

IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

08.02.01 - RULES GOVERNING ADMINISTRATION

DOCKET NO. 08-0201-1101

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 33-105, Idaho Code, Section 33-107, Idaho Code, and Section 33-1612, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

**Tuesday, October 18, 2011
at 4:00 p.m. (MDT)**

**Idaho State Department of Education
Barbara Morgan Conference Room
650 West State Street, 2nd Floor
Boise, Idaho**

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule change deals with two aspects of collective bargaining and negotiations. First, the Students Come First law now requires district negotiations with personnel be conducted in open session and available for the public to attend. This rule would clarify that open negotiations should adhere to Idaho's Open Meeting Law Manual.

Second, the Students Come First law now limits collective bargaining to compensation and benefits. The State Department of Education received feedback from districts, after districts completed collective bargaining this year, that the definition of compensation and benefits needed to be further clarified. This rule change defines salary as "any monies paid to an employee pursuant to an employment contract, the form of which is approved by the Superintendent of Public Instruction pursuant to Section 33-513, Idaho Code, and the process by which the school district board of trustees will determine local student achievement share awards." The rule change also specifies that the inclusion of any other items in a negotiated agreement is prohibited.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: NA

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed rule changes were suggestions received from education stakeholders. The proposed language is clarifying existing law.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Camille Wells at (208) 332-6817.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, October 26, 2011.

DATED this 31st Day of August, 2011.

Tom Luna
Superintendent of Public Instruction
State Department of Education
650 West State Street, 2nd Floor
P.O. Box 83720
Boise, ID 83720-0027
(208) 332-6812; fax (208) 334-2228

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0201-1101

151. NEGOTIATIONS.

01. Open Meeting. For the purposes of Section 33-1273A, Idaho Code, all open meeting negotiations shall adhere to Sections 67-2340 through 67-2344 and 67-2346 through 67-2347, Idaho Code, including posting agendas and such notices on the main page of the school district's website. ()

02. Collective Bargaining Limited to Compensation and Benefits. Items that may be included in master contracts or negotiated agreements shall be limited to the specific items defined under the terms "Compensation" and "Benefits" under Section 33-1272, Idaho Code. For the purposes of the definition of "Compensation" as stated in Section 33-1272, Idaho Code, the term "salary" means: ()

a. Any monies paid to an employee pursuant to an employment contract, the form of which is approved by the Superintendent of Public Instruction pursuant to Section 33-513, Idaho Code; and ()

b. The process by which the school district board of trustees will determine local student achievement share awards pursuant to Section 33-1004I, Idaho Code. ()

c. The inclusion of any other items in a master contract or negotiated agreement is hereby prohibited. Any items included in violation of this provision are hereby declared null, void and of no force or effect. ()

151.2. -- 199. (RESERVED)