



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: February 25, 2026
TIME: 11:55 AM

WSR 26-06-047

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 23-12-018** ; 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) Chapter 392-170 WAC Special service program – Highly capable students

Hearing location(s):

| Date: | Time: | Location: (be specific) | Comment: |
|---------------|------------|--|--|
| April 7, 2026 | 11:00 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: April 9, 2026 (Note: This is **NOT** the **effective** date)

| Submit written comments to: | Assistance for persons with disabilities: |
|--|---|
| Name Jody Hess, Highly Capable Student Program Supervisor Address OSPI, PO Box 47200, Olympia, WA 98504 Email HighlyCapable@k12.wa.us Fax Other | Contact Sirena Wu, OSPI Rules Coordinator Phone 360-480-9317 Fax TTY 360-664-3631 Email sirena.wu@k12.wa.us Other |
| Beginning (date and time) <u>February 26, 2026, 8:00 a.m.</u> By (date and time) <u>April 7, 2026, no later than 5:00 p.m.</u> | By (date) <u>March 31, 2026</u> |

Purpose of the proposal and its anticipated effects, including any changes in existing rules: OSPI is proposing rule making, based on SB 5072 passed by the Washington State Legislature in 2023, concerning universal screening to identify students needing highly capable services, including focusing on equitable identification of low-income and underserved students. The proposed rulemaking clarifies identification of students who require service in a single content domain (math or reading), as well as establishing that assessments for highly capable identification are to be administered in the home school during school hours, with limited exceptions.

Reasons supporting proposal: The proposed amendments establish universal screening practices within school districts to equitably identify highly capable students, especially students from historically underrepresented and low-income backgrounds, in compliance with legislative directives under SB 5072 (2023). This ensures parity in access to accelerated learning and enhanced instruction through the highly capable students program.

Statutory authority for adoption: Substitute Senate Bill 5072 (Chapter 265, Laws of 2023); RCW 28A.185.010; RCW 28A.185.030

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 | Jody Hess | OSPI, 600 S. Washington St, Olympia, WA | |
| Implementation | Jody Hess | 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 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: February 25, 2026 | Signature:  |
| Name: Chris Reykdal | |
| Title: State Superintendent of Public Instruction | |