



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

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STATE OF WASHINGTON
FILED

DATE: June 23, 2021

TIME: 8:28 AM

WSR 21-13-164

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

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) August 1, 2021 (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

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

- Yes No If Yes, explain:

Purpose: DDA amended these rules to align with changes to the Diagnostic Statistical Manual, extend the age range for acceptable evidence of onset as requested by a nongovernmental entity, remove the severity level criteria requirement, and add more full-scale intellectual quotient (FSIQ) assessment types.

Citation of rules affected by this order:

New:
 Repealed:
 Amended: WAC 388-823-0500, WAC 388-823-0510, WAC 388-823-0720
 Suspended:

Statutory authority for adoption: RCW 71A.12.030

Other authority: RCW 71A.12.020, RCW 71A.16.020

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 21-09-054 on April 16, 2021 (date).
 Describe any changes other than editing from proposed to adopted version: DDA replaced the placeholder language under WAC 388-823-0500(1)(b)(ii) with a specific date. The placeholder said “[six months after the effective date of this rule].” DDA revised that language to say “February 1, 2022.”

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

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**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Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___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	<u>1</u>	Repealed	___
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The number of sections adopted on the agency's own initiative:

New	___	Amended	___	Repealed	___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

New	___	Amended	___	Repealed	___
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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>3</u>	Repealed	___

Date Adopted: June 23, 2021

Name: Donald Clintsman

Title: Acting Secretary

Signature:



AMENDATORY SECTION (Amending WSR 19-19-061, filed 9/16/19, effective 10/17/19)

WAC 388-823-0500 How do I show that I have autism as an eligible condition? (1) To be considered for eligibility under the condition of autism:

~~(a) You must be age four or older (and have a diagnosis by a qualified professional which meets the conditions in subsection (1) or (2) of this section, as well as subsections (3), (4), and (5) of this section:~~

~~(1) Autistic disorder 299.00 per the diagnostic and statistical manual of mental disorders, fourth edition, text revision (DSM-IV-TR); or~~

~~(2))~~;

(b) You must have been diagnosed with:

(i) Autism spectrum disorder 299.00 (per) under the diagnostic and statistical manual of mental disorders, fifth edition (DSM-5) (with a severity level of 2 or 3 in both columns of the severity level scale.

~~(3) The condition is expected to continue indefinitely with evidence of onset before age three.~~

~~(4) An acceptable diagnostic report includes documentation of all diagnostic criteria specified in the DSM-IV-TR or DSM-5.~~

~~(5) DDA will accept a diagnosis from any of the following professionals); or~~

(ii) Autistic disorder 299.00 under the diagnostic and statistical manual of mental disorders, fourth edition, text revision (DSM-IV-TR) before February 1, 2022;

(c) You must have been diagnosed by:

~~((a))~~ (i) A board certified neurologist;

~~((b))~~ (ii) A board certified psychiatrist;

~~((c))~~ (iii) A licensed psychologist;

~~((d))~~ (iv) An advanced registered nurse practitioner (ARNP) associated with an autism center, developmental center, or center of excellence;

~~((e))~~ (v) A licensed physician associated with an autism center, developmental center, or center of excellence; or

~~((f))~~ (vi) A board certified developmental and behavioral pediatrician.

(d) The condition must be expected to continue indefinitely; and

(e) You must provide evidence of onset before age five.

AMENDATORY SECTION (Amending WSR 14-12-046, filed 5/29/14, effective 7/1/14)

WAC 388-823-0510 ((If I have)) What constitutes substantial limitation due to autism(, how do I meet the definition of substantial limitations)? ((If you have an eligible condition of autism, in order to meet the definition of substantial limitations you must meet the criteria in subsections (1) and (2) in this section:))

(1) ~~((Documentation of))~~ To establish substantial limitation due to autistic disorder diagnosed under the DSM-IV-TR, you must have an adaptive skills test score ((of)) 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 (~~and~~).

~~(2) ((If your diagnosis is)) To establish substantial limitation due to autism spectrum disorder ((per)) diagnosed under the DSM-5 ((documentation of a FSIQ of more than one standard deviation below the mean as described in WAC 388-823-0720 and subject to all of WAC 388-823-0720 and 388-823-0730.~~

~~(a) If you have a FSIQ score of one standard deviation below the mean or higher as described in WAC 388-823-0720, you may present additional documentation described in subitem (i) or (ii) in this subsection, signed by the diagnosing professional, which shows that you meet the criteria for autistic disorder 299.00 per the DSM-IV-TR:~~

~~(i) A completed autistic disorder confirmation form (available from DDA), or~~

~~(ii) Other documentation that provides the same information as required on the autistic disorder confirmation form.~~

~~(b) If you are unable to complete a FSIQ test, you may provide a) 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 ((by the diagnosing)) from a professional qualified to administer intellectual tests stating that your ((condition is so severe that you are unable to demonstrate the minimal skills required to complete)) autism prevents you from completing the testing.~~

AMENDATORY SECTION (Amending WSR 14-12-046, filed 5/29/14, effective 7/1/14)

WAC 388-823-0720 What evidence do I need of my FSIQ? Evidence of a qualifying FSIQ is derived from one of the tests listed in the table below.

Assessment	Qualifying score at more than 2 standard deviations	Qualifying score at more than 1.5 standard deviations	Qualifying score at more than 1 standard deviation
Stanford-Binet 4th edition or earlier editions	67 or less	75 or less	83 or less
Stanford-Binet 5th edition	69 or less	77 or less	84 or less
Wechsler intelligence scales (Wechsler)	69 or less	77 or less	84 or less

Assessment	Qualifying score at more than 2 standard deviations	Qualifying score at more than 1.5 standard deviations	Qualifying score at more than 1 standard deviation
Differential abilities scale (DAS)	69 or less	77 or less	84 or less
Kaufman assessment battery for children (K-ABC)	69 or less	77 or less	84 or less
Das-Naglieri cognitive assessment system (CAS)	69 or less	77 or less	84 or less
Woodcock-Johnson-Test of <u>achievement</u> III ((test of cognitive abilities (WJ III(r))) or IV	69 or less	77 or less	84 or less
Reynolds <u>intellectual assessment scales, 2nd edition (RIAS 2)</u>	<u>69 or less</u>	<u>77 or less</u>	<u>84 or less</u>

(1) The test must be administered by a licensed psychologist or Washington certified school psychologist or other school psychologist certified by the National Association of School Psychologists.

(2) The FSIQ score cannot be attributable to mental illness or other psychiatric condition occurring at any age; or other illness or injury occurring after age eighteen:

(a) If you are dually diagnosed with a qualifying condition and mental illness, other psychiatric condition, or other illness or injury, you must provide acceptable documentation that your intellectual impairment, measured by a FSIQ test, would meet the requirements for DDA eligibility without the influence of the mental illness, other psychiatric condition, or other illness or injury.

(b) "Acceptable documentation" means written reports or statements that are directly related to the subject at issue, reasonable in light of all the evidence, and from a source of appropriate authority. The determination of whether a document is acceptable is made by DDA.

(c) If no documentation is provided or DDA determines that the documentation is not acceptable DDA will deny eligibility. The determination may be challenged through an administrative appeal.

(3) If you have a vision impairment that prevents completion of the performance portion of the IQ test, the administering professional may estimate an FSIQ using only the verbal IQ score of the appropriate Wechsler.

(4) If you have a significant hearing impairment, English is not your primary language, or you are nonverbal your FSIQ may be estimated using one of the tests shown in the table below.

Assessment	Qualifying score at more than 2 standard deviations	Qualifying score at 1.5 or more standard deviations	Qualifying score more than 1 standard deviation
Wechsler intelligence scales (WISC, WAIS, WNV)	69 or less on the performance scale, or, on both the perceptual reasoning index and processing speed index	77 or less on the performance scale, or, on both the perceptual reasoning index and the processing speed index	84 or less on the performance scale, or, on both the perceptual reasoning Index and the processing speed index
Leiter international performance scale-revised (Leiter-R)	69 or less	77 or less	84 or less
Comprehensive test of nonverbal intelligence (C-TONI)	69 or less on full scale (NVIQ)	77 or less on full scale (NVIQ)	84 or less on full scale (NVIQ)
Kaufman assessment battery for children (K-ABC)	Nonverbal scale index of 69 or less	Nonverbal scale index of 77 or less	Nonverbal scale index of 84 or less

(5) If you are over the age of nineteen at the time of your determination you must have a valid FSIQ obtained at age thirteen or older.