

EDUCATION COMMITTEE
ADMINISTRATIVE RULES REVIEW
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2010 Legislative Session

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08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-1001

NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is November 9, 2009.

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 33-105, Idaho Code.

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

In February 2009, the State Board of Education approved the changes to the Title III/ Limited English Proficiency Accountability Plan. Following the approval, the State Board of Education submitted the revised Accountability Plan to the US Department of Education (USDOE) for their approval. The USDOE responded in a letter that the amendment requests would not be approved unless Idaho alter the requirements slightly in one of the four components. This rule change brings Idaho into compliance with the USDOE request.

Idaho requested to adopt the “n” size of 34 for Title III purposes, in order to maintain consistency with Title I. This would ensure that districts with less than 34 LEP students would not be held to the same IELA accountability targets as those districts with more than 34 students. However, the USDOE determined that districts that received Title III funding through a special consortia grant application, even if they had less than 34 students, must not be exempt and still held accountable.

The No Child Left Behind Act of 2001 mandates that all states must set achievement standards/cut scores for their assessments in order to determine the proficiency level and growth for every student each year. Idaho revised the achievement standards/cut scores for the IELA in July 2009.

A panel of 15 Idaho educators came together to determine new achievement standards/cut scores for the IELA. The panel members determined to minimally revise the standards/cut scores to be used. The raw cut scores were then translated into scale scores for the purpose of equating the IELA alternate year and grade level forms. The revised scale scores ensure consistent progression across grade spans, enabling educators to make decisions based on the students' IELA proficiency level. The most significant changes are in the Early Fluent and Fluent categories.

The impact of the adoption of the revised scale score tables for the IELA will enable LEP students to be tested and placed more appropriately in one of five proficiency levels: beginning, advanced beginning, intermediate, early fluent and fluent. This will help schools and districts to determine the appropriate services for each student and the information necessary to exit a student out of the LEP program.

The State Department of Education (SDE) conducted the Adequate Yearly Progress (AYP) appeals in summer 2009 due to the transition of the assessment program to SDE. In reviewing the appeals, it was noted that three clarifications needed to be made in order to more clearly guide the appeals process.

1. To clarify which public entity creates and provides AYP calculations to schools and districts.
2. To clarify affect of full expulsions on continuous enrollment status.
3. To clarify rules governing withdrawn status, specifically with regard to medical reasons, homebound status, and expulsions.

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

It is imperative that this rule be instituted at this time on a temporary basis so that these rule changes can be integrated into the next test administration and AYP appeals cycle. The test administration occurs in April and the AYP appeals occur in June. Thus, the rule must be adopted as temporary or would not be able to go into effect for this school year.

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 Scott Cook at (208) 332-6976.

DATED this 13th Day of November, 2009.

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THE FOLLOWING IS THE TEMPORARY TEXT FOR DOCKET NO. 08-0203-1001

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. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov>. (11-3-08)T

02. The Idaho English Language Development Standards. The Idaho English Language Development Standards as adopted by the State Board of Education on August 10, 2006. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov>. (4-2-08)

03. The Limited English Proficiency Program Annual Measurable Achievement Objectives (AMAOs) and Accountability Procedures. The Limited English Proficiency Program Annual Measurable Achievement Objectives and Accountability Procedures as adopted by the State Board of Education on ~~August 10, 2006~~ November 11, 2009. Copies of the document can be found on the State ~~Board~~ Department of Education website at ~~<http://www.boardofed.idaho.gov>~~ <http://www.sde.idaho.gov/site/assessment/IELA/relatedDocs.htm>. (~~4-2-08~~)(11-9-09)T

04. The Idaho English Language Assessment (IELA) Achievement Standards. The Idaho English Language Assessment (IELA) Achievement Standards as adopted by the State Board of Education on ~~August 10, 2006~~ November 11, 2009. Copies of the document can be found on the State ~~Board~~ Department of Education website at ~~<http://www.boardofed.idaho.gov>~~ <http://www.sde.idaho.gov/site/assessment/IELA/relatedDocs.htm>. (~~4-2-08~~)(11-9-09)T

05. The Idaho Standards Achievement Tests (ISAT) Achievement Standards. Achievement Standards as adopted by the State Board of Education on May 30, 2007. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov>. (4-2-08)

06. The Idaho Extended Content Standards. The Idaho Extended Content Standards as adopted by the State Board of Education on April 17, 2008. Copies of the document can be found at the State Board of Education website at <http://www.boardofed.idaho.gov>. (5-8-09)

07. The Idaho Alternate Assessment Achievement Standards. Alternate Assessment Achievement Standards as adopted by the State Board of Education on June 18, 2009. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov>. (6-18-09)T

08. The Idaho Standards for Infants, Toddlers, Children, and Youth Who Are Deaf or Hard of Hearing. 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)

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)

(BREAK IN CONTINUITY OF SECTIONS)

112. ACCOUNTABILITY.

The provisions in this section apply for the purposes of meeting the “No Child Left Behind” Act and the state of Idaho accountability requirements. (3-20-04)

01. ISAT Student Achievement Levels. There are four (4) levels of student achievement for the ISAT: Below Basic, Basic, Proficient, and Advanced. Definitions for these levels of student achievement are adopted by reference in Subsection 004.05. (4-2-08)

02. IELA Language Proficiency Levels. There are five (5) levels of language proficiency for students testing on the Idaho English Language Assessment: beginning,” advanced beginning, intermediate, early fluent, and fluent. Definitions for these levels of language proficiency are adopted by reference in Subsections 004.02 and 004.04. (4-2-08)

03. Adequate Yearly Progress (AYP). (3-20-04)

a. Proficiency is defined as the number of students scoring proficient or advanced on the spring on-grade level ISAT. (3-20-04)

b. The State ~~Board~~ Department of Education will make AYP determinations for schools and districts each year. Results will be given to the districts at least one (1) month prior to the first day of school. ~~(4-2-08)~~(11-9-09)T

c. The baseline for AYP will be set by the Board and shall identify the amount of growth (percentage of students reaching proficiency) required for each intermediate period. (3-20-04)

04. Adequate Yearly Progress (AYP) Definitions. For purposes of calculating and reporting adequate yearly progress, the following definitions shall be applied. (3-20-04)

a. Full Academic Year (continuous enrollment). (3-20-04)

i. A student who is enrolled continuously in the same public school from the end of the first eight (8) weeks or fifty-six (56) calendar days of the school year through the state approved spring testing administration period, not including the make-up portion of the test window, will be included in the calculation to determine if the school achieved AYP in proficiency. A student is continuously enrolled if he/she has not transferred or dropped-out of the public school. Students who are serving suspensions are still considered to be enrolled students. ~~Students who are expelled but return to another school in the same district are considered continuously enrolled to determine the district AYP.~~ ~~(4-2-08)~~(11-9-09)T

ii. A student who is enrolled continuously in the school district from the first eight (8) weeks or fifty-six (56) calendar days of the school year through the state approved spring testing administration period, not including the make-up portion of the test window, will be included when determining if the school district has achieved AYP. (4-2-08)

iii. A student who is enrolled continuously in a public school within Idaho from the end of the first eight (8) weeks or fifty-six (56) calendar days of the school year through the state approved spring testing administration period, not including the make-up portion of the test window, will be included when determining if the state has achieved AYP. (4-2-08)

b. Participation Rate. (3-20-04)

i. Failure to include ninety-five percent (95%) of all students and ninety-five percent (95%) of students in designated subgroups automatically identifies the school as not having achieved AYP. The ninety-five percent (95%) determination is made by dividing the number of students assessed on the Spring ISAT by the number of students reported on the class roster file for the Spring ISAT. (3-20-04)

(1) If a school district does not meet the ninety-five percent (95%) participation target for the current year, the participation rate can be calculated by the most current three (3) year average of participation. (4-6-05)

(2) Students who are absent for the entire state-approved testing window because of ~~significant~~ *medical emergency* reasons or are homebound are exempt from taking the ISAT if such circumstances prohibit them from participating. Students who drop out, withdraw, or are expelled prior to the beginning of the final makeup portion of the test window are considered exited from the school. (~~4-6-05~~)(11-9-09)T

ii. For groups of ten (10) or more students, absences for the state assessment may not exceed five percent (5%) of the current enrollment or two (2) students, whichever is greater. Groups of less than ten (10) students will not have a participation determination. (3-20-04)

c. Schools. (3-20-04)

i. An elementary school includes a grade configuration of grades Kindergarten (K) through six (6) inclusive, or any combination thereof. (3-20-04)

ii. A middle school is a school that does not meet the definition of an elementary school and contains grade eight (8) but does not contain grade twelve (12). (4-6-05)

iii. A high school is any school that contains grade twelve (12). (3-20-04)

iv. The accountability of public schools without grades assessed by this system (i.e., K-2 schools) will be based on the third grade test scores of the students who previously attended that feeder school. (3-20-04)

d. Subgroups. Scores on the ISAT must be disaggregated and reported by the following subgroups: (3-20-04)

i. Race/Ethnicity - Black/African American, Asian, Native Hawaiian/Pacific Islander, White, Hispanic/Latino Ethnicity, American Indian/Alaska Native. (3-20-04)

ii. Economically disadvantaged - identified through the free and reduced lunch

program. (3-20-04)

iii. Students with disabilities - individuals who are eligible to receive special education services through the Individuals with Disabilities Education Act (IDEA). (3-20-04)

iv. Limited English Proficient - individuals who score in the low range on the state-approved language proficiency test and meet one of the following criteria: (4-6-05)

(1) Individuals whose native language is a language other than English; or (4-6-05)

(2) Individuals who come from environments where a language other than English is dominant; or (4-6-05)

(3) Individuals who are American Indian and Alaskan natives and who come from environments where a language other than English has had a significant impact on their level of English language proficiency, and who, by reason thereof, have sufficient difficulty speaking, reading, writing, or understanding the English language to deny such individuals the opportunity to learn successfully in classrooms, where the language of instruction is English. (4-6-05)

e. Graduation Rate. The State Board of Education will establish a target for graduation. All high schools must maintain or make progress toward the target each year. The graduation rate will be disaggregated by the subpopulations listed in Subsection 112.03.d. in the event the “safe harbor” is invoked by the school/district. By 2014, the schools/districts must meet the target. (3-20-04)

f. Additional Academic Indicator. The State Board of Education will establish a target for an additional academic indicator. All elementary and middle schools must maintain or make progress toward the additional academic indicator target each year. The additional academic indicator target will be disaggregated by the subpopulations listed in Subsection 112.03.d. in the event the “safe harbor” is invoked by the school/district. By 2014, the schools/districts must meet the target. (3-20-04)

05. Annual Measurable Achievement Objectives (AMAOs). Local school districts are responsible for ensuring district progress of Limited English Proficient (LEP) students in their acquisition of English. Progress and proficiency are measured by the IELA and determined based on three (3) AMAOs: (4-2-08)

a. Annual increases in the percent or number of LEP students making progress in acquiring English language proficiency; (4-2-08)

b. Annual increases in the percent or number of LEP students attaining English language proficiency by the end of the school year; and (4-2-08)

c. Each school district must make Adequate Yearly Progress for LEP students on the spring ISAT. (4-2-08)