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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER


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Purpose. The purpose of this chapter is to formalize the principles applicable to adjudication of cases related to nonresident school attendance.

[Statutory Authority: RCW 28A.22.230 [28A.225.230] and 34.05.220(4). 90-19-068 (Order 26), § 392-137-105, filed 9/17/90, effective 10/18/90.]

Nonresident attendance exempt from adjudication. The following nonresident attendance arrangements and entitlements are exempt from the adjudication provisions of this chapter:

1. Interdistrict cooperation programs conducted in accordance with RCW 28A.335.160 or 28A.225.250 and chapter 392-135 WAC.

2. Programs temporarily conducted in behalf of another district in accordance with RCW 28A.225.200.

3. Reciprocity programs with continuous out-of-state school districts conducted pursuant to RCW 28A.225.260.

The purpose of students from other districts who, by operation of law, have a statutory entitlement to attend school in a nonresident district—to wit the following:

(a) Children who reside within certain federal lands or Indian reservations as provided in RCW 28A.225.170.

(b) Children who reside in school districts which do not provide the grade in which the student is eligible to enroll as provided in RCW 28A.225.210.

(c) Children who are defined to be at risk pursuant to RCW 28A.175.090.

Student residence—Definition. As used in this chapter, the term "student residence" means the physical location of a student's principal abode—i.e., the home, house, apartment, facility, structure, or location, etc.—where the student lives the majority of the time. The following shall be considered in applying this section:

1. The mailing address of the student—e.g., parent's address or post office box—may be different than the student's principal abode.

2. The student's principal abode may be different than the principal abode of the student's parent(s).

3. The lack of a mailing address for a student does not preclude residency under this section.

4. If students are expected to reside at address for twenty consecutive days or more.


Resident district—Definition. As used in this chapter, the term "resident district" means the district in which the student's residence is located.

[Statutory Authority: RCW 28A.22.230 [28A.225.230] and 34.05.220(4). 90-19-068 (Order 26), § 392-137-120, filed 9/17/90, effective 10/18/90.]

Nonresident district—Definition. As used in this chapter, the term "nonresident district" means
WAC 392-137-130 Release of students to nonresident districts. A resident district shall release a student to a nonresident district if the student meets each of the following conditions:

1. The nonresident district agrees to accept the student.
2. The student demonstrates a ground for release as specified in WAC 392-137-135, 392-137-140, or 392-137-145.
3. The resident district has not denied the release for desegregation reasons as specified in WAC 392-137-150.

WAC 392-137-135 Affecting condition—Ground for release. A district shall release a student if a financial, educational, safety, or health condition affecting the student would likely be reasonably improved as a result of the transfer. The following shall be considered in applying this section:

1. The term "condition affecting the student" means a financial, educational, safety, or health benefit which can not be met or achieved by attendance in the student's resident district.
2. The term "would likely be reasonably improved" means it is probable, in the judgment of a reasonable person, that the nature and effect of the benefit to be received will be real and meaningful.

WAC 392-137-140 Accessibility to work or child care—Ground for release. A district shall release a student if attendance in the nonresident district is more accessible to the parent's place of work or to the location of child care. The following shall be considered in applying this section:

1. The term "parent" means one or more adults with custodial responsibility for the child.
2. The term "more accessible" means a difference to an extent which is more than de minimis.
3. The term "child care" means any form of adult supervision for a child who is in need of such adult supervision.

WAC 392-137-145 Special condition—Ground for release. A district shall release a student if there is a special hardship or detrimental condition. The following shall be considered in applying this section:

1. The term "special" means a circumstance or factor which is generally not applicable to other students or families.
2. The terms "hardship" and "detrimental condition" apply to any circumstance or factor harmfully affecting the student or student's immediate family and is not restricted to a financial, educational, safety, or health condition.

(7/13/10)
WAC 392-137-160 Admission by nonresident district—Released students. A nonresident district may admit all nonresident students who are released by a resident district, the superintendent of public instruction, or a court of law. The provisions of RCW 28A.225.240 shall apply for apportionment and other purposes.

WAC 392-137-190 Appeal notice—Denial of release or admission. Requests for an appeal shall be addressed to the superintendent of public instruction and shall contain the following:

(1) The name, age, grade level, and residence address, if any, of the student.

(2) The name, mailing address, if any, and the legal relationship of the person, if any, filing the notice of appeal on behalf of the student.

(3) In the case of denial of release, documentation indicating the conditions of WAC 392-137-155 have been met and a copy of all documents or other written evidence submitted to the resident district which indicates the grounds for the requested release.

(4) In the case of denial of admission, documentation that the nonresident district has failed to comply with the standards and procedures specified in WAC 392-137-205.

WAC 392-137-195 Filing of notices of appeal. There is no prescribed method for transmitting appeals to the superintendent of public instruction but receipt of such written appeals by the superintendent of public instruction is a condition precedent to jurisdiction. The material may be hand-delivered or mailed to the following address:

Legal Services
Office of the Superintendent of Public Instruction
P.O. Box 47200
Olympia, Washington 98504-7200

WAC 392-137-200 Appeal to SPI—Denial of application by nonresident district. RCW 28A.225.230 requires the superintendent of public instruction to hear and adjudicate appeals from denials by nonresident school districts to accept a nonresident student if the nonresident district fails to comply with the standards and procedures prescribed in section 203, chapter 9, Laws of 1990 1st ex. sess. The grounds for such an appeal are noted in WAC 392-137-205.

WAC 392-137-205 Noncompliance with standards and procedures—Ground for admission. A nonresident student who is denied admission to a nonresident district shall be ordered admitted by the superintendent of public instruction if the district does not comply with the standards and procedures specified in section 203, chapter 9, Laws of 1990 1st ex. sess.—to wit the following:

1) "All districts accepting applications from nonresident students for admission to the district's schools shall consider equally all applications received. Each school district shall adopt a policy establishing rational, fair, and equitable standards for acceptance and rejection of applications by June 30, 1990." The following shall be considered in applying this subsection:

(a) Applications from nonresident students for the purpose of this section do not include students who are attending the district pursuant to arrangements or entitlements noted in WAC 392-137-110.

(b) The requirement to consider all applications equally does not preclude the establishment of a priority system that is fair and equitable under equal protection standards.

(c) The failure of a district to have adopted an admission policy at the time of the student's denial of admission, not the June 30, 1990 deadline, will govern an order to admit for failure to adopt any policy regarding admission.

2) "The district shall provide to applicants written notification of the approval or denial of the application in a timely manner. If the application is rejected, the notification shall include the reason or reasons for denial and the right to appeal under RCW 28A.225.230(3)." The following shall be considered in applying this subsection:

(a) All applications must be acted upon by accepting or denying the application within forty-five calendar days of receipt by the nonresident district or the application will be deemed to have been denied for purposes of this section.

(b) The district must make reasonable effort to deliver the written notification of denial to the applicant.

WAC 392-137-225 Length of release. All releases of resident students, whether granted by the resident district or ordered by the superintendent of public instruction, shall state the length of the release or the condition subsequent which would cause the release to be terminated. The termination of a release, for the purpose of this chapter, shall be adjudicated as per the provisions regarding a request for a release.

[Statutory Authority: RCW 28A.22.230 [28A.225.230] and 34.05.220(4), 90-19-068 (Order 26), § 392-137-225, filed 9/17/90, effective 10/18/90.]
WAC 392-137-230 Length of acceptance. All acceptances of nonresident students, whether granted by the nonresident district or ordered by the superintendent of public instruction, shall state the length of the acceptance or the condition subsequent which would cause the acceptance to be terminated. The termination of an acceptance, for the purpose of this chapter, shall be adjudicated as per the provisions regarding a denial of acceptance.

[Statutory Authority:  RCW 28A.22.230 [28A.225.230] and 34.05.220(4). 90-19-068 (Order 26), § 392-137-230, filed 9/17/90, effective 10/18/90.]

WAC 392-137-235 Residency of handicapped children—Special condition. Notwithstanding the definitions of resident and nonresident district pursuant to this chapter, in the event a student who is eligible for special education pursuant to chapter 392-172A WAC transfers pursuant to this chapter from a resident school district to a nonresident district, the nonresident district shall be deemed the resident district for the purposes of chapter 392-172A WAC and shall be required to perform all legal duties as otherwise required by the resident district, including the transportation of the transferring handicapped student if so required as a related service.


WAC 392-137-240 Transportation of students—Funding—Cooperative agreements. Chapter 28A.160 RCW, School transportation authorizes state funding for transportation of students transported from outside of district boundaries and furthermore authorizes cooperative arrangements among districts regarding the transportation of students from one district to another.

[Statutory Authority:  RCW 28A.22.230 [28A.225.230] and 34.05.220(4). 90-19-068 (Order 26), § 392-137-240, filed 9/17/90, effective 10/18/90.]

WAC 392-137-245 Hearings. The hearings provided for in this chapter shall be conducted in compliance with chapter 392-101 WAC.

[Statutory Authority:  RCW 28A.22.230 [28A.225.230] and 34.05.220(4). 90-19-068 (Order 26), § 392-137-245, filed 9/17/90, effective 10/18/90.]