

EDUCATION COMMITTEE

ADMINISTRATIVE RULES REVIEW

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IDAPA 08 - STATE BOARD AND DEPARTMENT OF EDUCATION

08.01.04 - RULES GOVERNING RESIDENCY CLASSIFICATION

DOCKET NO. 08-0104-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 33-3717B, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Adoption of this rule is to clarify criteria for establishment of a residency for tuition purposes.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 186 through 188.

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:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dana Kelly, Student Affairs Program Manager, at (208)332-1574.

DATED this 13th day of November, 2009.

Tracie Bent
Chief Planning, Policy and HR Officer
State Board of Education
650 West State Street
PO Box 83720-0037, Boise, ID 83720-0037
(208) 332-1582 phone / (208) 334-2632 FAX

***THE FOLLOWING NOTICE PUBLISHED WITH THE
TEMPORARY AND PROPOSED RULE***

EFFECTIVE DATE: The effective date of the temporary rule is **June 18, 2009**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 33-105, 33-107, 33-2402, 33-2403, and 33-3717B, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2009.

The hearing site(s) 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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The changes bring the rule into alignment with changes made to Section 33-3171B, Idaho Code, during the 2009 legislative session, and clarify language allowing students to retain resident status when they leave the state for educational purposes.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

To be in compliance with amendments to governing law and confers a benefit to Idaho residents.

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the rulemaking is non controversial in nature. Informal meetings were conducted with registrars from Idaho's public postsecondary institutions around the state to notify them of the changes and gather feedback.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN

COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tracie Bent at (208) 332-1582.

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 October 28, 2009.

DATED this 28th day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

005. DEFINITIONS.

01. Resident Student. For any public institution of higher education in Idaho,
Resident student is defined in Section 33-3717B, Idaho Code, and specifically includes: (5-8-09)()

a. Any student who has one (1) or more parent or parents or court appointed guardians who are domiciled in the state of Idaho for at least twelve (12) months prior to the opening day of the term for which the student matriculates, and the parent or parents or guardians provide at least fifty percent (50%) of the student's support. (5-8-09)

b. Any student who receives less than fifty percent (50%) of his support from a parent, parents, or legal guardians and who has continuously resided and maintained a bona fide domicile in the state for twelve (12) months immediately preceding the opening day of the term during which the student proposes to attend primarily for purposes other than educational. (5-8-09)

c. Unless disqualified as a nonresident student as defined in Subsection 005.02, any student who is a graduate of an accredited secondary school in the state of Idaho and who matriculates during the term immediately following such graduation. (1-1-94)

d. The spouse of a person who is classified or is eligible for classification as a resident of the state for purposes of attending a college or university, provided that the institution shall require the filing of proof of marriage by the applicant. (1-1-94)

e. A member of the armed forces of the United States stationed in the state on military orders. (1-1-94)

f. An officer or an enlisted member of the Idaho national guard. (5-8-09)

g. A student whose parent or guardian is a member of the armed forces and stationed in the state on military orders and who receives fifty percent (50%) or more of his support from a parent or guardian, provided that the student, while in continuous attendance, shall not lose

residency status when the student's parent or guardian is transferred on military orders. (1-1-94)

h. A person separated, under honorable conditions, from the United States armed forces after at least two (2) years of service, who at the time of separation designates the state of Idaho as his intended domicile or who has Idaho as the home of record in service and enters a college or university in the state within one (1) year of the date of separation. (1-1-94)

i. Any person who has been domiciled in the state, has qualified and would otherwise be qualified under Section 33-3717B, Idaho Code, and who is away from the state for a period of less than thirty (30) months and has not established legal residence elsewhere, provided a twelve-month (12) period of continuous residence has been established immediately prior to departure. However, time spent away from the state while enrolled in a postsecondary education program shall not be included in the thirty (30) months. Such time spent away from the state while enrolled shall include normal academic year breaks, such as summer breaks or breaks between semesters or quarters, that occur prior to the receipt of the postsecondary degree. ~~(5-8-09)~~()

j. A student who is a member of any of the following Idaho Native American Indian tribes, regardless of current domicile, shall be considered an Idaho state resident for purposes of fees or tuition at institutions of higher education: members of the following Idaho Native American Indian tribes, whose traditional and customary tribal boundaries included portions of the state of Idaho, or whose Indian tribe was granted reserved lands within the state of Idaho: (5-8-09)

- i. Coeur d'Alene tribe; (5-8-09)
- ii. Shoshone-Paiute tribes; (5-8-09)
- iii. Nez Perce tribe; (5-8-09)
- iv. Shoshone-Bannock tribes; (5-8-09)
- v. Kootenai tribe. (5-8-09)

02. Nonresident Student. Nonresident student is defined in Section 33-3717B, Idaho Code, and includes: (5-8-09)

a. A student who does not qualify as a resident student as defined in Subsection 005.01. (1-1-94)

b. A student attending an institution in this state with financial assistance provided by another state or governmental entity thereof, such nonresidency continuing for one (1) year after the completion of the semester for which such assistance is last provided. (1-1-94)

c. A person who is not a citizen of the United States of America, who does not have permanent or temporary resident status or who does not hold "refugee-parolee" or "conditional entrant" status with the United States Immigration and Naturalization Service, or is not otherwise permanently residing in the United States under color of law, and who does not also comply with and meet all applicable sections of Section 33-3717B, Idaho Code, and this chapter. (5-8-09)

03. Continuously Resided. The term “continuously resided” as used in this chapter means physical presence in the state for twelve (12) consecutive months. Absence from the state for normal vacations, family travel, work assignments, short-term military training, and similar occasions totaling not more than thirty (30) days during the twelve (12) month qualifying period, in and of itself, will not be regarded as negating the continuous residence of the individual.

(1-1-94)

04. Continuous Attendance. For purposes of Subsection 005.01.g., “continuous attendance” means attendance at a college or university for continuing and succeeding semesters or terms excluding summer semesters or terms.

(5-8-09)

05. Accredited Secondary School. “Accredited secondary school” means an Idaho secondary school accredited by the State Board of Education.

(1-1-94)

06. Term Immediately Following Graduation. For purposes of Subsection 005.01.c., “the term immediately following graduation” does not include the summer semester or term of a college or university.

(1-1-94)

07. Armed Forces. “Armed forces” means the United States Army, Navy, Air Force, Marine Corps, and United States Coast Guard. It does not include the National Guard or other reserve force.

(3-30-01)

08. Domicile. “Domicile” means an individual’s true, fixed, and permanent home and place of habitation; the place where the individual intends to remain and to which the individual expects to return when he leaves without intending to establish a new domicile elsewhere. The establishment of domicile in Idaho occurs when a person is physically present in Idaho primarily for purposes other than educational and can show satisfactory proof that such person is without a present intention to return to another state or acquire a domicile at some other place outside the state and the person has met any other applicable requirements of this chapter.

(1-1-94)

09. Support. “Support” means financial support given to the student during the twelve (12) months preceding the opening date of the term for which resident status is requested, but shall not include educational scholarships or grants provided to the student to attend a postsecondary educational institution. Any student who receives less than fifty percent (50%) support may demonstrate this by showing that he is not claimed as a dependent by a parent or guardian for income tax purposes or that a parent or guardian provides less than fifty percent (50%) of the cost of attending an institution according to the financial aid office of that institution or that other similar evidence exists of parental support such as dental bills, medical bills, etc.

(5-8-09)

IDAPA 08 - STATE BOARD OF EDUCATION
08.01.14 - IDAHO RURAL PHYSICIAN INCENTIVE PROGRAM
DOCKET NO. 08-0114-0901 (NEW CHAPTER)
NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-105, 33-3723, and 33-3725, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Section 33-3723, Idaho Code requires the assessment of a fee from support funds provided by the state to students preparing to be physicians in the fields of medicine or osteopathic medicine pursuant to the interstate compact for a professional education program in those fields as defined by the compact to be deposited into the rural physician incentive fund established in Section 33-3724. This rule outlines the eligibility and criteria for disbursement of incentive payment from the fund toward education debts of rural physicians who practice primary care medicine in medically underserved rural areas of the state. The text of the proposed rule has been amended to clarify eligibility criteria and priority selection criteria.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in Book 1 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 199 through 204.

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:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Tracie Bent, Chief Planning & Policy Officer, at 332-1582.

DATED this 13th day of November, 2009.

Tracie Bent
Chief Planning, Policy and HR Officer
State Board of Education
650 West State Street
PO Box 83720-0037
Boise, ID 83720-0037
(208) 332-1582 phone
(208) 334-2632 FAX

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 Sections 33-105, 33-2402, and 33-2403, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2009.

The hearing site(s) 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 sets out procedures for individuals to access the rural physicians incentive fund as described in Section 33-3724, Idaho Code.

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the non-controversial nature of this rule. The proposed language was worked on by Board staff and a group of stakeholders from around the state.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tracie Bent at 332-1582.

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 October 28, 2009.

DATED this 28th day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

IDAPA 08
TITLE 01
CHAPTER 14

08.01.14 - IDAHO RURAL PHYSICIAN INCENTIVE PROGRAM

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to the authority of the State Board of Education (the Board) under Section 33-105, and Sections 33-3723 through 33-3725, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. These rules shall be known as IDAPA 08.01.14, "Idaho Rural Physician Incentive Program." ()

02. Scope. These rules constitute the requirements for the Idaho Rural Physician Incentive Program. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code any written interpretation of the rules of this chapter are available at the Board office. ()

003. ADMINISTRATIVE APPEAL.

Unless otherwise provided for in the rules of the Board or in the State Board of Education Governing Policies and Procedures, all administrative appeals allowed by law shall be conducted as provided herein. ()

004. INCORPORATION BY REFERENCE.

There are no documents to incorporate by reference pursuant to, and in accordance with, Section 67-5229, Idaho Code. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The principal place of business of the Board is in Boise, Idaho. ()

01. Mailing Address. The mailing address is PO Box 83720, Boise, ID 83720-0037. ()

02. Street Address. The Board's street address is 650 West State Street, Room 307, Boise, Idaho 83702. ()

03. Office Hours. The office hours are from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

This rule has been promulgated in accordance with the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, and is a public record. ()

007. COMMUNICATION WITH STATE OFFICIALS.

All inquiries concerning the Rural Physician Incentive Program will be directed to the Office of the Board. ()

008. -- 009. (RESERVED).

010. DEFINITIONS.

These definitions are applicable to this chapter only. ()

01. Community Sponsoring Organization. A hospital, medical clinic or other medical organization which is located in an eligible area and that employs physicians for purposes of providing primary care medical services to patients. ()

02. Eligible Area. A medically underserved area of Idaho, further defined to mean an area designated by the U.S. Secretary of Health and Human Services as a health professions shortage area. ()

03. Oversight Committee. The committee constituted pursuant to Section 33-3724, Idaho Code, composed of knowledgeable individuals or organizations to assist in the administration of the rural physician incentive program. ()

04. Primary Care Medicine. Family medicine, general internal medicine, and general pediatrics, but if there is a demonstrated high level of need in an eligible area, as determined by the oversight committee, may also include obstetrics and gynecology, general psychiatry, general surgery and emergency medicine. ()

05. Qualified Medical Education Debt. Debt with a financial aid program or financial institution incurred to meet the educational costs of attending a medical school. ()

06. Rural Physician. A licensed Idaho physician, MD or DO, who spends a minimum of twenty-eight (28) hours per week, on average, providing primary care medicine services to patients in an eligible area. ()

07. Rural Physician Incentive Fee. The fee assessed by the State to students preparing to be physicians in the fields of medicine or osteopathic medicine who are supported by

the state pursuant to an interstate compact for professional education in those fields, as those fields are defined by the compact. ()

08. Rural Physician Incentive Fund. The special revenue account in the state treasury created pursuant to Section 33-3724, Idaho Code, relating to the Rural Physician Incentive Program. ()

011. OBJECTIVES OF THE RURAL PHYSICIAN INCENTIVE PROGRAM.

This program is established as a tool to help recruit and retain rural physicians to serve in eligible areas. The granting of an award under this program requires the support of a community sponsoring organization in an eligible area that has experienced physician recruiting difficulties and that can demonstrate broad support for this program from the medical community and community leaders located in the eligible area. ()

012. ADMINISTRATION.

The Board, through the advice and recommendations of the oversight committee, is the administrative agent for the Rural Physician Incentive Program. The Board designates its executive director, or his designee, as its administrative officer for this program and delegates to its executive director, or his designee, and to the Office of the State Board of Education, such administrative responsibilities as are necessary to carry out and administer the Rural Physician Incentive Program in accordance with this rule. ()

013. ASSESSMENT OF A RURAL PHYSICIAN INCENTIVE FEE.

01. Assessment. Pursuant to Section 33-3723, Idaho Code, the rural physician incentive fee assessed to, and required to be paid by, all state-supported medical students who are preparing to be physicians in the fields of medicine or osteopathic medicine shall be equal to four percent (4%) of the average annual medical support fee paid by the State on behalf of each such student. ()

02. Annual Collection. The rural physician incentive fee assessed by the Board shall be collected by the Office of the State Board of Education annually from each state-supported student during each year of undergraduate medical training and shall be deposited into the state treasury as required by Section 33-3723, Idaho Code. ()

03. Deposits. Income and earnings from the rural physician incentive fund shall be returned to such fund. ()

014. ELIGIBILITY FOR A RURAL PHYSICIAN INCENTIVE PROGRAM AWARD.

01. Eligibility Requirements. A physician who meets the following requirements is eligible to apply for a Rural Physician Incentive Program award: ()

a. During the period covered by the award, the physician must be a rural physician providing primary care medicine in an eligible area. A physician may provide patient care services in primary care medicine in more than one (1) eligible area; ()

b. The physician must be a Doctor of Medicine (M.D.) or Doctor of Osteopathic

Medicine (D.O.) and have completed an Accreditation Council of Graduate Medical Education or American Osteopathic Association residency; ()

c. The physician must be Idaho Medical Board certified/Board eligible, hold an unrestricted Idaho medical license, and be able to meet the medical staffing requirements of the sponsoring organization when applicable; and ()

d. The physician must be eligible to care for Medicare and Medicaid patients within the scope of the physician's primary care medicine practice. ()

02. Ineligibility. Notwithstanding Subsection 014.01 of these rules, a physician shall not be entitled to receive an award under this program if the physician is receiving payments for purposes of repaying qualified medical education debt from another state or from a federal debt repayment program. ()

015. APPLICATION PROCESS.

01. Applications. Applications for the Rural Physician Incentive Program must be on a form prescribed by the Office of the State Board of Education and must include a letter of support, along with supporting documentation establishing the criteria in Subsections 021.01 and 021.02 of these rules, from a sponsoring organization. Applications must be received by the Office of the State Board of Education not earlier than October 1st and not later than December 31st for consideration for the award period beginning July 1st of the next succeeding year. ()

02. Announcement of Award. Announcement of program awards shall be made not later than April 30th each year, with awards to be effective beginning July 1st of that year. Applicants must respond by the date specified in any communication from officials of the Rural Physician Incentive Fund Program. Failure to respond within the time period specified will result in cancellation of the application and forfeiture of the award unless extenuating circumstances can be shown by the applicant. ()

016. SELECTION OF RURAL PHYSICIAN INCENTIVE FUND AWARD RECIPIENTS.

01. Selection of Recipients. The selection of recipients of Rural Physician Incentive Program awards shall be based on ranking and priority of applicants in accordance with the following criteria: ()

a. Priority selection for physicians who were Idaho-resident students and were assessed the rural physician incentive fee and paid into the fund, followed by physicians who were Idaho-residents prior to completing medical school out of the state and who did not contribute to the fund, followed by physicians from other states who were not Idaho-residents; ()

b. Demonstrated physician shortage in the eligible area to be benefitted; ()

c. Demonstrated physician recruiting difficulties in the eligible area to be benefitted; and ()

d. Support of the medical community and community leaders in the eligible area. ()

02. Relevant Factors. In reviewing and weighing these criteria, all relevant factors shall be considered. ()

03. Debt Payments Not Accepted. If a physician selected for an award of debt payments does not accept the award in the manner provided in these rules, then the award shall be awarded to the next eligible applicant who has not received an award. ()

017. MONETARY VALUE OF THE AWARD.

01. Award Amounts. A physician selected to receive a Rural Physician Incentive Program award shall be entitled to receive qualified medical education debt repayments for a period not to exceed five (5) years in such amount as is determined annually. The award shall not exceed the qualified medical education debt incurred by the recipient, and the maximum amount of educational debt repayments that a rural physician may receive shall be fifty thousand dollars (\$50,000) over such five (5) year period. Payments shall be limited to a maximum of ten thousand dollars (\$10,000) in a single year. ()

02. Establishing Award Amounts. Award amounts shall be established annually based on recommendations of the oversight committee utilizing such factors as availability of funding, the number of new applicants, and the hours an award recipient will devote to providing primary care services in an eligible area. ()

03. Repayment of Qualified Medical Education Debt. All qualified medical education debt repayments shall be paid directly to the financial organization holding such debt. ()

04. Incentive Fund. Pursuant to Section 33-3725, Idaho Code, the total of all awards from the rural physician incentive fund contractually committed in a year shall not exceed the annual amount deposited in the rural physician incentive fund that same year. ()

05. Annual Adjustments. An award payment to a recipient in a single year is not guaranteed or assured in subsequent years and may be increased or reduced. Annual award payments for new and existing award recipients will be announced no later than April 30th of each year. ()

018. ANNUAL CONTRACT.

01. Annual Contract. An award recipient physician must enter into an annual contract to be eligible for qualified medical education debt repayments. ()

02. Verification of Eligibility. Prior to entering into a contract covering a new award year, an award recipient must verify that he has met and will continue to meet the award eligibility requirements specified in this rule. Annual verification of continued eligibility must be on a form provided by OSBE and submitted to OSBE no later than December 31st each year. ()

03. Award Recipient Liability. Pursuant to Section 33-3725, Idaho Code, the contract must provide that the award recipient is liable to the Board for the award payments made on his behalf should the recipient cease to practice in the eligible area during the contract period or fail to perform according to the terms of the contract. ()

019. FRAUDULENT INFORMATION.

Providing false information on any application or document submitted under this chapter is grounds for declaring the applicant ineligible. Any and all funds determined to have been acquired on the basis of fraudulent information must be returned to the rural physician incentive fund. This Section shall not limit other remedies which may be available for the filing of false or fraudulent applications. ()

020. APPEAL PROCEDURE.

01. Filing an Appeal. Any Idaho Rural Physician Incentive Program award applicant or recipient adversely affected by a decision made under provisions of these rules may appeal such adverse decision as follows: ()

a. The Idaho Rural Physician Incentive Program applicant or recipient must appeal no later than thirty (30) days following notice of the decision. The written statement must include a statement of the reason the applicant or recipient believes the decision should be changed or overturned. ()

b. The appeal must be submitted to the President of the Board. The Board must acknowledge receipt of the appeal within seven (7) days. The President of the Board may or may not agree to review the appeal, or may appoint a subcommittee of three (3) persons to review the appeal. ()

02. Transmittal to Subcommittee. If the appeal is transmitted to the subcommittee, the subcommittee will review the appeal and submit a written recommendation to the President of the Board within fifteen (15) days from the time the subcommittee receives the appeal document. The applicant or recipient initiating the appeal will be notified by the chairperson of the subcommittee of the time and place when the subcommittee will consider the appeal and will be allowed to appear before the subcommittee to discuss the appeal. ()

03. Subcommittee Recommendations. Following the subcommittee's decision, the President of the Board will present the subcommittee's recommendation to the full Board at the next regularly scheduled meeting of the Board. The applicant or recipient initiating the appeal may, at the discretion of the President of the Board, be permitted to make a presentation to the Board. ()

04. Board Decision. The decision of the Board is final, binding, and ends all administrative remedies, unless otherwise specifically provided by the Board. The Board will inform the applicant or recipient in writing of the decision of the Board. ()

021. -- 999. (RESERVED).

IDAPA 08 - DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 33-107, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

According to surveys and testimony given to the Idaho Legislature, Idaho has a lack of consistency, reliability and validity in measuring teacher performance. Both the standards and procedures by which teachers are being evaluated have been found to lack consistency from one district to the next and often within a district from one school to another. Many teachers across Idaho have expressed concerns about the quality, fairness, consistency and reliability of teacher evaluation systems currently being used in their school district. Part of the recommendations made by the Teacher Evaluation Task Force included making changes to Idaho Administrative code, IDAPA 08.02.02. - Section 120, Local District Evaluation Policy. The changes establish state wide minimum standards for a fair, thorough, consistent and efficient system for evaluating teacher performance in Idaho based on Dr. Charlotte Danielson's Framework For Teaching. Dr. Danielson is a nationally recognized expert on school improvement. Danielson developed the Framework for Teaching as a guide to help teachers become more effective and help them focus on areas in which they could improve. The framework groups teachers' responsibilities into four major areas, which are clearly defined, and then further divided into components that highlight the practice of effective teaching.

There are no changes to the pending rule, therefore, it is being adopted as proposed. The complete text of the proposed rule was published in the June 3, 2009 Idaho Administrative Bulletin, Vol. 09-6, pages 30 through 33.

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:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions

concerning this pending rule, contact Nick Smith at 208-332-6959.

DATED this 21st Day of August, 2009.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 33-107, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than Wednesday, June 17, 2009.

The hearing site(s) 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:

According to surveys and testimony given to the Idaho Legislature, Idaho has a lack of consistency, reliability and validity in measuring teacher performance. Both the standards and procedures by which teachers are being evaluated have been found to lack consistency from one district to the next and often within a district from one school to another. Many teachers across Idaho have expressed concerns about the quality, fairness, consistency and reliability of teacher evaluation systems currently being used in their school district.

Part of the recommendations made by the Teacher Evaluation Task Force included making changes to Idaho Administrative code, IDAPA 08.02.02. - Section 120, Local District Evaluation Policy. The changes establish state wide minimum standards for a fair, thorough, consistent and efficient system for evaluating teacher performance in Idaho based on Dr. Charlotte Danielson's Framework For Teaching. Dr. Danielson is a nationally recognized expert on school improvement. Danielson developed the Framework for Teaching as a guide to help teachers become more effective and help them focus on areas in which they could improve. The framework groups teachers' responsibilities into four major areas, which are clearly defined, and then further divided into components that highlight the practice of

effective teaching.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the recommendations for change were proposed by the Teacher Evaluation Task Force which was comprised of a variety of stakeholders. These revisions were then presented for public comment a number of times throughout the state. After receiving public comment, the teacher Evaluation Task Force revised their recommendations as a result of the public comments received during the statewide tour. If necessary, the Teacher Evaluation Task Force will work together with the State Department of Education to refine and address the public comment received after the close of the official public comment period.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nick Smith, Deputy Superintendent of School Support Services, at 208-332-6959.

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, June 24, 2009.

DATED this 23rd Day of April, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

120. LOCAL DISTRICT EVALUATION POLICY.

Each school district board of trustees will develop and adopt policies for teacher performance evaluation in which criteria and procedures for the evaluation of certificated personnel are established research based and aligned to Charlotte Danielson's Framework for Teaching Second Edition domains and components of instruction. The process of developing criteria and procedures for certificated personnel evaluation will allow opportunities for input from those affected by the evaluation; i.e., trustees, administrators and teachers. The evaluation policy will be a matter of public record and communicated to the certificated personnel for whom it is written.

(4-1-97)()

01. Standards. Each district evaluation model shall be aligned to state minimum standards that are based on Charlotte Danielson's Framework for Teaching Second Edition domains and components of instruction. Those domains and components include: ()

- iv. Contributing to the School and District; ()
- v. Growing and Developing Professionally; and ()
- vi. Showing Professionalism. ()

012. Participants. Each district evaluation policy will include provisions for evaluating all certificated employees identified in Section 33-1001, Idaho Code, Subsection 13, and each school nurse and librarian (Section 33-515, Idaho Code). Policies for evaluating certificated employees should identify the differences, if any, in the conduct of evaluations for nonrenewable contract personnel and renewable contract personnel. (4-1-97)

023. Evaluation Policy - Content. Local school district policies will include, at a minimum, the following information: (4-1-97)

a. Purpose -- statements that identify the purpose or purposes for which the evaluation is being conducted; e.g., individual instructional improvement, personnel decisions. (4-1-97)

b. Evaluation criteria -- statements of the general criteria upon which certificated personnel will be evaluated. (4-1-97)

c. Evaluator -- identification of the individuals responsible for appraising or evaluating certificated personnel performance. The individuals assigned this responsibility should have received training in evaluation. (4-1-97)

d. Sources of data -- description of the sources of data used in conducting certificated personnel evaluations. For classroom teaching personnel, classroom observation should be included as one (1) source of data. (4-1-97)

e. Procedure -- description of the procedure used in the conduct of certificated personnel evaluations. (4-1-97)

f. Communication of results -- the method by which certificated personnel are informed of the results of evaluation. (4-1-97)

g. Personnel actions -- the action, if any, available to the school district as a result of the evaluation and the procedures for implementing these actions; e.g., job status change. Note: in the event the action taken as a result of evaluation is to not renew an individual's contract or to renew an individual's contract at a reduced rate, school districts should take proper steps to follow the procedures outlined in Sections 33-513 through 33-515, Idaho Code in order to assure the due process rights of all personnel. (4-1-97)

h. Appeal -- the procedure available to the individual for appeal or rebuttal when disagreement exists regarding the results of certificated personnel evaluations. (4-1-97)

i. Remediation -- the procedure available to provide remediation in those instances where remediation is determined to be an appropriate course of action. (4-1-97)

j. Monitoring and evaluation. -- A description of the method used to monitor and evaluate the district's personnel evaluation system. (4-1-97)

k. Professional development and training -- a plan for ongoing training for evaluators/administrators and teachers on the districts evaluation standards, tool and process. ()

l. Funding -- a plan for funding ongoing training and professional development for administrators in evaluation. ()

m. Collecting and using data -- a plan for collecting and using data gathered from the evaluation tool that will be used to inform professional development. ()

n. A plan for how evaluations will be used to identify proficiency and define a process that identifies and assists teachers in need of improvement. ()

o. A plan for including all stakeholders including, but not limited to, teachers, board members, and administrators in the development and ongoing review of their teacher evaluation plan. ()

034. Evaluation Policy - Frequency of Evaluation. The evaluation policy should include a provision for evaluating all certificated personnel on a fair and consistent basis. At a minimum, the policy must provide standards for evaluating the following personnel: (4-1-97)

a. First-, second-, and third-year nonrenewable contract personnel will be evaluated at least once prior to the beginning of the second semester of the school year. (4-1-97)

b. All renewable contract personnel will be evaluated at least once annually. (4-1-97)

045. Evaluation Policy - Personnel Records. Permanent records of each certificated personnel evaluation will be maintained in the employee's personnel file. All evaluation records will be kept confidential within the parameters identified in federal and state regulations regarding the right to privacy (Section 33-518, Idaho Code). (4-1-97)

IDAPA 08 - STATE DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0902

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective May 8, 2009, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-1201 and 33-1258, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

This rule change is in response to the Highly Qualified Teacher (HQT) mandate. In order to assist teachers in meeting highly qualified teacher status this immediate rule change is necessary. The traditional route to endorsement for in-service professionals seeking other endorsement areas is not sufficiently meeting the demands of school districts, particularly those in rural areas. These changes are in alignment with No Child Left Behind (NCLB) and allow for additional options to attain an endorsement. The four options include traditional coursework through a college or university, National Board certification, content specific graduate degree, and standardized content testing (Praxis II) with a mentoring component and/or pedagogical assessment. These additional routes expedite the attainment of endorsements for teachers who are needed to teach in areas outside of their current endorsement. Under the alternative authorization provisions these additional routes are available to Idaho school districts requesting endorsement/certification when a professional position cannot be filled with someone who has the correct endorsement/certification and is only valid for up to three years and is nonrenewable. All of these additional options for endorsement bring Idaho rule into further alignment with NCLB and the Highly Qualified Teacher mandate.

Option I - Teacher to New Certification was pre-existing under this section before and is now designated option one and titled accordingly. This option is for initial certification and/or endorsement and is for traditional coursework through a postsecondary institution.

Option II - National Board for adding an endorsement. By earning National Board certification in a content specific area, candidates may add an endorsement in that same content area to a valid certificate.

Option III - Master's degree or higher for adding an endorsement. By earning a graduate degree in a content specific area, candidates may add an endorsement in that same

content area to a valid certificate.

Option IV - Testing and/or Pedagogical Assessment is for endorsement only. Two pathways are available to some candidates, depending upon endorsement(s) already held. Pathway I acknowledges content areas that are closely compatible in pedagogy with an endorsement area the candidate already qualifies and is experienced. This route requires no coursework once content competency has been shown as a result of a passing score on the appropriate Praxis II test and completion of a mentoring component. Pathway II addresses less closely aligned areas and therefore additional pedagogy in content area best practices is required in addition to content knowledge. Both Pathway I and II require a minimum of one year of supervision and mentoring.

Major additions to the alternate route to endorsement were already passed by the Legislature this 2009 session; however, the wording between Pathway I and Pathway II is in need of some minor clarifications. In addition, we are taking this opportunity to delete the “emergency” language. While all requests must still pass through the Professional Standards Commission Authorizations Committee, and districts must still communicate why it is in their best interest to choose this route rather than hire a person who is already appropriately certificated, the district will not need to prove that it is an emergency situation. The only other change is to include the option of awarding a teacher an additional endorsement for attaining a Master’s Degree in a specific content area. Both changes bring the state into greater alignment with Title II-A guidance.

There are no changes to the pending rule, therefore, it is being adopted as proposed. The complete text of the proposed rule was published in the June 3, 2009 Idaho Administrative Bulletin, Vol. 09-6, pages 34 through 36.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Christina Linder at (208) 332-6886 or Katie Rhodenbaugh (208) 332-6885.

DATED this 21st Day of August, 2009.

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

***THE FOLLOWING NOTICE PUBLISHED WITH THE
TEMPORARY AND PROPOSED RULE***

EFFECTIVE DATE: The effective date of the temporary rule is May 8, 2009.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 33-1201 and 33-1258, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than Wednesday, June 17, 2009.

The hearing site(s) 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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule change is in response to the Highly Qualified Teacher (HQT) mandate. In order to assist teachers in meeting highly qualified teacher status this immediate rule change is necessary. The traditional route to endorsement for in-service professionals seeking other endorsement areas is not sufficiently meeting the demands of school districts, particularly those in rural areas. These changes are in alignment with No Child Left Behind (NCLB) and allow for additional options to attain an endorsement. The four options include traditional coursework through a college or university, National Board certification, content specific graduate degree, and standardized content testing (Praxis II) with a mentoring component and/or pedagogical assessment.

These additional routes expedite the attainment of endorsements for teachers who are needed to teach in areas outside of their current endorsement. Under the alternative authorization provisions these additional routes are available to Idaho school districts requesting endorsement/certification when a professional position cannot be filled with someone who has the correct endorsement/certification and is only valid for up to three years and is nonrenewable. All of these additional options for endorsement bring Idaho rule into further alignment with NCLB and the Highly Qualified Teacher mandate.

Option I - Teacher to New Certification was pre-existing under this section before and is now designated option one and titled accordingly. This option is for initial certification and/or endorsement and is for traditional coursework through a postsecondary institution.

Option II - National Board for adding an endorsement. By earning National Board certification in a content specific area, candidates may add an endorsement in that same

content area to a valid certificate.

Option III - Master's degree or higher for adding an endorsement. By earning a graduate degree in a content specific area, candidates may add an endorsement in that same content area to a valid certificate.

Option IV - Testing and/or Pedagogical Assessment is for endorsement only. Two pathways are available to some candidates, depending upon endorsement(s) already held. Pathway I acknowledges content areas that are closely compatible in pedagogy with an endorsement area the candidate already qualifies and is experienced. This route requires no coursework once content competency has been shown as a result of a passing score on the appropriate Praxis II test and completion of a mentoring component. Pathway II addresses less closely aligned areas and therefore additional pedagogy in content area best practices is required in addition to content knowledge. Both Pathway I and II require a minimum of one year of supervision and mentoring.

Major additions to the alternate route to endorsement were already passed by the Legislature this 2009 session; however, the wording between Pathway I and Pathway II is in need of some minor clarifications. In addition, we are taking this opportunity to delete the "emergency" language. While all requests must still pass through the Professional Standards Commission Authorizations Committee, and districts must still communicate why it is in their best interest to choose this route rather than hire a person who is already appropriately certificated, the district will not need to prove that it is an emergency situation. The only other change is to include the option of awarding a teacher an additional endorsement for attaining a Master's Degree in a specific content area. Both changes bring the state into greater alignment with Title II-A guidance.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

An error was discovered after the alternate authorization rule change was approved by the 2009 Idaho Legislature. In order to correct the error before teachers beginning the alternate route to endorsement, this rule change is being run as temporary and proposed.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. This proposed rule change was brought before the Standards Committee of the Professional Standards Commission. It was presented and discussed, amended, and revisited. The final version was then proposed to the entire Professional Standards Commission for a vote.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Christina Linder at (208) 332-6886 or Katie Rhodenbaugh (208) 332-6885.

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, June 24, 2009.

DATED this 27th Day of April, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

043. ALTERNATIVE AUTHORIZATION – TEACHER TO NEW CERTIFICATION (EFFECTIVE JULY 1, 2006).

The purpose of this alternative authorization is to allow Idaho school districts to request ~~emergency~~ endorsement/certification when a professional position cannot be filled with someone who has the correct endorsement/certification. Alternative authorization in this area is valid for up to three (3) years and is nonrenewable. (5-8-09)(____)

01. Initial Qualifications. Prior to application, a candidate must hold a Bachelor's degree, and a valid Idaho teacher certificate without full endorsement in content area of need. The school district must ~~declare an emergency and~~ provide supportive information attesting to the ability of the candidate to fill the position. (3-20-04)(____)

02. Alternative Route Preparation Program. (3-20-04)

a. Option I - Teacher to New Certification/Endorsement. (5-8-09)

i. Candidate will work toward completion of the alternative route preparation program through a participating college/university, and the employing school district. Candidate must complete a minimum of nine (9) semester credits annually to be eligible for extension of up to a total of three (3) years. (3-20-04)

ii. The participating college/university shall provide procedures to assess and credit equivalent knowledge, dispositions, and relevant life/work experiences. (3-20-04)

iii. Candidate shall meet all requirements for the endorsement/certificate as provided herein. (3-20-04)

b. Option II - National Board (endorsement only). By earning National Board certification in content specific areas teachers may gain endorsement in a corresponding subject area. (5-8-09)

c. Option III - Master's degree or higher (endorsement only). By earning a graduate

degree in a content specific area, candidates may add an endorsement in that same content area to a valid certificate. ()

ed. Option ~~III~~IV - Testing and/or Assessment (endorsement only). Two (2) pathways are available to some teachers, depending upon endorsement(s) already held. (5-8-09)()

i. Pathway 1 - Endorsements may be added through state-approved testing ~~only~~; ~~provided that~~ and a mentoring component. ~~¶~~The appropriate test ~~is~~ must be successfully completed within the first year of authorization in an area closely compatible with an endorsement for which they ~~candidate~~ already ~~qualifyies~~ and ~~are~~ is experienced. Additionally requires the successful completion of a one (1)-year state-approved mentoring component. (5-8-09)()

ii. Pathway 2 - Endorsements may be added through state-approved testing ~~provided that~~ in an area less closely compatible with an endorsement for which the candidate already qualifies and is experienced. ~~¶~~The appropriate test ~~is~~ must be successfully completed within the first year of the authorization ~~in an area closely compatible with an endorsement for which a teacher already qualifies and is experienced~~. Additionally requires the successful completion of a one (1)-year state-approved mentoring component and passing a final pedagogy assessment.³ (5-8-09)()

IDAPA 08 - STATE DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0903

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-1201 and 33-1258, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Section 021: This rule change responds to a statewide challenge in meeting federal guidelines for Highly Qualified status and teacher shortages. In light of increased math and science graduation requirements, it is clear that the state may be facing an even greater shortage in these core content areas. This rule change proposes an avenue to head off a dramatic deficiency. It also allows for more local control and flexibility in meeting certification requirements, especially in consideration of rural districts that have difficulty in hiring and retaining qualified support personnel.

This rule change allows endorsements to be added to Professional Technical certificates. Up to this point, Professional Technical Education (PTE) issued full certificates but only in technical content areas. This will allow our technical education teachers to become highly qualified in core content area endorsements (math, science, language arts, etc.) so they can be highly qualified and take on additional assignments. This will particularly assist rural districts, provide students more options for meeting graduation requirements, and allow for more flexibility in assigning PTE certified teachers.

Section 024: In 2005 Idaho redesigned the social studies endorsement to meet the mandate of No Child Left Behind. An interdisciplinary endorsement was no longer sufficient; content expertise was to be proven in all four of the core content areas contained within the endorsement – government, economics, geography, and history. Though the original design intended to satisfy these requirements making social studies endorsed teachers highly qualified in all of these areas, it was found unacceptable to the US Department of Education (USDOE).

Because of the widely rural nature of Idaho, having teachers who can teach in more than

one subject area is an absolute necessity. In accordance with direction given from the USDOE, changes have been made to the endorsement to bring the integrated social studies endorsement into compliance with highly qualified status in all four of the core content areas.

Section 027: This rule change is in response to a need for more uniform language. The term “provisional” is used erroneously to describe what is truly an “interim” certificate. A “provisional authorization” is granted as a one (1) year waiver whereas an “interim certificate” is granted for a period of three (3) years while educational requirements are actively being sought. This endorsement as it applies to the school nurse is an “interim endorsement” and needs to be worded appropriately.

There are no changes to the pending rule, therefore, it is being adopted as proposed. The complete text of the proposed rule was published in the June 3, 2009 Idaho Administrative Bulletin, Vol. 09-6, pages 37 through 41.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Christina Linder at (208) 332-6886 or Katie Rhodenbaugh (208) 332-6885.

DATED this 26th day of August, 2009.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 33-1258, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than Wednesday, June 17, 2009. The hearing site(s) 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:

Section 021: This rule change responds to a statewide challenge in meeting federal guidelines for Highly Qualified status and teacher shortages. In light of increased math and science graduation requirements, it is clear that the state may be facing an even greater shortage in these core content areas. This rule change proposes an avenue to head off a dramatic deficiency. It also allows for more local control and flexibility in meeting certification requirements, especially in consideration of rural districts that have difficulty in hiring and retaining qualified support personnel.

This rule change allows endorsements to be added to Professional Technical certificates. Up to this point, Professional Technical Education (PTE) issued full certificates but only in technical content areas. This will allow our technical education teachers to become highly qualified in core content area endorsements (math, science, language arts, etc.) so they can be highly qualified and take on additional assignments. This will particularly assist rural districts, provide students more options for meeting graduation requirements, and allow for more flexibility in assigning PTE certified teachers.

Section 024: In 2005 Idaho redesigned the social studies endorsement to meet the mandate of No Child Left Behind. An interdisciplinary endorsement was no longer sufficient; content expertise was to be proven in all four of the core content areas contained within the endorsement – government, economics, geography, and history. Though the original design intended to satisfy these requirements making social studies endorsed teachers highly qualified in all of these areas, it was found unacceptable to the US Department of Education (USDOE).

Because of the widely rural nature of Idaho, having teachers who can teach in more than one subject area is an absolute necessity. In accordance with direction given from the USDOE, changes have been made to the endorsement to bring the integrated social studies endorsement into compliance with highly qualified status in all four of the core content areas.

Section 027: This rule change is in response to a need for more uniform language. The term “provisional” is used erroneously to describe what is truly an “interim” certificate. A “provisional authorization” is granted as a one (1) year waiver whereas an “interim certificate” is granted for a period of three (3) years while educational requirements are actively being sought. This endorsement as it applies to the school nurse is an “interim endorsement” and needs to be worded appropriately.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. This proposed rule change was brought before the Standards Committee of the Professional Standards Commission. It was presented and discussed, amended, and revisited. The final version was then proposed to the entire Professional Standards Commission for a vote.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Christina Linder at (208) 332-6886 or Katie Rhodenbaugh (208) 332-6885.

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, June 24, 2009.

DATED this 27th Day of April, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

021. ENDORSEMENTS.

Holders of a Secondary Certificate or a Standard Elementary Certificate, Standard Occupational Specialist Certificate, and Advanced Occupational Specialist Certificate may be granted endorsements in subject areas as provided herein. An official statement of competency in a teaching area or field is acceptable in lieu of courses for a teaching major or minor if such statements originate in the department or division of the accredited college or university in which the competency is established and are approved by the director of teacher education of the recommending college or university. To add an endorsement to an existing credential, an individual shall complete the credit hour requirements as provided herein and shall also meet or exceed the state qualifying score on appropriate, state approved content, pedagogy and performance assessments. When converting semester credit hours to quarter credit hours, two (2) semester credit hours is equal to three (3) quarter credit hours. (3-16-04)()

(BREAK IN CONTINUITY OF SECTIONS)

024. ENDORSEMENTS M - Z.

01. Marketing Technology Education (6-12). (3-16-04)

a. Twenty (20) semester credit hours to include course work in each of the following areas: Marketing; Management; Economics; Coordination of Cooperative Programs;

Merchandising/Retailing; and Curriculum and Materials Marketing, with remaining credit hours in the field of business. (3-16-04)

- b.** Occupational teacher preparation as provided in Sections 034 through 038. (3-16-04)

02. Mathematics - Basic (6-12). Twenty (20) semester credit hours in Mathematics including course work in Algebra, Geometry, and Trigonometry. Six (6) semester credit hours of computer programming may be substituted for six (6) semester credits in Mathematics. (3-16-04)

03. Mathematics (6-12). Twenty (20) semester credit hours including course work in each of the following areas: Geometry, Linear Algebra, Discrete Mathematics, Probability and Statistics, and a minimum of three (3) semester credit hours of Calculus. Statistics course work may be taken from a department other than the mathematics department. (4-11-06)

04. Music (6-12 or K-12). Twenty (20) semester credit hours to include course work in the following: Theory and Harmony; Aural Skills, Music History; Conducting; Applied Music; and Piano Proficiency (Class Piano or Applied Piano), and Secondary Music Methods/Materials. To obtain a Music K-12 endorsement, applicants holding a Secondary Certificate must complete an elementary music methods course. (4-11-06)

05. Natural Science (6-12). An endorsement in: Biological Science, Physical Science, Physics, Chemistry, Earth Science, Geology, or Agriculture Science and Technology. Twenty-four (24) semester credit hours are required in each endorsement area as follows: (4-11-06)

a. Biological Science Endorsement. Minimum of eight (8) semester credit hours in each of the following areas: Physics, Chemistry, and Earth Science or Geology. (4-11-06)

b. Physics Endorsement. Minimum of eight (8) semester credit hours in each of the following areas: Biology, Chemistry, and Earth Science or Geology. (4-11-06)

c. Chemistry Endorsement. Minimum of eight (8) semester credit hours in each of the following areas: Biology, Physics, and Earth Science or Geology. (4-11-06)

d. Earth Science or Geology Endorsement. Minimum of eight (8) semester credit hours in each of the following areas: Biology, Physics, and Chemistry. (4-11-06)

e. Agriculture Science and Technology Endorsement. Minimum of four (4) semester credit hours in each of the following areas: Biology, Chemistry, Earth Science or Geology, and Physics. Remaining course work must be from the sciences: Biology, Chemistry, Earth Science or Geology, and Physics. (4-11-06)

06. Physics (6-12). Twenty (20) semester credit hours in the area of Physics. (3-16-04)

07. Physical Education (PE) (6-12 or K-12). Twenty (20) semester credit hours to include course work in each of the following areas: Sport, Movement, and Outdoor Skills; Elementary PE Methods; Secondary PE Methods; Student Evaluation in PE; Administration of a PE Program; Safety and Prevention of Injuries; Fitness and Wellness; PE for Special Populations;

Exercise Physiology; Kinesiology/Biomechanics; Sports Psychology or Sociology; Motor Behavior; and Current CPR and First Aid Certification. (3-30-07)

08. Physical Education/Health. Must have an endorsement in both physical education and health. (3-30-07)

09. Physical Science (6-12). Twenty (20) semester credit hours in the area of physical science to include a minimum of eight (8) semester credit hours in each of the following: Chemistry and Physics. (3-16-04)

10. Psychology. Twenty (20) semester credit hours in the area of Psychology. (3-16-04)

11. Social Studies (6-12). Must have an endorsement in History, American Government/Political Science, Economics, ~~Sociology, Psychology,~~ or Geography plus a minimum of ~~twenty (20) semester credit hours of which the following are required: a minimum of six~~ twelve (12) semester credit hours ~~of general U.S. history survey; a minimum of three (3) semester credit hours of American Government. The remaining semester credit hours must include course work from all of the following~~ in each of the remaining core endorsements areas: World History, Geography, Economics, ~~Sociology,~~ and ~~Psychology~~ American Government/Political Science. (4-11-06)()

12. Sociology (6-12). Twenty (20) semester credit hours in the area of Sociology. (3-16-04)

13. Sociology/Anthropology (6-12). Twenty (20) semester credit hours including a minimum of six (6) semester credit hours in each of the following: Anthropology and Sociology. (3-16-04)

14. Technology Education (6-12). (3-16-04)

a. Twenty (20) semester credit hours to include course work in each of the following areas: Communication Technology; Computer Applications; Construction Technology; Electronics Technology; Manufacturing Technology; Power, Energy and Transportation; and Principles of Technology. (3-16-04)

b. Occupational teacher preparation as provided in Sections 034 through 038. (3-16-04)

(BREAK IN CONTINUITY OF SECTIONS)

027. PUPIL PERSONNEL SERVICES CERTIFICATE.

Persons who serve as school counselors, school psychologists, speech-language pathologists, school social workers, school nurses and school audiologists are required to hold the Pupil Personnel Services Certificate, with the respective endorsement(s) for which they qualify.

(3-16-04)

01. Counselor Endorsement (K-12). To be eligible for a Pupil Personnel Services Certificate endorsed Counselor K-12, a candidate must have satisfied the following requirements. The Pupil Personnel Services Certificate with a Counselor endorsement is valid for five (5) years. Six (6) semester credit hours are required every five (5) years in order to renew the endorsement. (5-8-09)

a. Hold a master's degree and provide verification of completion of an approved program of graduate study in school guidance and counseling from a college or university approved by the Idaho State Board of Education or the state educational agency of the state in which the program was completed. The program must include successful completion of seven hundred (700) clock hours of supervised field experience, seventy-five percent (75%) of which must be in a K-12 school setting. Substantial amounts of this K-12 experience must be in each of the following levels: elementary, middle/junior high, and high school. Previous school counseling experience may be considered to help offset the field experience clock hour requirement. (5-8-09)

b. An institutional recommendation is required for a Counselor K-12 Endorsement. (5-8-09)

02. School Psychologist Endorsement. This endorsement is valid for five (5) years. Six (6) credits are required every five (5) years in order to renew the endorsement. To be eligible for initial endorsement, a candidate must complete a minimum of sixty (60) graduate semester credit hours which must be accomplished through one (1) of the following options: (3-16-04)

a. Completion of an approved thirty (30) semester credit hour, or forty-five (45) quarter credit hours, master's degree in education or psychology and completion of an approved thirty (30) semester credit hour, or forty-five (45) quarter credit hour, School Psychology Specialist Degree program. (3-16-04)

b. Completion of an approved sixty (60) semester credit hour, or ninety (90) quarter credit hour, master's degree program in School Psychology. (3-16-04)

c. Completion of an approved sixty (60) semester credit hour, or ninety (90) quarter credit hour, School Psychology Specialist degree program which did not require a master's degree as a prerequisite, with laboratory experience in a classroom, which may include professional teaching experience, student teaching or special education practicum, and completion of a minimum twelve hundred (1,200) clock-hour internship within a school district under the supervision of the training institution and direct supervision of a certificated school psychologist. (5-8-09)

03. School Nurse Endorsement. This endorsement is valid for five (5) years. Six (6) credits are required every five (5) years in order to renew the endorsement. Initial endorsement may be accomplished through completion of *the following either requirements in Subsections 027.03.a. or 027.03.b. in addition to the requirement of Subsection 027.03.c.* (~~3-16-04~~)()

a. The candidate must possess a valid nursing (RN) license issued by the Idaho State Board of Nursing, and a bachelor's degree in nursing, education, or a health-related field from an

accredited institution. (5-8-09)

b. The candidate must possess a valid professional nursing (RN) license issued by the Idaho State Board of Nursing and have completed nine (9) semester credit hours from a university or college in at least three (3) of the following areas: (5-8-09)

i. Health program management; (5-8-09)

ii. Child and adolescent health issues; (5-8-09)

iii. Counseling, psychology, or social work; or (5-8-09)

iv. Methods of instruction. (5-8-09)

c. Additionally, each candidate must have two (2) years' full-time (or part-time equivalent) school nursing, community health nursing, or any area of pediatric, adolescent, or family nursing experience. (5-8-09)

04. Provisional Interim Endorsement - School Nurse. This certificate will be granted for those who do not meet the educational and/or experience requirements but who hold a valid professional nursing (RN) license in Idaho. An Interim Certificate - will be issued for three (3) years while the applicant is meeting the educational requirements, and it is not renewable. (~~5-8-09~~)()

05. Speech-Language Pathologist Endorsement. This endorsement is valid for five (5) years. Six (6) credits are required every five (5) years in order to renew the endorsement. Initial endorsement will be issued to candidates who possess a master's degree from an accredited college or university in a speech/language pathology program approved by the State Board of Education, and who receive an institutional recommendation from an accredited college or university. (3-16-04)

06. Audiology Endorsement. This endorsement is valid for five (5) years. Six (6) credits are required every five (5) years in order to renew the endorsement. Initial endorsement will be issued to candidates who possess a master's degree from an accredited college or university in an audiology program approved by the State Board of Education, and who receive an institutional recommendation from an accredited college or university. (3-16-04)

07. School Social Worker Endorsement. This endorsement is valid for five (5) years. Six (6) credit hours are required every five (5) years in order to renew the endorsement. Initial endorsement may be accomplished through possession of a social work certificate issued by the Idaho Bureau of Occupational Licenses, an institutional recommendation, and completion of one (1) of the following options: (3-16-04)

a. A master's degree in social work from an Idaho college or university approved by the State Board of Education, or a master's degree in social work from an out-of-state college or university. The program must be currently approved by the state educational agency of the state in which the program was completed. (3-16-04)

b. A master's degree in guidance and counseling, sociology, or psychology plus thirty (30) semester credit hours of graduate work in social work education, including course work in all the following areas: understanding the individual; casework method; field placement; social welfare programs and community resources; and research methods. (3-16-04)

08. Interim Endorsement-Speech Language Pathologist. This certificate will be granted for those who do not meet the educational requirements but who hold a bachelor's degree in Speech language pathology and are pursuing a master's degree in order to obtain the pupil personnel services certificate endorsed in speech language pathology. An Interim Certificate will be issued for three (3) years while the applicant is meeting the educational requirements, and it is not renewable. ()

IDAPA 08 - STATE BOARD AND DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0904

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-1254 and 33-1258, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

With the exponential growth of online course offerings throughout the state, a need to create a set of standards for those teaching in an online environment was identified. These standards will be the framework for creating a new endorsement to be added to teaching certificates. The endorsement will not be mandated immediately by the state in order to teach online, but many of our virtual schools are interested in making it a requirement for all of their teachers. The amended version of these standards is herein incorporated by reference into these rules.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 5, 2009 Idaho Administrative Bulletin, Vol. 09-8, pages 31 & 32.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Christina Linder at (208) 332-6886 or Katie Rhodenbaugh at (208) 332-6885.

DATED this 13th day of November, 2009.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 Sections 33-1254 and 33-1258, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than Wednesday, August 19, 2009.

The hearing site(s) 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:

Past trends indicate, and current forecasts project, continued growth in online virtual schools and programs aimed at K-12 learners (Hassel & Terrell, 2004; Long, 2004; O’Gorman, 2005; Southern Regional Education Board [SREB], 2007). Forty-four states currently offer either state supplemental programs, full-time online programs or both. Increases in enrollments of 50% from fall 2007 to fall 2008 have been reported by one-third of supplemental programs (Watson, Gemin & Ryan, 2008). Idaho K-12 student enrollments in distance learning courses and programs continue to increase exponentially. In Fall 2008 over 10,000 Idaho kids were enrolled in online learning courses for either a portion or all of their school day. This spring that number rose to 15,000 students. Forces fueling the growing enrollments include funding shortages, outdated facilities (Clark, 2001; Fulton, 2002), and policy initiatives supportive of expanded opportunities for alternative routes to education (Hassell & Terrell, 2004; U. S. Department of Education, 2004; Web-Based Education Commission, 2000).

Many virtual schools have responded to this emerging need by training their own teachers. While this model can be useful for contextualized training to a specific environment, it also poses a resource burden on schools not prepared to train both teachers and children. It also creates issues with accountability and consistency in training. Historically, initial teacher training has been the realm of higher education. However, without standards for online teachers, teacher education programs are left having to develop their own guidelines and competencies to map to their coursework, resulting in inconsistencies in the quality of training provided to teachers.

With the exponential growth of online course offerings throughout the state, a need to create a set of standards for those teaching in an online environment was identified. These standards will be the framework for creating a new endorsement to be added to teaching certificates. The endorsement will not be mandated immediately by the state in order to teach online, but many of our virtual schools are interested in making it a requirement for all of their teachers. The amended version of these standards is herein incorporated by

reference into these rules.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. This proposed rule change was brought before the Standards Committee of the Professional Standards Commission. It was presented and discussed, amended, and revisited. The final version was then proposed to the entire Professional Standards Commission for a vote.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Christina Linder at (208) 332-6886 or Katie Rhodenbaugh (208) 332-6885.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and delivered on or before Wednesday, August 26, 2009.

DATED this 1st Day of July, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

004. INCORPORATION BY REFERENCE.

The State Board of Education adopts and incorporates by reference into its rules: (5-8-09)

01. Incorporated Document. The Idaho Standards for the Initial Certification of Professional School Personnel as approved ~~in August~~ on June 18, 2008⁹. (5-8-09)()

02. Document Availability. ~~The Standards are available at the~~ Copies of this document can be found on the Office of the State Board of Education, ~~650 W. State St., PO Box 83720, Boise, Idaho 83720-0037, and can also be accessed electronically~~ website at <http://www.idahoboardofed.org> <http://www.boardofed.idaho.gov>. (3-16-04)()

03. Incorporated Document. The Standards for Idaho School Buses and Operations as approved on November 7, 2008. (5-8-09)

04. Document Availability. The Standards for Idaho School Buses and Operations are available at the Idaho State Department of Education, 650 W. State St., Boise Idaho, 83702 and can also be accessed electronically at <http://www.sde.idaho.gov>. (5-8-09)

05. Incorporated Document. The Idaho Standards for Public School Driver Education and Training as approved on August 13, 2004. (4-6-05)

06. Document Availability. The Idaho Standards for Public School Driver Education and Training are available at the Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702. (5-3-03)

07. Incorporated Document. The Idaho Standards for Commercial Driving Schools as approved on March 10, 2005. (4-11-06)

08. Document Availability. The Idaho Standards for Commercial Driving Schools is available at the Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702. (3-14-05)

IDAPA 08 - STATE BOARD AND DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0905

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is November 9, 2009. This pending rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Sections 33-105 and 33-107, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The Idaho State Department of Education oversees Idaho Public Driver Education and Training programs. During the 2009 Idaho Legislative Session, private driver education businesses were moved out from under the State Department of Education, to the Division of Occupational Licensure. This move made it necessary to revise the Idaho Operating Procedures for Public Driver Education Programs document to address public driver education programs and their new relationship with private driver education programs. In addition to these needed changes we have worked to better align our standards with national standards for Driver Education and Training programs, specify policies that have been unclear before, and add a few new policies that improve the service we offer Idaho teens. Examples of improvements include clarifying reasons students may be dropped from a course, the duration of a course, hours per day students may be in class and in a car, requiring parent-teacher contact, reducing paperwork for teachers, and disallowing multiple D.U.I. offenders and felony offenders against children from becoming Driver Education and Training instructors.

Changes being made following the public comment period to the operating procedures that are incorporated by reference in this rule are directly related to Section 6.0, Public Schools Contracting with Private Driving Schools, of the Idaho Operating Procedures for Public Driver Education Programs. With the revisions, private driver education businesses will not have to meet public driver education instructor requirements to contract with a public school with the exception that they must have a current criminal history check on an official SDE fingerprint card on file at the Idaho State Department of Education. Instead, private driver education businesses will be able to use instructors that have met the Bureau of Occupational Licensure instructor requirement as outlined in the policies and procedures

for private driver education businesses under the Bureau of Occupational Licensure. Other changes made include minor revisions that address questions of clarity and structure to the rule as it pertains to classroom duration, correspondence courses and reimbursement to school districts. The language that addressed reimbursement to school districts was eliminated due to the fact that it is addressed in statute and was considered redundant.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the August 5, 2009 Idaho Administrative Bulletin, Vol. 09-8, pages 33 through 35.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Brian Johns at (208) 332-6984.

DATED this 13th Day of November, 2009.

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

***THE FOLLOWING NOTICE PUBLISHED WITH THE
TEMPORARY AND PROPOSED RULE***

EFFECTIVE DATE: The effective date of the temporary rule is June 18, 2009.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 33-0105 and 33-107, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 19, 2009.

The hearing site(s) 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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The revised Driver Education Operating Procedures will bring Idaho into better alignment with national standards for Driver Education and Training programs and will specify rules that have been unclear in the past. The revisions also include additions of new rules that will improve the service driver training programs offer to Idaho teens. Examples of improvements include clarifying reasons students may be dropped from a course, the duration of a course, hours per day students may be in class and in a car, requiring parent-teacher contact, reducing paperwork for teachers, and disallowing multiple D.U.I. offenders and felony offenders against children from becoming Driver Education and Training instructors.

The change in IDAPA 08.02.02.230 corrects the name of the Idaho Operating Procedures for Public Driver Education Programs from the previously named Idaho Standards for the Initial Certification of Professional School Personnel. The name change is a result of confusion between the operating procedures and the driver education standards- two separate documents.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This rule is being presented for approval as a temporary and proposed rule due to the passage of S1133 Driving Businesses Licensure Board, which becomes effective July 1, 2009. This bill separates private driver education from public driver education and moves private instructors and schools to the Department of Occupational Licensing. IDAPA 08.02.02.004 and 08.02.02.230 are incompatible with this change; therefore, the Idaho Operating Procedures for Public Driver Education Programs must be updated before July 1, 2009.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because eight state workshops were conducted, allowing more than 250 instructors and private school owners the opportunity to comment and participate in the creation of the operating procedures.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Brian Johns at (208) 332-6984. Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 26, 2009.

DATED this 1st Day of July, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

004. INCORPORATION BY REFERENCE.

The State Board of Education adopts and incorporates by reference into its rules: (5-8-09)

01. Incorporated Document. The Idaho Standards for the Initial Certification of Professional School Personnel as approved in August 2008. (5-8-09)

02. Document Availability. The Standards are available at the Office of the State Board of Education, 650 W. State St., PO Box 83720, Boise, Idaho 83720-0037, and can also be accessed electronically at <http://www.idahoboardofed.org>. (3-16-04)

03. Incorporated Document. The Standards for Idaho School Buses and Operations as approved on November 7, 2008. (5-8-09)

04. Document Availability. The Standards for Idaho School Buses and Operations are available at the Idaho State Department of Education, 650 W. State St., Boise Idaho, 83702 and can also be accessed electronically at <http://www.sde.idaho.gov>. (5-8-09)

05. Incorporated Document. The Idaho *Standards Operating Procedures* for Public *School Driver Education and Training Programs* as approved on ~~August 13~~ ~~June 18~~ ~~November 9,~~ 2004~~9~~. (~~4-6-05~~)(~~6-18-09~~)(~~_____~~)

06. Document Availability. The Idaho *Standards Operating Procedures* for Public *School Driver Education and Training Programs* are available at the Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702 and can also be accessed electronically at <http://www.sde.idaho.gov>. (~~5-3-03~~)(~~_____~~)

07. Incorporated Document. The Idaho Standards for Commercial Driving Schools as approved on March 10, 2005. (4-11-06)

08. Document Availability. The Idaho Standards for Commercial Driving Schools is available at the Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702. (3-14-05)

(BREAK IN CONTINUITY OF SECTIONS)

230. DRIVER EDUCATION.

01. Commercial Schools. Pursuant to Section 004 of these rules, all driver education courses offered in Idaho commercial schools must be conducted in compliance with all the requirements in the Idaho Standards for Commercial Driving Schools, as incorporated. (4-11-06)

02. Public Schools. Pursuant to Section 004 of these rules, all driver education courses offered in Idaho public schools must be conducted in compliance with all the requirements in the Idaho ~~Standards~~ Operating Procedures for Public ~~School~~ Driver Education ~~and Training Programs~~, as incorporated. (4-6-05)()

IDAPA 08 - STATE DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0906

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-105 and 33-1258, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

A professional development opportunity has been developed in a three (3) credit course called Mathematical Thinking for Instruction (MTI). The foundation for the course is to focus on Teaching for Understanding and building mathematical thinking for students. Instructors emphasize five underlying principles of the course and encourage teachers to carry them out back in their classrooms. They include: taking students ideas seriously, pressing students conceptually, encouraging multiple strategies, addressing misconceptions, and focusing on the structure of the mathematics. Participants in the course increase both their content knowledge and their pedagogical knowledge. Three MTI classes have been developed that are grade level specific including; K-3, 4-8, 6-12. Through this rule change, teachers and administrators will be required take one of the three courses developed that most closely aligns with their current assignment prior to September 1, 2014.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 211 and 212.

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:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Christina Linder at (208) 332-6886 or Cindy Johnstone at (208) 332-6932.

DATED this 13th day of November, 2009.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 Sections 33-105 and 33-1258, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than Wednesday, October 21, 2009.

The hearing site(s) 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:

A professional development opportunity has been developed in a three (3) credit course called Mathematical Thinking for Instruction (MTI). The foundation for the course is to focus on Teaching for Understanding and building mathematical thinking for students. Instructors emphasize five underlying principles of the course and encourage teachers to carry them out back in their classrooms. They include: taking students ideas seriously, pressing students conceptually, encouraging multiple strategies, addressing misconceptions, and focusing on the structure of the mathematics. Participants in the course increase both their content knowledge and their pedagogical knowledge.

Three MTI classes have been developed that are grade level specific including; K-3, 4-8, 6-12. Through this rule change, teachers and administrators will be required take one of the three courses developed that most closely aligns with their current assignment prior to September 1, 2014. Teachers are expected to take what is learned in the MTI class back to their classrooms and implement those practices in their instruction. Follow up support is being provided by regional math specialists and online webinars.

A five (5) year timeline has been established for over 10,000 educators to get through the MTI course. The Institute for Developing Mathematical Thinking through the Boise State Center for School Improvement and the State Department of Education are also working with other post secondary educational institutions to ensure the sustainability is in place for after the initial five (5) year phase. At this point only in-service teachers will be required to

participate in this professional development opportunity. Priority will be given to public school math teachers for the first three years. The State Department of Education will provide stipends for the certified instructors, three (3) university credits for participants successfully completing the requirements of the course, and course materials for participants. The funding for this is provided through the Idaho Math Initiative State Funding.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

No fee or charge is being imposed or changed through this rulemaking.

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:

There is no negative impact to the general fund as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the recommendations for change were proposed by the Idaho Math Initiative Task Force (which included administrators, teachers, parents, business representatives, a higher education professor, and a representative from the Idaho School Boards Association) and representatives from the College of Southern Idaho, Idaho State University, Northwestern Nazarene University, University of Idaho, Boise State University, and BYU-Idaho.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Christina Linder at (208) 332-6886.

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 28, 2009.

DATED this the 21st day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

016. IDAHO EDUCATOR CREDENTIAL.

The State Board of Education authorizes the State Department of Education to issue certificates and endorsements to those individuals meeting the specific requirements for each area provided herein. (Section 33-1201, Idaho Code) (3-16-04)

01. Renewal Requirement - Mathematics In-Service Program. In order to recertify, the state approved mathematics instruction course titled “Mathematical Thinking for Instruction”

shall be required. The “Mathematical Thinking for Instruction” course consists of three (3) credits (or forty-five (45) contact hours of in-service training). Teachers and administrators shall take one (1) of the three (3) courses developed that each teacher deems to be most closely aligned with their current assignment prior to September 1, 2014. Successful completion of state approved mathematics instruction course shall be a one-time requirement for renewal of certification for those currently employed in an Idaho school district and shall be included within current requirements for continuing education for renewal. The following individuals listed in Subsection 016.01.a. through 016.01.e. shall successfully complete the “Mathematical Thinking for Instruction” course in order to recertify: ()

a. Each teacher holding an Early Childhood/Early Childhood Special Education Blended Certificate (Birth - Grade 3) who is employed in an elementary classroom (multi-subject classroom, K-8); ()

b. Each teacher holding a Standard Elementary Certificate (K-8); ()

c. Each teacher holding a Standard Secondary Certificate (6-12) teaching in a math content classroom (grade six (6) through grade twelve (12)) including Title I classrooms; ()

d. Each teacher holding a Standard Exceptional Child Certificate (K-12); and ()

e. Each school administrator holding an Administrator Certificate (Pre K-12). ()

02. Out-of-State Applicants. Out-of-state applicants shall take the state approved mathematics instruction course titled “Mathematical Thinking for Instruction” as a certification requirement. The “Mathematical Thinking for Instruction” course consists of three (3) credits (or forty-five (45) contact hours of in-service training). ()

IDAPA 08 - STATE DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0907

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-105, 33-1201, 33-1204 and 33-1206, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The Idaho Math Initiative is offering a professional development opportunity for math educators and administrators. Many teachers that have taken the Mathematical Thinking for Instruction (MTI) course during the first year of implementation have requested additional classes in this field of study. Research shows that in order for a professional development opportunity to be successfully implemented, follow up opportunities must be made available. As part of the math initiative, the follow up support includes working closely with regional math specialists and district instructional coaches. To ensure that qualified educators are conducting this additional follow up support, a mathematical consulting teacher endorsement has been developed. The MTI courses have already been developed and other courses will be developed in cooperation with all of the participating institutions of higher education and the State Department of Education. One primary goal of the endorsement program is to produce exemplar teachers, who will lead and build the knowledge of their colleagues throughout the state of Idaho.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 7, 2009 Idaho Administrative Bulletin, Vol.09-10, pages 213 through 215.

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:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Christina Linder at (208) 332-6886 or Cindy Johnstone at (208) 332-6932.

DATED this 13th day of November, 2009.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 Sections 33-105, 33-1201, 33-1204 and 33-1206, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than Wednesday, October 21, 2009.

The hearing site(s) 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:

The Idaho Math Initiative is offering a professional development opportunity for math educators and administrators. Many teachers that have taken the Mathematical Thinking for Instruction (MTI) course during the first year of implementation have requested additional classes in this field of study. Research shows that in order for a professional development opportunity to be successfully implemented, follow up opportunities must be made available. As part of the math initiative, the follow up support includes working closely with regional math specialists and district instructional coaches. To ensure that qualified educators are conducting this additional follow up support, a mathematical consulting teacher endorsement has been developed.

The MTI courses have already been developed and other courses will be developed in cooperation with all of the participating institutions of higher education and the State Department of Education. One primary goal of the endorsement program is to produce exemplar teachers, who will lead and build the knowledge of their colleagues throughout the state of Idaho.

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the recommendations for change were proposed by the Idaho Math Initiative Task Force which was comprised of a variety of stakeholders. Stakeholder representation included administrators, teachers, parents, higher education representatives, business representatives, and a representative from the Idaho School Boards Association.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Christina Linder at (208) 332-6886 or Cindy Johnstone at (208) 332-6932.

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 28, 2009.

DATED this the 21st Day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

029. CONSULTING TEACHER ENDORSEMENT.

~~01. **Technical Assistance to Teachers.**~~ Consulting teachers provide technical assistance to teachers and other staff in the school district with regard to the selection and implementation of appropriate teaching materials, instructional strategies, and procedures to improve the educational outcomes for students ~~with exceptional needs~~. They may also provide direct intervention for students with significant needs. ~~(4-11-06)()~~

~~021. **Eligibility for a Consulting Teacher Endorsement**~~ **Special Education Consulting Teacher - Eligibility for Endorsement.** To be eligible for a Special Education Consulting Teacher endorsement on the Standard Exceptional Child Certificate, the Early Childhood/Early Childhood Special Education Blended Certificate (Birth-Grade 3), the Standard Elementary Certificate or the Standard Secondary Teaching Certificate, a candidate must have satisfied the following requirements: ~~(3-16-04)()~~

a. Education Requirements. Qualify for or hold a Standard Exceptional Child Certificate and qualify for or hold a Standard Elementary Certificate, Standard Secondary Certificate, or Early Childhood/Early Childhood Special Education Blended Certificate (Birth-Grade 3). Plus completion, in an accredited college or university, of a master's degree or an approved fifth year program as defined by the Idaho State Board of Education, and have

demonstrated competencies in the following areas: Assessment of learning behaviors; Individualization of instructional programs based on educational diagnosis; Behavioral and/or classroom management techniques; Program implementation and supervision; Knowledge in use of current methods, materials and resources available and management and operation of media centers; Ability in identifying and utilizing community or agency resources and support services; and Counseling skills and guidance of professional staff. (4-11-06)

b. Experience. Completion of a minimum of three (3) years' teaching experience, at least two (2) years of which must be in a special education classroom setting. (3-16-04)

c. Letter of Recommendation. Provide a letter of recommendation from the superintendent of a school district that provides verification of demonstrated competencies in the following areas: assessment of learning behaviors; individualization of instructional programs based on educational diagnosis; behavioral and/or classroom management techniques; program implementation and supervision; knowledge in use of current methods, materials and resources available and management and operation of media centers; ability in identifying and utilizing community or agency resources and support services; and counseling skills and guidance of professional personnel and three (3) years of successful experience as a special education teacher working with classroom teachers in elementary or secondary schools; and (4-11-06)

d. Three (3) years of successful experience as a special education teacher working with classroom teachers in elementary or secondary schools. (4-11-06)

02. Mathematics Consulting Teacher - Eligibility for Endorsement. To be eligible for a Mathematics Consulting Teacher endorsement on the Standard Elementary Certificate, Standard Secondary Certificate, Standard Exceptional Child Certificate, or Early Childhood/Early Childhood Special Education Blended Certificate (Birth-Grade 3), a candidate must have satisfied the following requirements: ()

a. Education Requirements. Qualify for or hold a Standard Elementary Certificate, Standard Secondary Certificate, Standard Exceptional Child Certificate, or Early Childhood/Early Childhood Special Education Blended Certificate (Birth-Grade 3) and have demonstrated competencies in the following areas through a minimum of twenty (20) semester credit hours of coursework. ()

b. The competencies are centered on four emphases: Big Ideas in Mathematics, Proof and Argumentation, Mathematics Knowledge for Teaching, and Rich Tasks. Coursework required includes the full series of Mathematics Thinking for Instruction (MTI), Geometry & Measurement, Algebraic Reasoning, and Data Analysis & Probability. ()

c. Experience. Completion of a minimum of three (3) years' teaching experience. ()

d. Assessment of Performance. Prior to being granted the Mathematics Consulting Teacher endorsement, candidates must have proof of successful performance through teacher portfolios. These portfolios will include both quantitative and qualitative measurements such as pre- and post-interviews, teacher knowledge inventories, classroom video, lesson plans, and student work samples. ()

IDAPA 08 - STATE DEPARTMENT OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-0902

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-107 and 33-1612, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The Idaho Content Standards for Social Studies, Physical Education, Health, Chemistry (as part of the Science standards), and Humanities are due for revision as part of the six year curricular materials adoption cycle. Idaho Curricular Materials Adoption Process provides review and evaluation of new curricular materials for these content areas in 2010 and requires the most up to date standards for textbook submission by vendors. Idaho Content Standards were also reviewed and revised in order to meet the needs of the increased high school graduation requirements for the Class of 2013. For each content area, committees were solicited to participate in the revision process.

The standards for Chemistry and Humanities were introduced as temporary rule in the last rulemaking year, because they needed to be used prior to the end of the 2009 legislative session as schools began to review their district curricular needs. They are now being presented in the current rulemaking year as a proposed rule.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the June 3, 2009 Idaho Administrative Bulletin, Vol. 09-6, pages 42 - 44.

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:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Peter Kavouras at 332-6975, Pat Stewart at 332-6929, Rhonda DeMers at 332-6950, Peggy Wenner at 332-6949, or Scott Smith at 332-6952.

DATED this 21st Day of August, 2009.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 33-107, Idaho Code and Section 33-1612, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than Wednesday, June 17, 2009.

The hearing site(s) 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:

The Idaho Content Standards for Social Studies, Physical Education, Health, Chemistry (as part of the Science standard), and Humanities are due for revision as part of the six year curricular materials adoption cycle. Idaho Curricular Materials Adoption Process provides review and evaluation of new curricular materials for these content areas in 2010 and requires the most up to date standards for textbook submission by vendors. Idaho Content Standards were also reviewed and revised in order to meet the needs of the increased high school graduation requirements for the Class of 2013. For each content area, committees were solicited to participate in the revision process.

The standards for Chemistry and Humanities were introduced as temporary rule in the last rulemaking year, because they needed to be used prior to the end of the 2009 legislative session as schools began to review their district curricular needs. They are now being presented in the current rulemaking year as a proposed rule.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because groups of teachers and other interested persons were assembled to revise the standards. The same groups will work together with the State Department of Education to refine and address the public comment received on the course-specific standards after the public comment period.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Peter Kavouras at 332-6975, Pat Stewart at 332-6929, Rhonda DeMers at 332-6950, Peggy Wenner at 332-6949, or Scott Smith at 332-6952. 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, June 24, 2009.

DATED this 24th Day of April, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

004. INCORPORATION BY REFERENCE.

The following documents are incorporated into this rule: (3-30-07)

01. The Idaho Content Standards. The Idaho Content Standards as adopted by the State Board of Education ~~on August 21, 2008~~. Individual subject content standards are adopted in various years in relation to the curricular materials adoption schedule. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov>.

~~(11-3-08)F()~~

- a.** Driver Education, as revised and adopted on August 21, 2008. ()
- b.** Health, as revised and adopted on April 17, 2009. ()
- c.** Humanities Categories: ()
 - i.** Art, as revised and adopted on April 17, 2009; ()
 - ii.** Dance, as revised and adopted on April 17, 2009; ()
 - iii.** Drama, as revised and adopted on April 17, 2009; ()
 - iv.** Interdisciplinary, as revised and adopted on April 17, 2009; ()
 - v.** Music, as revised and adopted on April 17, 2009; ()
 - vi.** World languages, as revised and adopted on April 17, 2009. ()

Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov>. (4-2-08)

09. The Idaho Standards for Infants, Toddlers, Children, and Youth Who Are Blind or Visually Impaired. As adopted by the State Board of Education on October 11, 2007. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov>. (4-2-08)

IDAPA 08 - STATE DEPARTMENT OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-0903

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-105, 33-107, 33-1612, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The Middle Level Task Force was created in May 2007 to examine middle school issues as recommended by the High School Redesign efforts. Two goals of the task force were to ensure all students are prepared to be successful in high school and to increase academic engagement and student accountability for middle school students through a relevant and rigorous curriculum. Desired outcomes included ensuring all students are prepared to be successful in high school and beyond and to improve student preparation for high school and post-secondary education. To achieve these goals and work toward the desired outcomes, the Middle Level Task Force determined that students need to be introduced to the language and concept of a credit system before entering high school. This rule change would require each LEA (local education agency) or district to design and implement a credit system starting no later than the seventh grade.

Changes being made for the pending rule are to provide greater clarity and structure to the rule. Language has been added to the section on Alternate Mechanisms to require that each district forward their mechanism to the Department. The changes to the Limited English Proficient and Special Education sections emphasize that the respective teams make decisions on alternate requirements or accommodations for those students.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the August 5, 2009 Idaho Administrative Bulletin, Vol. 09-8, pages 36 and 37.

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:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Rob Sauer at (208) 332-6934.

DATED this 13th day of November, 2009.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 Sections 33-105, 33-107, and 33-1612, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled during the last two weeks of August and first two weeks of September. Hearings will take place throughout the state. For information, times, and locations about the public hearings please visit www.sde.idaho.gov and click on "Public Comments."

The hearing site(s) 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:

The Middle Level Task Force was created in May 2007 to examine middle school issues as recommended by the High School Redesign efforts. Two goals of the task force were to ensure all students are prepared to be successful in high school and to increase academic engagement and student accountability for middle school students through a relevant and rigorous curriculum. Desired outcomes included ensuring all students are prepared to be successful in high school and beyond and to improve student preparation for high school and post-secondary education. To achieve these goals and work toward the desired outcomes, the Middle Level Task Force determined that students need to be introduced to the language and concept of a credit system before entering high school. The task force recognizes the need for flexibility for individual districts and schools to have credit requirements that can be fitted to their unique needs and structures and has kept this need at the forefront of their considerations.

This rule change would require each LEA (local education agency) or district to design and implement a credit system starting no later than the seventh grade. The effective date is July 1, 2010 (for the 2010-2011 school year). Students entering the 7th grade at the beginning of the 2010-2011 school year would have to meet credit requirements or complete an alternate mechanism to be promoted to the 8th grade.

Each LEA's middle level credit system must include the following minimum requirements:

1. Students shall be required to attain a minimum of 80% of their credits in order to be promoted to the next grade level.
2. Students will not be allowed to lose a full year of credit in one area (i.e. a student would not be able to fail a full year of math).
3. Students not meeting (or in jeopardy of not meeting) credit requirements will be given an opportunity to recover credits or complete an alternate mechanism in order to be eligible for promotion to the next grade level.
4. Attendance is a factor either in the credit system or the alternate mechanism or both.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the recommendations for change were proposed by the Middle Level Task Force which was comprised of a variety of stakeholders. Stakeholder organizations that were also consulted include the Idaho Middle Level Association, Idaho Council on Developmental Disabilities, Idaho Parent-Teacher Association and the Idaho Education Association.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Rob Sauer at (208) 332-6934.

The comment period for this rulemaking has been extended. Anyone may submit written comments regarding this rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Friday, September 11, 2009.

Anyone may submit written comments at the public hearing regarding this rulemaking. Any written comments submitted at a public hearing carry the same weight as oral testimony.

DATED this 1st Day of July, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

107. ~~(RESERVED)~~ MIDDLE LEVEL CREDIT SYSTEM.

A school district or LEA must implement a credit system no later than grade seven (7) that includes components that address the credit requirements, credit recovery, alternate mechanisms and attendance. The local school district or LEA may establish credit requirements beyond the state minimum. ()

01. Credit Requirements. Each district or LEA credit system shall require students to attain a minimum of eighty percent (80%) of the total credits attempted before the student will be eligible for promotion to the next grade level. Each district or LEA credit system shall require a student to attain, at a minimum, a portion of the total credits attempted in each area in which credits are attempted except for areas in which instruction is less than a school year before the student will be eligible for promotion to the next grade level. ()

02. Credit Recovery. A student who does not meet the minimum requirements of the credit system shall be given an opportunity to recover credits or complete an alternate mechanism in order to become eligible for promotion to next grade level. ()

03. Alternate Mechanism. A school district or LEA may establish an alternate mechanism to determine eligibility for grade level promotion. The alternate mechanism shall require a student to demonstrate proficiency of the appropriate content standards. All locally established mechanisms used to demonstrate proficiency will be forwarded to the State Department of Education. Alternate mechanisms must be re-submitted to the Department when changes are made to the mechanism. ()

04. Attendance. Attendance shall be an element included in the credit system, alternate mechanism or both. ()

05. Special Education Students. The Individualized Education Program (IEP) team for a student who is eligible for special education services under the Individuals with Disabilities Education Improvement Act may, establish alternate requirements or accommodations to credit requirements as are deemed necessary for the student to become eligible for promotion to the next grade level. ()

06. Limited English Proficient (LEP) students. The Educational Learning Plan (ELP) team for a Limited English Proficient (LEP) students, as defined in Subsection 112.04.d.iv. may, establish alternate requirements or accommodations to credit requirements as deemed necessary for the student to become eligible for promotion to the next grade level. ()

IDAPA 08 - STATE DEPARTMENT OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-0905

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-105 and 33-1612, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

This revision to IDAPA 08.02.03.105 includes:

- **The recommendation that the State Board of Education adopt a minimum of 60 hours of instruction per credit.**
- **The recommendation to establish a policy that allows students to earn credit by demonstrating mastery of a subject instead of only being allowed to earn credit through seat time.**
- **The recommendation to allow middle school students to complete high school courses before entering grade nine in all subject areas instead of just Math and Science.**

Changes being made to the pending rule address concerns that were expressed with the mastery provision as well as inconsequential revisions that address questions of clarity and structure to the rule as it pertains to Humanities and Social Studies. In the mastery provision, we have eliminated the specific examples of mastery and will instead make those available through a Q and A document produced by the State Department of Education. The intent of this revision was always to allow local school districts to determine what constitutes mastery of a subject as is evident in the rule language, “as defined and approved by the local school district or LEA.” The correction to the Humanities section includes the change from “world literature” and “world history” back to “literature” and “history” so as to not exclude courses that are based on United State literature and or United States History. The corrections to the Social Studies section reverts back to include the language “Current world affairs and geography will be integrated into all social studies instruction” since concerns were raised about its exclusion and continuing to include it in the rule does not cause any issues.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are

printed in this bulletin. The complete text of the proposed rule was published in Book 1 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 218 through 222.

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:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Nick Smith at (208) 332-6959.

DATED this 13th day of November, 2009.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 Sections 33-105 and 33-1612, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than Wednesday, October 21, 2009.

The hearing site(s) 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:

The State Department of Education continues to field numerous calls regarding the number of instructional hours necessary to grant a high school credit. Currently state law does not define this. This question has become more prevalent as districts look at adopting a variety of different scheduling alternatives to meet the demands of NCLB and the new increased graduation requirements established by the State Board of Education.

To provide districts with the guidance necessary to establish their instructional calendars, as well as for consistency of credit hours for transferability, this rule change will define a credit as a minimum of 60 hours of instruction. The 60 hours is in line with a

Carnegie Unit which is the national standard for contact time with an instructor to earn a credit at the secondary level. This change also includes a waiver process for those districts that would like to require less than 60 hours of total instruction but can substantiate a legitimate reason for doing so. Currently all but three school districts in the state of Idaho require 60 hours of instruction or more per credit.

In addition to establishing a number of hours per credit, this rule change will establish a policy for mastery of a subject. Research and national trends in secondary education are moving many states towards policies that allow for granting credit based on mastery rather than traditional seat time. This change in policy would give districts the flexibility to establish mastery policies that would provide students the opportunity to challenge courses that they are knowledgeable in and focus on courses that they may need more assistance in or on courses where they may want to spend more time exploring.

Currently, IDAPA 08.02.03.105 allows for students at the middle school to earn high school credit in Math and Science courses as long as that course meets the same standards that are required in high school. This rule change will expand this opportunity to all subject areas.

For students who enter high school at the 9th grade level in the Fall of 2009 or later, the minimum number of credits required for graduation is 46 not 45. This error was inadvertently made in a previous rulemaking promulgated under Docket No. 08-0203-0805 and is being corrected here.

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because these rule changes were a result of feedback gained from numerous meetings and presentations on High School Redesign. During the past two years, SDE staff has presented information on High School Redesign and the changes that school districts would be required to implement for the graduating class of 2013 at a number of conferences and regional meetings. During these presentations, the staff received a considerable amount of feedback and suggestions on other changes that districts wanted to see included in this rule. The changes contained in this rule, are a result of that feedback.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nick Smith at (208) 332-6959.

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 28, 2009.

DATED this the 21st day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

105. HIGH SCHOOL GRADUATION REQUIREMENTS.

A student must meet all of the requirements identified in this section before the student will be eligible to graduate from an Idaho high school. The local school district or LEA may establish graduation requirements beyond the state minimum. (5-8-09)

01. Credit Requirements. The State minimum graduation requirement for all Idaho public high schools is forty-two (42) ~~semester~~ credits. The forty-two (42) ~~semester~~ credits must include twenty-five (25) ~~semester~~ credits in core subjects as identified in Paragraphs 105.01.~~ac~~. through 105.01.~~fh~~. All credit-bearing classes must be aligned with state high school standards in the content areas for which standards exist. For all public school students who enter high school at the 9th grade level in Fall 2009 or later, the minimum graduation requirement will be forty-five ~~six~~ (45) ~~semester~~ credits and must include twenty-nine (29) ~~semester~~ credits in core subjects as identified in Paragraphs 105.01.~~ab~~. through 105.01.~~fg~~. (5-8-09)()

a. Credits. (Effective for all students who enter the ninth grade in the fall of 2010 or later.) One (1) credit shall equal sixty (60) hours of total instruction. School districts or LEA's may request a waiver from this provision by submitting a letter to the State Department of Education for approval, signed by the superintendent and chair of the board of trustees of the district or LEA. The waiver request shall provide information and documentation that substantiates the school district or LEA's reason for not requiring sixty (60) hours of total instruction per credit. ()

b. Mastery. Students may also achieve credits by demonstrating mastery of a subject's content standards as defined and approved by the local school district or LEA. ()

~~ac~~. Secondary Language Arts and Communication. Nine (9) ~~semester~~ credits are required. ~~that include e~~Eight (8) ~~semester~~ credits of instruction in Language Arts. Each year of Language Arts shall consist of language study, composition, and literature; ~~including and be~~ aligned to the Idaho Content Standards for the appropriate grade level. ~~o~~One (1) ~~semester~~ credit of instruction in communications consisting of oral communication and technological applications that includes a course in speech, a course in debate, or a sequence of instructional activities that meet the ~~state high school communications~~ Idaho Speech Content ~~s~~Standards requirements. (5-8-09)()

~~bd~~. Mathematics. Four (4) ~~semester~~ credits are required. Secondary mathematics includes Applied Mathematics, Business Mathematics, Algebra, Geometry, Trigonometry, Fundamentals of Calculus, Probability and Statistics, Discrete Mathematics, and courses in mathematical problem solving and reasoning. (5-8-09)

i. If a student completes any required high school course with a grade of C or higher

~~before entering grade nine (9), and if that course meets the same standards that are required in high school, then the student has met the high school content area requirement for such course. However, the student must complete the required four (4) credits of high school math in addition to the courses completed in middle school.~~ (5-8-09)

~~ii.~~ For all public school students who enter high school at the 9th grade level in Fall 2009 or later, six (6) semester credits are required. For such students, secondary mathematics includes instruction in the following areas: (5-8-09)()

~~(1)i.~~ Two (2) ~~semester~~ credits of Algebra I or courses that meet the Idaho Algebra I Content Standards as approved by the State Department of Education; (5-8-09)()

~~(2)ii.~~ Two (2) ~~semester~~ credits of Geometry or courses that meet the Idaho Geometry Content Standards as approved by the State Department of Education; and (5-8-09)()

~~(3)iii.~~ Two (2) ~~semester~~ credits of mathematics of the student's choice. (5-8-09)()

~~(4)iv.~~ Two (2) ~~semester~~ credits of the required six (6) ~~semester~~ credits of mathematics must be taken in the last year of high school. (5-8-09)()

~~ee.~~ Science. Four (4) ~~semester~~ credits are required, two (2) of which will be laboratory based. Secondary sciences include instruction in applied sciences, earth and space sciences, physical sciences, and life sciences. (5-8-09)()

i. Effective for all public school students who enter high school at the 9th grade level in Fall 2009 or later, six (6) ~~semester~~ credits will be required. ()

ii. Secondary sciences include instruction in the following areas: biology, physical science or chemistry, and earth, space, environment, or approved applied science. Four (4) ~~semester~~ credits of these courses must be laboratory based. (5-8-09)()

~~ii.~~ ~~If a student completes any required high school course with a grade of C or higher before entering grade nine (9), and if that course meets the same standards that are required in high school, then the student has met the high school content area requirement for such course. However, the student must complete the required number of semester credits of high school science in addition to the courses completed in middle school.~~ (5-8-09)

~~df.~~ Social Studies. Five (5) ~~semester~~ credits are required, including government (two (2) ~~semester~~ credits), United States history (two (2) ~~semester~~ credits), and economics (one (1) ~~semester~~ credit). ~~Current world affairs and geography will be integrated into all social studies instruction.~~ Courses such as geography, sociology, ~~world affairs~~ psychology, and world history may be offered as electives, but are not to be counted as a social studies requirement. (5-8-09)()

~~eg.~~ Humanities. Two (2) ~~semester~~ credits are required. Humanities courses include instruction in ~~interdisciplinary humanities~~, visual ~~and performing~~ arts, music, theatre, dance, or world language aligned to the Idaho content standards for those subjects. Other courses such as literature, history, philosophy, architecture, or comparative world religions may satisfy the

humanities standards if the course ~~syllabus is approved by the State Department of Education as being aligned with the~~ is aligned to the Idaho Interdisciplinary Humanities Content Standards. (5-8-09)()

fh. Health/Wellness. One (1) ~~semester~~ credit is required. Course must ~~focus on positive health habits~~ be aligned to the Idaho Health Content Standards. (5-8-09)()

02. Achievement Content Standards. Each student shall meet locally established subject area standards (using state content standards as minimum requirements) demonstrated through various measures of accountability including examinations or other measures. (4-2-08)()

063. College Entrance Examination. (Effective for all public school students who enter high school at the 9th grade level in Fall 2009 or later.) A student must take one (1) of the following college entrance examinations before the end of the student's eleventh grade year: COMPASS, ACT or SAT. Scores must be included in the Learning Plan. (5-8-09)

074. Senior Project. (Effective for all public school students who enter high school at the 9th grade level in Fall 2009 or later.) A student must complete a senior project by the end of grade twelve (12). The project must ~~also~~ include a written report and an oral presentation. Additional requirements for a senior project are at the discretion of the local school district or LEA. (5-8-09)()

05. Middle School. If a student completes any required high school course with a grade of C or higher before entering grade nine (9), and if that course meets the same standards that are required in high school, then the student has met the high school content area requirement for such course. However, the student must complete the required number of credits in all high school core subjects as identified in Subsections 105.01.b. through 105.01.g. in addition to the courses completed in middle school. ()

036. Proficiency. Each student must achieve a proficient or advanced score on the Grade 10 Idaho Standards Achievement Test (ISAT) in math, reading and language usage in order to graduate. For all public school students who enter high school at the 9th grade level in the Fall 2009 or later, each student must also achieve a proficient or advanced score on the science portion of the ISAT in order to graduate. A student who does not attain at least a proficient score prior to graduation may appeal to the school district or LEA, and will be given an opportunity to demonstrate proficiency of the content standards through some other locally established mechanism. All locally established mechanisms used to demonstrate proficiency will be forwarded to the State Board of Education for review and information. Districts with alternate measures on file with the Board on the effective date of this rule must re-submit their plans to the Board. Alternate mechanisms must be re-submitted to the Board when changes are made in their plans. (5-8-09)

- a.** Before entering an alternate measure, the student must be: (4-2-08)
 - i.** Enrolled in a special education program and have an Individual Education Plan (IEP); or (3-20-04)

- ii. Enrolled in an Limited English Proficient (LEP) program for three (3) academic years or less; or (3-20-04)
- iii. Enrolled in the fall semester of the senior year. (3-20-04)
- b.** The measure must be: (5-8-09)
 - i. Aligned at a minimum to tenth grade state content standards; (3-20-04)
 - ii. Aligned to the state content standards for the subject matter in question; (5-8-09)
 - iii. Valid and reliable; and (5-8-09)
 - iv. Ninety percent (90%) of the criteria of the measure, or combination of measures, must be based on academic proficiency and performance. (3-20-04)
- c.** A student is not required to achieve a proficient or advanced score on the ISAT if: (5-8-09)
 - i. The student received a proficient or advanced score on an exit exam from another state that requires a standards-based exam for graduation. The state's exit exam must approved by the State Board of Education and must measure skills at the tenth grade level and be in comparable subject areas to the ISAT; (5-8-09)
 - ii. The student completes another measure established by a school district or LEA and received by the Board as outlined in Subsection 105.036; or ~~(5-8-09)~~(____)
 - iii. The student has an IEP that outlines alternate requirements for graduation or adaptations are recommended on the test; (5-8-09)
 - iv. The student is considered an LEP student through a score determined on a language proficiency test and has been in an LEP program for three (3) academic years or less; (5-8-09)

057. Special Education Students. A student who is eligible for special education services under the Individuals With Disabilities Education Improvement Act must, with the assistance of the student's Individualized Education Program (IEP) team, refer to the current Idaho Special Education Manual for guidance in addressing graduation requirements. (4-11-06)

048. Foreign Exchange Students. Foreign exchange students may be eligible for graduation by completing a comparable program as approved by the school district or LEA. (4-11-06)

IDAPA 08 - STATE DEPARTMENT OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-0906

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-116, 33-2002, Idaho Code, and 20 U.S.C, Section 1412, Individuals with Disabilities Education Act.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed changes to this rule provide greater clarity to these rules and reduce confusion. It also removes references to things that Idaho does not or cannot recognize. It also defines and establishes the Idaho Special Education Manual as the official policies, procedures and criteria for special education in Idaho in accordance with federal law.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 223 - 229.

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:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jacque Hyatt at (208) 332-6951.

DATED this 13th day of November, 2009.

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

***THE FOLLOWING NOTICE PUBLISHED WITH THE
THE TEMPORARY AND PROPOSED RULE***

EFFECTIVE DATE: The effective date of the temporary rule is August 20, 2009.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 33-116, 33-2002, Idaho Code, and 20 U.S.C, Section 1412, Individuals with Disabilities Education Act (IDEA).

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than Wednesday, October 21, 2009.

The hearing site(s) 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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed changes to this rule provide greater clarity to these rules and reduce confusion. It also removes references to things that Idaho does not or cannot recognize. It also defines and establishes the Idaho Special Education Manual as the official policies, procedures and criteria for special education in Idaho in accordance with federal law.

In Subsection 109.03, Eligibility for Special Education, references to noncategorical eligibility have been struck; Idaho and IDEA do not have noncategorical eligibility.

This change also removes 109.02.d. which addresses proportionate expenditures for home school students with disabilities. This subsection extends beyond the IDEA regulations which define the requirement for proportionate expenditures based on the number of students with disabilities who are parentally-placed in a private school. Subsection 109.02.d. applies the proportionate expenditure beyond IDEA requirement to include home school students which would be incalculable for the district as well as being in conflict with IDEA and the use of a district's special education funds.

IDEA (20 U.S.C, Section 1412) requires that states and districts establish policies, procedures and criteria – in accordance, Idaho developed the Special Education Manual (the manual was initially developed prior to 2001 and has undergone periodic revisions) to which all Idaho school districts already adhere. Idaho's application for the IDEA grant requires that the state give assurances related to policies and procedures and this will further strengthen these assurances.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, the

Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Compliance with deadlines in governing law or federal programs.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: 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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because changes were in accordance with federal regulation. A number of stakeholders have been included and consulted in updating the Idaho Special Education Manual including, state staff, regional consultants, district special education directors and staff, and parents of students with disabilities and parent organizations supporting parents of children with disabilities.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Jacque Hyatt at (208) 332-6951.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, October 28, 2009.

DATED this the 20th day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

109. SPECIAL EDUCATION.

01. Definitions. The following definitions apply only to Section 109 of these rules. (4-5-00)

a. Adult Student. A student who is eligible for special education, is eighteen (18) years of age or older and to whom special education rights have transferred. (4-5-00)

b. Department. State Department of Education. (4-5-00)

c. Due Process Hearing. An administrative hearing that is conducted to resolve disputes. ()

i. Regular due process hearing regarding issues on any matter related to identification, evaluation, placement, or the provision of a free appropriate public education. ()

ii. For disputes concerning discipline for which shortened time lines are in effect, an expedited due process hearing may be requested in accordance with the Individuals with Disabilities Education Act. ()

ed. Education Agency. Each school district and other public agency that is responsible for providing special education and related services to students with disabilities, including the Department of Juvenile Corrections and the Idaho School for the Deaf and Blind. (4-5-00)

~~**d.** Expedited due process hearing. An administrative hearing to resolve disputes concerning discipline for which shortened time lines are in effect in accordance with the Individuals with Disabilities Education Act. (4-5-00)~~

e. Governing Special Education Requirements. Sections 33-201, 33-2001 through 2002, 33-2004 through 2005, and 33-2010, Idaho Code; Section 109 of these rules; the Individuals with Disabilities Education Act (IDEA), Parts A and B, (20 U.S.C., Sections 1400-1419); IDEA Regulations (34 C.F.R. Part 300); ~~policies and procedures the State Department of Education is required to adopt to meet the eligibility requirements of 20 U.S.C. Section 1412~~ Idaho Special Education Manual; and special education case law that sets precedence in Idaho. (4-5-00)()

~~**f.** Regular due process hearing. An administrative hearing that is conducted to resolve disputes on any matter related to identification, evaluation, placement, or the provision of a free appropriate public education except for disputes concerning discipline for which an expedited hearing may be requested under the Individuals with Disabilities Education Act. Idaho Special Education Manual. Policies and procedures, as approved by the State Board of Education, that the State Department of Education is required to adopt to meet the eligibility requirements of 20 U.S.C. Section 1412 and are consistent with state and federal laws, rules, regulations, and legal requirements. (4-5-00)()~~

g. Special education. Specially designed instruction as defined by the Individuals with Disabilities Education Act or speech-language pathology services to meet the unique needs of a special education student. (4-5-00)

02. Legal Compliance. The State Department of Education and education agencies shall comply with all governing special education requirements. (4-5-00)

a. The Board of Trustees or other comparable governing body of each education agency shall adopt policies and procedures for providing special education services and obtain approval from the State Department of Education for the same. Department approval shall be based on current governing special education requirements. Each education agency shall revise its policies and procedures as necessary to conform with changes in governing special education requirements. (4-5-00)

b. The State Department of Education shall provide education agencies with a sample

set of policies and procedures that is consistent with governing special education requirements. The Department shall monitor all education agencies and private agencies who provide special education services to students with disabilities for compliance with governing special education requirements and adopted policies and procedures. (4-5-00)

c. Each education agency shall ensure that charter schools and alternative schools located in its jurisdiction have nondiscriminatory enrollment practices. Each education agency shall ensure the provision of special education and related services to eligible students enrolled in charter and alternative schools in accordance with governing special education requirements. (4-5-00)

~~**d.** *The child find, services plan, and proportionate expenditure requirements of the Individuals with Disabilities Education Act that apply to students who are voluntarily enrolled in private schools by their parents shall also apply to home school students.*~~ (4-5-00)

ed. Each education agency contracting with a private school or facility shall ensure that the private school or facility is approved by the State Department of Education to provide special education services. The Department may approve a private school or facility to provide special education services upon application to the Department if it: (4-5-00)

- i. Is an accredited school or a licensed rehabilitation center; and (4-5-00)
- ii. Meets minimum health, fire and safety standards; and (4-5-00)
- iii. Is nonsectarian; and (4-5-00)
- iv. Provides special education services consistent with governing special education requirements. (4-5-00)
- v. Any private school or facility aggrieved by the Department's final decision may appeal that decision to the State Board of Education. (4-5-00)

fe. Education agencies shall employ special education and related services professional personnel using certification standards approved by the State Board of Education or licensing standards adopted by the Bureau of Occupational Licensing. Education agencies shall employ individuals who meet the highest entry-level standard that applies to a specific discipline unless there is a shortage of fully qualified candidates for a specific position. If there is a shortage of fully qualified candidates, the education agency shall hire the most qualified individual available who is making satisfactory progress toward meeting the highest entry-level standard within three (3) years. (4-5-00)

gf. Education agencies may employ paraprofessional personnel to assist in the provision of special education and related services to students with disabilities if they meet standards established by the State Department of Education. (4-5-00)

hg. Education agencies shall collect and report data as necessary to meet state and federal requirements concerning special education services, staff or students. Education agencies shall develop, implement and revise district improvement plans as necessary to improve results as

measured by data on goals and indicators for the performance of special education students that are established by the State Department of Education in accordance with the Individuals with Disabilities Education Act. (4-5-00)

h. Education agencies shall establish a team process to problem solve and plan general education interventions to ensure that referrals to special education are appropriate. (4-5-00)

03. Eligibility for Special Education. The State Department of Education shall provide state eligibility criteria for special education services for categorical ~~and noncategorical~~ eligibility consistent with the Individuals with Disabilities Education Act. Education agencies shall consider eligibility under all disability categories set forth in the Idaho Special Education Manual with the exception of developmental delay, which is an optional category. If an education agency elects to use the developmental delay category, it shall consider developmental delay for students ages three (3) through nine (9) using the eligibility criteria adopted by the Department and set forth in the Idaho Special Education Manual. ~~Noncategorical eligibility procedures and criteria may be used only by schools and education agencies that have applied for and been granted a noncategorical eligibility waiver.~~ (4-5-00)()

04. Individualized Education Programs. Each education agency shall develop an individualized education program (IEP) for each student who is eligible for special education. The IEP shall be implemented as soon as possible after it is developed. The total timeline from the date of receipt of written parental consent for an initial assessment to the date of IEP implementation shall not exceed sixty (60) calendar days, excluding periods when regular school is not in session for five (5) or more consecutive school days, unless all parties agree to an extension. A new IEP shall be developed at least annually, on or before the date the previous IEP was developed. (4-5-00)

a. IEP team meetings shall be convened upon reasonable request of any IEP team member at times other than the annual review. If the education agency refuses to convene an IEP team meeting requested by a parent or adult student, the agency shall provide written notice of the refusal. (4-5-00)

b. Education agencies shall document the attendance of all participants at each IEP team meeting. Any participant who does not agree with an IEP team decision regarding a student's educational program may place a minority report in that student's file. A minority report shall not prevent implementation of an IEP team decision. (4-5-00)

c. The IEP team shall determine the student's placement in the least restrictive environment. (5-3-03)

d. At the discretion of the education agency, an individualized family service plan (IFSP) may be used in place of an IEP if: (4-5-00)

i. The child is ages three (3) through five (5), and (4-5-00)

ii. The child's parents are provided with a detailed explanation of the differences between an IFSP and an IEP, and (4-5-00)

- iii. The child's parents provide written consent to use the IFSP, and (4-5-00)
- iv. The IFSP is developed in accordance with IDEA Part B policies and procedures. ~~(5-3-03)~~()
- v. Nothing in this part requires education agencies to develop IFSPs rather than IEPs for three (3) through five (5) year olds nor to implement more than the educational components of the IFSP. (4-5-00)

e. When a student who has been determined eligible for special education, as indicated by a current IEP, transfers from one (1) Idaho education agency to another, the student is entitled to continue to receive special education services. The receiving education agency may accept and implement the existing IEP or may convene an IEP team meeting to develop a new IEP. If a new IEP cannot be developed within five (5) school days, or if the education agency wishes to re-evaluate the child, an interim (short-term) IEP shall be implemented pending development of the standard IEP. (4-5-00)

f. If a student who is eligible for special education in another state transfers to an Idaho education agency, the Idaho education agency shall request a copy of the student's most recent eligibility documentation and IEP within two (2) school days. Within five (5) school days of receipt of the eligibility documentation and IEP, the Idaho education agency shall determine if it will adopt the existing eligibility documentation and IEP. If the education agency disagrees with the existing eligibility documentation, or if the documentation is not available within a reasonable time period, consent for an initial assessment shall be sought. While the assessment and evaluation is in process, the education agency may implement an interim IEP if the parent or adult student agrees. If the parent or adult student does not agree to an interim IEP, the student shall be placed in general education. (4-5-00)

05. Procedural Safeguards. Education agencies will use appropriate procedural safeguards consistent with the Individuals with Disabilities Education Act. (8-4-99)

a. If a parent or adult student disagrees with an individualized education program change or placement change proposed by the district, the parent or adult student may file a written objection to all or parts of the proposed change. If the written objection is postmarked or hand delivered within ten (10) calendar days of the date the parent or adult student receives written notice of the proposed change, the proposed change cannot be implemented. Informal methods such as additional IEP team meetings or voluntary mediation may be used to resolve the disagreement. If these methods fail, the education agency may request a due process hearing to obtain a hearing officer's decision regarding the proposed change. The written objection cannot be used to prevent the education agency from placing a student in an interim alternative educational setting in accordance with IDEA discipline procedures. (4-5-00)

b. Mediation may be requested by an education agency, parent, or adult student, or offered by the State Department of Education at any time. The Department shall screen all such requests to determine appropriateness. Any time a hearing is requested, the Department shall offer mediation using policies and requirements set forth in the Individuals with Disabilities Education Act regulations. If the Department appoints a mediator, the Department *will reimburse the*

~~mediator for an honorarium and travel expenses~~ shall be responsible for compensating the mediator. All mediation participants shall be required to sign a confidentiality pledge. Attorney fees may not be awarded for a mediation that is conducted prior to a request for a due process hearing. (4-5-00)()

c. The State Department of Education shall administer a single-tiered due process hearing system to resolve disputes between education agencies and parents or adult students. When a due process hearing is requested, the superintendent, special education director, or other agency administrator shall inform the agency's board of trustees or other governing body of the request. The education agency shall immediately notify the Department's ~~Bureau~~ Director of Special Education of any request for a due process hearing. Within ten (10) calendar days of a written request for a regular hearing, or within five (5) business days of a written request for an expedited hearing, an impartial hearing officer shall be assigned by the Department. The Department shall maintain a list of trained hearing officers and their qualifications. (4-5-00)()

d. The education agency that is a party to the hearing shall be responsible for compensating the hearing officer and paying for the cost of a verbatim transcript of the hearing. (4-5-00)

e. Due process hearings shall be conducted pursuant to ~~the Idaho Administrative Procedures Act (APA) and the~~ IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," Individuals with Disabilities Education Act (IDEA) requirements, and the Idaho Special Education Manual. In case of any conflict between the IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General" and the IDEA, the IDEA shall supersede the IDAPA 04.11.01, and IDAPA 04.11.01 shall supersede the Idaho Special Education Manual. (4-5-00)()

f. The hearing officer shall issue a written decision that includes findings of fact and conclusions of law within forty-five (45) calendar days of the date a regular hearing is requested, unless a specific extension of this time line is requested by one (1) of the parties and granted by the hearing officer. The hearing officer shall issue a written decision that includes findings of fact and conclusions of law within twenty (20) calendar days of a written request for an expedited hearing, unless a specific extension of this time line has been granted. An extension of the time line for an expedited hearing shall not exceed an additional twenty-five (25) calendar days, and may be granted only if requested by one (1) of the parties and agreed to by both parties. The decision shall be sent to the parent or adult student, the education agency administrator, their respective representatives, and the State Department of Education. (4-5-00)

g. The hearing officer's decision shall be binding unless either party appeals the decision by initiating a civil action. The hearing officer's decision shall be implemented not later than fourteen (14) calendar days from the date of issuance unless an appeal is filed by a parent or adult student or the decision specifies a different implementation date. An appeal to civil court must be filed within forty-two (42) calendar days from the date of issuance of the hearing officer's decision. (4-5-00)

h. During the hearing the education agency shall provide reasonable accommodations as required by federal and state regulations. Disputes concerning reasonable accommodations shall be referred to the Department of Education's Americans with Disabilities Act (ADA)

Committee for resolution. (4-5-00)

i. During the pendency of any due process hearing or civil appeal the child's educational placement shall be determined by the Individuals with Disabilities Education Act "stay put" requirements. (4-5-00)

j. A parent or adult student has the right to an independent educational evaluation (IEE) at public expense if the parent or adult student disagrees with an evaluation obtained by the education agency. Whenever an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, shall be the same as the criteria the education agency uses when it initiates an evaluation, to the extent those criteria are consistent with the parent or adult student's right to an IEE. If an education agency has cost as one (1) of the criteria the education agency uses when it initiates an evaluation, the education agency may apply that criteria to independent educational evaluations. However, the parent or adult student has the right to demonstrate that unique circumstances justify an IEE that falls outside the education agency's cost criteria, and if so demonstrated, that IEE shall be publicly funded. A due process hearing may be initiated by the education agency to determine if the evaluation conducted by the education agency is appropriate. If the final decision of a hearing officer, or civil court, if the hearing officer's decision is appealed, is that the evaluation conducted by the education agency is appropriate, the parent or adult student still has the right to an independent educational evaluation, but not at the education agency's expense. (4-5-00)

k. Student records shall be managed in accordance with IDEA and Family and Educational Rights and Privacy Act regulations governing security, confidentiality, access, maintenance, destruction, inspection and amendment. (4-5-00)

06. Assistive Technology Devices. Education agencies may hold a parent liable for the replacement or repair of an assistive technology device that is purchased or otherwise procured by the education agency if it is lost, stolen, or damaged due to negligence or misuse at home or in another setting outside of school time. (4-5-00)

07. Diplomas and Graduation. School districts shall use a regular diploma for students who are eligible for special education at the completion of their secondary program. The transcript serves as a record of individual accomplishments, achievements, and courses completed. A modified or differentiated diploma or certificate may not be used for students who are eligible for special education unless the same diploma or certificate is granted to students without disabilities. If a student is not granted a regular high school diploma or if a regular high school diploma is granted for completing requirements that are not comparable to regular graduation requirements, a student who is eligible for special education is entitled to receive a free appropriate public education through the semester in which the student turns twenty-one (21) years of age or until the student completes requirements that are comparable to regular graduation requirements, whichever comes first. (4-5-00)

08. Special Education Advisory Panel. The State Superintendent of Public Instruction shall appoint members to serve on the Special Education Advisory Panel. Panel members shall elect annually an individual to serve a one (1) year term as vice-chair followed by a one (1) year term as chair. (4-5-00)

IDAPA 08 - STATE DEPARTMENT OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-0907

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 33-105, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

In 2005, Idaho submitted assessment materials for review under the standards and assessment requirements of the Elementary and Secondary Education Act (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLB). External peer reviewers and U.S. Department of Education staff evaluated Idaho's submission and found it was not in compliance with certain regulatory and statutory requirements. During the 2005-2006 school year, Idaho addressed critical elements summarized in the report findings including that the achievement standards should be reviewed and reorganized to solve the problems and inconsistencies that were revealed and that they be renamed the Idaho Content Standards. Since then, the term "state achievement standards" has been updated in IDAPA 08.02.03.004 to read "Idaho Content Standards." However, the term was not changed elsewhere in rule. The rule change will update the term usage, as well as correct an incorrect citation.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 230 and 231.

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:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Luci Willits at (208) 332-6814.

DATED this 13th day of November, 2009.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 Sections 33-105, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than Wednesday, October 21, 2009.

The hearing site(s) 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:

In 2005, Idaho submitted assessment materials for review under the standards and assessment requirements of the Elementary and Secondary Education Act (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLB). External peer reviewers and U.S. Department of Education staff evaluated Idaho's submission and found it was not in compliance with certain regulatory and statutory requirements. During the 2005-2006 school year, Idaho addressed critical elements summarized in the report findings including that the achievement standards should be reviewed and reorganized to solve the problems and inconsistencies that were revealed and that they be renamed the Idaho Content Standards. Since then, the term "state achievement standards" has been updated in IDAPA 08.02.03.004 to read "Idaho Content Standards." However, the term was not changed elsewhere in rule. The rule change will update the term usage, as well as correct an incorrect citation.

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the simple nature of the changes being made to the rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Luci Willits (208) 332-6814.

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 28, 2009.

DATED this the 21st day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

200. K-12 ~~STATE ACHIEVEMENT~~ IDAHO CONTENT STANDARDS.

As stated in Subsection 105.02 of these Thoroughness rules, all students graduating from Idaho public high schools must meet locally established *achievement content* standards. The standards set forth in Sections ~~250 through 954, inclusive,~~ 004 of this rule are state *achievement content* standards that shall be the minimum standards used by every school district in the state in order to establish a level of academic *achievement content* necessary to graduate from Idaho's public schools. Each school district may set standards more rigorous than these state *achievement content* standards but no district shall use any standards less rigorous than those set forth in these Thoroughness rules. The implementation time and effective date for these *Achievement Content* Standards rules is the graduating senior class of 2005. (3-15-02)()

IDAPA 30 - IDAHO COMMISSION FOR LIBRARIES

30.01.01 - RULES OF THE IDAHO COMMISSION FOR LIBRARIES GOVERNING THE USE OF COMMISSION SERVICES

DOCKET NO. 30-0101-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 33-2503, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

There are no changes to the pending rule, therefore, it is being adopted as proposed. The complete text of the proposed rule was published in the July 1, 2009 Idaho Administrative Bulletin, Vol. 09-7, pages 123 and 124.

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:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ann Joslin, State Librarian, (208) 334-2150.

DATED this 30th day of July, 2009.

Ann Joslin
State Librarian
Idaho Commission for Libraries
325 W. State St.
P. O. Box 83720
Boise, ID 83702
Phone: (208) 334-2150
Fax: (208) 334-4016

***THE FOLLOWING NOTICE PUBLISHED WITH THE
TEMPORARY AND PROPOSED RULE***

EFFECTIVE DATE: The effective date of the temporary rule is **October 24, 2008.**

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 33-2503, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

These temporary rule changes are necessary to clarify grant application procedures and avoid applicant confusion in applying for available funding by eliminating unnecessary references to state documents, and provide a website address. The temporary rule changes clarify the Commission's grant application process procedure, and provide a website address to the Library Services and Technology Act legislation.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

By directing LSTA grant program applicants to utilize forms obtained from the Commission, the rule confers a benefit by assuring that applicants are providing the required information in a timely and accurate manner.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Ann Joslin, State Librarian, (208) 334-2150.

DATED this 12th day of November, 2008.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

004. INCORPORATION BY REFERENCE.

~~01. Federal Law.~~ The Library Services and Technology Act, 20 U.S.C.A. Section 9121, et. seq., as set forth in Title II of the Museum and Library Services Act, Public Law 108-81, effective September 25, 2003. Copies of the Library Services and Technology Act are available at the offices of the Commission and at <http://imls.gov/about/services2003.shtm>.

(4-2-08)()

~~02. **Application Process Guides.** Grants may be made with monies pursuant to procedures set forth in the respective LSTA Guide. Copies of the Guides are available on the Commission's website or at the offices of the Commission.~~ (4-2-08)

~~a. The FY2006 LSTA Guide, effective May 2005. (4-2-08)~~

~~b. The FY2007 LSTA Guide, effective September 2006. (4-2-08)~~

~~c. The FY2008 LSTA Guide, effective August 2007. (4-2-08)~~

(BREAK IN CONTINUITY OF SECTIONS)

023. ~~PROCESS FOR GAINING ACCESS TO THE SERVICE~~ LSTA GRANT PROGRAM.

~~01. **Application Process.** The application process for funds (under the LSTA grant programs described in Sections 020, 021, and 022 of these rules) from each annual allotment is described in the Commission's LSTA Guide, available in print at the Commission offices and on the Commission's website. (4-2-08)~~

~~02. **Application Forms.** All applicants seeking to participate in any LSTA grant program must apply on forms provided by the Commission. (4-2-08)()~~

IDAPA 30 - IDAHO COMMISSION FOR LIBRARIES

30.01.01 - RULES OF THE IDAHO COMMISSION FOR LIBRARIES GOVERNING THE USE OF COMMISSION SERVICES

DOCKET NO. 30-0101-0902

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 33-2503, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule, therefore, it is being adopted as proposed. The complete text of the proposed rule was published in the July 1, 2009 Idaho Administrative Bulletin, Vol. 09-7, pages 125 through 127.

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:

There is no fiscal impact to the general fund as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ann Joslin, State Librarian, (208) 334-2150.

DATED this 30th day of July, 2009.

Ann Joslin
State Librarian
Idaho Commission for Libraries
325 W. State St.
P. O. Box 83720
Boise, ID 83702
Phone: (208) 334-2150
Fax: (208) 334-4016

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 33-2503, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 2009.

The hearing site(s) 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:

The proposed rule is necessary to establish rules regarding the circulation of materials and equipment to eligible blind and physically handicapped persons who are registered with the Idaho Talking Book Service, and to provide for the suspension of services resulting from violations of the rule requirements. The proposed rule provides for patron status, the types of materials and equipment to be loaned, the quantity of materials and the period of time to be loaned, and the procedures for suspending service for repeated violations of the rules.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

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: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), negotiated rulemaking was not conducted prior to the publication of the proposed rule because the proposed rule confers benefits to the identifiable interested parties (i.e., persons with disabilities), and because of the simple nature of the proposed rule change.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ann Joslin, State Librarian, (208) 334-2150.

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 July 22, 2009.

DATED this 19th day of May, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

041. -- ~~9949~~. (RESERVED).

050. TALKING BOOK SERVICE (TBS).

01. Patron Status. ()

a. Active status. To remain active, users must borrow at least one (1) book per year or subscribe to at least one (1) magazine provided through the service. ()

b. Changes of status. The user must notify the Talking Book Service of address changes, a desire to cancel the service, and temporary or permanent service transfer to another state. ()

c. Good standing. To receive a digital player and books, user's account must reflect: ()

i. The current permanent mailing address and contact information; ()

ii. No history of lost machines as defined by library procedures or more than one (1) Recorded Cassette (RC) player currently checked out; and ()

iii. No more than four (4) overdue cassette titles. ()

02. Materials Loaned. ()

a. Formats. Recorded books, magazines, and descriptive videos and discs are loaned free to eligible registered users. The Talking Book Service keeps records of all loans. ()

b. Equipment. Equipment necessary to listen to recorded materials will be loaned for as long as the user meets National Library Service eligibility requirements and is using the equipment to listen to materials provided by the Talking Book Service. Materials received from sources other than the Talking Book Service do not qualify for continuance of service. Playback equipment needing repair must be returned to the Talking Book Service. A replacement will be provided upon request. The user should not attempt to repair the playback equipment or replace the battery. ()

c. Sharing materials. Users may not lend Talking Book Service materials or equipment to other persons. ()

03. Circulation. ()

a. Number of titles loaned. Following is a list by format of the maximum number of titles each user may request. Once a user reaches the established maximum number of titles, no

additional titles will be sent in that format until outstanding titles are returned. A user may request a change in the number of titles received at any time, up to the maximum. ()

i. Cassette books: Unlimited. ()

ii. Digital books: Two (2). ()

iii. Descriptive videos and discs: Two (2). ()

iv. Magazines: Unlimited. ()

b. Loan periods: ()

i. Cassette books: Six (6) weeks. ()

ii. Digital books: Two (2) weeks, with one (1) two-week renewal. ()

iii. Descriptive videos and discs: Two (2) weeks. ()

iv. Magazines in green mailing containers: Two (2) weeks. ()

v. Magazines in cardboard containers: Do not return. ()

c. Overdue materials. Users are urged to return materials promptly so they can be circulated to other patrons. Service for digital books will be suspended if a digital book is more than two (2) weeks overdue. ()

d. Fines. No fines are levied for materials returned later than the circulation due date. ()

e. Returning materials. Materials can be returned free via the United State Postal Service using Free Matter for the Blind mailing cards. Place materials in a mailbox or take them to the Post Office. ()

f. Lost or damaged materials. The user is charged a replacement fee for each lost or damaged descriptive video or disc as outlined in Section 33-2620, Idaho Code, "Failure to Return Borrowed Material." ()

04. Service Suspension. If any of the rules of Section 050 of these rules are repeatedly violated, the user's service may be suspended pursuant to the following suspension procedure: ()

a. Service staff will discuss the violation with the user. ()

b. A warning letter will be sent to the user that summarizes the discussion and the violation. The user will have an opportunity to reply within ten (10) business days. ()

c. If rule violations continue, a second warning letter will be sent citing the earlier

warning letter and listing examples of subsequent violations. The service can be suspended for up to six (6) months. A specific date to reinstate service will be included in this letter. The user will have an opportunity to reply within ten (10) business days. ()

d. When service is reinstated, a letter will be sent notifying the user of reinstatement of service and reminding the user that further documented violations will result in another suspension of service. ()

051. -- 999. (RESERVED).

IDAPA 47 - DIVISION OF VOCATIONAL REHABILITATION

47.01.01 - RULES OF THE IDAHO DIVISION OF VOCATIONAL REHABILITATION

DOCKET NO. 47-0101-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 33-105 and 33-2303, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Adoption of this rule provide consistency with appeals process in rule as well as in the Field Service Manual incorporated by reference in 2008.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 489 through 492.

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:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tracie Bent, Chief Planning and Policy Officer, at (208)332-1582.

DATED this 13th Day of November, 2009.

Tracie Bent
Chief Planning and Policy Officer
State Board of Education
650 West State Street
PO Box 83720-0037
Boise, ID 83720-0037
(208) 332-1582 phone
(208) 334-2632 FAX

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE 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 Sections 33-105, 33-2402, 33-2403, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2009.

The hearing site(s) 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 brings the appeals process, outlined in the Field Service Manual and incorporated by reference, into alignment with the language included in the rule, eliminating confusion cause by the different language.

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the non-controversial nature. The changed language is already a part of the rule, but in a document that is incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tracie Bent at 332-1582.

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 October 28, 2009.

DATED this 28th day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

100. CLIENT/PARTICIPANT APPEALS.

In accordance with 34 CFR Part 361.57, the client/participant appeals process is governed by Section 100 of these rules and is outlined in the Division's agency Field Services Manual that is incorporated by reference into these rules in Subsection 004.01.b. (See <http://www.vr.idaho.gov/>). (2-17-09)

01. Informal ~~Dispute Resolution~~ Appeals Process. ~~Within ten (10) calendar days of notification of the contested action, lack of action or decision, the client/participant may request that an Informal Dispute Resolution be held. The request shall be made in writing to the Regional Manager. The written request should state the reason for the review.~~ The informal administrative review process is an option available to the individual as a proven means likely to result in a timely resolution of disagreements. An individual must request an informal administrative review within ten (10) calendar days of the agency notice regarding the provision or denial of services that are in question. The request must be in writing to the regional manager. The request must describe the complaint. In holding an informal administrative review, the regional manager will function as the administrative review officer and will be responsible for: (5-3-03)()

a. ~~The Regional Manager shall inform the client/participant in writing as to the time, place, and date of the Informal Dispute Resolution. The client/participant may choose to represent himself/herself or may have a representative(s) speak on his/her behalf.~~ Conducting the review within fifteen (15) calendar days following written receipt of a request for such a hearing. (5-3-03)()

b. ~~The Regional Manager will make a decision regarding the specifics of the Informal Dispute Resolution. This decision will be in written form and it will be sent to the client/participant, with a copy in the case file.~~ Advising the individual of their right to have a representative present and encouraging the individual to use the services of CAP. (5-3-03)()

c. Insuring that the review is conducted at a time mutually agreed to by the parties involved that ensures the entire appeals process can be completed within forty-five (45) calendar days, unless the parties agree to a specific extension of time. ()

d. When undue delay is caused by the individual in scheduling an administrative review, the individual will be informed that if the review is not conducted within thirty (30) calendar days following the individual's request for an informal administrative review, the individual's request will be viewed by IDVR as invalid. ()

e. When the individual makes a documented effort to utilize CAP or another selected advocate to resolve the dissatisfaction, the time allowed for conducting an administrative review will be extended accordingly. ()

f. Holding the review at a time and place convenient to the individual, generally at the local IDVR branch office. ()

g. Providing communication methods for those individuals who have a sensory impairment. An interpreter will be provided for those individuals who cannot communicate in English. ()

h. Assuring that the individual is provided transportation to and from the review site, if needed. ()

i. The administrative review officer (regional manager) will attempt to resolve the matter to the satisfaction of the individual, developing a written agreement with the individual at the conclusion of the appeal process. A copy will be sent to the Administrator, Chief of Field Services, the involved counselor(s) and the counselor's supervisor. The results are binding for the agency unless the decision is not permitted by law. The individual may reject the findings of the review and request a formal appeal known as an Impartial Due Process Hearing. ()

02. ~~Mediation. The request shall be made in writing to the Regional Manager. A written request should state the reason for the review. The Mediation must take place within the sixty (60) day requirement for an Impartial Due Process Hearing.~~ **Formal Appeals Process.** The formal appeal process is an option available to any individual who is dissatisfied with any determination made by personnel of IDVR that affects the provisions of vocational rehabilitation services. An individual may request, or if appropriate may request through the individual's representative, a timely review of the determination. Such request must be made within sixty (60) days of the IDVR case management decision resulting in the initial disagreement. The formal appeal process shall include an impartial due process hearing by an impartial hearing officer (IHO). (5-3-03)()

a. A formal hearing is a procedure whereby an individual who is dissatisfied with any determination concerning the provision or denial of IDVR services or the findings of the administrative review may seek a determination of agency action before an impartial hearing officer. ()

b. The individual must request a hearing within ten (10) calendar days of the agency notice regarding the provision or denial of services based upon the conclusion of the administrative review or mediation. The individual may bypass the informal administrative review or mediation process entirely and go directly to the impartial due process hearing (fair hearing). That process will then commence immediately. ()

c. A request for a hearing must be sent in writing to the Chief of Field Services and clearly state the individual's dissatisfaction. ()

d. The hearing shall be conducted within sixty (60) calendar days of receipt of the individual's request for review, unless informal resolution is achieved prior to the 60th day, or the parties agree to a specific extension of time. ()

e. A hearing shall be conducted by an impartial hearing officer selected from the pool of qualified persons identified jointly by the Administrator of IDVR and the State Rehabilitation Council. ()

f. The hearing officer shall issue a written report of the findings and decision of the

hearing within thirty (30) calendar days of the completion of the hearing. ()

g. The decision of the hearing officer shall be considered final by the agency. ()

h. Any party who disagrees with the findings and decisions of an impartial hearing officer shall have the right to bring a civil action with respect to the matter in dispute. The action may be brought in any state court of competent jurisdiction or in a district court of the United States of competent jurisdiction without regard to the amount in controversy. ()

03. Impartial Due Process Hearing. ~~An Impartial Due Process Hearing can be held without an Informal Dispute Resolution or Mediation or if the client/participant is dissatisfied with the result of the Informal Dispute Resolution or Mediation. The Impartial Due Process Hearing will deal with the issues involved in the original Informal Dispute Resolution or Mediation, if one took place. The~~ An individual may request for an impartial due process hearing will be made in writing to the Administrator of the Division within ten (10) calendar days of the Regional Manager's decision from the Informal Dispute Resolution or the Mediation Agreement from Mediation immediately without having to go through other appeal steps. The hearing by an impartial hearing officer must be held within sixty (60) days of a request by the client unless both parties agree to a specified delay. Even if an individual agrees to an informal hearings process, such individual is entitled to a due process hearing within sixty (60) days of the IDVR case management decision that initiated the disagreement, unless both parties agree to an extension. (5-3-03)()

04. Mediation. Mediation is an alternate dispute resolution method available to applicants and eligible individuals who have initiated the formal appeals process. ()

a. An individual must request mediation within ten (10) calendar days of the agency notice regarding the results of the administrative review. Mediation is available to an individual when an administrative review has not resolved the dispute to the satisfaction of the individual. ()

b. A request for mediation must be made in writing to the Chief of Field Services and clearly state the reason for dissatisfaction with the results of the administrative review. The Chief of Field Services will represent IDVR or assign a member of the administrative or supervisory staff who has not participated in agency action that created the individual's dissatisfaction. ()

c. Participation in the mediation process is voluntary on the part of the individual and on the part of IDVR. Either party may reject mediation as an alternate dispute resolution method. Either party, once accepting mediation as an alternate dispute resolution method, may terminate the mediation process. ()

d. Mediation is not used to deny or delay the individual's right to pursue an impartial hearing. Should the individual or designated representatives select mediation in lieu of a formal hearing, the option for the formal hearing will be extended to allow the results of the mediation to be established. After the final results of the mediation are determined, the individual retains the right to request a formal hearing. ()

e. Mediation is conducted by qualified and impartial mediators who are selected

randomly from a list of mediators maintained by IDVR. ()

f. Mediation discussions are confidential and may not be used as evidence in a subsequent due process hearing. ()

g. The mediator will develop a written mediation agreement if agreement between the parties is reached, signed by the individual, the mediator and IDVR. ()

h. Cost of mediation is paid by IDVR, although no costs are provided for representation for the individual. ()