



# PROPOSED RULE MAKING

## CR-102 (July 2022) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON  
FILED

DATE: August 24, 2022

TIME: 9:25 AM

WSR 22-17-159

**Agency:** Office of Superintendent of Public Instruction (OSPI)

**Original Notice**

**Supplemental Notice to WSR** \_\_\_\_\_

**Continuance of WSR** \_\_\_\_\_

**Preproposal Statement of Inquiry was filed as WSR** 22-13-162 ; or

**Expedited Rule Making--Proposed notice was filed as WSR** \_\_\_\_\_; or

**Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**

**Proposal is exempt under RCW** \_\_\_\_\_.

**Title of rule and other identifying information:** (describe subject) New sections to chapter 392-122 WAC (WAC 392-122-430, -440, -445, -450, -455) to describe compliance rules and calculations related to physical, social, and emotional support in schools

**Hearing location(s):**

Date:	Time:	Location: (be specific)	Comment:
September 29, 2022	1:15 pm	Webinar via Zoom (call-in option also available). Participation link available on OSPI website: <a href="http://k12.wa.us/policy-funding/ospirulemaking-activity">k12.wa.us/policy-funding/ospirulemaking-activity</a>	Due to ongoing public health emergency related to the COVID-19 virus pandemic, this public hearing will be held by webinar via Zoom (with a call-in option). For information on participating, please visit OSPI's website at <a href="http://k12.wa.us/policy-funding/ospirulemaking-activity">k12.wa.us/policy-funding/ospirulemaking-activity</a> . For questions, please email: <a href="mailto:kristin.murphy@k12.wa.us">kristin.murphy@k12.wa.us</a>

**Date of intended adoption:** October 4, 2022 (Note: This is **NOT** the **effective** date)

**Submit written comments to:**

Name: T.J. Kelly

Address: OSPI, PO Box 47200, Olympia, WA 98504

Email: [Thomas.kelly@k12.wa.us](mailto:Thomas.kelly@k12.wa.us)

Fax:

Other:

By (date) September 29, 2022

**Assistance for persons with disabilities:**

Contact Kristin Murphy, OSPI Rules Coordinator

Phone: 360-725-6133

Fax:

TTY: 360-664-3631

Email: [kristin.murphy@k12.wa.us](mailto:kristin.murphy@k12.wa.us)

Other:

By (date) September 22, 2022

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** Add new sections to chapter 392-122 WAC to describe the compliance rules and calculations concerning provisions in SSHB 1664 (2022) and the 2022 supplemental budget (ESSB 5693) related to physical, social, and emotional support in schools. These changes are required to ensure that local education agencies receive an allocation for basic education that is in alignment with the state budget.

**Reasons supporting proposal:** The 2022 supplemental budget (ESSB 5693) implements SSHB 1664 which provides increased funding allocations for physical, social, and emotional support through the prototypical school funding model beginning with the 2022-23 school year. Maximum allocations to local education agencies are subject to compliance rules as drafted by OSPI. These changes are required to ensure that local education agencies receive an allocation for basic education that is in alignment with the state budget. Without these rules, local education agencies could receive state basic education allocations in excess of what the RCW and state budget language allows.

**Statutory authority for adoption:** RCW 28A.150.260

**Statute being implemented:** RCW 28A.150.260

**Is rule necessary because of a:**

Federal Law?  Yes  No

Federal Court Decision?  Yes  No

State Court Decision?  Yes  No

If yes, CITATION:

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:** Proposed language is the same as that adopted under the emergency rule (see WSR 22-15-056)

**Type of proponent:**  Private  Public  Governmental

**Name of proponent:** (person or organization)

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Michelle Matakas	OSPI, 600 S. Washington St, Olympia, WA	360-725-6019
Implementation:	T.J. Kelly	OSPI, 600 S. Washington St, Olympia, WA	360-725-6301
Enforcement:		OSPI, 600 S. Washington St, Olympia, WA	

**Is a school district fiscal impact statement required under [RCW 28A.305.135](#)?**  Yes  No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

**Is a cost-benefit analysis required under [RCW 34.05.328](#)?**

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

No: Please explain:

**Regulatory Fairness Act and Small Business Economic Impact Statement**

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

**(1) Identification of exemptions:**

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570\(2\)](#) because it was adopted by a referendum.

- This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(3\)](#). Check all that apply:
- |                                                                                                   |                                                                                                                                                                                   |
|---------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(b)<br>(Internal government operations) | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(e)<br>(Dictated by statute)                                                                                            |
| <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(c)<br>(Incorporation by reference)     | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(f)<br>(Set or adjust fees)                                                                                             |
| <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(d)<br>(Correct or clarify language)    | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(g)<br>(i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(4\)](#) (does not affect small businesses).

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.030](#).

Explanation of how the above exemption(s) applies to the proposed rule: No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed amendment does not have an impact on small business and therefore does not meet the requirements for a statement under RCW 19.85.030 (1) or (2).

**(2) Scope of exemptions:** *Check one.*

The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.

The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):

The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

**(3) Small business economic impact statement:** *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. \_\_\_\_\_
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Other:

**Date:** 8/15/22

**Name:** Chris Reykdal

**Title:** State Superintendent of Public Instruction

**Signature:**

