



PROPOSED RULE MAKING

CR-102 (June 2024) (Implements RCW 34.05.320) Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: August 12, 2024

TIME: 1:01 PM

WSR 24-17-031

Agency: Office of Superintendent of Public Instruction (OSPI)

- Original Notice**
- Supplemental Notice to WSR** _____
- Continuance of WSR** _____

- Preproposal Statement of Inquiry was filed as WSR** 24-12-038 ; 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) WAC 392-121-436 – Emergency advance payments – School district application; WAC 392-121-438 – Emergency advance payments – Approval criteria; WAC 392-121-443 – Emergency advance payments – Repayment of advances

Hearing location(s):

| Date: | Time: | Location: (be specific) | Comment: |
|------------------|------------|--|---|
| October 15, 2024 | 11:30 a.m. | Virtual Public Hearing via Zoom (call-in option also available). Participation link available on OSPI Rules webpage: Ospi.k12.wa.us/policy-funding/ospi-rulemaking-activity | The hearing will be held as a virtual public hearing, without a physical meeting space. Please visit the OSPI Rules webpage for information on participating in the hearing: ospi.k12.wa.us/policy-funding/ospi-rulemaking-activity For participation questions, please email: sirena.wu@k12.wa.us |

Date of intended adoption: October 17, 2024 (Note: This is **NOT** the **effective** date)

| | |
|---|---|
| <p>Submit written comments to:</p> <p>Name <u>T.J. Kelly</u></p> <p>Address <u>OSPI, PO Box 47200, Olympia, WA 98504</u></p> <p>Email <u>Thomas.kelly@k12.wa.us</u></p> <p>Fax _____</p> <p>Other _____</p> <p>Beginning (date and time) <u>September 18, 2024, 8:00 a.m.</u></p> <p>By (date and time) <u>October 15, 2024, 5:00 p.m.</u></p> | <p>Assistance for persons with disabilities:</p> <p>Contact <u>Sirena Wu, OSPI Rules Coordinator</u></p> <p>Phone <u>360-480-9317</u></p> <p>Fax _____</p> <p>TTY <u>360-664-3631</u></p> <p>Email <u>sirena.wu@k12.wa.us</u></p> <p>Other _____</p> <p>By (date) <u>October 8, 2024</u></p> |
|---|---|

Purpose of the proposal and its anticipated effects, including any changes in existing rules: OSPI is proposing rulemaking to extend the apportionment advance request and payout periods for school districts and charter schools, and to establish requirements for repayment assurance and apportionment advance repayment schedules for funds received. As a result of enrollment declines, expiring access to federal COVID relief, unanticipated rise in uncontrollable costs, and other unforeseen events, many districts have experienced unprecedented financial difficulties. Extending the apportionment request, payout, and repayment periods would allow districts to access funds that are essential for the continuity of operations, maintenance, and other education services.

Reasons supporting proposal: School districts have experienced unprecedented financial difficulties due to enrollment declines, expiring access to federal COVID relief, unanticipated rise in uncontrollable costs, and other unforeseen events. By extending the apportionment advance request and payout periods, school districts and charter schools would be able to access funds that are necessary for the continuity of operations, maintenance, and other education services.

Statutory authority for adoption: RCW 28A.150.290; RCW 28A.710.220; RCW 28A.510.250

Statute being implemented:

Is rule necessary because of a:

Federal Law? Yes No

Federal Court Decision? Yes No

State Court Decision? Yes 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)
Type of proponent: Private. Public. Governmental.

Name of agency personnel responsible for:

| | Name | Office Location | Phone |
|----------------|------------|---|-------|
| Drafting | T.J. Kelly | OSPI, 600 S. Washington St, Olympia, WA | |
| Implementation | T.J. Kelly | OSPI, 600 S. Washington St, Olympia, WA | |
| Enforcement | | OSPI, 600 S. Washington St, Olympia, WA | |

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)? Yes No

If yes, insert statement here:

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

Name
Address
Phone
Fax
TTY
Email
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:

Regulatory Fairness Act and Small Business Economic Impact Statement
Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:
This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). 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) (Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e) (Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c) (Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f) (Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d) (Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g) (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 19.85.025\(4\)](#). (Does not affect small businesses).

This rule proposal, or portions of the proposal, is exempt under RCW [RCW 19.85.030](#).

Explanation of how the above exemption(s) applies to the proposed rule: No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed amendment does not have an impact on small business and therefore does not meet the requirements for a statement under RCW 19.85.030 (1) or (2).

(2) Scope of exemptions: *Check one.*

The rule proposal: Is fully exempt. (*Skip section 3.*) Exemptions identified above apply to all portions of the rule proposal.

The rule proposal: Is partially exempt. (*Complete section 3.*) The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):

The rule proposal: Is not exempt. (*Complete section 3.*) No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of 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 minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. _____

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact 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: August 12, 2024

Name: Chris Reykdal

Title: State Superintendent of Public Instruction

Signature: