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LEGAL ISSUES AND SMALL HIGH SCHOOLS

Strategies to Support Innovation in Washington State

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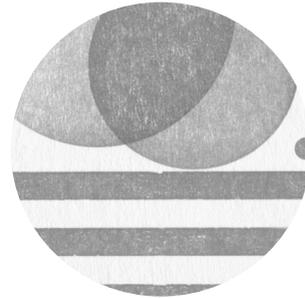
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Introduction



- Organization of This Guide

In 2003, education program officials at the Bill & Melinda Gates Foundation asked attorneys at the University of Washington’s Center on Reinventing Public Education to explore legal issues affecting the establishment and operation of small high schools in Washington State.¹

This turned out to be a fascinating exercise for several reasons. First, Washington law does not define what a “school” is. As a result, tradition and practice influence district and state officials’ attitudes about how to structure and support high schools. Second, these same traditions also color federal and state laws, and regulations implementing those laws. Thus, state and local leaders can easily interpret school law and regulations as prohibiting some of the more innovative features of new small high schools. Third, the state is just beginning to consider schools as educational programs, rather than the buildings in which instruction occurs. As a consequence of all of the above, inherited notions of what a school should look like, how it should operate, and how it should serve its students frequently stand in the way of the vision of a new kind of smaller and more personalized secondary schooling advanced by small school advocates. These notions, moreover, play themselves out differently depending on whether a small high school is created from scratch or several smaller learning communities are created within an existing larger high school.

The interest of the Bill & Melinda Gates Foundation in these issues is directly attributable to the foundation’s major presence in financing and supporting small high schools. The foundation is committed to increasing the number of students who graduate from high school, and ensuring that all students are ready for college. As a means to that end, the foundation supports the creation of new, high-quality, small high schools and the conversion of existing schools into smaller, personalized learning communities. Smaller high schools foster the types of learning environments—characterized by rigorous instruction, a relevant curriculum, and meaningful, supportive relationships—that are proven to help students achieve. Through its Washington State School Grant program, the foundation has invested more than \$30 million to design and implement new small high schools in the state, part of a larger national, multimillion dollar effort to support more than 1,400 innovative, personalized, small high schools. As part of this effort, foundation officials realized that small school design-

1. As used in this guide, the term small schools refers to more than just a school’s size—it is an identifier for schools that share a common set of characteristics: schools that are small, autonomous, personal, distinctive, and focused, among other attributes. Further, the term refers to autonomous, stand-alone small schools as well as large, comprehensive schools that have reorganized into multiple small learning communities. For more information on small schools, see www.smallschoolsproject.org.

ers in many communities were encountering roadblocks from public school officials, roadblocks that, accurately or not, were frequently described as statutory or regulatory in nature.

Although this guide will be of interest to small school advocates everywhere, it is intended primarily for people engaged in small high school reform efforts in Washington State. It is our hope that this report will help small high schools design and operate effective programs by providing greater clarity about potential legal and policy impediments, and by providing information on how to work within the current legal and regulatory system. In general, we believe that no pressing legal obstacles stand between small high school advocates and their vision of more effective and personalized small high schools. The system clearly can accommodate that vision. Small school advocates will find that their best chance for success in the near term lies in understanding their options under current law, including seeking waivers and using alternative education provisions.

ORGANIZATION OF THIS GUIDE

This guide is organized in four major chapters. Chapter 1 outlines in very broad strokes the educational and legal environments within which small high schools are being developed. It begins with a general history of the development of the American high school. It continues with an exploration of the legal and regulatory environment as it applies to schools, including a description of major federal statutes governing school operations. The chapter concludes with special considerations related to schools in Washington State.

Chapter 2 explores the major challenges small schools face in this legal and educational environment, and then takes up how small school advocates can address these challenges. The challenges include small schools' need for: (1) autonomy, (2) time for collaboration and professional development, (3) teachers who are generalists, (4) individualized and performance-based education, and (5) the flexibility to integrate special populations and programs. In each of these five areas, the guide outlines the principal legal obstacles and explains why they create problems. The chapter also explores what small schools can do about these problems and describes legal and

regulatory alternatives available to small school leaders. Many small schools have already been created from scratch around the nation and in Washington State. We also have many examples of large, comprehensive high schools being broken down into groups of smaller learning communities. These stand as evidence that legal barriers are not insurmountable obstacles to the hopes of small school proponents.

Beyond the specifics of the five broad challenges, small schools frequently encounter other systemic impediments. Chapter 3 takes up working within the system. It explores the availability of waivers, and explains how schools can take advantage of alternative provisions in state laws and regulations, known informally as the alternative WACs. WAC is the acronym for Washington Administrative Code, the regulations that implement Washington statutes.

The concluding chapter pulls much of this discussion together. It begins with a discussion of the general implications for school reform of the small schools movement. It moves on to summarize in an “if... then” format the key statutory and regulatory provisions small school leaders should consider, depending on what they want to do with their specific school. It concludes with suggestions for how to advance small schools with changes in state statutes.

In a brief guide of this nature, it is impossible to provide all the detail and resources available to guide school leaders. In an effort to provide further guidance, Appendix A points the reader to additional resources (including websites) that provide further information on these topics.

An on-line version of this guide is also available on the Small Schools Project website at www.smallschoolsproject.org.

Chapter 1

The Educational and Legal Environments



- Current Educational Environment
- Legal Environment: A Primer on Laws and Regulations

Most educators and citizens take for granted the high school as it exists today. Yet the comprehensive American high school is only about 50 years old. Based on Carnegie units (an effort to standardize the reporting of the quantity of secondary school work)², the comprehensive high school was developed following World War II on the advice of James B. Conant, a former president of Harvard University. Conant explicitly recommended the creation of large, comprehensive high schools, capable of offering several curricular tracks, each based on student interest and abilities.³

Conant's advice led to the wholesale consolidation of small schools and the establishment of bigger high schools. By design, these new comprehensive high schools were to be large enough to offer a variety of courses, responding to diverse student interests. Conant also favored a highly differentiated curriculum that would sort students among courses and programs according to what he termed their "performance, inclinations, and ambitions." Tracking, grouping, and differentiated curricula were not unfortunate side effects of this design; they were an explicit objective of the design.

CURRENT EDUCATIONAL ENVIRONMENT

Conant's vision of the comprehensive high school is still very much with us. Although Conant maintained that an excellent comprehensive high school should enroll at least 750 students, many of today's high schools have enrollments of 2,000, 3,000, even 4,000 students. These massive institutions offer a bewildering variety of courses, "a smorgasbord" of offerings in the words of the National Commission on Excellence in Education, "in which the appetizers and desserts can easily be mistaken for the main courses."⁴ The comprehensive high school is so regimented by schedules and clocks that, in the 1990s, the National Commission on Time and Learning described learning in America as a "prisoner of time."⁵ And it is so large and impersonal that high school dropouts asked to explain their decision to leave school almost invariably respond with some variation on the theme that, "In that school, nobody knew me or cared what I did."

2. The Carnegie unit was developed in 1906 as a measure of the amount of time a student has studied a subject. For example, a total of 120 hours in one subject – meeting four or five times a week for 40 to 60 minutes, for 36 to 40 weeks each year – earns the student one "unit" of high school credit. Fourteen units were deemed to constitute the minimum preparation that may be interpreted as "four years of academic or high school preparation." For more information, see <http://www.carnegiefoundation.org/aboutus/faq.htm>.
3. James Bryant Conant, *The American High School Today: A First Report to Interested Citizens* (New York: McGraw-Hill Book Company, Inc., 1959).
4. National Commission on Excellence in Education, *A Nation at Risk: The Imperative for Education Reform* (Washington, D.C.: US Government Printing Office, 1983).
5. Report of the National Education Commission on Time and Learning, *Prisoners of Time* (1994), available at <http://www.ed.gov/pubs/PrisonersOfTime/index.html>.

Recently, many researchers, policymakers, and analysts have begun to question the rationale for large high schools. Large schools can be justified on the grounds of economics and efficiency. They can be defended as essential to athletic success. Yet it is hard to find evidence that large schools are educationally more successful than small ones. Indeed, most studies of school size conclude that smaller high schools are almost always better than large ones. In smaller and more personalized environments, attendance, achievement, extracurricular participation, and graduation rates are likely to go up, while discipline problems are likely to decline. The positive effects of small schools are greatest for low-income and minority students.⁶

In recent years, the Bill & Melinda Gates Foundation has developed a major effort to encourage the creation of smaller schools as a means to improve student achievement and increase the number of students who graduate from high school ready for work, college, and citizenship. To date, the foundation has provided more than \$600 million to encourage the creation of smaller, more personalized learning environments. Grants have funded new school programs in a number of states, including Washington, as well as in major cities such as Chicago and New York.

What has become increasingly apparent, however, is that educators interested in creating and operating small schools in Washington State and elsewhere are forced to swim upstream against a current of public and educational opinion that supports a very traditional view of what a high school should look like.

LEGAL ENVIRONMENT: A PRIMER ON LAWS AND REGULATIONS

Perceptions are not the only challenge. The reality is that the inherited conception of high school is also shaped and supported by federal and state laws and regulations, funding formulas, collective bargaining agreements, higher education requirements, and community expectations about how high

6. See Small Schools Project, *A Definition of Small Schools*, available at www.smallschoolsproject.org; Bill & Melinda Gates Foundation, *Making the Case for Small Schools*, available at www.gatesfoundation.org; Tom Vander Ark, "The Case for Small High Schools," *Education Leadership*, Volume 59, Number 5, February 2002, pp. 55-59, available at <http://www.ascd.org/author/el/2002/02february/ark.html>.

The Educational and Legal Environments



schools should operate. As a result, some school leaders, district officials, and school board members interpret district policies and structures as so many barriers to the establishment of small schools.

This guide contains numerous references to “the law.” The term is shorthand for federal, state, and district statutes, regulations, and policies. Statutes, or laws, are enacted by legislative bodies. They frequently define programs and spending plans for states and localities. They may also define rights and responsibilities that legislatures agree will apply to all citizens. States also make promises about universal rights, including education, enjoyed by their citizens. Most state constitutions contain education clauses guaranteeing education for all children; in Washington, provision of education is defined as the state’s “paramount duty.”

In law, as elsewhere in our national life, the old aphorism holds: The devil lies in the details. That is where regulations come into effect. Regulations are developed by executive agencies. They provide the detail specifying what the statutes mean and how they are to be implemented. Every law, no matter how well developed and finely drafted, leaves innumerable questions unanswered. How do we define eligible recipients? What are the application dates and procedures? Who will resolve disputes and under what terms? Regulations attempt to fill in these blanks. Laws cannot be implemented without them.

Federal Law

Federal statutes are enacted by the U.S. Congress and signed into law by the president. Federal law applies to all states. Federal agencies, such as the U.S. Department of Education, are responsible for implementing the law and creating federal regulations to explain how the law should work in practice. We refer to three major federal laws, and their accompanying regulations, in this guide:

The Elementary and Secondary Education Act (ESEA) was enacted in 1965. This statute is the basic framework of federal aid to K-12 education, offering funds to support the education of low-income students, innovation, the education of students

with disabilities, reading and libraries, desegregation, and support for what were considered in 1965 to be weak state agencies. The No Child Left Behind Act of 2001 (NCLB) amended and reauthorized ESEA.

The Individuals with Disabilities Act (IDEA), a descendent of Title VI of ESEA, ensures that all children with disabilities have available to them a free appropriate public education which includes special education and related services designed to meet their unique needs.

The Carl D. Perkins Vocational and Technical Education Act (Perkins Act) was most recently reauthorized in 1998.⁷ The original Perkins Act of 1984 was as an amendment to the federal Vocational Education Act, a statute that traced its history back to post-World War I. In the 1920s, the federal government encouraged vocational education with seed grants through what eventually became the Vocational Education Act. These grants continue today through the Perkins Act, which now also encourages greater attention to career and technical education, emerging technologies, and more cooperation between secondary school and community college technical offerings.

These three statutes are the main federal framework small school advocates need to understand as they work through the legal and regulatory puzzle of creating and operating their schools. Small school leaders will frequently hear about federal regulations involved with the No Child Left Behind Act. The regulations may or may not be federal. They're just as likely to be state or local interpretations of the federal regulations. Still, small schools need to understand this law. At the same time, a school, as a public institution, has a responsibility to educate children with disabilities who are interested in the unique program it offers. Hence, some familiarity with IDEA is essential. For a new school that wants to access federal funding for career and technical education, or for a large high school with extensive vocational offerings that wishes to divide into smaller schools, the statute and regulations involved with the Perkins Act are critical to understand.

7. Congress is currently considering reauthorization of the Perkins Act. Updated information on the status of the reauthorization process is available at the Department of Education's Office of Vocational and Adult Education website: <http://www.ed.gov/about/offices/list/ovae/pi/reauth/perkins.html>.

State Law

State law is created by a state legislature and applies only to that state. Often, a state will enact a law that incorporates the requirements of a federal law. A state agency, such as a state board of education or the state superintendent of education, then creates detailed regulations to describe how this state law is to be implemented.

The state of Washington's experience with school reform in recent years is instructive. In 1993, the Washington legislature enacted the Washington State Education Reform Act (Engrossed House Bill 1209), which set in motion the creation of new K-12 educational standards and assessments to measure student performance in several areas. This statute aims to transform public education from a system driven by mandates and enforced compliance into one that is performance-based and responsive to student needs. Reformers believe that a system based on performance will encourage more diverse and adaptive teaching methods, resulting in improved learning for all students.

Responding to the statute, the State Board of Education enacted a performance-based education vision statement. This statement explains that Washington "is shifting from a time and credit-based system of education to a standards and performance-based education system." The state board describes this as a long-term vision, requiring a multiyear transition. (The statement is found in the Washington Administrative Code as WAC 180-51-001.)

Unfortunately, although the concept undergirding the law and the vision statement provides an ideal vehicle for advancing innovative schools, Washington education rules and funding mechanisms have yet to be aligned with the vision. The legislation called for streamlining Washington's education code to support school performance outputs. It contemplated ignoring the traditional inputs approach of the state's Basic Education Act, which defines graduation requirements on the basis of Carnegie units and student seat time and funds districts based on student enrollment.⁸ In its place, funding could depend on a combination of performance, enrollment, and student

8. Diane W. Cipollone, *Defining a "Basic Education": Equity and Adequacy Litigation in the State of Washington*, Studies in Judicial Remedies and Public Engagement, Campaign for Fiscal Equity, Inc., December 1998.

educational need. However, the legislative committee formed to bring the code into line with school performance was able to agree on only minor modifications. Subsequent efforts to address this issue have been piecemeal at best.

One result is that a reform predicated on outputs and performance is still being funded on the basis of inputs and enrollment.⁹ Another is that although small schools exist in an education system that supports them in theory, the system still operates according to a very traditional conception of high school. As a practical matter, state funding formulas, which were devised many years ago on the basis of inputs, have been internalized at the local level as standard operating routines. These routines frequently shape how district officials react initially when asked to consider changing how education services are delivered to students.

Fortunately, state law provides school districts with flexibility to structure and operate schools, through waivers and other alternative provisions of the law. Districts have considerable latitude to do such things as define and award credits, permit teachers to teach outside their endorsement areas, and receive state funding for nontraditional programs. In addition, the legislature created numerous waiver options allowing districts to petition the State Board of Education to waive key state provisions, including seat time, graduation, and teacher endorsement requirements. As an agency publicly committed to a reform agenda, the state board has clearly indicated its receptivity to waiver requests and its willingness to work with districts to implement their vision of local reform.

WASHINGTON'S REFORM VISION

Washington's education reform vision generally supports the restructuring and redesign efforts of the Gates grantee small schools. According to Larry Davis, executive director of the State Board of Education, the board wants "to provide schools with the necessary freedom and flexibility to successfully implement structural changes that will help strengthen teaching and learning in a standards-based environment." (See Davis letter to small schools at Appendix A.)

9. Cipollone, citing *Conditions of Education*, a study commissioned by a consortium of Washington school districts (see Institute for the Study of Educational Policy, University of Washington, *Conditions of Education in Washington State 1997*).

Collective Bargaining

Meanwhile, a host of nonschool laws that influence school operations also exists. Most nonschool laws influencing small schools govern areas such as health, safety, civil rights, and the environment. We do not need to go into most of these, but the right of employees to organize and bargain collectively deserves attention. Here we will be dealing not with collective bargaining law, per se, but with the practical issues small school leaders must address in dealing with unions.

Union contracts and collective bargaining agreements govern much of what happens in the day-to-day operations of Washington schools. The collective bargaining agreement has been described as a “sacred text” for union leaders.¹⁰ If what a small school wants to do is not contemplated in the contract, it probably will not be done. If the reform is included in the text, however, the small school can generally count on the union to support it.

Typical collective bargaining agreements cover issues such as salary schedules, hours of employment, planning time, transfer and assignment policies, evaluation procedures, seniority systems, and grievance procedures, among others. So a lot of things that might look attractive and innovative in a small school’s plan may, sooner or later, come up against the contract that the district and union spent months negotiating.

All of this is no reason to think that small schools cannot be created, but it does mean that implementing unusual reform features through small schools may be a time-consuming and complex process. It might also mean that having gone to the trouble of getting the union on board, a small school will function more smoothly. One important thing to bear in mind is that where a labor agreement and state statutes conflict with each other, the law takes precedence. In other words, districts and teachers’ unions must bargain within the law.

District Policy

Until fairly recently, it was common to hear that education was a local function, a state responsibility, and a federal concern. The standards-based reform and accountability movement, as

10. *The Urban Superintendent: Creating Great Schools While Surviving on the Job*, Report of a Colloquium for Former Urban Superintendents, (September 2004: Council of Great City Schools), p. 34.

embodied in programs such as the No Child Left Behind statute, has increased federal and state involvement in education at the local level. Still, school districts in Washington have a great deal of control over what happens at the local level. District policy is adopted by a district board of directors, or school board, and applies only to schools and operating procedures in that district. District policy frequently incorporates the district's fundamental ideas, values, and beliefs. These values are then applied to the basic operations dealing with students and the instructional program; personnel and administrative matters; and facilities, equipment, and materials. District policies are implemented by the superintendent and central office, through rules and reporting requirements that typically apply uniformly to all schools.

In dealing with the district, small school leaders need to persuade the board, superintendent, and central office that no matter how sensible uniform requirements are in dealing with traditional schools, new ways of interacting with small schools are essential in a reform environment.

The Interaction of Federal, State and District Legal Requirements

As a general proposition, nobody has much trouble understanding that federal, state, and local laws and regulations apply in different circumstances. What is a bit more complicated is understanding how different requirements from the three levels of government interact with each other. For the most part, the interrelationships among the three are common sense. If federal and state laws say different things about the same subject, federal law takes priority. In the same vein, both federal and state laws take priority over district policy. The chart at right outlines these relationships.

A Complex Leadership Challenge

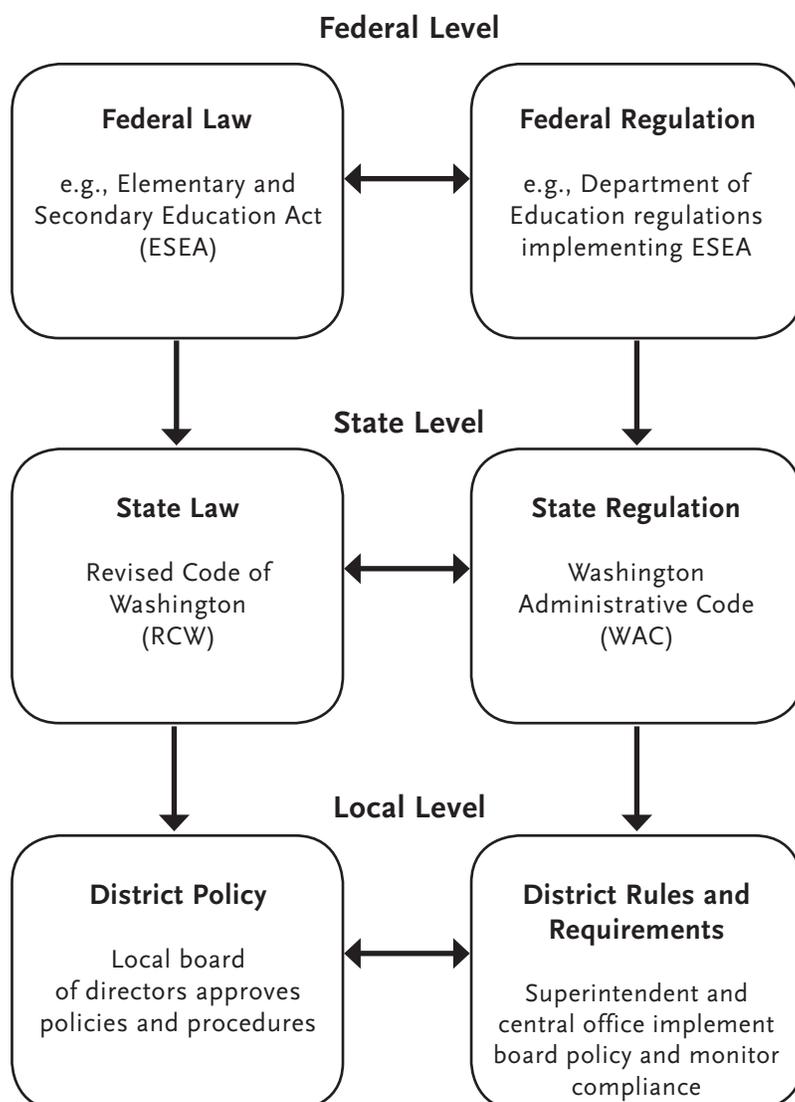
Small school advocates face a complex leadership challenge. They are spokespeople for a movement that calls into question the organization of the typical American high school. They are doing so in the context of a legal structure in which stated policy in support of innovation is not aligned with funding or regulatory mechanisms. Simultaneously, small school lead-

The Educational and Legal Environments



ers are faced with the task of navigating what seems to be a bewildering array of federal, state, and local mandates, each with its own culture and long history behind it. Meanwhile, individual teachers or groups of teachers are asserting that the collective bargaining agreement prohibits small schools from doing what they propose to do. Where do small school leaders start? How do they proceed? The following chapter outlines the specifics of the major challenges small schools face, and offers suggestions for how to overcome them.

OVERVIEW OF FEDERAL, STATE, AND LOCAL EDUCATION LAWS AND REGULATIONS



Chapter 2

Major Challenges and What Small Schools Can Do About Them



- Autonomy
- Time for Collaboration
- Teachers as Generalists
- Individualized and Performance-Based Education
- Flexibility to Work with Special Populations and Programs
- Considerable Flexibility is Available

Major Challenges and What Small Schools Can Do About Them

To state the obvious: Although smallness is often seen as a virtue, every small high school is not self-evidently better than every large one. While smallness affords secondary schools the opportunity to improve learning by offering more individualized and personalized educational programs, smallness by itself does not guarantee they will do so. Small schools that are able to demonstrate improved results for students are those that exhibit at least the following five attributes:

- (1) Autonomy,
- (2) Time for teacher collaboration and professional development,
- (3) Teachers who can serve as generalists,
- (4) An emphasis on individualized and performance-based education, and
- (5) The flexibility to meet the needs of special student populations and programs.

The main obstacle small school advocates face is that, by and large, school laws and regulations work against these five attributes.

AUTONOMY

Successful small schools need sufficient autonomy to make basic decisions affecting school operations including budgeting, scheduling, staffing, curriculum, leadership and governance, and use of space.

According to researcher Mary Anne Raywid, one of the greatest inhibitors to the ability of a small school to realize its potential is a lack of autonomy due to “constraints imposed by stringent regulations, bureaucratic regularities, and longstanding labor agreements.”¹¹ Raywid also notes that achieving autonomy is especially challenging for conversion schools. These are large high schools that are broken down into smaller units or “small learning communities.” Conversion schools, according to Raywid, must consciously create “sufficient separateness and autonomy to permit staff members to generate a distinctive environment and to carry out their own vision of schooling.”¹²

11. Mary Anne Raywid, in *The Learning Network*, November 2003, Issue 4, Volume 2, p. 1.

12. Mary Anne Raywid, in *The Learning Network*, November 2003, Issue 4, Volume 2, p. 1.

Small schools need to be aggressive in promoting and protecting school autonomy. Three potential inhibitors to small school autonomy include: (1) how state law defines a school, (2) adequate yearly progress requirements under the federal No Child Left Behind statute, and (3) collective bargaining agreements based on a traditional conception of how secondary schools operate.

THE LAW

Defining a School

Even educators are frequently surprised to find that Washington law does not define precisely what a school is. Legislation is written as though everyone understands what is meant by the term school. Regulations frequently assume a definition, on occasion employing the term differently depending on particular purposes. This lack of clarity can be a particular challenge for small learning communities since the classification of a school in a particular way can restrict the autonomy small schools require.

In the state of Washington, school districts are responsible for establishing schools, and they do so without need for state authorization. Generally, three things need to happen in order for a high school to be recognized as such:

- The school is authorized by its district to grant diplomas,
- The state assigns a school identification number (previously referred to as a building code or building number), and
- The school obtains a College Board number.

Recently, the Office of the Superintendent of Public Instruction (OSPI), working with the U.S. Department of Education and state stakeholders, developed a definition of a school for data reporting and accountability purposes. The state expects districts to use this data definition to identify schools and calculate adequate yearly progress (AYP) beginning in school year 2004-05. Under this new definition, a school is an institution that:

Major Challenges and What Small Schools Can Do About Them

- Provides preschool, elementary and/or secondary instruction and may also provide other education-related services to students,
- Has one or more teachers,
- Is located in one or more buildings, and
- Has an assigned administrator.

A data definition is not a formal, legal definition of a school. Rather, it is an effort on the part of state education authorities to improve information management and provide a logical framework for school identification and data collection.

What Small Schools Can Do

✓ Encourage the District to Identify Your Small School Using the State's New Data Definition

The new data definition provides an opportunity for small schools, especially small learning communities, to assert their autonomy. In the past, state rules and data reporting requirements viewed schools as buildings or physical locations, rather than as educational programs. The new definition permits a more expansive vision of a school, one that can accommodate small schools, small learning communities within a single building, and schools that operate out of multiple locations. Once a district identifies a small school or small learning community as an individual school for data reporting purposes, the school could advocate for being considered distinct (and therefore autonomous) for all purposes, including district allocations, associated student body (ASB) funding, and extracurricular activities.

However, schools should carefully consider the potential negative consequences of being a school for AYP calculations. The AYP accountability implications for small schools are discussed below.

✓ Work With Your District to Adopt a Small Schools Policy

Small schools also can be recognized as autonomous entities through the creation of a school board resolution or

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Autonomy

district policy in support of the formation and operation of small schools. A policy or resolution can be used to define the extent of small schools' authority over such issues as resources, scheduling, staffing, curriculum, leadership, and governance.

Even if your district does not have a small schools policy or board resolution, consider working with district leaders to identify ways in which the central office can support your efforts. In one district, small school advocates convened a meeting with the heads of several district departments to discuss the unique needs of small high schools and ways in which the district might support them.

DISTRICT POLICIES ON SMALL SCHOOLS

The Tukwila School District approved a policy in February 2002 that describes the parameters of the small school reform work undertaken at Foster High School, and incorporates the Coalition of Essential Schools' Ten Common Principles and the Bill & Melinda Gates Foundation's Seven Attributes of High Achieving Schools.

In February 2003, the Board of Directors of the Yakima Public Schools approved policies and procedures that support the concept of small schools as a mechanism to improve student achievement. The policies outline intervention strategies and expected outcomes. The procedures detail the requirements of Yakima's small personalized learning communities.

Other districts across the country, including Chicago, Houston and Oakland, have also adopted small schools policies.

Links to district small schools policies are available through the Small Schools Project website: www.smallschoolsproject.org.

✓ Ask: Is Our Small Learning Community a School for Purposes of This Law or Policy?

Traditionally, a legal definition of a school has not been needed because there was an understanding that a school is a physical location where instruction occurs. However, the small learning community concept raises questions about what constitutes

Major Challenges and What Small Schools Can Do About Them

a school. What makes up a learning community? What is shared? What is unique or separate?

With regard to district, state, and federal laws, regulations, and policies, small learning communities must ask: Are we a school for the purposes of this particular law, regulation, or policy? In other words, are we autonomous for this particular purpose?

Again, the state's new data definition has implications here—if the district defines a small learning community as a school for data reporting purposes, then the small learning community may be deemed a school for a host of other purposes.

EXAMPLE:

ASKING “ARE WE A SCHOOL FOR ASB PURPOSES?”

State laws and regulations concerning Associated Student Body (ASB) money require that ASB funds be budgeted and approved by a school's ASB governing body (e.g., student council, student activities board, etc.). Questions for small learning communities arise:

- Are the small learning communities each considered a separate school for purposes of receiving and allocating ASB funds?
- Or is the building considered the school for ASB purposes, with one uniform ASB governing body for all of the small learning communities?

The answers to these questions depend in part on the definition of a school.

THE LAW

Adequate Yearly Progress

A central goal of the federal No Child Left Behind law requires states to bring all students up to the “proficient” level on state tests by the 2013-14 school year. Toward this goal, individual

2

Autonomy

schools must meet state adequate yearly progress targets for both their student populations as a whole and for certain demographic subgroups, including five racial and ethnic groups, students with disabilities, students with limited English proficiency, and students from low-income families.

For schools receiving federal Title I funds,¹³ the law creates a graduated set of consequences for those schools that do not meet adequate yearly progress requirements. The consequences differ depending on the number of years in which individual schools do not meet their AYP targets. Consequences include technical assistance, student transfers to other public schools, tutoring, and major governance changes.

Currently, the state calculates adequate yearly progress at the school building level and reports data according to school identification numbers (i.e., building codes). In the future, however, the state plans to report AYP for all schools identified by their districts pursuant to the new data definition of a school. State officials are hopeful that the new definition can be implemented in time for the 2004-05 AYP determinations.

What Small Schools Can Do

✓ Understand How Adequate Yearly Progress Provisions Affect Your Small School

Small learning communities may prefer to be defined as individual schools for accountability purposes under No Child Left Behind. Only autonomy permits these schools to be held accountable for their own performance, rather than for the performance of others in the building. Washington currently calculates AYP at the building level rather than at the level of the smaller community. This clearly poses problems for the autonomy of small learning communities, conceivably creating pressures on building leaders to impose a more uniform curriculum across all small learning communities in the building.

¹³ Title I, Part A of the No Child Left Behind Act of 2001 provides funds targeted to high-poverty schools and districts. Title I funds are used to provide educational services to students who are educationally disadvantaged or at risk of failing to meet state standards. In addition to providing financial assistance for high-poverty schools, Title I, Part A is the federal government's primary instrument for holding states, districts, and schools accountable for implementing standards-based education.

Major Challenges and What Small Schools Can Do About Them

However, calculating adequate yearly progress at the small learning community level also involves some potential challenges. If a school meets its progress target, under the terms of NCLB the district can require it to accept transfers from schools that did not. No Child Left Behind explicitly states that overcrowding in a successful school is not a valid reason for a district to refuse to transfer students. In the case of a small school, an influx of additional transfer students could threaten the integrity of the school.

✓ **Make Creative Use of AYP Reporting Requirements to Differentiate Your Small School or Small Learning Community**

Whether or not your small school or small learning community is considered an autonomous entity for AYP purposes, you can make use of the federal reporting requirements to provide a unique picture of your school. In Washington, high schools are required to publish annual school report cards detailing math and reading results from the Washington Assessment of Student Learning (WASL) disaggregated by demographic subgroups, along with graduation rates. Small schools should consider including measures of success beyond WASL scores and graduation rates, for example, the results of alternative assessments or the number of college credits earned by students during the year. The website of the state's school superintendent contains sample report card templates that small schools can adapt. While the state currently requires a single AYP report for each school building, small learning communities within a building could also create their own reports.

THE LAW

Collective Bargaining Agreements

Collective bargaining agreements govern much of what happens in the day-to-day operations of a school, including teachers' work hours, planning time, and evaluation procedures. Washington's statutes and regulations contain general provisions regarding collective bargaining and employment relations in the public sector.



2

Autonomy

Most collective bargaining agreements between districts and teachers' unions are negotiated with a traditional school model in mind. Moreover, agreements are negotiated district-wide, not school by school. They apply to every school in the district. As a result, unions may be reluctant to grant requests from small schools for different procedures out of fear that modifying the contract for one small school may set a precedent for other schools in the district. The best chance of modifying contract rules lies in seeking contract waivers or memoranda of understanding, both of which contemplate temporary changes in contract provisions that were often the subject of laborious and difficult negotiations.

What Small Schools Can Do

✓ Work With Unions to Help Small Schools

Unions can play a significant role in the small school creation or conversion process. Small school leaders are wise to engage their local union in the planning and implementation process. When feasible, small schools should consider partnering with the union and taking advantage of the resources available through local, state, and national associations. Another way for small schools to engage the local union is to encourage teachers from small schools to run for local union leadership positions.

Teachers' unions can contribute a wide range of resources and support for small schools, including:

- **Perspective.** Unions can offer perspective on the impacts of small school reform efforts on all teachers district-wide, not just teachers at small schools. This perspective can help small schools anticipate and respond to potential objections from other teachers (e.g., concern about reallocating planning time, increasing the number of prep periods, etc.).
- **Expertise.** Unions have experience and expertise in areas such as collaboration, shared decision-making, communication, public relations, budgeting, organiza-

Major Challenges and What Small Schools Can Do About Them

tional development, mediation, and educational issues such as NCLB.

- **Resources.** The Washington Education Association and some local unions have full-time staff members available to assist teachers and schools with training and staff development, data collection, research analysis, and public relations.

✓ Use Contract Waivers and Memoranda of Understanding to Accommodate Small Schools

Unions do not want teachers at small schools to voluntarily and informally waive provisions of the larger collective bargaining agreement because doing so could jeopardize the rights of other union members. In the case of a dispute at another school, a judge or arbitrator determines whether a contract provision has been implemented “in fact.” If teachers at one school have voluntarily waived certain provisions, they may have unwittingly given away those particular rights for all teachers.

If a small school wants to deviate from the bargained-for work rules, it should consider working with the union to take advantage of the provisions for waivers and memoranda of understanding that are built into just about every union agreement. Most collective bargain agreements outline the process by which the district or the union can request waivers from the contract. A waiver request typically requires the approval of a certain percentage of the school staff (one district, for example, requires a two-thirds vote), as well as the building’s union representative and the school principal. The request is then submitted to the district and the union, and the waiver is granted only if both the district and the union agree.

Contract waiver requests are typically subjected to close scrutiny. As the waiver provision in one collective bargaining agreement states, “since the negotiation of the contract took careful consideration by both the parties, it is reasonable that careful consideration be given prior to the granting of a contract waiver by either party.”¹⁴ Because they represent teachers district-wide, unions carefully analyze the potential effects of waivers on teachers at other schools.

14. Collective Bargaining Agreement between Bellevue Education Association and Bellevue School District #405, September 1, 2002 - August 31, 2004, p. 117.

TYPICAL CONTRACT WAIVER PROVISIONS

One typical contract waiver provision requires that the waiver request: (1) be for the purpose of program improvement, (2) make reference to the specific contract provisions to be waived, (3) include evidence that both teachers and administrators participated in the decision-making process leading up to the waiver request, (4) explain the need for the waiver, and (5) address the effect of the waiver on other areas of the contract.¹⁵

MEMORANDUM OF UNDERSTANDING (MOU)

A MOU offers a number of advantages for small schools seeking flexibility from provisions of the contract:

- A MOU is typically not as difficult to negotiate as a contract waiver or new contract language.
- A MOU provides a trial period for small schools, the union, and the district to experiment with reforms before making more permanent changes to the formal agreement. If an idea proves successful, then it may be easier to reach agreement later at the bargaining table when it is time to renegotiate the collective bargaining agreement.
- A MOU is easier to revise, rewrite or tinker with than are provisions in the contract.

A memorandum of understanding (sometimes called a memorandum of agreement) is a document that is negotiated separately from the collective bargaining agreement. It is typically an interim agreement on a specific issue. It can take the form of a letter signed by district and union officials that describes what the parties have agreed to and why. A memorandum could outline specific rules that will apply to a particular small school, and/or outline ways in which a small school will operate differently than it would under terms of the collective bargaining agreement. These memoranda usually last one school year.

15. Collective Bargaining Agreement between Seattle School District No. 1 and the Seattle Education Association for 2001-2004, pp. 6-7.

Major Challenges and What Small Schools Can Do About Them

✓ Negotiate Specific Work Rules for Small Schools Into the Collective Bargaining Agreement

Standard teacher contracts often differentiate among teachers at elementary, middle, and high schools by specifying certain rules for different types of schools. Clearly, small high schools are different from other high schools. Since both the district and the union have already agreed to the principle that different rules apply to different kinds of schools, try to expand that agreement to make additional room for different rules for small high schools. Small schools could work with the district and union to accommodate their unique working conditions by bargaining for work rules tailored to the small schools in a district.

Union leaders have a legitimate concern about uncompensated demands placed on teachers. With regard to small high schools, they have expressed anxiety that teachers in small schools be compensated for performing the extra work involved with the small school transformation process. Some unions might want to bargain for extra compensation for teachers who play leadership roles in the planning and implementation of a new small school.

Small schools might consider working with the union to negotiate ways to compensate teachers for the leadership roles they take on beyond the transformation, such as “teacher leader” positions. Since many small schools do away with academic departments, one possible source of funding is the money that is traditionally available to compensate department leaders.

Some teachers and union leaders have suggested that if small schools cannot provide extra compensation, they could consider offering teacher leaders extra planning periods instead. In order to offer some teachers extra planning periods, small schools may need a waiver from the collective bargaining agreement or from various state seat-time requirements. State law waivers will be taken up in the chapter that follows.



2

Autonomy

TIME FOR COLLABORATION

Most small high schools are created anew or by establishing smaller learning communities within larger schools. Of necessity, how teachers will spend their time receives a lot of attention in small schools. Typically, small school leaders seek flexibility in the use of teachers' time in order to provide teachers with time to plan, consult, and collaborate with each other. Small schools also want to offer relevant, ongoing, and embedded professional development for school staff.

In many ways, the traditional school is one in which time has been held constant, while content and achievement have been allowed to vary. Small school reformers suggest that it would be more appropriate to let time vary, while holding content and achievement constant.

At virtually every turn in today's schools, time-based formulas govern instruction and the school day: so many days of school per year, so many hours of instruction in a Carnegie unit, so many hours in the day to constitute a full day, so many instructional hours beyond the bachelor's degree to qualify for salary increments.

None of these administrative requirements are insurmountable. But as a small school leader, you need to understand how these laws operate and what alternatives are available to you.

THE LAW

Regulating Time

Washington State law sets requirements for annual instructional hours, the length of the school year, and the length of the school day for teachers. Districts are required to provide a district-wide annual average of at least 1,000 hours of instruction and a minimum 180-day school year. In addition, teachers are required to be at their respective schools at least 30 minutes before the opening of school in the morning and at least 30 minutes after the closing of school in the afternoon.

Major Challenges and What Small Schools Can Do About Them

What Small Schools Can Do

In Washington State you should be able to find time for collaboration and professional development through the waiver process. In fact, the state is generally quite receptive to waiver requests concerning time.

In order to provide more flexible use of teachers' time, a small school can petition its district to apply for waivers from the requirements for a 180-day school year, 1,000 instructional hours, and even the 30 minutes before and after school. Chapter 3 provides more detailed information about waiver applications and requirements in the state of Washington. All of the waivers described below are available for up to three school years.

✓ Seek a 180-Day School Year Waiver

To give staff the time to implement curriculum, plan, consult, support, and collaborate, schools and districts may obtain a waiver from the 180-day school year requirement. The waiver allows schools to do such things as combine early release days in favor of full-day in-service. Many administrators and staff believe full-day in-service results in more quality time to work collaboratively, while also providing the opportunity for more intensive training. Schools can also use the waiver days for parent-student-teacher conferences, resulting in increased parent participation and involvement. This is one of the most common waivers granted by the State Board of Education, with 85 school districts receiving waivers between November 1995 and March 2004.

FLEXIBILITY AFFORDED BY THE 180-DAY SCHOOL YEAR WAIVER

- Full-day in-service training
- School improvement planning time
- Designated teacher collaboration time
- Increased opportunities for parent-teacher interaction
- Time to develop and implement curriculum
- Increased teacher preparation time

2

Time for Collaboration

A school that obtains a waiver from the 180-day school year requirement does not risk loss of funding, as its students are still considered to be full-time-equivalent students eligible for full apportionment.

✓ **Investigate a 1,000 Instructional Hours Waiver**

If a small school wishes to decrease the overall instructional time it offers to students in favor of providing more time for teachers to collaborate or train, it may request a waiver from the 1,000 instructional hours requirement. However, small schools should be aware of potentially negative implications such a waiver could have on funding.

The Office of the Superintendent of Public Instruction allocates basic education funds to school districts based, in part, on the number of full-time equivalent (FTE) students enrolled. An FTE student is defined as being enrolled for an annual average of at least 25 hours each week. If students are not enrolled for at least 25 hours per week (a total of 900 hours a year), the district must report those students as partial FTEs. Therefore, if a small school were to decrease overall instructional time below 25 hours per week, the district's allocation of state funding would be reduced.

✓ **Obtain a 30 Minutes Before and After School Waiver**

Districts may also apply for a waiver that allows them to reallocate the required before and after 30 minutes for teachers and staff. Schools have used this waiver to extend the instructional day, reallocate teacher planning time, and accommodate block schedules. This is another popular waiver requested from the state board, with 186 requests from 76 school districts since 1991.

**FLEXIBILITY AFFORDED BY THE
30 MINUTES BEFORE AND AFTER WAIVER**

- Extended instructional day
- Time for teacher collaboration
- Block scheduling
- Reallocated planning time

Major Challenges and What Small Schools Can Do About Them

✓ Work With the District and the Union to Find Alternatives to Current Use of Time

In addition to taking advantage of the waiver provisions outlined above, small schools may also find time for collaboration by examining their current use of time, and considering options such as banked time, late starts, or early releases. Banked time, late starts, and early releases need to be negotiated with the union and the district, and typically require a waiver to the collective bargaining agreement (see previous section for more information on union contract waivers). Transportation is one of the main issues that must be worked out when considering late starts or early releases.

USE OF BANKED TIME AND LATE STARTS AT LINCOLN HIGH SCHOOL IN TACOMA

In the spring of 2004, faculty at Lincoln High School in Tacoma submitted a proposal to the district and the union to increase the length of the school day 10 minutes each day during the 2004-05 school year. The additional banked time would be cashed in to create a two-hour late start approximately twice a month. For details of the Lincoln High School plan, see www.smallschoolsproject.org.

TIME WAIVERS AND PROVISIONS OF THE WASHINGTON ADMINISTRATIVE CODE

180-Day School Year

| | |
|-----------------------------------|----------------|
| Waivers from 180-day school year | WAC 180-18-040 |
| Requirements for obtaining waiver | WAC 180-18-050 |
| Waiver renewal procedure | WAC 180-18-060 |

1,000 Instructional Hours

| | |
|--|----------------|
| Waivers from 1,000 instructional hours requirement | WAC 180-18-030 |
| Requirements for obtaining waiver | WAC 180-18-050 |
| Waiver renewal procedure | WAC 180-18-060 |

30 Minutes Before and After School

| | |
|--|----------------|
| Waivers from 30 minutes before/after requirement | WAC 180-44-050 |
| Requirements for obtaining waiver | WAC 180-44-050 |
| Waiver renewal procedure | WAC 180-18-060 |

2

Time for Collaboration

TEACHERS AS GENERALISTS

One of the genuine dilemmas of small schools is that they can easily run afoul of an emerging consensus that teachers, particularly at the high school level, should specialize in their subjects. Small schools are likely to have fewer teachers and, hence, fewer specialists. Frequently, small schools require that their teachers take on broader teaching responsibilities than the traditional high school teacher. In part this may be a requirement born of necessity. Often, it is a requirement built into the school's pedagogy, as, for example, when a school believes that the integration of history and literature is desirable. If the school seeks to have *Oedipus Rex* taught with Greek history, and the Civil War understood against *Uncle Tom's Cabin*, does it require multiple teachers? Is it conceivable that one properly prepared teacher could cover that range? The law is likely to favor more, rather than fewer, teachers.

THE LAW

Highly Qualified Teachers

The No Child Left Behind Act requires that teachers of core academic subjects be deemed “highly qualified” to teach the subject matter for which they are responsible. This is potentially problematic for small schools that need teachers to teach across a range of core academic subjects.

NCLB's Highly Qualified Requirement

The No Child Left Behind law requires local school districts, by the end of school year 2005-06, to ensure that all teachers teaching core academic subjects are highly qualified. Newly hired teachers in Title I programs or schools must meet the highly qualified requirement immediately.

In general, NCLB defines a highly qualified teacher as one with full certification, a bachelor's degree, and demonstrated competency in subject knowledge and teaching. NCLB identifies core academic subjects as: English, reading, language arts, mathematics, science, foreign language, civics and

Major Challenges and What Small Schools Can Do About Them

government, economics, the arts (including music, theater, visual arts, and dance), history, and geography.

If a teacher does not meet the highly qualified requirements, NCLB establishes consequences for schools, districts, and states. By the end of school year 2005-06, states will risk being out of compliance with the law if all teachers of core academic subjects in all schools are not highly qualified under the law. States face loss of federal education funding if they are not in compliance with NCLB.

Teachers not deemed highly qualified can continue to teach core academic subjects, with the following caveat. In schools receiving Title I funds, a teacher who does not meet the requirements may continue to teach, provided the school notifies parents that the teacher is not highly qualified under NCLB. There is no parental notification requirement for non-Title I schools.

Washington's Highly Qualified Requirement

NCLB requires each state to develop its own definition of highly qualified that is consistent with the federal law and the unique needs of each state. Washington State's definition of a highly qualified teacher requires teachers of core academic subjects to hold full state certification¹⁶, have at least a bachelor's degree, and demonstrate competency in the teachers' assigned subject areas. New teachers can demonstrate competency by being endorsed in their core academic subjects, having a degree or major in the core academic subject, or passing a state test of subject knowledge and teaching skills. Experienced teachers have the same options as new teachers for demonstrating competency, and they also enjoy additional options. They can teach in an "endorsement-related" assignment area (see page 38), hold national board certification in the core academic subject, receive out-of-endorsement assignment waivers from the school district or the state board (see page 39), or receive a satisfactory evaluation based on a high, objective, uniform state standard of evaluation (HOUSSE – see page 39).

16. Note, however, that in Washington, teachers with conditional or emergency certificates meet the highly qualified requirement as long as they are enrolled in a residency teacher preparation program (including alternative routes programs). See p. 40 for more information.

What Small Schools Can Do

Washington State provides many ways in which small schools can help experienced teachers meet the highly qualified requirements in a core academic subject. In particular, state law provides a variety of means for teachers who have bachelor's degrees and teaching certificates to demonstrate their competency in a subject.

✓ Explore Endorsement-Related Assignment Provisions

Experienced teachers can demonstrate competency by teaching in an endorsement-related assignment area—that is, a group of courses that the local school board determines to include substantially the same subject matter as the endorsement. The State Board of Education publishes a table that districts and schools can use as a guideline for assigning teachers to courses with subject matter content related to their endorsements.

ENDORSEMENT-RELATED ASSIGNMENT TABLE

Refer to the State Board of Education's endorsement-related assignment table for guidance in determining whether a teacher is qualified to teach a subject related to his or her endorsement. You can find it at:

<http://www.sbe.wa.gov/Endorsements/assignmenttable.htm>

HIGHLY QUALIFIED TEACHER REQUIREMENTS

The Office of the Superintendent of Public Instruction and the Washington Education Association created a flow chart outlining Washington State's highly qualified teacher requirements. See Appendix C. The chart is also available at:

<http://www.k12.wa.us/ESEA/HighlyQualifiedTeachers.aspx>

Major Challenges and What Small Schools Can Do About Them

✓ Petition for Out-of-Endorsement Assignment Waivers

Experienced teachers can also meet the highly qualified definition with an out-of-endorsement assignment waiver. Small schools can petition local school districts or the State Board of Education to grant a waiver for an individual teacher, provided that the teacher has completed provisional status with the school district.¹⁷ During the 2002-03 school year, 116 school districts granted out-of-endorsement waivers to 437 teachers. Between September 2000 and March 2003, the state board granted waivers to 36 districts.

✓ HOUSSE Evaluation

The HOUSSE provisions provide considerable flexibility for schools seeking to help experienced teachers demonstrate competency in a core academic subject. In Washington, the “high, objective, uniform state standard of evaluation” requires a satisfactory annual evaluation in the core academic subject based on the following criteria: instructional skill, classroom management, professional preparation and scholarship, effort toward improvement when needed, handling of student discipline and student problems, interest in teaching pupils, and knowledge of subject matter.

Put simply, the HOUSSE provision allows teachers to demonstrate competency through an annual evaluation by a certified administrator, such as a principal.

While some observers contend that the use of the annual evaluation essentially gives a school carte blanche to declare any existing teacher highly qualified, the state superintendent’s office responds that it has confidence in the professionalism of certified administrators. The law outlines the legal requirements for annual evaluations; violations of these requirements can result in unprofessional conduct charges and possible revocation of the administrator’s certification.

17. Pursuant to RCW 28A.405.220, teachers are considered “provisional employees” (and thus subject to nonrenewal of their employment contracts) during their first two years of employment by a district (one year if the employee has previously completed at least two years of certificated employment in another district in the state).

✓ Use Conditional and Emergency Certification Procedures

In Washington, teachers with conditional or emergency certificates meet the highly qualified requirement, as long as they are enrolled in a residency teacher preparation program (including alternative routes programs). They are also required to complete the program and earn a residency certificate within one year for emergency certificate holders, and within three years for conditional certificate holders.

OTHER OPTIONS FOR ADDRESSING TEACHER CERTIFICATION ISSUES

- **Team teaching** – one teacher who is endorsed in English awards the English credit, while the other teacher who holds a social studies endorsement awards the social studies credit.
- **Dual certification** – at one small school, all of the humanities teachers hold endorsements in both English and social studies.
- **Training and professional development** – schools can access federal Title II, state and/or local professional development funds to help teachers meet highly qualified requirements.

✓ Implement Parent Communication Requirements Around Highly Qualified Teachers

If a teacher in a school receiving Title I funds does not meet the definition of highly qualified for a particular content area, he or she is allowed to teach in that area as long as the school notifies parents. Small schools can use the parental notification as an opportunity to inform parents about the teacher's overall experience and the characteristics that make the teacher highly effective, if not highly qualified under the law. The Office of the Superintendent of Public Instruction has posted sample letters on its website that schools may use in fulfilling their notification requirements. (See <http://www.k12.wa.us/ESEA/Highly-QualifiedTeachers.aspx>.)

Major Challenges and What Small Schools Can Do About Them

USING THE PARENTAL NOTIFICATION REQUIREMENT

If a teacher does not meet highly qualified requirements, schools can use the parental notification requirement to highlight that teacher's qualifications, including:

- Classroom experience,
- Education,
- Professional experience, and/or
- Other relevant accomplishments.

Also, schools can note pedagogical reasons for reliance on generalist teachers.

Although non-Title I schools are not required to notify parents, the state risks penalties, including the loss of federal funds, if all teachers of core academic subjects are not deemed highly qualified by the end of the 2005-06 school year.

TEACHER CERTIFICATION ISSUES AND PROVISIONS OF THE WASHINGTON ADMINISTRATIVE CODE

Endorsements and Certifications

| | |
|---|--------------------|
| Endorsement-related assignments | WAC 180-82-105(11) |
| HOUSSE evaluation requirements | WAC 392-191-010 |
| District-granted out-of-endorsement assignment waivers | WAC 180-82-110 |
| State board-granted out-of-endorsement assignment waivers | WAC 180-82-135 |
| Conditional and emergency certification | WAC 180-79A-231 |

Parent Notification

| | |
|---------------------------------|----------------------------|
| Parent notification requirement | NCLB (34 CFR 200.61(b)(2)) |
|---------------------------------|----------------------------|

As the table above reveals, small schools can use the flexibility in the current system to their advantage in the effort to employ teachers as generalists. Endorsement-related assignments, assignment waivers, HOUSSE evaluations, and conditional certification procedures provide a variety of options for meeting the highly qualified requirement of NCLB.

2

Teachers as Generalists

INDIVIDUALIZED AND PERFORMANCE-BASED EDUCATION

Small school advocates are committed to personalizing the educational experience for as many students as possible. Many small schools aim to provide individualized education, while simultaneously rewarding students for competence instead of time spent at their desks. Typically, small schools will attempt to tailor educational programs for students' individual needs. Many seek to encourage student promotion and diploma completion on the basis of demonstrated performance and competence, not Carnegie units. For some small schools, this means that students are able to graduate when they have achieved specified levels of performance, regardless of how much time they have spent in school.

Funding formulas and an emphasis on seat time can undermine efforts to individualize instruction and encourage performance-based learning. But they do not have to. Washington law allows school districts to take advantage of a number of provisions in the WAC, informally known as alternative WACs. These provisions provide different ways for districts to claim apportionment (i.e., funding from the state), award credits, and satisfy state graduation requirements. Small schools can utilize some or all of these provisions to provide individualized and performance-based educational opportunities for students.

THE LAW

Education Funding

The Office of the Superintendent of Public Instruction allocates basic education funds to school districts through apportionment formulas. Student enrollment is the main driver of these funding formulas. Funding either increases or decreases with the actual enrollment reported monthly during the school year. Enrollment is reported based on the number of full-time equivalent (FTE) students. At the high school level, a full-time equivalent student is defined as a student enrolled for an annual average of at least 25 hours each week, or five hours

Major Challenges and What Small Schools Can Do About Them

(300 minutes) each day. This time has to be instructional time; that is, it has to be an “educational activity planned and under the direction of school district staff.”¹⁸

While many of these requirements may make sense from the point of view of financial management, they have little to recommend them in terms of educational programming. Compelling educational strategies ranging from performance-based graduation to block scheduling and collaboration with skill centers and community colleges can all run afoul of financial considerations. While the financial constraints may have appeared self-evident in an era of educational standardization, they are hard to justify in the emerging era of educational customization.

EXAMPLES OF POTENTIAL FUNDING OBSTACLES FOR SMALL SCHOOLS

- Schools that allow accelerated high school students to satisfy performance-based graduation requirements early may risk losing funding that is tied to student FTE counts.
- Arranging class schedules differently (to allow for block scheduling, for example) may make pedagogical sense, but schools risk losing funding if students are not enrolled at least five hours per day.
- The state takes funding away if a student attends less than 300 minutes per day, but does not provide additional funds for students who are enrolled more than 300 minutes per day.
- By collaborating with skills centers, community colleges or Running Start programs, schools risk loss of state education funds.

¹⁸. RCW 28A.150.205 defines instructional hours in part as “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.”

What Small Schools Can Do

✓ **Employ the Alternative Learning Experience Provision to Claim State Funding**

Small schools should consider using the alternative learning experience provision of Washington law to provide more flexible ways of claiming funds for students. Education providers often use this provision to establish alternative schools or programs. However, the provision is actually a fiscal regulation, and, in this case, alternative refers to a different way for schools to calculate the “FTE-ness” of a particular student. In other words, the alternative learning experience provision offers an alternative way for schools to report individual student enrollment hours for funding purposes.

The alternative learning experience law allows a district to establish policies for providing education in nontraditional ways. The Washington Administrative Code defines an “alternative learning experience” as individualized study, provided in accordance with a written plan, and implemented pursuant to a local school board policy for alternative learning experiences. In addition to providing an individualized learning program, alternative learning experiences may be conducted, in part, outside the regular classroom. For example, district policy may permit students to physically attend school for less than 25 hours per week, with the balance of the time being completed outside of the regular classroom through independent study efforts of the student. Many alternative programs hold classes four days per week; some have shortened daily schedules where a group of students attends in the morning and another group attends in the afternoon or evening. Although the standards and expectations are the same as for other district schools, the delivery model is often different, with small group and individualized instruction being the norm.

The alternative learning experience requirements demand that each student have a plan stating the courses being taken, the evaluations being used, the beginning and ending dates for the courses, and the way in which the credit will be earned. Students are allowed to move through courses at their own speed

Major Challenges and What Small Schools Can Do About Them

—often faster than the traditional seat-time model—and are often evaluated using performance-based criteria. In order to qualify for full-time equivalency funding, students must be engaged in learning activities, as defined by the written plan, for at least 25 hours per week, and schools must maintain documentation of these hours.

For many small schools, the alternative learning experience provision provides the flexibility needed to offer an individualized and performance-driven educational program.

THE LAW

High School Credit and Graduation Requirements

Washington law defines a high school credit as either: (1) one hundred fifty hours of instructional time (commonly referred to as a Carnegie unit), or (2) demonstration of “clearly identified competencies established pursuant to a process defined in written district policy.” Despite the option to define credits based on competencies, most high schools in Washington still award credits based on seat time and Carnegie units.

High schools can also award equivalency credit for a variety of alternative activities, including such things as work experience and community college courses. The law specifies requirements for approved activities and stipulates that districts granting equivalency credit must adopt a written policy to that effect.

In order to graduate from high school, Washington students are required to earn at least 19 credits. State law also allows districts to petition the State Board of Education to waive the minimum credit requirement for schools with performance-based graduation requirements.

2

Individualized and Performance-Based Education

What Small Schools Can Do

✓ Make Use of Competency-Based and Equivalency Credit Provisions

Small schools seeking to provide individualized and performance-based education should take advantage of the different ways in which school districts can award high school credit.

In addition to, or in lieu of, providing Carnegie unit credits, small schools should consider working with the district to create a policy for awarding competency-based credits. The district policy must define a process by which the school establishes the competencies students must demonstrate in order to earn a high school credit.

Some educators and parents are concerned about how competency-based credits will be interpreted by colleges and employers. The Washington Higher Education Coordinating Board is developing standards for the evaluation of students' competency-based work for admissions purposes. In the meantime, Washington colleges review students' competency-based credits on a case-by-case basis.

COMPETENCY-BASED ASSESSMENTS AND COLLEGE ADMISSIONS

The Washington Higher Education Coordinating Board (HECB) has begun work to develop admissions standards based on students' demonstrated competencies rather than grades or courses. The state has not yet determined how to assess these competencies and use them in admissions. Students attending high schools that have adopted a competency-based approach to education will be considered on a case-by-case basis until the competency-based admissions work is complete.

(For more information, see the HECB website at <http://www.hecb.wa.gov/Research/issues/admissions.asp>)

Major Challenges and What Small Schools Can Do About Them

Small schools should also take advantage of state laws permitting schools to grant high school credits for a variety of approved alternative activities, including (but not limited to):

- Planned learning experiences away from school,
- Work experience, on the basis that 360 hours of work equals one credit,
- Postsecondary courses in accredited colleges, universities, and technical colleges,
- Correspondence and electronically mediated courses (i.e., distance learning), and
- Credit based on competency testing, in lieu of enrollment in specific courses.

School districts that offer a high school diploma are required to have written policies providing for the granting of equivalency credit.

Small schools that award competency-based or equivalency credits should consider providing information to college admissions offices and potential employers explaining the requirements, evaluation criteria, scoring rubrics, and overall philosophy of the school's credit policies.

✓ Request a Waiver to Allow Performance-Based Graduation Requirements

Small schools should consider requesting a waiver from the 19-credit minimum graduation requirements in favor of performance-based requirements. The law allows districts to petition the State Board of Education for a waiver on behalf of a high school. Chapter 3 provides more detailed information about the alternative graduation requirements waiver.

In highlighting the intent behind the alternative graduation requirements, the State Board of Education explains that “the shift from a time and credit based system of education to a standards and performance based education system will be a multiyear transition.” The alternative graduation requirements (and other similar provisions) are designed in part to “facilitate the transition and encourage local innovation.”¹⁹

¹⁹. WAC 180-18-055(1)

Alternative provisions and waivers are, in other words, a way to help schools bridge the gap between the old system and the new one, and a way for schools to deal in the short-term with a system in which the law has not yet caught up with the reform vision.²⁰

ALTERNATIVE HIGH SCHOOL GRADUATION REQUIREMENTS

Both the Truman Center in Federal Way and Quincy High Tech High School applied for and received alternative graduation requirement waivers from the State Board of Education. The waivers permitted the schools to implement performance-based assessment systems, in which students satisfy state graduation requirements by demonstrating competencies, as outlined by the school and approved by the district.

Copies of both schools' waiver applications are available at www.smallschoolsproject.org. See Chapter 3 for more information on the waiver process.

ADDITIONAL CHALLENGE

The Stigma Associated with Alternative Education

Some districts, parents, community members, and employers view the alternative WACs as a way to avoid accountability and compliance, rather than as a creative way to provide individualized education to students. They associate a stigma with the alternative label. For this reason, many programs that operate as alternative schools under the law do not have the word alternative in their name, opting instead for secondary school or community school.

²⁰. See WAC 180-51-001 for details on the State Board of Education's reform vision.

Major Challenges and What Small Schools Can Do About Them

What Small Schools Can Do

Small schools interested in utilizing any of the alternative WAC provisions cited above but concerned about the alternative label should seek to educate the local community about the benefits of alternative education in general, and of these provisions in particular. Small schools can point to the state's education reform vision to show that the state is moving in the direction of a standards and performance-based education system, and then explain that many of the alternative WAC provisions are in line with this vision. Small schools can also emphasize that schools utilizing alternative WACs are not necessarily schools for troubled students, but innovative schools on the leading edge of education reform.

Finally, small schools can cite the number of alternative schools in Washington (between 275 and 300), and the number of students served (approximately 33,000) as evidence that alternative education is not a fringe movement, but an accepted and educationally sound option for serving the educational needs of all students.

WASHINGTON ASSOCIATION OF LEARNING ALTERNATIVES

The Washington Association of Learning Alternatives (WALA) works with schools and districts to satisfy the alternative learning experience requirements of WAC 392-121-182, as well as other alternative WAC provisions, and can provide examples of necessary paperwork and forms.

2

Individualized and Performance-Based Education

**INDIVIDUALIZED AND PERFORMANCE-BASED
EDUCATION AND PROVISIONS OF
THE WASHINGTON ADMINISTRATIVE CODE**

Funding

| | |
|--|-----------------|
| Alternative learning experience requirements | WAC 392-121-182 |
| FTE for work-based learning | WAC 392-121-124 |

Credit

| | |
|---|----------------|
| Definition of a high school credit | WAC 180-51-050 |
| Equivalency credit | WAC 180-51-110 |
| Credit for work experience (i.e., work-based learning) | WAC 180-50-315 |

Graduation

| | |
|--|----------------|
| Alternative high school graduation requirements | WAC 180-18-055 |
|--|----------------|

What seems clear is that Washington small schools, in cooperation with their districts, can take advantage of considerable flexibility in statutes and the Washington Administrative Code to advance their aims. They can lay claim to funding under the alternative learning experience provision. They are able to secure credit for alternative learning experiences, work, and equivalency study. They can even point to provisions providing for performance-based graduation requirements. State legislators and agencies have already approved most of the provisions required to provide small schools with the individualized and performance-based system many of them seek.

FLEXIBILITY TO WORK WITH SPECIAL POPULATIONS AND PROGRAMS

Successful small schools are distinctive and focused. By definition, they are not comprehensive. Small schools do not try to be all things to all people. But they have to be what they are for all students. As public institutions, they are not free to pick and choose students with the fewest learning challenges. Unlike large schools, however, small schools do not have the capacity to operate separate programs for every special need and interest – bilingual and special education, for example, or career and technical education. How, then, do small schools integrate specific populations and particular programs into their efforts while still remaining small, distinctive, and focused? How do these schools provide inclusive special services, particularly for students with serious physical, emotional, or behavioral disabilities? And how do smaller learning communities within larger buildings continue to qualify for federal and state career and technical education (CTE) funding while integrating CTE programs into their curricula?

Although conversations with small school leaders in Washington reveal that challenges are always present for low-income students and those who are English-language learners, the most pressing legal issues involve serving students with disabilities and providing opportunities for career and technical education.

THE LAW

Students with Disabilities

School districts are legally responsible for providing a free and appropriate public education to students with disabilities. The federal Individuals with Disabilities Education Act also requires that special education students be educated in the least restrictive environment, according to the terms of individualized education plans (IEPs) developed for each student. The law provides students with disabilities with a host of procedural

safeguards—including the provision of notice, requirement of consent, and the right to appeal—to assure that districts satisfy these requirements.

As a small school leader, your school will undoubtedly enroll students with disabilities. You must be prepared to educate them.

What Small Schools Can Do

The federal IDEA legislation and its predecessors created a complicated set of requirements governing special education. It is within this context that you should make an effort to integrate special education students into your program to the extent possible.

✓ Do Not Seek Waivers From Special Education Requirements

While the Washington Administrative Code provides a special education waiver process for districts, the state office gets very few waiver requests. This is largely for two reasons. Most school leaders have integrated the spirit of IDEA into their educational thinking. And, states are authorized to waive only their own state rules and regulations; they cannot waive federal due process guarantees or the procedural safeguards outlined in IDEA.

✓ Request the District's Assistance

The school district is held responsible for making sure that the requirements of IDEA are met. As a school leader, you may be held accountable within the district, but the legal obligations fall on the superintendent and the board. Take advantage of this situation. Insist that the district provide you with the assistance you need.

When creating an individual education plan for a special education student, the IEP team—which includes the student's parents, special and regular education teachers, and district staff familiar with special education services—must establish

Major Challenges and What Small Schools Can Do About Them

whether a particular school is an appropriate learning environment for that student. Your small school might be the perfect place. In general, small schools are appropriate learning environments for special education students precisely because the small school philosophy—with an emphasis, for example, on personalized education and alternative assessments—aligns with the spirit and requirements of law in this specialized area of education.

However, it's entirely plausible that your school is absolutely the wrong place for particular students. If that is the case, you should not be afraid to speak up. As members of an IEP team, small school staff should be clear about the services available to students and formally request services or additional assistance from the district if necessary.

✓ Review the Appropriateness of Special Education Placements

Small school leaders should make sure the district's special education director and department are familiar with the school's individual philosophy and operations. Familiarity with the school can only improve the district's placement of students with disabilities. If a school is not equipped to provide certain types of services, the school should make that clear to the district.

The team responsible for the IEP is also responsible for reviewing the appropriateness of a special education student's placement. Individualized education plans must be reviewed annually, but any member of the IEP team may set a review sooner if changes are needed to address student needs. So if the placement of a particular special education student in a small school is not working, a small school member of the IEP team should set up a review to determine how a student might be better served within the school and the district.

In sum, small schools can improve how they integrate special education students into their programs by working within the spirit of the law, demanding central office assistance as required, and reviewing placements if they appear inappropriate.

2

Flexibility to Work With Special Populations and Programs

THE LAW

Career and Technical Education

Career and technical education in Washington is defined as a planned program of courses and learning experiences that begins with exploration of career options, supports basic academic and life skills, and enables achievement of high academic standards, leadership, preparation for industry-defined work, and advanced and continuing education. Career and Technical Education programs in Washington receive both federal and state funding, and thus are governed by rules and regulations at both levels.

The federal Carl Perkins Act requires districts that receive Perkins money to submit an application describing how the district will carry out the requirements of the act and, in particular, how the district will:

- Strengthen the academic, vocational, and technical skills of students by integrating academics with vocational and technical education programs,
- Provide students with experience in and understanding of “all aspects of an industry,” and
- Ensure that CTE students are taught to the same challenging academic proficiencies as other students.

Perkins funding is based on district population figures and poverty levels, not on CTE enrollment. As a result, the state has little control over how much Perkins money a district receives. Although Perkins money is a state and district entitlement, districts must apply for it and use the funds to support CTE programs. In the state of Washington, Perkins funding comprises only about 3% of career and technical education funding at the high school level.

State requirements buttress those of the federal Perkins Act. In 2001, the Washington legislature passed a law directing the superintendent of public instruction to establish new CTE program standards. The standards are designed to align career and technical education courses with the state’s standards

Major Challenges and What Small Schools Can Do About Them

and education reform requirements. The Office of the Superintendent of Public Instruction has developed draft program standards, and is currently using these draft standards to guide CTE course approval.

CAREER AND TECHNICAL EDUCATION PROGRAM STANDARDS

The state CTE program standards are available on the state superintendent's website at <http://www.k12.wa.us/CareerTechEd/CTEstandards.aspx>.

Unlike federal Perkins funding, state career and technical education apportionment is based on CTE enrollment. Schools, through their districts, apply to the superintendent of public instruction for approval of CTE courses.

To qualify for CTE funding, a local school district must assure the state that CTE courses comply with numerous requirements, including an assurance that the course will be taught by a CTE-certified teacher. Once the course is approved by the superintendent's office, the district can receive funding based on enrollment counts. Career and technical education students generate additional funding because CTE courses have traditionally cost more to operate. A metal shop milling machine, for example, can cost as much as a high school's entire supplies budget. Career counseling and support also contribute to higher per-pupil costs.

CTE FUNDING IN WASHINGTON

Basic Education Apportionment (BEA): State funding formulas allocate districts a set amount of general education funding for every FTE student – approximately \$3,900 per FTE in 2003-04.

CTE Enhanced Funding: Districts receive extra funding, called an enhancement, when students are enrolled in an approved CTE course — an additional \$740 per FTE in 2003-04.



2

Flexibility to Work With Special Populations and Programs

Teacher certification is a related issue for CTE programs. State law requires career and technical education teachers in Washington to hold a CTE teaching certificate. There are two routes to CTE certification. The first is the college/university program (also known as Plan I certification). It prepares a candidate with an appropriate degree, teacher preparation program and requisite experience to teach courses within a broad CTE area. The business and industry route (also known as Plan II certification) enables a candidate with extensive experience and completion of a business and industry route program to teach in one specific subcategory or specialty area.

The highly qualified teacher requirements of the No Child Left Behind Act apply only to career and technical education teachers who teach core academic subjects.

While these may seem like complex programs, small schools should be able to work with them. Limited staff and resources may make it difficult for small schools to provide vocational and technical programs for students desiring them. Small schools that choose to offer career and technical education have to face the complexity of integrating CTE content into their academic programs, but most are willing to make the effort to make this work. The principal difficulty is that a small school does not have the luxury of operating a separate career and technical education program. Whatever CTE efforts it makes must be integrated into the broader school mission, a goal encouraged by federal and state legislation. In addition, a small school likely can't support a separate CTE-certified teacher who teaches only CTE courses; rather, it needs CTE teachers to be certified to teach core academic subjects as well. (See "Teachers as Generalists" – pages 36-41.)

Small learning communities in conversion schools have an additional set of challenges. Existing CTE faculty may be concerned about their roles—or even whether they will be employable—in the newer small learning communities. They may, in fact, oppose the conversion. This is a consideration that should not be dismissed lightly, since many fine reform concepts have foundered over precisely these kinds of personal, hence political, considerations. Other conversion issues

Major Challenges and What Small Schools Can Do About Them

include the possibility of losing CTE funding because the small learning communities cannot support the technical programs or shops that were available in the larger school. Specifically, small learning communities may not be able to garner sufficient CTE enrollment to generate CTE funding.

What Small Schools Can Do

✓ Consider New Roles for CTE Teachers

Personal, not technical, issues can create some of the most significant obstacles to successful small school conversions. Teachers want to know: What does this mean for me? Is this change in my best interest? Do I want to do this? In particular, the process of rethinking career and technical education programs and figuring out how to integrate CTE and academic courses around new educational visions can create tension among teaching staff.

Successful small schools have found that one of the most important parts of the conversion process is making sure that their CTE teachers know that their jobs are not in jeopardy. Small schools engaged in the conversion process should tell these teachers: We have a new role for you in the school. In fact, a lot of small schools will benefit greatly from the expertise of their career and technical education faculty. For years, CTE programs have been leaders in standards and performance-based education. Now, Washington State's education reform vision calls for all schools to move in this direction. Career and Technical Education teachers can play a valuable role in this transition process. Small schools, for example, can take advantage of CTE teachers' expertise in applied learning to help other teachers learn to wed academic content to applied learning.



2

Flexibility to Work With Special Populations and Programs

STRUCTURE AND SUPPORT FOR CTE PROGRAMS

Small schools should consider the following ways to structure and support CTE programs:

- Work with the district’s CTE director to structure course offerings to fit OSPI CTE standards,
- Use federal (Title II), state, or local professional development funds to support continuing education for CTE teachers,
- Obtain conditional certification for teachers to teach while taking courses for full CTE certification,
- Collaborate with skills centers, community colleges, and technical colleges,
- Offer CTE distance learning opportunities if the district is remote, or
- Form local consortia of neighboring small districts teaming up to offer CTE courses.

✓ Integrate Academic and CTE Programs

Both the Perkins Act and the state of Washington’s program standards call for increased integration between academic and CTE programs. Small schools should consider how their curriculum:

- Integrates academic and CTE programs through a coherent sequence of courses,
- Provides students with experience in and an understanding of “all aspects of an industry” (i.e., industry skill standards, certifications, career progression, and management), and
- Ensures that CTE students are taught to the same challenging academic standards as other students.

Major Challenges and What Small Schools Can Do About Them

The draft CTE program standards from Washington’s superintendent of public instruction define integration as “a complex and coordinated curriculum that develops, simultaneously, the mastery of an academic discipline and its applications to a coherently defined domain of the work world.” Curriculum integration does not mean simply offering the same courses in small learning communities that were offered in the large comprehensive high school. It implies quite a radically new learning environment.

In an effort to provide students with career options, employment preparation, and further education after high school, Washington State’s new CTE program standards also align with the state’s education reform goals. The standards call for comprehensive career guidance, portfolios of student work for all CTE students, a capstone senior year project, and educational and career plans for the “13th year” (i.e., the year after graduation from high school). The truth is that the mainstream school reform movement, including the small schools movement, has a lot to learn from leaders of career and technical education.

As with regulations governing time and autonomy, small school leaders need to understand these CTE requirements at least as well as central office officials. Small schools need to understand that both the state and the federal government support increased integration between academic and career and technical education programs. If small schools encounter resistance at the local level to their CTE reform efforts, they should point to the federal and state laws requiring integration.

AVIATION HIGH SCHOOL

Instruction at the Highline School District’s planned Aviation High School will integrate academic and technical content focused on aviation and aerospace themes.

2

Flexibility to Work With Special Populations and Programs

TRUMAN CENTER INTERNSHIP PROGRAM

At the Truman Center in Federal Way, the centerpiece of each student's experience is an internship program called Learning Through Internships (LTI), in which students spend two days a week outside school at internships. In order to qualify for state CTE funding, the Truman Center assigned a CTE-certified teacher to coordinate the internship program and worked closely with the district CTE director to design the internship program so that it met the state's CTE program standards.

CONSIDERABLE FLEXIBILITY IS AVAILABLE

At first blush, small schools face imposing obstacles in their search for autonomy, time for collaboration, the ability to employ teachers as generalists, opportunities for individualized and performance-based education, and the flexibility to work with special populations and programs. But closer examination reveals these obstacles to be more apparent than real. Urban legends about bureaucratic rigidity to the contrary, there is a surprising amount of flexibility built into the existing regulatory structure. Small school leaders should avail themselves of every advantage this flexibility provides. The discussion above related to the five key issues most small school leaders cite as challenges. Chapter 3 turns to the broader subject of waivers in general.

Chapter 3

Encouraging Innovation: Waivers and Alternative WACs



- Waiver Application
- Waiver Approval
- Waiver Renewal
- Pros and Cons of Waivers and Alternative WAC Provisions

Encouraging Innovation: Waivers and Alternative WACs

The state of Washington offers small schools flexibility in the form of waivers and provisions that permit alternative approaches to education (i.e., the alternative WACs). This chapter describes the waiver process generally, summarizes how schools can take advantage of the waiver provisions in state law, and outlines the pros and cons of waivers and the alternative WACs.

Waivers to requirements of the Washington education code are granted by the State Board of Education. The following section details the waiver application and renewal processes and provides guidance and resources to small schools considering waivers.

WAIVER APPLICATION

Waiver applications must come from a district, not an individual school. The application must be in the form of a resolution adopted by the district board. It is a requirement that this resolution include a request for a waiver and the district's Plan for Restructuring.

The Plan for Restructuring is a detailed document that requires a district to demonstrate how it will use a waiver to improve student learning and how the district's efforts are supported by community members. A Plan for Restructuring consists of at least the following information:

- Identification of the requirement to be waived,
- Specific standards for increased student learning that the district expects to achieve,
- How the district plans to achieve the higher standards, including time lines for implementation,
- How the district plans to determine if the higher standards are met,
- Evidence that the board of directors, teachers, administrators, and classified employees are committed to working cooperatively in implementing the plan, and
- Evidence that opportunities were provided for parents and citizens to be involved in the development of the plan.

Schools can include additional information in their waiver applications, but they must include at least the six pieces of information listed above. Some successful waiver applicants have also provided letters of support from teachers, local unions, parents, and civic leaders.

Connect Small School Waivers to Ongoing Reform Efforts

Waiver requirements may appear intimidating; however, there are several ways in which small schools can capitalize on reform efforts already underway in their district. Where possible, small schools should link their waiver request(s) to larger local reforms. For example, Washington law requires every school to have a “school improvement plan or process” that is reviewed annually by the district board.²¹ Dovetailing aspects of a small school waiver request with the school improvement plan, or with a district’s existing strategic plan, can save time and help garner support from the local board.

In crafting the Plan for Restructuring, small school leaders should consult other reform documents for language to include in the waiver request. Small schools that have recently applied for restructuring grants from the Bill & Melinda Gates Foundation or the federal Smaller Learning Communities grant program may find that some of the required information overlaps.

Finally, the board resolution process provides school leaders with an opportunity to engage district, union, and community leaders and to develop wider local support for small school reform. Because working with the school board and district leadership to apply for a waiver requires time and political capital, small schools should consider packaging all of the possible waivers they might need into one super-waiver request.

Alternative High School Graduation Requirements

The alternative high school graduation requirements provision of the WAC includes additional requirements beyond the waiver request and Plan for Restructuring. The alternative graduation provision also mandates that: (1) the waiver application include documentation that the school is successful according to specific indicators; and (2) the district or school

21. WAC 180-16-220(2)

Encouraging Innovation: Waivers and Alternative WACs

provides data and a rationale demonstrating that any non-credit-based graduation requirements will support the state's performance-based education system and meet the minimum core admissions standards defined by the state's higher education coordinating board.

Waivers Not Requiring a Plan for Restructuring

Some of the waivers of greatest interest to small school leaders can be submitted without the time- and labor-intensive process of creating a Plan for Restructuring. They are, however, accompanied by their own specific requirements.

Thirty Minutes Before and After School. This waiver request must include: (1) a rationale and justification for the waiver, (2) an explicit statement about how the time will be reallocated, (3) assurance that the reallocated time will enhance the educational program for all students, (4) the goals, objectives, and anticipated results of reallocating the time, and (5) written assurance that students will be appropriately supervised.

Definition of High School Credit. Annual exemptions to the definition of a high school credit may be granted by the state board upon the request of a school (through the district). The school must offer evidence that content, time, and competency assessments associated with school work are substantially equivalent to the definition of a high school credit defined in the WAC.

Teacher Assignment Waivers. On a case-by-case basis, the state board may waive WAC provisions governing teacher assignment. This waiver also requires a written application from the school district board of directors detailing the rationale for the waiver request. The waiver may be granted subject to any conditions and stipulations that the state board wants to impose.²²

²². Note that pursuant to WAC 180-82-110, local school districts have the authority to grant out-of-endorsement waivers to individual teachers.

WAIVER APPROVAL

The State Board of Education considers district waiver requests at regularly scheduled meetings. The board must receive the waiver application and all supporting documentation at least 30 days prior to the meeting in which the waiver will be considered. (Access the State Board of Education's meeting schedule at: <http://www.sbe.wa.gov/schedule.htm>.)

WHEN ASSEMBLING A WAIVER APPLICATION

- Consult the Small Schools Project's waiver primer at www.smallschoolsproject.org.
- Make use of the helpful resources and people at the State Board of Education.
- Take every opportunity to educate district and school board leaders about small schools and the need for certain waivers.
- If multiple waivers are appropriate, coordinate the requests in a single waiver application.

Typically, district and school leaders will be asked to appear before the state board to present their waiver request and answer questions from board members. Truman High School's well-received presentation to the state board included the school principal, two teachers, and a district administrator. Quincy High Tech High officials also invited students and a school board member to take part in their successful presentation.

WAIVER RENEWAL

Waivers typically expire after three years. Districts can apply for renewal of waivers that are about to expire by submitting a renewal request to the state board. Before filing the request, the district must conduct at least one public meeting to evaluate the educational programs that were implemented as a result of

Encouraging Innovation: Waivers and Alternative WACs

the waiver. The request for renewal must include information regarding:

- The activities and programs implemented as a result of the waiver,
- Whether higher standards for students are being achieved, and
- Comments received at the public meeting or meetings.

PROS AND CONS OF WAIVERS AND ALTERNATIVE WAC PROVISIONS

Small schools need to recognize that pluses and minuses accompany the use of both waivers and the alternative WAC provisions.

Waivers

With respect to waivers, the undoubted advantages include: (1) the flexibility they offer small schools in a wide variety of areas, (2) the encouragement the state board offers for waiver applications, and (3) the resources, technical assistance, and support the state board provides to schools and districts that apply for them. Waivers, in short, are accessible. The state encourages them. And they often provide precisely the flexibility small schools seek.

Yet, these advantages are countered by some negative aspects. The waiver application process is time-consuming and may use up energy and political capital that might be better spent elsewhere. Schools, of course, have to obtain district support—not simply from one or two officials, but from the superintendent and the school board as well. And by their very nature, waivers are temporary. Most have to be renewed every three years; some require annual renewal.

Alternative WAC Provisions

A similar set of pros and cons applies to the alternative WAC provisions. As we have seen, these provisions offer schools and districts flexibility to claim funding apportionment,



3

Waiver Approval • Waiver Renewal •
Pros and Cons of Waivers and
Alternative WAC Provisions

satisfy graduation requirements and award credits. They permit schools to individualize instruction, conform educational programs to student needs, and offer equivalency credit, credit for work experience and alternative high school graduation requirements. They appear tailor-made for many of the goals of small schools.

Yet, like the general waiver process, utilizing the alternative WACs also requires district support, from the central office through the district school board. The board, in fact, is required to adopt policies approving almost all of these alternatives. And, as with the waiver process, taking advantage of the alternative WACs is time-consuming. In this case, however, the time demands extend beyond simply gaining approval at the district and state levels. Much of what is permitted under the alternative WACs—alternative learning experiences and work-based learning, for example—requires dedication from building staff, since such programming is highly individualized, often involving a written plan for each student.

EXAMPLE:

SUCCESSFUL SMALL SCHOOL WAIVER APPLICATIONS

For examples of successful small school waiver applications, see Truman High School (graduation requirements waiver) and Quincy High Tech High (graduation requirements waiver and out-of-endorsement assignment waiver) at www.smallschoolsproject.org.

Encouraging Innovation: Waivers and Alternative WACs

WAIVERS AND ALTERNATIVE PROVISIONS OF THE WASHINGTON ADMINISTRATIVE CODE

General Waiver Provisions

Plan for Restructuring WAC 180-18-050

Waivers Requiring a Plan for Restructuring

180-day school year WAC 180-18-040

1,000 instructional hours WAC 180-18-030

Alternative graduation requirements WAC 180-18-055

Waivers Not Requiring a Plan for Restructuring

30 minutes before and after school WAC 180-44-050

Definition of high school credit WAC 180-51-100

Teacher assignment (state-granted) WAC 180-82-135

Teacher assignment (district-granted) WAC 180-82-110

Waiver Renewal

Waiver renewal procedure WAC 180-18-060

Alternative WAC Provisions

Alternative graduation requirements WAC 180-18-055

Alternative learning experience WAC 392-121-182

Equivalency credit WAC 180-51-110

Credit for work experience WAC 180-50-315



3

Pros and Cons of Waivers and
Alternative WAC Provisions

Chapter 4

Implications for Small High Schools



- Current Reform Discussion
- How to Proceed in the Short-Run
- Need for State Level Reforms
- A Final Word

This report constitutes a brief scan of the landscape in which small school advocates have sought to advance a vision of high school education that is smaller, more intimate, and more individualized than that available in most large, comprehensive high schools. Chapter 1 reviewed the educational and legal environment. Chapter 2 laid out five major challenges facing small schools within this environment, and then outlined how small schools could address these challenges. And Chapter 3 went into progressively more detail about how small schools can utilize waivers and take advantage of alternative provisions in state laws and regulations. This chapter is designed to take a step back. Here we want to do three things: (1) explore the implications of the broader education reform discussion for the growth of small schools, (2) provide a working tool describing how small school leaders might want to tackle specific challenges, and (3) explore the need for statewide legislation addressing small school needs.

CURRENT REFORM DISCUSSION

The review in this report leaves little doubt that most of the major features sought by small school advocates can be implemented in the current environment. Whatever the issue—autonomy, time, teacher assignment, individualization, performance-based programming, or working with special student populations and programs—it is evident that current federal and state statutes and administrative procedures provide avenues for small schools to do what needs to be done and what they want to do.

Still, the very need to seek waivers to advance these desirable goals reveals the underlying truth: Although the larger system is willing to tolerate these alternatives, it considers them to be deviations from the norm.

One consequence of this situation is that, absent policy changes, the small schools reform movement is likely to find it difficult to institutionalize the dynamics it seeks to put in place within schools. If most of what small schools want to accomplish is done by sufferance, by definition other institutional factors predominate. If high school dynamics are driven by institutional considerations of efficiency, economies of scale,



and athletics, then educational considerations emphasizing individualization, community, and student growth of necessity will be forced to take a back seat.

The third issue that needs to be put squarely on the table is that, in some sense, the entire small schools effort is a movement toward educational customization in an era of educational standardization. No Child Left Behind, the state of Washington's 1993 reform legislation, and the adoption of uniform standards and assessments such as the Essential Academic Learning Requirements and the Washington Assessment of Student Learning all represent a template of what expert opinion considers to be a normative school product. It is entirely conceivable, of course, that standardization of product and customization of process might learn to coexist peacefully. Still, there is no guarantee of that while standardization is enshrined in statute while customization is merely tolerated.

HOW TO PROCEED IN THE SHORT-RUN

While these larger issues play out, small school leaders need to know how to proceed. The tool on the following four pages provides guidance that can be relied on in the short-run. It takes many of the issues described in this report and says, for example, if you want to provide time for teachers to collaborate, then you could apply to the state board for a waiver to the 180-day school year. Or, if you want your teachers to be generalists, then you could use the state board's endorsement-related assignment table.

In a sense, this tool is a ready-reference guide that sums up a lot of what is in this report.

Implications for Small High Schools

| | |
|--------------------------|--|
| <i>if you want...</i> | More planning time for teachers to collaborate and engage in professional development |
| <i>then you could...</i> | <ul style="list-style-type: none">▶ Apply to State Board of Education (SBE) for waivers from:<ul style="list-style-type: none">• 180-day school year requirement. —WAC 180-18-040• Requirement that teachers be at school at least 30 minutes before and after school. —WAC 180-44-050▶ Carefully consider applying for waiver from 1,000 instructional hours requirement. —WAC 180-18-030▶ Examine current use of time, and consider utilizing banked time, late starts or early releases. |

| | |
|--------------------------|--|
| <i>if you want...</i> | Your teachers to be generalists |
| <i>then you could...</i> | <ul style="list-style-type: none">▶ Use SBE endorsement-related assignment table when assigning teachers.▶ Use annual evaluations as a means for teachers without necessary endorsements to demonstrate competency per NCLB's highly qualified requirement.<ul style="list-style-type: none">• "High, objective, uniform state standard of evaluation" (HOUSSE) —WAC 392-191▶ Petition local school board or SBE for out-of-endorsement assignment waivers. —WAC 180-82-110 —WAC 180-82-135▶ Use team teaching, dual certification, and professional development.▶ Use conditional and emergency certification procedures.<ul style="list-style-type: none">• Teacher must be enrolled in residency teacher preparation program. |



if you want... **To link students' educational progress to performance-based assessments rather than seat time**

then you could...

- ▶ Use alternative learning experience provision to provide funding flexibility.
—WAC 392-121-182
- ▶ Use alternative high school graduation requirements provision to obtain waiver from time- and credit-based graduation requirements.
—WAC 180-18-055

if you want... **To provide students with out-of-classroom and other nontraditional learning experiences**

then you could...

- ▶ Use equivalency credit provision that allows schools to grant credit for a variety of approved alternative activities, including planned learning experiences conducted away from school and work experience.
—WAC 180-51-110
—WAC 392-121-182

if you want... **To award credit based on performance and competence, rather than Carnegie units and seat time**

then you could...

- ▶ Work with your district to establish a policy for awarding credit based on clearly identified competencies.
—WAC 180-51-050
- ▶ Apply for a waiver from traditional high school graduation requirements.
—WAC 180-18-055

if you want... **Cooperation from the district**

then you could...

- ▶ Use your understanding of the law to demonstrate to district officials how the law supports your reform efforts.
- ▶ Educate local district officials and community members about small schools and your reform efforts.

Implications for Small High Schools

| | |
|--------------------------|--|
| <i>if you want...</i> | More flexible ways to claim apportionment funding for students engaged in individualized courses of study and other alternative learning experiences |
| <i>then you could...</i> | <ul style="list-style-type: none">▶ Utilize the alternative learning experience law:<ul style="list-style-type: none">• An alternative way to report individual student enrollment hours for funding purposes.• Individualized study, provided in accordance with a written plan, and implemented pursuant to local school board policy. —WAC 392-121-182 |

| | |
|--------------------------|---|
| <i>if you want...</i> | Cooperation and assistance from the teachers' union |
| <i>then you could...</i> | <ul style="list-style-type: none">▶ Engage union in your reform efforts, involve union in planning and decision-making process, and make union your partner in reform.▶ Take advantage of union resources and support, including:<ul style="list-style-type: none">• Expertise in areas such as collaboration, shared decision-making, communications, public relations, budgeting, organizational development, mediation, and educational issues such as NCLB.• Full-time staff members available to assist with training and staff development, data collection, research analysis, and public relations. |

| | |
|--------------------------|---|
| <i>if you want...</i> | Flexibility in complying with terms of the Collective Bargaining Agreement (CBA) |
| <i>then you could...</i> | <ul style="list-style-type: none">▶ Utilize waiver provisions of the CBA.▶ Work with union on memorandum of understanding (MOU).▶ Negotiate specific work rules for small schools into the CBA. |



if you want... **More autonomy to make basic decisions affecting school operations**

- then you could...***
- ▶ Encourage your district to identify your small school using the state's new data definition.
 - ▶ Work with your district to formally recognize and define small schools.
 - ▶ Ask: Is our small school a school for purposes of this law or policy?
 - ▶ Understand how NCLB adequate yearly progress provisions affect your small school.

if you want... **To integrate special education students and provide inclusive services**

- then you could...***
- ▶ Request assistance from district in meeting the requirements of special education laws.
 - ▶ Make sure district special education director and department are familiar with your school's philosophy, operations and ability to provide special services.
 - ▶ Review appropriateness of special education placements with IEP team.

if you want... **To integrate academic and career and technical education programs**

- then you could...***
- ▶ Work with district CTE director to structure CTE course offerings to fit state CTE standards.
 - ▶ Use professional development funds to support continuing education for CTE teachers.
 - ▶ Obtain conditional certification for CTE teachers to teach while taking courses for full CTE and/or academic certification.
 - ▶ Collaborate with skills centers, community colleges and technical colleges.
 - ▶ Offer CTE distance learning opportunities if district is remote
 - ▶ Form local consortia of small districts teaming up to offer CTE courses.

NEED FOR STATE LEVEL REFORMS

Although this tool and the waiver provisions of state law help support small schools in the short-run, they cannot suffice for the long haul. Attempting to address the needs of small schools on a case-by-case basis—by relying on waivers and exemptions to existing policy—creates what some critics have described as “policy by exception.”²³ Researcher Mary Anne Raywid contends that this type of approach is harmful to small schools because: (1) waivers may be granted or withheld arbitrarily by administrators whose primary responsibility is to monitor conformity, (2) the need to request repeated exemptions puts the small schools at a disadvantage because they come to be perceived within the system as a bit like spoiled children, constantly demanding special attention and consideration, and (3) policy by exception may overcome mandates and taboos but probably will not generate the positive support on which successful reform efforts depend.²⁴ For small schools to succeed in the long run, then, the system needs to recognize them as a valid and legitimate way of delivering education, rather than as exceptions to the rule.

Successful small schools are clearly up and running in Washington State, despite legal and policy obstacles at the federal, state and local levels. Many have been created with philanthropic help. In theory, Washington supports the kind of personalized, performance-based education that small schools provide. The education reforms enacted since 1993 hold performance-based learning essential to improving education in the state. Yet, as this guide has demonstrated, the education code and funding practices are not fully aligned with this reform vision. In addition, the notion of the traditional, comprehensive high school is still strongly ingrained in the minds of many educators and local leaders. Changing these dynamics is likely to require changes in state law.

Work With the State to Refine the Definition of a School

The state superintendent is putting in place a new definition of a school for data collection purposes. Small school leaders should encourage the state to explore the implications of such a definition for other areas of school policy. By engaging

23. Linda Darling-Hammond, Jacqueline Ancess, Kemly McGregor, and David Zuckerman, “Inching Toward Reform in New York City: The Coalition Campus Schools Project,” in Evans Clinchy (ed.), *Creating New Schools: How Small Schools Are Changing American Education* (New York: Teachers College Press, 2000), pp. 163-180.

24. Mary Anne Raywid, “The Policy Environments of Small Schools and Schools-Within-Schools,” *Educational Leadership*, Volume 59, Number 5, February 2002, pp. 47-51.

state leaders in this discussion, small school advocates might encourage them to adopt a legal definition of a school that provides autonomy for small schools and small learning communities.

Create Statewide Performance-Based Standards

The development of performance-based standards at the school and district level is a time-intensive process. Small school advocates should consider engaging in the development of statewide performance-based standards. New state administrative provisions should be included in the WAC to outline minimum performance-based credit and graduation requirements, similar to the minimum Carnegie unit requirements currently described in the law. This would help to create a common language for schools wanting to award credit for performance-based programs. In addition, small school advocates should work with the Washington Higher Education Coordinating Board as it develops admissions standards based on performance-based assessments rather than grades or traditional credits.

Conform Career and Technical Education Funding to Program Goals

Just as the funding mechanisms of the state do not support its avowed commitment to performance-based education, so too its funding programs for career and technical education are divorced from its policy commitment to integrate academics and CTE. The current system treats career and technical education courses as separate from academic courses by restricting state funding to programs that meet extensive CTE teacher and subject matter requirements. Small school advocates should suggest changes to the law to align CTE funding and certification with the federal law and the new, revised state standards that support integration of CTE and academic programs. These changes could include liberalizing career and technical course approval requirements to allow courses to be taught by teams of CTE and non-CTE certified teachers. This would expand the range of courses that qualify for career and technical education funding.

Create a Small Schools Law

Advocates should consider proposing a small schools law that would define the key elements of small schools, provide funding on a basis other than seat-time, and give schools more autonomy in areas such as teacher collaboration, awarding credits, and organizing the school day. This single stroke could gain small schools most of the benefits they now enjoy through waivers without the drawbacks. And, of course, nothing would faster institutionalize the benefits of small schools within the larger system than concrete statutory recognition of the value of these approaches. Such a law would recognize small schools as legitimate and effective models for high school education. It would also provide small schools more flexibility to create personalized, performance-driven programs, similar to the flexibility provided to alternative schools through the alternative WAC provisions.

In exchange for more autonomy, the legislature would likely require powerful accountability mechanisms for small schools. The law might identify indicators of school effectiveness going well beyond students' performance on the Washington Assessment of Student Learning. These could include graduation and retention rates; student, teacher, and parent satisfaction measures; and performance-based indicators of student progress.

A small schools law should address the following issues:

- Definition of a small school – including size, individualized education, clear focus and mission.
- Funding mechanism – allocate Basic Education funds for FTE students in a manner that is not based solely on seat time.
- Graduation requirements – allow small schools to base graduation on student competency rather than time and credits. Or allow small schools to award credits for specified alternative activities such as internships and community-based educational experiences.
- More time for collaboration and professional development—automatically waive the 180-day school year and 30 minutes before and after school requirements.



-
- Teachers as generalists—allow small school teachers to automatically qualify for out-of-endorsement assignment waivers within a specified range of subjects. And/or create a generalist secondary endorsement similar to current elementary endorsement or former K-12 endorsement.²⁵

Streamline the Education Code in Support of the State Reform Vision

Finally, we encourage the state to think about streamlining the education code in support of the state’s reform vision. In fact, the original 1993 vision contemplated just such streamlining in return for more autonomy at the school site level. This guide provides a starting point for identifying areas of the law that pose potential obstacles to effective operations of small schools. Reformers should also take a serious look at the ways in which existing laws reinforce the traditional model of high school, often at the expense of small schools. For example, Washington school construction laws provide incentives for districts to consolidate smaller schools into large schools.

Reformers should consider ways in which new or more streamlined WACs could create at least the following:

- Basic education funding that is tied to student performance rather than seat time requirements,
- Graduation requirements based on student mastery of competencies, and
- School-level autonomy to provide innovative and student-centered education.

²⁵ The Washington Association of Learning Alternatives (WALA) is currently working with the State Board of Education on the creation of an alternative secondary endorsement, which would be similar to the current elementary endorsement in that it would allow a teacher to teach a range of subjects.

A FINAL WORD

In the end, nothing succeeds like success. While the authors of this report are convinced that a strong case can be made for new state legislation to support small schools, dedicated small school leaders can find enough flexibility in the system to accomplish their immediate goals. When small schools take advantage of these provisions, they will find that their success can be used as the rallying cry around which a new vision of schooling in the state of Washington can be constructed.

Appendices



- Additional Resources
- Letter From Larry Davis,
Washington State Board of
Education
- Washington State Highly
Qualified Teacher Requirements
- Acknowledgments

RESOURCES REGARDING SCHOOL AUTONOMY

- ✓ NCLB: A Desktop Reference (Department of Education publication): <http://www.ed.gov/admins/lead/account/nclbreference/reference.pdf>
- ✓ Department of Education NCLB FAQ re: teacher quality: <http://www.ed.gov/nclb/methods/teachers/teachers-faq.html>
- ✓ *Education Week* NCLB issue summary: <http://www.edweek.org/context/topics/issuespage.cfm?id=59>
- ✓ OSPI report card templates: <http://www.k12.wa.us/ESEA/pubdocs/Reportcardchecklist.pdf>
- ✓ OSPI School Enrollment Report (Form SPI P-105A): <http://www.k12.wa.us/bulletinsmemos/bulletins2002/b021-02.pdf>
- ✓ Washington Education Association (WEA) website: <http://www.wa.nea.org/>
- ✓ RCW 41.56 (Public Employees Collective Bargaining): <http://www.leg.wa.gov/RCW/index.cfm?fuseaction=chapterdigest&chapter=41.56>
- ✓ RCW 41.58 (Public Employment Labor Relations): <http://www.leg.wa.gov/RCW/index.cfm?fuseaction=chapterdigest&chapter=41.58>
- ✓ RCW 41.59 (Educational Employment Labor Relations Act): <http://www.leg.wa.gov/RCW/index.cfm?fuseaction=chapterdigest&chapter=41.59>
- ✓ WAC 391 (Public Employment Relations Commission): <http://www.leg.wa.gov/wac/index.cfm?fuseaction=title&title=391>

RESOURCES REGARDING TIME FOR COLLABORATION & PROFESSIONAL DEVELOPMENT

- ✓ SBE Basic Education Assistance Report (March 2003): <http://www.sbe.wa.gov/reports/basic%20education.pdf>
- ✓ WAC 180-18-030 (waiver from total instructional hour requirements): <http://www.leg.wa.gov/wac/index.cfm?fuseaction=Section&Section=180-18-030>
- ✓ WAC 180-18-040 (waivers from minimum 180-day school year requirement and student-to-teacher ratio requirement): <http://www.leg.wa.gov/wac/index.cfm?fuseaction=Section&Section=180-18-040>
- ✓ WAC 180-44-050 (school day as related to teacher): <http://www.leg.wa.gov/wac/index.cfm?fuseaction=Section&Section=180-44-050>

RESOURCES REGARDING HIGHLY QUALIFIED TEACHERS

- ✓ OSPI memo No. 81-03 (September 22, 2003) lists the NCLB demonstration of competency requirements: <http://www.k12.wa.us/ESEA/HighlyQualifiedTeachers.aspx>
- ✓ OSPI Teacher Certification Handbook: <http://www.k12.wa.us/certification/pubdocs/CertHandbook.pdf>
- ✓ Sample letters schools can send to parents re: teachers who do not meet highly qualified requirement: <http://www.k12.wa.us/ESEA/HighlyQualifiedTeachers.aspx> (see Appendix E)
- ✓ SBE Endorsement-Related Assignment Table: <http://www.sbe.wa.gov/Endorsements/assignmenttable.htm>
- ✓ NCLB Teachers' Toolkit: <http://www.ed.gov/teachers/nclb-guide/nclb-teachers-toolkit.pdf>

Appendix A: Additional Resources

- ✓ WAC 180-82-110 (district-granted out-of-endorsement assignment waivers): <http://www.leg.wa.gov/wac/index.cfm?fuseaction=Section&Section=180-82-110>
- ✓ WAC 180-82-135 (state-granted out-of-endorsement assignment waivers): <http://www.leg.wa.gov/wac/index.cfm?fuseaction=Section&Section=180-82-135>
- ✓ WAC 180-79A-231 (conditional and emergency certification): <http://www.leg.wa.gov/wac/index.cfm?section=180-79A-231&fuseaction=section>
- ✓ WAC 392-191-010 (HOUSSE evaluation requirements): <http://www.leg.wa.gov/wac/index.cfm?section=392-191-010&fuseaction=section>
- ✓ Education Commission of the States' Online Interactive HOUSSE Database: <http://www.ecs.org/ecsmain.asp?page=/html/issues.asp?am=1>

RESOURCES REGARDING INDIVIDUALIZATION

- ✓ OSPI School Apportionment and Financial Services website: <http://www.k12.wa.us/SAFS/default.asp>
- ✓ Washington School Finance Primer: <http://www.k12.wa.us/safs/PUB/PRI/primer99.pdf>
- ✓ Organization and Financing of Washington Public Schools: <http://www.k12.wa.us/safs/PUB/ORG/o2/OrgFino2.pdf>
- ✓ WAC 392-121 (Finance – General Apportionment): <http://www.leg.wa.gov/wac/index.cfm?fuseaction=chapterdigest&chapter=392-121>
- ✓ WAC 392-121-182 (alternative learning experience requirements): <http://www.leg.wa.gov/wac/index.cfm?fuseaction=Section&Section=392-121-182>
- ✓ WAC 392-121-124 (full-time equivalent enrollment for work-based learning): <http://www.leg.wa.gov/WAC/index.cfm?section=392-121-124&fuseaction=section>
- ✓ Washington Association for Learning Alternatives: <http://www.walakids.com>

- ✓ Alternative education section of OSPI website: coming soon (see <http://www.k12.wa.us/>)
- ✓ Washington Higher Education Coordinating Board: <http://www.hecb.wa.gov>
- ✓ WAC 180-18-055 (alternative high school graduation requirements): <http://www.leg.wa.gov/wac/index.cfm?fuseaction=Section&Section=180-18-055>
- ✓ WAC 180-51-110 (equivalency credit for alternative learning experiences, non-high school courses, electronically mediated courses, work experience, and challenges): <http://www.leg.wa.gov/wac/index.cfm?fuseaction=Section&Section=180-51-110>
- ✓ WAC 180-50-315 (credit for work experience): <http://www.leg.wa.gov/wac/index.cfm?fuseaction=Section&Section=180-50-315>
- ✓ OSPI work-based learning resources: <http://www.k12.wa.us/CareerTechEd/workbasedlearning.aspx>
- ✓ WAC 180-82-105 (6) (assignment of teachers in alternative schools): <http://www.leg.wa.gov/WAC/index.cfm?section=180-82-105&fuseaction=section>

RESOURCES REGARDING SPECIAL POPULATIONS AND PROGRAMS

- ✓ OSPI Technical Assistance Paper #1: <http://www.k12.wa.us/SpecialEd/pubdocs/TAP1.pdf>
- ✓ *Special Education and the Law, A Legal Guide for Families and Educators*: www.k12.wa.us/SpecialEd/pubdocs/special_education_law_guide.pdf
- ✓ For detailed information re: CTE laws and regulations see: <http://www.k12.wa.us/certification/general/regsreports.aspx>
- ✓ For general requirements re: CTE certification in Washington see: <http://www.k12.wa.us/certification/CTE/CTEinformation.aspx>

Appendix A: Additional Resources

- ✓ For detailed information re: types of CTE certificates see: <http://www.k12.wa.us/certification/CTE/CTEcertificatetypes.aspx>
- ✓ OSPI CTE Program Standards: <http://www.k12.wa.us/CareerTechEd/CTEstandards.aspx>
- ✓ OSPI work-based learning resources: <http://www.k12.wa.us/CareerTechEd/workbasedlearning.aspx>
- ✓ American Vocational Association. *The Official Guide to the Perkins Act of 1998*. Alexandria, VA: AVA, 1998.

RESOURCES REGARDING WAIVERS

- ✓ WAC 180-18-050 (local restructuring plan requirements): <http://www.leg.wa.gov/wac/index.cfm?fuseaction=Section&Section=180-18-050>
- ✓ WAC 180-18-060 (waiver renewal procedure): <http://www.leg.wa.gov/wac/index.cfm?fuseaction=Section&Section=180-18-060>
- ✓ Small Schools Project waiver primer: <http://www.smallschoolsproject.org/profdev/gates4/waiver%20text.pdf>
- ✓ Truman High School waiver application: <http://www.smallschoolsproject.org/index.asp?siteloc=start§ion=waivers>
- ✓ Quincy High Tech High waiver application: <http://www.smallschoolsproject.org/index.asp?siteloc=start§ion=waivers>

Appendix B: Letter from Larry Davis

Letter from Larry Davis, Executive Director of State Board of Education, to small school leaders, expressing SBE support of restructuring and redesign efforts of Bill & Melinda Gates Foundation grantees.

Dear Colleagues:

The State Board of Education supports the restructuring and reform efforts being implemented in Washington high schools that have received reinvention grants from the Bill & Melinda Gates Foundation.

As the reform work intensifies, the State Board wants to provide schools with the necessary freedom and flexibility to successfully implement structural changes that will support efforts to strengthen teaching and learning in a standards-based environment.

Last year, the State Board was pleased to support the redesign efforts of the Truman Center in Federal Way. This alternative high school is creating a performance-based system that will eventually replace letter grades, credits, and Carnegie units. In order to implement this new assessment system, which is based on performance instead of “seat-time,” the school requested and received a waiver from the State Board. I am excited and hopeful of the pioneering effort that the Truman Center is launching to the benefit of the entire state.

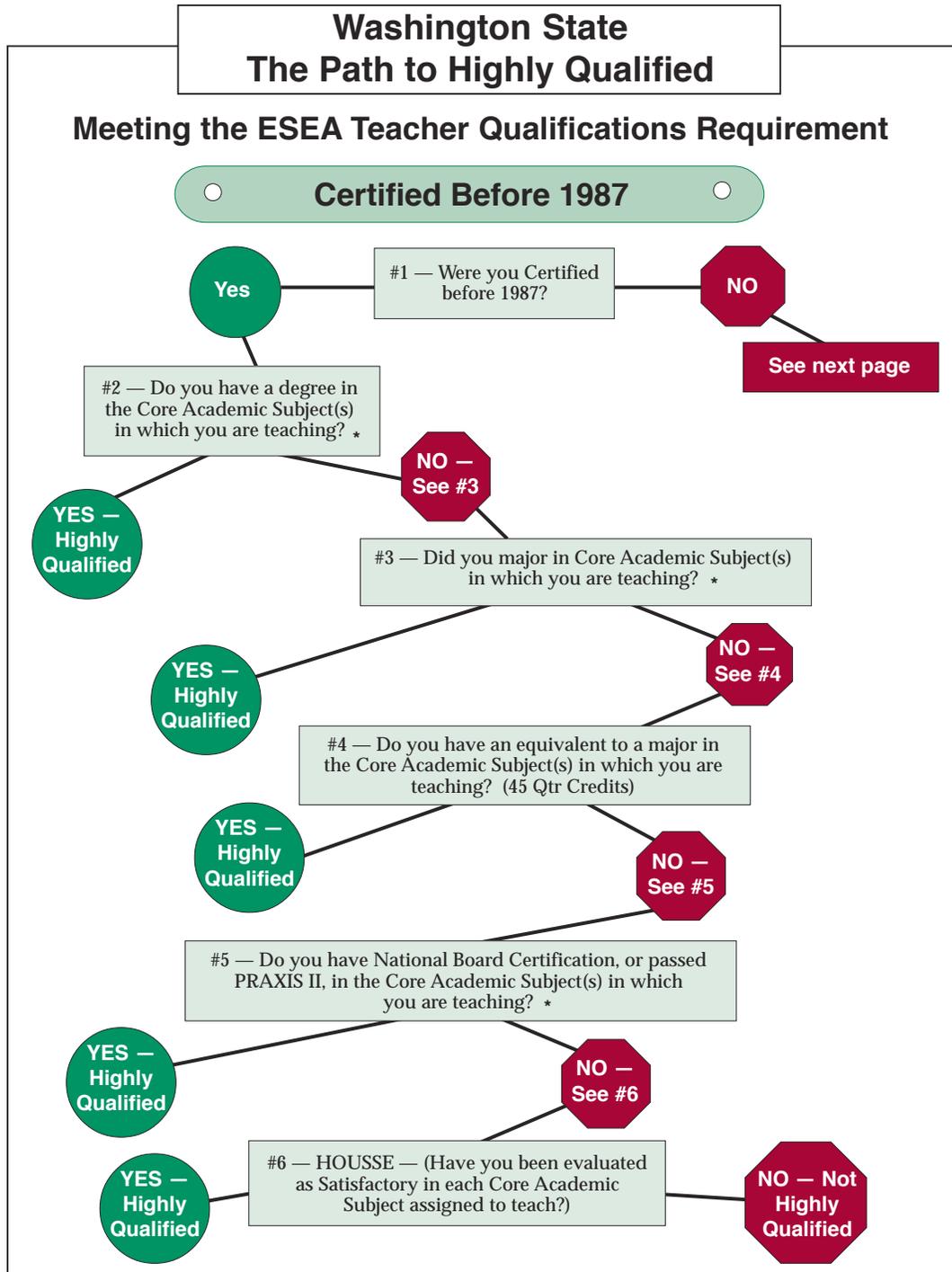
For more information about the waiver process, you can also take a look at the State Board of Education website at <http://www.sbe.wa.gov/basiced.htm#wivers>. Please feel free to contact me at 360/725-6025 or ldavis@ospi.wednet.edu with any questions or concerns. On behalf of the State Board, I look forward to working with you.

Sincerely,

Larry Davis
Executive Director
State Board of Education

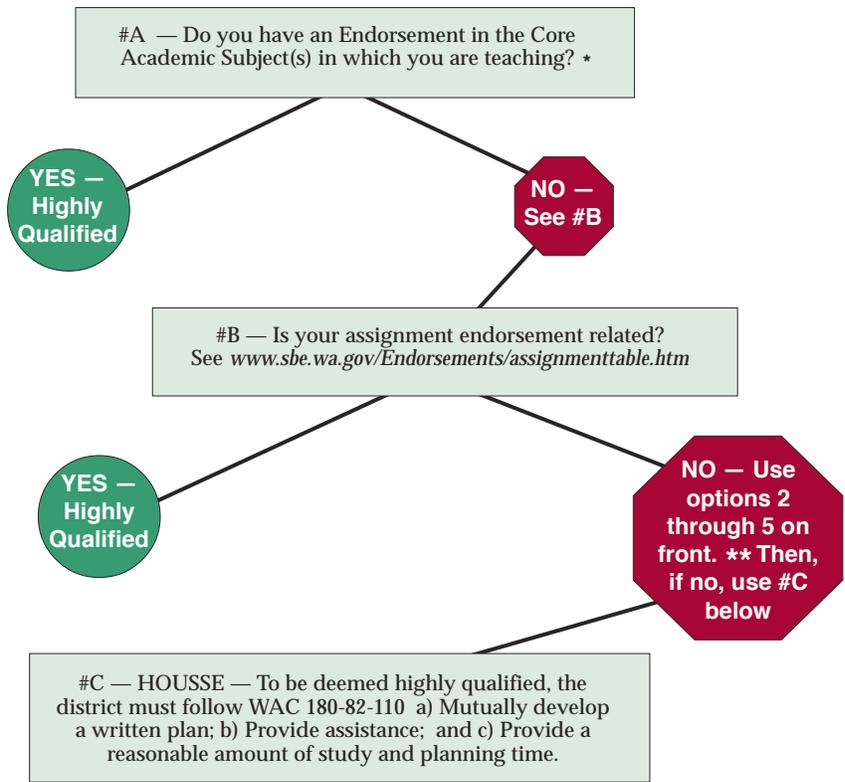
Appendix C: Washington State Highly Qualified Teacher Requirements

The following charts, created by the superintendent of public instruction in partnership with the Washington Education Association, outline Washington State's highly qualified teacher requirement.



Teachers with K-8 elementary education endorsements teaching in K-8 core academic subjects are highly qualified. Teachers with Special Education, ESL and Bilingual endorsements are highly qualified to teach core academic subjects to students eligible for participation in these special programs.

Endorsed Certificate Holders



* Core Academic Subjects include: English, reading, language arts, mathematics, science, foreign language (designated world languages), civics and government, economics, history, geography and arts (music, theatre, visual arts, dance).

** Endorsed certificate holders assigned out of endorsement can meet federal highly-qualified requirements by fulfilling #2 through #5 on front; however, these individuals still must fulfill WAC 180-82-110 for state compliance.

Still have questions? Contact the State Office of Superintendent of Public Instruction (OSPI) (www.k12.wa.us/esea).

Source: OSPI and WEA (www.washingtonea.org).

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Appendix D: Acknowledgments

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This guide was produced by the Center on Reinventing Public Education in partnership with the Bill & Melinda Gates Foundation and the Small Schools Project.

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Bill & Melinda Gates Foundation

The Bill & Melinda Gates Foundation is dedicated to improving people's lives by sharing advances in health and learning with the global community. Led by Bill Gates' father, William H. Gates Sr., and Patty Stonesifer, the Seattle-based foundation has an endowment of approximately \$27 billion.

Center on Reinventing Public Education

The Center on Reinventing Public Education conducts independent research and policy analysis to improve America's schools. Its work is based on two premises: that public schools should be measured against the goal of educating all children well and that current institutions too often fail to achieve this goal.

The Center studies how governance, finance, regulation, staffing, and leadership can contribute to effective teaching and learning. It engages in a broad and fair look at all options, and challenges educational structures and practices that stand in the way of student success. It hopes to create new possibilities for the parents, educators, and public officials who would improve America's schools.

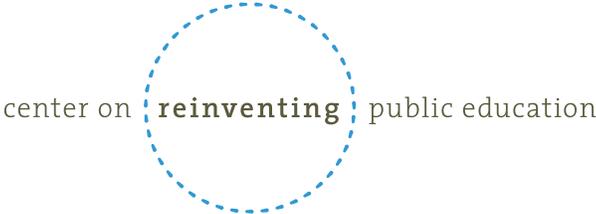
Small Schools Project

The Small Schools Project, housed at the University of Washington College of Education, provides support to the many new small schools being established in Washington State and throughout the United States. The project, supported by a generous grant from the Bill & Melinda Gates Foundation, provides a range of services to new and emerging small schools that have an organizational structure and philosophical commitment compatible with the attributes of high achieving schools.

Disclaimer

This guide has been prepared for educational and information purposes only, and it is not intended to serve as legal advice or a substitute for legal representation. If you have a specific question, you should contact your school district's lawyer, who can analyze the facts of your particular situation and apply the law to those facts. Keep in mind that laws change, and that the law explained in this guide may have changed since the guide was written. Consult with your district's lawyer to make certain the law is still valid.

The Center on Reinventing Public Education at the Daniel J. Evans School of Public Affairs at the University of Washington engages in research and analysis aimed at developing focused, effective, and accountable schools and the systems that support them. The Center, established in 1993, seeks to inform community leaders, policymakers, school and school system leaders, and research communities.



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