

# Chapter 392-115 WAC

## FINANCE—AUDIT RESOLUTION PROCESS

### WAC

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**WAC 392-115-005 Authority.** The authority for this chapter is Substitute Senate Bill No. 5394 which authorizes the superintendent to set policy and procedure for resolution of monetary and nonmonetary audit findings involving state money and RCW 28A.300.070 which authorizes the superintendent of public instruction to receive and administer federal moneys in accordance with federal acts—to wit;

(1) U.S. Public Law 98-502 (Single Audit Act of 1984) and U.S. Public Law 104-156 (Single Audit Act Amendments) and its implementing federal rules and regulations that require the superintendent of public instruction to resolve audit findings against governmental organizations receiving federal moneys that the superintendent of public instruction receives and administers;

(2) U.S. Public Law 89-64 and amendments thereto (Child Nutrition Act of 1966) and its implementing rules and regulations that require the superintendent of public instruction to resolve audit findings against those organizations operating child care programs and receiving federal moneys received and administered by the superintendent of public instruction; or

(3) U.S. Office of Management and Budget Circular A-133 and successors that require the superintendent of public instruction to resolve audit findings against those organizations receiving federal moneys administered and received by the superintendent of public instruction.

(4) U.S. Public Law 100-297 (Elementary and Secondary School Improvement Act of 1988) and U.S. Public Law 103-382 (Improving America Schools Act) implementing rules and regulations that require the superintendent of public instruction to consider audit findings to be prima facie evidence, and the burden of proof to set aside an audit finding rests with the subrecipient.

(5) U.S. Public Law 94-142 (Individuals with Disabilities Education Act) and amendments thereto that require the superintendent of public instruction to provide a free and appropriate education to students with disabilities.

[Statutory Authority: 1997 c 167 and chapter 28A.300 RCW. 98-05-008 (Order 98-02), § 392-115-005, filed 2/4/98, effective 3/7/98. Statutory Authority: RCW 28A.300.070. 91-07-007 (Order 91-04), § 392-115-005, filed 3/8/91, effective 4/8/91.]

**WAC 392-115-010 Purpose.** The purpose of this chapter is to set forth the policies and procedures in accordance with state and federal requirements for the resolution of monetary and nonmonetary audit findings against a subrecipient receiving state or federal moneys administered by the superintendent of public instruction.

[Statutory Authority: 1997 c 167 and chapter 28A.300 RCW. 98-05-008 (Order 98-02), § 392-115-010, filed 2/4/98, effective 3/7/98. Statutory Authority: RCW 28A.300.070. 91-07-007 (Order 91-04), § 392-115-010, filed 3/8/91, effective 4/8/91.]

**WAC 392-115-015 Definition—Subrecipient.** As used in this chapter, "subrecipient" means a public or nonpublic entity receiving state or federal moneys administered and disbursed by the superintendent of public instruction.

[Statutory Authority: 1997 c 167 and chapter 28A.300 RCW. 98-05-008 (Order 98-02), § 392-115-015, filed 2/4/98, effective 3/7/98. Statutory Authority: RCW 28A.300.070. 91-07-007 (Order 91-04), § 392-115-015, filed 3/8/91, effective 4/8/91.]

**WAC 392-115-020 Definition—Program audit.** As used in this chapter, "program audit" means an examination of a subrecipient to determine compliance with the state or federal laws and regulations governing the operation of a specific program.

[Statutory Authority: 1997 c 167 and chapter 28A.300 RCW. 98-05-008 (Order 98-02), § 392-115-020, filed 2/4/98, effective 3/7/98. Statutory Authority: RCW 28A.300.070. 91-07-007 (Order 91-04), § 392-115-020, filed 3/8/91, effective 4/8/91.]

**WAC 392-115-025 Definition—Single audit.** As used in this section, "single audit" means an organization-wide examination conducted under the Single Audit Act of 1984 and the Single Audit Act Amendments of 1996 encompassing the entire financial operation of a subrecipient reporting whether:

(1) All financial statements present fairly the financial position and results of financial operations in accordance with generally accepted accounting principles;

(2) All laws and regulations having a material effect upon the financial statements or major state or federal assistance programs have been complied with; and

(3) All internal control systems provide reasonable assurance that federal financial assistance programs are managed in compliance with applicable laws and regulations.

[Statutory Authority: 1997 c 167 and chapter 28A.300 RCW. 98-05-008 (Order 98-02), § 392-115-025, filed 2/4/98, effective 3/7/98. Statutory Authority: RCW 28A.300.070. 91-07-007 (Order 91-04), § 392-115-025, filed 3/8/91, effective 4/8/91.]

**WAC 392-115-030 Definition—Audit report.** As used in this chapter, "audit report" means the report issued by either the office of the state auditor or a certified public accountant disclosing the results of either a single audit or program audit.

[Statutory Authority: RCW 28A.300.070. 91-07-007 (Order 91-04), § 392-115-030, filed 3/8/91, effective 4/8/91.]

**WAC 392-115-035 Definition—Questioned costs.** As used in this chapter, "questioned costs" means the estimated cost presented in a schedule of questioned cost, associated with one or more of the following:

(1) An alleged violation of a law, regulation, contract, grant, cooperative agreement, or other agreement governing the expenditure of moneys.

(2) Lack of adequate documentation of the expenditure of moneys.

(3) The unnecessary or unreasonable expenditure of the moneys.

[Statutory Authority: RCW 28A.300.070. 91-07-007 (Order 91-04), § 392-115-035, filed 3/8/91, effective 4/8/91.]

**WAC 392-115-040 Definition—Monetary audit finding.** As used in this chapter, "monetary audit finding" means a questioned cost associated with a weakness, irregularity, or error.

[Statutory Authority: RCW 28A.300.070. 91-07-007 (Order 91-04), § 392-115-040, filed 3/8/91, effective 4/8/91.]

**WAC 392-115-045 Definition—Nonmonetary audit finding.** As used in this chapter, "nonmonetary audit finding" means a weakness, error, or irregularity not associated with a questioned cost but associated with:

(1) Inadequacy of internal controls;

(2) Lack of compliance with state or federal laws or rules and regulations; or

(3) Improper financial statements of the subrecipient.

[Statutory Authority: 1997 c 167 and chapter 28A.300 RCW. 98-05-008 (Order 98-02), § 392-115-045, filed 2/4/98, effective 3/7/98. Statutory Authority: RCW 28A.300.070. 91-07-007 (Order 91-04), § 392-115-045, filed 3/8/91, effective 4/8/91.]

**WAC 392-115-050 Definition—Audit finding.** As used in this chapter, "audit finding" means either a monetary or nonmonetary audit finding designated as questioned federal or state data in an audit report, management letter or audit memorandum, including but not limited to staffing, enrollment or other reported data of a subrecipient pertaining to state or federal moneys administered or disbursed by the superintendent of public instruction.

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[Statutory Authority: 1997 c 167 and chapter 28A.300 RCW. 98-05-008 (Order 98-02), § 392-115-050, filed 2/4/98, effective 3/7/98. Statutory Authority: RCW 28A.300.070. 91-07-007 (Order 91-04), § 392-115-050, filed 3/8/91, effective 4/8/91.]

**WAC 392-115-055 Definition—Disallowed costs.** As used in this chapter, "disallowed costs" means those questioned costs associated with an audit finding that the superintendent of public instruction has determined should not be charged to the state or federal government program.

[Statutory Authority: 1997 c 167 and chapter 28A.300 RCW. 98-05-008 (Order 98-02), § 392-115-055, filed 2/4/98, effective 3/7/98. Statutory Authority: RCW 28A.300.070. 91-07-007 (Order 91-04), § 392-115-055, filed 3/8/91, effective 4/8/91.]

**WAC 392-115-060 Definition—Allowed costs.** As used in this chapter, "allowed costs" means a questioned cost that the superintendent of public instruction has determined is properly charged to the state or federal government program. Such determination includes but is not limited to the following reasons: Clerical error; inappropriate methodology; non-compliance with generally accepted auditing standards and incorrect interpretation or application of law, rules, or regulations.

[Statutory Authority: 1997 c 167 and chapter 28A.300 RCW. 98-05-008 (Order 98-02), § 392-115-060, filed 2/4/98, effective 3/7/98. Statutory Authority: RCW 28A.300.070. 91-07-007 (Order 91-04), § 392-115-060, filed 3/8/91, effective 4/8/91.]

**WAC 392-115-065 Definition—Resolved audit finding.** As used in this chapter, "resolved audit finding" means an audit finding that is addressed in or subject to provisions of a management decision letter.

[Statutory Authority: 1997 c 167 and chapter 28A.300 RCW. 98-05-008 (Order 98-02), § 392-115-065, filed 2/4/98, effective 3/7/98. Statutory Authority: RCW 28A.300.070. 91-07-007 (Order 91-04), § 392-115-065, filed 3/8/91, effective 4/8/91.]

**WAC 392-115-070 Definition—Management decision letter.** As used in this chapter, "management decision letter" means a letter that represents resolution of the audit finding for the purposes of this chapter.

[Statutory Authority: RCW 28A.300.070. 91-07-007 (Order 91-04), § 392-115-070, filed 3/8/91, effective 4/8/91.]

**WAC 392-115-075 Definition—Desk review.** As used in this chapter, "desk review" means a review of an audit report to assure that it meets applicable reporting standards and single audit reporting requirements.

[Statutory Authority: RCW 28A.300.070. 91-07-007 (Order 91-04), § 392-115-075, filed 3/8/91, effective 4/8/91.]

**WAC 392-115-080 Reopening of resolved audit findings.** The superintendent of public instruction shall recover from the subrecipient moneys resulting from an audit resolution pursuant to this chapter, and any subsequent events that result in a liability of the subrecipient, including the reopening of resolved audit findings. Basic education allocation may be withheld to facilitate recovery as provided by section 1, chapter 103, Laws of 1990.

[Statutory Authority: RCW 28A.300.070. 91-07-007 (Order 91-04), § 392-115-080, filed 3/8/91, effective 4/8/91.]

**WAC 392-115-085 Audit finding against SPI considered to be an audit finding against a subrecipient.** An audit finding contained in an audit report of the superintendent of public instruction resulting from failure of a subrecipient to comply with state or federal law or rules and regulations, shall be considered an audit finding against the subrecipient and resolved pursuant to this chapter.

[Statutory Authority: 1997 c 167 and chapter 28A.300 RCW. 98-05-008 (Order 98-02), § 392-115-085, filed 2/4/98, effective 3/7/98. Statutory Authority: RCW 28A.300.070. 91-07-007 (Order 91-04), § 392-115-085, filed 3/8/91, effective 4/8/91.]

**WAC 392-115-090 Lack of compliance with the audit resolution process.** Any subrecipient failing to comply with the process or procedures of this chapter shall be subject to the withholding or recovery of state or federal moneys. The superintendent of public instruction shall recover moneys or withhold future funding as necessary to implement management decision letters or corrective action plans. Money withheld may be released upon corrective action.

[Statutory Authority: 1997 c 167 and chapter 28A.300 RCW. 98-05-008 (Order 98-02), § 392-115-090, filed 2/4/98, effective 3/7/98. Statutory Authority: RCW 28A.300.070. 91-07-007 (Order 91-04), § 392-115-090, filed 3/8/91, effective 4/8/91.]

**WAC 392-115-095 Desk review of audit reports.** As required by 34 C.F.R. Part 74, Appendix G, upon receipt of an audit report from the office of the state auditor or a certified public accountant, a desk review of the audit report shall be conducted by the superintendent of public instruction. Audit reports that pass the desk review shall be forwarded for resolution of any audit findings. Audit reports that are determined by such review to be deficient shall be rejected. The superintendent of public instruction may consult with auditors prior to the rejection of audit reports.

[Statutory Authority: RCW 28A.300.070. 91-07-007 (Order 91-04), § 392-115-095, filed 3/8/91, effective 4/8/91.]

**WAC 392-115-100 Subrecipient to be informed of audit finding.** The superintendent of public instruction shall inform, by letter, the affected subrecipient of an audit finding or findings within thirty calendar days after an audit report has passed desk review, as required by WAC 392-115-095. If the audit contains a monetary audit finding such letter shall be notice under P.L. 100-297 of a prima facie case for the recovery of funds, that unless rebutted, is sufficient to sustain the conclusion drawn in the audit. If the audit contains a non-monetary finding, the audit shall be a prima facie case that sustains the audit finding unless rebutted. Audit findings are sustained under this chapter unless the subrecipient can prove that the audit is deficient as specified in WAC 392-115-140.

[Statutory Authority: RCW 28A.300.070. 91-07-007 (Order 91-04), § 392-115-100, filed 3/8/91, effective 4/8/91.]

**WAC 392-115-105 Subrecipient concurrence with audit finding.** The subrecipient shall inform the superintendent of public instruction, by letter, whether it concurs or does not concur with an audit finding within thirty calendar days of the date of the notice by the superintendent of public instruction. If the subrecipient concurs with the audit finding(s), the superintendent of public instruction shall follow

the process and procedures set forth in WAC 392-115-110 through 392-115-130. In the event a subrecipient elects not to respond to the notice within thirty calendar days of the date of said notice, such failure will be considered concurrence with audit finding(s). If the subrecipient does not concur with the audit finding, the subrecipient and the superintendent of public instruction shall follow the process and procedures set forth in WAC 392-115-140 through 392-115-150.

[Statutory Authority: RCW 28A.300.070. 91-07-007 (Order 91-04), § 392-115-105, filed 3/8/91, effective 4/8/91.]

**WAC 392-115-110 Management decision letter developed.** The superintendent of public instruction shall prepare and forward to the subrecipient a management decision letter setting forth:

- (1) Any corrective actions to be taken by the subrecipient;
- (2) Any disallowed costs to be recovered from nonfederal sources;
- (3) Any allowed costs chargeable to federal sources;
- (4) The due date for submission to the superintendent of public instruction of any corrective action plan;
- (5) Any state adjustments of data submitted which may result in revised apportionment calculations or recovered payments.

The superintendent of public instruction shall issue the management decision letter no later than one hundred eighty calendar days after the receipt of the audit report setting forth an audit finding against the subrecipient.

[Statutory Authority: 1997 c 167 and chapter 28A.300 RCW. 98-05-008 (Order 98-02), § 392-115-110, filed 2/4/98, effective 3/7/98. Statutory Authority: RCW 28A.300.070. 91-07-007 (Order 91-04), § 392-115-110, filed 3/8/91, effective 4/8/91.]

**WAC 392-115-115 Corrective action plan.** The subrecipient shall develop a corrective action plan, as required in the management decision letter, setting forth:

- (1) The corrective actions; and
- (2) The schedule for implementation of corrective actions.

[Statutory Authority: 1997 c 167 and chapter 28A.300 RCW. 98-05-008 (Order 98-02), § 392-115-115, filed 2/4/98, effective 3/7/98. Statutory Authority: RCW 28A.300.070. 91-07-007 (Order 91-04), § 392-115-115, filed 3/8/91, effective 4/8/91.]

**WAC 392-115-120 SPI reviews corrective action plan.** The superintendent of public instruction shall review and approve the corrective action plan and implementation schedule as proposed by the subrecipient for compliance with the required actions set forth in the management decision letter. If the corrective action plan or its implementation schedule does not comply with the requirements of the management decision letter, the superintendent shall require the subrecipient to modify the corrective action plan accordingly. The auditor (the office of the state auditor or a certified public accountant) has the responsibility to review the subrecipient's actions to determine if the corrective actions called for in the corrective action plan have taken place and assess the adherence to the corrective action plan in making audit determinations.

[Statutory Authority: 1997 c 167 and chapter 28A.300 RCW. 98-05-008 (Order 98-02), § 392-115-120, filed 2/4/98, effective 3/7/98. Statutory Authority: RCW 28A.300.070. 91-07-007 (Order 91-04), § 392-115-120, filed 3/8/91, effective 4/8/91.]

**WAC 392-115-125 SPI informs subrecipient of the results of review.** The superintendent of public instruction shall inform the subrecipient, by letter, of:

- (1) The results of its review of the corrective action plan;
- (2) Any modification required to be made by the subrecipient; and
- (3) The implementation schedule of the corrective action plan.

[Statutory Authority: 1997 c 167 and chapter 28A.300 RCW. 98-05-008 (Order 98-02), § 392-115-125, filed 2/4/98, effective 3/7/98. Statutory Authority: RCW 28A.300.070. 91-07-007 (Order 91-04), § 392-115-125, filed 3/8/91, effective 4/8/91.]

**WAC 392-115-130 Subrecipient implements corrective action plan.** The subrecipient shall implement the corrective action plan, with any required modifications, by the date(s) specified by the superintendent of public instruction.

[Statutory Authority: 1997 c 167 and chapter 28A.300 RCW. 98-05-008 (Order 98-02), § 392-115-130, filed 2/4/98, effective 3/7/98. Statutory Authority: RCW 28A.300.070. 91-07-007 (Order 91-04), § 392-115-130, filed 3/8/91, effective 4/8/91.]

**WAC 392-115-135 Subrecipient nonconcurrence with audit finding.** The subrecipient shall state the basis of its nonconcurrence with the audit finding by letter, within sixty calendar days (inclusive of the thirty calendar days allowed the subrecipient to notify the superintendent of public instruction of its concurrence or nonconcurrence provided in WAC 392-115-105) of notification from the superintendent of public instruction of the audit finding. The letter shall set forth in full the reasons for the nonconcurrence and be the basis for any subsequent review by the superintendent of public instruction. The subrecipient shall have the burden of proof in cases of disputed audit findings.

[Statutory Authority: RCW 28A.300.070. 91-07-007 (Order 91-04), § 392-115-135, filed 3/8/91, effective 4/8/91.]

**WAC 392-115-140 SPI review of audit finding as result of nonconcurrence.** The superintendent of public instruction shall review the subrecipient's letter of nonconcurrence and such review shall be limited to proof of one or more of the following:

- (1) Error or omission by the auditor;
- (2) Application of inappropriate methodology by the auditor;
- (3) Noncompliance with generally accepted auditing standards by the auditor;
- (4) Incorrect interpretation or application by the auditor of federal law or rules and regulations.

[Statutory Authority: RCW 28A.300.070. 91-07-007 (Order 91-04), § 392-115-140, filed 3/8/91, effective 4/8/91.]

**WAC 392-115-145 SPI develops management decision letter.** The superintendent of public instruction shall issue a management decision letter pursuant to WAC 392-115-115 incorporating the results of its review of the subrecipient's nonconcurrence with an audit finding.

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[Statutory Authority: RCW 28A.300.070. 91-07-007 (Order 91-04), § 392-115-145, filed 3/8/91, effective 4/8/91.]

**WAC 392-115-150 Subrecipient appeal of management decision letter.** The subrecipient may, in writing, appeal the management decision letter within thirty calendar days after the date of the management decision letter to the superintendent of public instruction.

[Statutory Authority: RCW 28A.300.070. 91-07-007 (Order 91-04), § 392-115-150, filed 3/8/91, effective 4/8/91.]

**WAC 392-115-151 Appeals or adjudicative proceedings.** Pursuant to WAC 392-115-150:

(1) Any subrecipient deciding to appeal the management decision letter, may do so to the superintendent of public instruction or designee in accordance with the adjudicative proceedings in RCW 34.05.413 through 34.05.494 and the administrative practices and procedures of the superintendent of public instruction in chapter 392-101 WAC.

(2) Reviewing initial orders and preparing and entering final agency orders in accordance with RCW 34.05.464 may be accomplished by a person appointed by the superintendent.

(3) The superintendent of public instruction may assign the adjudicative proceeding to the office of administrative hearings and may delegate final decision-making authority to the administrative law judge conducting the hearing.

[Statutory Authority: 1997 c 167 and chapter 28A.300 RCW. 98-05-008 (Order 98-02), § 392-115-151, filed 2/4/98, effective 3/7/98.]

**WAC 392-115-155 Modification of management decision letter.** The superintendent of public instruction shall consider any and all recommendations resulting from a fully exhausted appeals process in a revised management decision letter developed pursuant to WAC 392-115-110.

[Statutory Authority: 1997 c 167 and chapter 28A.300 RCW. 98-05-008 (Order 98-02), § 392-115-155, filed 2/4/98, effective 3/7/98. Statutory Authority: RCW 28A.300.070. 91-07-007 (Order 91-04), § 392-115-155, filed 3/8/91, effective 4/8/91.]