



**RULE-MAKING ORDER
EMERGENCY RULE ONLY**

**CR-103E (December 2017)
(Implements RCW 34.05.350
and 34.05.360)**

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: July 19, 2022

TIME: 2:09 PM

WSR 22-15-101

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

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify) July 21, 2022

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: DDA is amending WAC 388-101D-0030 to temporarily allow providers to hire a person without a high school diploma or GED.

Citation of rules affected by this order:

- New:
- Repealed:
- Amended: WAC 388-101D-0030
- Suspended:

Statutory authority for adoption: RCW 71A.12.030 and 71A.12.120

Other authority:

EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: This is the third emergency filing on this rule. This subsequent filing is necessary to keep the emergency rule in effect until DDA completes the permanent rulemaking process. DDA is currently preparing the proposed rule text for a second public hearing. The initial CR 102 proposal was filed under WSR 22-07-077. DDA is adopting this rule on an emergency basis to align with the education qualifications for direct support professionals in Chapter 388-112A WAC and Chapter 74.39A RCW, which do not require a GED or high school diploma. Immediate adoption allows providers to hire staff quickly, enabling providers to meet client health and safety needs.

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___

The number of sections adopted at the request of a nongovernmental entity:

New ____ Amended ____ Repealed ____

The number of sections adopted on the agency's own initiative:

New ____ Amended ____ Repealed ____

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New ____ Amended 1 Repealed ____

The number of sections adopted using:

Negotiated rule making:	New	____	Amended	____	Repealed	____
Pilot rule making:	New	____	Amended	____	Repealed	____
Other alternative rule making:	New	____	Amended	<u>1</u>	Repealed	____

Date Adopted: July 19, 2022	Signature: 
Name: Katherine I. Vasquez	
Title: DSHS Rules Coordinator	

WAC 388-101D-0030 Staffing requirements. (1) The ((service)) provider must ensure each ((staff meets the following minimum requirements)) of its employees:

((1) Have) (a) Has a high school diploma or GED equivalent, unless the ((employees were)) employee was hired before September 1, 1991, or is exempt under subsection (2) of this section;

((2) Be at least eighteen years of age) (b) Is age 18 or older when employed as a direct ((care staff, or at least twenty-one years of age)) support professional who provides support services to a client;

(c) Is age 21 or older when employed as an administrator;

((3) Have) (d) Has a clear understanding of job responsibilities and knowledge of individual support plans and client needs; and

((4) Passed) (e) Passes the department background check ((as)) required ((by)) under WAC 388-101-3250.

(2) The provider may hire a person without a high school diploma or GED if while working directly with clients the employee has access to another employee or a volunteer who:

(a) Has a high school diploma or GED; or

(b) Was hired before September 1, 1991.

(3) If the provider hires a person under subsection (2) of this section, the provider must have a written plan that states when and how the person must contact another employee for assistance.