

Chapter 392-170 WAC
SPECIAL SERVICE PROGRAM—HIGHLY CAPABLE STUDENTS

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WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

392-170-015	Local option. [Statutory Authority: Chapter 28A.16 RCW. WSR 84-14-037 (Order 84-20), § 392-170-015, filed 6/28/84.] Repealed by WSR 13-07-020, filed 3/12/13, effective 4/12/13. Statutory Authority: Chapter 28A.185 RCW.
392-170-037	Definition—Program options. [Statutory Authority: Chapter 28A.185 RCW. WSR 98-12-002 (Order 98-07), § 392-170-037, filed 5/20/98, effective 6/20/98.] Repealed by WSR 13-07-020, filed 3/12/13, effective 4/12/13. Statutory Authority: Chapter 28A.185 RCW.
392-170-040	Multiple criteria for determination of superior intellectual ability—Definitions. [Statutory Authority: Chapter 28A.16 RCW. WSR 84-14-037 (Order 84-20), § 392-170-040, filed 6/28/84.] Repealed by WSR 13-07-020, filed 3/12/13, effective 4/12/13. Statutory Authority: Chapter 28A.185 RCW.
392-170-050	Screening of nominees. [Statutory Authority: Chapter 28A.185 RCW. WSR 98-12-002 (Order 98-07), § 392-170-050, filed 5/20/98, effective 6/20/98. Statutory Authority: Chapter 28A.16 RCW. WSR 84-14-037 (Order 84-20), § 392-170-050, filed 6/28/84.] Repealed by WSR 13-07-020, filed 3/12/13, effective 4/12/13. Statutory Authority: Chapter 28A.185 RCW.
392-170-065	Nondiscrimination in the review of testing results. [Statutory Authority: Chapter 28A.16 RCW. WSR 84-14-037 (Order 84-20), § 392-170-065, filed 6/28/84.] Repealed by WSR 13-07-020, filed 3/12/13, effective 4/12/13. Statutory Authority: Chapter 28A.185 RCW.
392-170-085	Notification of parents. [Statutory Authority: Chapter 28A.16 RCW. WSR 84-14-037 (Order 84-20), § 392-170-085, filed 6/28/84.] Repealed by WSR 13-07-020, filed 3/12/13, effective 4/12/13. Statutory Authority: Chapter 28A.185 RCW.

WAC 392-170-005 Authority. The authority for this chapter is RCW 28A.150.290, 28A.185.030, and 28A.185.050, which authorize the superintendent of public instruction to adopt rules and regulations for the administration of a program for highly capable students in kindergarten through twelfth grade, including the referral, assessment, and selection of such students.

[Statutory Authority: RCW 28A.150.290, 28A.185.030, and 28A.185.050. WSR 19-03-152, § 392-170-005, filed 1/22/19, effective 2/22/19. Statutory Authority: Chapter 28A.185 RCW. WSR 13-07-020, § 392-170-005, filed 3/12/13, effective 4/12/13. Statutory Authority: 1990 c 33. WSR 90-16-002 (Order 18), § 392-170-005, filed 7/19/90, effective 8/19/90. Statutory Authority: Chapter 28A.16 RCW. WSR 84-14-037 (Order 84-20), § 392-170-005, filed 6/28/84.]

WAC 392-170-010 Purpose. The purpose of this chapter is to establish policies and procedures for administration of programs for the education of K-12 students who are highly capable.

[Statutory Authority: Chapter 28A.185 RCW. WSR 13-07-020, § 392-170-010, filed 3/12/13, effective 4/12/13. Statutory Authority: Chapter 28A.16 RCW. WSR 84-14-037 (Order 84-20), § 392-170-010, filed 6/28/84.]

WAC 392-170-012 Funds. For highly capable students, access to accelerated learning and enhanced instruction is access to a basic education. School districts may access basic education funds, in addition to highly capable categorical funds, to provide appropriate highly capable student programs.

[Statutory Authority: Chapter 28A.185 RCW. WSR 13-07-020, § 392-170-012, filed 3/12/13, effective 4/12/13.]

WAC 392-170-020 District plans for the district's highly capable program. Each district shall submit an annual plan for the district's highly capable program on forms provided by the superintendent of public instruction for approval.

[Statutory Authority: Chapter 28A.185 RCW. WSR 13-07-020, § 392-170-020, filed 3/12/13, effective 4/12/13. Statutory Authority: Chapter 28A.16 RCW. WSR 84-14-037 (Order 84-20), § 392-170-020, filed 6/28/84.]

WAC 392-170-025 Board approval. The district's plan for students who are highly capable shall be annually approved by formal action of the district's board of directors.

[Statutory Authority: Chapter 28A.185 RCW. WSR 13-07-020, § 392-170-025, filed 3/12/13, effective 4/12/13. Statutory Authority: Chapter 28A.16 RCW. WSR 84-14-037 (Order 84-20), § 392-170-025, filed 6/28/84.]

WAC 392-170-030 Substance of annual school district plan. The school district's annual plan shall contain the following:

- (1) A report of the number of K-12 students who are highly capable that the district expects to serve by grade level;
- (2) A description of the district's plan to identify students; consistent with RCW 28A.185.020, district practices for identifying the most highly capable students must prioritize equitable identification of low-income students;
- (3) A description of the highly capable program goals;
- (4) A description of the services the highly capable program will offer;
- (5) A description of the instructional program the highly capable program will provide;
- (6) A description of ongoing professional development for educators of students who are highly capable and general education staff;

(7) A description of how the highly capable program will be evaluated that includes information on how the district's highly capable program goals and student achievement outcomes will be measured;

(8) A fiscal report; and

(9) Assurances signed by the school district's authorized representative that the district will comply with all applicable statutes and regulations.

[Statutory Authority: RCW 28A.185.050. WSR 18-03-012, § 392-170-030, filed 1/5/18, effective 2/5/18. Statutory Authority: Chapter 28A.185 RCW. WSR 13-07-020, § 392-170-030, filed 3/12/13, effective 4/12/13. Statutory Authority: RCW 28A.300.070. WSR 06-18-105, § 392-170-030, filed 9/6/06, effective 10/7/06. Statutory Authority: Chapter 28A.16 RCW. WSR 84-14-037 (Order 84-20), § 392-170-030, filed 6/28/84.]

WAC 392-170-035 Definition—Students who are highly capable. As used in this chapter, highly capable students are students who perform or show potential for performing at significantly advanced academic levels when compared with others of their age, experiences, or environments. Outstanding abilities are seen within students' general intellectual aptitudes, specific academic abilities, and/or creative productivities within a specific domain. These students are present not only in the general populace, but are present within all protected classes according to chapters 28A.640 and 28A.642 RCW.

[Statutory Authority: Chapter 28A.185 RCW. WSR 13-07-020, § 392-170-035, filed 3/12/13, effective 4/12/13; WSR 98-12-002 (Order 98-07), § 392-170-035, filed 5/20/98, effective 6/20/98. Statutory Authority: Chapter 28A.16 RCW. WSR 84-14-037 (Order 84-20), § 392-170-035, filed 6/28/84.]

WAC 392-170-036 Definition—Learning characteristics. As used in this chapter, the term learning characteristics means that students who are highly capable may possess, but are not limited to, these learning characteristics:

(1) Capacity to learn with unusual depth of understanding, to retain what has been learned, and to transfer learning to new situations;

(2) Capacity and willingness to deal with increasing levels of abstraction and complexity earlier than their chronological peers;

(3) Creative ability to make unusual connections among ideas and concepts;

(4) Ability to learn quickly in their area(s) of intellectual strength; and

(5) Capacity for intense concentration and/or focus.

[Statutory Authority: Chapter 28A.185 RCW. WSR 13-07-020, § 392-170-036, filed 3/12/13, effective 4/12/13; WSR 98-12-002 (Order 98-07), § 392-170-036, filed 5/20/98, effective 6/20/98.]

WAC 392-170-038 Definition—Special teacher. As used in this chapter, a special teacher is a teacher who has training, experience, advanced skills, and knowledge in the education of highly capable stu-

dents. Areas of competence should include knowledge of the following: Identification procedures, academic, social and emotional characteristics, program design and delivery, instructional practices, student assessment, and program evaluation.

[Statutory Authority: Chapter 28A.185 RCW. WSR 13-07-020, § 392-170-038, filed 3/12/13, effective 4/12/13; WSR 98-12-002 (Order 98-07), § 392-170-038, filed 5/20/98, effective 6/20/98.]

WAC 392-170-042 Annual notification. Annual public notification of parents and students shall be made before any major identification activity. The notice shall be published or announced in multiple ways in appropriate languages to each community in school and district publications or other media, with circulation adequate to notify parents and students throughout the district.

[Statutory Authority: Chapter 28A.185 RCW. WSR 13-07-020, § 392-170-042, filed 3/12/13, effective 4/12/13; WSR 98-12-002 (Order 98-07), § 392-170-042, filed 5/20/98, effective 6/20/98.]

WAC 392-170-045 Referral process for highly capable students. Each school district shall establish written procedures for the referral of students to participate in programs for highly capable students. Such procedures shall permit referrals based on data or evidence from teachers, other staff, parents, students, and members of the community.

A district's referral procedure for students who are highly capable may include screening procedures to eliminate students who, based on clear, current evidence, do not qualify for eligibility under WAC 392-170-055.

Consistent with RCW 28A.185.020, district practices for identifying the most highly capable students must prioritize equitable identification of low-income students.

[Statutory Authority: RCW 28A.185.050. WSR 18-03-012, § 392-170-045, filed 1/5/18, effective 2/5/18. Statutory Authority: Chapter 28A.185 RCW. WSR 15-14-034, § 392-170-045, filed 6/23/15, effective 7/24/15; WSR 13-07-020, § 392-170-045, filed 3/12/13, effective 4/12/13. Statutory Authority: Chapter 28A.16 RCW. WSR 84-14-037 (Order 84-20), § 392-170-045, filed 6/28/84.]

WAC 392-170-047 Parental/legal guardian permission. Parental permission shall be obtained in writing before:

- (1) Conducting assessment(s) to determine eligibility for participation in programs for highly capable students;
- (2) Placement in the district's highly capable program before any special services and programs are started for an identified highly capable student;

Parental permission notice shall include:

- (a) A full explanation of the procedures for identification of a student for entrance into the highly capable program;
- (b) An explanation of the appeal's process;
- (c) An explanation of the procedures to exit a student from the program; and

(d) Information on the district's program and the options that will be available to identified students.

[Statutory Authority: Chapter 28A.185 RCW. WSR 13-07-020, § 392-170-047, filed 3/12/13, effective 4/12/13; WSR 98-12-002 (Order 98-07), § 392-170-047, filed 5/20/98, effective 6/20/98.]

WAC 392-170-055 Assessment process for selection as highly capable student. (1) The superintendent of public instruction must require school districts to have identification procedures for their highly capable programs that are clearly stated and implemented by school districts using the following criteria:

(a) Districts must use multiple objective criteria to identify students who are among the most highly capable. Multiple pathways for qualifications must be available and no single criterion may disqualify a student from identification;

(b) Highly capable selection decisions must be based on consideration of criteria benchmarked on local norms, but local norms may not be used as a more restrictive criteria than national norms;

(c) Subjective measures such as teacher recommendations or report card grades may not be used to screen out a student from assessment. These data points may be used alongside other criteria during selection to support identification, but may not be used to disqualify a student from being identified; and

(d) To the extent practicable, screening and assessments must be given in the native language of the student. If native language screening and assessments are not available, a nonverbal screening and assessment must be used.

(2) Students referred for selection as a highly capable student, unless eliminated through screening as provided in WAC 392-170-045, shall be assessed by qualified district personnel;

(3) There is no single prescribed method for identification of students among the most highly capable;

(4) Districts shall have a clearly defined and written assessment process; and

(5) Consistent with RCW 28A.185.020, district practices for identifying the most highly capable students must prioritize equitable identification of low-income students.

[Statutory Authority: RCW 28A.150.290, 28A.185.030, and 28A.185.050. WSR 19-03-152, § 392-170-055, filed 1/22/19, effective 2/22/19. Statutory Authority: RCW 28A.185.050. WSR 18-03-012, § 392-170-055, filed 1/5/18, effective 2/5/18. Statutory Authority: Chapter 28A.185 RCW. WSR 13-07-020, § 392-170-055, filed 3/12/13, effective 4/12/13. Statutory Authority: Chapter 28A.16 RCW. WSR 84-14-037 (Order 84-20), § 392-170-055, filed 6/28/84.]

WAC 392-170-060 Nondiscrimination in the use of tests. All tests and other evaluation materials used in the assessment shall have been validated for the specific purpose for which they are used and shall accurately reflect whatever factors the tests purport to measure. If properly validated tests are not available, the professional judgment of the qualified district personnel shall determine eligibility of the student based upon evidence of cognitive ability and/or

academic achievement. This professional judgment shall be documented in writing.

[Statutory Authority: Chapter 28A.185 RCW. WSR 13-07-020, § 392-170-060, filed 3/12/13, effective 4/12/13. Statutory Authority: Chapter 28A.16 RCW. WSR 84-14-037 (Order 84-20), § 392-170-060, filed 6/28/84.]

WAC 392-170-070 Multidisciplinary selection committee. The multidisciplinary selection committee for the final selection of the most highly capable students for participation in the district's program for highly capable students shall consist of the following professionals:

- (1) A special teacher: Provided, that if a special teacher is not available, a classroom teacher shall be appointed;
- (2) A psychologist or other qualified practitioner with the training to interpret cognitive and achievement test results;
- (3) A certificated coordinator/administrator with responsibility for the supervision of the district's program for highly capable students; and
- (4) Such additional professionals, if any, the district deems desirable.

[Statutory Authority: Chapter 28A.185 RCW. WSR 13-07-020, § 392-170-070, filed 3/12/13, effective 4/12/13. Statutory Authority: Chapter 28A.16 RCW. WSR 84-14-037 (Order 84-20), § 392-170-070, filed 6/28/84.]

WAC 392-170-075 Selection of most highly capable. Each school district's board of directors shall adopt a selection policy and school district shall establish written procedures for the selection of the most highly capable students by the multidisciplinary selection committee. Such policy and selection procedures:

- (1) Shall not violate federal and state civil rights laws including, without limitation, chapters 28A.640 and 28A.642 RCW;
- (2) Shall be based on professional judgment as to which students will benefit the most from inclusion in the district's program;
- (3) Shall be based on a selection system that determines which students are the most highly capable as defined under WAC 392-170-055, and other data collected in the assessment process; and
- (4) Consistent with RCW 28A.185.020, district practices for identifying the most highly capable students must prioritize equitable identification of low-income students.

[Statutory Authority: RCW 28A.185.050. WSR 18-03-012, § 392-170-075, filed 1/5/18, effective 2/5/18. Statutory Authority: Chapter 28A.185 RCW. WSR 15-14-034, § 392-170-075, filed 6/23/15, effective 7/24/15; WSR 13-07-020, § 392-170-075, filed 3/12/13, effective 4/12/13. Statutory Authority: Chapter 28A.16 RCW. WSR 84-14-037 (Order 84-20), § 392-170-075, filed 6/28/84.]

WAC 392-170-076 Process for appeal. Each district shall have a clear and written procedure for appealing the multidisciplinary selec-

tion committee's decision and disseminate this procedure to the public.

[Statutory Authority: Chapter 28A.185 RCW. WSR 15-14-034, § 392-170-076, filed 6/23/15, effective 7/24/15; WSR 13-07-020, § 392-170-076, filed 3/12/13, effective 4/12/13.]

WAC 392-170-078 Program services. Districts shall make a variety of appropriate program services available to students who participate in the district's program for highly capable students. Once services are started, a continuum of services shall be provided to the student from K-12. Districts shall periodically review services for each student to ensure that the services are appropriate.

[Statutory Authority: Chapter 28A.185 RCW. WSR 13-07-020, § 392-170-078, filed 3/12/13, effective 4/12/13. Statutory Authority: RCW 28A.300.070. WSR 06-18-105, § 392-170-078, filed 9/6/06, effective 10/7/06. Statutory Authority: Chapter 28A.185 RCW. WSR 98-12-002 (Order 98-07), § 392-170-078, filed 5/20/98, effective 6/20/98.]

WAC 392-170-080 Educational program for highly capable students. Each student identified as a highly capable student shall be provided educational opportunities which take into account such student's unique needs and capabilities. Such program shall recognize the limits of the resources provided by the state and the program options available to the district, including programs in adjoining districts and public institutions of higher education. Districts shall keep on file a description of the educational programs provided for students selected.

[Statutory Authority: Chapter 28A.185 RCW. WSR 13-07-020, § 392-170-080, filed 3/12/13, effective 4/12/13; WSR 98-12-002 (Order 98-07), § 392-170-080, filed 5/20/98, effective 6/20/98. Statutory Authority: Chapter 28A.16 RCW. WSR 84-14-037 (Order 84-20), § 392-170-080, filed 6/28/84.]

WAC 392-170-083 Guidance aligned with evidence-based practices. The superintendent of public instruction must disseminate guidance on best practices for highly capable programs that includes: Referral, screening, assessment, selection, and placement. The guidance must be regularly updated and aligned with evidence-based practices.

[Statutory Authority: RCW 28A.150.290, 28A.185.030, and 28A.185.050. WSR 19-03-152, § 392-170-083, filed 1/22/19, effective 2/22/19.]

WAC 392-170-087 Program review and monitoring. In order to ensure that school districts are meeting the requirements of this chapter, the superintendent of public instruction shall monitor district programs no less than once every five years. Monitoring under this section may be conducted concurrently with other program reviews. The reviews shall monitor program components including:

(1) The process used by the district to identify highly capable students;

(2) Assessment data and other indicators to determine the degree to which districts are meeting the academic needs of identified students; and

(3) Highly capable program expenditures.

[Statutory Authority: RCW 28A.300.070. WSR 06-18-105, § 392-170-087, filed 9/6/06, effective 10/7/06.]

WAC 392-170-090 End of year report. Districts shall submit to the superintendent of public instruction at the close of each fiscal year an end of the year report on forms provided by the superintendent of public instruction which includes:

(1) Number of students served by grade level (K-12);

(2) Student demographic information;

(3) Data to determine if students who are highly capable met the goals set and if the programs provided met the academic needs of these students;

(4) Number and content of professional development activities provided for special teachers and general education staff;

(5) Program evaluation data and, if needed, program changes that will be made based upon this information; and

(6) Final fiscal report that reports on activities and staff funded by this program.

[Statutory Authority: Chapter 28A.185 RCW. WSR 13-07-020, § 392-170-090, filed 3/12/13, effective 4/12/13; WSR 98-12-002 (Order 98-07), § 392-170-090, filed 5/20/98, effective 6/20/98. Statutory Authority: Chapter 28A.16 RCW. WSR 84-14-037 (Order 84-20), § 392-170-090, filed 6/28/84.]

WAC 392-170-095 District records. Districts shall keep such records as are necessary to demonstrate compliance with this chapter and shall make such records available to authorized state personnel.

[Statutory Authority: Chapter 28A.16 RCW. WSR 84-14-037 (Order 84-20), § 392-170-095, filed 6/28/84.]