

***EDUCATION COMMITTEE***  
***ADMINISTRATIVE RULES REVIEW***  
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**IDAPA 08 - STATE BOARD OF AND STATE  
DEPARTMENT OF EDUCATION**

**08.02.03 - RULES GOVERNING THOROUGHNESS**

**DOCKET NO. 08-0203-1204 (FEE RULE)**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE**

**EFFECTIVE DATE:** The effective date of the amendment to the temporary rule is (include effective date here). This pending fee rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. 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 fee rule and amended a temporary rule. The action is authorized pursuant to Section 33-1511(2), 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:

Section 33-118, Idaho Code authorizes the Board by rule to determine the process by which the Department Reviews and approves online courses, pursuant to section 33-1627, Idaho Code. This section of code also authorizes the establishment of a fee to defray the cost of said review. With the rejection of Proposition 3, Section 33-1627, Idaho Code is null and void. In response the Department has amended Docket 08-0203-1204, removing subsection 128.06 Online Course Review and Approval Process. The only other change between the Proposed and Pending rule is the correction of the title of the Division of Vocational Education to the Division of Professional-Technical Education.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. 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 that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the August 1, 2012, Idaho Administrative Bulletin, [Vol. 12-8, pages 36 through 38](#).

**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. This fee or charge is being imposed pursuant to Section 33-118, Idaho Code. The following is a specific description of the fee or charge imposed or increased:

The SDE will continue to charge \$60 per textbook or equal to the price of the textbook and will charge per online course submissions and for digital content review.

Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased 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:

The approval process for curricular review has been a fee-based system. For approval of curricular materials, there will be no additional fiscal impact, merely a codification of existing practice. The changes to the selection committee and review process will increase efficiency. This will represent an ongoing cost savings for the State of Idaho in the curriculum materials review process. The clarification of 'textbook' to 'curricular materials' represents a more accurate description of current practices.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact: Luci Willits, Chief of Staff, State Department of Education, Boise, Idaho, 208-332-6814.

DATED this 19th day of November, 2012.

Tom Luna  
Idaho Superintendent of Public Instruction  
State Department of Education  
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**THE FOLLOWING NOTICE WAS PUBLISHED WITH  
THE TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is **June 21, 2012**.

**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 regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 33-105, Idaho Code, Section 33-107, Idaho Code, and Section 33-1612, Idaho Code and 33-118.

**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 15, 2012.

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

**DESCRIPTIVE SUMMARY:** The following is 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:

Changes to Section 08.02.03.128 are being proposed consistent with House Bill 604. House Bill 604, passed during the 2012 legislative session, and now incorporated 33-118, Idaho Code, gave authority to the Idaho State Board of Education to determine the process by which the State Department of Education reviews and approves online courses and providers and charges fees for this work as well as approval and adoption of textbooks. This administrative rule is being revised to reflect this new law.

At present, IDAPA 08.02.03, Section 128, makes no provision for the charging of fees for both textbook review and approval and online course provider review and approval. However, the SDE currently charges, and has done so for a number of years, \$60 per textbook review to defray the costs of the review. While textbook adoption of hard copies has declined, the online course submission and digital content have continued to increase and will become the predominant facet of this curricular and provider review process. The changes to this rule ensure a process for the timely and effective review of all state-approved online courses. The fee will be based on the number of courses the provider offers, and will help defray the cost of completing reviews of the entire provider application and selected courses, including all resources, syllabi, assignments, level of teacher-to-student and student-to-student interactions, assessments, and standards alignment.

Lastly, in the rule, a specific number of participants have been specified. The participation guidelines have been rewritten to both streamline and expedite the process while still keeping a strong external review process in place. Finally, provision has been made for Idaho certified teachers to complete the review of online course providers.

**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:

To comply with House Bill 604 which passed during the 2012 legislative session, and now enacted as Section 33-118, Idaho Code. The statute gives the Idaho State Board of Education authority to determine the process by which the State Department of Education reviews and approves online courses and providers, fees charges for this review and to approve and adopt textbooks. The temporary rule implements these law changes.

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

The SDE will continue to charge \$60 per textbook or equal to the price of the textbook and will charge per online course submissions and for digital content review.

**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:

Textbook and curricular review fees typically yield at least \$60,000 in annual dedicated revenue to help defray SDE's cost of review. The reviews associated with reviewing online courses are unknown, since it has never been done before. Any dedicated revenues will be used to defray SDE's cost of review.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because: The rule is temporary.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this temporary and proposed rule, contact: Jason Hancock at the address listed below or by e-mail at [jhancock@sde.idaho.gov](mailto:jhancock@sde.idaho.gov) or phone 208-332-6853.

Anyone may submit written comments regarding this temporary and proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 22, 2012.

DATED this 21st Day of June, 2012.

**THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 08-0203-1204**

**128. CURRICULAR MATERIALS SELECTION (SECTIONS 33-118; 33-118A, IDAHO CODE).**

The State Board of Education will appoint a committee to select curriculum materials. Committee appointments will be for a period of five (5) years. ~~The membership of the committee will include one (1) representative from each of the state's institutions of higher education (Boise State University, Idaho State University, Lewis Clark State College, and University of Idaho); two (2) Idaho public school administrators; two (2) Idaho public school elementary classroom teachers; two (2) Idaho public school secondary classroom teachers; one (1) person who is not a public school educator nor a public school trustee, one (1) person (parent, teacher, or administrator) representing Idaho's private/parochial schools, who will not be a public school educator or trustee; one (1) public school trustee; three (3) parents and one (1) curriculum consultant from the Division of Instruction of the State Department of Education and one (1) from the Division of Vocational Education whose appointment will be for one (1) year.~~ Committee appointments shall consist of not less than ten (10) total members from the following stakeholder groups: certified Idaho classroom teachers, Idaho public school administrators, Idaho higher education officials, parents, trustees, local board of education members, members of the Division of Professional Technical Education, and State Department of Education personnel. The Executive Secretary will

be an employee of the State Department of Education and will be a voting member of the committee. The State Department of Education shall charge publishers submission fees of sixty dollars (\$60) or equal to the retail price of each, whichever is greater, to defray the costs incurred in the curricular material review and adoption process. ~~(3-20-04)~~(\_\_\_\_)

**01. Subject Areas.** Curricular materials are adopted by the State Board of Education for a period of six (6) years in the following subject areas: reading, English, spelling, speech, journalism, languages other than English, art, drama, social studies, music, mathematics, business education, career education and counseling, vocational/technical education, science, health, handwriting, literature, driver education, limited English proficiency. (4-11-06)

**02. Multiple Adoptions are Made in Each Subject Area.** (4-5-00)

**03. Bids.** Each publisher must deliver, according to the committee schedule, a sealed bid on all curricular materials presented for adoption. (4-5-00)

**04. Depository.** The State Board will appoint a depository for the state-adopted curricular materials. Resource materials are a local option. (4-5-00)

**05. Local Policies.** School districts will follow their own policies for adoption in subject areas offered by a school district for which materials are not covered by the state curriculum materials committee. (4-5-00)