



BEA Compliance for Instructional Hours

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1. What is the basic education requirement for minimum instructional hour offerings in grades one through twelve?

Beginning with the 2014-15 school year, each school district shall make available to students instructional hour offerings of at least 1,080 hours for students enrolled in each of grades seven through twelve, and at least 1,000 hours in each of grades one through six. -- RCW 28A.150.220(2)

2. How has the instructional hour requirement changed?

ESHB 2261, the landmark 2009 legislation redefining the state's responsibilities for basic education, directed that the minimum offering of instructional hours be increased, for students in grades 1-12, from a ***district-wide annual average*** of at least 1,000 hours to 1,080 hours ***in each of*** grades 7-12 and 1,000 hours in each of grades 1-6, "according to an implementation schedule adopted by the Legislature." Legislation passed in 2011 amended the statute to add that implementation could not take place before the 2014-15 school year.

The 2013-15 operating budget act implements the instructional hour requirement established by ESHB 2261, as authorized in RCW 28A.150.220. The budget act provides:

School districts shall implement the increased instructional hours for the instructional program of basic education required under the provisions of RCW 28A.150.220(2)(a) beginning with the 2014-15 school year, which enhancement is within the program of basic education. -- 3ESSB 5034, Sec. 502 (12)

3. What is the definition of instructional hours?

"Instructional hours" is defined for purposes of basic education as follows:

"Instructional hours" means those hours students are provided the opportunity to engage in educational activity planned by and under the direction of school district staff, as directed by the administration and board of directors of the district, ***inclusive of intermissions for class changes, recess, and teacher/parent-guardian conferences that are planned and scheduled by the district for the purpose of discussing students' educational needs or progress, and exclusive of time actually spent for meals.*** – RCW 28A.150.205

In a plain reading, therefore, "instructional hours" includes all time in a school day from the beginning of the first scheduled class period to the end of the last scheduled class period, reduced by time actually spent for meals.

The definition is unchanged from its enactment in 1992. The change in the requirement for instructional hours was *not* accompanied by any change in how instructional hours are defined or counted for the purpose of basic education compliance.

4. Does time scheduled by a district before the first class and after the last class in a school day count toward the instructional hour requirement?

No. The phrase "inclusive of intermission for class changes" clearly refers to the time between one class and the next. Scheduled time before classes begin (sometimes referred to as "zero period") cannot by definition be time between one class and the next. The same applies to time scheduled after the last period of the day.

SBE has been asked what counts as “passing time” for calculating instructional hours. The term “passing time” is not a term that appears in law. The language in the statute is “intermission for class changes,” which has a different and more specific meaning than might be accorded the phrase “passing time.”

5. Do before- and after-school programs provided to some students count toward the instructional hour requirement?

No, they do not.

The word “students” is not defined in RCW 28A.150.205; however, the legal analysis provided to us suggests that “all students” enrolled in grades kindergarten through twelfth grade must be provided the required hours of instruction as set forth in RCW 28A.150.220(2).

When the Legislature prescribes a definition applicable to all public schools within a district, it is reasonable to presume it is intended to cover all students. This is consistent with other K-12 statutes governing the education system in this state. To cite one of many examples, RCW 28A.230.130(1), requiring public high schools to provide a program for “students” to meet minimum entrance requirements at baccalaureate granting institutions or to pursue a career or other opportunities, plainly requires that such program be provided to all students, not just some. Construing “students” in RCW 28A.150.205, defining “instructional hours” for basic education, to mean only some students would be inconsistent with this statutory framework.

Interpreting “students” in RCW 28A.150.205 to mean only “some students,” therefore, is inconsistent with the structure of basic education law, and negates the intent of the Legislature in increasing the number of instructional hours deemed needed to meet the goals of basic education.

6. Do optional educational activities offered before or after school to all children count toward the instructional hour requirement?

No. The analysis seems to us similar as for the previous question. Offering educational activity to students before or after school that may, in theory, be open to all (e.g., chess or band) does not satisfy the intent of the Legislature in increasing the number of instructional hours deemed needed to meet the basic education purposes set out in RCW 28A.150.220.

7. Is there a standard time that should be reduced from the calculation of instructional hours for time spent for lunch?

There is no provision in basic education law setting guard rails around “time actually spent for meals” in the definition of instructional hours. Other factors, however, may condition how districts make this determination.

RCW 28A.405.460, for example, provides that all certificated employees shall be allowed reasonable lunch period of not less than thirty continuous minutes during the regular school lunch periods and during which they shall have no assigned duties, unless they work out other arrangements by mutual consent. Children therefore cannot be under the supervision of certificated staff during those thirty minutes.

The Department of Labor & Industries requires by rule that an adult employee (public or private) must be allowed at least a 30-minute meal period starting no earlier than two hours and no later than five hours from the beginning of a shift. (WAC 296-126-092.)

8. For compliance with the instructional hour requirement in each grade, should districts average hours within a grade across schools?

No, they should not.

If instructional hours for each grade can be averaged across schools to reach the required 1,080 hours, 11th graders may be provided with more than 1,080 offerings of instructional hours in some high schools and less than 1,080 hours in others. This is inconsistent with the declaration of the Legislature in ESHB 2261 that in order for students to have the opportunity to develop the basic education knowledge and skills under RCW 28A.150.210, school districts must provide instruction of sufficient quantity that includes instructional offerings of 1,080 hours in each of grades 7-12. We believe it was the intent of the law to establish an instructional program guarantee for students, and to deliberately move away from averaging as a mechanism for program compliance.

9. Are school districts that have 180-day waivers in the 2014-15 school year required to meet the new instructional hour requirement?

Yes. WAC 180-18-040 provides that a district granted a 180-day waiver under the authority given the SBE by RCW 28A.150.305 is still required under its waiver plan to offer “the equivalent in annual minimum instructional hours as prescribed in RCW 28A.150.220 in such grades as are conducted by such district.” WAC 180-18-050 provides that the school board resolution that accompanies the waiver application “must include a statement attesting that the district will meet the minimum instructional hours requirement of RCW 28A.150.220(2) under the waiver plan.

An SBE waiver is a grant of authority to use school days within a 180-day calendar for purposes specified in the waiver plan, such as professional development of staff. It is not a requirement that the district use all or even any of the waiver days approved. A district with a 180-day waiver for the 2014-15 school year may find it is unable to use all days waived while achieving compliance with the instructional hours requirement for basic education under RCW 28A.150.220(2).

10. If a district has a 180-day waiver in 2014-15 for the sole purpose of teacher-parent conferences, can hours in the waiver days be counted toward the instructional hour requirement?

Yes. The definition of “instructional hours” includes “teacher-parent/guardian conferences that are planned by and scheduled by the district for the purpose of

discussing students' educational needs or progress." Whether those conferences take place through late starts, early releases, or in full days enabled by a BEA waiver does not affect whether the time may be counted toward the instructional hours requirement. It can.

11. If a district has a 180-day waiver in 2014-15 for the purpose of staff professional development, can hours in the waiver days be counted toward the instructional hour requirement?

No. Staff professional development is not within the definition of instructional hours provided in RCW 28A.150.205. A district that has a 180-day waiver approved for 2014-15 for the purpose of professional development may have to determine whether it could use each and all of the waiver days approved while still meeting the instructional hours requirement.

12. Under current law, a school district can schedule the last five days of a 180-day school for noninstructional purposes, such as graduation-related activities, for high school seniors graduating that spring. Can those five days be counted toward the minimum instructional hour offering of 1,080 hours in Grade 12?

No. In our analysis, those days could not previously count toward the instructional hour requirement, and cannot now. RCW 28A.150.220(5) provides that each school district's instructional program shall consist of a minimum of 180 days in such grades as are conducted by the district. It further provides

Effective May 1, 1979, a school district may schedule the last five days of the one hundred and eighty day school year for noninstructional purposes in the case of students who are graduating from high school, including, but not limited to, the observance of graduation and early release from school upon the request of a student, and all such students may be claimed as a full-time equivalent student to the extent they could otherwise have been so claimed for the purposes of RCW 28A.150.250 and RCW 28A.150.260.

The statute states explicitly that these days that may be counted toward the 180-day school year are for noninstructional purposes. We find it difficult, therefore, to construe basic education law to enable time spent by graduating seniors for such purposes to count toward the instructional hours requirement in RCW 28A.150.220(2)(a).

It is the opinion of the SBE that legislation amending RCW 28A.150.220 would be needed for noninstructional activities for graduating seniors to count toward the instructional hours requirement.

13. Can emergency district and school closures be counted toward the instructional hours requirement?

Yes, if the district meets the applicable requirements of law.

RCW 28A.150.290 (State superintendent to make rules and regulations – Unforeseen conditions or actions to be recognized) gives the Superintendent of Public Instruction authority to establish terms and conditions allowing a district to receive state basic education allocations when the district is unable, due to an unforeseen emergency, to fulfill the statutory requirements for the minimum number of school days or instructional hour offering imposed by RCW 28A.150.220. These provisions have not changed.

Districts meeting the requirements of OSPI rules to this section, Chapter 392-129 WAC, may count instructional hours lost to emergency district and school closures governed by this section toward the minimum instructional hour offerings for basic education.