Chapter 28A.155 RCW
SPECIAL EDUCATION

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RCW 28A.155.010 Purpose. It is the purpose of RCW 28A.155.010 through 28A.155.160, 28A.160.030, and 28A.150.390 to ensure that all children with disabilities as defined in RCW 28A.155.020 shall have the opportunity for an appropriate education at public expense as guaranteed to them by the Constitution of this state and applicable federal laws. [2007 c 115 s 1; 1995 c 77 s 7; 1990 c 33 s 120; 1971 ex.s. c 66 s 1. Formerly RCW 28A.13.005.]

Severability—1971 ex.s. c 66: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 66 s 13.]

Effective date—1971 ex.s. c 66: "This 1971 amendatory act will take effect July 1, 1973." [1971 ex.s. c 66 s 14.]

RCW 28A.155.020 Administration of program in the office of the superintendent of public instruction—Services between the age of three and school year in which student turns 22 guaranteed—Adoption of definitions by rule—Local school district powers not limited. There is established in the office of the superintendent of public instruction an administrative section or unit for the education of children with disabilities who require special education.

Students with disabilities are those children whether enrolled in school or not who through an evaluation process are determined eligible for special education due to a disability.

In accordance with part B of the federal individuals with disabilities education improvement act and any other federal or state laws relating to the provision of special education services, the superintendent of public instruction shall require each school district in the state to insure [ensure] an appropriate educational opportunity for all students with disabilities beginning at three years of age and concluding at the end of the school year in which the student turns 22 years of age. The superintendent of public instruction, by rule, shall establish for the purpose of excess cost funding, as provided in RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.160, functional definitions of special education, the various types of disabling conditions, and eligibility criteria for special education programs for children with disabilities, including referral procedures, use of positive behavior interventions, the education curriculum and statewide or district-wide assessments, parent and district requests for special education due process hearings, and procedural safeguards. For the purposes of RCW 28A.155.010 through 28A.155.160, an appropriate education is defined as an education directed to the unique needs, abilities, and limitations of the children with disabilities who are enrolled either full time or part time in a school district. School districts are strongly encouraged to provide parental training in the care and education of the children and to involve parents in the classroom.

Nothing in this section shall prohibit the establishment or continuation of existing cooperative programs between school districts or contracts with other agencies approved by the superintendent of public instruction, which can meet the obligations of school districts to provide education for children with disabilities, or prohibit the continuation of needed related services to school districts by the department of social and health services.

The provision of special education services until the end of the school year in which a student with disabilities turns 22 years of age is not intended to reduce or supplant any other service that a student may be eligible for.

This section shall not be construed as in any way limiting the powers of local school districts set forth in RCW 28A.155.070. [2025 c 256 s 3; 2015 c 206 s 2; 2007 c 115 s 2; 1995 c 77 s 8; 1990 c 33 s 121; 1985 c 341 s 4; 1984 c 160 s 1; 1971 ex.s. c 66 s 2; 1969 ex.s. c 2 s 2; 1969 ex.s. c 223 s 28A.13.010. Prior: 1951 c 92 s 1; prior: (i) 1943 c 120 s 1; Rem. Supp. 1943 s 4679-25. (ii) 1943 c 120 s 2, part; Rem. Supp. 1943 s 4679-26, part. Formerly RCW 28A.13.010, 28.13.010.]

Findings—Intent—2025 c 256: "(1)(a) The legislature finds that, with some exceptions, a state receiving federal funding under the federal individuals with disabilities education act is obligated to provide a free appropriate public education to children with disabilities "between the ages of 3 and 21, inclusive." However, the state is not obligated to serve youth with disabilities aged 18-21 if it would be inconsistent with state law or practice, or the order of any court, regarding the provision of public education to youth in that age range.

(b) The legislature observes that, under Washington law in effect in 2024, children with disabilities must be provided a free appropriate public education "between the ages of 3 and 21." When the 21st birthday of an individual with disabilities occurs during the school year, state administrative rule requires that special education services continue until the end of the school year.

(2)(a) The legislature acknowledges that, on November 22, 2024, the United States district court for the western district of Washington issued an order in the case of *N.D. v. Reykdal*. This class action lawsuit alleged that Washington's law violates the federal individuals with disabilities education act.

(b) The plaintiff students successfully argued that, because Washington offers adult education programs to 21 year olds and waives the $25 tuition fee for those who cannot pay, the state provides "free public education" to nondisabled students through age 21, which makes the federal individuals with disabilities education act's exception inapplicable.

(c) The court issued a declaratory judgment that Washington's policy of aging students out of special education at the end of the school year in which they turn 21 years old presently violates the federal individuals with disabilities education act and will continue to violate the federal individuals with disabilities education act absent a substantial change in the state's policies for charging and waiving tuition for its adult secondary education programs.

(3) The legislature finds that providing services through the school year in which the student turns 22 years old is vital to maximize educational gains, provide transitional supports, and for planning purposes.

(4) For these reasons, when the 22nd birthday of an individual with disabilities occurs during the school year, the legislature intends to continue the provision of special education services until the end of the school year." [2025 c 256 s 1.]

Finding—2015 c 206: "The legislature finds that there is no educational or therapeutic benefit to children from physically restraining or isolating them as part of their public school programs when not necessary for immediate safety. The use of seclusion or restraints in nonemergency situations poses significant physical and psychological danger to students and school staff. The legislature declares that it is the policy of the state of Washington to prohibit the planned use of aversive interventions, to promote positive interventions when a student with disabilities is determined to need specially designed instruction to address behavior, and to prohibit schools from physically restraining or isolating any student except when the student's behavior poses an imminent likelihood of serious harm to that student or another person." [2015 c 206 s 1.]

Effective date—1985 c 341 ss 4 and 13: "Sections 4 and 13 of this act shall take effect August 1, 1985." [1985 c 341 s 18.]

Severability—1984 c 160: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1984 c 160 s 6.]

Severability—Effective date—1971 ex.s. c 66: See notes following RCW 28A.155.010.

RCW 28A.155.030 Division administrative officer—Duties. The superintendent of public instruction shall employ an administrative officer of the division. The administrative officer, under the direction of the superintendent of public instruction, shall coordinate and supervise the program of special education for eligible children with disabilities in the school districts of the state. He or she shall ensure that school districts provide an appropriate educational opportunity for all children with disabilities in need of special education and related services and shall coordinate with the state secretary of social and health services and with county and regional officers on cases where related services are available for children with disabilities. [2007 c 115 s 3; 1995 c 77 s 9; 1990 c 33 s 122; 1975 1st ex.s. c 275 s 52; 1972 ex.s. c 10 s 1. Prior: 1971 ex.s. c 66 s 3; 1971 c 48 s 3; 1969 ex.s. c 223 s 28A.13.020; prior: 1943 c 120 s 3; Rem. Supp. 1943 s 4679-27. Formerly RCW 28A.13.020, 28.13.020.]

Severability—Effective date—1971 ex.s. c 66: See notes following RCW 28A.155.010.

RCW 28A.155.040 Authority of districts—Participation of department of social and health services. The board of directors of each school district, for the purpose of compliance with the provisions of RCW 28A.150.390, 28A.160.030, and 28A.155.010 through

28A.155.160 and chapter 28A.190 RCW, shall cooperate with the superintendent of public instruction and with the administrative officer and shall provide an appropriate educational opportunity to children with disabilities, as defined in RCW 28A.155.020, in regular or special school facilities within the district or shall contract for such services with other agencies as provided in RCW 28A.155.060 or shall participate in an interdistrict arrangement in accordance with RCW 28A.335.160 and 28A.225.220 and/or 28A.225.250 and 28A.225.260.

In carrying out their responsibilities under this chapter, school districts severally or jointly with the approval of the superintendent of public instruction are authorized to support and/or contract for residential schools and/or homes approved by the department of social and health services for aid and special attention to students with disabilities.

The cost of board and room in facilities approved by the department of social and health services shall be provided by the department of social and health services for those students with disabilities eligible for such aid under programs of the department. The cost of approved board and room shall be provided for those students with disabilities not eligible under programs of the department of social and health services but deemed in need of the same by the superintendent of public instruction: PROVIDED, That no school district shall be financially responsible for special education programs for students who are attending residential schools operated by the department of social and health services: PROVIDED FURTHER, That the provisions of RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100 shall not preclude the extension by the superintendent of public instruction of special education opportunities to students with disabilities in residential schools operated by the department of social and health services. [2007 c 115 s 4; 1995 c 77 s 10; 1990 c 33 s 123; 1971 ex.s. c 66 s 4; 1969 ex.s. c 223 s 28A.13.030. Prior: 1959 c 122 s 1; 1953 c 135 s 1; 1943 c 120 s 4; Rem. Supp. 1943 s 4679-28. Formerly RCW 28A.13.030, 28.13.030.]

Severability—Effective date—1971 ex.s. c 66: See notes following RCW 28A.155.010.

RCW 28A.155.050 Services through special excess cost aid programs—Apportionment—Allocations from state excess funds. Any child who is eligible for special education services through special excess cost aid programs authorized under RCW 28A.155.010 through 28A.155.160 shall be given such services in the least restrictive environment as determined by the student's individualized education program (IEP) team in the school district in which such student resides. Any school district required to provide such services shall thereupon be granted regular apportionment of state and county school funds and, in addition, allocations from state excess funds made available for such special services for such period of time as such special education program is given: PROVIDED, That should such student or any other student with disabilities attend and participate in a special education program operated by another school district in accordance with the provisions of RCW 28A.225.210, 28A.225.220, and/or 28A.225.250, such regular apportionment shall be granted to the receiving school district, and such receiving school district shall be reimbursed by the district in which such student resides in accordance

with rules adopted by the superintendent of public instruction for the entire approved excess cost not reimbursed from such regular apportionment. [2007 c 115 s 5; 1995 c 77 s 11; 1990 c 33 s 124; 1971 ex.s. c 66 s 5; 1969 ex.s. c 223 s 28A.13.040. Prior: 1943 c 120 s 5; Rem. Supp. 1943 s 4679-29. Formerly RCW 28A.13.040, 28.13.040.]

Severability—Effective date—1971 ex.s. c 66: See notes following RCW 28A.155.010.

RCW 28A.155.060 District authority to contract with authorized entities—Contract requirements—Annual on-site visits—Notice to parents and guardians—Miscellaneous. (1) For the purpose of carrying out the provisions of RCW 28A.155.020 through 28A.155.050, the board of directors of every school district shall be authorized to contract with private schools approved by the state board of education under RCW 28A.305.130, other private in-state entities, and any out-of-state entities authorized by the office of the superintendent of public instruction under RCW 28A.300.690 to provide special education and related services to students with disabilities placed in the authorized entities by school districts.

(2) A school district that chooses to contract with an authorized entity must enter into a written contract to establish the responsibilities of the school district and the authorized entity, and set forth the rights of students with disabilities placed in the authorized entity by the school district as a means of providing special education and related services. The contract must include, at a minimum, the following elements:

(a) The names of the parties involved and the name of the student placed in the authorized entity by the school district;

(b) The locations and settings of the education and related services to be provided;

(c)(i) A description of the opportunities for the student to meet a program of basic education that meets the goals of RCW 28A.150.210, in accordance with an individual assessment of student strengths and needs initially performed by the placing school districts and updated by the authorized entity; and

(ii) When applicable, a description of the opportunities for the student to either meet high school graduation requirements under RCW 28A.230.090 or to earn a high school equivalency certificate under RCW 28B.50.536 or laws of the state in which the authorized entity is located;

(d) A schedule, of at least once per academic term, for the authorized entity to provide to the school district student progress reports. The progress reports must describe how the student is meeting personalized learning outcomes;

(e) The total contract cost and applicable charge and reimbursement systems, including billing and payment procedures;

(f) Acknowledgment that the authorized entity is responsible for full reimbursement to the school district of any overpayments determined to have been made by the school district;

(g) Acknowledgment that the authorized entity has a list of staff members providing the education and related services and a copy of the license that qualifies each staff member to provide the services;

(h) An agreement by the authorized entity to employ or contract with at least one licensed teacher with a special education endorsement;

(i) Acknowledgment that the staff of the authorized entity are regularly trained on the following topics:

(i) The constitutional and civil rights of students in schools;

(ii) Child and adolescent development;

(iii) Trauma-informed approaches to working with children and youth;

(iv) Cultural competency, diversity, equity, and inclusion, including best practices for interacting with students from particular backgrounds, including English learner, LGBTQ, immigrant, female, and nonbinary students. For the purposes of this subsection, "cultural competency," "diversity," "equity," and "inclusion" have the same meanings as in RCW 28A.415.443;

(v) Student isolation and restraint requirements under RCW 28A.600.485;

(vi) The federal family educational rights and privacy act (Title 20 U.S.C. Sec. 1232g) requirements including limits on access to and dissemination of student records for noneducational purposes;

(vii) Recognizing and responding to student mental health issues; and

(viii) Educational rights of students with disabilities, the relationship of disability to behavior, and best practices for interacting with students with disabilities;

(j) Acknowledgment that the school district and the authorized entity have clearly established their respective responsibilities and processes for student data collection and reporting;

(k) Acknowledgment that the authorized entity will promptly submit to the school district any complaints it receives;

(l) Acknowledgment that the authorized entity will submit other information required by the school district or the office of the superintendent of public instruction;

(m) Acknowledgment that the authorized entity must comply with student isolation and restraint requirements under RCW 28A.600.485;

(n) Acknowledgment that the authorized entity will notify:

(i) The office of the superintendent of public instruction and every school district with which it contracts of any major program changes that occur during the authorization period, including adding or eliminating services or changing the type of programs available to students;

(ii) The office of the superintendent of public instruction, every school district with which it contracts, and every parent or guardian of an affected student of any conditions that would affect the authorized entity's ability to continue to provide the contracted services; and

(iii) The office of the superintendent of public instruction and every school district with which it contracts of any complaints it receives regarding services to students, as well as any law enforcement incident reports involving the authorized entity and its enrolled students;

(o) Acknowledgment that the authorized entity must comply with all relevant Washington state and federal laws that are applicable to the school district; and

(p) Acknowledgment that the school district must provide the office of the superintendent of public instruction with the

opportunity to review the contract and related documentation upon request.

(3)(a) A school district that contracts with an authorized entity under this section shall conduct an annual on-site visit to confirm that the health and safety of the facilities, the staffing qualifications and levels, and the procedural safeguards are sufficient to provide a safe and appropriate learning environment for students.

(b) A contracting school district may arrange for another school district to complete the annual on-site visit on its behalf, so long as the school district conducting the on-site visit provides a written report to the contracting school district that documents the results of the on-site visit and any concerns about the learning environment.

(4) Each school district contracting with an authorized entity under this section shall provide the following documents to the parents or guardians of each student placed in the authorized entity by the school district:

(a) A summary of the school district's and the authorized entity's responsibilities and processes for reporting incidents of student isolation and restraint under RCW 28A.600.485; and

(b) A copy of the complaint procedure developed by the office of the superintendent of public instruction under RCW 28A.155.240.

(5) Each school district contracting with an authorized entity under this section shall report to the office of the superintendent of public instruction and the office of the Washington state auditor any concerns the school district has about overbilling by the authorized entity.

(6) Each school district contracting with an authorized entity under this section shall remain responsible for ensuring that the students with disabilities placed in the authorized entity are:

(a) Provided a free appropriate public education in accordance with the federal individuals with disabilities education act, Title 20 U.S.C. Sec. 1400 et seq. and this chapter;

(b) Provided with special education and related services at no cost to the student's parents and in conformance with an individualized education program as required by law, including evaluations and individualized education program team meetings that meet all applicable requirements; and

(c) Provided with an opportunity to participate in Washington state and school district assessments.

(7) As used in this section, the term "authorized entity" has the same meaning as in RCW 28A.300.690. [2023 c 436 s 6; 2007 c 115 s 6; 2006 c 263 s 915; 1995 c 77 s 12; 1990 c 33 s 125; 1971 ex.s. c 66 s 6. Formerly RCW 28A.13.045.]

Finding—Intent—2023 c 436: See note following RCW 28A.300.690.

Findings—Purpose—Part headings not law—2006 c 263: See notes following RCW 28A.150.230.

Severability—Effective date—1971 ex.s. c 66: See notes following RCW 28A.155.010.

RCW 28A.155.070 Services to students of preschool age with disabilities—Apportionment—Allocations from state excess cost funds.

Special educational programs provided by the state and the school districts thereof for students with disabilities shall be extended to include students of preschool age. School districts shall be entitled to the regular apportionments from state and county school funds, as provided by law, and in addition to allocations from state excess cost funds made available for such special services for those students with disabilities who are given such special services. [2007 c 115 s 9; (2007 c 115 s 8 expired September 1, 2009); 2006 c 269 s 3; 1995 c 77 s 13; 1971 ex.s. c 66 s 7; 1969 ex.s. c 223 s 28A.13.050. Prior: 1951 c 92 s 2; 1949 c 186 s 1; Rem. Supp. 1949 s 4901-3. Formerly RCW 28A.13.050, 28.13.050.]

Effective date—2007 c 115 s 9: "Section 9 of this act takes effect September 1, 2009." [2007 c 115 s 17.]

Expiration date—2007 c 115 s 8: "Section 8 of this act expires September 1, 2009." [2007 c 115 s 16.]

Effective date—2006 c 269 s 3: "Section 3 of this act takes effect September 1, 2009." [2006 c 269 s 4.]

Finding—2006 c 269: See note following RCW 43.216.580.

Severability—Effective date—1971 ex.s. c 66: See notes following RCW 28A.155.010.

RCW 28A.155.080 Appeal from denial of educational program. Where a child with disabilities as defined in RCW 28A.155.020 has been denied the opportunity of a special educational program by a local school district there shall be a right of appeal by the parent or guardian of such child to the superintendent of public instruction pursuant to procedures established by the superintendent and in accordance with RCW 28A.155.090 and part B of the federal individuals with disabilities education improvement act. [2007 c 115 s 10; 1995 c 77 s 14; 1990 c 33 s 126; 1971 ex.s. c 66 s 8. Formerly RCW 28A.13.060.]

Severability—Effective date—1971 ex.s. c 66: See notes following RCW 28A.155.010.

RCW 28A.155.090 Superintendent of public instruction's duty and authority. The superintendent of public instruction shall have the duty and authority, through the administrative section or unit for the education of children with disabilities, to:

(1) Assist school districts in the formation of programs to meet the needs of children with disabilities;

(2) Develop interdistrict cooperation programs for children with disabilities as authorized in RCW 28A.225.250;

(3) Provide, upon request, to parents or guardians of children with disabilities, information as to the special education programs for students with disabilities offered within the state;

(4) Assist, upon request, the parent or guardian of any child with disabilities in the placement of any child with disabilities who

is eligible for but not receiving special educational services for children with disabilities;

(5) Approve school district and agency programs as being eligible for special excess cost financial aid to students with disabilities;

(6) Establish standards for authorizing, monitoring, and investigating private schools approved by the state board of education under RCW 28A.305.130, other private in-state entities, and any out-of-state entities, that contract with school districts under RCW 28A.155.060 to provide special education and related services to children with disabilities. The standards must ensure that any children with disabilities placed in authorized entities by school districts have the same rights, protections, and access to special education and related services that they would have if served by a school district;

(7) Consistent with the provisions of RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.160, and part B of the federal individuals with disabilities education improvement act, administer administrative hearings and other procedures to ensure procedural safeguards of children with disabilities;

(8) Maintain an online record of all final decisions issued in response to special education community complaints. Each final decision must be available in an online format and accessible to the public at no charge for 20 years after the complaint is finalized. If, at [by] June 11, 2026, the office of the superintendent of public instruction does not have a historical record of community complaint decisions from the prior 20 years, it must provide an online record of all final decisions for the longest period of time available; and

(9) Promulgate such rules as are necessary to implement part B of the federal individuals with disabilities education improvement act or other federal law providing for special education services for children with disabilities and the several provisions of RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.160 and to ensure appropriate access to and participation in the general education curriculum and participation in statewide assessments for all students with disabilities. [2026 c 88 s 1; 2023 c 436 s 2; 2007 c 115 s 11; 1995 c 77 s 15; 1990 c 33 s 127; 1985 c 341 s 5; 1971 ex.s. c 66 s 9. Formerly RCW 28A.13.070.]

Finding—Intent—2023 c 436: See note following RCW 28A.300.690.

Severability—Effective date—1971 ex.s. c 66: See notes following RCW 28A.155.010.

RCW 28A.155.100 Sanctions applied to noncomplying districts. The superintendent of public instruction is hereby authorized and directed to establish appropriate sanctions to be applied to any school district of the state failing to comply with the provisions of RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.060 and 28A.155.080 through 28A.155.160 to be applied beginning upon the effective date thereof, which sanctions shall include withholding of any portion of state aid to such district until such time as compliance is assured. [2007 c 115 s 12; 1990 c 33 s 128; 1971 ex.s. c 66 s 12. Formerly RCW 28A.13.080.]

Severability—Effective date—1971 ex.s. c 66: See notes following RCW 28A.155.010.

RCW 28A.155.105 Braille instruction—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply in RCW 28A.155.115.

(1) "Student" means a student who:

(a) Has a visual acuity of 20/200 or less in the better eye with conventional correction or having a limited field of vision such that the widest diameter of the visual field subtends an angular distance not greater than twenty degrees;

(b) Is unable to read printed material at a competitive rate with facility due to functional visual impairment or lack of visual acuity; or

(c) Has a physical condition with a medical prognosis of a significant visual deterioration to the extent that (a) or (b) of this subsection could apply.

(2) "Braille" means the system of reading and writing through touch commonly known as standard English Braille. [1996 c 135 s 2.]

Findings—1996 c 135: "It is the goal of the legislature to encourage persons who are blind or visually impaired to participate fully in the social and economic life of the state and to engage in remunerative employment. The legislature finds that literacy is essential to the achievement of this goal. Furthermore, the legislature finds that literacy for most persons who are blind or visually impaired means the ability to read and write Braille with proficiency. The legislature sets as a further goal that students who are legally blind or visually impaired shall be given the opportunity to learn Braille in order to communicate effectively and efficiently." [1996 c 135 s 1.]

RCW 28A.155.115 Braille instruction—Assessment—Provision in student's curriculum. (1) Each student shall be assessed individually to determine the appropriate learning media for the student including but not limited to Braille.

(2) No student may be denied the opportunity for instruction in Braille reading and writing solely because the student has some remaining vision.

(3) This section does not require the exclusive use of Braille if there are other special education services to meet the student's educational needs. The provision of special education or other services does not preclude Braille use or instruction.

(4) If a student's individualized learning media assessment indicates that Braille is an appropriate learning medium, instruction in Braille shall be provided as a part of such student's educational curriculum and if such student has an individualized education program, such instruction shall be provided as part of that program.

(5) If Braille will not be provided to a student, the reason for not incorporating it in the student's individualized education program shall be documented in writing and provided to the parent or guardian. If no individualized education program exists, such documentation, signed by the parent or guardian, shall be placed in the student's file. [2007 c 115 s 13; 1996 c 135 s 3.]

Findings—1996 c 135: See note following RCW 28A.155.105.

RCW 28A.155.140 Curriculum-based assessment procedures for early intervening services. School districts may use curriculum-based assessment procedures as measures for developing academic early intervening services, as defined under part B of the federal individuals with disabilities education improvement act, and curriculum planning: PROVIDED, That the use of curriculum-based assessment procedures shall not deny a student the right to use of other assessments to determine eligibility or participation in special education programs as provided by RCW 28A.155.010 through 28A.155.160. [2007 c 115 s 14; 1991 c 116 s 4; 1990 c 33 s 131; 1987 c 398 s 1. Formerly RCW 28A.03.367.]

RCW 28A.155.160 Assistive devices and services—Interagency cooperative agreements—Definitions. Notwithstanding any other provision of law, the office of the superintendent of public instruction, the department of children, youth, and families, the Washington center for deaf and hard of hearing youth, the Washington state school for the blind, school districts, educational service districts, and all other state and local government educational agencies and the department of services for the blind, the department of social and health services, and all other state and local government agencies concerned with the care, education, or habilitation or rehabilitation of children with disabilities may enter into interagency cooperative agreements for the purpose of providing assistive technology devices and services to children with disabilities. Such arrangements may include but are not limited to interagency agreements for the acquisition, including joint funding, maintenance, loan, sale, lease, or transfer of assistive technology devices and for the provision of assistive technology services including but not limited to assistive technology assessments and training.

For the purposes of this section, "assistive device" means any item, piece of equipment, or product system, whether acquired commercially off-the-shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of children with disabilities. The term "assistive technology service" means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. Assistive technology service includes:

(1) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;

(2) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;

(3) Selecting, designing, fitting, customizing, adapting, applying, retaining, repairing, or replacing of assistive technology devices;

(4) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(5) Training or technical assistance for a child with a disability or if appropriate, the child's family; and

(6) Training or technical assistance for professionals, including individuals providing education and rehabilitation services, employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of children with disabilities. [2019 c 266 s 14; 2018 c 58 s 32; 2009 c 381 s 24; 2007 c 115 s 15; 1997 c 104 s 3.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

Findings—Intent—2009 c 381: See note following RCW 72.40.015.

RCW 28A.155.170 Graduation ceremony. (1) Each school district that operates a high school shall establish a policy and procedures that permit any student who is receiving special education or related services under an individualized education program pursuant to state and federal law to participate in the graduation ceremony and activities after four years of high school attendance with his or her age-appropriate peers and receive a certificate of attendance.

(2) Participation in a graduation ceremony and receipt of a certificate of attendance under this section does not preclude a student from continuing to receive special education and related services under an individualized education program beyond the graduation ceremony.

(3) A student's participation in a graduation ceremony and receipt of a certificate of attendance under this section shall not be construed as the student's receipt of a high school diploma pursuant to RCW 28A.230.120. [2025 c 256 s 5; 2019 c 252 s 106; 2007 c 318 s 2.]

Findings—Intent—2025 c 256: See note following RCW 28A.155.020.

Intent—2019 c 252: See note following RCW 28A.230.710.

Findings—2007 c 318: "The legislature finds:

(1) There are students with disabilities throughout the state of Washington who have attended four years of high school, but whose individualized education programs prescribe the continuation of special education and related services beyond the fourth year of high school;

(2) Through their participation in the public schools and the community, students with disabilities have frequently become identified with and connected to a class of typically developing, age-appropriate peers who will graduate in four years and participate in a high school graduation ceremony;

(3) A high school graduation ceremony is an important rite of passage for students regardless of their abilities or limitations; and

(4) There is significant value in recognizing students' attendance and accomplishments in their individualized education programs and in allowing students with disabilities to participate in high school graduation ceremonies and activities with their age-appropriate peers without the forfeiture of their continuing special education and related services." [2007 c 318 s 1.]

Short title—2007 c 318: "This act may be known and cited as Kevin's law." [2007 c 318 s 3.]

Effective date—2007 c 318: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 4, 2007]." [2007 c 318 s 4.]

RCW 28A.155.190 Information on autism. (1) To the extent funds are appropriated for this purpose, by September 1, 2008, the office of the superintendent of public instruction, in collaboration with the department of health, the department of social and health services, educational service districts, local school districts, the autism center at the University of Washington, and the autism society of Washington, shall distribute information on child find responsibilities under Part B and Part C of the federal individuals with disabilities education act, as amended, to agencies, districts, and schools that participate in the location, evaluation, and identification of children who may be eligible for early intervention services or special education services.

(2) To the extent funds are made available, by September 1, 2008, the office of the superintendent of public instruction, in collaboration with the department of health and the department of social and health services, shall develop posters to be distributed to medical offices and clinics, grocery stores, and other public places with information on autism and how parents can gain access to the diagnosis and identification of autism and contact information for services and support. These must be made available on the internet for ease of distribution. [2008 c 220 s 2.]

RCW 28A.155.200 Condensed compliance reports—Second-class districts. Any compliance reporting requirements as a result of laws in this chapter that apply to second-class districts may be submitted in accordance with RCW 28A.330.250. [2011 c 45 s 4.]

Conflict with federal requirements—2011 c 45: See note following RCW 28A.330.250.

RCW 28A.155.210 Use of restraint or isolation—Requirement for procedures to notify parent or guardian—Additional procedures for compliance. A student's individualized education program must include procedures for notification of a parent or guardian regarding the use of restraint or isolation under RCW 28A.600.485. If a student is placed in an authorized entity under RCW 28A.155.060, the student's individualized education program must also specify any additional procedures required to ensure the authorized entity fully complies with RCW 28A.600.485. [2023 c 436 s 7; 2013 c 202 s 3.]

Finding—Intent—2023 c 436: See note following RCW 28A.300.690.

Findings—2013 c 202: See note following RCW 28A.600.485.

RCW 28A.155.220 High school transition services—Interagency agreements—Education data center to monitor certain outcomes—Annual report by superintendent of public instruction. (1) The office of the superintendent of public instruction must establish interagency agreements with the department of social and health services, the department of services for the blind, and any other state agency that provides high school transition services for special education students. Such interagency agreements shall not interfere with existing individualized education programs, nor override any individualized education program team's decision-making power. The purpose of the interagency agreements is to foster effective collaboration among the multiple agencies providing transition services for individualized education program-eligible special education students from the beginning of transition planning, as soon as educationally and developmentally appropriate, through the end of the school year in which the student turns 22 years of age, or through high school graduation, whichever occurs first. Interagency agreements are also intended to streamline services and programs, promote efficiencies, and establish a uniform focus on improved outcomes related to self-sufficiency.

(2)(a) When educationally and developmentally appropriate, the interagency responsibilities and linkages with transition services under subsection (1) of this section must be addressed in a transition plan to a postsecondary setting in the individualized education program of a student with disabilities.

(b) Transition planning shall be based upon educationally and developmentally appropriate transition assessments that outline the student's individual needs, strengths, preferences, and interests. Transition assessments may include observations, interviews, inventories, situational assessments, formal and informal assessments, as well as academic assessments.

(c) The transition services that the transition plan must address include activities needed to assist the student in reaching postsecondary goals and courses of study to support postsecondary goals.

(d) Transition activities that the transition plan may address include instruction, related services, community experience, employment and other adult living objectives, daily living skills, and functional vocational evaluation.

(e) When educationally and developmentally appropriate, a discussion must take place with the student and parents, and others as needed, to determine the postsecondary goals or postschool vision for the student. This discussion may be included as part of an annual individualized education program review, high school and beyond plan meeting, or any other meeting that includes parents, students, and educators. The postsecondary goals included in the transition plan shall be goals that are measurable and must be based on appropriate transition assessments related to training, education, employment, and independent living skills, when necessary. The goals must also be based on the student's needs, while considering the strengths, preferences, and interests of the student.

(f) As the student gets older, changes in the transition plan may be noted in the annual update of the student's individualized education program.

(g) A transition plan required under this subsection (2) must be aligned with a student's high school and beyond plan.

(3) To the extent that data is available through data-sharing agreements established by the education data center under RCW 43.41.400, the education data center must monitor the following outcomes for individualized education program-eligible special education students after high school graduation:

(a) The number of students who, within one year of high school graduation:

(i) Enter integrated employment paid at the greater of minimum wage or competitive wage for the type of employment, with access to related employment and health benefits; or

(ii) Enter a postsecondary education or training program focused on leading to integrated employment;

(b) The wages and number of hours worked per pay period;

(c) The impact of employment on any state and federal benefits for individuals with disabilities;

(d) Indicators of the types of settings in which students who previously received transition services primarily reside;

(e) Indicators of improved economic status and self-sufficiency;

(f) Data on those students for whom a postsecondary or integrated employment outcome does not occur within one year of high school graduation, including:

(i) Information on the reasons that the desired outcome has not occurred;

(ii) The number of months the student has not achieved the desired outcome; and

(iii) The efforts made to ensure the student achieves the desired outcome.

(4) To the extent that the data elements in subsection (3) of this section are available to the education data center through data-sharing agreements, the office of the superintendent of public instruction must prepare an annual report using existing resources and submit the report to the legislature.

(5) To minimize gaps in services through the transition process, no later than three years before students receiving special education services leave the school system, the office of the superintendent of public instruction shall transmit a list of potentially eligible students to the department of social and health services, the counties, the department of services for the blind, and any other state agency working with individuals with intellectual and developmental disabilities. The office of the superintendent of public instruction shall ensure that consent be obtained prior to the release of this information as required in accordance with state and federal requirements. [2025 c 256 s 6; 2022 c 167 s 7; 2015 c 217 s 2; 2014 c 47 s 1.]

Findings—Intent—2025 c 256: See note following RCW 28A.155.020.

Findings—Intent—2015 c 217: "The legislature finds that research continues to suggest that high expectations for students with disabilities is paramount to improving student outcomes. The legislature further finds that to increase the number of students with disabilities who are prepared for higher education, teachers and administrators in K-12 education should continue to improve their acceptance of students with disabilities as full-fledged learners for whom there are high expectations. The legislature also encourages continuous development in transition services to higher education

opportunities for these students. The legislature recognizes that other states have authorized transition planning to postsecondary settings for students with disabilities as early as the age of fourteen. To remove barriers and obstacles for students with disabilities to access to postsecondary settings including higher education, the legislature intends to authorize transition planning for students with disabilities as soon as practicable when educationally and developmentally appropriate." [2015 c 217 s 1.]

RCW 28A.155.225 Review of data for disproportionate student identification—Technical assistance. (1) The superintendent of public instruction shall annually review data from local education agencies, including the percentage of students receiving special education services, to ensure there is not a disproportionate identification of students, as defined by the superintendent of public instruction in accordance with federal requirements of the individuals with disabilities education act, 20 U.S.C. Sec. 1400.

(2) The office of the superintendent of public instruction shall provide technical assistance to school districts experiencing issues related to disproportionality and will make available professional development opportunities statewide to support local education agencies, schools, and community partners in promoting inclusionary teaching practices within a multitiered system of supports framework to help safeguard against over-identification and other issues related to disproportionality. [2023 c 417 s 1.]

RCW 28A.155.240 Noncompliance—Complaint process—Major program changes—Corrective action. (1) On its web page related to special education, the office of the superintendent of public instruction must develop and publish a complaint process for individuals to report noncompliance with local, state, or federal laws or violation of students rights by authorized entities. The web page may include additional instructions for submitting complaints to the resident school district and for using the special education community complaint processes, when applicable.

(2) When an authorized entity notifies the office of the superintendent of public instruction about major program changes, the office shall review the changes with affected school districts to determine whether the entity remains authorized to provide contracted services.

(3) The office of the superintendent of public instruction must monitor and investigate authorized entities and contracting school districts to ensure compliance with the requirements of RCW 28A.155.060 and 28A.300.690. In completing this duty, the office of the superintendent of public instruction must use information and data gathered during on-site visits, submitted through the complaint processes, and provided by authorized entities and school districts. The office of the superintendent of public instruction must use this process to identify and address patterns of misconduct, including issuing corrective action or revoking an entity's authorization under RCW 28A.300.690 to contract with school districts.

(4) The office of the superintendent of public instruction may suspend, revoke, or refuse to renew the authorization of an entity under RCW 28A.300.690 if the entity:

(a) Fails to maintain authorization standards under RCW 28A.300.690;

(b) Violates the rights of students placed in the authorized entity by a school district;

(c) Fails to adhere to applicable local, state, and federal laws, including health, safety, and civil rights laws;

(d) Fails to comply with contract requirements under RCW 28A.155.060; or

(e) Refuses to implement any corrective actions ordered by the office of the superintendent of public instruction.

(5) As used in this section, "authorized entity" and "entity" has the same meaning as in RCW 28A.300.690. [2023 c 436 s 4.]

Finding—Intent—2023 c 436: See note following RCW 28A.300.690.

RCW 28A.155.245 Notification of noncompliance. (1) The office of the superintendent of public instruction shall notify the state board of education if any private school authorized by the office of the superintendent of public instruction under RCW 28A.300.690 that is also approved by the state board of education under chapter 28A.195 RCW is investigated for noncompliance, is directed to complete corrective action, or fails to maintain authorization.

(2) The state board of education shall notify the office of the superintendent of public instruction of any unresolved concerns, deficiencies, or deviations related to a private school authorized by the office of the superintendent of public instruction under RCW 28A.300.690 that is also approved by the state board of education under chapter 28A.195 RCW. [2023 c 436 s 5.]

Finding—Intent—2023 c 436: See note following RCW 28A.300.690.

RCW 28A.155.250 Student data at authorized entities—Annual report. (1) Beginning December 1, 2023, and in compliance with RCW 43.01.036, the office of the superintendent of public instruction shall annually submit a report to the education committees of the legislature regarding placements of students with disabilities at authorized entities under RCW 28A.155.060. A summary of the report, including a link to the full report content, must also be posted on the office of the superintendent of public instruction's website. The report must include:

(a) The academic progress of students receiving special education services from authorized entities, using the results of the two most recent state assessments;

(b) The graduation rates of students who have received special education services from authorized entities;

(c) The rate at which students receiving special education services from authorized entities return to their resident school districts;

(d) Data on student restraint and isolation incidents, discipline, and attendance at authorized entities; and

(e) Any corrective action or change in an entity's authorization status, as ordered by the office of the superintendent of public instruction.

(2) The data published under subsection (1) of this section must be disaggregated by each authorized entity when it is possible to do so without disclosing, directly or indirectly, a student's personally identifiable information as protected under the federal family educational rights and privacy act (Title 20 U.S.C. Sec. 1232g).

(3) As used in this section, "authorized entity" has the same meaning as in RCW 28A.300.690. [2023 c 436 s 8.]

Finding—Intent—2023 c 436: See note following RCW 28A.300.690.

RCW 28A.155.260 Burden of proof. (1) Except as provided in subsection (2) of this section, the school district has the burden of proof, including the burden of persuasion and production, whenever it is a party to a due process hearing regarding the identification, evaluation, reevaluation, classification, educational placement, disciplinary action, or provision of a free appropriate public education for a student with a disability.

(2) A parent or person in parental relation seeking tuition reimbursement for a unilateral parental placement has the burden of proof, including the burden of persuasion and production, on the appropriateness of such placement.

(3) The burden of proof in this section must be met by a preponderance of the evidence.

(4) For the purposes of this section, "due process hearing" means a due process hearing held in accordance with the federal individuals with disabilities education act, Title 20 U.S.C. Sec. 1400 et seq. [2024 c 29 s 1.]

RCW 28A.155.265 Evaluation report—Eligibility determination meeting—Time frames—Waiver—Rule making. (1) Except as otherwise provided in rules adopted by the office of the superintendent of public instruction, a school district must:

(a) Complete an initial evaluation or reevaluation to determine the eligibility or continuing eligibility of a student for special education services within 35 school days of receiving written consent for the evaluation from the student's parent or legal guardian;

(b) Provide the student's parent or legal guardian with a copy of the evaluation report no later than the 35th school day following receipt of consent under (a) of this subsection (1); and

(c) Convene an eligibility determination meeting to review the results in the evaluation report provided under (b) of this subsection (1) and discuss or determine the student's eligibility or continuing eligibility for special education services:

(i) No sooner than five school days after the evaluation report is provided to the student's parents or legal guardians as required by (b) of this subsection (1); and

(ii) No later than the 40th school day following receipt of consent under (a) of this subsection (1).

(2) The school district must provide the evaluation report required under subsection (1)(b) of this section in a written or electronic format that allows the parent or legal guardian to access, review, and retain the report. Providing the evaluation report solely through screen sharing or solely by review during a meeting does not satisfy this subsection.

(3) A parent or legal guardian may voluntarily waive, in writing, the requirement under subsection (1)(c)(i) of this section that the eligibility determination meeting occur no sooner than five school days after the evaluation report is provided. A waiver is valid only if it applies to the specific eligibility determination meeting for which it is given.

(4) If a school district cannot provide the evaluation report within the time frame required under subsection (1)(b) of this section, the school district must reschedule the eligibility determination meeting to comply with this section unless the parent or legal guardian has provided a written waiver under subsection (3) of this section.

(5) Failure to provide the evaluation report as required under subsections (1) and (2) of this section, absent a written waiver under subsection (3) of this section, constitutes a procedural violation. In any administrative review, complaint, or due process proceeding, such failure may be considered as evidence relevant to whether the parent's or legal guardian's opportunity to participate in the decision-making process regarding the provision of a free appropriate public education to the student was significantly impeded.

(6) The office of the superintendent of public instruction must update model forms and technical assistance guidance to reflect the requirements of this section.

(7) The office of the superintendent of public instruction must adopt rules under chapter 34.05 RCW to implement this section. The rules must incorporate exceptions to evaluation and eligibility determination timelines established under the federal individuals with disabilities education act, 20 U.S.C. Sec. 1400 et seq.

(8) For purposes of this section, the following definitions apply:

(a) "Evaluation report" means the set of completed written evaluation materials for the student that the school district intends to rely on in making or supporting an eligibility determination at the eligibility determination meeting.

(b) "School day" has the same meaning as in RCW 28A.150.203. [2026 c 34 s 2.]

Findings—Intent—2026 c 34: "(1) The legislature finds that the federal individuals with disabilities education act, 20 U.S.C. Sec. 1400 et seq., requires an opportunity for the parents of a child with a disability to examine all records relating to the child and to participate in meetings regarding the identification, evaluation, eligibility, educational placement, and provision of a free appropriate public education to the child.

(2) The legislature further finds that parents' ability to participate meaningfully in eligibility determination meetings is hindered when written evaluation reports and conclusions are provided for the first time during or after the meeting.

(3) The legislature further finds that a single, combined timeline for completing evaluations and making eligibility determinations may limit a school district's practical ability to provide an evaluation report in advance of an eligibility determination meeting.

(4) Therefore, the legislature intends to establish a separate, clearly defined timeline for convening the meeting at which eligibility is discussed or determined that requires the evaluation

report to be provided in advance and provides a brief, capped period for parents to review the report, consult as needed, and prepare questions and input. The legislature believes this will promote consistent statewide practice, support collaboration between families and school districts, and safeguard meaningful participation without altering special education evaluation completion timelines, eligibility standards, or services." [2026 c 34 s 1.]

RCW 28A.155.270 Statewide activities—Annual report. (1) The superintendent of public instruction shall engage in statewide special education activities to support students receiving special education services.

(a) The statewide activities must include:

(i) Annually reviewing data from local education agencies, including the percentage of students receiving special education services, to ensure there is not a disproportionate identification of students, as defined by the superintendent of public instruction in accordance with federal requirements of the individuals with disabilities education act, 20 U.S.C. Sec. 1400;

(ii) Providing technical assistance to school districts with disproportionate data;

(iii) Requiring districts with disproportionate data to complete and submit to the office of the superintendent of public instruction a self-assessment that includes an audit of student evaluations and individualized education programs;

(iv) Implementing follow-up actions based on the results of the self-assessment required in (a)(iii) of this subsection if determined necessary; and

(v) Developing and maintaining a statewide online system for individualized education programs as directed under RCW 28A.155.275.

(b) The statewide activities may include:

(i) Providing professional development in inclusionary practices to local education agencies, schools, and community partners in promoting inclusionary teaching practices within a multitiered system of supports framework to help safeguard against over-identification and other issues related to disproportionality; and

(ii) Providing a funding match to local education agencies that opt to allocate federal funding for coordinated, early intervening services per 34 C.F.R. Sec. 300.226.

(2) The superintendent of public instruction shall annually report to the education committees of the legislature, in accordance with RCW 43.01.036, by December 1st on the statewide activities funded under RCW 28A.150.390(3). The 2025 and 2026 annual reports must include an update on the impact of removing the cap on the special education enrollment percentage, including the impact on safety net needs. [2025 c 368 s 2.]

RCW 28A.155.275 Statewide online system for individualized education programs. (1) The superintendent of public instruction shall develop and maintain a statewide online system for individualized education programs. In developing and implementing the online system, the superintendent of public instruction must collaborate with educational service districts or an information processing cooperative established under chapter 28A.310 RCW by

agreement pursuant to chapter 39.34 RCW. The superintendent may delegate implementation of the online system as authorized under RCW 28A.310.470.

(2) The purpose of the online system is to:

(a) Provide a uniform, centralized platform for creating and managing individualized education programs;

(b) Ensure compliance with federal and state special education requirements;

(c) Improve the efficiency and effectiveness of individualized education program development and oversight; and

(d) Improve educator collaboration and serve as an instructional tool designed to improve educational outcomes by aligning individualized supports and services with evidence-based instructional practices.

(3) The online system must:

(a) Have a statewide model that is made available at no cost to school districts, charter schools established under chapter 28A.710 RCW, and state-tribal education compact schools subject to chapter 28A.715 RCW;

(b) Incorporate safeguards to protect confidential student information, including compliance with the federal family educational rights and privacy act and any other applicable privacy laws;

(c) Allow for secure, role-based access so that only authorized users may view or modify individualized education programs;

(d) Be able to integrate emerging technologies to continually enhance its functionality and effectiveness;

(e) Be able to integrate a student's transition plan as developed under RCW 28A.155.220 with the universal online high school and beyond plan platform as developed under RCW 28A.230.215, to the greatest extent possible, in order to relieve duplication between the two plans;

(f) Ensure that individualized education programs can show evidence of access to grade-level standards, reasonable progress, improved student outcomes, and students' strengths and needs;

(g) Include integrated language support and translation services;

(h) Allow for robust family engagement, including access to information about student progress that includes both qualitative and quantitative data and that provides information about how individualized education program goals connect to grade-level standards; and

(i) Comply with applicable state and federal accessibility standards.

(4) The superintendent of public instruction shall ensure statewide professional development opportunities are available to educators, administrators, and families to support the effective use and implementation of the statewide online system for individualized education programs, including targeted technical assistance. [2026 c 147 s 1; 2025 c 368 s 3.]

RCW 28A.155.800 Performance audit of authorized entities and school districts—Report. ***(Expires August 1, 2027.)*** (1) The state auditor shall conduct a performance audit of the authorization, monitoring, and investigation of authorized entities and the school districts that contract with authorized entities under RCW 28A.155.060 to provide special education and related services to students with

disabilities. As appropriate, the state auditor shall make recommendations for improving the system for overseeing authorized entities. The state auditor may conduct the performance audit at a sample of school districts and authorized nonpublic entities as needed.

(2) By November 30, 2026, and in compliance with RCW 43.01.036, the state auditor shall report the performance audit's findings and recommendations to the governor and the education committees of the legislature.

(3) As used in this section, "authorized entity" has the same meaning as in RCW 28A.300.690.

(4) This section expires August 1, 2027. [2023 c 436 s 9.]

Finding—Intent—2023 c 436: See note following RCW 28A.300.690.