instruction in accordance with RCW 28A.300.700.

NEW SECTION

WAC 392-162-016 Application. As described in RCW 28A.165.057, two application periods exist:

(1) The first timeline applies immediately and continues through the later of:

(a) The expiration or termination of Proclamation 20-05, and any subsequent orders extending or amending the proclamation, declaring a state of emergency on February 29, 2020, for all counties in Washington due to COVID-19; or September 1, 2025, whichever is later.

(b) During the first timeline described in subsection (1)(a) of this section, school districts must budget and expend the appropriations for the learning assistance program, under RCW 28A.165.005 through 28A.165.065, to identify students who are not meeting academic standards and address their academic and nonacademic needs resulting from and exacerbated by the COVID-19 pandemic.

(c) During the first timeline described in subsection (1)(a) of this section, school districts are encouraged to budget and expend the appropriations for the learning assistance program, under RCW 28A.165.005 through 28A.165.065, using the framework of the Washington integrated student supports protocol, established under RCW 28A.300.139.

(2) The second timeline applies after the first timeline expires as described in subsection (1)(a) of this section. During the second timeline, school districts must budget and expend the appropriations for the learning assistance program, under RCW 28A.165.005 through 28A.165.065, using the framework of the Washington integrated student supports protocol, established under RCW 28A.300.139.

AMENDATORY SECTION (Amending WSR 18-02-082, filed 1/2/18, effective 2/2/18)

WAC 392-162-054 Allocation, supplement not supplant, and use of funds. (1) The funds for the learning assistance program shall be allocated according to WAC 392-122-605 for the learning assistance program base allocation and the learning assistance program high poverty-based school allocation.

(2) The learning assistance high poverty-based school allocation must be ~~((distributed to))~~ expended by the district for the schools ((building)) that generated the funding and may not supplant the learning assistance program base allocation expenditures for those schools.

(3) All learning assistance program funds must be expended for the purposes of RCW 28A.165.005 through 28A.165.065.

AMENDATORY SECTION (Amending WSR 16-16-078, filed 7/29/16, effective 9/1/16)

WAC 392-162-110 Program requirements—((District)) Reporting.

~~((1)) Individual student records shall be recorded, beginning with the 2014-15 school year, in the statewide individual student data system annual entrance and exit performance data for each student participating in the learning assistance program according to specifications established by the office of the superintendent of public instruction's CEDARS manual.~~

~~(2) Districts shall submit to the superintendent of public instruction by the established due date an annual report in the electronic format provided by the superintendent of public instruction. The report must include the following:~~

~~(a) The amount of academic growth gained by students participating in the learning assistance program;~~

~~(b) The number of students who gain at least one year of academic growth;~~

~~(c) The specific practices, activities, and programs used by each school building that received learning assistance program funds; and~~

~~(d) The number of students served by the learning assistance program during the school year who were able to exit the program because student academic growth resulted in meeting the academic standard for grade level.~~

~~(3)) The superintendent of public instruction ((will)) may withhold the monthly learning assistance program apportionment payment to a school district, public charter school, or state-tribal education compact school ((operated pursuant to a state-tribe education compact)) if the school district, charter school, or state-tribal education compact school fails to submit its annual report for the prior school year to the superintendent of public instruction by the established due date. The first learning assistance program apportionment payment of the school year and subsequent allocations may be withheld until the annual reports are completed in approvable form.~~

AMENDATORY SECTION (Amending WSR 18-02-082, filed 1/2/18, effective 2/2/18)

WAC 392-162-112 Carry over of funds. (1) Districts may carry over from one year to the next up to ten percent of the learning assistance program base allocation provided ((allocated)) under WAC 392-122-605 ~~((; however,))~~. Carry-over funds ((shall)) must be expended solely for the ((learning assistance program)) purposes of RCW 28A.165.005 through 28A.165.065.

(2) Districts may carry over from one year to the next up to ten percent of the learning assistance program high poverty-based school allocation provided under WAC 392-122-605. Carry-over funds must be expended solely for the ((learning assistance program)) purposes of RCW 28A.165.005 through 28A.165.065 and for the specific schools ((generating)) that generated the ((allocation)) funding.

NEW SECTION

WAC 392-162-120 Implementation of K-2 literacy screening requirements—Use of funds. (1) A school district that chooses to expend learning assistance program funds to implement the screening and intervention requirements under RCW 28A.320.260 may use the district's learning assistance program base allocation under WAC 392-122-605 to fund the purchase of a literacy screening tool as defined under this chapter.

(2) A school district that chooses to expend learning assistance program funds as permitted under this section must submit data according to specifications established by the office of the superintendent of public instruction in accordance with RCW 28A.165.100 and 28A.320.270.

REPEALER

The following sections of the Washington Administrative Code are repealed:

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| WAC 392-162-020 | Definition—Learning assistance program (LAP). |
| WAC 392-162-023 | Definition—District. |
| WAC 392-162-025 | Definition—Statewide student assessments. |
| WAC 392-162-032 | Definition—Participating student. |
| WAC 392-162-033 | Definition—Students who are not meeting academic standards. |
| WAC 392-162-036 | Definition—Extended learning opportunities. |
| WAC 392-162-041 | Best practices. |
| WAC 392-162-080 | Program requirement—Selection of students. |