

# PROPOSED RULE MAKING



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

Do **NOT** use for expedited rule making

**Agency:** Washington State Board of Education

**Original Notice**

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

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

**Preproposal Statement of Inquiry was filed as WSR** 18-12-106 ; 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) To implement provisions of Substitute HB 2824 (Chapter 177, Laws of 2018) and to make changes to rule as needed, the State Board of Education is amending WAC 180-16-195 (Annual reporting and review process), WAC 180-16-225 (Waiver-Substantial lack of classroom space-Grounds and procedure), WAC Chapter 180-18 (Waivers for restructuring purposes) and WAC Chapter 180-90 (Private Schools).

### Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
September 5, 2018	2 p.m.	Brouillet Room, Old Capitol, 600 Washington Street SE, PO Box 47206, Olympia, WA 98504	Please enter the Old Capitol through the main entrance in front of the building facing Sylvester Park. If you are using a wheelchair, there is a buzzer at the entrance on Legion (between 7 <sup>th</sup> and 8 <sup>th</sup> streets) for individuals in wheelchairs. The buzzer will notify the Office of Superintendent of Public Instruction and they will let you in.

**Date of intended adoption:** November 8, 2018 (Note: This is **NOT** the **effective** date)

### Submit written comments to:

Name: Parker Teed

Address: 600 Washington Street SE, Olympia, WA 98504

Email: parker.teed@k12.wa.us

Fax: 360-725-6047

Other:

By (date) September 5, 2018

### Assistance for persons with disabilities:

Contact Parker Teed

Phone: 360-725-6047

Fax: 360-586-2357

TTY: 360-664-3631

Email: parker.teed@k12.wa.us

Other:

By (date) September 5, 2018

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** This rule implements House Bill 2824 by exchanging roles and responsibilities among the State Board of Education.

### Proposal for WAC Chapter 180-90 (Private Schools)

• To implement the transfer of private school approval from the Office of Superintendent of Public Instruction to the State Board of Education per House Bill 2824 in WAC Chapter 180-90, the proposal changes the agency referenced from

“Superintendent of Public Instruction” to “State Board of Education” at various points and, as necessary, modifies language to implement this transfer.

- In WAC 180-90-145 (Approval-Initial Application-Exception), the proposal allows for schools that have filed for an exception for the initial application to be considered at the next regularly scheduled State Board of Education meeting.
- In WAC 180-90-160 (Minimum standards and certificate form), the proposal corrects language by referring to RCW 28A.195.010 rather than RCW 28A.150.220. This change correctly references private school law rather than basic education law.
- In WAC 180-90-160 (Minimum standards and certificate form), the proposal corrects a reference to graduation requirement rules so that the reference remains consistent even when graduation requirements are to be updated.
- Clarifies or corrects language as necessary.

**Proposal for WAC Chapter 180-18 (Waivers for Restructuring Purposes)**

- To implement the transfer of administration of the approval process for waivers from basic education requirements from the State Board of Education to the Superintendent of Public Instruction per House Bill 2824, the proposal changes the agency referenced from “State Board of Education” to “Superintendent of Public Instruction” at various points and, as necessary, modifies language to implement this transfer.
- In WAC 180-18-030 (Waiver from total instructional hour requirements), clarifies that the Superintendent of Public Instruction may grant waiver requests that demonstrate the waiver is necessary to support improving student achievement. This is a clarification rather than a substantive change because the waiver is pursuant to WAC 180-18-050 which already requires the waiver request to demonstrate that the waiver is necessary to support improving student achievement.
- The proposal changes timelines that are based on scheduled State Board of Education meetings to be “based on a schedule issued by the Superintendent of Public Instruction” and clarifies timeline information as necessary.
- In WAC 180-18-065 (Waiver from one hundred eighty-day school year requirement for purposes of economy and efficiency—Criteria for evaluation of waiver requests), the proposal clarifies the order of prioritization for waiver requests in the event that a greater number of requests for waivers are received than may be granted. The proposal clarifies that districts that are already operating on a flexible calendar under this waiver program are prioritized.
- Clarifies or corrects language as necessary.

**Proposal for WAC 180-16-195 (Annual reporting and review process)**

- To implement the provision of House Bill 2824 that allows the State Board of Education to recommend withholding of funds rather than require withholding of funds, the proposal removes language that is no longer necessary when recommending withholding of funds.
- Requires that the State Board of Education staff notify the Superintendent of Public Instruction and the school district in the event of a certification of noncompliance.
- Clarifies and corrects language as necessary.

**Proposal for WAC 180-16-225 (Waiver—Substantial lack of classroom space—Grounds and procedure)**

- The proposal changes timelines that are based on scheduled State Board of Education meetings to be “based on a schedule issued by the Superintendent of Public Instruction” and clarifies timeline information as necessary.
- Clarifies and corrects language as necessary.

**Reasons supporting proposal:** This rule-making implements House Bill 2824 and clarifies rule where necessary. House Bill 2824 exchanges roles and responsibilities among the Superintendent of Public Instruction and the State Board of Education. This proposal is necessary to implement those changes.

**Statutory authority for adoption:** The statutory authority for the change to WAC 180-18 is RCW 28A.305.140 and RCW 28A.305.141. The statutory authority for the change to WAC 180-90 is RCW 28A.195.010 and RCW 28A.195.030. The statutory authority for the change to WAC 180-16-195 is RCW 28A.150.250. The statutory authority for the change to WAC 180-16-225 is RCW 28A.305.140.

**Statute being implemented:** RCW 28A.305.140, RCW 28A.305.141, RCW 28A.195.010, RCW 28A.195.030, RCW 28A.150.250

**Is rule necessary because of a:**

- |                         |                              |  |
|-------------------------|------------------------------|--|
| Federal Law?            | <input type="checkbox"/> Yes | <input checked="" 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:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

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

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Parker Teed	600 Washington Street SE, Olympia, WA 98504	360-725-6047
Implementation:	Randy Spaulding	600 Washington Street SE, Olympia, WA 98504	360-725-6024
Enforcement:	Randy Spaulding	600 Washington Street SE, Olympia, WA 98504	360-725-6024

Is a school district fiscal impact statement required under RCW 28A.305.135?  Yes  No

If yes, insert statement here:



**STATE BOARD OF EDUCATION RULE CHANGE  
 SCHOOL DISTRICT FISCAL IMPACT STATEMENT**

<b>WSR:</b>	<b>Title of Rule:</b> Implementation of SHB 2824	<b>Agency:</b> SDF - School District Fiscal Impact - SPI
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**Part I: Estimates**

No Fiscal Impact

The proposed rule change will have no fiscal impact on school districts.

**Estimated Cash Receipts to:**

No Estimated Cash Receipts

ACCOUNT	FY 2012	FY 2013	2011-13	2013-15	2015-17
<b>Total \$</b>					

**Estimated Expenditures From:**

No Estimated Expenditures

ACCOUNT	FY 2012	FY 2013	2011-13	2013-15	2015-17
Indeterminate					
<b>Total \$</b>					

**Estimated Capital Impact:**

No Estimated Capital Impact

ACCOUNT	FY 2012	FY 2013	2011-13	2013-15	2015-17
<b>Total \$</b>					

The cash receipts and expenditures estimate on this page represent the most likely fiscal impact.

**Check applicable boxes and follow corresponding instructions:**

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note from Parts I-IV.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.

Agency Preparation: T.J. Kelly	Phone: 360-725-6301	Date: 05/07/2018
Agency Approval: Name Here	Phone: 360-725-0000	Date: 08/16/2012

**Part II: Narrative Explanation**

**II. A – Brief Description Of What the Measure Does That Has Fiscal Impact**

*Briefly describe by section, the significant provisions of the rule, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

None.

**II. B – Cash Receipts Impact**

*Briefly describe and quantify the cash receipts impact of the rule on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

None.

**II. C – Expenditures**

*Briefly describe the agency expenditures necessary to implement this rule (or savings resulting from this rule), identifying by section number the provisions of the rule that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

None.

**Part III: Expenditure Detail**

**III. A – Expenditures by Object or Purpose**

None.

**Part IV: Capital Budget Impact**

None

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

Name: Mr. Thomas Kelly  
Address: 600 Washington Street SE, Olympia, WA 98504  
Phone: 360-725-6301  
Fax:  
TTY:  
Email: Thomas.kelly@k12.wa.us  
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: RCW 34.05.328(5)(V) states that this section does not apply to rules the content of which is explicitly and specifically dictated by statute. RCW 34.05.328(iv) states that this section does not apply to rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

**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)<br>(Internal government operations)         | <input checked="" type="checkbox"/> RCW 34.05.310 (4)(e)<br>(Dictated by statute)  |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)<br>(Incorporation by reference)             | <input type="checkbox"/> RCW 34.05.310 (4)(f)<br>(Set or adjust fees)  |
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(d)<br>(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (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 \_\_\_\_\_.

Explanation of exemptions, if necessary: The proposed change to WAC Chapter 180-90 (Private schools) is dictated by statute and corrects or clarifies language. The proposed change to WAC 180-16-195 (Annual reporting and review process) does not affect small businesses and, therefore, RCW 19.85.025 is not applicable. The proposed change to WAC 180-16-195 (Annual reporting and review process) does not affect small businesses and, therefore, RCW 19.85.025 is not applicable. The proposed change to WAC 180-16-225 (Waiver-Substantial lack of classroom space-Grounds and procedure)) does not affect small businesses and, therefore, RCW 19.85.025 is not applicable.

**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:** 7/31/2018

**Name:** Randy Spaulding

**Title:** Executive Director

**Signature:**

A handwritten signature in blue ink, appearing to be 'RS', is written in the signature field.