



RULE-MAKING ORDER EMERGENCY RULE ONLY

CR-103E (December 2017) (Implements RCW 34.05.350 and 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: December 23, 2020

TIME: 2:35 PM

WSR 21-02-006

Agency: Office of Superintendent of Public Instruction (OSPI)

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes
 - No
- If Yes, explain:

Purpose: The purpose of this emergency rule is to amend 392-410-135(1) for the 2020-21 school year only. The amendment allows that instructional minutes for physical education can be less than the regularly required 100 instructional minutes per week for students in grades 1 through 8. Physical education instruction must still be provided to students in grades 1-12, unless otherwise waived per RCW 28A.230.040.

Citation of rules affected by this order:

- New:
- Repealed:
- Amended: WAC 392-410-135(1)
- Suspended:

Statutory authority for adoption: 28A.230.040.

Other authority:

EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: The COVID-19 pandemic has required many school districts to provide instruction remotely in school year 2020-21, either completely or partially, in order to ensure the safety of their students, staff, and communities. The immediate adoption of this emergency rule is therefore necessary for the preservation of the public health, safety, and general welfare in order to provide flexibility for school districts to offer physical education instructional time for all students in grades 1-8. This change does not remove the requirement for all students in grades 1-8 to receive instruction in physical education, per RCW 28A.230.040.

On October 7, 2020, OSPI initiated permanent rulemaking to amend WAC 392-410-135(1) for the remainder of the 2020-21 school year.

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___

The number of sections adopted at the request of a nongovernmental entity:

New	___	Amended	___	Repealed	___
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The number of sections adopted on the agency's own initiative:

New	___	Amended	<u>1</u>	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	___	Repealed	___
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The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	___	Repealed	___

Date Adopted: 12/23/20

Name: Chris Reykdal

Title: State Superintendent of Public Instruction

Signature:

