



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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FILED

DATE: April 05, 2022

TIME: 1:22 PM

WSR 22-08-088

Agency: Department of Social and Health Services, Developmental Disabilities Administration (DDA)

- Original Notice**
- Supplemental Notice to WSR** _____
- Continuance of WSR** _____

- Preproposal Statement of Inquiry was filed as WSR 21-24-017 ; or**
- Expedited Rule Making--Proposed notice was filed as WSR _____; or**
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**
- Proposal is exempt under RCW _____.**

Title of rule and other identifying information: (describe subject) WAC 388-823-0510, *What constitutes substantial limitation due to autism?*

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
May 10, 2022	10:00 a.m.	Office Building 2 DSHS Headquarters 1115 Washington Street SE Olympia, WA 98501 Or Virtually	Public parking at 11th and Jefferson. A map is available at: https://www.dshs.wa.gov/office-of-the-secretary/driving-directions-office-bldg-2 Due to the COVID 19 pandemic, hearings are held virtually, see the DSHS website for the most current information.

Date of intended adoption: No earlier than May 11, 2022 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: DSHS Rules Coordinator
 Address: PO Box 45850, Olympia WA 98504-5850
 Email: DSHSRPAURulesCoordinator@dshs.wa.gov
 Fax: 360-664-6185
 Other:
 By (date) 5:00 p.m. on May 10, 2022

Assistance for persons with disabilities:

Contact Shelley Tencza
 Phone: 360-664-6036
 Fax: 360-664-6185
 TTY: 711 Relay Service
 Email: shelley.tencza@dshs.wa.gov
 Other:
 By (date) 5:00 p.m. on April 26, 2022

Purpose of the proposal and its anticipated effects, including any changes in existing rules: DDA is proposing amendments to this section to expand the list of professionals from whom DDA accepts a statement that a person's autism prevents the person from completing a full-scale intellectual quotient test.

Reasons supporting proposal: This change prevents disruption in service for current DDA clients whose statement from a professional does not meet currently enacted requirements. A more comprehensive list of qualified professionals will also assist applicants for DDA services. This change reduces the potential impact to hospitals, law enforcement agencies, and behavioral health institutes by preserving the person's current living situation in the community. DDA eligibility and access to DDA services support both the client and the care system by providing predictable, stable services. Enacting this emergency rule prevents potential harm brought by disruption to services, or inability to access services.

Statutory authority for adoption: RCW 71A.12.030

Statute being implemented: RCW 71A.10.020, RCW 71A.16.020

Is rule necessary because of a:

- Federal Law? Yes No
Federal Court Decision? Yes No
State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None.

Name of proponent: (person or organization) Department of Social and Health Services,
Developmental Disabilities Administration

- Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Chantelle Diaz	P.O. Box 45310, Olympia, WA 98504-5310	360-407-1500
Implementation:	Will Nichol	P.O. Box 45310, Olympia, WA 98504-5310	360-407-1583
Enforcement:	Will Nichol	P.O. Box 45310, Olympia, WA 98504-5310	360-407-1583

Is a school district fiscal impact statement required under RCW 28A.305.135?

- Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

Is a cost-benefit analysis required under RCW 34.05.328?

- Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name: Chantelle Diaz

Address: P.O. Box 45310, Olympia, WA 98504-5310

Phone: 360-407-1500

Fax: 360-407-0955

TTY: 1-800-833-6388

Email: chantelle.diaz@dshs.wa.gov

Other:

- No: Please explain:

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- RCW 34.05.310 (4)(b) (Internal government operations)
- RCW 34.05.310 (4)(c) (Incorporation by reference)
- RCW 34.05.310 (4)(d) (Correct or clarify language)
- RCW 34.05.310 (4)(e) (Dictated by statute)
- RCW 34.05.310 (4)(f) (Set or adjust fees)
- RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(4) because the rules do not affect small businesses.

Explanation of exemptions, if necessary: The proposed amendments impose no new or disproportionate costs on small businesses so a small business economic impact statement is not required.

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's analysis showing how costs were calculated. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

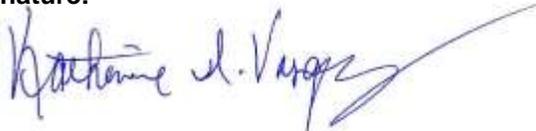
- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Other:

Date: April 4, 2022

Name: Katherine I. Vasquez

Title: Rules Coordinator

Signature:



WAC 388-823-0510 What constitutes substantial limitation due to autism? (1) To establish substantial limitation due to autistic disorder diagnosed under the DSM-IV-TR, you must have an adaptive skills test score more than two standard deviations below the mean as described in WAC 388-823-0740 and subject to all of WAC 388-823-0740 and WAC 388-823-0750.

(2) To establish substantial limitation due to autism spectrum disorder diagnosed under the DSM-5 you must:

(a) Have an adaptive-skills test score more than two standard deviations below the mean as described in WAC 388-823-0740 and subject to WAC 388-823-0740 and WAC 388-823-0750; and

(b) Have either:

(i) A full-scale intellectual quotient (FSIQ) score more than one standard deviation below the mean as described in WAC 388-823-0720 and subject to WAC 388-823-0720 and WAC 388-823-0730; or

(ii) A written statement from a (~~professional~~) qualified (~~to administer intellectual tests stating~~) professional that your autism prevents you from completing (~~the~~) FSIQ testing. "Qualified professional" means:

(A) Board-certified neurologist;

(B) Board-certified psychiatrist;

(C) Licensed psychologist;

(D) Licensed physician associated with an autism center, developmental center, or center of excellence;

(E) Board-certified developmental and behavioral pediatrician; or

(F) Washington certified school psychologist or other school psychologist certified by the National Association of School Psychologists.