

Chapter 392-380 WAC

PUBLIC SCHOOL PUPILS—IMMUNIZATION REQUIREMENT AND LIFE-THREATENING HEALTH CONDITION

(Formerly chapter 180-40 WAC)

WAC

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WAC 392-380-005 Purpose and authority. (1) The purpose of this chapter is to establish the procedural and substantive due process requirements governing the exclusion of students from public schools for failure to comply with the immunization requirement of the state of Washington or failure to present a medication or treatment order for a life-threatening health condition.

(2) The authority for this chapter is RCW 28A.210.160.

[Statutory Authority: RCW 28A.210.160. 07-12-020, § 392-380-005, filed 5/25/07, effective 6/25/07.]

WAC 392-380-020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:

(1) "Student" shall mean the same as defined for "child" in RCW 28A.210.070(6).

(2) "Chief administrator" shall mean the same as defined in RCW 28A.210.070(1).

(3) "Full immunization" shall mean the same as defined in RCW 28A.210.070(2).

(4) "Schedule of immunization" shall mean the beginning or continuing of a course of immunization, including the conditions for school attendance when a child is not fully immunized, as prescribed by the state board of health (WAC 246-100-166(5)).

(5) "Certificate of exemption" shall mean the filing of a statement exempting the child from immunizations with the chief administrator of the school, on a form prescribed by the department of health, which complies with RCW 28A.210.-090.

(6) "Life-threatening condition" shall mean a health condition that will put the child in danger of death during the school day if a medication or treatment order and a nursing plan are not in place.

(7) "Medication or treatment order" shall mean the authority a registered nurse obtains under RCW 18.79.260 (2). The order shall be signed by a licensed health care practitioner listed under RCW 18.79.260(2).

(8) "Nursing plan" shall mean a plan of care developed for the student consistent with the standards of nursing conduct or practice set out in department of health regulations,

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WAC 246-840-700 et seq. The nursing plan implements the medication or treatment order.

(9) "Exclusion" shall mean the case or instance when the student is denied initial or continued attendance:

(a) Due to failure to submit a schedule of immunization, or a certificate of exemption; or

(b) In the case of a life-threatening health condition, due to failure to submit a medication or treatment order and any medication or equipment identified in the order, unless the school district is required to provide the medication or equipment as a related service under federal law.

(10) "School day" shall mean the same as in RCW 28A.150.030 and shall be inclusive of school or district sponsored field trip experiences and extracurricular activities and summer school.

(11) "Parent" shall mean parent, legal guardian, or other adult *in loco parentis*.

[Statutory Authority: RCW 28A.210.160. 07-12-020, § 392-380-020, filed 5/25/07, effective 6/25/07.]

WAC 392-380-045 School attendance conditioned upon presentation of proofs. (1) The initial attendance of every student at every public school in the state is conditioned upon proof of immunization as set forth in RCW 28A.210.080.

(2) The chief administrator of each public school shall prohibit the further presence at school of each student already in attendance and who has failed to provide proof of immunization in accordance with RCW 28A.210.080(1). Such exclusion shall be preceded by written notice as set forth in WAC 392-380-050. If written notice has not been provided, any exclusion shall be stayed until notice is received by a parent, guardian or other adult *in loco parentis*.

(3) The initial attendance of every student at every public school who has a life-threatening health condition is conditioned upon:

(a) Presentation by the parent of a medication or treatment order addressing any life-threatening health condition the child has that may require medical services to be performed at the school; and

(b) Formulation of a nursing plan to implement the order. The parent shall also provide any medication or equipment identified in the medication or treatment order necessary to carry out the order, unless the school district is required to provide the medication or equipment as a related service under federal law.

(4) The chief administrator of each public school shall prohibit the further attendance of each student already in

attendance for whom a medication or treatment order has not been provided if the child has a life-threatening health condition that may require medical services to be performed at the school. Any such exclusion shall be preceded by written notice as set forth in WAC 392-380-050. If written notice has not been provided, any exclusion shall be stayed until notice is received by a parent. The school shall continue to prohibit the child's presence until the school:

(a) Receives a medication or treatment order and any medication or equipment identified in the order necessary to carry out the order, unless the school district is required to provide such medication or equipment as a related service under federal law; and

(b) Has a nursing plan in place.

A new medication or treatment order must be submitted whenever there are changes in the medication or treatment needs of the child. The nursing plan shall be amended accordingly.

(5) Upon receipt of a medication or treatment order, the school shall develop a nursing plan.

(6) The requirements of this chapter shall be applied consistent with the requirements of section 504 of the Rehabilitation Act of 1973 and the Individuals with Disabilities Education Act (IDEA).

[Statutory Authority: RCW 28A.210.160. 07-12-020, § 392-380-045, filed 5/25/07, effective 6/25/07.]

WAC 392-380-050 Written notice prior to exclusions from school. (1) Schools must provide written notice to parents prior to excluding students from school for failure to comply with WAC 392-380-045.

(2) The written notice for public school students shall:

(a) Be delivered in person or by certified mail and provided to parents in their native language if feasible.

(b) Inform the appropriate parents of the applicable laws and implementing rules. In addition to notification of the applicable laws and regulations, a copy of the laws and regulations shall be included with the notice.

(c) In cases of exclusion due to lack of proof of immunization, provide information regarding immunization services that are available from or through the local health department and other public agencies.

(d) Order the student excluded from school and state that such order is effective immediately upon receipt of the notice.

(e) Describe the rights of the parents and student to a hearing, describe the hearing process, and explain that the exclusion continues until either the necessary proof of immunization, or medication or treatment plan is received, or until a hearing officer determines that the student is no longer excluded from school.

[Statutory Authority: RCW 28A.210.160. 07-12-020, § 392-380-050, filed 5/25/07, effective 6/25/07.]

WAC 392-380-080 Prehearing and hearing process. (1) If a request for hearing is received by the school district, it shall schedule a hearing. The hearing must be scheduled within three school days of receiving the request. The hearing may be continued to a later date if the parent requests a longer period.

(2) The school district shall establish a hearing process consistent with the procedures set forth for disciplinary cases under chapter 392-400 WAC.

[Statutory Authority: RCW 28A.210.160. 07-12-020, § 392-380-080, filed 5/25/07, effective 6/25/07.]