

**WSR 16-18-002****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF TRANSPORTATION**

[Filed August 25, 2016, 7:48 a.m.]

Subject of Possible Rule Making: WAC 468-38-100 Pilot/escort vehicle and operator requirements.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.44.093.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: National Transportation Safety Board recommended changes based on the Skagit River bridge collapse report.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Washington state patrol and Federal Highway Administration; coordinated the rule with these agencies through meetings.

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Anne Ford, Commercial Vehicle Services, P.O. Box 47367, Olympia, WA 98504-7367, phone (360) 705-7341, fax (360) 704-6391, [forda@wsdot.wa.gov](mailto:forda@wsdot.wa.gov).

August 24, 2016

Kara Larsen

Director of Risk Management  
and Legal Services**WSR 16-18-005****PREPROPOSAL STATEMENT OF INQUIRY  
PROFESSIONAL EDUCATOR  
STANDARDS BOARD**

[Filed August 25, 2016, 10:09 a.m.]

Subject of Possible Rule Making: Chapter 181-77 WAC, Standards for career and technical education certification.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.210.410, 28A.305.130, 28A.410.010, and 28A.150.220.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The professional educator standards board (PESB) is responsible for standards for career and technical education certification, including criteria, eligibility, issuance and renewal.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. PESB meeting[s] are open to the public and regularly scheduled. The calendar of meetings is announced on the web site [www.PESB.wa.gov](http://www.PESB.wa.gov).

August 25, 2016

David Brenna

Senior Policy Analyst

**WSR 16-18-006****PREPROPOSAL STATEMENT OF INQUIRY  
PROFESSIONAL EDUCATOR  
STANDARDS BOARD**

[Filed August 25, 2016, 10:11 a.m.]

Subject of Possible Rule Making: Chapter 181-79A WAC, Standards for teacher, administrator, and educational staff associate certification, certification requirements related to professional certification.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.210.410, 28A.410.010, and 28A.150.-220.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Amending rules for teacher, administrator, education staff associates certification. Addresses requirements for teachers, administrators and education staff associates for obtaining, retaining and renewing their certificate.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Professional educator standards board meeting[s] are open to the public and regularly scheduled. The calendar of meetings is announced on the web site [www.PESB.wa.gov](http://www.PESB.wa.gov).

August 25, 2016

David Brenna

Senior Policy Analyst

**WSR 16-18-013****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
FINANCIAL INSTITUTIONS**

[Filed August 25, 2016, 4:10 p.m.]

Subject of Possible Rule Making: The department of financial institutions (DFI) proposes repealing chapter 208-424 WAC, Regulatory relief for small credit unions, under the Washington State Credit Union Act, chapter 31.12 RCW.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 31.12.516, 31.12.195, and 31.12.225.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The current rule provided a definition of small credit union to be up to \$10 million in total assets, flexibility for a small credit union to have fewer than twelve board meetings per year and gave a longer time before convening a special membership meeting of ninety days instead of thirty days. DFI is repealing this rule because the rule no longer complies with the Washington Credit Union Act (WCUA). See chapter 31.12 RCW. WCUA was amended (SB 5302, chapter 34, Laws of 2013) to allow all credit unions to hold six board meetings a year (RCW 31.12.225), instead of the nine meetings authorized for small

credit unions. WCUA was also amended (SB 5302, chapter 34, Laws of 2013) to allow credit unions ninety days to hold a special membership meeting (RCW 31.12.195).

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: There are no federal or state agencies that regulate these subjects.

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Cristina Diaz, Division of Credit Unions, P.O. Box 41200, Olympia, WA 98504-1200, phone (360) 902-8718, e-mail [cristina.diaz@dfi.wa.gov](mailto:cristina.diaz@dfi.wa.gov), GovDelivry e-mail subscription at DFI web site [www.dfi.wa.gov](http://www.dfi.wa.gov).

August 24, 2016  
Linda Jekel, Director  
Division of Credit Unions

**WSR 16-18-026**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed August 26, 2016, 11:37 a.m.]

Subject of Possible Rule Making: Removal of the language in WAC 392-121-571 and 392-121-578 that restricts the amount of funds that career and technical education (CTE) programs can carry over to the ensuing school year to the amount of the CTE enhancement. The current rule, combined with the current enhancement level, does not allow school district[s] to access a carryover of ten percent.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.150.290 and 84.52.0531.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Without these rules, CTE programs will not be able to carry over amounts that were budgeted from the beginning of the school year. This negatively impacts CTE programs, and limits their ability to plan for future expenses.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Early solicitation of public comments and recommendations respecting new, amended, or repealed rules, and consideration of the comments and recommendations in the course of drafting rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting T. J. Kelly, phone (360) 725-6301, fax (360) 664-3683, [thomas.kelly@k12.wa.us](mailto:thomas.kelly@k12.wa.us).

August 26, 2016  
Randy Dorn  
Superintendent of  
Public Instruction

**WSR 16-18-042**  
**WITHDRAWAL OF**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**HEALTH CARE AUTHORITY**

[Filed August 30, 2016, 2:24 p.m.]

The health care authority requests withdrawal of the pre-proposal statement of inquiry filed as WSR 16-08-005, distributed in the 16-08 State Register, regarding WAC 182-531-1675.

Wendy L. Barcus  
Rules Coordinator  
Division of Legal Services  
Office of Rules and Publications

**WSR 16-18-057**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**

[Docket UE-161024—Filed September 1, 2016, 8:16 a.m.]

Subject of Possible Rule Making: In 2006, the Washington utilities and transportation commission (commission) adopted rules requiring investor-owned electric (WAC 480-100-238) and natural gas (WAC 480-90-238) utilities to engage in long-term planning processes and file, every two years, an integrated resource plan (IRP) with the commission. The rules also describe the basic principles and resource alternatives that utilities should consider in their plans and set forth requirements for public participation. Also in 2006, the commission adopted rules relating to utility resource acquisition in chapter 480-107 WAC that are closely aligned with the IRP rules.

The commission's inquiry will evaluate:

1. Whether additional rule provisions are needed to implement IRP legislation in chapter 19.280 RCW;
2. Rule language to clarify how recent advances in the energy industry should be treated in the IRP;
3. How the resource acquisition rule in chapter 480-107 WAC can be made more effective to reduce the frequency of utility waiver requests for this rule; and
4. General process improvements to make the IRP review process more efficient.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 80.01.040, 80.04.160, and 19.280.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Shortly after commission's adoption of its IRP rules in 2006, the legislature codified similar IRP requirements in chapter 19.280 RCW. The legislature amended the IRP statute in the 2009, 2011, 2013, and 2015 legislative sessions, and the statute now includes provisions and legislative intent that are not explicitly addressed in the commission's rules. Furthermore, recent advances in the energy industry, such as the rapid growth of distributed generation and the development of energy storage technologies, have created modeling challenges for the IRP process that may be clarified through additional rule making. Finally, the commission's experience in administering the IRP and resource acquisition rules since 2006 has provided additional

insight into opportunities for improving those processes and ensuring that utility planning and procurement processes meet the legislature's intent to develop "new, safe, clean, and reliable energy sources to meet demand in Washington for affordable and reliable electricity" (RCW 19.280.010).

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: RCW 19.280.060 charges the department of commerce with reviewing the IRPs of all investor-owned and consumer-owned utilities and compiling a report to the legislature regarding the overall adequacy of the state's electricity supply. Staff from the commission and the department have a track record of successfully collaborating on issues of intersecting responsibility and the commission anticipates that the department will be an active participant in this process.

Process for Developing New Rule: The commission employs a collaborative rule-making process that consists of stakeholder workshops, formal comments and draft rule reviews.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Interested persons may file comments with the Executive Director and Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504-7250, phone (360) 664-1174, fax (360) 586-1150, e-mail records@utc.wa.gov, or through the commission's web portal www.utc.wa.gov/e-filing by 5:00 p.m., **November 2, 2016**. Please reference Docket UE-161024 when submitting comments. For specific information regarding opportunities for written comments and to ensure receipt of further information concerning this rule making.

Interested persons may also contact the assigned leads for this proceeding for additional information. The leads are Jeremy Twitchell, (360) 664-1138, jtwitch@utc.wa.gov, and Kathi Scanlan, (360) 664-1267, kscanlan@utc.wa.gov.

#### NOTICE

**TO CONTINUE RECEIVING NOTICES AND INFORMATION ABOUT THIS RULE MAKING**—The commission wants to ensure its mailings are sent to persons who are interested in the topic and want to receive that information. ANY PERSON WHO COMMENTS will continue to receive notices and information. If you do not submit comments but wish to remain on the mailing list for this rule making, please advise the records center by any one of the following methods: (1) Send a note with your name, address (or a copy of your mailing label), and telephone number referencing Docket UE-161024, and the words "Please keep me on the mailing list"; or (2) e-mail your name, address, and telephone number, referencing Docket UE-161024, and the words "Please keep me on the mailing list" to records@utc.wa.gov. Please note that all information in the mailings will be accessible through the commission's internet web site at <http://www.utc.wa.gov/161024>. **THOSE INTERESTED PERSONS WHO DO NOT RESPOND MAY NOT RECEIVE FURTHER MAILINGS OR INFORMATION ON THE RULE MAKING.**

September 1, 2016  
Steven V. King  
Executive Director  
and Secretary

**WSR 16-18-064**  
**WITHDRAWAL OF**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**OFFICE OF**  
**INSURANCE COMMISSIONER**

[Filed September 2, 2016, 8:57 a.m.]

The office of the insurance commissioner is withdrawing the CR-101 for R 2016-10: Adding dental insurance requirements to comply with SHB 1002. The code reviser's office published this rule in WSR 16-10-056.

Our agency's reason for writing the rule was to implement a requirement from SHB 1002, for insurers to submit certain data annually to our agency regarding dental-only health plans. As we began the rule process, we became aware that existing state laws already require insurers to submit this information, and that they in fact have been submitting this information. As a result, our agency simply needs to start making this information available online, which we can accomplish without writing a rule. For this reason, our agency is withdrawing the CR-101.

We will contact individuals that provided comments during the CR-101 comment period, to notify them that we have withdrawn the CR-101.

Mike Kreidler  
Insurance Commissioner

**WSR 16-18-065**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**OFFICE OF**  
**INSURANCE COMMISSIONER**

[Insurance Commissioner Matter No. R 2016-23—Filed September 2, 2016, 9:08 a.m.]

Subject of Possible Rule Making: Service contract providers and protection product guarantee providers.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 48.02.060 and 48.110.150.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Since the original enactment of chapter 48.110 RCW, there have been several amendments to that chapter, including in the 2016 legislative session. In addition over the years there have been issues that have arisen regarding the requirements for solvency and filings required to be made by service contract providers and protection product guarantee providers to the office of insurance commissioner (OIC). As a result the commissioner will consider adopting rules to clarify some of these requirements, including but not limited to, defining solvency requirements, financial and other filing requirements to be made to OIC, the form of a parental guarantee, and correction of outdated statutory citations in chapter 284-20C WAC.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Submit written comments by October 21, 2016, to Jim Tompkins, P.O. [Box] 40260, Olympia, WA 98504-0260, e-mail rulescoordinator@oic.wa.gov, fax (360) 586-3109.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jim Tompkins, P.O. [Box] 40260, Olympia, WA 98504-0260, e-mail [rulescoordinator@oic.wa.gov](mailto:rulescoordinator@oic.wa.gov), fax (360) 586-3109.

September 2, 2016  
Mike Kreidler  
Insurance Commissioner

### WSR 16-18-076

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF REVENUE

[Filed September 6, 2016, 8:37 a.m.]

Subject of Possible Rule Making: WAC 458-40-540 Forest land values—2017 and 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 84.33.096, 82.32.300, and 82.01.060(2).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: RCW 84.33.140 requires that forest land values be adjusted annually by a statutory formula contained in RCW 84.33.140(3). WAC 458-40-540 Forest land values, adjusts the table of forest land values in Washington as required by statute. County assessors will use these published land values for property tax purposes in 2017. RCW 84.33.091 requires the department of revenue to revise the stumpage value tables every six months. The department establishes stumpage value tables to apprise timber harvesters of the timber values used to calculate the timber excise tax. The department anticipates amending WAC 458-40-660 to provide valuations for the first half of 2017.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Although the United States Forest Service and Washington state department of natural resources both regulate forest practices, neither is involved in valuation for taxation purposes. The nontax processes and definitions are coordinated with these agencies to avoid conflict, but there should be no need to involve them in the valuation revisions provided in this rule.

Process for Developing New Rule: Parties interested in this rule making may contact the individual listed below. The public may also participate by providing written comments throughout this rule making or giving oral testimony at the public meeting or public hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. A preliminary draft of possible rule changes will be available upon request shortly before the public meeting.

Written comments may be submitted by mail and should be directed to Mark Bohe, ITA Division, P.O. Box 47453, Olympia, WA 98504-7453, e-mail [markbohe@dor.wa.gov](mailto:markbohe@dor.wa.gov).

Written and oral comments will be accepted at the public meeting.

Public meeting location: Capital Plaza Building, Fourth Floor Large Executive Conference Room, 1025 Union Ave-

nue S.E., Olympia, WA 98504, on October 11, 2016, at 1:00 p.m. *Call-in option can be provided upon request.*

Assistance for Personal with Disabilities: Contact Mary Carol LaPalm, (360) 725-7499, or Renee Cosare, (360) 725-7514, no later than ten days before the meeting date. For hearing impaired please contact us via the Washington relay operator at (800) 833-6384.

September 6, 2016  
Kevin Dixon  
Rules Coordinator

### WSR 16-18-081

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF HEALTH

(Medical Quality Assurance Commission)

[Filed September 6, 2016, 9:39 a.m.]

Subject of Possible Rule Making: Chapters 246-919 and 246-918 WAC, the medical quality assurance commission (commission) is considering establishing a technical assistance program to address standards of practice issues/deficiencies through a plan of education, training, and/or supervision for allopathic physicians and physician assistants.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.71.017, 18.71.002, and 18.130.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The commission's proposed technical assistance program would allow quick identification of issues that may not rise to the level of a license sanction or revocation. These types of issues could be resolved with voluntary participation from the allopathic physician or physician assistant in the program. The program would require additional education, training, voluntary alteration of practice methods, supervision, or a combination of the three. Appropriate issues would likely include but are not limited to practice deficiencies such as a failure to properly conduct a patient assessment, document treatment, or prescribe medication.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None known.

Process for Developing New Rule: Collaborative rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Interested parties may participate in the development of draft rules prior to a formal proposal by joining the commission's listserv, attending workshops, and providing input on draft and proposed materials. Interested parties can receive information on how to participate by contacting Daidria Underwood, Program Manager, Medical Quality Assurance Commission, Department of Health, P.O. Box 47866, Olympia, WA 98504-7866, phone (360) 236-2727, fax (360) 236-2795, e-mail [daidria.underwood@doh.wa.gov](mailto:daidria.underwood@doh.wa.gov).

September 6, 2016  
Melanie de Leon  
Executive Director

**WSR 16-18-086****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
LABOR AND INDUSTRIES**

[Filed September 6, 2016, 1:02 p.m.]

Subject of Possible Rule Making: Chapter 296-305 WAC, Safety standards for firefighters; chapter 296-800 WAC, Safety and health core rules; chapter 296-802 WAC, Employee medical and exposure records; chapter 296-833 WAC, Temporary housing for workers; chapter 296-843 WAC, Hazardous waste operations; chapter 296-848 WAC, Arsenic; chapter 296-849 WAC, Benzene; chapter 296-855 WAC, Ethylene oxide; chapter 296-856 WAC, Formaldehyde: eRules Phase 6.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This proposed rule making does not add or change requirements but will reformat rules to provide consistency in format and design and accessibility via mobile electronic devices. When the agency updated its web site, template division of occupational safety and health (DOSH) rules in HTML were broken and DOSH began forwarding rule users to the office of the code reviser web site, which caused more confusion among customers. This preproposal will accomplish the following:

- Consistent format for all DOSH safety and health rules.
- Ability to use the DOSH web site for safety and health rules.
- Easy to access rules for smart phone and tablet users.
- Bookmarks in the rules allow easy navigation in PDF files.
- Bullets and dashes are removed and replaced with numbers and letters for easier referencing.
- Enhances rule update efficiency for customers by allowing for faster updates through electronic postings.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Parties interested in the formulation of these rules for proposal may contact the individual listed below. The public may also participate by commenting after amendments are proposed by providing written comments or giving oral testimony during the public hearing process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Josefina Magana, Administrative Regulations Analyst, Department of Labor and Industries, DOSH, P.O. Box 44600, Olympia, WA 98504, phone (360) 902-4233, e-mail magk235@lni.wa.gov.

September 6, 2016  
Joel Sacks  
Director

**WSR 16-18-090****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
RETIREMENT SYSTEMS**

[Filed September 7, 2016, 8:50 a.m.]

Subject of Possible Rule Making: Law enforcement officers' and firefighters' plan 2 (LEOFF 2) disaster coverage death and disability benefits.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.50.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To implement chapter 115, Laws of 2016, which provides enhanced benefits for a LEOFF Plan 2 member who dies or is disabled before returning to LEOFF employment, after leaving membership to enter federal service in response to a natural disaster or other emergency.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jilene Siegel, Rules Coordinator, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, e-mail Rules@drs.wa.gov, phone (360) 664-7291.

September 6, 2016  
Jilene A. Siegel  
Rules Coordinator

**WSR 16-18-092****PREPROPOSAL STATEMENT OF INQUIRY  
CRIMINAL JUSTICE  
TRAINING COMMISSION**

[Filed September 7, 2016, 10:13 a.m.]

Subject of Possible Rule Making: WAC 139-05-915, requirements of training for law enforcement and corrections dog handlers and certification of canine teams.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.101.080.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Changes to WAC 139-05-915 are needed to establish guidelines in reference to canine training. Currently canine team standards are established by WAC; if approved, the Washington state criminal justice training commission (WSCJTC) will establish and adopt canine team standards by policy.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: WSCJTC regulates this process.

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Sonja Peterson, Rules Coordinator, WSCJTC, 19010 1st Avenue South, Burien, WA 98148, e-mail speterson@cjtc.state.wa.us, phone (206) 835-7356. Commissioners will be advised of the proposed rule changes

via e-mail. Proposed changes will also be listed on the agency web site.

September 7, 2016  
Sonja Peterson  
Rules Coordinator

**WSR 16-18-093**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed September 7, 2016, 11:08 a.m.]

Subject of Possible Rule Making: Chapter 392-725 WAC, College in the high school programs.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.600.290.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Chapter 392-725 WAC requires updating to address what would occur if a college in the high school program is unable to provide evidence of meeting the required college in the high school standards after the annual review committee has deemed that the previously submitted evidence was unsatisfactory and after the program has been given six months to provide satisfactory evidence.

Additionally, other changes may be made after the college in the high school workgroup convenes.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: WAC 392-725-005 requires that changes to chapter 392-725 WAC be done by joint agreement with the office of superintendent of public instruction (OSPI), state board of [for] community and technical colleges, the Washington student achievement council, and an organization representing the interest of the public baccalaureate institutions. The College of Presidents will be the organization that will represent the public baccalaureate institutions. OSPI will convene a college in the high school workgroup with representation from all these agencies, as well as a representative from the Association of Washington School Principals to work on the revisions needed for chapter 392-725 WAC.

Process for Developing New Rule: Early solicitation of public comments and recommendations respecting new, amended, or repealed rules, and consideration of the comments and recommendations in the course of drafting rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kim Reykdal, OSPI, Dual Credit and College Readiness Math, (360) 725-6168, Old Capitol Building, P.O. Box 47200, Olympia, WA 98504-7200.

September 7, 2016  
Randy Dorn  
Superintendent of  
Public Instruction

**WSR 16-18-096**

**PREPROPOSAL STATEMENT OF INQUIRY**  
**OFFICE OF**  
**ADMINISTRATIVE HEARINGS**

[Filed September 7, 2016, 11:42 a.m.]

Subject of Possible Rule Making: Representation at the office of administrative hearings (OAH), administrative hearings in a new rule in chapter 10-08 WAC, relating to the assessment process and accommodation response for litigants with cognitive disabilities at administrative hearings.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 34.12.080.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This rule making is initiated in response to the petition filed by CB (a resident of Washington) and the Fred T. Korematsu Center for Law & Equality, Seattle University Law School. The petition requested that a new rule be adopted to provide an assessment for representational accommodation for appellants in administrative hearings. The Access to Justice Board and Disability Rights Washington have submitted letters of support urging rule making on this topic.

**Main objectives:**

- Establish within OAH a process for OAH administrative law judges (ALJ) to refer a party with cognitive disabilities to the OAH ADA coordinator to review, conduct an assessment and handle the issue (assessment determines extent of mental impairment and appropriate response).
- Establish a network of "ombuds" persons to assist those pro se parties with accessing OAH's administrative appeals processes (comparable to nondisabled pro se appellants) and to ensure that they are not denied equal and meaningful access to the hearing process.
- Establish a training program for (1) OAH ALJs and support staff and (2) ombuds persons who are trained to assist pro se parties determined to need assistance with the OAH hearing process.

**Rule proposal elements:**

Assessment:

- Establish a process for OAH ALJs to refer to the OAH ADA coordinator when an issue is raised on whether a litigant's cognitive disabilities precludes meaningful access to the OAH hearing process.
- Establish a "reasonable belief" standard for when an ALJ's referral to the ADA coordinator is appropriate.
- Establish separate process and file for responding to the party's need due to cognitive disabilities.
- Protect the party's privacy interest by maintaining a separate file that is kept confidential (from the other party) and from the ALJ presiding over the hearing on the merits.
- Establish the OAH ADA coordinator as the first decision-maker on whether accommodation is necessary with an appeal opportunity to the chief ALJ.

## Accommodation Response:

- If accommodation is determined to be necessary, OAH will provide an "ombuds" person to assist the party at no cost to the party.
- OAH will establish a network of ombuds persons who can be appointed by OAH to assist these individuals.

## Training:

- OAH will provide training at least every two years to OAH ALJs and support staff.
- OAH will establish a training program for individuals who can serve as an "ombuds" person to assist those who are determined by OAH as needing representational accommodation because of cognitive disabilities and to ensure that they are not denied equal and meaningful access to OAH hearing process.

## Data Collection:

- Tracking of and annual reporting to referring agencies on the number of representational accommodation requests and the resolution of such requests.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Chapter 10-08 WAC serves as the model rules of procedure for administrative hearings under the Administrative Procedure Act (APA). Therefore, the new rule would apply to any APA administrative hearing unless there is a specific agency rule that addresses the issue of accommodation for litigants with cognitive disabilities.

We will share the draft rule proposal with interested persons or agencies.

Process for Developing New Rule: A workgroup will be convened by the chief administrative law judge to develop the language for the rule proposed, addressing the main rule-making objectives and elements of (1) assessment, (2) accommodation response, (3) training, and (4) data collection.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ed Pesik, Deputy Chief, P.O. Box 42489 [42488], Olympia, WA 98504-2488, (360) 407-2713, Ed.Pesik@oah.wa.gov.

September 7, 2016  
Lorraine Lee  
Chief Administrative  
Law Judge