



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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FILED

DATE: December 02, 2019

TIME: 2:28 PM

WSR 19-24-077

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 19-19-068 ; 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) WAC 392-172A-05085 – Due process hearing request filing and response; WAC 392-172A-05090 – Resolution process; WAC 392-172A-05100 – Hearing rights; WAC 392-172A-05160 – Appeal of placement decisions and manifestation determinations; WAC 392-137-190 through -200 – student transfers appeals; and chapter 392-101 WAC – Superintendent of public instruction—Administrative practices and procedures.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
January 7, 2020	10:00am	OSPI 600 Washington Street SE Olympia, WA 98501 Wanamaker Meeting Room	Those planning to comment during the hearing should arrive in the meeting room by 10:00 a.m.

Date of intended adoption: January 10, 2020 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Evan Gaffey

Address: Office of Superintendent of Public Instruction, PO Box 47200, Olympia, WA 98504-7200

Email: evan.gaffey@k12.wa.us

Fax: 360-754-4201

Other:

By (date) January 7, 2020

Assistance for persons with disabilities:

Contact Kristin Murphy

Phone: 360-725-6133

Fax: 360-754-4201

TTY: 360-664-3631

Email: Kristin.murphy@k12.wa.us

Other:

By (date) December 31, 2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Certain appeals submitted to OSPI, including special education due process hearing requests and nonresident student transfer appeals, are assigned to the office of administrative hearings (OAH) for adjudication. Currently, these appeals are filed with OSPI and transmitted to OAH. This proposal would simplify the filing and transmittal process by allowing these appeals to be submitted directly to OAH from the filing party.

Reasons supporting proposal: The proposed change would simplify the filing process, clarify service requirements, reduce staff time and resource use for both OSPI and OAH staff, and clarify cited authorities. The impact on filing parties would be a change of filing methods and addresses, adopting federal standards for certain timelines, and clarity on service requirements.

Statutory authority for adoption: RCW [34.05.220](#), [28A.225.230](#), [28A.155.090](#); 34 C.F.R. Part 300; 42 U.S.C. 1400

Statute being implemented:

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:

Name of proponent: (person or organization) Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Evan Gaffey	OSPI, P.O. Box 47200, Olympia, WA 98504	360-725-6333
Implementation:	Evan Gaffey	OSPI, P.O. Box 47200, Olympia, WA 98504	360-725-6333
Enforcement:	Evan Gaffey	OSPI, P.O. Box 47200, Olympia, WA 98504	360-725-6333

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 Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). 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:

- RCW 34.05.310 (4)(b) (Internal government operations)
- RCW 34.05.310 (4)(c) (Incorporation by reference)
- RCW 34.05.310 (4)(d) (Correct or clarify language)
- RCW 34.05.310 (4)(e) (Dictated by statute)
- RCW 34.05.310 (4)(f) (Set or adjust fees)
- RCW 34.05.310 (4)(g) ((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 19.85.030.

Explanation of exemptions, if necessary: 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).


COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If 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 analysis showing how costs were calculated. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert 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: 12/2/2019	Signature: 
Name: Chris Reykdal	
Title: State Superintendent of Public Instruction	