



STATE OF WASHINGTON
DEPARTMENT OF LICENSING
PO Box 9020, Olympia, Washington 9850-9020

**Washington Administrative Code
Notice of Permanent Rules for
Remote Learning for Washington State Driver Training Schools**

Adoption of: Amend: WAC 308-108-020 (Definitions); WAC 308-108-120 (Administration); WAC 308-108-130 (Inspection and review); WAC 308-108-150 (Course requirements); WAC 308-108-165 (Prohibition on wireless communication devices during instruction); WAC 308-108-170 (Ensuring student accomplishment); and Repeal: WAC 308-108-190 (Emergency clause)

Effective date: These rule changes will become effective 31 days after filing or on December 1, 2022.

What are the agency's reasons for adopting this rule?

The Department was petitioned to allow for a form of remote instruction of driver training education. The Department also received support for virtual classroom driver training education from the Washington Traffic Safety Commission, the Washington State Center for Deaf and Hard of Hearing Youth, association leaders, the public, and some driver training school owners and instructors. Continuing to allow virtual classrooms for driver training education increases access to driver training education in Washington state, eases the cost of obtaining a translator for students, provides alternative forms of learning for novice drivers with different learning styles and abilities, and supports public safety through this increased access.

Summary of all public comments received on this rule proposal and the agency's response to those comments:

The Department received feedback in favor of proposed rulemaking from the Washington Traffic Safety Commission (WTSC) and the Washington Center for Deaf and Hard of Hearing Youth (CDHY), while the Office of Superintendent of Public Instruction (OSPI) remained neutral. A survey conducted by the Department found that nearly half of responsive driver training schools and instructors were in favor of adopting rules to allow for virtual classroom instruction, while only fourteen percent were opposed. The public hearing had a mixture of in favor and opposed, with just over half of those present opposing the proposed rules.

Paraphrased Comment	Department Response
<i>Related to the concern that allowing virtual driver's education is going to reduce engagement and compromise public safety</i>	
With traffic fatalities up nationally and scholastic aptitude at all-time lows, allowing virtual	Thank you for your comments to the Department with regards to public safety and virtual learning.

The Administrative Procedure Act (RCW 34.05.325(6)) requires agencies to complete a concise explanatory statement before filing adopted rules with the Office of the Code Reviser. This statement must be provided to anyone who gave comment about the proposed rulemaking.

The Department of Licensing appreciates your involvement in this rulemaking process. If you have any questions, please contact Ellis Starrett, Agency Rules Coordinator, at (360) 902-3846 or email rulescoordinator@dol.wa.gov.

<p>classroom learning will result in students becoming less engaged – compromising public safety, and resulting in greater fatalities.</p>	<p>The Department conducted research using crash data from WSDOT and licensed driver data between 2016 and the entirety of 2020 and found that drivers between the ages of 18-20 who have not passed a traffic safety education course were 1.74 times more likely to be involved in an injury or fatal crash, compared to their peers who have successfully completed driver training. Similarly, 21–25-year-olds who have not completed a traffic safety education course were 1.69 times more likely to be involved in an injury or fatal crash, compared to peers in this age group who have completed driver training. This research showed that, even during the first year of the pandemic (2020), driver training education, in any environment, reduces the participants chances of being involved in an accident that results in a traffic fatality or serious injury. The Department does not have any data or research which suggests the virtual classroom differs from the efficacy of other driver training education.</p>
<p><i>Related to the concern of process, bias, and compliance</i></p>	
<p>I am concerned that the agency came in with a preconceived bias to adopt rules in advance and worried that they did not follow substantial compliance.</p>	<p>Thank you for your comments related to the Department’s rulemaking process.</p> <p>Throughout the pandemic the Department heard from agency partners, school owners and instructors, and novice drivers who wanted to see the continuation of virtual classroom. The Department also heard from several legislators who were interested in supporting the continuation of virtual classroom. We made the decision to pursue the continuation of virtual classroom upon advisement from these parties and receipt of a rulemaking petition.</p> <p>Prior to initiated rulemaking, the Department surveyed schools and instructors on this subject matter. The Department found that nearly half of responsive driver training schools and instructors were in favor of adopting rules to allow for virtual classroom instruction, while only fourteen percent were opposed.</p> <p>Upon filing of the CR-101 on May 4, 2022, the Department sent out a ListServ to its stakeholders, eliciting interest and involvement in several stakeholder sessions – which took place between the months of June and July. During those sessions, the agency engaged with its partners to develop draft rulemaking language – prompting feedback and incorporating suggested feedback</p>

The Administrative Procedure Act (RCW 34.05.325(6)) requires agencies to complete a concise explanatory statement before filing adopted rules with the Office of the Code Reviser. This statement must be provided to anyone who gave comment about the proposed rulemaking.

The Department of Licensing appreciates your involvement in this rulemaking process. If you have any questions, please contact Ellis Starrett, Agency Rules Coordinator, at (360) 902-3846 or email rulescoordinator@dol.wa.gov.

	<p>where possible. The Department extended these sessions and continued to work with its partners throughout August and September to develop and revise language as appropriate. When Governor Inslee announced an end to the state of emergency, the Department kept its stakeholder partners abreast of its timeline by sharing finalized draft language and our intent to file the CR-102, elicit further feedback, and hold a public hearing on 10/25, with the aim of adopting rules on 10/26.</p>
<p><i>Related to the Department of Licensing’s Statutory Authority...</i></p>	
<p>What is DOL’s statutory authority to extend the classroom to include a virtual learning environment?</p>	<p>Thank you for your comments related to DOL’s statutory authority in this rulemaking process. RCW 46.82.290 (Administration of chapter— Adoption of rules) and RCW 46.01.110 (Rule-making authority) provide the DOL with statutory authority for adoption of these proposed rules – which were listed in the filed CR-102. In addition, RCW 46.82.280 (Definitions) does not exclude virtual classroom instruction from the definition of “classroom.” Virtual classroom environments provide real-time instruction and oversight of students, enabling novice drivers to ask questions and seek clarification as they learn which the Department feels meets the intent of the legislation and does not violate state law.</p>
<p><i>Related to the efficacy of web-based instruction versus in-person quality of instruction:</i></p>	
<p>While web-based instruction has potential to reach more students and be cost effective, aren’t there more negative aspects, such as student accountability, compared to in-person instruction that will degrade the overall instruction experience?</p>	<p>Thank you for your comments regarding the efficacy of virtual classroom instruction compared to the quality of in-person instruction. The Department looked for (but did not conduct) research about whether the virtual classroom instruction degrades the quality of driver training education instruction. However, we did not find any research to suggest either way. Virtual classroom instruction provides added flexibility for driver training schools, their instructors, and students and their families. In addition, the virtual classrooms still maintain the student-teacher interaction requirements and question-answer requirements that traditional classroom instruction provides. The department requires the same instruction and professionalism of the industry regardless of the method of instruction. Furthermore, schools and instructors who do not wish to instruct driver training education or do not feel adequately prepared to do so via virtual classroom, are not required to offer virtual classroom instruction.</p>
<p><i>Related to the concern that allowing virtual classroom will replace in-person instruction:</i></p>	

The Administrative Procedure Act (RCW 34.05.325(6)) requires agencies to complete a concise explanatory statement before filing adopted rules with the Office of the Code Reviser. This statement must be provided to anyone who gave comment about the proposed rulemaking.

The Department of Licensing appreciates your involvement in this rulemaking process. If you have any questions, please contact Ellis Starrett, Agency Rules Coordinator, at (360) 902-3846 or email rulescoordinator@dol.wa.gov.

<p>Allowing virtual classroom is going to become the only choice, as it will incentivize other driver training schools to be competitive – why not go all in on virtual classroom then?</p>	<p>Thank you for your comment to the Department about the concern that allowing virtual classroom to continue may result in the replacement of in-person instruction. The decision to choose between in-person or virtual classroom remains up to the business, and the individual’s preference based upon what works best for them.</p> <p>There are schools that have shared that they continue to be able to reach full enrollment on both virtual and physical classrooms. While the Department is prepared to allow for virtual classroom instruction, there is no plan or intention to allow for self-paced instruction where a student does not have instructor oversight.</p>
<p><i>Related to minimum standards:</i></p>	
<p>How will we ensure that the minimum standards are being met? Does the proposed rule as written give surety that all schools will see the results of the schools that use two or more instructors and so forth?</p>	<p>Thank you for your comment to the Department about ensuring minimum standards will continue to be met with the virtual classroom. The Department works to ensure driver training schools and instructors meet the standards established in Washington state law. Providing educational materials and auditory oversight help to ensure laws and rules are followed. The Department regularly addresses issues through policy changes and rulemaking. The Department feels that these rules provide reasonable oversight and ensure compliance with current laws and regulations. As issues arise, the Department is committed to addressing these through appropriate action, through education, enforcement, policy, or rule. The inclusion of remote classroom learning will not compromise the Department’s verification of schools adhering to minimum standards and requirements. While audit practices may require some adaptation, there will only be one standard that all classroom delivery must follow.</p>
<p><i>Related to class-size limitations:</i></p>	
<p>Why are there no limits on class sizes for the virtual classroom?</p>	<p>Thank you for your comment to the Department regarding class size limitations. The Department has previously declined to regulate class sizes and instead allowed schools to determine the proper class sizes for their regions, classrooms, instructors, and students. During rule-making stakeholder meetings, members of the industry consistently expressed a desire to have schools continue to set their own class size limitations. At this time, the Department will continue to allow schools to determine the appropriate class sizes that allow for the necessary question and answer period and proper teacher/student interaction.</p>

The Administrative Procedure Act (RCW 34.05.325(6)) requires agencies to complete a concise explanatory statement before filing adopted rules with the Office of the Code Reviser. This statement must be provided to anyone who gave comment about the proposed rulemaking.

The Department of Licensing appreciates your involvement in this rulemaking process. If you have any questions, please contact Ellis Starrett, Agency Rules Coordinator, at (360) 902-3846 or email rulescoordinator@dol.wa.gov.

	While a virtual environment theoretically could permit a school to allow unlimited participants, class sizes will continue to be limited by a school's staffing capacity to complete drives in a timely manner and provide required in-person training.
--	---

Changes made to the proposed WAC as a result of public comment:

Insert "of" after "the duration" in WAC 308-108-150(4) Course requirements for grammatical accuracy. It now reads "...where the instructor is present for the duration of instruction..."

Closing:

The Department would like to thank the people of Washington for collaborating with us throughout this process. If you still have questions related to the rulemaking you can email rulescoordinator@dol.wa.gov or call 360-902-3846.

Sincerely,

Washington State Department of Licensing
Policy and Legislative Unit
1125 Washington St SE
Olympia, WA. 98501

The Administrative Procedure Act (RCW 34.05.325(6)) requires agencies to complete a concise explanatory statement before filing adopted rules with the Office of the Code Reviser. This statement must be provided to anyone who gave comment about the proposed rulemaking.

The Department of Licensing appreciates your involvement in this rulemaking process. If you have any questions, please contact Ellis Starrett, Agency Rules Coordinator, at (360) 902-3846 or email rulescoordinator@dol.wa.gov.