

The Washington State Board of Education

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PROPOSED RULE MAKING FOR BASIC EDUCATION COMPLIANCE

BACKGROUND

The State Board of Education (SBE) has the responsibility of ensuring school district compliance with the Basic Education program requirements and other related supplemental program requirements. SBE's rules outline the procedure that school districts must follow to report compliance each year. Due to recent legislation, SBE must revise certain sections of its rules and may want to consider additional revisions that would modernize and streamline the reporting process. For these reasons, we are proceeding with the rule changes.

POLICY CONSIDERATION

During the 2009 Legislative Session, the Legislature and Governor amended the definition of Basic Education with Engrossed Substitute House Bill (ESHB) 2261. The legislation made the definition of a school day¹ more specific and replaced the student-to-teacher ratio requirements² with the prototypical school model of funding. Although ESHB 2261 became law in 2009, these changes do not go into effect until September 1, 2011.

The following sections of SBE's rules should be repealed due to statute changes:

1. WAC 180-16-210 (Kindergarten through grade three students to classroom teacher ratio requirement) will no longer be needed since the underlying statute will be repealed as of September 1. The proposed rule revision repeals this entire section of rule (Appendix A).
2. WAC 180-16-215 (Minimum one hundred eighty school day year) contains a subsection that quotes the current definition of a school day and will be incorrect as of September 1. The definition of a school day³ will change on September 1, 2011, in the following manner: "School day" means each day of the school year on which pupils enrolled in the common schools of a school district are engaged in educational activity academic and career and technical instruction planned by and under the direction of the school district staff, ~~as directed by the administration and board of directors of the district.~~ The proposed rule revision repeals this entire section of rule (Appendix B). We are no longer repeating what is in law in our rules.

In addition, SBE staff recommends that the Board consider modernizing and streamlining the process used by school districts to report compliance. A streamlined process utilizing the Office of Superintendent of Public Instruction's (OSPI) Web-based data reporting system would greatly reduce the time and effort spent by both school district and SBE staff in fulfilling this task.

The current process outlined in SBE's rules requires school districts to submit a paper form signed by both the district superintendent and the local board chair. This process is standalone because it is not associated with any other annual reporting conducted by the districts. The

¹ RCW 28A.150.030

² RCW 28A.150.250

³ RCW 28A.150.203(10)

combination of the use of paper forms and a disconnection from other reporting has made the process overly time consuming for both school district and SBE staff. It is time to modernize the system.

SBE staff has worked closely with OSPI and the Washington State School Directors Association (WSSDA) on potential revisions to the rules. The proposed revision to WAC 180-16-195 (Annual reporting and review process) (Appendix C) would change the signature requirements and submission date and require school districts to submit compliance forms electronically by the local district superintendent and board members rather than mailing or faxing in paper forms. Both WSSDA and the Association of School Administrators executive directors and their legislative liaisons have been informed of this meeting.

EXPECTED ACTION

The Board will approve the proposed rule revisions and to enable a public hearing on the rule revisions prior to final adoption at our May Board meeting.

Appendix A

~~WAC 180-16-210 Kindergarten through grade three students to classroom teacher ratio requirement.~~ The ratio of the FTE students enrolled in a school district in kindergarten through grade three to kindergarten through grade three FTE classroom teachers shall not be greater than the ratio of the FTE students to FTE classroom teachers in grades four through twelve. For the purpose of this section "classroom teacher" shall mean any instructional employee who possesses a valid teaching certificate or permit issued by the superintendent of public instruction, but not necessarily employed as a certificated employee, and whose "primary" duty is the daily educational instruction of students.

~~**Computation of ratios.**~~ The FTE student to FTE classroom teacher ratios shall be computed as follows:

~~(1) For the purpose of this section exclude that portion of the time teachers and students participate in vocationally approved programs, traffic safety and special education programs from the above computations (i.e., programs hereby deemed to be "special programs").~~

~~(2) Exclude preparation and planning times from the computations for all FTE classroom teachers.~~

~~(3) Include in the above computations only the time certificated employees are actually instructing students on a regularly scheduled basis.~~

~~(4) Calculations:~~

~~(a) The kindergarten FTE October enrollment plus the October FTE enrollment in grades 1-3 divided by the FTE classroom teachers whose "primary" duty is the daily instruction of pupils in grades K through 3.~~

~~(b) The October FTE enrollment in grades 4 and above divided by the FTE classroom teachers whose "primary" duty is the daily instruction of pupils in grades 4 and above: Provided, That any district with three hundred or fewer FTE students in grades K-3 and an average K-3 classroom ratio of twenty-five or fewer FTE classroom students to one FTE classroom teacher shall be exempt from the FTE students to FTE classroom teachers ratio requirement of this subsection.~~

~~(5) **Waiver option, application and renewal procedures.** See WAC 180-18-050 for waiver process.~~

Appendix B

~~———— WAC 180-16-215 Minimum one hundred eighty school day year. (1)(a) One hundred eighty school day requirement. Each school district shall conduct a school year of no less than one hundred eighty school days in such grades as are conducted by the school district, and one hundred eighty half-days of instruction, or the equivalent, in kindergarten. If a school district schedules a kindergarten program other than one hundred eighty half-days, the district shall attach an explanation of its kindergarten schedule when providing compliance documentation to the state board of education staff.~~

~~———— (b) Waiver option, application and renewal procedures. See WAC 180-18-050 for waiver process.~~

~~———— (2) School day defined. A school day shall mean each day of the school year on which pupils enrolled in the common schools of a school district are engaged in educational activity planned by and under the direction of the school district staff, as directed by the administration, and pursuant to written policy and board of directors of the district.~~

~~———— (3) Accessibility of program. Each school district's program shall be accessible to all legally eligible students, including students with disabilities, who are five years of age and under twenty-one years of age who have not completed high school graduation requirements.~~

~~———— (4) Five-day flexibility – Students graduating from high school. A school district may schedule the last five school days of the one hundred eighty day school year for noninstructional purposes in the case of students who are graduating from high school, including, but not limited to, the observance of graduation and early release from school upon the request of a student.~~

Appendix C

WAC 180-16-195 Annual reporting and review process. (1) Annual school district reports. A review of each school district's kindergarten through twelfth grade program shall be conducted annually for the purpose of determining compliance or noncompliance with basic education program approval requirements. On or before the first Monday in ~~November~~ September of each school year, each school district superintendent shall complete and return the program assurance form (OSPI Form 1497) distributed by the state board of education as a part of an electronic submission to OSPI. The form shall be designed to elicit data necessary to a determination of a school district's compliance or noncompliance with basic education program approval requirements. ~~Data reported by a school district shall accurately represent the actual status of the school district's program as of the first school day in October and as thus far provided and scheduled for the entire current school year.~~ The form shall be submitted electronically and signed by:

- (a) The school board president or chairperson, and
- (b) The superintendent of the school district.

(2) State board staff review.

(a) State board of education staff shall review each school district's program assurance form, conduct on-site monitoring visits of randomly selected school districts, as needed and subject to funding support, and prepare recommendations and reports for presentation to the state board of education: Provided, That, if a school district's initial program assurance form does not establish compliance with the basic education program approval requirements, the district shall be provided the opportunity to explain the deficiency or deficiencies. School districts which foresee that they will not be able to comply with the program approval requirements, or that are deemed by the state board to be in noncompliance, may petition for a waiver on the basis of substantial lack of classroom space as set forth in WAC 180-16-225 and instructional hours offering requirements under WAC 180-18-030.

(b) School districts may use the personnel and services of the educational service district to assist the district and schools in the district that are out of compliance with basic education program approval requirements.

(3) Annual certification of compliance or noncompliance--Withholding of funds for noncompliance.

(a) ~~At the annual spring~~ November meeting of the state board of education, or at such other meeting as the board shall designate, the board shall certify by motion each school district as being in compliance or noncompliance with the basic education program approval requirements.

(b) A certification of compliance shall be effective for the then current school year subject to any subsequent ad hoc review and determination of noncompliance as may be deemed necessary by the state board of education or advisable by the superintendent of public instruction. In addition, a certification of compliance shall be effective tentatively for the succeeding school year until such time as the state board takes its annual action certifying compliance or noncompliance with the program approval requirements.

(c) A certification of noncompliance shall be effective until program compliance is assured by the school district to the satisfaction of state board of education staff, subject to review by the state board. Basic education allocation funds shall be deducted from the basic education allocation of a school district that has been certified as being in noncompliance unless such district has received a waiver from the state board for such noncompliance, pursuant to WAC 180-16-225 or 180-18-030, or assurance of program compliance is subsequently provided for the school year previously certified as in noncompliance and is accepted by the state board.

(d) The withholding of basic education allocation funding from a school district shall not occur for a noncompliance if the school district has remediated the noncompliance situation within sixty school business days from the time the district receives notice of the noncompliance from the state board of education. The state board of education may extend the sixty days timeline only if the district demonstrates by clear and convincing evidence that sixty days is not reasonable to make the necessary corrections. For the purposes of this section, a school business day shall mean any calendar day, exclusive of Saturdays, Sundays, and any federal and school holidays upon which the office of the superintendent of the school district is open to the public for the conduct of business. A school business day shall be concluded or terminated upon the closure of said office for the calendar day.

(e) The superintendent of public instruction, or his/her designee, after notification by the state board of education to a school district regarding an existing noncompliance, shall enter into a compliance agreement with the school district that shall include, but not be limited to, the following criteria:

(i) A deadline for school district remediation of the noncompliance(s), not to exceed sixty school business days per noncompliance as specified in (d) of this subsection.

(ii) A listing of all the noncompliance areas and the necessary terms that must be satisfied in each area in order for the school district to gain compliance status. This listing also shall specify additional deadlines for the accomplishment of the stated terms if different from the final deadline as specified in subsection (1) of this section.

(iii) A closing statement specifying that a school district's failure to remediate a noncompliance by the determined deadline shall result in the immediate withholding of the district's basic education allocation funding by the superintendent of public instruction.

(iv) The date and the signatures of the superintendent of the school district, the chair of the district's board of directors, and the superintendent of public instruction, or his/her designee, to the agreement. A copy of the completed compliance agreement shall be sent to the chairperson of the school district's board of directors and the school district superintendent.

(f) In the event a school district fails to sign the compliance agreement within five school business days from the date of issuance or does not satisfy the terms of the signed compliance agreement within the designated amount of time, the superintendent of public instruction shall withhold state funds for the basic education allocation until program compliance is assured based on the following procedure:

(i) For the first month that a noncompliance exists following the conditions as specified in (f) of this subsection, the superintendent of public instruction shall withhold twenty-five percent of the state funds for the basic education allocation to a school district.

(ii) For the second month that a noncompliance exists following the conditions as specified in (f) of this subsection, the superintendent of public instruction shall withhold fifty percent of the state funds for the basic education allocation to a school district.

(iii) For the third month that a noncompliance exists following the conditions as specified in (f) of this subsection, the superintendent of public instruction shall withhold seventy-five percent of the state funds for the basic education allocation to a school district.

(iv) For the fourth month, and every month thereafter, that a noncompliance exists following the conditions as specified in (f) of this subsection, the superintendent of public instruction shall withhold one hundred percent of the state funds for the basic education allocation to a school district until compliance is assured.

(g) Any school district may appeal to the state board of education the decision of noncompliance by the state board of education. Such appeal shall be limited to the interpretation and application of these rules by the state board of education. Such appeal shall not stay the withholding of any state funds pursuant to this section. The state board of education may not waive any of the basic education entitlement requirements as set forth in this chapter, except as provided in WAC 180-16-225 or 180-18-030.

(4) The provisions of subsection (3)(f) of this section shall not apply if the noncompliance is related to the district's fiscal condition and results in the implementation of a financial plan under RCW 28A.505.140(3).