

## Laws and Regulations 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	Discussion
<b>Right to public education</b>	<ul style="list-style-type: none"> <li>• The US Supreme Court prohibited denying immigrant students (including undocumented children) access to a public education in <u>Plyler v. Doe</u>, 457 U.S. 202 (1982).</li> <li>• Federal law gives homeless children and youth equal access to education (Sect. 11431), entitlement to comparable services offered to other students in the school (Sect. 11432), and protection against segregation on the basis of homelessness except briefly for health and safety emergencies or to provide temporary supplemental services to meet students' unique needs (Sect. 11433). The parent/guardian or unaccompanied youth chooses the school to attend. If a dispute over school selection arises, the youth is immediately admitted to the school in which enrollment is sought pending resolution of the dispute (Sect. 11432). McKinney-Vento Homeless Assistance Act, 42 USC 119(VI)(B)</li> <li>• <i>“For purposes of this part:</i>  <ul style="list-style-type: none"> <li>****</li> <li>(2) <i>The term ‘homeless children and youths’ –</i> <ul style="list-style-type: none"> <li>(A) <i>means individuals who lack a fixed, regular, and adequate nighttime residence...; and</i></li> <li>(B) <i>includes –</i> <ul style="list-style-type: none"> <li>(i) <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;</i></li> <li>(ii) <i>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...;</i></li> <li>(iii) <i>children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and</i></li> <li>(iv) <i>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).”</i></li> </ul> </li> </ul> </li> </ul> </li> <li>• McKinney-Vento Homeless Assistance Act, 42 USC 119(VI)(B) Section 11434a(1)</li> <li>• The Washington Legislature considers education of “all children residing within its borders” a paramount duty. Constitution Art. IX, Sect. 1<sup>1</sup>.</li> <li>• State law and regulations make public education accessible to all children 5-20 years of age (RCW 28A.150.220, WAC 180-16-215). Eligibility (WAC 392-121-106); minimum age to enroll (WAC 180-39-010; 180-39-015; 180-39-025).</li> <li>• The student’s residence normally defines the district of attendance (WAC 392-137-115), though provision is made for handicapped children (WAC 392-137-235) and children without a legal residence (RCW 28A.225.215). A student can be released from the resident to a nonresident</li> </ul>

<sup>1</sup> Retrieved from the World Wide Web on 2 Nov. 2004. Website [http://www.leg.wa.gov/pub/other/WA\\_CONSTITUTION.htm](http://www.leg.wa.gov/pub/other/WA_CONSTITUTION.htm)

Topic	Discussion
	<p>district on certain grounds, with provision for appeal (WAC 392-137). Eligibility of students attending a non-resident district for participation in extracurricular activities may be affected (RCW 28A.225.280; WAC 392-183A). Resident district is defined for children living on an Indian reservation or military base, or in a national park or forest (RCW 28A.225.170).</p> <ul style="list-style-type: none"> <li>State regulations define “<b>common school dropout</b>,” provide for return to public school after dropping out (WAC 392-184) and for grade level and retention of credits (WAC 392-184-015).</li> </ul>
<b>Duty to enroll in school</b>	<ul style="list-style-type: none"> <li>State law defines “<b>parent</b>” (RCW 28A.225.010), authorizes charging an assessment fee for enrollment in kindergarten or first grade (as long as it can be waived/reduced due to financial hardship) (RCW 28A.225.160), and requires that once a 6 or 7 year old is enrolled in public school the parent is responsible for ensuring the child attends full time while the school is in session (RCW 28A.225.015).</li> <li>Children and youth ages 8-18 must attend school full-time; exceptions (youth 16 yrs of age or older is regularly and lawfully employed AND either the parent agrees the youth need not attend school, or the youth is emancipated) (RCW 28A.225.010).</li> </ul>
<b>Immunizations</b>	<ul style="list-style-type: none"> <li>State regulations requires proof of immunizations identified in RCW 28A.210.080 prior to enrollment in school. However, Federal law requires that homeless children be immediately enrolled even if unable to produce records normally required for enrollment (the current school obtains them directly from the last school attended) (42 USC 119[VI][B], sect. 11432[g][3][C]).</li> <li>Parents of a child excluded from school due to lack of immunizations must receive written notice (WAC 180-38-045, 180-38-050), and are entitled to appeal the exclusion (WAC 180-38-080). If immunization records are not immediately available, specific district action is required (WAC 392-182-020).</li> </ul>
<b>Immigration status</b>	<ul style="list-style-type: none"> <li>In <i>Plyler v. Doe</i> (457 U.S. 202 [1982]), the U.S. Supreme Court authorized schools to require proof that a child resides within its district attendance zone. However, schools 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. An opportunity to obtain a Social Security Number must clearly be optional, and in parent’s preferred language; schools must not monitor the filing of these applications. Communication with the Immigration and Naturalization Services (INS) initiated by a school or school official concerning a specific student is prohibited, and INS officials can only enter a school upon presentation of a valid warrant.</li> <li>The McKinney-Vento Homeless Assistance Act (42 USC 119[VI][B]) authorizes a school to require a parent/guardian of a homeless child to submit contact information. The school is required to coordinate services provided to the homeless with local service agencies (Sect. 11432). Funds available to the district under this Act can be used for purposes defined in Sect. 11433(d), including paying fees for records and assessments needed to enroll children in school, provision of school supplies, and “<i>other extraordinary or emergency assistance needed to enable homeless children and youths to attend school.</i>”</li> </ul>
<b>School records</b>	<ul style="list-style-type: none"> <li>The Family Educational Rights and Privacy Act (FERPA) (20 USC 1232g; 34 CFR Part 99) gives parents the right to inspect and request the correction of educational records maintained by the school, and generally restricts schools from releasing student information without written permission from the parent except to school employees who have a need to know. Parents must be given the choice not to have their information included in a student directory. Annual notification of parents’ rights is required.</li> <li>State regulations define “<b>personally identifiable information</b>,” “<b>educational records</b>,” and “<b>parent</b>” (WAC 72-280-011).</li> <li>The Secretary of State offers school records management and retention policies.<sup>2</sup></li> <li>State law provides for the withholding of a student’s transcript until fines/fees under RCW 28A.635.060 have been paid (RCW 28A.225.330). RCW 28A.635.060 is limited to defacing or injuring property of the school, its employee, or another student. 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).</li> <li>Federal law requires that a district receiving migrant funding provide migrant student records to the next school the student attends 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]).</li> </ul>

<sup>2</sup> Records Management Guidelines and General Records Retention Schedule for School Districts and Educational Service Districts of Washington State. Retrieved Nov. 3, 2004, from Internet website [http://www.secstate.wa.gov/archives/doc/Records\\_Management\\_Guidelines.doc](http://www.secstate.wa.gov/archives/doc/Records_Management_Guidelines.doc)

Topic	Discussion
	<p>PARENTS: Before moving, it is important to return all books and district property, and pay any fines or fees owed to the school. Go to the school office several days before leaving and inform them of your intentions. Ask that exit grades be recorded on a withdrawal form for each class your child is attending and forwarded to the next school your child attends with transcripts.</p>
<p><b>Absence from school</b></p>	<ul style="list-style-type: none"> <li>Each school district is required by State law to determine the minimum number of instructional hours necessary for a student to obtain a quality education in that district. It must be greater than 1,000 hours and consistent with regulations adopted by the State Board of Education (RCW 28A.150.230).</li> <li>When minor students are absent, tardy, or dismissed early from the school day, families are expected to provide notice excusing their absence from school (RCW 28A.150.240). When a student has 7 unexcused absences in a month, or 10 in a school year, the parent is subject to legal action. Absences are cumulative between all schools attended that school year. There are a few exceptions. For example, a youth of 16 or 17 years who is regularly and lawfully employed, and either his parent agrees the youth should not be required to attend school, or the youth is emancipated, is not required to attend school. Definitions of “unexcused absence” and “parent.” RCW 28A.225 (the “BECCA Bill”).</li> <li>State law prohibits a youth under the age of 15 years from employment “for any purpose by any person, company or corporation” during hours when public schools in his district are in session except with an Employment Permit signed by the superintendent of that school district (RCW 28A.225.080).</li> <li>State law approves a student’s temporary absence from school when both the student’s parent(s) or guardian AND an appropriate school official agree that it will not cause a serious adverse effect upon the student’s educational progress (WAC 392-121-108; RCW 28A.225.010).</li> </ul> <p>PARENTS: The BECCA Bill requires your child’s school to file a petition with the juvenile court alleging violation of the compulsory attendance laws when your child aged 8 to 18 has 7 unexcused absences in a month or 10 in a school year. The court can order your child to attend school, and if the child does not, may send him or her to a detention center. If your child is absent from school excessively, you the parents can be fined. If you have questions, talk to the attendance office at your child’s school.</p>
<p><b>Disciplinary action</b></p>	<ul style="list-style-type: none"> <li>State law prohibits use of corporal punishment in common schools (RCW 28A.150.300), and identifies school conduct that is prohibited and may result in legal fines, suspension or expulsion, and in some cases jail time (RCW 28A.635). A school must 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 transcripts are withheld due to unpaid fees (RCW 28A.225.330).</li> <li>Youth with criminal convictions for violating RCW 69.41 or possession, use or sale of legend drugs (including anabolic steroids) may be ineligible to participate in school-sponsored athletic events; due process; extent of discipline (WAC 392-183A).</li> </ul> <p>PARENTS: Washington schools are governed by School Boards, which adopt rules of acceptable conduct within each of the community’s schools. Violating some of those rules results in suspension or expulsion from school. When you enroll your child, you have the right to receive a copy of the rules of acceptable conduct and may wish to review them carefully with your child.</p>

## Student Enrollment Counts in Schools

Topic	Discussion
<p><b>Definitions and calculations</b></p>	<ul style="list-style-type: none"> <li>“School day,” “school year,” 50 minute “instructional hour,” “enrollment count dates,” and “annual average full-time equivalent students” defined (WAC 180-16, 392-121)</li> <li>“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])</li> <li>“Part-time student” defined (RCW 28A.150.350). Partial full-time equivalent student calculation (WAC 392-121-122[2])</li> <li>“Course of study” and “instruction” defined (WAC 392-121-107); alternative learning experience as course of study (WAC 392-121-182)</li> </ul>

Topic	Discussion
	<ul style="list-style-type: none"> <li>Students excused for temporary absences may be claimed as full time equivalent students (RCW 28A.225.010[1][d]) and counted as enrolled for up to two monthly enrollment count dates (WAC 392-121-108; RCW 28A.225.010).</li> <li>In WAC 392-121-108, the Board of Education specified that a student <u>cannot</u> be counted by the school: <ul style="list-style-type: none"> <li>❖ 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.</li> <li>❖ Upon student or parent/guardian’s notice of the student’s intent to drop out</li> <li>❖ Upon student, parent/guardian’s notice of the family’s intent to transfer, or another school’s request for educational records</li> <li>❖ During student suspension or expulsion.</li> </ul> </li> <li>No student may be counted as a full-time equivalent student by two school districts on any count date (WAC 392-121-136[1]).</li> </ul>

## Migrant Program

Topic	Discussion
<p style="text-align: center;"><b>Qualify for services</b></p>	<ul style="list-style-type: none"> <li>“(2) <i>MIGRATORY CHILD.—The term ‘migratory child’ 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—</i>  “(A) <i>has moved from one school district to another;</i>  “(B) <i>in a State that is comprised of a single school district, has moved from one administrative area to another within such district; or</i>  “(C) <i>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.</i>” Public Law 107-110, Title I, Part C, Section 1309(2)</li> <li>Definitions of “<b>agricultural activity,</b>” “<b>fishing activity,</b>” “<b>migratory agricultural worker</b>” and “<b>migratory fisher</b>” (WAC 392-164-140).</li> <li>Definitions of “<b>formerly migratory child,</b>” “<b>preschool child,</b>” “<b>guardian,</b>” and “<b>participating children</b>” (WAC 392-164).</li> <li>Identification of migratory children (WAC 392-164-320).</li> <li>“<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</li> <li>“<i>As used in this chapter, the term ‘currently migratory child’ means a child:</i>  <i>Whose parent or guardian is a migratory agricultural worker or a migratory fisher; and</i>  <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</li> <li>“(e) <i>CONTINUATION OF SERVICES.—Notwithstanding any other provision of this part— upon expiration of qualifying period—</i>  “(1) <i>a child who ceases to be a migratory child during a school term shall be eligible for services until the end of such term;</i>  “(2) <i>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</i>  “(3) <i>secondary school students who were eligible for services in secondary school may continue to be served through credit accrual programs until graduation.</i>” Public Law 107-110, Title I, Part C, Section 1304(e)</li> </ul>

Topic	Discussion
<b>Qualify for services (cont'd.)</b>	<ul style="list-style-type: none"> <li>• “The [U.S.] Department [of Education] interprets the word ‘<i>term</i>’ 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.”<sup>3</sup></li> </ul>
<b>Priority of service</b>	<ul style="list-style-type: none"> <li>• “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)</li> <li>• 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. Guidance from the Division of Migrant and Bilingual Education, OSPI, Summer 2004.</li> <li>• “B4. ... ‘<i>Educational interruption</i>’ 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....”<sup>4</sup></li> <li>• “Operating agencies shall serve eligible migratory children—according to their needs—in the following order: School-aged currently migratory children, school-aged formerly migratory children, preschool currently migratory children, preschool formerly migratory children.” WAC 392-164-250, with additional clarification.</li> <li>• “As used in this chapter, the term ‘<i>greatest need of special assistance</i>’ 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.” WAC 392-164-230</li> </ul>
<b>Family consultation</b>	<ul style="list-style-type: none"> <li>• 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)</li> <li>• 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).</li> </ul>
<b>Efficient transfer of records</b>	<ul style="list-style-type: none"> <li>• “(b) STUDENT RECORDS.—(2) INFORMATION SYSTEM.—(A) IN GENERAL.—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—(i) immunization records and other health information;(ii) elementary and secondary academic history (including partial credit), credit accrual, and results from State assessments required under section 1111(b); (iii) other academic information essential to ensuring that migratory children achieve to high standards; and (iv) eligibility for services under the Individuals with Disabilities Education Act.” Public Law 107-110, Title I, Part C, Section 1308(b)(2)</li> </ul>
<b>School breakfast/lunch</b>	<ul style="list-style-type: none"> <li>• 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</li> </ul>

<sup>3</sup> U.S. Department of Education, Office of Elementary and Secondary Education, Office of Migrant Education, *Draft Non-Regulatory Guidance for the Title I, Part C Education of Migratory Children*, Washington, D.C., 2003, Chapter IX, sections B33, p. 108. Retrieved November 2004 from

<http://www.ed.gov/programs/mep/legislation.html>

<sup>4</sup> *Ibid*, Chapter V Section B4-B5, p. 61.

Topic	Discussion
	<p>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.<sup>5</sup></p> <ul style="list-style-type: none"> <li>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.</li> </ul>
<b>Accident insurance</b>	<ul style="list-style-type: none"> <li><i>“Student accident insurance. All migratory children enrolled on the migrant student records transfer system<sup>6</sup> 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:</i> <ol style="list-style-type: none"> <li><i>Inform migratory parents of the accident insurance coverage provided for their children.</i></li> <li><i>Facilitate claims procedures when necessary.”</i> WAC 392-164-325</li> </ol> </li> <li>Notification of parents (in their primary language) required. WAC 392-164-360 and -368.</li> </ul>
<b>District program funding and compliance</b>	<ul style="list-style-type: none"> <li><i>“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.”</i> WAC 392-164-420</li> <li><i>“SEAs and local operating agencies must comply with two fiscal requirements regarding the expenditure of State and local funds to ensure that MEP [Migrant Education Program] 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.”</i> Descriptions and exceptions detailed.<sup>7</sup></li> <li><i>“What does ‘<b>supplement, not supplant</b>’ mean? “Supplement, not supplant’ is the phrase used to describe the requirement that MEP 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.”<sup>8</sup></i></li> <li><i>“What is ‘<b>comparability</b>’? 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....”</i> Written assurance required. Records to maintain.<sup>9</sup></li> <li>Annual needs assessment required (WAC 392-164-245); annual application for funding<sup>10</sup> (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).</li> <li>Annual report of district services (WAC 392-164-380); summer school addendum (WAC 392-164-385).</li> <li>Compliance review (WAC 392-164-400 et seq.); program evaluation (WAC 392-164-390); Chapter I migrant audit (WAC 392-164-355).</li> </ul>

<sup>5</sup> [http://www.fns.usda.gov/cnd/Governance/policy/Reauthorization\\_memos\\_04/2004-08-16.pdf](http://www.fns.usda.gov/cnd/Governance/policy/Reauthorization_memos_04/2004-08-16.pdf)

<sup>6</sup> The Federal Migrant Student Records Transfer System was de-funded. Washington maintains its migrant records in the Migrant Student Information System (MSIS), administered by the Migrant Student Data and Recruitment Office (MSDR) in Sunnyside, Washington.

<sup>7</sup> U.S. Department of Education, *op cit.*, Part X introduction.

<sup>8</sup> U.S. Department of Education, *op cit.*, Part X, Section A1.

<sup>9</sup> U.S. Department of Education, *op cit.*, Part X, Section B1.

<sup>10</sup> 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.

## Other Programs

*“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)

Topic	Discussion
<b>Learning Assistance</b>	Selection of students in grades K-5, with definitions of “ <b>eligible student</b> ,” “ <b>additional/supplemental services</b> ,” “ <b>school-wide project</b> ,” “ <b>needs assessment</b> .” Notification to parents. WAC 392-162
<b>Transitional Bilingual Program</b>	<ul style="list-style-type: none"> <li>• 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).<sup>11</sup></li> <li>• “<b>Transitional bilingual instruction</b>,” “<b>primary language</b>,” “<b>eligible student</b>,” “<b>alternative instructional program</b>” defined (WAC 392-160-005).</li> <li>• 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).</li> <li>• Parents must be notified within 30 days of the beginning of the school year if their child has been selected to participate in a language instruction educational program under Title III Part C. They have the right to have their child immediately removed from such program upon their request (Public Law 107-110 No Child Left Behind Act of 2001 as amended, Part A)</li> <li>• Alternative instructional program in lieu of transitional bilingual program (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)</li> <li>• 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.<sup>12</sup></li> <li>• 3 year limitation, program exit requirements (WAC 392-160-035)</li> </ul>
<b>Highly Capable Students Program (K-12)</b>	<ul style="list-style-type: none"> <li>• District participation in program optional (WAC 392-170-015); 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).</li> <li>• 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).</li> </ul>
<b>Special Education Program</b>	<ul style="list-style-type: none"> <li>• “<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>”<sup>13</sup></li> <li>• Student’s rights (WAC 392-172-030); definitions (WAC 392-172-035 to -080); identification (with timeline) (WAC 392-172-100 to 104); parental participation and notice (WAC 392-172-105); evaluation (WAC 392-172-106 to 111); student eligibility (WAC 392-172-114 to 150).</li> <li>• Individual education program (IEP), including mandatory parental involvement (WAC 392-172-153 to 166); required content and parental notification (WAC 392-172-160).</li> <li>• 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).</li> </ul>

<sup>11</sup> U.S. Department of Education, *op cit.*, Part V, Section E1.

<sup>12</sup> U.S. Department of Education, *op cit.*, Part V, Sect. E2

<sup>13</sup> U.S. Department of Education, *op cit.*, Part V, section G1.

## High School Graduation

Topic	Discussion
<b>High school credits</b>	<ul style="list-style-type: none"> <li>• The State Board of Education defines “high school credit” (WAC 180-51-050[1]), which is not limited to seat hours (WAC 180-51-003[2][b]). The Board makes provision for credit earned under an equivalency course of study (WAC 180-50-300), by students with special educational needs (WAC 180-51-115), through correspondence and electronically mediated courses (WAC 180-50-310), work-based learning (WAC 180-50-315), and Running Start (WAC 392-169-050). Credits earned from schools or programs accredited by a body recognized by the State Board of Education are accepted (WAC 180-55-055). State law defines the calculation of high school credit completed at a college or university (RCW 28A.230.090(6), 28A.600.330), and regulations require written release from the school district for the purpose of attending high school courses at a college or university (WAC 180-51-050[7]).</li> <li>• The State Legislature defines credit for courses completed before attending high school (RCW 28A.230.090).</li> <li>• 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).</li> </ul>
<b>Graduation requirements</b>	<ul style="list-style-type: none"> <li>• The State Board of Education identifies minimum subject areas to be studied (WAC 180-51-060), and minimum graduation requirements for students entering 9<sup>th</sup> grade after July 1, 2004 (WAC 180-51-005; 180-51-061). Waiver of specific requirements is available to alternative high schools (WAC 180-18-055). Certificate of Academic Achievement (formerly Certificate of Mastery) (WAC 180-51-063; RCW 28A.655.061); students with special educational needs may earn the Certificate of Individual Achievement (RCW 28A.155.045). High school and beyond plan (RCW 28A.230.090). Culminating project (WAC 180-51-061); written district policy required (WAC 180-51-61[2] footnote 8).</li> <li>• Each district School Board may establish additional graduation requirements (WAC 180-51-020).</li> <li>• A student has the right to graduate under the standards in effect for any year since he commenced 9<sup>th</sup> grade until he reaches the age of 21 (WAC 180-51-035); parents have the right to receive a copy of their child’s graduation requirements and progress report annually (WAC 180-51-045).</li> <li>• Washington State History and Government requirement: equivalencies (WAC 180-51-075); one semester (ninety 50 minute hours) course is required between grades 7 and 12 (WAC 180-50-120). If the student passed a state history/government class in another state, see WAC 180-51-075.</li> </ul>
<b>Accommodating highly mobile and migrant youth</b>	<ul style="list-style-type: none"> <li>• 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).</li> <li>• The Superintendent of Public Schools suggests that “[b]ecause 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.”<sup>14</sup></li> <li>• The Director of Migrant and Bilingual Programs at OSPI recommends specific activities to support improvement of a high school’s graduation rate when it is serving migrant youth. In summary:             <ol style="list-style-type: none"> <li>(a) grant partial credit (when applicable) and record it on the high school transcript,</li> <li>(b) document exit grades properly and timely on a withdrawal form,</li> <li>(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,</li> <li>(d) accept withdrawal grades and place arriving students accordingly, then consolidate partial work to grant credit; and</li> <li>(e) support educators in communicating with sending schools, making sound placement decisions, and utilizing the MSIS system as an authoritative source of information.<sup>15</sup></li> </ol> </li> </ul>

<sup>14</sup> Bergeson, T., & M.A. Heuschel. (Dec 2003) *Helping students finish school. Why students drop out and how to help them graduate*. Olympia, WA: OSPI, p. 49

<sup>15</sup> Gómez, R. Memorandum to Federal Project Directors dated September 30, 2004.

Topic	Discussion
<b>Alternative educational service provider</b>	<ul style="list-style-type: none"> <li>Students eligible for enrollment with an alternative educational service provider as those who are academically at risk, have previously been suspended, are likely to be expelled, or have been subject to repeated disciplinary actions due to behavioral problems. Placement in this educational alternative 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</li> <li>The student receives a written plan defining an 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 written monthly statement listing hours the student was engaged in planned learning activities while not in the presence of school staff (WAC 392-121-182).</li> </ul>

## Formal Education After High School

Topic	Discussion
<b>High School Equivalency Program</b>	<ul style="list-style-type: none"> <li>Eligibility: The student or his/her parent spent at least 75 days in the past 2 years as a migrant or seasonal farmworker, or participated within the last 24 months in programs under 34 CFR part 201 or 20 CFR part 633. The student has not 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.</li> <li>Services: Prepare to pass the GED and qualify for better jobs and enrollment in further education.</li> </ul>
<b>College Assistance Migrant Program</b>	<ul style="list-style-type: none"> <li>Eligibility: The student or his/her parent spent at least 75 days in the past 2 years as a migrant or seasonal farmworker, or participated within the last 24 months in programs under 34 CFR part 201 or 20 CFR part 633. The student is enrolled or admitted for enrollment as a full time student at a college or university offering a CAMP program, is not beyond the first academic year of a program of study at that school, and meets the guidelines of the CAMP program at a college or university.</li> <li>Services: Help the student successfully transition into college study, and provide access to educational funding.</li> </ul>
<b>Resident status for tuition purposes</b>	<p><i>“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).</i></p>

## Improving Schools

Topic	Discussion
<b>Measuring academic learning</b>	<p style="color: green;">PARENTS: Academic content which Washington school children are intended to master is identified in the Essential Academic Learning Requirements (EALRs). Students are tested in the spring of 4<sup>th</sup>, 7<sup>th</sup> and 10<sup>th</sup> grades in a test called the Washington Assessment of Student Learning (WASL).<sup>16</sup> It measures knowledge of reading/language arts and mathematics.<sup>17</sup> School performance is dependent on improved WASL scores of students in each succeeding year. High school graduation rates are another academic indicator to determine yearly progress.</p>

<sup>16</sup> Students with significant cognitive disabilities complete an alternate assessment as required by their Individual Educational Plan (IEP)

<sup>17</sup> Beginning Spring 2006, the 10<sup>th</sup> grade WASL will also measure science. Beginning Spring 2006, students will be tested every year in 3<sup>rd</sup> through 8<sup>th</sup> grades in reading/language arts and mathematics. Beginning Spring 2008, students must take the WASL science test once between 3<sup>rd</sup> and 5<sup>th</sup> grade, and once between 6<sup>th</sup> and 9<sup>th</sup> grade.

Topic	Discussion
<b>English learners</b>	Limited English Proficient (LEP) students who have been enrolled less than 180 cumulative school days in a U.S. public school are not to take the WASL in any content area. 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.
<b>Highly qualified educators</b>	<ul style="list-style-type: none"> <li>Parents must be given notice of the professional qualifications of their children’s classroom teachers, including paraeducators, and that their child has been taught for four or more consecutive weeks by a teacher who is not highly qualified (Public Law 107-110 No Child Left Behind Act of 2001 as amended, Part A). By the end of the 2005-06 school year, all teachers in core academic subjects in public schools must be highly qualified (Sect. 119[a][2][A]).</li> <li>Requirement waived for paraprofessionals in a targeted assistance program who are paid with Title I Part B, C (migrant), or D funds.<sup>18</sup></li> </ul>
<b>Delivery models for special services to students</b>	<p><b>Schoolwide Program:</b> A district with a specified percentage of low-income students offers special services to all students enrolled after conducting a comprehensive needs assessment taking into account the needs of migratory children; strategies adopted must particularly address the needs of low achieving children and those at risk of not meeting the EALR standards (Public Law 107-110 Part A, Sect. 1114[b]).</p> <ul style="list-style-type: none"> <li>“<i>A [Parent Advisory Council] 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.</i>”<sup>19</sup></li> <li>In a schoolwide program, “...[t]he special educational needs of migrant children 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.”<sup>20</sup></li> <li>Before consolidating Title I Part C (migrant) funds, a schoolwide program must meet the unique educational needs of its migratory students in consultation with their parents or organizations representing the families, and document that these needs have been met (Federal Register, July 2, 2004, Vol. 69, No. 127, p. 40362 “supplemental information”<sup>21</sup>).</li> </ul> <p><b>Targeted Assistance School:</b> A school within a district gives primary consideration to extended learning time opportunities that do not remove children from regular class instruction during normal school hours; any child who qualified as migrant within the preceding 2 years automatically qualifies for special services (Public Law 107-110 Part A, Sect. 1115)</p>
<b>Adequate yearly progress (AYP)</b>	<ul style="list-style-type: none"> <li>Within 3 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); required content (Public Law 107-110 Part A, Section 1116).</li> <li>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]).</li> </ul>
<b>Supplemental educational services</b>	<ul style="list-style-type: none"> <li>If a school is identified by its state for 2 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, which parents choose from a list the school provides (Public Law 107-110).</li> <li>Conditions that local school districts can impose on state-approved supplemental service providers.<sup>22</sup></li> </ul>

<sup>18</sup> U.S. Department of Education, *op cit.*, , Chapter XII, sections B1-B3, pp. 139-140.

<sup>19</sup> U.S. Department of Education, *op cit.*, Chapter VII, section B2, p. 82.

<sup>20</sup> U.S. Department of Education, *op cit.*, Chapter V, section C4, pp. 62-3.

<sup>21</sup> Retrieved on Nov. 10, 2004, from <http://www.ed.gov/legislation/FedRegister/other/2004-3/070204a.html>

<sup>22</sup> 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, retrieved on Nov. 5, 2004, from <http://www.ed.gov/print/policy/elsec/guid/stateletters/choice/ses082604.html>