



PROPOSED RULE MAKING

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

Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: October 24, 2018
TIME: 8:35 AM

WSR 18-21-185

Agency: Office of Superintendent of Public Instruction

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 18-18-105 ; 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 392-140-600 Special education safety net - Applicable provisions.

WAC 392-140-60105 Definition - High need student.

WAC 392-140-60110 Definition - Community impact.

WAC 392-140-60115 Definition - High need student served in a residential schools, programs for juveniles under the department of corrections, and programs for juveniles operated under city and county jails.

WAC 392-140-60120 Definition - Capacity for funding.

WAC 392-140-602 Special education safety net - Eligible applicants.

WAC 392-140-605 Special education safety net - Application types, certification, worksheets.

WAC 392-140-609 Special education safety net - Standards and criteria - IEPs.

WAC 392-140-616 Special education safety net - Standards - High need student applications.

WAC 392-140-617 Special education safety net - Standards - Community impact applications.

WAC 392-140-626 Special education safety net - Worksheet A - Demonstration of need.

WAC 392-140-630 Special education safety net - Special education program audit - Purpose, procedures.

WAC 392-140-635 Special education safety net - Special education program review - Purpose, procedures.

WAC 392-140-643 Special education safety net - Definition - State oversight committee - Procedures.

WAC 392-140-646 Special education safety net - State oversight committee actions.

WAC 392-140-650 Special education safety net - Withdrawal of application.

WAC 392-140-656 Special education safety net - Request for review and reconsideration of an action.

WAC 392-140-660 Special education safety net - Approved application - Special education safety net reimbursement.

WAC 392-140-675 Special education safety net - Adjustments to special education safety net reimbursement.

Hearing location(s):

| Date: | Time: | Location: (be specific) | Comment: |
|-------------------|---------|---|---|
| November 27, 2018 | 3:00 pm | Office of Superintendent of Public Instruction (OSPI), 600 Washington St SE Olympia, WA 98501 | Those planning to comment at the hearing should arrive by 3:00 pm. Hearing will be held in the Brouillet Room at OSPI. |

Date of intended adoption: November 30, 2018 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Glenna Gallo, Assistant Superintendent, Special Education

Address: OSPI, PO Box 47200, Olympia, WA 98504-7200

Email: Speced@k12.wa.us

Fax: 360-586-0247

Other:

By (date) November 27, 2018

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) November 20, 2018

Purpose of the proposal and its anticipated effects, including any changes in existing rules: OSPI is proposing amendments to WAC 392-140-600 through -685 regarding school district eligibility for state special education safety net funding for the purpose of adopting recommendations from the Safety Net Legislative Workgroup. The proposed rulemaking also involves the addition of new definitions, a section on purpose and procedures, and technical and housekeeping revisions.

Reasons supporting proposal: Safety Net funding is available to local education agencies (LEAs) (i.e., school districts and charter schools) that demonstrate a need for special education funding in excess of state and federal funding available to the district. The Washington State Legislature directed OSPI in 2017 and 2018 to review the current Safety Net process and make recommendations regarding possible adjustments to improve the Safety Net process and evaluate the appropriate funding level to meet the purpose of Safety Net. A Safety Net Legislative Workgroup was formed in fall 2017. The Workgroup, after analyzing Safety Net trends, fiscal data, and soliciting public input, developed a set of finalized recommendations to address the legislative requests. The Superintendent of Public Instruction, in turn, is required to submit recommendations to the Governor and the Legislature's education and operating budget committees by November 1, 2018, and review and revise rules and procedures necessary to administer the special education funding and Safety Net award process by December 1, 2018. OSPI consulted with the Office of Financial Management and the fiscal committees of the Legislature before filing this proposed rule.

Statutory authority for adoption: RCW 28A.155.090 and RCW 28A.150.290

Statute being implemented: RCW 28A.150.392

Is rule necessary because of a:

| | | |
|-------------------------|---|--|
| Federal Law? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If yes, CITATION:

20 USC § 1400 et seq., the Individuals with Disabilities Education Act (IDEA)

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: | Mary Ellen Parrish | OSPI Special Education | 360-725-6075 |
| Implementation: | Amber O'Donnell | OSPI Special Education | 360-725-6075 |
| Enforcement: | Glenna Gallo | OSPI Special Education | 360-725-6075 |

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:

- | | |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b) (Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e) (Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c) (Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f) (Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d) (Correct or clarify language) | <input type="checkbox"/> 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: 10/23/18

Name: Chris Reykdal

Title: State Superintendent of Public Instruction

Signature:

