

EXHIBIT E May 14, 2015

Draft Proposed Amendments to Chapter 180-90 Private Schools

180-90-105

Purpose and authority.

(1) The purpose of this chapter is to establish the procedures and conditions governing the approval of private schools by the state board of education and rescission of such approval.

(2) The authority for this chapter is RCW [28A.195.040](#) which authorizes the state board of education to promulgate rules and regulations for the approval of private schools for the purpose of implementing RCW [28A.225.010](#).

[Statutory Authority: RCW [28A.195.040](#). WSR 03-04-053, § 180-90-105, filed 1/29/03, effective 3/1/03. Statutory Authority: 1990 c 33. WSR 90-17-009, § 180-90-105, filed 8/6/90, effective 9/6/90. Statutory Authority: RCW [28A.02.240](#). WSR 85-24-056 (Order 23-85), § 180-90-105, filed 12/2/85.]

180-90-112

Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Approved private school" means a nonpublic school or nonpublic school district conducting a program consisting of kindergarten and at least grade one, or a program consisting of any or all of grades one

through twelve which has been approved by the state board of education in accordance with the minimum standards for approval as prescribed in this chapter.

(2)(a) "Reasonable health requirements" means those standards contained in chapter 246-366 WAC as adopted by the state board of health.

(b) "Reasonable fire safety requirements" means those standards adopted by the state fire marshal pursuant to chapter 43.44 RCW.

(3)(a) "Minor deviation" means a variance from the standards established by these regulations which represents little or no threat to the health or safety of students and school personnel, and which does not ~~raise a question as to~~impact the ability of the school to provide an educational program which is in substantial compliance with the minimum standards set forth in WAC 180-90-160, and which, therefore, does not preclude the granting of full approval.

(b) "Major deviation" means a variance from the standards established by these regulations which represents little or no threat to the health or safety of students and school personnel ~~but raises a question as to the~~but may impact the ability of the school to provide an educational program which substantially complies with the minimum standards set forth in WAC 180-90-160, but is not so serious as to constitute an unacceptable deviation.

(c) "Unacceptable deviation" means a variance from the standards established by these regulations which either:

(i) Constitutes a ~~serious, imminent~~ threat to the health or safety of students or school personnel; or

(ii) Demonstrates that the school is not capable of providing an educational program which substantially complies with the minimum standards set forth in WAC 180-90-160.

(4) "Total instructional hour offering" means those hours when students are provided the opportunity to engage in educational activity planned by and under the direction of school staff, as directed by the administration and board of directors, inclusive of intermissions for class changes, recess and teacher/parent-guardian conferences which are planned and scheduled by the approved private school for the purpose of discussing students' educational needs for progress, and exclusive of time actually spent for meals.

(5)(a) "Non-Washington state certificated teacher" means a person who has:

(i) A K-12 teaching certificate from a nationally accredited preparation program, other than Washington state, recognized by the U.S. Department of Education; or

~~(ii) A minimum of forty five quarter credits beyond the baccalaureate degree with a minimum of forty five quarter credits in courses in the subject matter to be taught or in courses closely related to the subject matter to be taught; or~~

~~(iii) A minimum of three calendar years of experience in a specialized field. For purposes of this subsection the term "specialized field" means a specialized area of the curriculum where skill or talent is applied and where entry into an occupation in such field generally does not require a baccalaureate degree, including,~~

~~but not limited to, the fields of art, drama, dance, music, physical education, and career and technical or occupational education.~~

(ii) High qualifications and experience in the subject matter to be taught and has unusual distinction or exceptional talent demonstrated through public records of accomplishments and/or awards and has general supervision by a Washington state certified teacher.

(b) "Exceptional case" means that a circumstance exists within a private school in which:

(i) The educational program offered by the private school will be significantly improved with the employment of a non-Washington state certificated teacher. Each teacher not holding a valid Washington state certificate shall have experience or academic preparation appropriate to K-12 instruction and consistent with the school's mission. Such experience or academic preparation shall be consistent with the provisions of (c) of this subsection; and

(ii) The school employs at least one Washington state certified teacher, administrator, or superintendent who provides general supervision to any non-Washington state certificated teacher and annual written statements must be submitted to the office of the superintendent of public instruction reporting and explaining such circumstances; and ~~The school which employs a non Washington state certificated teacher or teachers pursuant to this subsection employs at least one person certified pursuant to rules of the state board of education and (c) of this subsection to every twenty five FTE students enrolled in grades kindergarten through twelve. The school will report~~

~~the academic preparations and experience of each teacher providing K-12 instruction; and~~

(iii) The non-Washington state certificated teacher of the private school, employed pursuant to this section ~~and as~~, has been verified by the private school, as ~~meetings~~ the age, good moral character, and personal fitness requirements of WAC 181-79A-150 (1) and (2), and has not had his or her teacher's certificate revoked by any state or foreign country consistent with ~~(WAC 181-79A-155 (5)(a).)~~

(c) "Unusual competence": As applied to an exceptional case wherein the educational program as specified in RCW 28A.195.010 and WAC 180-90-160(7) will be significantly improved with the employment of a non-Washington state certificated teacher as defined in (a) of this subsection.

(d) "General supervision" means that a Washington state certificated teacher or administrator shall be generally available at the school site to observe and advise the teacher employed under provision of (c) of this subsection and shall evaluate pursuant to policies of the private school.

[Statutory Authority: Chapter 28A.305 RCW, RCW 28A.150.220, 28A.230.090, 28A.310.020, 28A.210.160, and 28A.195.040. WSR 10-23-104, § 180-90-112, filed 11/16/10, effective 12/17/10. Statutory Authority: RCW 28A.195.040. WSR 03-04-053, § 180-90-112, filed 1/29/03, effective 3/1/03. Statutory Authority: RCW 28A.02.240. WSR 85-24-056 (Order 23-85), § 180-90-112, filed 12/2/85.]

180-90-130

Approval—Annual certification—Adverse findings.

(1) At least ninety days prior to the commencement of the annual school term or period, the chief administrator of each private school shall file with the superintendent of public instruction, in accordance with procedures established by the superintendent of public instruction, a certificate of compliance in the form and substance set forth in WAC 180-90-160.

(2) The superintendent of public instruction shall review each certificate. The review shall be completed within thirty days after receipt of a completed application.

(3) If the superintendent of public instruction finds no minor, major, or unacceptable deviations, the superintendent of public instruction shall ~~so notify the private school and shall~~ recommend full approval of the private school to the state board of education.

(4) If the superintendent of public instruction finds deviation, the private school shall be notified ~~in writing of~~ through written or electronic communication of any minor, major, or unacceptable deviations which must be corrected.

(5) If the superintendent of public instruction finds ~~minor~~, major, or unacceptable deviations, the superintendent of public instruction shall not transmit the recommendation regarding approval status to the state board of education until the private school submits a narrative report indicating agreement or not with the findings of the superintendent of public instruction and any proposed remedial action to address the reported deviations. Upon receipt of the narrative

report, the superintendent of public instruction shall transmit the recommendation and the narrative report to the state board of education. Minor deviations will be resolved with the office of the superintendent of public instruction staff prior to submission for approval. In the case of major deviations, the private school may request that the state board of education grant provisional status for up to one year so the private school may take action to meet the requirements.

[Statutory Authority: RCW 28A.195.040. WSR 03-04-053, § 180-90-130, filed 1/29/03, effective 3/1/03. Statutory Authority: RCW 28A.02.240. WSR 85-24-056 (Order 23-85), § 180-90-130, filed 12/2/85. Statutory Authority: RCW 28A.04.120(4). WSR 82-04-004 (Order 3-82), § 180-90-130, filed 1/21/82; Order 2-77, § 180-90-130, filed 3/24/77; Order 1-75, § 180-90-130, filed 2/4/75.]

180-90-139

Approval action by SBE.

The state board of education shall take one of the following actions:

(1) If no deviations are found, the state board of education shall grant full approval.

(2) If minor deviations are found and the private school has resolved the deviations ~~acknowledges the existence of such deviations~~

~~and indicates an intent to correct such deviations in its narrative response,~~ the state board of education shall grant full approval.

(3) If major deviations are found and the private school in its narrative report ~~assures~~ provides satisfactory assurance of compliance by the commencement of the annual school term, the state board of education shall grant full approval.

(4) If major deviations are found and the private school in its narrative report, supplemented by direct testimony to the state board of education, demonstrates it is not practical to correct such major deviations prior to the commencement of the annual school term but establishes to the satisfaction of the state board of education its ~~commitment~~ ability to correct such deviation as soon as is practical, the state board of education shall grant such private school provisional approval for the period of time the state board of education determines is necessary to correct the major deviation but no longer than one year.

(5) If unacceptable deviations are found or if the private school fails to comply with timely corrective conditions within subsection (2), (3), or (4) of this section for minor or major deviations, state board of education approval shall be denied or rescinded.

[Statutory Authority: RCW 28A.02.240. WSR 85-24-056 (Order 23-85), § 180-90-139, filed 12/2/85.]

180-90-141

Loss of private school approval.

(1) The superintendent of public instruction is authorized to rescind approval of a private school for one or more of the following reasons:

(a) Failure to have students enrolled for any six consecutive calendar months in the school's physical facilities or failure to provide evidence of student enrollment upon request of the superintendent of public instruction for the said period of time.

(b) Failure to provide verification that the approved private school teaching staff have a valid Washington state teaching certificate or meet the provisions of WAC 180-90-112 (5)~~(b)(ii)-~~

(c) Failure to provide verification that the physical facilities of the school meet the health and fire safety standards.

(2) The superintendent of public instruction shall notify the state board of education of decisions to rescind approval.

[Statutory Authority: RCW 28A.195.040. WSR 03-04-053, § 180-90-141, filed 1/29/03, effective 3/1/03. Statutory Authority: RCW 28A.02.204 [28A.02.240]. WSR 87-09-039 (Order 7-87), § 180-90-141, filed 4/14/87.]

180-90-145

Approval-~~Annual certification and I-~~initial application-
Exception.

Any potential private school which is unable to file its initial application for approval at least 90 days prior to the commencement of the annual school term or period may ~~in any event~~ request ~~that~~ the superintendent of public instruction ~~to~~ review the application and ~~that~~ the superintendent's findings and recommendations be submitted to the state board of education. This request shall be granted if the superintendent of public instruction finds ~~that~~ the private school was not sufficiently developed prior to the 90 day time period to enable it to comply with that requirement. The superintendent of public instruction shall have the discretion to grant the request in other exceptional circumstances. If the superintendent of public instruction grants the said request ~~is granted~~, the review shall be completed within thirty days and the findings and recommendations presented to the state board of education.

[Statutory Authority: RCW 28A.02.240. WSR 85-24-056 (Order 23-85), § 180-90-145, filed 12/2/85; Order 2-77, § 180-90-145, filed 3/24/77.]

180-90-150

Appeals.

Pursuant to RCW 28A.195.030 any private school may appeal the actions of the superintendent of public instruction or state board of education as provided in chapter 34.05 RCW and chapter 180-08 WAC.

[Statutory Authority: 1990 c 33. WSR 90-17-009, § 180-90-150, filed 8/6/90, effective 9/6/90. Statutory Authority: RCW 28A.02.240. WSR 85-

24-056 (Order 23-85), § 180-90-150, filed 12/2/85; Order 2-77, § 180-90-150, filed 3/24/77; Order 1-75, § 180-90-150, filed 2/4/75.]

180-90-160

Minimum standards and certificate form.

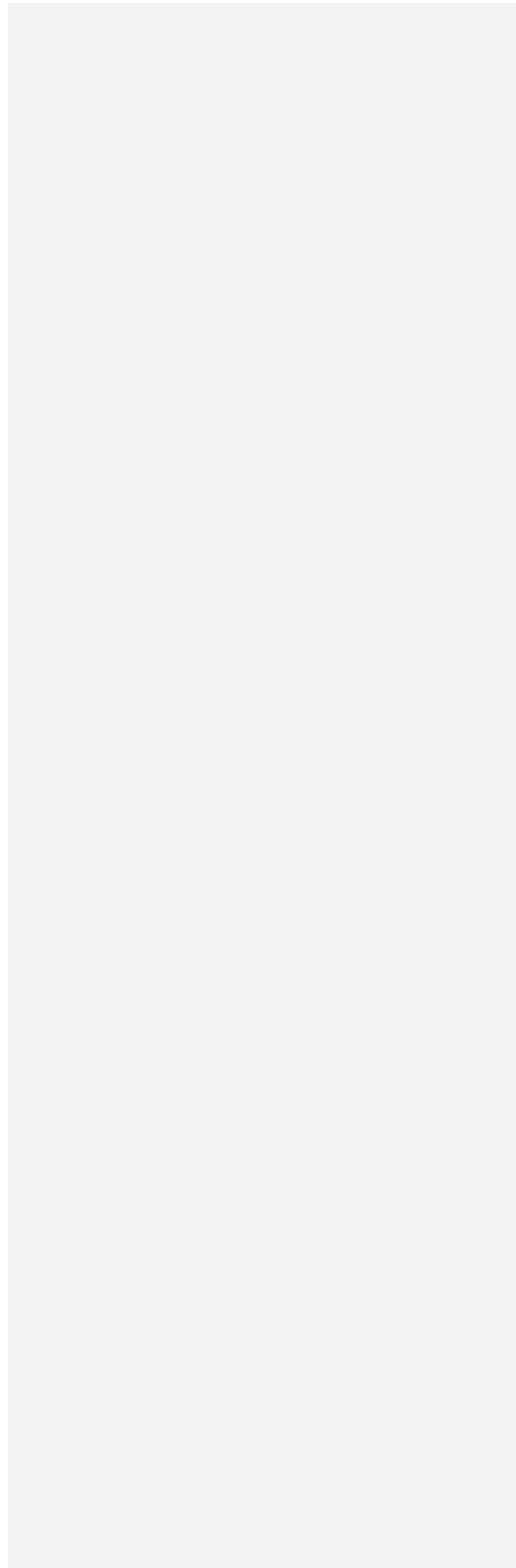
(1) The annual certificate required by WAC 180-90-130 shall be in substantial compliance with the form and substance of the following:

CERTIFICATE OF COMPLIANCE
WITH STATE STANDARDS
ESD/County/Public
School District
Private School/
District Address

I, , do hereby certify that I am the principal or chief administrator of the above named school; that said school is located at the address listed above, and conducts grades through with a projected enrollment of ; and that said school is scheduled to meet throughout the school year, the following standards with the exception only of such deviations, if any, as are set forth in an attachment to this certificate of compliance

or

I, , do hereby certify that I am the superintendent of the above named private school district; and that the private schools under my



jurisdiction are scheduled to meet throughout the school year, the following standards with the exception only of such deviations as are set forth in an attachment to this certificate of compliance; and that a list of such schools, including the grades conducted and the projected enrollment for each school, accompanies this certificate:

~~Following initial approval as a private school by the state board of education, evidence of current accreditation by a state board of education approved accrediting body may be submitted annually in lieu of approval documents described in 1-12.~~

(1a) The minimum school year for instructional purposes consists of no less than 180 school days or the equivalent in annual minimum instructional hour offerings as prescribed in RCW [28A.150.220](#).

(2b) On each school day, pupils enrolled in the school are provided the opportunity to be engaged in educational activity planned by and under the direction of the staff, as directed by the administration and/or governing board; and that pupils are provided a total instructional hour offering as prescribed in RCW [28A.150.220](#) except that the percentages for basic skills, work skills, and optional subjects and activities prescribed in RCW [28A.150.220](#) do not apply to private schools and that the total instructional hour offering, except as otherwise specifically provided in RCW [28A.150.220](#), made available is at least:

(ai) 450 hours for students in kindergarten.

(bii) 1000 hours for students in grades one through twelve.

(3c) All classroom teachers hold appropriate Washington State certification except for:

(ai) Teachers for religious courses or courses for which no counterpart exists in the public schools: Provided, That a religious course is a course of study separate from the courses of study defined in RCW 28A.195.010 including occupational education, science, mathematics, language, social studies, history, health, reading, writing, spelling, and the development of the appreciation of art and music all in sufficient units for meeting state board of education graduation requirements; and/or

(bii) A person of unusual competence who is not certified but who will teach students in an exceptional case under the general supervision of a Washington state certificated teacher ~~or,~~ administrator, or superintendent pursuant to WAC 180-90-112. The non-Washington state certificated teacher, the Washington state certificated person who will supervise, and the exceptional circumstances are listed on the addendum to this certificate: Provided, That if a non-Washington state certificated teacher is employed subsequent to the filing of this certificate, this same information shall be forwarded to the superintendent of public instruction within thirty days from the date of employment.

(d4) If the school operates an extension program for parents, guardians, or persons having legal custody of a child to teach children in their custody, the extension program meets the following requirements:

(ia) The parent, guardian, or custodian is supervised by a person certified under chapter 28A.410 RCW and who is employed by the school;

(~~ii~~^b) The planning by the certified person and the parent, guardian, or person having legal custody includes objectives consistent with this subsection and subsections (1), (2), (5), (6), and (7) of this section;

(~~iii~~^e) The certified person spends a minimum average each month of one contact hour per week with each student under his or her supervision who is enrolled in the extension program;

(~~iv~~^d) Each student's progress is evaluated by the certified person; and

(~~v~~^e) The certified person does not supervise more than thirty students enrolled in the approved private school's extension program.

(~~e~~⁵) Measures have been taken to safeguard all permanent records against loss or damage through either the storage of such records in fire-resistant containers or facilities, or the retention of duplicates in a separate and distinct area;

(~~f~~⁶) The physical facilities of the school are adequate to meet the program offered, and all school facilities and practices are in substantial compliance with reasonable health and fire safety standards, as substantiated by current inspection reports of appropriate health and fire safety officials which are on file in the chief administrator's office;

(~~g~~⁷) The school's curriculum includes instruction in the basic skills of occupational education, science, mathematics, language, social studies, history, health, reading, writing, spelling, and the development of appreciation of art and music in sufficient units for meeting state board of education graduation requirements, as set forth

(112) Approval by the state board of education is contingent upon on-going compliance with the standards certified herein. The superintendent of public instruction shall be notified of any deviation from these standards which occurs after the action taken by the state board of education. Such notification shall be filed within thirty days of occurrence of the deviation.

(123) Failure to comply with the requirements of this chapter may result in the revocation of the approval of the private school and shall be considered in subsequent application for approval as a private school.

(4) Following initial approval as a private school by the state board of education, evidence of current accreditation by a state board of education approved accrediting body may be submitted annually in lieu of approval documents described in 1-12.

Dated this day of , 20

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{signed}

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~~(phone number)~~

New Section

WAC 180-90-170 Complaints against private schools

(1) Complaints about an approved private school may be made in writing to the office of public instruction.

(2) If a complaint against a private school is received the office of the superintendent of public instruction will:

(a) Notify the complainant that the communication was received; and,

(b) Notify the school of the complaint, provide a copy of the complaint if requested, and provide an opportunity for the school to respond. All correspondence will conform to state and federal student privacy laws.

(3) The office of the superintendent of public instruction will review the complaint and the schools response and may take appropriate action it deems necessary. Any action taken by the office of the superintendent of public instruction will be limited to authority pursuant to RCW 28A.195. and the rules promulgated thereunder.

(3) The record of the complaint, the response and any action taken will be retained according to the record retention schedule established by the office of the secretary of state for the office of the superintendent of public instruction.

[Statutory Authority: 2014 c 217 and RCW [28A.230.090](#). WSR 14-19-032, § 180-90-160, filed 9/8/14, effective 10/9/14. Statutory Authority: RCW [28A.195.040](#). WSR 03-04-053, § 180-90-160, filed 1/29/03, effective 3/1/03. Statutory Authority: RCW [28A.305.130\(6\)](#), 28A.195.040 and 1996 c 83. WSR 96-15-099, § 180-90-160, filed 7/22/96, effective 8/22/96. Statutory Authority: 1990 c 33. WSR 90-17-009, § 180-90-160, filed 8/6/90, effective 9/6/90. Statutory Authority: RCW [28A.02.240](#). WSR 89-01-038 (Order 23-88), § 180-90-160, filed 12/14/88; WSR 87-09-039 (Order 7-87), § 180-90-160, filed 4/14/87. Statutory Authority: RCW [28A.02.240](#). WSR 85-24-056 (Order 23-85), § 180-90-160, filed 12/2/85. Statutory Authority: RCW [28A.04.120\(4\)](#). WSR 82-04-004 (Order 3-82), § 180-90-160, filed 1/21/82. Statutory Authority: RCW [28A.02.201](#) et seq. and 28A.04.120(4). WSR 78-06-064 (Order 9-78), § 180-90-160, filed 5/25/78; Order 2-77, § 180-90-160, filed 3/24/77; Order 1-76, § 180-90-160, filed 2/3/76; Order 1-75, § 180-90-160, filed 2/4/75.]