



# RULE-MAKING ORDER EMERGENCY RULE ONLY

**CR-103E (December 2017)**  
**(Implements RCW 34.05.350**  
**and 34.05.360)**

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: February 05, 2026

TIME: 10:50 AM

WSR 26-05-006

**Agency:** Office of Superintendent of Public Instruction (OSPI)

**Effective date of rule:**

**Emergency Rules**

- ☒ Immediately upon filing.  
☐ Later (specify) \_\_\_\_\_

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

- ☐ Yes ☒ No If Yes, explain:

**Purpose:** The purpose of this emergency rulemaking is to adopt rules regarding how special education staff will apply to K-3 class size, physical, social, and emotional support (PSES), and the certificated instructional staff ratio compliance calculations after changes were made to the special education allocation in Engrossed Second Substitute Senate Bill 5263 (2025).

OSPI will also conduct permanent rulemaking concerning these rules.

**Citation of rules affected by this order:**

New:  
Repealed:  
Amended: WAC 392-122-440, 392-122-510, and 392-127-045  
Suspended:

**Statutory authority for adoption:** Engrossed Second Substitute Senate Bill 5263 (Chapter 368, Laws of 2025); RCW 28A.150.290; RCW 28A.300.072

**Other authority:**

**EMERGENCY RULE**

Under RCW 34.05.350 the agency for good cause finds:

- ☒ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- ☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

**Reasons for this finding:** These emergency rules are necessary as the Legislature changed the cost allocation statute for special education, which OSPI had relied upon in prior years for funding compliance purposes (K-3 compliance and PSES compliance) by reference. With that change, OSPI needs to amend pertinent rules to continue to use the prior methodology for these compliance measures effective in January 2026. Failure to update the rules would result in some districts receiving less state funding than appropriate for the provision of basic education. In some districts, the deficiency could amount to millions of dollars.

OSPI will also conduct permanent rulemaking concerning these rules.

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	<u>3</u>	Repealed	_____

**The number of sections adopted at the request of a nongovernmental entity:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted on the agency's own initiative:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted using:**

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

**Date Adopted:** February 5, 2026

**Name:** Chris Reykdal

**Title:** State Superintendent of Public Instruction

**Signature:**

