

Excerpts from Statutory Authority Specifically Addressing Educational Issues of Migrant Families in Washington State

Intended as a starting point for further inquiry regarding State and Federal laws and regulations, this document specifically addresses educational issues of migrant families in Washington State. It is a work in progress, and makes no claim to be all inclusive. No legal advice is offered or intended.

Full text of Washington State RCWs and WACs, see <http://access.wa.gov/>. For Federal laws, see <http://www.gpoaccess.gov/nara/index.html>. Additional resources identified here were obtained through references cited in footnotes below.

Access to Public Education

Topic	Authority	Reference
Right to public education	U.S. Supreme Court	Public schools prohibited from denying immigrant students (including undocumented children) access to public education— <i>Plyler v. Doe</i> , 457 U.S. 202 (1982) ¹
	Federal law— McKinney-Vento Homeless Assistance Act, 42 USC 119(VI)(B), sect. 11431 and following	<ul style="list-style-type: none"> • Homeless children and youth have equal access to education. Sect. 11431. • “For purposes of this part: * * * * * <li style="padding-left: 20px;">(2) The term ‘<i>homeless children and youths</i>’ – <ul style="list-style-type: none"> (A) means individuals who lack a fixed, regular, and adequate nighttime residence...; and (B) includes – <ul style="list-style-type: none"> (i) children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement; (ii) children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings...; (iii) children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and (iv) migratory children... who qualify as homeless for the purposes of this part because the children are living in circumstances described in clauses (i) through (iii).”

¹ Retrieved from the World Wide Web on 10 May 2004. Website <<http://www.americanpatrol.com/REFERENCE/PlylerVDoeSummary.html>>

Topic	Authority	Reference
		<p>based on the child or youth’s homelessness (Sect. 11432[e][3]) “<i>except as necessary for short periods of time – (I) for health and safety emergencies, or (II) to provide temporary, special, and supplemental services to meet the unique needs of homeless children and youths</i>” (Sect. 11433[a][2]).</p> <ul style="list-style-type: none"> • Written notice requirements. The school may assist the parent/guardian or unaccompanied youth in exercising “his/her right to attend the parent’s or guardian’s (or youth’s) choice of schools....” Sect. 11432(e)(3)(C) • Right of parents to appeal school placement. 42 Sect. 11432(g)(3) • If a dispute arises over school selection or enrollment in a school, the homeless child or youth “shall be immediately admitted to the school in which enrollment is sought, pending resolution of the dispute;...” Sect. 11432(g)(3)(E)
	State Constitution	<p>“<i>It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex.</i>” Article IX, Section 1 Preamble²</p>
	State law and agency regulations	<ul style="list-style-type: none"> • Accessible to all children 5-20 years of age. RCW 28A.150.220(3), WAC 180-16-215(3) • Eligibility to enroll (WAC 392-121-106); minimum age to enroll (WAC 180-39-010, 180-39-015, 180-39-025) • “Student residence” defined (WAC 392-137-115); for handicapped child (WAC 392-137-235); school shall enroll a child without a legal residence at the request of the child or his/her parent or guardian (RCW 28A.225.215[2]) • Release of student from resident to nonresident district; grounds; appeal; acceptance. WAC 392-137 • Eligibility of transfer students for participation in extracurricular activities is subject to rules adopted by the Washington Interscholastic Activities Association as authorized by the State Board of Education. RCW 28A.225.280 • Return to public school after dropping out (WAC 392-184); “common school dropout” defined (WAC 392-184-003); grade level and retention of credits previously earned (WAC 392-184-015). • Child residing on Indian reservation, military base, or in national park or forest shall be admitted to any contiguous school district. RCW 28A.225.170 • “Part time student” defined. RCW 28A.150.350
Parents duty to enroll children in school	State law	<ul style="list-style-type: none"> • Assessment fee permitted on enrollment in kindergarten and first grade, so long as provision is made for waiving or reducing the fee in cases of financial hardship. RCW 28A.225.160 • “Parent” defined. RCW 28A.225.010(2) • If a parent enrolls a child who is 6 or 7 yrs. of age in a public school, the child is required to attend and that parent has the responsibility to ensure the child attends for the full time that school is in session. RCW 28A.225.015(1) • Ages 8-18 shall attend full-time, with approved exceptions (RCW 28A.225.010); one exception is if child is 16 or older, regularly and lawfully employed, and either the parent agrees or the child is emancipated (RCW 28A.225.010[1][e]).
Proof of immunizations	Federal law	<ul style="list-style-type: none"> • Homeless child or youth shall immediately be enrolled by the school even if unable to produce records normally required for enrollment, such as previous academic records, medical records, proof of residency, or other documentation. School’s responsibility to contact the last school the student attended to obtain records. 42 USC 119(VI)(B), sect. 11432(g)(3)(C). • “Homeless children and youth” defined. 42 USC 119(VI)(B), sect. 11434a. Quoted in relevant part in section “Right to Public Education” above.

² Retrieved from the World Wide Web on 2 Nov. 2004. Website http://www.leg.wa.gov/pub/other/WA_CONSTITUTION.htm

Topic	Authority	Reference
	State law and agency regulations	<ul style="list-style-type: none"> Initial attendance of every student at every public and private school in the state is conditioned upon proof of immunization as set forth in RCW 28A.210.080. Written parental notice of exclusion due to lack of immunization(s) required (WAC 180-38-045, 180-38-050); hearing to appeal exclusion required (WAC 180-38-080) Required district action if immunization records are not available on first day of transferring student’s attendance. WAC 392-182-020
Immigration status	U.S. Supreme Court (<i>Plyler v. Doe</i> , 457 U.S. 202 (1982))	<ul style="list-style-type: none"> School may require proof that child lives within district attendance zone School may not require children to prove they are in this country legally (even unintentionally), or make inquiries to the student or his/her parents that might expose their legal status If opportunity to obtain Social Security Number is offered, it must clearly be optional, and in parent’s preferred language; schools must not monitor the filing of these applications Any communication to the Immigration and Naturalization Services (INS) initiated by a school or school official concerning a specific student is prohibited INS officials can only enter a school upon presentation of a valid warrant
School records	Federal law ³	<ul style="list-style-type: none"> Parent rights to inspect education records of the school, and to request correction of inaccurate or misleading entries. Generally, school must have written permission from the parent before releasing student information, except to school employees who have a need to know. School must give parents the choice not to have their information included in a student directory prior to publication. Annual notification of rights required. Family Educational Rights and Privacy Act (FERPA), 20 USC 1232g; 34 CFR Part 99 District receiving migrant funding shall provide migrant student records to the next school attended at no cost to the requesting agency. Public Law 107-110 No Child Left Behind Act of 2001, Title I, Part C, Section 1308(b)(3)
	Federal law—McKinney-Vento Homeless Assistance Act, 42 USC 119(VI)(B)	<ul style="list-style-type: none"> A local educational agency may require a parent or guardian of a homeless child to submit contact information. Section 11432(g)(3)(H) “Homeless children and youth” definition quoted in relevant part in section “Right to Public Education” above. A local educational agency serving homeless children and youth shall coordinate “(i) the provision of services with local social services agencies and other agencies or programs providing services to homeless children and youths and their families, including services and programs funded under the Runaway and Homeless Youth Act (42 USC 5701 et seq.); and (ii) with other local educational agencies on interdistrict issues, such as transportation or transfer of school records.” Section 11432(g)(5) Funds available to a district under this Act may be used for purposes defined in Section 11433(d), which includes paying “(9)...fees and other costs associated with obtaining and transferring records necessary to enroll homeless children and youths in school, including birth certificates, immunization or medical records, academic records, guardianship records, and evaluations for special programs and services” “(15) The provision of school supplies....” and “(16) The provision of other extraordinary or emergency assistance needed to enable homeless children and youths to attend school.”
	State regulations	“Personally identifiable information,” “educational records,” and “parent” defined. WAC 72-280-011

³ Summary available at Internet site <http://www.ed.gov/print/policy/gen/guid/fpco/ferpa/index.html> (11/3/04)

Topic	Authority	Reference
	State guidance	Records management and retention. Records Management Guidelines and General Records Retention Schedule for School Districts and Educational Service Districts of Washington State ⁴
Move from one school district to another while schools are in session	State law	<ul style="list-style-type: none"> If a student has not paid a fine or fee under RCW 28A.635.060, the school is authorized to withhold that student's transcript, which will not be provided until the obligation is met. The district must notify both the student and his/her parent or guardian both that the transcript will not be sent until the obligation is met, and that lack of this transcript may result in exclusion from extracurricular activities at the next school attended or failure to graduate. RCW 28A.225.330(2) Note: RCW 28A.635.060 is limited to defacing or injuring property of the school, its employee, or another student. Exception: If DSHS or a child-placing agency has legal custody of the student, records requested by the agency may not be withheld for any reason. RCW 28A.635.060(3)
	Notes to parents	<ul style="list-style-type: none"> When withdrawing your children from school, it is important to return all books and district property, and pay any fines or fees owed to the school. Failure to do so may result in loss of any formal record of the work or credit your child completed while enrolled in that school. You formally enroll your children in schools in Washington by going to the school office and completing paperwork. It is equally important that you formally withdraw your children from school by the same process. This will help to ensure that exit grades are recorded for each class your child is attending, recorded on a withdrawal form, in the Migrant Student Information System (MSIS) database, and (ideally) on your child's school transcript. This will be very important when your child is enrolled in the next school attended.
Excused temporary absence from school	State law and agency regulations	<ul style="list-style-type: none"> Teachers and school administrators must require excuses from families of minor students in all cases of absence, tardiness, or early dismissal from the school day. RCW 28A.150.240(2)(d) When the student's parent/guardian and the appropriate school official agree that a student's temporary absence from school will not cause a serious adverse effect upon the student's educational progress, the student may be excused temporarily from attending school and counted as enrolled for up to two monthly enrollment count dates. WAC 392-121-108(a) and (1)(b); RCW 28A.225.010(1)(d)
Unexcused absence from school	State law	<ul style="list-style-type: none"> District school boards are required to "determine the amount of instructional hours necessary for any student to acquire a quality education in such district, in not less than an amount otherwise required in RCW 28A.150.220 [1000 hrs.]," or rules and regulations of the state board of education. RCW 28A.150.230 Definitions of "unexcused absence" and "parent." RCW 28A.225 Child 6 or 7 yrs. of age: legal action against parent following 7 unexcused absences in a month or 10 unexcused absences in a school year. Penalties. RCW 28A.225 Youth 8 through 17 yrs of age: legal action against parent following 7 unexcused absences in a month or 10 unexcused absences in a school year, with permitted exceptions. Penalties. RCW 28A.225 "No child under the age of 15 yrs. shall be employed for any purpose by any person, company or corporation in this state during the hours which the public schools of the district in which such child resides are in session except with an Employment Permit signed by the superintendent of the school district." RCW 28A.225.080 Exception: 16 and 17 yr. old who is regularly and lawfully employed when either the parent agrees the child should not be required to attend school, or the child is emancipated. RCW 28A.225.010(1)(e)

⁴ Available at Internet site <http://www.secstate.wa.gov/archives/doc/Records Management Guidelines.doc> (11/3/04)

Topic	Authority	Reference
		<ul style="list-style-type: none"> If a student transfers to a new school mid-year, absences are cumulative between the schools attended in that school year. RCW 28A.225.020(3)
Disciplinary action	State law	<ul style="list-style-type: none"> Corporal punishment in the common schools is prohibited. RCW 28A.150.300 Legal fine: Abuse or insult a teacher on the school premises. RCW 28A.635.010 Misdemeanors with legal fines and in some cases jail time: (a) disturb school activities or meetings; (b) disclose test questions in advance of an examination directly or indirectly to assist any person to answer any question submitted; (c) willfully disobey school personnel or refuse to leave public property as ordered by school personnel or a law enforcement officer; (d) interfere by force or violence with a school employee or student who is in the peaceful conduct of his or her duties or studies (grounds for immediate suspension or expulsion); (e) intimidate a school employee or student who is in the peaceful conduct of his or her duties or studies by threat of force or violence. RCW 28A.635 A school is required to transmit information about a student’s academic performance, special placement, immunization records, records of disciplinary action, and history of violent behavior to the next school that student attends (even if the official transcript is withheld due to unpaid fees). RCW 28A.225.330(2)
	Note to parents	Washington schools are locally governed by School Boards, which adopt rules of acceptable conduct within the community’s schools. When student conduct violates one or more of the rules, disciplinary action will follow, and may include suspension or expulsion from school. When you enroll your child in school, you have the right to receive a copy of the rules of acceptable conduct and may wish to review them carefully with your child.
Student right to participate in school-sponsored athletic events	State regulations	Ineligibility due to criminal conviction violating RCW 69.41 or possession, use, or sale of legend drugs, including anabolic steroids. Due process requirements. Extent of discipline. WAC 392-183A

High School Graduation

Topic	Authority	Reference
High school credits	State regulations	<ul style="list-style-type: none"> “High school credit” defined (WAC 180-51-050[1]); not limited to seat hours (WAC 180-51-003[2][b]); equivalency course of study (WAC 180-50-300); for students with special educational needs (WAC 180-51-115) Each District School Board adopts written policies providing for the granting of high school graduation credit for alternative learning experiences. WAC 180-51-110, 392-121-182 Credit for correspondence courses, electronically mediated courses (WAC 180-50-310); for work-based learning (WAC 180-50-315); for Running Start (WAC 392-169-050); for course completed before attending high school (RCW 28A.230.090). Accept credits earned from schools or programs accredited by a body recognized by the State Board of Education. WAC 180-55-055(1)(f)

Topic	Authority	Reference
<p>High school graduation requirements</p>	<p>State law and regulations</p>	<ul style="list-style-type: none"> • Intent of requirements (WAC 180-51-003[1][b]); minimum subject areas (WAC 180-51-060). • Minimum graduation requirements for students entering 9th grade after 7/1/04 (WAC 180-51-005, 180-51-061); waiver of specific requirements is available to alternative high schools (WAC 180-18-055); each school district may establish additional requirements (WAC 180-51-020). • <i>“A student under age twenty-one shall have the right to graduate in accordance with the standards in effect for the school of graduation for any year since such student commenced the ninth grade or the equivalent of a four-year high school program and until the student turns age twenty-one.”</i> WAC 180-51-035 • Annual parental notice of student’s graduation requirements and progress report required. WAC 180-51-045 <p>Washington State History and Government requirement: Social studies requirement, equivalencies (WAC 180-51-075); total of one semester of WA State History/Gov’t. (ninety 50 minute hours) required between grades 7-12 (WAC 180-50-120[2]); passed a state history/government course in another state (WAC 180-51-075[2][b]and [c]); study of US & WA State Constitutions required (WAC 180-51-075[2][b]).</p> <p>Additional requirements to graduate from high school: Certificate of mastery (WAC 180-51-063); certificate of academic achievement (RCW 28A.655.061); certificate of individual achievement (RCW 28A.155.045). High school and beyond plan. RCW 28A.230.090(1)(c). Culminating project (WAC 180-51-061[2]); written district policy required (WAC 180-51-61[2] footnote 8).</p>
<p>Document partial credit on the high school transcript</p>	<p>Federal law</p>	<p>One purpose of Federal funding to states to address the needs of migrant youth is to help reduce and overcome educational disruptions that inhibit the ability of children to do well in school. Public Law 107-110, Title I, Part C, Section 1301(1), (3), and (5)</p>
<p>Alternative educational service provider</p>	<p>State law</p>	<ul style="list-style-type: none"> • <i>“Because students are particularly vulnerable [to dropping out] during transitions between schools, educators ‘must create friendly and supportive school environments and pay close attention to students needs’ at these times.”</i> Bergeson, Terry, and Mary Alice Heuschel. (Dec 2003) <i>Helping students finish school. Why students drop out and how to help them graduate.</i> Olympia, WA: Office of Superintendent of Public Instruction, p. 49. • Activities to support improvement of a high school’s graduation rate. In summary: (a) grant partial credit (when applicable) and record it on the high school transcript, (b) document exit grades properly and timely on a withdrawal form, (c) forward the current class schedule, withdrawal form and portfolio with the student/family, report credit, withdrawal grades and unresolved coursework in the MSIS database immediately upon student withdrawal, (d) accept withdrawal grades and place arriving students accordingly, then consolidate partial work to grant credit; and (e) support educators in communicating with sending schools, making sound placement decisions, and utilizing the MSIS system as an authoritative source of information. Richard Gómez, Director, Migrant/Bilingual Programs, memo to Federal Project Directors, 9/30/04. <ul style="list-style-type: none"> • Students eligible for enrollment with an alternative educational service provider are those who are likely to be expelled, have previously been suspended, are academically at risk, or have been subject to repeated disciplinary actions due to behavioral problems. RCW 28A.150.305 • Placement of the student with an alternative educational service provider shall be jointly determined by the school district, the student’s parent or legal guardian, and the alternative educational service provider. Students may be placed at the grade level appropriate to the student’s ability. RCW 28A.150.305

Topic	Authority	Reference
	State regulations	The student will receive a written plan defining his or her individualized course of study, is reviewed during the first 20 school days and again every 45 school days, meets one-to-one with qualified school staff an average of at least 60 minutes every 5 school days, and provides a monthly written statement listing hours the student was engaged in planned learning activities while not in the presence of school staff. WAC 392-121-182
High school completion at a college	State law	Calculating high school credit completed at a college or university. RCW 28A.230.090(6). See also RCW 28A.600.330.
	State regulations	Written release from school district required. WAC 180-51-050(7)

Improving Schools in the United States

Topic	Authority	Reference
No Child Left Behind Act of 2001 (as amended)	Federal law	<ul style="list-style-type: none"> Part A of Public Law 107-110 gives parents these rights to notice: <ul style="list-style-type: none"> ❖ of the professional qualifications of their children’s classroom teachers (including paraeducators). ❖ that their child has been taught for four or more consecutive weeks by a teacher who is not highly qualified. ❖ of selection of their child to participate in a language instruction educational program under Title III Part C not later than 30 days after the beginning of the school year, detailing the parents’ right to have their child immediately removed from such program upon their request. By the end of the 2005-06 school year, all teachers of core academic subjects in public schools must be highly qualified. Section 119(a)(2)(A). Note: If this is a targeted assistance school, see exception regarding paraeducators in “Guidance from U.S. Dept. of Education” section below. <p>For purposes of determining which children will receive special services through Federal funds to achieve goals of this law, a school may select to be a schoolwide program offering special services to all students enrolled [provided a predetermined percentage of children served receive free or reduced cost lunch] or a targeted assistance school offering special services to eligible students .</p> <ul style="list-style-type: none"> A <u>schoolwide program</u> requires the conducting of “[a] <i>comprehensive needs assessment of the entire school (including taking into account the needs of migratory children as defined in section 1309[2]) that is based on information which includes the achievement of children in relation to the State academic content standards...</i>” Part A Section 1114 (b)(1)(A). Reform strategies must “<i>include strategies to address the needs of all children in the school, but particularly the needs of low-achieving children and those at risk of not meeting the State student academic achievement standards...</i>” Part A, Section 1114(b)(1)(B)(iii)(I) Any child who was eligible for Part C (migrant) at any time in the 2 years preceding the year for which the determination is being made automatically qualifies for special services in a <u>targeted assistance school</u>. Part A, Section 1115(b)(2)(C) Special services offered by <u>targeted assistance schools</u> shall “(C)(i) <i>give primary consideration to providing extended learning time, such as an extended school year, before- and after-school, and summer programs and opportunities;...(C)(iii) minimize removing children from the regular classroom during regular school hours for</i>

Topic	Authority	Reference
No Child Left Behind Act of 2001 (as amended) (cont'd.)	Federal law (cont'd.)	<p><i>instruction provided under this part; ...[and] (E) provide instruction by highly qualified teachers;...</i> Part A, Section 1115(c)(1)</p> <ul style="list-style-type: none"> • Within three months of being identified for school improvement, a school will notify parents of enrolled students in writing in a language that parents can understand (to the extent practicable) (Part A, Section 1116[b][3][A][vi]); required content (Part A, Section 1116[b][6]). • When a local school whose students have been unsuccessful in meeting annual yearly progress (AYP) goals notifies parents the first day of the school year that they have the right to transfer their children to a different school in the district, priority shall be given to the lowest achieving children from low-income families (Part A, Section 1116[b][1][E]); transportation will be provided (Part A, Section 1116[b][9]). • If a school is identified by its state for two or more years as not making the progress required to ensure that every child is at grade level proficient in reading and math, the low-income students attending the school must be offered the opportunity to receive supplemental educational services. Parents who are offered a list of service providers choose the services they believe are most appropriate for their child. Public Law 107-110
	Federal regulations	<p><i>“...[B]efore a school operating as a schoolwide program consolidates funds received under Part C of Title I, ESEA for the education of migratory children, the school must, in consultation with parents of migratory children or organizations representing those parents, or both, first meet the unique educational needs of migratory students that result from the effects of their migratory lifestyle and those other needs that are necessary to permit those students to participate effectively in school, and must document that these needs have been met.”</i> Federal Register, July 2, 2004, Vol. 69, No. 127, p. 40362 “supplemental information”</p>
	Federal guidance	<ul style="list-style-type: none"> • Conditions that local school districts can impose on state-approved supplemental service providers are clarified. Supplemental educational services policy dated 8/26/04 issued jointly by Asst. Secretary for Elementary and Secondary Education and Deputy Under Secretary for Innovation and Improvement.⁵ • For purposes of use of MEP funds in a schoolwide program, <i>“...[t]he special educational needs of migrant are: 1) the unique needs that result from the effects of their migratory lifestyle, and 2) those other needs that are necessary to permit these students to participate effectively in school.”</i> U.S. Department of Education, Office of Elementary and Secondary Education, Office of Migrant Education, <i>Draft Non-Regulatory Guidance for the Title I, Part C Education of Migratory Children</i>, Washington, D.C., 2003.⁶ Chapter V, section C4, pp. 62-3. • <i>“The [highly qualified] requirements [under NCLB] apply to all paraprofessionals with instructional duties in a schoolwide program, without regard to whether the position is funded with Federal, State, or local funds...”</i> (emphasis added). In a <u>targeted assistance program</u>, <i>“the requirements...apply to all paraprofessionals with instructional duties who are paid with Title I funds....[except that] the requirements...do not apply to individuals paid with funds under Title I Part B,...Part C (Education of Migratory Children) or Part D....”</i> U.S. Department of Education, Office of Elementary and Secondary Education, Office of Migrant Education, <i>Draft Non-Regulatory Guidance for the Title I, Part C Education of Migratory Children</i>, Washington, D.C., 2003. Chapter XII, sections B1-B3, pp. 139-140.

⁵ Retrieved on Nov. 5, 2004, from <http://www.ed.gov/print/policy/elsec/guid/stateletters/choice/ses082604.html>

⁶ Retrieved on November 15, 2004, from <http://www.ed.gov/programs/mep/legislation.html>

Topic	Authority	Reference
No Child Left Behind Act of 2001 (as amended) (cont'd.)	Federal guidance (cont'd.)	<ul style="list-style-type: none"> • “A [<i>Parent Advisory Council</i>] PAC advises the...local operating agency [district] on concerns of migrant parents that relate to the planning, operation, and evaluation of MEP programs and projects in which their children participate. In particular, the...local operating agency must consult with the PAC about: (1) the comprehensive assessment of the needs of migratory children to be served; and (2) the design of the comprehensive service delivery plan.” U.S. Department of Education, Office of Elementary and Secondary Education, Office of Migrant Education, <i>Draft Non-Regulatory Guidance for the Title I, Part C Education of Migratory Children</i>, Washington, D.C., 2003. Chapter VII, section B2, p. 82. • Limited English Proficient (LEP) students have the option of taking the reading/language arts content assessment in addition to taking the English language proficiency assessment during their first year of enrollment in U.S. schools. They would take the mathematics assessment with accommodations as appropriate. States may, but are not required to, include results of the mathematics and (if given) reading/language arts content assessments in AYP calculations. States have up to two years to include LEP subgroup students who have attained English proficiency in their AYP calculations. Press release of 2/19/04 from U.S. Secretary of Education.⁷ Policies effective immediately.
	State guidance	<p>LEP students who have been enrolled less than 180 cumulative school days in a United States public school are not required to take the WASL in any content area (reading, writing, math, science). School officials mark “1A” in Box 17 of the state use grid on the exam booklet. All LEP students are required to take the Washington Language Proficiency Test (WLPT). OSPI Bulletin No. 017-04 Learning and Teaching dated March 10, 2004 available at OSPI website.</p>
	Notes to parents	<p>The essential academic content which Washington school children are intended to master is identified in the Essential Academic Learning Requirements (EALRs). Mastery of that academic content is tested in schools in the spring session of 4th, 7th and 10th grades. The test is called the Washington Assessment of Student Learning (WASL).⁸ It measures student knowledge of content in reading/language arts and mathematics. Beginning in the 2005-06 school year, the 10th grade WASL will also measure science. Beginning Fall 2005, students will be tested every year in 3rd through 8th grades in reading/language arts and mathematics. Beginning Fall 2007, students must take the WASL science section test once between 3rd and 5th grade, and once between 6th and 9th grade. School performance in meeting annual yearly progress (AYP) goals is dependent on improved WASL scores of students in each succeeding year. High school graduation rates are another academic indicator to determine AYP.</p>

⁷ Retrieved March 18, 2004, from <http://www.ed.gov/print/news/pressreleases/2004/02/02192004.html>

⁸ *Students with significant cognitive disabilities complete an alternate assessment as required by their Individual Educational Plan (IEP)*

Migrant Program

Topic	Authority	Reference
Access to Services	Federal law	<p>“(2) <i>MIGRATORY CHILD</i>.—The term ‘<i>migratory child</i>’ means a child who is, or whose parent or spouse is, a migratory agricultural worker, including a migratory dairy worker, or a migratory fisher, and who, in the preceding 36 months, in order to obtain, or accompany such parent or spouse, in order to obtain, temporary or seasonal employment in agricultural or fishing work—</p>
Access to Services (cont’d.)	Federal law and agency guidance	<p>“(A) has moved from one school district to another; “(B) in a State that is comprised of a single school district, has moved from one administrative area to another within such district; or “(C) resides in a school district of more than 15,000 square miles, and migrates a distance of 20 miles or more to a temporary residence to engage in a fishing activity.” Public Law 107-110, Title I, Part C, Section 1309(2)</p> <p>“PRIORITY FOR SERVICES.—In providing services with funds received under this part, each recipient of such funds shall give priority to migratory children who are failing, or most at risk of failing, to meet the State’s challenging State academic content standards and challenging State student academic achievement standards, and whose education has been interrupted during the regular school year.” Public Law 107-110, Title I, Part C, Section 1304(d)</p> <p>Note: Students are considered to be most at risk of failing if they scored a 1 or 2 on the WASL or below 4 on the WLPT or below passing on any local district assessment or transcript. Division of Migrant and Bilingual Education, OSPI</p> <p>“B4. ... ‘Educational interruption’ means that a student, in the preceding 12 months, changed schools or missed a ‘significant’ amount of school time (e.g., ten days or more) during the regular school year (usually defined as September through June) due to the child’s or family’s migrant lifestyle. “B5. ... While the educational interruption must clearly be related to the migrant lifestyle, it does not need to stem from moves in which a migrant worker seeks qualifying work....[A] move home for a vacation would not constitute an educational interruption due to the migrant lifestyle....” U.S. Department of Education, Office of Elementary and Secondary Education, Office of Migrant Education, <i>Draft Non-Regulatory Guidance for the Title I, Part C Education of Migratory Children Chapter V</i>. Washington, D.C., 2003.</p> <p>“(e) <i>CONTINUATION OF SERVICES</i>.—Notwithstanding any other provision of this part— upon expiration of qualifying period— “(1) a child who ceases to be a migratory child during a school term shall be eligible for services until the end of such term; “(2) a child who is no longer a migratory child may continue to receive services for 1 additional school year, but only if comparable services are not available through other programs; and “(3) secondary school students who were eligible for services in secondary school may continue to be served through credit accrual programs until graduation.” Public Law 107-110, Title I, Part C, Section 1304(e)</p>

Topic	Authority	Reference
		<p>Note: “<i>The [U.S.] Department [of Education] interprets the word ‘term’ to mean one of the following discrete periods of the school year: fall, spring, summer, intersession. Therefore, regarding section 1304(e)(1), a migrant child whose eligibility expires ‘during a school term’ such as the fall term (e.g., on October 1) can still be served until the end of the fall term (e.g., the Christmas break) but not in the subsequent spring term, unless the exception in section 1304(e)(2) applies.</i>” U.S. Department of Education, Office of Elementary and Secondary Education, Office of Migrant Education, <i>Draft Non-Regulatory Guidance for the Title I, Part C Education of Migratory Children</i>, Washington, D.C., 2003. Chapter IX, section B30, pp. 108.</p>
<p>Access to Services (cont’d.)</p>	<p>State regulations</p>	<p>Definitions of “agricultural activity,” “fishing activity,” “migratory agricultural worker” and “migratory fisher.” WAC 392-164-140</p> <p>Identification of migratory children. WAC 392-164-320</p> <p>“<i>Operating agencies shall serve eligible migratory children—according to their needs—in the following order:</i> (1) <i>School-aged currently migratory children.</i> (2) <i>School-aged formerly migratory children.</i> (3) <i>Preschool currently migratory children.</i> (4) <i>Preschool formerly migratory children.</i>” WAC 392-164-250, with additional clarification.</p> <p>“<i>As used in this chapter, the term ‘eligible migratory children’ means migratory children determined to be eligible by a local school district or other subgrantee on the basis of credible information from any source, including that provided by the child or his or her parent or guardian: Provided, That only those migratory children with a signed, validated certificate of eligibility [COE Form] on file with the school district shall be served in the migrant program.</i>” WAC 392-164-170</p> <p>“<i>As used in this chapter, the term ‘greatest need of special assistance’ means those eligible migratory children, as defined in WAC 392-164-170, who have been identified on the basis of established selection criteria, including objective measurement of educational achievement, as demonstrated by written and oral tests if reasonable, as in the greatest need of special assistance.</i>” WAC 392-164-230. [Note: Compare with Federal law (which governs) defining PRIORITY OF SERVICES above]</p> <p>“<i>As used in this chapter, the term ‘currently migratory child’ means a child:</i> (1) <i>Whose parent or guardian is a migratory agricultural worker or a migratory fisher; and</i> (2) <i>Who has moved within the past twelve months from one school district to another to enable the child, the child’s guardian, or a member of the child’s immediate family to obtain temporary or seasonal employment in an agricultural or fishing activity. This definition includes a child who has been eligible to be served under the requirements in the preceding sentence, and who, without the parent or guardian, has continued to migrate annually to enable him or her to secure temporary or seasonal employment in an agricultural or fishing activity.</i>” WAC 392-164-145</p> <p>Definitions of “formerly migratory child,” “preschool child,” “guardian,” and “participating children.” WAC 392-164</p>

Topic	Authority	Reference
Consult with families	Federal law	School districts that operate Migrant Education Programs and projects of one school year in duration are required to establish and consult with their Parent Advisory Council (PAC). Public Law 107-110 Part A Section 1304(c)(3)
	State regulations	Parent and teacher consultation is required. Parent advisory council (PAC) is required (WAC 392-164-235, 392-164-365); annual meeting with parents is required (WAC 392-164-370). State advisory council (SAC) is required (WAC 392-164-375).
Transfer records between schools	Federal law	<p>“(b) <i>STUDENT RECORDS</i>.—</p> <p>“(2) <i>INFORMATION SYSTEM</i>.—</p> <p>“(A) <i>IN GENERAL</i>.—The Secretary, in consultation with the States, shall ensure the linkage of migrant student record systems for the purpose of electronically exchanging, among the States, health and educational information regarding all migratory students, ... and shall determine the minimum data elements that each state receiving funds under this part shall collect and maintain. Such elements may include—</p> <p>“(i) immunization records and other health information;</p> <p>“(ii) elementary and secondary academic history (including partial credit), credit accrual, and results from State assessments required under section 1111(b);</p> <p>“(iii) other academic information essential to ensuring that migratory children achieve to high standards; and</p> <p>“(iv) eligibility for services under the Individuals with Disabilities Education Act.”</p> <p>Public Law 107-110, Title I, Part C, Section 1308(b)(2)</p>
Free school breakfast/lunch	Federal law	<ul style="list-style-type: none"> • Documentation of migrant status through a valid Certificate of Eligibility (COE) form automatically entitles a student to free school lunch (and breakfast if provided). Eligibility for this benefit remains effective for the remainder of the school year and for 30 operating days into the subsequent school year or until a new eligibility determination is made, whichever occurs first. Dated list of eligible children signed by school district Migrant Education Program coordinator or the State Migrant Education Program director constitutes documentation of eligibility for this benefit. Public Law 108-265 enacted 6/30/04.⁹ • The Family Educational Rights and Privacy Act (FERPA) prohibits any outside agency, including INS, from obtaining names of students receiving this benefit without either obtaining parental permission, or producing a valid court order.
Student accident insurance	State regulations	<ul style="list-style-type: none"> • “Student accident insurance. All migratory children enrolled on the migrant student records transfer system¹⁰ and enrolled in a bona fide educational program recognized by the superintendent of public instruction shall be provided with participatory accident insurance coverage paid from migrant program funds. It is the responsibility of the local school district or other subgrantee to: <ul style="list-style-type: none"> (1) Inform migratory parents of the accident insurance coverage provided for their children. (2) Facilitate claims procedures when necessary.” WAC 392-164-325 • Notification of parents (in their primary language) required. WAC 392-164-360 and -368

⁹ http://www.fns.usda.gov/cnd/Governance/policy/Reauthorization_memos_04/2004-08-16.pdf

¹⁰ The Federal Migrant Student Records Transfer System was de-funded. Washington maintained its system as the Migrant Student Records System, subsequently renamed the Migrant Student Information System (MSIS). It is maintained by the Migrant Student Data and Recruitment Office (MSDR) in Sunnyside, Washington.

Topic	Authority	Reference
<p style="text-align: center;">Funding grant and review</p>	<p style="text-align: center;">Federal guidance</p>	<ul style="list-style-type: none"> • “SEAs and local operating agencies must comply with <i>two fiscal requirements</i> regarding the expenditure of State and local funds to ensure that MEP funds are used to provide services that are supplemental to the regular services migrant children receive...: (1) use MEP funds to ‘supplement, not supplant’ non-Federal funds; and (2) provide services to migratory children with State and local funds that are at least comparable to services provided non-migratory children.” Descriptions and exceptions detailed. U.S. Department of Education, Office of Elementary and Secondary Education, Office of Migrant Education, <i>Draft Non-Regulatory Guidance for the Title I, Part C Education of Migratory Children</i>, Washington, D.C., 2003. Part X introduction. • “What does ‘<i>supplement, not supplant</i>’ mean? “Supplement, not supplant’ is the phrase used to describe the requirement that MEP [Migrant Education Program] funds may be used only to supplement the level of funds that would, in the absence of MEP funds, be made available from non-Federal sources for the education of children participating in MEP projects. SEAs [State Education Agencies] and local operating agencies [school districts] may not use MEP funds to supplant (i.e., replace) non-Federal funds.” U.S. Department of Education, Office of Elementary and Secondary Education, Office of Migrant Education, <i>Draft Non-Regulatory Guidance for the Title I, Part C Education of Migratory Children</i>, Washington, D.C., 2003. Part X, Section A1. • “What is ‘<i>comparability</i>’? Comparability refers to the requirement that local operating agencies ensure that schools that receive MEP funds provide services that, taken as a whole, are at least comparable to services provided by schools that do not receive MEP funds. This comparison is done by a grade-span by grade-span basis or school by school basis...” Written assurance required. Records to maintain. U.S. Department of Education, Office of Elementary and Secondary Education, Office of Migrant Education, <i>Draft Non-Regulatory Guidance for the Title I, Part C Education of Migratory Children</i>, Washington, D.C., 2003. Part X, Section B1.
	<p style="text-align: center;">State regulations</p>	<ul style="list-style-type: none"> • “General requirements for new program. To develop and implement a new migrant program, a local school district or operating agency must do the following: (1) Identify ten or more currently migrant students; (2) Do a needs assessment which will show what needs can be met in basic education, other specially funded programs, and determine if special unmet needs unique to the migrant life still exist. If so, the LEA may design a migrant education program based on this needs assessment that will be of a size, scope, and quality to give reasonable promise of substantial progress toward meeting the special needs of the identified migrant pupils.” WAC 392-164-420 • Annual needs assessment required (WAC 392-164-245); annual application for funding¹¹ (WAC 392-164-255 to 295, 392-164-330 to 350); basis for allocation formula (WAC 392-164-425); budget revision or program update (WAC 392-164-300 to 310, 392-164-315, 392-164-395); March 1 deadline for certain expenditures (WAC 392-164-430); funding intended to supplement, not supplant (WAC 392-164-210). • Annual report of district services (WAC 392-164-380); summer school addendum (WAC 392-164-385). • Program compliance review (WAC 392-164-400, 392-164-405, 392-164-410, 392-164-415); program evaluation (WAC 392-164-390); Chapter I migrant audit (WAC 392-164-355).

¹¹ Applications for funding are initiated through the Migrant Education Regional Office (MERO) serving your region of the State. The MERO in Anacortes serves Whatcom, Skagit, Peninsula, Olympia, Ocean Beach and Vancouver regions; call (360) 299-4000. The MERO in Yakima serves Upper and Lower Yakima, Klickitat, Columbia and Walla Walla Regions; call (509) 454-2854. The MERO in Wenatchee serves Okanogan, Chelan and Grant regions; call (509) 665-2616.

Access to Special Services and Programs

Topic	Authority	Reference
Federally assisted education program	Federal law	“A student shall not be admitted to, or excluded from, any federally assisted education program on the basis of a surname or language-minority status.” Public Law 107-110 Title I Part A Subpart I Section 1112(g)(5)
Supplemental educational services providers	Federal law	If a school is identified by its state for two or more years as not making the progress required to ensure that every child is at grade level proficient in reading and math, the low-income students attending the school must be offered the opportunity to receive supplemental educational services. Parents who are offered a list of service providers choose the services they believe are most appropriate for their child. Public Law 107-110
Learning Assistance Program	Agency regulations	<ul style="list-style-type: none"> • Selection of students in grades K-5, with definitions of “eligible student,” “additional/supplemental services,” “school-wide project,” “needs assessment.” Notification to parents. WAC 392-162
Transitional Bilingual Program (grades K-12)	Federal law and Supreme Court ruling	School districts have a responsibility to provide services to limited English proficient (LEP) migrant students to enable them to participate meaningfully in school under Title VI of the Civil Rights Act of 1964 and Supreme Court decision <i>Lau v. Nichols</i> , 414 U.S. 684 (1974). U.S. Department of Education, Office of Elementary and Secondary Education, Office of Migrant Education, <i>Draft Non-Regulatory Guidance for the Title I, Part C Education of Migratory Children</i> , Washington, D.C., 2003. Part V, Section E1.
	Federal guidance	Migrant Education Program funds may be used to provide English language services to LEP migrant children, including hiring bilingual staff to help these children learn content areas such as English, reading, and math. Conditions. Example. U.S. Department of Education, Office of Elementary and Secondary Education, Office of Migrant Education, <i>Draft Non-Regulatory Guidance for the Title I, Part C Education of Migratory Children</i> , Washington, D.C., 2003. Part V, Sect. E2.
	State regulations	<ul style="list-style-type: none"> • “Transitional bilingual instruction,” “primary language,” “eligible student,” and “alternative instructional program” defined. WAC 392-160-005 • Identification of eligible student (WAC 392-160-015); incoming student must be assessed within 20 days of initial attendance (WAC 392-160-015[2]); annual assessment required (WAC 392-160-015[5]); approved assessment instruments (WAC 392-160-020). • 3 year limitation, program exit requirements. WAC 392-160-035 • Alternative instructional program in lieu of transitional bilingual program authorized. WAC 392-160-040 • If student’s language skill deficiency is caused primarily by a handicapping condition, not entitled to transitional bilingual services. WAC 392-160-045
Highly Capable Students Program (K-12)	State regulations	<ul style="list-style-type: none"> • District participation in program is optional. WAC 392-170-015 • Annual notification to parents of program availability required (WAC 392-170-042); written parental permission required before assessing or providing services (WAC 392-170-047, 392-170-085). • Definitions (WAC 392-170-035 to 392-170-070); program services (WAC 392-170-078, 392-170-080). • End of year report to OSPI. WAC 392-170-090

Topic	Authority	Reference
Special Education Program	Agency regulations	<ul style="list-style-type: none"> • Student’s rights in general (WAC 392-172-030); definitions (WAC 392-172-035 to -080); student identification procedures (with timeline) (WAC 392-172-100 to 104); parental participation in meetings and notice (WAC 392-172-105); evaluation procedures (WAC 392-172-106 to 111); student eligibility criteria (WAC 392-172-114 to 150). • Individual education program (IEP), including mandatory parental involvement (WAC 392-172-153 to 166); required content and parental notification (WAC 392-172-160). • Service delivery options (WAC 392-172-170 to 180); evaluation of progress (WAC 392-172-182 to 190); service delivery standards (WAC 392-172-200 to 385); aversive interventions (safeguards) (WAC 392-172-388 to 426).
	Guidance from U.S. Dept. of Education	<p><i>“What responsibilities do...local operating agencies [school districts] have to serve migrant children with disabilities? Under Part B of the Individuals With Disabilities Education Act (IDEA), SEAs and local districts must ensure that eligible children with disabilities, migrant and non-migrant alike, have available a ‘free appropriate public education’ that includes special education and related services to meet the unique needs of the students. In addition, Section 504 of the Rehabilitation Act of 1973 provides that qualified individuals with a disability may not be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program that receives Federal financial assistance solely because of the individual’s disability. Also, Title II of the Americans with Disabilities Act of 1990 prohibits discrimination on the basis of disability by public entities, regardless of receipt of Federal funds.”</i> U.S. Department of Education, Office of Elementary and Secondary Education, Office of Migrant Education, <i>Draft Non-Regulatory Guidance for the Title I, Part C Education of Migratory Children</i>, Washington, D.C., 2003. Part V, section G1.</p>

Formal Education After High School

Topic	Authority	Reference
High School Equivalency Program (HEP)	Federal law	<ul style="list-style-type: none"> • The eligible student or his/her parent must have spent at least 75 days in the past 2 years as a migrant or seasonal farmworker, or have participated within the last 24 months in programs under 34 CFR part 201 or 20 CFR part 633. The student must not have earned a high school diploma or passed the GED, is not enrolled in school, is at least 18 years of age, and meets the guidelines of the HEP program at a college or university. • Educational services prepare to pass the GED and qualify for better jobs and enrollment in further education. The counseling office at your local high school can provide further information on the HEP program near you.
College Assistance Migrant Program (CAMP)	Federal law	<ul style="list-style-type: none"> • The eligible student or his/her parent must have spent at least 75 days in the past 2 years as a migrant or seasonal farmworker, or have participated within the last 24 months in programs under 34 CFR part 201 or 20 CFR part 633. The student must be enrolled or admitted for enrollment as a full time student at a college or university offering a CAMP program, not be beyond the first academic year of a program of study at that school, and meet the guidelines of the CAMP program at a college or university. • Services provided help the student successfully transition into college study, and provide access to educational funding. To learn if the college or university to which you are applying for admission offers a CAMP program, call the admissions office and ask for the information.

Topic	Authority	Reference
<p>Resident status for tuition purposes in further education</p>	<p>State law</p>	<p>“Any person who has completed the full senior year of high school and obtained a high school diploma, both at a Washington public high school or private high school approved under chapter 28A.195 RCW, or a person who has received the equivalent of a diploma; who has lived in Washington for at least three years immediately prior to receiving the diploma or its equivalent; who has continuously lived in the state of Washington after receiving the diploma or its equivalent and until such time as the individual is admitted to an institution of higher education under subsection (1) of this section; and who provides to the institution an affidavit [HECB Form 03-01-HB1079] indicating that the individual will file an application to become a permanent resident at the earliest opportunity the individual is eligible to do so and a willingness to engage in any other activities necessary to acquire citizenship, including but not limited to citizenship or civics review courses” [shall be termed a resident student for purposes of calculating tuition at a public university, college, or community college within the state of Washington]. RCW 28B.15.012(2)(e) effective 7/1/03</p>

Student Enrollment Counts in Schools

Topic	Authority	Reference
<p>Student enrollment counts</p>	<p>State regulations</p>	<ul style="list-style-type: none"> • “School day,” “school year,” 50 minute “instructional hour,” “enrollment count dates,” and “annual average full-time equivalent students” defined. WAC 180-16, 392-121 • “Full-time equivalent student” defined (WAC 392-121-122[1]); for work-based learning (WAC 392-121-124, 392-121-138); for student with a disability (WAC 392-121-137); for student in an alternative learning experience (individualized course of study) (WAC 392-121-182[3]). • Partial full-time equivalent student calculation. WAC 392-121-122(2) • “Course of study” and “instruction” defined (WAC 392-121-107); alternative learning experience as course of study (WAC 392-121-182). • Students excused for temporary absences may be claimed as full time equivalent students. RCW 28A.225.010(1)(d) <p>Student <u>cannot</u> be counted by the school under WAC 392-121-108:</p> <ul style="list-style-type: none"> • After 20 consecutive days of (unexcused) absence except by prior agreement of the parent/guardian and appropriate school official that the student’s temporary absence “<i>is not deemed to cause serious adverse effect upon the student’s educational progress,</i>” or when the student is receiving home and/or hospital service pursuant to WAC 392-172-218. • Upon student or parent/guardian’s notice of the student’s intent to drop out • Upon student, parent/guardian’s notice of the family’s intent to transfer, or another school’s request for educational records • During student suspension or expulsion <p>No student may be counted as a full-time equivalent student by two school districts on any count date. WAC 392-121-136(1)</p>