WAC 392-190-050 Access to course offerings—Separate programs or activities. Except as provided under this section, school districts must not provide any course or otherwise carry out any of its programs or activities separately on the basis of a protected status or require or refuse participation therein by any of its students on such basis. This section does not prohibit:

(1) The grouping of students in physical education classes and activities by demonstrated ability as assessed by objective standards of individual performance developed and applied without regard to sex. Where use of a single standard of measuring skill or progress in a physical education class has an adverse effect on members of one sex, the school district must promptly implement appropriate standards that do not have such effect;

(2) The separation of students by sex within physical education classes or activities offered for students if:

(a) It can be shown under the factual circumstances involved in the particular case that maintaining a separate physical education class or activity for boys and girls is the best method of providing both sexes with an equal opportunity to participate in the class or activity; and

(b) The separated classes or activities are substantially equal;

(3) The separation of students by sex for classes or portions of classes that deal primarily with human sexuality;

(4) Classes and activities with requirements based on vocal range or quality, which may result in a chorus or choruses of one or predominantly one sex; and

(5) Classes, courses, or placement of students based on the student's individual language skill development or based on the student's needs as identified in the student's individualized education program under the Individuals with Disabilities Education Act.

[Statutory Authority: RCW 28A.640.020 and 28A.642.020. WSR 26-15-128, s 392-190-050, filed 7/22/26, effective 8/22/26; WSR 14-23-072, § 392-190-050, filed 11/18/14, effective 12/19/14; WSR 11-09-024, § 392-190-050, filed 4/13/11, effective 5/14/11. Statutory Authority: RCW 34.05.220 [(1)](a). WSR 89-23-001 (Order 15), § 392-190-050, filed 11/2/89, effective 12/3/89. Statutory Authority: RCW 28A.85.020, 28A.85.030 and 28A.85.050. WSR 80-09-017 (Order 80-26), § 392-190-050, filed 7/9/80; Order 6-76, § 392-190-050, filed 5/17/76.]