



Washington Office of Superintendent of
PUBLIC INSTRUCTION

REPORT TO THE LEGISLATURE

Institutional Education Rules Summary

2021

Authorizing Legislation: [RCW 28A.190.100](#)

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EXECUTIVE SUMMARY


Washington state provides K–12 basic education services to incarcerated and previously incarcerated juveniles. The goal is to provide these students the opportunity to meet the same learning standards that all students in the state are expected to meet. House Bill (HB) 1295 (2021) requires the Office of Superintendent of Public Instruction (OSPI) to submit a report and a summary of adopted or pending rules to inform the Legislature of any policy and funding changes that may be necessary to accomplish the objective of improving institutional education programs and outcomes.

This report outlines existing rules for institutional education programs and provides a framework that OSPI is following to adopt new rules to ensure institutional education facilities include efficient systems to minimize learning loss and maximize credit accrual during transitions for youth and post-resident youth. While OSPI will continue to engage in measures to implement policy and funding requirements outlined in HB 1295, it is important to address the vital work of the Institutional Education Structure and Accountability Advisory Group, established by Section 14 of the bill, in paving the way for a reformed institutional education system with sufficient funding and proper administrative structures to ensure effective functionality, oversight, and accountability.

INTRODUCTION

House Bill 1646 (2019) required the Office of Superintendent of Public Instruction (OSPI), in collaboration with Department of Children, Youth, and Families (DCYF), to create a comprehensive plan for the education of students in DCYF Juvenile Rehabilitation. In 2020, the Legislature also passed House Bill 2116, which established the Task Force on Improving Institutional Education Programs and Outcomes (Task Force). The Task Force efforts resulted in a series of well-considered recommendations that inform this act and, perhaps more importantly, offer a new opportunity to make critical policy advances for students and dedicated staff that are too often overlooked.

Students learning in institutional education settings have a set of unique and complex needs that are not often adequately addressed in state and local policy and funding. OSPI rules generally apply to all students, including those in institutional education, however, it is important to examine how existing rules are not conducive to the circumstances of students residing in secure settings or who tend to be highly mobile within the juvenile justice and public school systems. It is OSPI's intention to amend existing rules and adopt new rules that respond to the unique needs of institutional education students and create continuity throughout the institutional education system.



OSPI's [Institutional Education Comprehensive Plan](#) report to the Legislature outlines recommendations established by the 2020 House Bill 1646 Workgroup.

INSTITUTIONAL EDUCATION RULES

OVERVIEW

The following rules are also listed below in Table 1: OSPI Institutional Education Rules Action Plan. This section of the report is intended to provide background information on institutional education rules.

State Institutional Education Program Rules, Washington Administrative Code (WAC) 392-122-205 through 392-122-275

Currently, rules around institutional education are focused on finance and categorical apportionment. Like the prototypical school funding formula for general education, the institutional education funding model uses student enrollment to allocate funds intended to pay for staff to deliver instruction, as well as non-staff related costs necessary to operate an institutional education program. These rules outline basic education funding requirements on enrollment, apportionment, and reporting. OSPI submitted the [2020 Institutional Education Funding Model](#) report which outlines several recommendations to bring equity to the institutional education funding model.

Reengagement Programs and Institutional Education

Revised Code of Washington (RCW) 28A.190.070 allows enrollments for students in residential schools, juveniles in detention facilities, and for individuals under the age of 18 who are incarcerated in adult correctional facilities to be funded above 1.0 full-time equivalent, provided that enrollments above 1.0 full-time equivalent allow for participation in dropout reengagement programs. Additionally, OSPI is instructed to develop procedures to make this possible. Accordingly, OSPI is in the process of filing emergency rules on several WACs, including 392-700, 392-121-136, and 392-122-221. OSPI is processing these WACs as permanent rule changes. The WAC changes are needed to allow a student who is enrolled in an institutional educational program to concurrently enroll in a dropout reengagement program. The WAC changes will allow a student enrolled in both programs to exceed 1.0 FTE in any month, but limit the FTE claimed by each program to no more than 1.0 FTE.

Partial Credit for Highly Mobile Students

OSPI is considering rulemaking concerning on-time grade level progression and graduation of students who are homeless, dependent, at-risk youth or children, or are in or have been released from an institutional education facility. A new section will be added to WAC 392-415 to clarify the substantive and procedural obligations of school districts to fully implement RCW 28A.320.192. This proposed rule has been filed with the CR 101 Preproposal Statement of Inquiry.

In addition, OSPI and the State Board of Education (SBE) are working collaboratively to identify what scores students will achieve to meet the standards on world language or American Sign Language proficiency tests and general education development tests (GEDs). These rule changes will ensure students are receiving maximum credit for language proficiency tests, GEDs, and mastery-based learning on a consistent basis.

Institutional Education Data Recommendations

RCW 28A.190.110 requires OSPI to annually collect additional data related to institutional education programs. OSPI, in collaboration with the Department of Children, Youth, and Families (DCYF) and institutional education providers, must annually recommend modifications to SBE for changes to annual school improvement plan requirements in WAC 180-16-220 based on data collected under this section, other provisions of law, or both. The recommended modifications to the annual school improvement plan requirements will allow plans for state long-term juvenile institutions to be formatted for the specific needs and circumstances of institutional education settings.

New Rules Adoption for Institutional Education

RCW 28A.190.100 requires OSPI to modify or establish requirements and supports for the provision of public education to youth and post-resident youth. The following new institutional education rules are focused on continuous learning, maximizing the opportunity for credit accrual, increasing communication between each facility transition, and creating accessible mediation and appeals processes for students eligible for special education services. Rule development is in progress as OSPI and DCYF work with stakeholders to ensure any new rules can be effectively implemented and will achieve the intended outcomes.

Comprehensive Education Plan (CEP) for Institutional Education Students

OSPI is working with institutional education providers and stakeholders to draft rules that will require institutional education schools to develop a comprehensive education plan (CEP) for each newly admitted youth as a component of the facility's student intake process. In developing a CEP, institutional education providers may be required to:

- Review existing special education data for the student's eligibility for special education services.
- Meet with the student and an identified parent or guardian.
- Audit the student's transcript and perform a credit analysis.
- Initiate or make updates to the student's High School and Beyond Plan.
- Provide developmentally appropriate services focusing on the student's educational, social-emotional, behavioral, and career planning needs.

- Screen the student using a standardized academic assessment platform to measure the student's current academic levels.

Assessment of Needed Services for Students in Institutional Education Programs

To improve youth transition, new rules may require that institutional education providers begin developing recommendations for needed services upon admission of a youth to an institutional education facility. The rules will address academic and non-academic services that students may need. Recommendations for needed services should be in alignment with the student's CEP and will be communicated to each receiving institutional education program that the student transitions to.

Special Education Accountability Measures

OSPI's institutional education and special education programs are working collaboratively to develop rules to implement accountability measures for special education services delivered by institutional education providers. These measures will include that students eligible for special education services will have access to procedural safeguards and allowed full access to dispute resolution options available under the Individuals with Disabilities Education Act (IDEA). OSPI will ensure that the state mediation office has available a mediator with specific training to support the unique needs of youth and post-resident youth.

RULEMAKING ROADMAP

This section is intended to provide a description of pending rules regarding institutional education and the action steps OSPI is taking to ensure improving educational outcomes for students.

Table 1: OSPI Institutional Education Rules Action Plan

Rule	Description	Changes	Intended Outcome	Status	Recommended Action Steps
WAC 392-121-136	Limitations on enrollment counts	Language added to address that a student enrolled in a state institution and a reengagement program can be claimed up to a 2.0 FTE, but neither the state institution nor reengagement program can exceed 1.0 FTE.	Provides rules to implement RCW 28A.190.070, on procedures for institutional education and reengagement programming enrollment.	Emergency Rule Pending	Provide enrollment and reporting guidance for institutional education facilities that are approved to run Open Doors programs.
WAC 392-122-221	State institutional education programs enrollment exclusions	Add language to address that reengagement program enrollment is not an exclusion for institutional education enrollment.	Provides rules to implement RCW 28A.190.070, on procedures for institutional education and reengagement programming enrollment.	Emergency Rule Pending	Provide enrollment and reporting guidance for institutional education facilities that are approved to run Open Doors programs.
WAC 392-700-015	Definitions	Add a definition of "institutional education program" to the reengagement program WAC.	Provides rules to implement RCW 28A.190.070, on procedures for institutional education and reengagement programming enrollment.	Emergency Rule Pending	Provide enrollment and reporting guidance for institutional education facilities that are approved to run Open Doors programs.
WAC 392-700-035	Student eligibility under Open Doors	Revise language to include "state institutions" as a high school program that an eligible reengagement student could be concurrently enrolled.	Provides rules to implement RCW 28A.190.070, on procedures for institutional education and reengagement programming enrollment.	Emergency Rule Pending	Provide enrollment and reporting guidance for institutional education facilities that are approved to run Open Doors programs.

Rule	Description	Changes	Intended Outcome	Status	Recommended Action Steps
WAC 392-700-160	Reporting of student enrollment	Add language to address that concurrent enrollment in Running Start, skill center, and institutional education programs is allowable.	Provides rules to implement RCW 28A.190.070, on procedures for institutional education and reengagement programming enrollment.	Emergency Rule Pending	Provide enrollment and reporting guidance for institutional education facilities that are approved to run Open Doors programs.
WAC 392-415	Secondary education – standardized high school transcript	Clarify procedural obligations for school districts to fully implement RCW 28A.320.192, concerning on-time grade level progression and graduation of students who are homeless, dependent, at-risk youth or children in need of services, or in or have been released from an institutional education facility—commonly known as partial credit for highly mobile students.	Provides rules to implement changes to RCW 28A.320.192 that include students in or released from an institutional education facility.	Pending	Collaborate with OSPI K–12 System and Supports department and State Board of Education. Work with the Washington State School Directors’ Association to adopt a model policy on partial credit.
WAC 392-415	State Board of Education	Clarify procedural obligations in providing various proficiency tests and awarding credits. Add rules on what the scores will be for students to meet the standard for each test outlined in RCW 28A.320.192.	Outlines the substantive and procedural obligations of school districts to implement these provisions. Ensures students receive maximum credit for language proficiency tests, GEDs, and mastery-based learning.	Pending	Collaborate and receive feedback from the State Board of Education on procedural obligations. Work with the State Board of Education to identify the scores that students must achieve to meet standards of each test.

Rule	Description	Changes	Intended Outcome	Status	Recommended Action Steps
WAC 180-16-220	Supplemental basic education program approval requirements	Annually recommend modifications to the State Board of Education for changes to annual school improvement plans.	School improvement plans for state long-term juvenile institutions will be formatted for the specific needs and circumstances of institutional settings based on data collected in accordance with RCW 28A.190.110.	Pending	Work with OSPI's Student Information department to collect and review data outlined in RCW 28A.190.110 to inform recommendations to SBE. Seek input from DCYF and institutional education providers on recommendations.
New rule	Requirement for institutional education providers develop a comprehensive education plan (CEP) for each newly enrolled student.	Provide new language describing who will develop the CEP within institutional education facility and what items the CEP must include.	Provide consistency to the student-intake process at long-term juvenile institutions and ensure maximum credit accrual and minimize learning loss.	Pending	Receive additional feedback from institutional education providers. Initiate rulemaking process.
New rule	Requirement to conduct a review and assessment of needed services for each facility transition the youth experiences within the juvenile justice system.	Institutional education providers must develop recommendations for needed services upon admission of a youth to an institutional education facility. The needed services should be communicated to each receiving institutional education school and in alignment to the student's comprehensive education plan.	Increases communication between institutional education facilities and ensure that student's academic, social-emotional, and behavioral health needs are continuing through each transition.	Pending	Receive additional feedback from institutional education providers. Initiate rulemaking process.

Rule	Description	Changes	Intended Outcome	Status	Recommended Action Steps
New Rule	Implement accountability measures for special education services delivered by institutional education providers, including the establishment of mediation and appeals options related to special education services that recognize the unique situation of youth and post-resident youth.	<p>OSPI will ensure that the state mediation office has available a mediator with specific training to support the unique needs of youth and post-resident youth.</p> <p>OSPI will establish an appeals process for students eligible for special education services at state long-term juvenile institutions and state-operated community facilities. Eligible students and their parents may appeal the provision of special education services described in their comprehensive education plan (CEP). This appeals process will be administered at the discretion of the OSPI Institutional Education office and must include a representative from the OSPI Special Education division.</p>	Students eligible for special education services will have access to procedural safeguards and allowed full access to dispute resolution options available under the Individuals with Disabilities Education.	Pending	<p>Investigate training requirements for mediation professional.</p> <p>Establish an appeals process and procedure development.</p> <p>Initiate rulemaking process.</p> <p>Provide funding to fully implement this rule including associated costs for training. The cost estimate is to be determined.</p>

CONCLUSION & NEXT STEPS

Students involved in the juvenile justice system are amongst those furthest from educational justice. OSPI is examining existing institutional education rules and is in the process of adopting new rules to ensure that institutional education facilities include efficient systems to focus on continuous learning and maximize credit accrual during transitions for youth and post-resident youth. These policy changes are just one critical step in meeting the needs of students learning in institutional education settings.

The Institutional Education Structure and Accountability Advisory Group, established by section 14 of Houser Bill 1295 (2021), provides advice, assistance, and information to OSPI and the Department of Children, Youth, and Families for the development of recommendations for a reformed institutional education system. The recommendations must be focused on meeting the complex needs of students who are in or have been released from secure settings and must be based on the foundational concept that every student can succeed given the necessary supports. These recommendations will drive more policy and funding considerations for the 2022 Legislative Session and may require subsequent rulemaking.

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