

JUDICIARY, RULES & ADMINISTRATION COMMITTEE

ADMINISTRATIVE RULES REVIEW

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IDAPA 04 - OFFICE OF THE ATTORNEY GENERAL

**04.11.01 - IDAHO RULES OF ADMINISTRATIVE PROCEDURE
OF THE ATTORNEY GENERAL**

DOCKET NO. 04-1101-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Office of the Attorney General and is now pending review by the 2011 Idaho Legislature for final approval. This pending rule will become final and effective at the conclusion of the 2011 legislative session, unless it is approved, rejected, amended or modified by concurrent resolution of the Legislature in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule will become final and effective upon adoption of the concurrent resolution or upon the date provided in the concurrent resolution.

AUTHORITY: Pursuant to Section 67-5224, Idaho Code, the Office of the Attorney General gives notice that it has adopted a pending rule. This rulemaking is authorized by section 67-5206(2)-(4), Idaho Code.

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

The pending rule is adopted as proposed. The complete text of the proposed rule was published in the [August 4, 2010, Idaho Administrative Bulletin, Vol. 10-8, pages 25 through 32](#). The Office of the Attorney General did not receive any comments to the proposed rule.

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:

This pending rule has no significant negative fiscal impact to the general fund. It is possible that it may reduce agencies' mailing costs for service of orders if electronic service is used instead.

ASSISTANCE ON TECHNICAL QUESTIONS: Persons seeking technical assistance on this pending rule may contact Michael S. Gilmore at (208) 334-4130 or at mike.gilmore@ag.idaho.gov.

Dated this 13th day of September, 2010.

Michael S. Gilmore
Deputy Attorney General
Statehouse
PO Box 83720
Boise, Idaho, 83720-0010

THIS NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of these temporary rules is **July 1, 2010**. These permanent rules are proposed to become effective upon the adjournment of the 2011 Idaho Legislature.

AUTHORITY: The Attorney General has authority to adopt rules of administrative procedure under section 67-5206(2)-(4), Idaho Code. These temporary rules are adopted pursuant to Section 67-5226, Idaho Code. These permanent rules are proposed pursuant to Section 67-5221(1), 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 27, 2010.

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:

These temporary rules are adopted and permanent rules are proposed to implement three Session Laws enacted by the 2010 Legislature that affect administrative procedure. All three Sessions Laws became effective on July 1, 2010.

- 1. 2010 House Bill 555, 2010 Idaho Session Law, Chapter 255, amended Sections 67-5243, 67-5245, 67-5246, 67-5248 and 67-5773, Idaho Code, to address service of agency orders. The temporary rules implement this session law by amending the Idaho Rules of Administrative Procedure (IRAP) to provide a definition of service of agency orders and by modernizing the IRAP to provide for electronic service by agencies and parties. Amendments to Rules 5, 55 and 303.**
- 2. 2010 House Bill 421, 2010 Idaho Session Law, Chapter 29, amended Section 12-117, Idaho Code, to provide for award of costs and fees by administrative agencies. The temporary rules implement this session law by providing a procedural rule for agencies to use to consider requests to award costs and fees. New Rule 741.**
- 3. House Bill 614aaS, 2010 Idaho Session Law, Chapter 280, amended Sections 67-5223 and 67-5229, Idaho Code, to address rules that impose or increase agency fees and rules that incorporate codes, standards or other rules by reference. The temporary rules implement this session law by amending the existing rules about rulemaking procedures to bring them into conformity with this new law. Amendment to Rule 830.**

TEMPORARY RULE JUSTIFICATION: Pursuant to section 67-5226(1)(b), Idaho Code, the Governor found that the temporary adoption of this rule is appropriate because these rules implement changes to governing state law that will take effect on July 1, 2010.

FEES: The following is a specific description of the fee or charge imposed or increased: No fees or charges are being imposed through this rulemaking. No gubernatorial findings regarding fees are applicable.

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:

These rules have no significant fiscal impact. It is possible that they may reduce agencies' mailing costs for service of orders if electronic service is used instead.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the need to put temporary rules in place by July 1, 2010.

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: Persons seeking technical assistance on these temporary and proposed rules may contact Michael S. Gilmore at (208) 334-4130 or at mike.gilmore@ag.idaho.gov. Interested persons may provide written comment on these rules by mail to Office of the Attorney General, Statehouse, PO Box 83720, Boise, Idaho 83720-0010. Mailed comments should be to attention of: Michael S. Gilmore, Deputy Attorney General.

Comments may also be e-mailed to mike.gilmore@ag.idaho.gov. The Office of the Attorney General does not anticipate scheduling an oral presentation on these rules because they are procedural rules, not substantive rules for which Section 67-5222(2), Idaho Code, creates certain rights for oral presentation. The deadline for written comment is September 10, 2010.

Dated this 15th day of June, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 04-1101-1001

005. DEFINITIONS (RULE 5).

As used in this chapter:

(7-1-93)

01. Administrative Code. The Idaho Administrative Code established in Chapter 52,

Title 67, Idaho Code. (7-1-93)

02. Agency. Each state board, commission, department or officer authorized by law to make rules or to determine contested cases, but does not include the legislative or judicial branches, executive officers listed in Section 1, article IV, of the constitution of the state of Idaho in the exercise of powers derived directly and exclusively from the constitution, the state militia or the state board of correction. (7-1-93)

03. Agency Action. Agency action means: (7-1-93)

a. The whole or part of a rule or order; (7-1-93)

b. The failure to issue a rule or order; or (7-1-93)

c. An agency's performance of, or failure to perform, any duty placed on it by law. (7-1-93)

04. Agency Head. An individual or body of individuals in whom the ultimate legal authority of the agency is vested by any provision of law. (7-1-93)

05. Bulletin. The Idaho Administrative Bulletin established in Chapter 52, Title 67, Idaho Code. (7-1-93)

06. Contested Case. A proceeding which results in the issuance of an order. (7-1-93)

07. Coordinator. The administrative rules coordinator prescribed in Section 67-5202, Idaho Code. (7-1-93)

08. Document. Any proclamation, executive order, notice, rule or statement of policy of an agency. (7-1-93)

09. Final Rule. A rule that has been adopted by an agency under the regular rulemaking process and that is in effect. (7-1-97)

10. License. The whole or part of any agency permit, certificate, approval, registration, charter, or similar form of authorization required by law, but does not include a license required solely for revenue purposes. (7-1-93)

11. Official Text. The text of a document issued, prescribed, or promulgated by an agency in accordance with this chapter, and **which** is the only legally enforceable text of such document. (~~7-1-93~~)()

12. Order. An agency action of particular applicability that determines the legal rights, duties, privileges, immunities, or other legal interests of one (1) or more specific persons. (7-1-93)

13. Party. Each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party. (7-1-93)

14. Pending Rule. A rule that has been adopted by an agency under the regular rulemaking process (i.e., proposal of rule in Bulletin, opportunity for written comment or oral presentation, and adoption of rule in Bulletin) and remains subject to legislative review. (7-1-97)

15. Person. Any individual, partnership, corporation, association, governmental subdivision or agency, or public or private organization or entity of any character. (7-1-93)

16. Provision of Law. The whole or a part of the state or federal constitution, or of any state or federal: (7-1-93)

a. Statute; or (7-1-93)

b. Rule or decision of the court. (7-1-93)

17. Proposed Rule. A rule published in the bulletin as provided in Section 67-5221, Idaho Code. (7-1-97)

18. Publish. To bring before the public by publication in the bulletin or administrative code, or as otherwise specifically provided by law. (7-1-93)

19. Rule. The whole or a part of an agency statement of general applicability that has been promulgated in compliance with the provisions of Chapter 52, Title 67, Idaho Code, and that implements, interprets, or prescribes: (7-1-93)

a. Law or policy, or (7-1-93)

b. The procedure or practice requirements of an agency. The term includes the amendment, repeal, or suspension of an existing rule, but does not include: (7-1-93)

i. Statements concerning only the internal management or internal personnel policies of an agency and not affecting private rights of the public or procedures available to the public; (7-1-93)

ii. Declaratory rulings issued pursuant to Section 67-5232, Idaho Code; (7-1-93)

iii. Intra-agency memoranda; or (7-1-93)

iv. Any written statements given by an agency which pertain to an interpretation of a rule or to the documentation of compliance with a rule. (7-1-93)

20. Rulemaking. The process for formulation, adoption, amendment or repeal of a rule. (7-1-93)

21. Service or Serving. The agency's or a party's delivery or distribution of official documents in a legally sufficient manner in a contested case proceeding to the parties to that proceeding and, if applicable, to any other persons required by statute, rule, order or notice to receive official documents. ()

212. Submitted for Review. A rule that has been provided to the legislature for review at a regular or special legislative session as provided in Section 67-5291, Idaho Code. (7-1-97)

223. Temporary Rule. A rule authorized by the governor to become effective before it has been submitted to the legislature for review and which expires by its own terms or by operation of law no later than the conclusion of the next succeeding regular legislative session unless extended or replaced by a final rule as provided in Section 67-5226, Idaho Code. (7-1-97)

(BREAK IN CONTINUITY OF SECTIONS)

055. SERVICE BY AGENCY (RULE 55).

01. Personal Service and Service by Mail. Unless otherwise provided by statute or these rules or the agency's rules, the officer designated by the agency to serve rules, notices, summonses, complaints, or orders issued by the agency may serve these documents by regular mail, or by certified mail, return receipt requested, to a party's last known mailing address or by personal service. ()

02. Electronic Service. If a party has appeared in a contested case or has not yet appeared but has consented or agreed in writing to service by facsimile transmission (FAX) or e-mail as an alternative to personal service or service by mail, and if authorized by statute, agency rule, notice or order, the officer designated to serve notices and orders in a contested case may serve those notices and orders by FAX or by e-mail in lieu of service by mail or personal service. ()

03. When Service Complete. Unless otherwise provided by statute, these rules, order or notice, service of orders and notices is complete when a copy, properly addressed and stamped, is deposited in the United States mail or the Statehouse mail, if the party is a State employee or State agency, or when there is an electronic verification that a facsimile transmission or an e-mail has been sent. ()

04. Persons Served. The officer designated by the agency to serve documents in a proceeding must serve all orders and notices in a proceeding on the representatives of each party designated pursuant to these rules for that proceeding and upon other persons designated by these rules or by the agency. (7-1-93)()

05. Proof of Service. Every notice and order that the agency serves in a contested case must be accompanied by a proof of service stating the service date, each party or other person who was served, and the method of service. The agency may use a proof of service similar to those used by parties. See Rule 303. ()

(BREAK IN CONTINUITY OF SECTIONS)

303. PROOF OF SERVICE (RULE 303).

Every document that a party or interested persons filed^s with and intend^{ed}s to be part of the agency record must be attached to or accompanied by proof of service by the following or similar certificate:

I HEREBY CERTIFY (swear or affirm) that I have this day _____ of _____, _____, served the foregoing (name(s) of document(s)) upon all parties of record in this proceeding, (by delivering a copy thereof in person: (list names)) (by mailing a copy thereof, properly addressed with postage prepaid, to: (list names and addresses)).
(by facsimile transmission to: (list names and FAX numbers))
(by e-mail to: (list names and e-mail addresses)).

(Signature)

(7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

741. ORDERS REGARDING COSTS AND/OR FEES (RULE 741).

01. Scope of Rule. This rule provides procedures for considering requests for costs and/or fees (including attorneys' fees) when an agency has authority to award costs and/or fees under other provisions of law. This rule is not a source of authority for awarding costs and/or fees. (____)

02. Time for Filing for Costs and/or Fees Awarded in Final Order or Preliminary Order. Unless otherwise provided by statute or rule of the agency: (____)

a. Minimum time for filing. When a final order or a preliminary order of the agency awards costs and/or fees to a party or to the agency itself, the agency must allow no fewer than fourteen (14) days from the service date of the final order or the preliminary order for the party to whom costs and/or fees were awarded or for the agency to file necessary papers (e.g., a memorandum of costs, affidavits, exhibits, etc.) quantifying and otherwise supporting costs or fees, or both, that will be claimed or a motion to extend the time to file for costs and fees. (____)

b. Longer time allowed. The final order or preliminary order of the agency may

extend the time to file papers for costs and/or fees beyond fourteen (14) days after the service date of the final order or preliminary order. ()

c. When time not set forth. If statute, rules of the agency, and the final order or preliminary order of the agency are silent on the time for filing for costs and/or fees the deadline for filing for costs and/or fees and/or for moving for an extension of the time to file for costs and fees is fourteen (14) days from the service date of the final order or preliminary order. ()

d. Untimely filing. The agency may exercise its discretion to consider and grant an untimely filing for costs and/or fees for good cause shown. ()

e. Contents of filing. No particular form for filing for costs and fees is required, but in the absence of a statute or rule providing for standard costs and/or fees the papers supporting a claim for costs and/or fees should ordinarily contain an affidavit or declaration under oath detailing the costs and/or fees claimed. ()

f. Supplemental filings. Paragraphs 741.02.a. through 741.02.e. of this rule do not prohibit a party or the agency from supplementing a filing for costs and/or fees. ()

03. Time for Petitioning for Costs and/or Fees When Costs and/or Fees Not Awarded in Final Order or Preliminary Order. Unless otherwise provided by statute: ()

a. Petition for reconsideration. When a final order or preliminary order of the agency does not award costs or fees to a party, and a party contends that the party is entitled to an award of costs and/or fees the party must file a petition for reconsideration addressing costs and/or fees within fourteen (14) days of the service date of the final order or preliminary order if the party wishes the agency to award costs and/or fees. ()

b. Combination with other issues. The petition for reconsideration on costs and/or fees may be combined with a petition for reconsideration on other issues. ()

c. Quantification not necessary. The petition for reconsideration can confine itself to the legal issue of entitlement to costs and/or fees and need not quantify the party's claimed costs and/or fees. However, the petition can be accompanied by papers quantifying the claimed costs and/or fees. ()

d. Legal authority. Every petition for reconsideration filed under Subsection 741.03 should cite the source of the agency's legal authority to award costs and/or fees. The agency may (but need not) deny a petition that omits a citation to legal authority to award costs and/or fees. ()

04. Oppositions. Unless otherwise provided by statute or rule of the agency, or extended by notice or order of the agency, oppositions to requests for costs and/or fees filed under Subsections 741.02 or 741.03 of this rule or motions to extend the time to oppose requests for costs and/or fees filed under Subsections 741.02 or 741.03 of this rule must be filed and served within fourteen (14) days of the service date of the petition to be timely. The agency may exercise its discretion to consider and grant an untimely opposition for good cause shown. ()

05. Orders Granting or Denying Costs and/or Fees. Every agency order granting or denying a request for costs and/or fees must cite the statutes or rules under which it is deciding the request for costs and/or fees. ()

~~7412.~~ -- 749. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

830. REQUIREMENTS FOR NOTICE OF PROPOSED RULEMAKING (RULE 830).

01. Content of Notice of Proposed Rulemaking. Every notice of proposed rulemaking filed with the Coordinator for publication in the Bulletin shall include: ~~(7-1-93)~~()

~~a.~~ *A statement of the subject matter of the proposed rules;* (7-1-93)

ba. A statement of the specific statutory authority ~~for the proposed rules~~ authorizing the rulemaking, including a citation to ~~a~~ the specific section of Idaho Code that has occasioned the rulemaking or the federal statute or regulation if that is the basis of authority or requirement for the rulemaking; (7-1-97)()

eb. A statement in nontechnical ~~terms~~ language of the substance of the proposed rules, ~~and, if the agency intends to take oral testimony on the proposed rule, the location, date and time of the oral presentations~~ including a specific description of any fee or charge being imposed or increased; (7-1-97)()

dc. A statement whether the agency intends to conduct oral presentations concerning the proposed rules, and, if not, what persons must do in order to request an oral presentation. If the agency intends to take oral testimony on the proposed rule, the location, date and time of any public hearing must be included; (7-1-93)()

d. A specific description, if applicable, of any negative fiscal effect on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year in which the pending rule will become effective; ()

e. The mailing address to which written ~~submissions~~ comments and requests for public hearings concerning the proposed rules must be mailed; If the agency accepts comments and requests by facsimile transmission (FAX) or by e-mail, the FAX number or e-mail address, or both, at which comments may be delivered must be provided; (7-1-93)()

f. The name and telephone number of an agency contact to whom technical questions about the proposed rules may be referred; (7-1-93)()

g. The deadline date for the submission of written comment on the proposed rules and for ~~asking~~ submitting requests for an opportunity for an oral presentation concerning the proposed rules; (7-1-97)()

h. A statement whether negotiated rulemaking has been conducted, and if not, why not; and (7-1-97)()

i. ~~A summary of~~ The text of the proposed rules; ~~and~~ in legislative format. (7-1-97)()

~~j. The name, mailing address and telephone number of an agency contact person for the rulemaking.~~ (7-1-97)

~~02. Availability of Information. This information will be published in the Idaho Administrative Bulletin and be available directly from the agency. The notice of proposed rulemaking must be accompanied by a document showing the text of the proposed rule in legislative format.~~ (7-1-93)

02. Filing a Proposed Rulemaking for Publication in the Bulletin. ()

a. In all cases. The agency must file the information required in Subsection 830.01 of this rule with the Coordinator for publication in the Bulletin. The Coordinator is responsible for transmitting all required rulemaking documents to the Director of Legislative Services for analysis. ()

b. When fees are imposed or increased. In addition, if a fee or charge is imposed or increased through the proposed rulemaking, the agency must prepare and file with the Coordinator a statement of economic impact. This cost/benefit analysis must reasonably estimate the agency's costs to implement the rule and reasonably estimate the costs that would be borne by citizens, the private sector, or both, if the fees or charges being proposed are imposed by the rule. The cost/benefit analysis is not part of the proposed rulemaking notice and is not published in the Bulletin; it is a separate document that is submitted as part of the proposed rulemaking filing. ()

03. Incorporation by Reference. If an agency proposes to incorporate by reference into its rules any codes, standards or rules authorized by subsection 67-5229(1), Idaho Code, for incorporation by reference, the agency's notice of proposed rulemaking must also include the following information required by subsection 67-5229(2), Idaho Code: ()

a. Required information. A brief synopsis explaining why the incorporation is needed. ()

b. Electronic link or other access. A statement that notes where an electronic copy can be obtained or that provides an electronic link to the incorporated materials. If an electronic link is provided, at a minimum the link must be posted on the agency's website or included in the rule that is published in the Administrative Code on the Coordinator's website. If the incorporated material is copyrighted or otherwise unavailable, the rule must note where a copy of the incorporated materials may be viewed or purchased. ()

c. Identification of version or edition incorporated. The agency must provide all of the information required by Subsection 67-5229(2), Idaho Code, regarding identifying with

specificity the version or edition of the code, standard or rule that is incorporated by reference, including, but not limited to, the date the document was published, approved or adopted, or became effective. ()

d. Example incorporations. The following are examples of the kind of specificity required by this Section and by Subsection 67-5229(2), Idaho Code: ()

i. 2009 Edition of the International Building Code, published by the International Code Council, available at <http://www.constructionbook.com/2009-international-building-code/>; ()

ii. 2009 International Fire Code, published by International Code Council. Copies of the 2009 edition of the International Fire Code are available for public inspection at the office of the State Fire Marshal. Copies of the 2009 International Fire Code are available for purchase from the International Code Council, Northwest Resource Center, PO Box 8004, Bellevue, WA 98004. ()

iii. Code of Federal Regulations, Title 40, Part 35 Environmental Protection Agency's Regulations for State and Local Assistance under the Clean Water Act, Subpart A (July 1, 2009), available at: <http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=40&PART=35&SUBPART=A&TYPE=PDF&YEAR=2009>; and ()

iv. Federal Regulations adopted by the Drug Enforcement Agency, Department of Justice, published in the Federal Register; Amendments to Code of Federal Regulations, 21 CFR Part 1300, section 1300.01, Definitions of Schedule III Controlled Substances, 74 Federal Register No. 232, page 63609 (December 4, 2009), available at <http://www.nigc.gov/LinkClick.aspx?fileticket=YB0eC63Jh4%3D&tabid=57&mid=345>. ()

IDAPA 05 - IDAHO DEPARTMENT OF JUVENILE CORRECTIONS

05.01.01- RULES GOVERNING CONTRACT PROVIDERS

DOCKET NO. 05-0101-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 20-504(9), 20-504(11), and 20-531(4), 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 pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [May 5, 2010, Idaho Administrative Bulletin, Vol. 10-5, pages 13 through 18.](#)

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: No fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Nancy S. Bishop, Deputy Attorney General, Idaho Department of Juvenile Corrections (208) 334-5100 ext.421.

DATED this 12th day of July, 2010.

Nancy S. Bishop
Deputy Attorney General
Idaho Dept. of Juvenile Corrections
954 W. Jefferson St.
PO Box 83720
Boise, Idaho 83720-0285
(208) 334-5100 Phone
(208) 334-5120 Fax

THIS NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is **March 29, 2010**.

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 20-504(9), 20-504(11), and 20-531(4), 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 May 19, 2010.

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 rulemaking clarifies the obligations of contract providers to notify parents of juveniles in custody of the Idaho Department of Juvenile Corrections. Parents of juveniles in state custody are always notified when an incident occurs regarding their child. This rulemaking clarifies whether the contract providers must make immediate or emergency notification to a parent or whether they can notify the parent in a reasonable, but not immediate, period of time, i.e. within ten (10) days of the incident or occurrence.

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

This temporary rule is necessary to protect the safety and welfare of juveniles in state custody by clarifying the requirements for notification of parents of any incident that occurs regarding their child.

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: No fiscal impact.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this rule change is to correct a conflict in existing rules and the need for temporary rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact the undersigned.

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 May 26, 2010.

DATED this 7th day of April, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 05-0101-1001

262. PROGRAM OPERATIONAL REQUIREMENTS AND CASE MANAGEMENT.

01. General Requirements. (4-6-05)

a. Programs should provide vigorous programming that minimizes periods of idle time, addresses behavioral problems of juvenile offenders, and teaches and promotes healthy life choices. Programs should specifically address those factors in juvenile offenders' lives that contribute to delinquency and that can be realistically changed. (4-2-08)

b. Programs must be open to the community by encouraging appropriate telephone and mail contact between juvenile offenders and their families, by encouraging visitation, and by involving volunteers in support of the program. (4-2-08)

c. Contract providers must structure and document services offered in the program so that continuity in case planning is obvious. Health, mental health, substance abuse, social skills, educational, vocational, independent living, and other special needs identified in the assessment must be clearly addressed in the service implementation plan. Services provided to address those needs must be documented regularly. Progress on goals associated with those needs must be recorded in progress notes in a case file at least monthly and in a written progress report at least every two (2) months. Service needs remaining at the time of release from department custody or transfer must be accounted for in the reintegration plan for each juvenile offender. (4-2-08)

d. Without authorization from the Idaho Department of Health and Welfare and the department, a residential care contract provider shall not admit more juveniles into care than the number specified on the provider's license. Contract providers wishing to increase capacity are responsible for contacting the Idaho Department of Health and Welfare. A copy of the written confirmation to the contract provider from the Idaho Department of Health and Welfare for verbal approval to exceed the licensed capacity shall be forwarded to the department's clinical

supervisor in the region and to the department's quality assurance staff. (4-6-05)

e. Programs may not, under any circumstances, involve juvenile offenders in plethysmographic assessments. The use of polygraphs for juvenile offenders adjudicated for or documented to have demonstrated sexually abusive behavior, shall only be undertaken by court order or with the specific written authorization of the department's regional clinical supervisor, and then only with the full, informed consent of the juvenile offender, and if the juvenile offender is a minor, parent or guardian. Contract providers shall not make treatment decisions solely on the results of a polygraph. Polygraphers used in this process must be able to provide documentation of specific training in the use of polygraphy with sexually abusive juvenile offenders. (3-29-10)

02. Incidents Requiring Immediate Notice to Parent or Guardian and Department. All notifications under this Section shall be made to the regional facility in the region where the contract provider is located. Out-of-state contract providers shall notify the Region 2 facility. Contract providers must ensure that a detailed, written incident report is completed and signed by involved staff before the end of the shift during which the incident took place. If any of the following events occur, the contract provider must immediately notify the juvenile offender's parent or guardian, juvenile services coordinator, juvenile probation officer, and the department's regional facility by telephone (not by facsimile). A written incident report shall also be transmitted within twenty-four (24) hours to the juvenile offender's parent or guardian, juvenile services coordinator, and the juvenile probation officer, unless notification to the juvenile offender's parent or guardian would endanger the juvenile. Transmission may be electronic or by facsimile. ~~(3-29-10)~~()

a. Health and mental health emergencies including, but not limited to: ()

i. ~~e~~Every instance of emergency room access; ~~or~~ ()

ii. ~~r~~Refusal of medications, ~~or~~ treatment recommended by a physician, or food for two (2) days; ~~(3-29-10)~~()

b. Major incidents such as death of a juvenile offender, suicide, attempted suicide or threat of suicide, attempted escape, sexual misconduct among juvenile offenders or by staff including, but not limited to, incidents reportable under PREA, criminal activity resulting in arrest, detention, or filing a report with local law enforcement, or any relevant report made to the Idaho Department of Health and Welfare; (3-29-10)

c. Any incident of restraint which involves the use of medications, chemicals, or mechanical devices of any kind; (4-6-05)

~~d. Any use of separation or isolation for more than two (2) hours;~~ (4-6-05)

~~ed.~~ Incidents of alleged or suspected abuse or neglect of juvenile offenders; and (4-2-08)

~~f. Incidents involving the disclosure of criminal behavior by juvenile offenders.~~ (4-2-08)

~~g. The following incidents or activities jeopardize the safe operation of the facility and require the completion of a detailed incident report: (3-29-10)~~

~~i. Instances of physical assault or fighting; (3-29-10)~~

~~ii. Major misconduct by one (1) or more juvenile offenders or staff; (3-29-10)~~

~~iii. Discovery of contraband that represents an immediate threat to safety and security, such as weapons or drugs; and (3-29-10)~~

~~iv. Significant property damage resulting from misconduct, negligence, or from incidents such as explosions, fires, floods, or other natural disasters. (3-29-10)~~

e. Incidents involving major disasters affecting location or well-being of the juveniles; ()

03. Escapes Also Require Immediate Notice to Parent or Guardian and Department. In all instances of escape, the contract provider must immediately notify the juvenile correctional center in Nampa first, followed by the regional facility, juvenile offender's parent or guardian, juvenile services coordinator, and juvenile probation officer by telephone (not by facsimile). A written incident report shall also be transmitted within twenty-four (24) hours to the juvenile offender's parent or guardian, juvenile services coordinator, and the juvenile probation officer, unless notification to the juvenile offender's parent or guardian would endanger the juvenile offender. Transmission may be electronic or by facsimile. Upon apprehension, all of the same parties must be notified immediately. ~~(3-29-10)~~()

a. Clothing and other personal belongings shall be secured immediately and maintained in a secure place until returned to the department. (4-6-05)

b. The contract provider shall not transfer a juvenile offender at the time of an escape. The juvenile offender shall continue to be assigned to the program, although not physically present for up to forty-eight (48) hours. The program will be reimbursed for the days the juvenile offender was on escape status up to forty-eight (48) hours. Should the program choose to transfer the juvenile offender after returning, then the procedures outlined in Subsections 276.04 and 276.08, of these rules, shall apply. If the juvenile offender is apprehended, the contract provider shall contact the juvenile services coordinator to plan for transfer of the juvenile offender to a regional facility for an updated assessment and for a placement decision. (3-29-10)

04. Incidents ~~Not~~ Requiring Immediate Notice to Department and Ten Day Notice to Parents or Guardian. The following incidents require immediate notice to the department and other parties in the manner described in Subsection 262.02, and require notice within ten (10) days to parent or guardian of the juveniles involved. ~~(3-29-10)~~()

a. Any use of separation or isolation for more than two (2) hours; (3-29-10)

b. Incidents involving the disclosure of criminal behavior by juvenile offenders; ~~(3-29-10)~~()

~~e. The following incidents or activities jeopardize the safe operation of the facility and require the completion of a detailed incident report: (3-29-10)~~

~~i.c. Instances of physical assault or fighting; (3-29-10)~~

~~ii. Instances of lost keys, equipment, vehicles, or tools; (3-29-10)~~

~~iii.d. Major misconduct by one (1) or more juvenile offenders or staff against a juvenile offender; (3-29-10)()~~

~~iv.e. Discovery of contraband that represents an immediate threat to safety and security such as weapons or drugs; and (3-29-10)()~~

~~v.f. Other than incidents described in Paragraph 262.02.e., Significant property damage resulting from misconduct, negligence, or from incidents such as explosions, fires, floods, or other natural disasters; and (3-29-10)()~~

~~g. Any pattern of restraint of a juvenile, which is defined as three (3) or more restraints within a twenty-four (24) hour period. ()~~

05. Incidents Requiring Notice Within Ten Days to the Department. (3-29-10)()

a. Contract providers must ensure that a detailed, written incident report is completed and signed by involved staff before the end of the shift during which the incident took place. A copy of the completed incident report must be submitted to the juvenile services coordinator no later than ten (10) business days after the incident. (4-6-05)

b. A detailed incident report is also required for each incident of juvenile offender misconduct that is not reportable under Subsection 262.02 and results in any type of: (3-29-10)

~~i. Any minor injury; (3-29-10)~~

~~ii. Any physical restraint that does not involve the use of medications, chemicals, or mechanical devices of any kind; (3-29-10)~~

~~iii. Refusal of program participation; or (3-29-10)~~

~~iv. Separation, isolation, or room confinement for less than two (2) hours. (3-29-10)~~

i. Instances of lost keys, equipment, or tools; ()

ii. Discovery of contraband not posing an immediate risk; or ()

iii. A pattern of refusal of program participation that rises to the point of raising questions about the appropriateness of the placement; ()

c. A detailed incident report is also required for each incident of staff misconduct

relating to juvenile care that is not reportable under Subsection 262.02 and results in any type of: (3-29-10)

~~i. Suspension from work; (3-29-10)~~

~~ii. Termination of work; (3-29-10)~~

~~iii. Revocation or suspension of professional license; or (3-29-10)~~

~~iv. Revocation or suspension of driver's license of any staff transporting juveniles. (3-29-10)~~

i. Any physical restraint that does not involve the use of medications, chemicals, or mechanical devices of any kind; or ()

ii. Separation, isolation, or room confinement for less than two (2) hours. ()

d. A detailed incident report is also required for each incident of staff misconduct relating to juvenile care that is not reportable under Subsection 262.02 and results in any type of: ()

i. Suspension from work; ()

ii. Termination from work; ()

iii. Revocation or suspension of professional license; or ()

iv. Revocation or suspension of driver's license of any staff who transports juveniles. ()

06. Incident Report Content. Contract providers may elect to use the department's standard incident report form or may use another form as long as all of the following information is included: (4-6-05)

a. Juvenile offender's assigned unit; (4-2-08)

b. Date, location, and time of the incident; (4-2-08)

c. Witnesses and other staff and juvenile offenders involved; (4-2-08)

d. Persons notified with date and time of notice; (4-6-05)

e. Type of incident by category, such as assault on staff, assault on juvenile offender, injury or illness, property damage, contraband, suicide attempt or threat, escape or attempted escape, or other misconduct; (4-2-08)

f. Action taken by category, such as physical restraint, separation, isolation, or room confinement with times in and out, suicide precautions, or escape precautions initiated; (4-6-05)

- g.** Brief narrative description of the incident; (4-6-05)
- h.** Signature of staff and reviewing supervisor, which may be affixed electronically; (3-29-10)
- i.** Documentation of injury and medical attention provided; and (4-2-08)
- j.** If the incident involves sexual misconduct, the incident report must include a description of action taken to: (4-2-08)

 - i.** Keep the alleged victim(s) safe from intimidation of further abuse and maintain confidentiality; (4-2-08)
 - ii.** Address any immediate trauma, either physical or emotional; (4-2-08)
 - iii.** Address long-term medical or mental health needs related to the alleged abuse; (4-2-08)
 - iv.** Notify responsible licensing, regulatory, and law enforcement agencies and preserve evidence; (4-2-08)
 - v.** Conduct an internal investigation of the incident and as necessary request that an external investigation be completed; and (4-2-08)
 - vi.** Prevent repetition of the abusive situation. (4-2-08)

07. Monitoring the Location of Juvenile Offenders. The contract provider must have and strictly follow a comprehensive policy covering the supervision of juvenile offenders, including a plan for monitoring all movement of those juvenile offenders both in the facility and, as appropriate, within the community. Staff at the facility must be aware of the location of every juvenile offender assigned to that program at all times. (4-2-08)

08. Nonresidential Absences. Nonresidential programs shall make reasonable efforts to ensure that the juvenile offenders attend their program daily or as otherwise specified in the service implementation plan. The nonresidential program shall inform the juvenile services coordinator of daily attendance and all attendance problems. This information must be documented in at least monthly progress notes and must be reported in written progress reports every two (2) months. (4-2-08)

IDAPA 05 - IDAHO DEPARTMENT OF JUVENILE CORRECTIONS

05.01.05 - RULES FOR REINTEGRATION PROVIDERS

DOCKET NO. 05-0105-1001 (NEW CHAPTER)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is **December 1, 2010**. This pending rule has been adopted by the agency and is now pending review by the 2011 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 20-504(9) and 20-504(11), 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 department has determined that the welfare of the community and juveniles in its custody make adoption of the pending rule and the amendments to the temporary rule appropriate. Amendments to temporary rules are necessary to correct references to Idaho Code and rules.

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 [November 3, 2010 Idaho Administrative Bulletin, Vol. 10-11, pages 36 through 76.](#)

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 Nancy S. Bishop, Deputy Attorney General, Idaho Department of Juvenile Corrections (208)334-5100 x.421.

DATED this 1st day of December, 2010.

Nancy S. Bishop
Idaho Department of Juvenile Corrections
954 W. Jefferson, PO Box 83720
Boise, Idaho 83720-0285
(208) 334-5100, Fax: (208) 334-5120

THIS NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is **December 1, 2010**.

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 20-504(9), 20-504(11), and 20-531(4), 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 November 17, 2010.

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:

Currently IDJC does not have rules that apply to providers of independent living or reintegration services for juveniles in custody who are nearing program completion. These rules are needed to provide oversight of the providers of these services to older juveniles to ensure the juveniles' safety and well-being.

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

New chapter is proposed that would govern providers of independent living and reintegration services, and is necessary to protect public health and safety by ensuring that these juveniles are properly supervised while in IDJC custody.

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:

Fiscal impact should be minimal, as the department is already reviewing contract providers for compliance.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted but a meeting of stakeholders was held September 14, 2010.

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: No materials are being incorporated by reference into these rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule or the temporary rule, contact Nancy S. Bishop, Deputy Attorney General, Idaho Department of Juvenile Corrections (208) 334-5100 x.421.

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 November 24, 2010.

DATED this 1st day of October, 2010.

THE FOLLOWING IS THE TEXT FOR DOCKET NO. 05-0105-1001

IDAPA 05, TITLE 01, CHAPTER 05

05.01.05 - RULES FOR REINTEGRATION PROVIDERS

000. LEGAL AUTHORITY.

01. Section 20-504(9), Idaho Code. Pursuant to Section 20-504(9), Idaho Code, the department shall establish minimum standards for the operations of all private juvenile offender and non-juvenile offender facilities and programs which provide services to juvenile offenders.

()

02. Section 20-504(11), Idaho Code. Pursuant to Section 20-504(11), Idaho Code, the department shall have authority to adopt such administrative rules pursuant to the procedures provided in Chapter 52, Title 67, Idaho Code, as are deemed necessary or appropriate for the

functioning of the department and the implementation and administration of the Juvenile Corrections Act. ()

03. Interstate Compact on Juveniles. By the provisions of Sections 16-1901, et seq., Idaho Code, the “Interstate Compact on Juveniles,” the department is authorized to promulgate rules and regulations to carry out more effectively the terms of the compact. ()

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 05.01.05, “Rules for Reintegration Providers,” IDAPA 05, Title 01, Chapter 05. ()

02. Scope. These rules are established to ensure that the juvenile corrections system in Idaho will be consistently based on the following principles: accountability; community protection; and competency development. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency has written statements which pertain to the interpretations of these rules. The document is available for public inspection and copying at cost at the Idaho Department of Juvenile Corrections, 954 W. Jefferson St., P.O. Box 83720, Boise, Idaho 83720-0285. ()

003. ADMINISTRATIVE APPEALS.

This chapter does not provide for appeal of the administrative requirements for providers. ()

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference into these rules. ()

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

The Idaho Department of Juvenile Corrections is located at 954 W. Jefferson St., P.O. Box 83720, Boise, Idaho 83720-0285. Business hours are typically 8 a.m. to 5 p.m., Monday through Friday, excluding holidays. Mail regarding the Idaho Department of Juvenile Corrections’ rules should be directed to P.O. Box 83720, Boise, Idaho 83720-0285. The telephone number of the office is (208) 334-5100 and the telecommunications relay service of the office is 1 800 377-1363 or 711. The facsimile number of the office is (208) 334-5120. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

The records associated with the providers are juvenile records of the Idaho Department of Juvenile Corrections, and are subject to the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. ()

007. REGIONAL FACILITY CONTACT INFORMATION.

01. Region 1 Facility. The Juvenile Corrections Center at Lewiston may be contacted at (208) 799-3332. ()

02. Region 2 Facility. The Juvenile Corrections Center at Nampa may be contacted at (208) 465-8443. ()

03. Region 3 Facility. The Juvenile Corrections Center at St. Anthony may be contacted at (208) 624-3462. ()

008. -- 009. (RESERVED).

010. DEFINITIONS.

As used in this chapter: ()

01. Actual Cost. The actual amount paid for materials or services from an independent contractor, which must be documented by a receipt or invoice. Actual costs do not include the time of any staff employed by the provider. ()

02. Adult. A person eighteen (18) years of age or older. ()

03. Assessment. The process of gathering information to determine risk and program needs for the purpose of guiding placement decisions and to develop the service plan. ()

04. Clinical Supervisor. A person who supervises juvenile services coordinators and clinicians in assigned regions. This person is responsible for recommending releases from department custody and approving transfers in collaboration with the regional superintendent. This responsibility also includes oversight of the regional observation and assessment process, and assists in the maintenance and development of treatment programs. ()

05. Commit. Commit means to transfer legal custody to the Idaho Department of Juvenile Corrections. ()

06. Community Treatment Team. A team including the juvenile services coordinator, provider case manager, juvenile probation officer, family, and others, as necessary, who work together to provide input into each juvenile offender's service implementation plan, implement their respective sections of that plan, and monitor and report progress on treatment goals. ()

07. Contraband. Any item not issued or authorized by the provider. ()

08. Confidential Information. Information that may only be used or disclosed as provided by state or federal law, federal regulations, or state rule. ()

09. Court. District court or magistrate's division thereof. ()

10. Criminogenic Needs. Assessed juvenile offender risk factors or attributes of juvenile offenders that are directly linked to criminal behavior and, when changed, influence the probability of recidivism. ()

11. Department. The Idaho Department of Juvenile Corrections. ()

12. Detention. Detention means the temporary placement of juveniles who require secure custody for their own or the community's protection in physically restricting facilities.

()

13. Direct Care Service Provider. A provider who provides service(s) directly to the juvenile offender, such as a provider of sex offender or substance abuse treatment or counseling services. ()

14. Director. The director of the Idaho Department of Juvenile Corrections. ()

15. Education Plan. A written plan for general education students outlining the coursework they will complete each year towards meeting the Idaho Achievement Standards and recommended coursework for their grade level and based on assessed academic, emotional, developmental and behavioral needs, and competencies. Students qualifying for Individuals with Disabilities Education Act (IDEA) services will have an Individual Education Plan (IEP) in lieu of an education plan. ()

16. Escape. Attempting to leave or leaving a facility without permission, or attempting to leave or leaving the lawful custody of any officer or other person without permission. ()

17. Facility. The physical plant associated with the operation of juvenile offender or non-juvenile offender programs. ()

18. Facility Treatment Team. The group of staff employed by the department or by the provider who have input into developing the juvenile offender's service implementation plan; who provide direct services to juvenile offenders; and who monitor and report on the progress on meeting the goals in that plan. The facility treatment team is responsible for working with the community treatment team to develop and implement the service implementation plan. ()

19. General Education Student. A student who does not qualify for special education services under the IDEA. ()

20. Group Juvenile Offender Facility. A facility in which juvenile offenders are living in a group setting. ()

21. Health Assessment. The purpose of a health assessment is to thoroughly review and determine a juvenile offender's comprehensive health needs. This information is used to develop the medical terms of a juvenile offender's service plan. ()

22. Health Screening. The purpose of a health screening is to quickly identify a juvenile offender's immediate health needs and to determine if there are any immediate needs related to a chronic health condition. ()

23. Health Services. Health services are defined as including, but not limited to, routine and emergency medical, dental, optical, obstetrics, mental health, or other related health service. ()

24. Incident Report. A written document reporting any occurrence or event, or any other incident which threatens the safety and security of staff, juvenile offenders or others, or

which threatens the security of the program and which requires a staff response. ()

25. Independent Living Services. Services that increase a juvenile offender's ability to achieve independence in the community. ()

26. Individual Education Plan (IEP). A written document (developed collaboratively by parents and school personnel) which outlines the special education program for a student with a disability and is based on assessed academic, emotional, developmental and behavioral needs, and competencies. This document is developed, reviewed, and revised at an IEP meeting at least annually. ()

27. Individual Service Plan (ISP). A written document produced during the observation and assessment period following commitment to the department that defines the juvenile offender's criminogenic needs and risks, strengths, goals, and recommendations for family and reintegration services. The service plan addresses the relevant needs and services for each juvenile offender in areas such as mental health, medical, education, substance abuse, and social skills. ()

28. Interns. A paraprofessional staff who is pursuing a degree and who, as a part of documented coursework with a college or university, may provide counseling or other services to juvenile offenders in the department's custody or their families, under direct supervision of qualified staff. ()

29. Judge. A district judge or a magistrate. ()

30. Juvenile. A person less than eighteen (18) years of age or who was less than eighteen (18) years of age at the time of any act, omission or status bringing the person within the purview of the Juvenile Corrections Act. ()

31. Juvenile Offender. A person under the age of eighteen (18), committed by the court to the custody, care and jurisdiction of the department for confinement in a secure facility following adjudication for a delinquent act which would constitute a felony or misdemeanor if committed by an adult. ()

32. Juvenile Records. Information concerning the juvenile offender's delinquent or criminal, personal, and medical history and behavior and activities while in custody, including but not limited to commitment papers, court orders, detainer, personal property receipts, visitors' lists, type of custody, disciplinary infractions and actions taken, grievance reports, work assignments, program participation, and miscellaneous correspondence. ()

33. Juvenile Services Coordinator. An individual employed by the department who is responsible for the monitoring of therapeutic or rehabilitative treatment services to juvenile offenders participating in a treatment program. This responsibility includes monitoring service plans and progress reports and sharing information with family, community, courts, and with other department employees. ()

34. Legal Custody. The relationship created by the court's decree which imposes upon the custodian responsibilities of physical possession of the juvenile offender, the duty to

protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care. ()

35. Legal Guardian. A person appointed as guardian of a minor under the laws of Idaho. For the purposes of this chapter, legal guardian does not include and shall not be construed to include the owner, operator or the agent of an owner or operator of a detention center, observation and assessment center, secure facility, juvenile offender facility or other facility having temporary or long-term physical custody of the juvenile offender. ()

36. Mechanical Restraints. Any method of physical control of a juvenile offender which involves the use of devices to restrict physical activity. ()

37. Mental Health Assessment. The purpose of a mental health assessment is to thoroughly review and determine a juvenile offender's comprehensive mental health needs. This information is used to develop the medical terms of a juvenile offender's service plan. ()

38. Mental Health Screening. The purpose of mental health screening is to quickly identify a juvenile offender's immediate mental health needs and to determine if there are any immediate needs related to a chronic mental health condition. ()

39. Nonresidential Offender Programs. Programs providing services to juveniles in the custody of the department and their families in which the juvenile offender continues to live with a parent or guardian and not in a juvenile offender care facility. ()

40. Observation and Assessment Program. A residential or nonresidential program designed to complete assessments of juveniles in the custody of the department. ()

41. Physical Restraint. Any method of physical control of a juvenile offender which involves staff touching or holding a juvenile offender to limit or control the juvenile offender's actions. ()

42. PREA. Prison Rape Elimination Act of 2003. ()

43. Progress Report. Documents in a clear and concise way the progress being made toward achieving the reintegration goals and specific terms of the service implementation plan (SIP). The status of progress must be clearly communicated to all of the stakeholders, including the court, community providers and potential providers, the family and to the juvenile. ()

44. Provider. Provides reintegration and independent living skills and coordinates needed supportive services identified in an individualized reintegration plan. Also called Reintegration Service Provider. ()

45. Quality Improvement Unit. Department employees responsible for overseeing providers' compliance with contract terms and these rules. ()

46. Region. Subunits of the department organized by geographical areas and including all services and programs offered by the department in that area. ()

47. Regional Facility. Department operated juvenile correctional centers located in each region of the state. ()

48. Regional Superintendent. The administrator of a state operated juvenile offender commitment facility for juvenile offenders and who provides supervision to the regional clinical supervisors. ()

49. Reintegration Placement. Refers to the placement of a juvenile offender receiving independent living and reintegration skills services from the provider. This placement may be with a host family, in a group setting, or in an apartment. ()

50. Reintegration Plan. That part of the juvenile offender's service implementation plan which specifically addresses the terms, conditions and services to be provided as the juvenile offender moves to a lower level of care or leaves the custody of the department. ()

51. Release from Department Custody. Refers to the termination of the department's legal custody of a juvenile. ()

52. Restitution. Financial payment or service work intended to reimburse victims for the cost of damage or harm caused by a juvenile offender. Restitution must be court ordered. ()

53. Restricted Clinical Information. Any record, document or other information legally protected from dissemination to the general public by statute or rule, such as psychological evaluations, therapy notes, therapy journals, sex histories, polygraph results, and psychological testing, or other legally confidential information. ()

54. Room Confinement. Instances in which juvenile offenders are confined in the room in which they usually sleep, rather than being confined in an isolation room. ()

55. Separation or Isolation. Any instance when juvenile offenders are confined alone for over fifteen (15) minutes in a room other than the room in which they usually sleep. ()

56. Service Implementation Plan. A written document produced and regularly updated by a regional facility or provider with input from the community treatment team within five (5) days of arrival at provider. This plan describes interventions and objectives to address the service plan goals including the areas of community protection, accountability, and competency development. ()

57. Sexual Misconduct. Sexual misconduct includes all instances, types, and occurrences, of sexual contact between juvenile offenders, or any sexual behavior between staff/volunteers and juvenile offenders, regardless of any express or perceived consent. ()

58. Staffing. Regularly scheduled meetings of the community and facility treatment team members to review progress on treatment goals and objectives identified in each juvenile offender's service implementation plan. ()

59. Strip Search. An examination of the juvenile offender's naked body for weapons,

contraband, injuries, or vermin infestations. This also includes a thorough search of all the juvenile offender's clothing while such is not being worn. ()

60. Suicide Risk Assessment. An evaluation performed by a mental health professional to determine the level of immediate risk of a juvenile offender attempting suicide, and to apply this information in developing a safety plan for the juvenile offender. ()

61. Suicide Risk Screening. An evaluation that is used to quickly determine, based upon known history and current behavior, whether a juvenile offender presents any identifiable risk of immediate suicidal behavior, and to call in a mental health professional to complete a suicide risk assessment. ()

62. Transfer. Any movement of a juvenile offender in the custody of the department from one (1) facility to another, including a regional facility, without a release from department custody. ()

63. Transfer Progress Report. Provide the reintegration provider, all of the members of the treatment team, including the juvenile and family, with a concise summary and overview of gains and strengths and includes the Reintegration Plan. The Transfer Progress Report also identifies remaining challenges with respect to the issues that resulted in commitment and plan for continued treatment/services. The transfer progress report is due no longer than two weeks before the actual date of release or transfer. ()

64. Treatment. Any program of planned services developed to meet risks and needs of juvenile offenders and their families, as identified in an assessment, and as related to activities designed to teach alternate behaviors and to support change in the beliefs that drive those behaviors. Treatment as referenced in this context also includes the maintenance of conditions that keep juvenile offenders, staff and the community safe. ()

65. Vocational Services. Any service provided related to assessment, education, guidance or training in the area of work or basic living skills. ()

66. Volunteer. A person from the community who freely chooses to do or provide direct or indirect services to juvenile offenders or staff at a facility, through a provider or at a juvenile correctional center. This person is not compelled to do so and is not compensated for the services. ()

67. Waiver. The non-application of one (1) or more of these rules based upon a request by the provider and a written decision issued by the department. ()

68. Work Program. A public service work project which employs juveniles at a reasonable wage for the purpose of reimbursing victims of juveniles' delinquent behavior. ()

011. -- 099. (RESERVED).

100. INITIATION OF SERVICES.

Juveniles are committed to the department under the provisions of the Juvenile Corrections Act (Sections 20-501 through 20-549, Idaho Code) and the Interstate Compact on Juveniles (Sections

16-1901 through 16-1910, Idaho Code). ()

101. WAIVER OR VARIATION.

Minimum program standards established herein shall apply to all services provided by the provider. Any waiver or variation from the standards stated in these rules must receive prior written approval from the department and must be attached as a formal amendment to the contract. ()

102. APPLICABILITY.

This chapter applies to providers of reintegration and independent living skills that coordinate needed supportive services identified in individual reintegration plans. ()

103. -- 199. (RESERVED).

200. AUTHORITY TO INSPECT.

01. Inspections. The department shall have the authority to conduct reviews of programs, program operations, juvenile offender placements and facilities to ensure the provider's compliance with these rules. The provider shall cooperate with the department's review, and must provide access to the facility and all juvenile records for juveniles in department custody, as deemed necessary by the department. The department may access individual juvenile records of juveniles who have received services funded by the department but are not in the custody of the department. However, in order to more fully assess the operation of the program; aggregate data and information for all juveniles must be made available. ()

02. Quarterly Reports. In order to assist the department in monitoring contract programs for key areas of operational performance, each provider will be required to submit a written, quarterly report to the department's quality improvement staff. These reports may be submitted by facsimile, mail, or electronically within thirty (30) calendar days of the end of each quarter. The reports shall include, at a minimum, the following information: ()

- a. Changes made in the population served; ()
- b. Changes in program design or functioning; ()
- c. Changes in program curriculum; ()
- d. Changes in organizational chart; ()
- e. All staff turnover during the quarter; ()
- f. Copies of all incident reports; ()
- g. Number of reportable incidents of the type listed below: ()
 - i. Assaults against juvenile offenders; ()
 - ii. Assaults against staff; ()

- iii. Behavioral and psychiatric emergencies; ()
- iv. Contraband; ()
- v. Escapes; ()
- vi. Injuries or illness requiring significant medical attention; ()
- vii. Restraints; ()
- viii. Separation or isolation; ()
- ix. Sexual misconduct; and ()
- x. Suicide precautions. ()
- h.** Number of hours and topics included in staff training for the quarter; ()
- i.** Personal funds, earned income, and restitution for each juvenile in department custody according to Section 211 of these rules; ()
- j.** A copy of juvenile offender grievances and resolutions according to Section 244 of these rules; ()
- k.** Number of department referrals made and accepted; and ()
- l.** Number of department referrals made and rejected. ()

03. Additional Reporting Requirements. In situations where the department has determined that the safety, security, or order of a program are at risk, more frequent and more detailed reporting will be required by the director, or designee. The department has a responsibility at all times to monitor the overall safety, security, and order of a facility or program for the protection and well-being of the juvenile offenders. For these reasons, the provider shall report to the department any and all incidents of the type normally requiring immediate notice to the department, as identified in Section 262, that occur in their program or facility regardless of whether or not the juveniles involved are in the department's custody. Any such reports regarding juveniles not in department custody shall include the type and scope of the incident without any information identifying the juvenile shall be made to the department's quality improvement staff. ()

04. Financial Audit. Provider shall furnish an annual financial audit of juveniles' personal funds accounts which must be attached to one of the quarterly reports. The financial audit shall be conducted by an accountant. ()

201. COMPLIANCE WITH STATE AND LOCAL CODES AND ORDINANCES.
The provider shall maintain compliance with all state and local building, life safety, and zoning requirements. Documentation of compliance shall be made available to the Idaho Department of

Juvenile Corrections. ()

202. ACCESSIBILITY, GENERAL SAFETY AND MAINTENANCE OF BUILDINGS AND GROUNDS.

01. Access. The program buildings, parking lots and other facilities shall provide access as required by the Americans with Disabilities Act and other federal and state laws and regulations. ()

02. Maintenance. The provider shall ensure that all structures and apartments used for juvenile offender purposes are maintained in good repair and are free from hazards to health and safety. The facility grounds shall also be maintained and shall be free from any hazard to health and safety. ()

03. Written Plan. The program shall have a written plan for preventive and ongoing maintenance of the juvenile offender facility. ()

04. Safety Program. Each provider of group juvenile offender facilities shall be responsible for the safety program at the facility. The provider shall conduct routine inspections of the facility monthly, with copies of the inspections kept on file for review by the department, to identify: ()

a. Fire safety; ()

b. Existing hazards; ()

c. Potential hazards; and ()

d. The corrective action that should be taken to address these hazards. ()

05. Emergency Procedures. The provider will utilize and maintain a current emergency procedure manual which shall include, at a minimum, procedures pertaining to: ()

a. Fire safety and escape; ()

b. Emergency medical care; ()

c. Notification and filing charges on escape; ()

d. Incidents of violence within the facility; ()

e. Suicide prevention; ()

f. Child abuse reporting; and ()

g. Sexual abuse disclosures. ()

06. Site Visit. A juvenile service coordinator or designee shall conduct site visits prior

to occupancy by the juvenile offender. ()

203. VEHICLES.

01. Condition. Vehicles used to transport juveniles must be mechanically sound, in good repair, and meet the department's requirements for insurance coverage. ()

02. Compliance with Applicable Laws. All vehicles must possess current state licenses and shall comply with all applicable state laws. When in use, all vehicles must carry a standard first aid kit and a fire extinguisher. ()

03. Maintenance and Equipment Checklist. The provider shall have a vehicle maintenance and equipment checklist, which shall include a listing of all critical operating systems and equipment inspections, the date of the last inspection, and the type of service or action taken. All repairs required to critical operating systems, such as brakes, headlights, shall be made immediately. All worn or missing critical equipment shall be replaced immediately, such as tires, jacks, seat belts. ()

204. TRANSPORTATION.

01. Transportation for Service Plan. It shall be the responsibility of the provider to provide all transportation associated with the juvenile offender's service implementation plan. The juvenile offender's family, staff, or volunteers may be relied upon to provide transportation for passes and some other community contacts as long as this does not present any undue risk or burden to the juvenile offender, family, or to the community. Provider is responsible to ensure that any person transporting the juvenile has a valid driver's license and proof of insurance. ()

02. Transportation and Notification for Court Proceedings. It is the responsibility of the department to assure the juvenile offender's appearance in all court proceedings and to arrange transportation as indicated. It is the provider's responsibility to immediately notify the juvenile offender's juvenile services coordinator of court dates and appearances. Providers may provide transportation under this section in consultation with the juvenile services coordinator. ()

03. Arrangements. Arrangements for transportation related to court appearances as well as related to transfer or release of juveniles from department custody shall be made between the provider and the department's regional transport coordinator located in the provider's region. This communication is facilitated through the juvenile services coordinator. ()

04. Juvenile Offender Driving. Juvenile offenders may have the ability to drive on an individualized basis upon developing a driving plan with the provider, and with prior approval from the clinical supervisor. Juveniles must obtain a valid state issued permit or license and proof of insurance before operating any motor vehicle. ()

205. JUVENILE RECORDS.

01. Case Management Documents. The provider shall maintain individual files on all juvenile offenders which shall include: ()

- a. A copy of the signed contract and Referral Acceptance/Denial Form; ()
- b. Provider’s service implementation plans as referred to in Subsection 010.56 of these rules; ()
- c. Progress reports as referred to in Subsections 010.43 and 270.05 of these rules; ()
- d. IDJC Progress Assessment/Reclassification documents; ()
- e. Provider’s incident reports as referred to in Section 262 of these rules; ()
- f. Court documents and dispositions; ()
- g. Professional correspondence; ()
- h. Identifying information and physical descriptions; ()
- i. Last known parent or guardian address and telephone number; ()
- j. Date of admittance and projected release from department custody; ()
- k. A copy of the most recent progress report from the sending facility which includes the written reintegration plan; and ()
- l. Records of juvenile offenders’ earnings and restitution payments. ()
- 02. Confidentiality. ()**
 - a. Sections 20-525 and 9-340B(2), Idaho Code, and Idaho Court Administrative Rule 32 require confidentiality, under certain conditions, of records that contain information about juvenile offenders, which the provider is to observe. ()
 - b. All matters relating to confidentiality of juvenile offender files shall also comply with the federal Health Insurance Portability and Accountability Act (HIPAA) and 42 CFR Chapter 1, Sub-Chapter A, Part 2, “Confidentiality of Alcohol and Drug Abuse Patient Records.” ()
 - c. Restricted clinical information, as defined, and education and medical records, if required to be kept by the provider, must each be filed separately and stored in a secured area. These file folders must be stamped “confidential” on the cover or outside folder. ()
 - d. For providers that serve sex offenders, individual treatment assignments, such as journals, detailed sexual histories, must be destroyed at the time the juvenile offender is transferred or released from the program. ()
 - e. The provider shall coordinate services, and will not receive or maintain copies of

medical, mental health, substance abuse, sex offender, or any other treatment records from direct care service providers unless the provider is providing direct services to the juvenile offender. ()

f. All medical, mental health, substance abuse, sex offender, or any other treatment progress notes will be sent directly to the juvenile services coordinator by the direct care service provider. ()

03. Automated Records. Automated records shall include a procedure to ensure confidentiality and be in compliance with any state or federal privacy laws pertaining to those records. The procedure shall also include provisions for backing up automated records. ()

04. Policies and Procedures. The provider shall have written policies and procedures to address the confidentiality of juvenile offender records. In compliance with HIPAA's privacy regulations, written procedures shall designate a privacy officer who will: ()

a. Supervise the maintenance of identifiable personal health care information; ()

b. Serve as custodian of all confidential juvenile offender records; and ()

c. Determine to whom records may be released. ()

05. Restrictions to Records Access. ()

a. Access to personal health information shall be limited to: ()

i. Employees of the department and the reintegration service provider to the extent necessary to perform normal business functions, including health treatment, and other functions designed to maintain the good order, safety and security of the juvenile offenders or facility; ()

ii. Individuals participating in a staffing for a juvenile offender, who have a direct need to know the information, and who are obligated to or promise to maintain the confidentiality of information disclosed. These individuals may include employees or representatives of law enforcement, the department, the provider, probation officer, medical or mental health professionals and other appropriate individuals; ()

iii. Law enforcement members, emergency medical personnel, the Idaho Department of Health and Welfare and similar court or government officials, as necessary to perform their duties, and only if not otherwise prohibited by state or federal law or rule. ()

b. Access to all other confidential juvenile offender records shall be limited to the following authorized persons: ()

i. Staff authorized by the reintegration service provider and members of the administrative staff of the provider's parent agency; ()

ii. A parent or guardian or the juvenile offender, to the extent that disclosure is not

- privileged and is clinically appropriate; ()
- iii. Appropriate staff of the department; ()
 - iv. Counsel for the juvenile offender with signed consent form; ()
 - v. Judges, prosecutors, juvenile probation officers, and law enforcement officers, when essential for official business; ()
 - vi. Individuals and agencies approved by the department to conduct research and evaluation or statistical studies; or ()
 - vii. Schools, as appropriate. ()

06. Withholding of Information. If the department, the provider or the direct care service provider believes that information contained in the record would be damaging to the juvenile offender's treatment or rehabilitation, that information may be withheld from the juvenile offender, or his parent, or guardian, or others, except under court order. ()

07. Requests for Information. Requests for information of any kind about juvenile offenders in department custody, following their release or transfer from a provider's program must be directed to the juvenile correctional center in Nampa. ()

206. RELEASE FORMS.

01. Release of Nonmedical Information. Except in the case of emergency, the juvenile offender, and a department representative shall sign a release of information and consent form before information about the juvenile offender is released to any non-juvenile justice entity. A copy of the consent form shall be maintained in the juvenile offender's file at the program and in the case management file maintained by the department. ()

02. Release of Medical Information. Release of medical information requires more specific authorization according to Subsection 321.02, of these rules. ()

03. Minimum Information. The release of information and consent form shall, at a minimum, include the following: ()

- a. Name of person, agency or organization requesting information; ()
- b. Name of person, agency or organization releasing information; ()
- c. The specific information to be disclosed; ()
- d. The date consent form is signed; ()
- e. Signature of the juvenile offender; ()
- f. The signature of the person witnessing the juvenile offender's signature; and

()

- g.** Effective and expiration dates. ()

04. Document Reproduction. The provider agrees that no documents provided by the department shall be reproduced or distributed without the written permission of the department.

()

207. JUVENILE OFFENDER PHOTOGRAPHS.

01. Limitations. No juvenile offender in the custody of the department shall be used in person or by photograph or any other visual image for the express purpose of any fund raising efforts.

()

02. Department Authorization. Permission to release or use the photographs and any other visual image of juvenile offenders in the custody of the department shall require written authorization from the department director or designee.

()

208. ADMINISTRATIVE RECORDS.

01. Documentation Retention. The provider shall document and retain documentation of all information related to the following items:

()

a. Program consultation provided at the facility, such as technical assistance on program design and implementation;

()

b. Training provided to staff;

()

c. All alleged instances of child abuse;

()

d. Fiscal and program audits or reviews, including corrective actions required and taken;

()

e. Reports of sexual abuse disclosures to Idaho Department of Health and Welfare or law enforcement,

()

f. Juvenile offender and staff grievances; and

()

g. Copies of all completed incident reports.

()

02. Employee Files. Employee personnel files shall contain the following:

()

a. Minimum qualifications for the job held;

()

b. Hiring information;

()

c. Copies of all required licenses or certificates related to the job function;

()

- d. Copies of academic credentials, driving record and criminal background checks; ()
- e. Current training records; and ()
- f. Annual performance evaluations and copies of personnel actions, such as disciplinary action taken, grievances involving staff, and acknowledgements of outstanding performance. ()

209. CLOTHING AND PERSONAL ITEMS.

01. Clothing in Independent Living Programs. Provider must ensure that the juvenile offender has sufficient clothing. The provider may require the juvenile offender to purchase clothing as part of the independent living program. Any requirement that the juvenile offender purchase clothing must be documented as part of the independent living program. ()

02. Release. All clothing and incidentals become the property of the juvenile offender upon release. The provider will ensure the juvenile is providing proper care and cleaning of clothing in the juvenile offender's possession. ()

210. FOOD SERVICE.

Meal preparation, planning and proper nutrition will be part of the independent living skills but the reintegration provider will not be responsible for monitoring what the juvenile actually eats once they are living independently. Provider shall ensure that the juvenile has sufficient food at all times. ()

211. PERSONAL FUNDS.

01. Funds Handled by a Provider. The provider will follow generally accepted accounting practices in managing personal funds of juvenile offenders and shall be able to demonstrate appropriate measures of internal fiscal controls related to the juvenile's personal funds. ()

a. A provider shall be required to deposit all personal funds collected for the juvenile offender in a public banking institution in an account in the juvenile's name. The provider shall maintain a reconciled ledger showing each juvenile offender's deposits and withdrawals within the juvenile's account and copies of current bank statements. ()

b. All withdrawals by a juvenile offender, or expenditures made on behalf of a juvenile offender by the provider, shall be documented, signed, and dated by the juvenile offender. This documentation shall be reconciled to the juvenile offender's ledger monthly. ()

c. A provider may limit the amount of any withdrawal. ()

d. A provider shall not require juvenile offenders, parents, or guardians to pay for services and supplies that are to be provided by the provider. ()

e. There can be no commingling of juvenile personal funds with provider funds.

Borrowing or moving funds between juvenile personal accounts is prohibited. ()

02. Personal Funds Reporting Requirements. A report shall be filed quarterly with the department's quality improvement staff as part of the report in Subsection 200.02 of these rules. The personal funds report shall show a list of all juvenile offender account balances, date of admission and, if appropriate, the date of transfer or release from department custody. The personal fund account is subject to review and audit by the department or its representatives at any time. Any discrepancies in juvenile offender accounts shall be resolved within fourteen (14) calendar days of notification. Copies of the monthly personal funds report shall also be sent to the juvenile services coordinator. ()

03. Transfer of Personal Funds. When a juvenile offender is released from department custody or transferred to another program, the balance of the juvenile offender's account shall be given to or mailed to the juvenile offender within five (5) business days and documented on the Provider Juvenile Check-Out Form supplied by the department. ()

04. Juvenile Offenders with Earned Income. The provider is responsible for maintaining and accounting for any money earned by a juvenile offender. All funds are to be deposited in the juvenile's individual funds account. Additionally, there shall be a plan for the priority use of the juvenile offender's earned income to pay court ordered restitution and a specific allocation for daily incidental expenses. ()

a. The provider shall establish a written plan for the juvenile offender to save at least ten percent (10%) of net earnings, to be deposited into the juvenile's personal funds account. The plan shall specify the purpose for which the funds saved will be used at program completion, such as paying deposits on utilities and housing or the purchasing of tools necessary for employment. ()

b. The provider shall establish a written plan and budget for a juvenile offender in independent living program, as part of the service implementation plan, for the juvenile offender's use of these funds. The plan shall specify how the funds will be used as part of the independent living program. ()

05. Written Description of Charges. A written description of all charges of the provider and a written description of all services or items for which a juvenile offender may be charged must be approved by the department and provided to a juvenile offender or his responsible agent prior to admission and upon request thereafter. The provider must maintain a record of all financial transactions between the juvenile offender and the provider or between the juvenile offender and the provider's personnel. ()

06. Juvenile Offenders Not Required to Purchase Goods and Services from Provider. The provider cannot require the juvenile offenders to purchase goods and services from the provider. ()

212. RESTITUTION.

A provider shall create a plan for the juvenile offender to submit a portion of a juvenile offender's personal funds or earned income for the payment of restitution to victims as described in this section, or for program damages according to these rules. ()

01. Restitution for Damages. Restitution for damages at the program will not be paid to the exclusion of victim or court ordered restitution. The provider shall not access the juvenile offender's personal funds for program damages. Restitution for damages must begin with a plan for repair by the juvenile offender. Monetary restitution may only be sought through a court order when a juvenile offender has damaged or destroyed property, has caused or attempted to cause injury to himself, other juvenile offenders or staff which results in a non-reimbursed actual expense to the provider. ()

02. Disciplinary Process. All juvenile offenders shall be afforded an administrative hearing in accordance with the disciplinary procedure of the provider and standards set forth in these rules. ()

213. PROHIBITED CONTACT AND PRISON RAPE ELIMINATION ACT COMPLIANCE (PREA).

01. Sexual Misconduct. The provider, in accordance with PREA, shall have written policy and procedures that promote zero tolerance of sexual activity among juvenile offenders or between juvenile offenders and staff or volunteers, regardless of any express or perceived consent. The policy and procedures shall contain, at a minimum, the following provisions: ()

a. The provider shall inform juvenile offenders of the means available to safely report rape and sexual activity and shall document this notice to juvenile offenders; ()

b. The provider shall provide two (2) or more avenues for a juvenile offender to report rape and sexual activity; ()

c. The provider shall have a process that requires reporting and documentation of any instance of sexual misconduct among juvenile offenders or between juvenile offenders and staff or volunteers, according to Section 262 of these rules; ()

d. The provider staff shall treat all information regarding sexual misconduct with confidentiality; ()

e. The provider shall have a process in place for an initial internal investigation when sexual misconduct is reported; ()

f. The provider shall separate the accused perpetrator from the victim juvenile offender, who was the subject of alleged sexual misconduct, until the investigation is complete; ()

g. The provider shall document any and all steps taken to ensure the safety of both the alleged juvenile offender perpetrator and the juvenile offender victim; ()

h. The provider shall report alleged, sexual misconduct to either law enforcement or the appropriate licensing authority for external investigation when sexual misconduct is suspected; ()

i. The provider shall provide, at a minimum, one (1) hour of annual training for staff and juvenile offenders concerning the zero tolerance for, detection of, and response to sexual misconduct with a juvenile offender, including criminal prosecution. ()

j. Sexual contact with a juvenile offender constitutes a felony in the state of Idaho. ()

02. Reporting of Sexual Misconduct. Acts of sexual misconduct shall be reported to the department on the form provided by the department. ()

03. Survey on Sexual Violence. If the provider is identified to receive the yearly “Survey on Sexual Violence” from the Bureau of Justice Statistics, the provider shall timely complete and submit the survey and supply the department with copies. ()

214. -- 219. (RESERVED).

220. CONSULTANTS AND SUBCONTRACTORS.

It is the responsibility of the provider to notify the department’s quality improvement staff promptly, in writing, of any proposed changes in the use of consultants or subcontractors in the operations of a program. Any services offered by consultants and subcontractors, or interns, and not included in the terms of the existing contract, require the prior approval of the department. It is the responsibility of the provider to ensure that any consultant, subcontractor, or staff meets at least the minimum staff qualifications and terms of the original contract and these rules. The provider shall maintain a list of subcontracted service providers, interns, and their qualifications. Documentation of services provided by subcontractors shall include the number of units of service provided per program area. ()

221. STAFF QUALIFICATIONS.

01. Licenses. All individuals providing services to juveniles in the custody of the department must possess all licenses or certifications for their particular position as required by statute, rule, or by the Idaho Department of Health and Welfare, as applicable. ()

02. Education or Experience. All individuals providing services must be qualified to do so, on the basis of knowledge, skills, and abilities. In addition, certain program and professional caregivers must meet specific minimum standards for education or experience. These standards shall constitute, in part, the basis for determining the adequacy of program and professional services delivered under contractual agreement with the department. ()

03. Written Position Descriptions. Providers shall maintain written position descriptions for every job class established in the organization. In all cases, minimum qualifications for professional level staff must meet licensure and certification requirements. In all cases, the particular job titles used by the provider to provide counseling, therapy, direct care, and supervision of juvenile offenders, as well as staff supervision and management, must be specifically cross-referenced with the job titles in these rules. ()

222. POSITION DESCRIPTIONS DEFINED AND QUALIFICATION CRITERIA.

01. Clinician, Counselor, or Therapist. An individual who conducts a comprehensive assessment of the psychological, behavioral, social, or familial deficits or dysfunctions presented by the juvenile offender, then establishes and implements a plan for therapeutic services. The plan must specify diagnosis and treatment of problems to be addressed, an estimate of the time needed, and a schedule of the frequency and intensity of the services to be provided. The individual may also provide individual, group, or family counseling. At a minimum, the individual must have a master's degree and be currently licensed by the state of Idaho as a Licensed Professional Counselor (LPC), Licensed Marriage and Family Counselor (LMFT), Licensed Master Social Worker (LMSW), or certified school psychologist. ()

02. Juvenile Services Coordinator or Social Worker. An individual who is responsible for the assessment of treatment progress, and the provision and monitoring of therapeutic or rehabilitative treatment services to juvenile offenders participating in a treatment program. Individuals providing this function must possess at a minimum, a bachelor's degree from a fully accredited college or university in social work, psychology, or counseling and must be licensed as a social worker in the state of Idaho. ()

03. Recreational Specialist. An individual who develops and implements an individualized and goal-directed recreational plan for a juvenile offender in connection with the overall service implementation plan. The individual providing this function must possess a bachelor's degree in recreational therapy, health and physical education, or a related field, or have a high school diploma and two (2) years related experience in providing recreational services to juvenile offenders. ()

04. Rehabilitation Specialist or Case Manager. An individual, under direct supervision, who assists the juvenile offender in implementing the service implementation plan, evaluates the juvenile offender, and maintains the case record with respect to all nonclinical matters. The rehabilitation specialist or case manager also assists in presenting the case in staffing, communicates with appropriate individuals, including community interests, regarding the juvenile offender, and prepares written communications, under supervision, including discharge reports. The rehabilitation specialist or case manager may also serve as the social worker if properly licensed in the state of Idaho. Individuals providing this function must possess, at a minimum, a bachelor's degree from a fully accredited college or university in the social sciences or a related field. ()

05. Rehabilitation Technician or Direct Care Worker. An individual who is responsible for providing individual or group rehabilitative therapeutic services, supervising juvenile offenders' day-to-day living activities and performing such duties as preparing nutritious meals, supervising and training juvenile offenders in basic living skills, and providing some community transportation. Such individual must have a high school diploma or its equivalent. ()

06. Special Education Teacher. An individual who provides a modified curriculum for those students who are eligible for services under the IDEA. This individual must hold a valid standard exceptional child certificate with an endorsement as a generalist. ()

07. Teacher. An individual who provides basic educational services as required by state and federal statutes. This individual must hold a valid teaching credential in the appropriate

instructional field. ()

223. PROGRAM STAFFING REQUIREMENTS.

01. General Staffing Ratios. The provider shall ensure that an adequate number of qualified staff are present at all times to provide rehabilitation and treatment services, supervise juvenile offenders, and provide for their health, safety and treatment needs. Staffing ratios for reintegration programs will be identified in the service implementation plan. Staffing patterns shall ensure that professional staff is available to juvenile offenders at times when they are in the program or facility. The provider staff should provide consistency and stability so that the juvenile offenders know the roles of each staff member. The staffing ratios shall be determined in each service implementation plan and shall be based on the level of intervention of the program and the risk level of the juvenile offender population. ()

02. Emergency Staffing Ratios. At all times at least one (1) staff member on duty in a group juvenile offender facility must be currently certified to administer first aid and cardiopulmonary resuscitation (CPR). ()

03. Safety Checks for Independent Residences. If a juvenile offender is living in an apartment, or living independently in a similar situation, the provider shall perform safety checks on the juvenile as defined in the service implementation plan but no less than every five (5) days. ()

224. GENERAL REQUIREMENTS FOR TRAINING.

01. Training Plan. Training for staff and volunteers shall be conducted in accordance with a written plan approved by management and coordinated by a designated staff member. The training plan shall include: ()

a. Annual in-service training for all staff; ()

b. Those areas requiring current certification; ()

c. Prior to being assigned sole responsibility for supervision of juvenile offenders, rehabilitation technicians or direct care staff shall have training in the following areas: ()

i. Principles and practices of juvenile care and supervision; ()

ii. Program goals and objectives; ()

iii. Juvenile offender rights and grievance procedures; ()

iv. Procedures and legal requirements concerning the reporting of abuse and critical incidents and compliance with the PREA; ()

v. Medical emergency procedures, first aid, and CPR; ()

vi. Incident reporting; ()

- vii. How to recognize and respond to suicidal behavior; ()
- viii. How to access emergency health and mental health care; ()
- ix. Appropriate response to health-related emergencies; ()
- x. Training to meet the requirements of federal educational regulations; and ()
- xi. Training on the appropriate and safe transportation of all juvenile offenders.()
- d.** In-service training for all first-year staff shall include: ()
 - i. Program policies and procedures; ()
 - ii. Job responsibilities; ()
 - iii. Juvenile offender supervision; ()
 - iv. Safety and security emergency procedures (fire, disaster, etc.); ()
 - v. Confidentiality issues; ()
 - vi. Juvenile offender rights and grievance procedures; ()
 - vii. Communicable diseases, blood borne pathogens, and universal precautions; and ()
 - viii. Signs and symptoms of chemical use or dependency. ()

02. Trainer Qualifications. ()

a. Individuals who provide instruction in areas of life, health, and safety, including but not limited to, first aid, CPR, physical intervention techniques, shall have appropriate certification which must be documented in their personnel or training file. ()

b. Individuals who provide instruction in treatment shall have appropriate training, education, and experience which must be documented in their personnel or training file. ()

03. Documentation of Training. Staff training records shall be kept by a designated staff person. Separate training records shall be established for each staff member and volunteer and shall include: ()

- a.** Name; ()
- b.** Job title; ()
- c.** Employment beginning date; ()

- d. Annual training hours required; and ()
- e. A current chronological listing of all training completed. ()

04. Training Records. Training records may be kept separately within each individual personnel file or in a separate training file. Copies of curriculum materials must be maintained. ()

225. VOLUNTEERS AND INTERNS.

Programs should consider soliciting the involvement of volunteers and may utilize interns to enhance and expand their services. However, volunteers or interns recruited to supplement and enrich a program, may not be substituted for the activities and functions of facility staff. Neither volunteers nor interns shall be assigned sole supervision of juvenile offenders. ()

226. VOLUNTEER AND INTERN PLAN.

01. Written Plan. Programs that utilize volunteers and interns regularly shall have a written plan that includes stipulations for their use and training. Training provided must include all of the information necessary for the volunteers and interns to successfully perform their roles within the program. ()

02. Volunteer and Intern Requirements. The plan shall include: ()

a. Volunteers and interns must be at least twenty-one (21) years of age, of good character, and sufficiently mature to handle the responsibilities involved in the position; ()

b. Volunteers and interns who perform professional services must be licensed or certified as required by state law or rule; ()

c. Volunteers and interns must agree to background and criminal record checks as prescribed by state law prior to volunteering. Volunteers or interns with a criminal history must be approved in advance by the provider and IDJC. Registered sex offenders may not act as volunteers or interns. ()

03. Documentation. Provider shall maintain individual personnel files for each volunteer or intern working in the program. The files shall contain all documentation as described in Section 208 of these rules. ()

227. CRIMINAL BACKGROUND CHECKS.

All providers providing services to the department shall ensure that all employees, interns, and volunteers, as required by law, have undergone a criminal background check in the manner and form required by IDAPA 16.05.06, "Criminal History Checks and Background Checks." In addition to the crimes listed resulting in unconditional denial, any crime not specified there that requires registration on the sex offender registry in Idaho or any other state, will also result in an unconditional denial of employment for direct care or services, or where the employee would have any opportunity to have contact with a juvenile offender in the provider's care. Documentation of appropriate requests and responses shall be kept in confidential employee

personnel files. ()

228. DRIVERS.

All drivers of vehicles transporting a juvenile offender, including volunteers, interns, and staff, must possess a valid Idaho driver's license and the proper licenses and insurance required by state law for the type of motor vehicle operated. Volunteer or intern personnel files must contain evidence of training to transport a juvenile offender as well as other appropriate documentation. The provider must also include IDJC as a named insured on its own insurance policy. ()

229. -- 239. (RESERVED).

240. JUVENILE OFFENDER RIGHTS AND RESPONSIBILITIES.

01. Provider Obligations. The provider must observe, and not infringe upon, the rights of each juvenile offender in its facility or program. The provider shall also be responsible for understanding the rights and responsibilities of juveniles in custody, and knowing which rights have been forfeited as a result of being placed in custody. ()

02. Religious Services and Special Needs. Each juvenile offender will be advised of the obligation of the provider to allow access to appropriate religious services, and to make reasonable accommodations for any disabilities, language barriers, or other special needs. ()

03. Juvenile Offender Program Responsibilities. The provider shall inform each juvenile offender, upon admission to its program, of his responsibilities during the program. Additionally, each juvenile offender shall have an understanding of the following program expectations: ()

- a. Requirements needed to complete program; ()
- b. How to access medical services; ()
- c. How to file a grievance; ()
- d. How to report incidents of sexual misconduct between juvenile offenders or between staff and juvenile offenders; and ()
- e. How to contact his juvenile services coordinator and juvenile probation officer. ()

241. DISCIPLINE OF JUVENILE OFFENDERS.

01. Written Policies and Procedures. All providers offering treatment services shall have comprehensive written discipline policies and procedures, which shall be explained to all juvenile offenders, families, and staff. These policies shall include positive responses for appropriate behavior. They shall include a provision for notice to the juvenile offender being disciplined, a mechanism for a fair and impartial hearing by a disciplinary board, and a process for appeal. ()

02. Problem Resolution. Disciplinary actions are not the same as the consequences that are spelled out as a part of a service implementation plan for the juvenile offender. A provider shall make every effort to resolve problems with the least amount of formal disciplinary activity possible. Efforts should be made first to instruct and counsel the juvenile offender. Any restriction of a juvenile offender's participation in a program resulting from a formal disciplinary action must be reported in an incident report. ()

242. FORMAL DISCIPLINARY PROCESS.

01. Prior to and upon Initiating a Formal Disciplinary Action. Prior to and upon initiating a disciplinary action, careful attention should be given to the program rules to determine the seriousness of the misbehavior and the appropriate type of discipline. ()

02. Control of Juvenile Offenders. Staff will make every effort to maintain control of juvenile offenders through positive methods. ()

03. Discipline. Discipline will be administered in a way to create a learning experience for the juvenile offender, and never in a way that degrades or humiliates a juvenile offender. A juvenile offender shall not be assessed a monetary fine as a disciplinary measure. ()

04. Other Juvenile Offenders. No juvenile offender shall supervise nor carry out disciplinary actions over another juvenile offender. ()

05. Denial of Services. Denial of the following are prohibited as disciplinary responses: ()

- a. Educational and vocational services; ()
- b. Employment; ()
- c. Health or mental health services; ()
- d. Access to family, juvenile probation officer, and legal counsel; and ()
- e. Religious services. ()

243. APPEAL OF FORMAL DISCIPLINARY PENALTIES.

Each provider shall have a formal written process through which a juvenile offender can appeal a disciplinary action and receive a review of his case. The provider shall explain to the juvenile offender how to use the appeal process. The juvenile services coordinator must be involved in the disciplinary process. ()

244. GRIEVANCE PROCEDURES.

01. Written Procedures. Each program shall have a written grievance procedure for juvenile offenders, which includes the right to appeal disciplinary actions against them if a separate disciplinary grievance procedure is not available. It shall be written in a clear and simple

manner and shall allow juvenile offenders to make complaints without fear of retaliation. ()

02. Grievance Forms. The grievance procedure shall be explained to the juvenile offender by a staff member who shall enter a note into the juvenile offender's file confirming the explanation. Grievance forms shall be in a location accessible to juvenile offenders without having to request such a form from staff. Completed forms should be placed in a secure area until collected and processed weekly. A copy of the grievance and the resolution of that grievance must be attached to the quarterly report as specified in Section 208 of these rules. ()

245. LETTERS.

01. Restrictions. Juvenile offenders shall be allowed to send and receive letters from approved persons, which may include persons in other programs or institutions, unless specifically prohibited by the department or by court order. All other restrictions of mail must be discussed with the community treatment team, approved in writing by the juvenile services coordinator, and documented in the juvenile offender's service implementation plan. There shall be no general restrictions on the number of letters written, the length of any letter, or the language in which a letter may be written. However, juvenile offenders will be provided with sufficient stationery, envelopes, and postage for all legal and official correspondence, and for at least two (2) personal letters each week. ()

02. Reading of Letters. Routine reading of letters by staff is prohibited. The department or court may determine that reading of a juvenile offender's mail is in the best interest of the juvenile offender, and is necessary to maintain security, order or program integrity. However, such reading of mail must be documented and unless court ordered, must be specifically justified and approved by the juvenile services coordinator. Under no circumstances shall a juvenile offender's privileged mail be read. ()

246. PACKAGES.

Packages may be inspected for contraband but only in front of the juvenile offender. ()

247. PUBLICATIONS.

Books, magazines, newspapers and printed matter which may be legally sent to juvenile offenders through the postal system shall be approved, unless deemed to constitute a threat to the security, integrity, or order of the programs. ()

248. DISTRIBUTION OF MAIL.

The collection and distribution of mail is never to be delegated to a juvenile offender. Staff shall deliver mail within twenty-four (24) hours, excluding weekends and holidays, to the juvenile offender to whom it is addressed unless the juvenile is living independently. ()

249. VISITATION IN A GROUP JUVENILE OFFENDER FACILITY.

The provider shall develop written rules governing visiting at the facility and shall provide a copy to each juvenile offender, his parent or guardian, and the juvenile services coordinator. Visitation policy must include specific restrictions on those under the influence of alcohol or drugs. In all cases, the provider will work with the juvenile services coordinator and juvenile probation officer to identify and approve potential visitors in accordance with the provider's criteria. The provider is responsible for developing and implementing policy concerning visitation which protects the

safety of visitors, staff, and juvenile offenders. This may restrict visitation below an established age or provide for higher levels of supervision in circumstances where safety may be at risk.

()

250. PERSONAL SAFETY.

01. Responsibility. Every juvenile offender has the fundamental right to feel safe. Providers have the responsibility to ensure that a juvenile offender is safe while in their care. Every juvenile offender shall be informed of procedures whereby a professional staff person can be contacted on a twenty-four (24) hour basis if the juvenile offender does not feel safe.

()

02. Periodic Contacts. The provider shall make periodic contact with juvenile offenders in the program to determine if they feel safe and are comfortable when interacting with peers and staff.

()

251. RESEARCH.

01. Written Policies. Juvenile offender and non-juvenile offender programs shall have written policies regarding the participation of juvenile offenders in research projects. Participation in medical or pharmaceutical testing for experimental or research purposes is prohibited.

()

02. Voluntary Participation. However, juvenile offenders shall not participate in any nonmedical and non-pharmaceutical research programs without prior written approval from the director or designee.

()

252. -- 259. (RESERVED).

260. PROGRAMMING.

01. Basic Program Requirements. Providers offering residential and nonresidential programs for juvenile offenders must provide opportunities and services for juvenile offenders to improve their educational and vocational competence, to effectively address underlying behavior problems, and to prepare them for responsible lives in the community. Programs provided must be research-based, gender equitable, gender specific, and culturally competent. The ultimate treatment goal for juvenile offenders involved in these programs is the successful return of juvenile offenders to the community without committing further crimes.

()

02. General Requirements.

()

a. Providers must provide or coordinate a range of program services specifically designed to address the characteristics of the target population identified in the comprehensive program description and in the admission policy.

()

b. Programs that serve a special needs population, such as developmentally delayed or seriously emotionally disturbed juvenile offenders, and those programs serving sexually abusive juvenile offenders, must be able to demonstrate that the program services offered are supported by research.

()

c. Programs serving female juvenile offenders must be able to demonstrate that the services provided include elements of a program specific to the unique situations and circumstances facing female juvenile offenders. These elements must be clearly identified and described within the program description. ()

d. Program services for individual juvenile offenders must be designed based upon a documented assessment of strengths, as well as needs and risks, and must target behaviors, needs, or circumstances stated in their reintegration plan. These services must be clearly identified and described within the program description. ()

e. Professional level services offered as a part of the program must be provided by staff or outside provider meeting the requirements set forth in Sections 221 and 222, of these rules. ()

f. Progress made by individual juvenile offenders in each service area, that is a portion of the service implementation plan, must be documented in at least bi-weekly progress notes and reported in written progress reports at least every month. ()

g. Programs that contract with the department to serve juvenile offenders and their families must: ()

i. Provide humane, disciplined care and supervision; ()

ii. Provide opportunities for juvenile offenders' development of competency and life skills; ()

iii. Hold juvenile offenders accountable for their delinquent behavior through means such as victim-offender mediation, restitution, and community service; ()

iv. Seek to involve juvenile offenders' families in treatment, unless otherwise indicated for the safety and benefit of the juvenile offenders or other family members; ()

v. Address the principles of accountability to victims and to the community, competency development, and community protection in case planning and reporting; ()

vi. Participate fully with the department and the community treatment team in developing and implementing service plans for juvenile offenders they serve; ()

vii. Provide juvenile offenders with educational services based upon their documented needs and abilities; and ()

viii. To the fullest extent possible, provide balance in addressing the interests of the victim, community, and the juvenile offender. ()

h. Reintegration services include all aspects of case planning and service delivery designed to facilitate successful return of the juvenile offender to the community. All juveniles committed to the department shall have a written reintegration plan developed as a part of their service implementation plan. ()

03. Comprehensive and Current Program Description. Providers must provide, and keep current with the department, a program description detailing the range of services to be provided and the methods for providing these services. The current program description will be attached to the contract. At a minimum, this program description must include: ()

- a. Target population and specific admission criteria; ()
- b. Primary and secondary treatment modalities; ()
- c. Outline of daily schedules for juvenile offenders and staff; ()
- d. Description of educational services provided, including full compliance with all applicable federal and state law and rules for special education and Title I services; ()
- e. Description of emergency and routine health and mental health services, including psychotropic medication monitoring, unless this population is specifically excluded from admission to the program; ()
- f. Description of religious services, recreation services, and other specialized services provided as indicated by the needs of the identified target population; ()
- g. Plans for the use of volunteers to provide for support elements of the program; ()
- h. Written criteria for successful completion of the program and written criteria for termination from the program prior to completion; ()
- i. A thorough description of all services offered as a part of the program, including a description of the frequency of service delivery, and accounting for the costs of all services provided by consultants and subcontractors; ()
- j. A detailed description of each individual treatment intervention or service area provided, such as treatment group, psycho-educational group, cognitive restructuring group, and peer group including:
 - i. The total length of the specific treatment intervention or service area; ()
 - ii. The overall goals of the treatment intervention or service area; ()
 - iii. The number of sessions in the treatment intervention or service area; ()
 - iv. The average length of each session; ()
 - v. The facilitator education and training requirements; ()
 - vi. The specific curriculum used in the treatment intervention or service area; and ()

vii. The number of hours per week an individual juvenile offender will participate in the treatment intervention or service area. ()

k. A detailed description of the behavior management component of the program; and ()

04. Advance Notice of Program or Population Changes. Providers shall notify the department as soon as possible, but no later than thirty (30) calendar days, before there is a change in the name of the organization, type of service, characteristics of juveniles being served, changes in the licensed capacity of the facility, closure of the facility, changes in ownership or in the organizational structure. ()

261. PROGRAM POLICY REQUIREMENTS.

01. Written Policies. Programs must have, at a minimum, the following written policies concerning program operations available at the program site. ()

a. The provision of (or referral for) emergency and routine health and mental health services for the population. ()

b. The prevention and monitoring of suicidal behavior. The policy at a minimum shall require that: ()

i. A suicide risk screening be completed within no more than two (2) hours of a juvenile offender's admission into a facility or program. The screening is done to identify an immediate threat of suicide or self-harm and the need for a suicide risk assessment. Further, the screening is a system of structured and documented observation, interview and review of behavioral, medical, and mental health information. ()

ii. A suicide risk assessment, if appropriate, be completed by a mental health professional for the purpose of determining the level of immediate risk of a juvenile offender attempting suicide. A suicide risk assessment is a system of structured and documented observation, interview and review of behavioral and mental health information. It comprises a thorough review of recent behavioral and mental health information, interviews of staff and the juvenile offender concerning the behavior that seems to present the threat of self-harm or suicide and the development and dissemination of a safety plan to address the risk as it is determined to exist. A suicide risk assessment typically involves an assessment of the juvenile offender's determination to act on his intentions of self-harm, a determination of the depth of his planning for making the attempt, the availability of the items or situations necessary for him to act on that plan and the lethality of the plan as expressed. Reassessment of suicide risk is made at a time determined by the mental health professional completing the assessment and is ideally completed by that same mental health professional. ()

c. Behavior management within the program, including use of points and levels, restraints, separation, detention and other types of special management. ()

d. Supervision of juvenile offender's policy shall include managing juvenile offender

movement within the program, including the timely transfer of behavioral information about juvenile offenders. ()

e. Administrative coverage in emergency situations, after regular work hours (juvenile offender only). ()

f. Documentation and reporting of critical incidents to program administrators, the department and others on the community treatment team. ()

g. Grievances. ()

h. Visitation. ()

i. Emergency procedures in the event of a natural disaster. ()

j. Searches of staff, juvenile offenders, and visitors. ()

k. Providers shall have written policy and procedures prohibiting the sexual contact by any employee with a juvenile offender. ()

l. Providers, in accordance with the PREA, shall have written policy and procedures that promote zero tolerance toward sexual misconduct with or among juvenile offenders in their care and zero tolerance toward the sexual assault of juvenile offenders by staff or by other juvenile offenders. ()

02. Documented Staff Training. Documented staff training on these policies must also be available for review by the department. ()

262. PROGRAM OPERATIONAL REQUIREMENTS AND CASE MANAGEMENT.

01. General Requirements. ()

a. Programs should provide vigorous programming that minimizes periods of idle time, addresses behavioral problems of juvenile offenders, and teaches and promotes healthy life choices. Programs should specifically address those factors in juvenile offenders' lives that contribute to delinquency and that can be realistically changed. ()

b. Programs must be open to the community by encouraging appropriate telephone and mail contact between juvenile offenders and their families, by encouraging visitation, and by involving volunteers in support of the program. ()

c. Providers must structure and document services offered in the program so that continuity in case planning is obvious. Health, mental health, substance abuse, social skills, educational, vocational, independent living, and other special needs identified in the reintegration plan must be clearly addressed in the service implementation plan. Services provided to address those needs must be documented regularly. ()

d. Programs may not, under any circumstances, involve juvenile offenders in

plethysmographic assessments. The use of polygraphs for juvenile offenders adjudicated for or documented to have demonstrated sexually abusive behavior, shall only be undertaken by court order or with the specific written authorization of the department's regional clinical supervisor, and then only with the full, informed consent of the juvenile offender, and if he is a minor, his parent or guardian. Providers shall not make treatment decisions solely on the results of a polygraph. Polygraphers used in this process must be able to provide documentation of specific training in the use of polygraphy with sexually abusive juvenile offenders. ()

02. Incidents Requiring Immediate Notice to Parent or Guardian and Department. All notifications under this Section shall be made to the regional facility in the region where the contract provider is located. Out-of-state contract providers shall notify the Region 2 facility. Contract providers must ensure that a detailed, written incident report is completed and signed by involved staff before the end of the shift during which the incident took place. If any of the following events occur, the contract provider must immediately notify the juvenile offender's parent or guardian, juvenile services coordinator, juvenile probation officer, and the department's regional facility by telephone (not by facsimile). A written incident report shall also be transmitted within twenty-four (24) hours to the juvenile offender's parent or guardian, juvenile services coordinator, and the juvenile probation officer, unless notification to the juvenile offender's parent or guardian would endanger the juvenile. Transmission may be electronic or by facsimile. ()

- a.** Health and mental health emergencies, including but not limited to: ()
 - i.** Every instance of emergency room access; ()
 - ii.** Refusal of medications, treatment recommended by a physician, or food for two (2) days; ()
- b.** Major incidents such as death of a juvenile offender, suicide, attempted suicide or threat of suicide, attempted escape, sexual misconduct among juvenile offenders or by staff including, but not limited to, incidents reportable under PREA, criminal activity resulting in arrest, detention, or filing a report with local law enforcement, or any relevant report made to the Idaho Department of Health and Welfare; ()
- c.** Any incident of restraint which involves the use of medications, chemicals, or mechanical devices of any kind; ()
- d.** Incidents of alleged or suspected abuse or neglect of juvenile offenders; and()
- e.** Incidents involving major disasters affecting location or well-being of the juveniles; ()

03. Escapes Also Require Immediate Notice to Parent or Guardian and Department. In all instances of escape, the contract provider must immediately notify the juvenile correctional center in Nampa first, followed by the regional facility, juvenile offender's parent or guardian, juvenile services coordinator, and juvenile probation officer by telephone (not by facsimile). A written incident report shall also be transmitted within twenty-four (24) hours to the juvenile offender's parent or guardian, juvenile services coordinator, and the juvenile

probation officer, unless notification to the juvenile offender's parent or guardian would endanger the juvenile offender. Transmission may be electronic or by facsimile. Upon apprehension, all of the same parties must be notified immediately. ()

a. Clothing and other personal belongings shall be secured immediately and maintained in a secure place until returned to the department. ()

b. The contract provider shall not transfer a juvenile offender at the time of an escape. The juvenile offender shall continue to be assigned to the program, although not physically present for up to forty-eight (48) hours. The program will be reimbursed for the days the juvenile offender was on escape status up to forty-eight (48) hours. Should the program choose to transfer the juvenile offender after returning, then the procedures outlined in Subsection 275.04 of these rules, shall apply. If the juvenile offender is apprehended, the contract provider shall contact the juvenile services coordinator to plan for transfer of the juvenile offender to a regional facility for an updated assessment and for a placement decision. ()

04. Incidents Requiring Immediate Notice to Department and Ten Day Notice to Parent or Guardian. The following incidents require immediate notice to the department and other parties in the manner described in Subsection 262.02, and require notice within ten (10) days to parent or guardian of the juveniles involved. ()

a. Any use of separation or isolation for more than two (2) hours: ()

b. Incidents involving the disclosure of criminal behavior by juvenile offenders; ()

c. Instances of physical assault or fighting; ()

d. Major misconduct by one (1) or more staff against a juvenile offender; ()

e. Discovery of contraband that represents an immediate threat to safety and security such as weapons or drugs; ()

f. Other than incidents described in Subsection 262.02 significant property damage resulting from misconduct, negligence, or incidents such as explosions, fires, floods, or other natural disasters; ()

g. Any pattern of restraint of a juvenile, which is defined as (3) or more restraints within a twenty-four (24) hour period. ()

05. Incidents Requiring Notice within Ten Days to the Department. ()

a. Contract providers must ensure that a detailed, written incident report is completed and signed by involved staff before the end the shift during which the incident took place. A copy of the completed incident report must be submitted to the juvenile services coordinator no later than ten (10) business days after the incident. ()

b. A detailed incident report is also required for each incident of juvenile offender

misconduct that is not reportable under Subsection 262.02 and results in any type of: ()

- i. Instances of lost keys, equipment, or tools; ()
- ii. Discovery of contraband not posing an immediate risk; ()
- iii. A pattern of refusal of program participation that rises to point of raising questions about the appropriateness of the placement. ()

c. A detailed incident report is also required for each incident of staff misconduct relating to juvenile care that is not reportable under Subsection 262.02 and results in any type of: ()

- i. Any physical restraint that does not involve the use of medications, chemicals, or mechanical devices of any kind; or ()
- ii. Separation, isolation, or room confinement for less than two (2) hours. ()

d. A detailed incident report is also required for each incident of staff misconduct relating to juvenile care that is not reportable under Subsection 262.02 and results in any type of: ()

- i. Suspension from work; ()
- ii. Termination from work; ()
- iii. Revocation or suspension of professional licenses; or ()
- iv. Revocation or suspension of driver's license of any staff who transports juveniles. ()

06. Incident Report Content. Providers may elect to use the department's standard incident report form or may use another form as long as all of the following information is included: ()

- a.** Juvenile offender's assigned unit; ()
- b.** Date, location, and time of the incident; ()
- c.** Witnesses and other staff and juvenile offenders involved; ()
- d.** Persons notified with date and time of notice; ()
- e.** Type of incident by category, such as assault on staff, assault on juvenile offender, injury or illness, property damage, contraband, suicide attempt or threat, escape or attempted escape, or other misconduct; ()
- f.** Action taken by category, such as physical restraint, separation, isolation, or room

confinement with times in and out, suicide precautions, or escape precautions initiated; ()

g. Brief narrative description of the incident; ()

h. Signature of staff and reviewing supervisor, which may be affixed electronically; ()

i. Documentation of injury and medical attention provided; and ()

j. If the incident involves sexual misconduct, the incident report must include a description of action taken to: ()

i. Keep the alleged victim(s) safe from intimidation of further abuse and maintain confidentiality; ()

ii. Address any immediate trauma, either physical or emotional; ()

iii. Address long-term medical or mental health needs related to the alleged abuse; ()

iv. Notify responsible licensing, regulatory, and law enforcement agencies and preserve evidence; ()

v. Conduct an internal investigation of the incident and as necessary request that an external investigation be completed; and ()

vi. Prevent repetition of the abusive situation. ()

07. Monitoring the Location of Juvenile Offenders. The provider must have and strictly follow a comprehensive policy covering the supervision of juvenile offenders, including a plan for monitoring all movement of those juvenile offenders both in the facility and, as appropriate, within the community. Provider must be aware of the location of every juvenile offender assigned to that program at all times. ()

08. Nonresidential Absences. Nonresidential programs shall make reasonable efforts to ensure that the juvenile offenders attend their program daily or as otherwise specified in the service implementation plan. The non-juvenile offender program shall inform the juvenile services coordinator of daily attendance and all attendance problems. ()

263. SEARCHES FOR CONTRABAND.

01. Periodic Searches. In order to ensure the safety of juvenile offenders, staff, and visitors, periodic searches for contraband shall be conducted. Searches shall be conducted by staff trained in appropriate search techniques. Searches called by the staff can be limited to specific areas or juvenile offenders. Juvenile offenders' belongings shall be disturbed no more than necessary during the search. The search shall be documented in terms of who conducted the search, what areas were searched, and what type of contraband was found, if any. If a search yields contraband, the juvenile services coordinator will be notified and it shall be reported

according to the requirements of the department. If necessary, the appropriate law enforcement agency should be notified. ()

02. Policies and Procedures Governing Consequences. The provider shall have written policies and procedures establishing the consequences for juvenile offenders found with contraband. Juvenile offenders should acknowledge, with their signature, that they were informed of what constitutes contraband and also the consequences for its possession. ()

03. Visitor Searches. ()

a. Prior to visitors being allowed in the facility, they shall be given rules established by the provider that govern their visit and advised that they may be subject to a search. They shall sign a statement of receipt of these rules and it shall be placed in the facility's file. Visitors may be required to submit packages, handbags, and briefcases for inspection by trained staff. If there is reason to believe that additional searches are necessary, admission to the facility shall be denied. ()

b. All visitor searches shall be documented in the facility log. When contraband is found, a written report shall be completed and submitted to the juvenile services coordinator. If necessary, the appropriate law enforcement agency will be notified. ()

264. CONTRABAND DISPOSAL.

All contraband found in the possession of juvenile offenders, visitors, or staff shall be confiscated by staff and secured under lock and key in an area inaccessible to juvenile offenders. Local law enforcement shall be notified in the event illegal drugs, paraphernalia, or weapons are found. It shall be the responsibility of the facility director, in consultation with the department, to dispose of all contraband not confiscated by police. Visitors who bring in items that are unauthorized, but not illegal, will have these items taken and locked in an area inaccessible to the juvenile offenders during the visit. These items will be returned to the visitors upon their exit from the facility. ()

265. SEARCHES OF PERSONAL ITEMS.

Routine searches of suitcases or personal items being introduced into the facility will be conducted by facility staff prior to the juvenile offender taking possession of his property, or when the juvenile offender is returning to the facility from an individual community pass. Search of a juvenile offender's belongings may be done at any time and shall be minimally intrusive. All searches shall be documented in the facility log and, if contraband is found, a written incident report must be submitted to the juvenile services coordinator. If necessary, the appropriate law enforcement agency shall be notified. ()

266. JUVENILE OFFENDER PAT DOWN SEARCHES.

01. Necessity. Pat down searches and visual inspections of juvenile offenders may be conducted whenever the contract provider believes it is necessary to discourage the introduction of contraband into the facility, or to promote the safety of staff, juvenile offenders, and visitors. A pat down search or visual inspections may be used when a juvenile offender is returning from a visit, or outside appointment, or activity. ()

02. Pat Down Searches. Pat down searches shall be conducted in the manner required by the rules of the Idaho Department of Health and Welfare under IDAPA 16.06.02, "Standards for Child Care Licensing." Pat down searches of juvenile offenders will be conducted by staff of the same gender as the juvenile offender. Pat down searches will be conducted using the quadrant search method that consists of dividing the juvenile's body in four (4) quadrants and conducting a pat down search outside the juvenile's clothing on each quadrant. The staff member must have had appropriate training in conducting pat down searches. ()

03. Visual Inspections. Body cavity searches of juveniles will not be performed by staff, interns, or volunteers under any circumstances. Looking into a juvenile's mouth does not constitute a body cavity search. Visual inspections beyond those performed during an initial search using the quadrant method may only be performed by staff with appropriate training. Visual inspection must be based upon a reasonable belief that the juvenile is concealing contraband. ()

04. Documentation. All pat down searches and visual inspections shall be documented in the facility log. A written report shall be completed when contraband is found and shall be submitted to the juvenile services coordinator. If necessary, the appropriate law enforcement agency shall be notified. ()

267. STRIP SEARCHES.

Juvenile strip searches are prohibited. ()

268. DRUG SCREENS OF JUVENILE OFFENDERS.

Drug screens may be done randomly or on an as needed basis at the provider's expense with the approval of the provider's director. A record shall be kept of all drug screens and results. A positive drug screen shall immediately be reported to the juvenile services coordinator supervising the case. ()

269. DISPOSITION OF REFERRALS FROM THE DEPARTMENT.

01. Accepting Referral. Upon receipt of a complete referral packet from the department, the provider has two (2) business days in which to decide whether to accept or decline the referral. Upon acceptance, the Referral Acceptance/Denial Form, attached to the referral packet, must be completed and signed. By accepting the referral, the provider agrees to address the identified treatment goals and the anticipated length of stay. Once the acceptance has occurred, the juvenile offender's transportation will be made. ()

02. Declining Referral. Providers shall not, without just cause, deny admission to any juvenile offender who meets the specific admission criteria set forth in the program description. If a provider denies a referral, the specific reason for denial must be documented on the department's Referral Acceptance/Denial Form and the form returned to the regional referral coordinator. The provider shall then shred the referral packet. ()

03. Change in Admission Criteria. Any change in the provider's admission criteria must be reflected in the admission policy and requires a written amendment to the contract with the department. Temporary exceptions are covered under Section 101, of these rules. ()

270. ONGOING TREATMENT AND CASE MANAGEMENT.

The juvenile offender must always be aware of the status of his progress within the program and what remains to be done to complete the program. Providers must assure that the basic norms and expectations of the program are clearly presented to the juvenile offender and that they are understood. Any points, levels or phases that are a fundamental part of a program must be clearly understood by the juvenile offender in the program. Each juvenile offender's progress, or lack of progress, through these levels must be clearly documented and must be related to documented behavior. Recommendations for release from department custody or transfer should be substantiated by a documented pattern of behavioral change over a period of time. Recommendations for transfer to a higher level of custody must be substantiated by a documented lack of progress over time, or by a serious or violent incident which threatens the safety of others or the stability of the overall program. ()

01. Service Implementation Plan. Within five (5) business days of the juvenile offender's admission into the program, a written service implementation plan must be developed. The service implementation plan must address the specific goals identified in the most recent progress report and reintegration plan from the sending facility. The service implementation plan shall address the needs and areas in the reintegration plan. ()

02. Family Involvement. Each juvenile offender and, to the fullest extent possible, the family should be involved in developing the service implementation plan, and in adjusting that plan throughout the course of commitment. ()

03. Service Implementation Plan Adjustments. The service implementation plan should be adjusted throughout placement with the concurrence of the juvenile services coordinator following communication with the community treatment team. Specifically, the service implementation plan should be adjusted as new needs are identified, as goals are achieved, and as plans for reintegration are finalized. ()

04. Progress Notes. Bi-weekly progress notes must be filed recording each juvenile offender's progress toward completing the service implementation plan and submitted to the juvenile service coordinator. ()

05. Progress Report. The progress report should focus on areas of positive change in behavior and attitudes, as well as on the factors required for a successful program completion (progress in community protection, competency development, and accountability). Areas of need that were included in the service implementation plan and identified in Subsection 270.01, of these rules, should also be referenced in the progress report. Each progress report should also note any changes or further development of the reintegration plan and should detail the level of involvement of the parent or guardian in treatment. A written progress report must be submitted to the juvenile services coordinator at least every month, and shall include current bank statements and reconciled monthly budget. ()

06. Report Distribution. Copies of the progress report shall be distributed by the provider to the juvenile offender and the juvenile services coordinator. The juvenile services coordinator will review and forward the progress report to the juvenile probation officer, appropriate court, and parent or guardian, unless the juvenile offender's family has been excluded from treatment by the juvenile services coordinator and the respective clinical supervisor for

some well documented reason. ()

271. OVERNIGHT COMMUNITY PASSES.

Any pass involving an overnight stay away from the facility, or involving special circumstances such as a sexual victim in the home, requires a written plan detailing supervision and safety measures to be taken, an itinerary for the visit, transportation plan, and must be approved in writing five (5) business days in advance by the juvenile services coordinator. Each time a juvenile offender leaves on and returns from an overnight community pass, the provider must notify the juvenile correctional center in Nampa of this movement, promptly at the time that the juvenile offender leaves and at the time he returns. ()

01. Potential Risk to Public Safety. If the pass is to the home of a parent or guardian, providers must provide parents or guardians with clearly written guidelines for approved passes, which must be signed by parents or guardians indicating their understanding and willingness to comply with those guidelines. The department's pass form may be used for this purpose. If the department's form is not used, the form signed and agreed to by the individual assuming responsibility for supervision, the pass must contain at least the following information: ()

- a. The juvenile offender's name and date of birth; ()
- b. The name, address and telephone number of the individual assuming responsibility; ()
- c. Authorized days, dates and times for the pass, including the specific date and time of departure and of return; ()
- d. A complete listing of the anticipated locations and activities in which the juvenile offender is expected to be involved; ()
- e. Specific plans for supervision and telephone checks to verify compliance with the pass conditions; ()
- f. A complete listing of the activities required during the pass; ()
- g. Specific stipulations prohibiting: ()
 - i. The use of alcohol and drugs; ()
 - ii. Involvement in any illegal activity, or association with others who may be or have been involved in illegal behavior; ()
 - iii. Participation in sexual relations of any kind; ()
 - iv. Possession of any kind of firearm or weapon; ()
 - v. Any violation of the terms of probation; and ()
- h. Specific stipulations about search and drug testing upon return, and the possible

consequences for violation of any of the terms of the pass agreement. ()

02. Frequency. Frequency of passes shall be consistent with the terms of the juvenile offender's reintegration plan and provider's contract with the department. ()

03. Documentation. Documentation of the exact date and time of the juvenile offender's departure from the program for a pass, and his return, must be maintained along with complete information about the individual assuming physical custody, transportation, and supervision during the pass. ()

272. ACTIVITY APPROVAL.

01. Recreational Activities. A pass authorizing the participation of juvenile offenders in outdoor recreational or work activities with an increased risk or overnight trips must be signed by the juvenile services coordinator and juvenile probation officer prior to the activity. Any proposed activity that involves rafting, boating, rappelling, rock climbing, or higher risk activity must also have the prior approval, in writing, of the regional superintendent ()

02. Staff Requirements for Group Activities. ()

a. A basic first aid kit and current Red Cross First Aid Manual will be taken with the group. At least one (1) person certified in first aid and CPR shall accompany the group. ()

b. Swimming, boating, or rafting will only be allowed when a staff in attendance has certification in basic rescue and water safety, water safety instruction, or Red Cross life saving, or if a lifeguard is on duty. All juvenile offenders involved in boating or rafting activities must wear an approved personal flotation device. ()

c. A staff to juvenile offender ratio of one to six (1:6) will be adhered to as a minimum unless there is a reason to require more staff. The risk level of the activity, as well as any physical disabilities, high client irresponsibility, or mental deficiencies are some reasons to consider additional staff. ()

d. All participants will be recorded in the activity plan and identified as program clients, staff, or volunteers. The individual staff or volunteer satisfying the above first aid and CPR requirements must be identified in the plan. ()

03. Consent Forms. Recreational activities identified as presenting a higher risk require prior written approval in accordance with Sections 271 and 272 of these rules. Each juvenile offender must have prior written consent from the regional superintendent. Consent shall include: ()

a. Permission for the juvenile offender's participation; ()

b. Acknowledgement of planned activities; and ()

c. Permission for the provider to seek or administer necessary medical attention in an emergency. ()

04. Consumption. There will be no consumption of alcoholic beverages or illicit drugs by staff or juvenile offenders, volunteers, or interns. ()

273. ACTIVITY REPORTS.

At the conclusion of each overnight or high risk recreational activity pass, the provider shall determine whether any problems occurred or other significant positive or negative events transpired while the juvenile offender was on pass. This information shall be documented in the juvenile offender's file and included in the monthly progress report. Any unusual occurrences shall be reported to the juvenile services coordinator and documented on an incident report. A drug screening urinalysis may be conducted on each returning juvenile offender, at the expense of the provider, and the results of that exam reported to the juvenile services coordinator. ()

274. OUT-OF-STATE TRAVEL.

When a provider is planning an out-of-state trip for any of its juvenile offenders, the provider shall obtain prior written authorization from the regional clinical supervisor or regional superintendent. The necessary sequence of action and approval is as follows: ()

01. Notification. The provider shall notify the juvenile services coordinator in writing two (2) weeks in advance of the scheduled trip with the following: ()

- a.** Dates of the scheduled trip; ()
- b.** Location of the trip; ()
- c.** Purpose of the trip; ()
- d.** Transportation arrangements; ()
- e.** Where the juvenile offender will be staying if overnight accommodations are required (address and phone number); and ()
- f.** Who is going, such as juvenile offender, and name and position of staff. ()

02. Prior Approval. The provider shall obtain all necessary approvals prior to authorizing travel. ()

275. PLANNING FOR REINTEGRATION.

Each area of continuing need as identified in the service and reintegration plan must be specifically addressed. ()

01. Written Recommendation. Providers shall provide to the juvenile services coordinator a written recommendation for release from department custody or transfer at least thirty (30) calendar days prior to the juvenile offender's anticipated completion of the program. This recommendation shall include: ()

- a.** A current summary of the juvenile offender's progress; ()

b. A summary of the efforts to reach the juvenile offender's goals and objectives, including education; ()

c. Any unresolved goals or objectives; ()

d. Recommendation for continuing services, including education, in the home community; ()

e. The current address of the juvenile. ()

02. Reintegration Staffing. The juvenile services coordinator shall convene a reintegration staffing which will include the juvenile offender's probation officer, the provider, the juvenile offender's parent or guardian if applicable, and the juvenile offender. Based upon the results of that staffing, the department will make the final decision regarding transfer or release from department custody. At a minimum, the reintegration staffing must consider and, to the extent possible, solidify plans to address any ongoing health, mental health, substance abuse, social skills, education, vocation, independent living, and other special needs. ()

03. Check-Out Procedures. Prior to the release from department custody or transfer, the provider must have completed a Provider Juvenile Check-Out Form supplied by the department. The form shall be dated, signed by the juvenile offender, and forwarded to the juvenile services coordinator on the actual date that the juvenile offender leaves the program. ()

a. The provider shall immediately provide the juvenile offender's medication, prescriptions and Medicaid card, if applicable, to the individual or agency authorized to transport the juvenile offender. ()

b. Within two (2) business days after a juvenile offender leaves the facility or program, the provider shall send any available dental or medical records to the privacy officer at the nearest department regional facility. All school records available from school(s) the juvenile offender attended while in the program shall be sent to the juvenile correctional center in Nampa. ()

c. Within two (2) business days after a juvenile offender leaves the facility or program, the provider shall send a report showing the juvenile offender's total hours, credits, and associated grades directly to the juvenile correctional center in Nampa. The provider shall maintain adequate documentation to support the submitted education reports. Timely receipt of these records is critical to assist the transition of the juvenile offender to another educational facility. If contracted facilities choose to utilize the department's software programs provided by the department for course enrollment and grading, the contract facility education staff will enter final grades into the department's software program prior to transfer. An e-mail notification to the education records manager at the juvenile correctional center in Nampa will be required once the final grades have been entered. The hard copy of the education files shall be mailed within two (2) business days of the juvenile offender's transfer. ()

04. Termination Prior to Completion. ()

a. When a provider believes a juvenile offender is at risk for transfer prior to program completion, the juvenile services coordinator must be notified as far in advance as possible so that a staffing with the regional clinical supervisor and, if necessary, the regional superintendent, may be held. The purpose of this staffing is to consider the circumstances which may require the transfer, and to make every effort to address the concerns with the provider to avoid the necessity of making another placement. The provider must document these efforts at problem solving. The department will make a decision about transfer based upon the results of this staffing and any subsequent work agreed upon with the provider. The provider can request transfer of a juvenile offender in the following circumstances: ()

- i.** A pattern of documented behavior clearly indicating a lack of progress; or ()
- ii.** Commission of one (1) or more serious or violent incidents that jeopardize the safety and security of individuals or the program. ()

b. In matters involving life, health, and safety of any juvenile in department custody, the department shall remove the juvenile offender immediately. ()

c. A comprehensive summary shall include, at a minimum, a report on progress or lack of progress on all service implementation plan areas, and recommendations for follow-up. The summary shall be forwarded to the juvenile services coordinator within twenty-four (24) hours of release from department custody or transfer prior to program completion. ()

d. In cases of all releases from department custody and transfers, the provider shall send any available dental or medical records to the privacy officer at the nearest department regional facility. All school records available from school(s) the juvenile offender attended while in the program shall be sent to the juvenile correctional center in Nampa. ()

e. The summary shall be forwarded to the department within five (5) business days of the date of transfer or release from department custody, if the juvenile offender has completed the program. ()

276. RESERVATION OF PROGRAM SLOTS.

When a program slot is to be reserved, the department shall contact the provider and request that the slot be reserved. Unless the regional superintendent or designee gives specific approval, the maximum time for which a program slot may be reserved and the provider continues to receive payment is forty-eight (48) consecutive hours. ()

277. GUIDELINES FOR SPECIFIC SERVICES.

01. Counseling Services. ()

a. All counseling services provided to juvenile offenders, whether individual, group or family, must be performed by a clinician, counselor, or therapist as defined in these rules, if provided by the provider. ()

b. Counseling should be planned and goal directed. ()

c. Notes must be written for each service provided. The notes must be dated, clearly labeled either individual, group or family counseling, and each entry must be signed by the clinician, counselor, or therapist performing the service. ()

d. The methods and techniques applied in counseling and the frequency and intensity of the sessions should be determined by the reintegration plan. ()

e. Counseling should be reality oriented and directed toward helping juvenile offenders understand and solve specific problems; discontinue inappropriate, damaging, destructive or dangerous behaviors; and fulfill individual needs. ()

f. The minimum standard for the frequency of counseling services shall be specified in the comprehensive program description attached to the contract with the department. ()

g. There should be a mechanism developed to monitor and record incremental progress toward the desired outcome of counseling services. ()

h. Programs should be able to demonstrate that counseling interventions are shared in general with other program service providers, and there is broad mutual support for the goals of counseling in all service areas of the program. ()

i. Programs must provide crisis intervention counseling if warranted by the reintegration plan and circumstances. ()

j. The provider must furnish adequate space for conducting private interviews and counseling sessions at the facility if provided by the provider. ()

k. Family counseling services must be available as a part of the juvenile offender's service implementation plan, to the extent that this is supported by the assessment. If the assessment indicates a need for these services, family counseling should specifically address issues that, directly or indirectly, resulted in the juvenile offender's removal from his home and the issue of his eventual reintegration back into the family unit. A statement of goals to be achieved or worked toward by the juvenile offender and his family should be part of the service implementation plan. ()

02. Substance Abuse Treatment Services. As a minimum standard, providers must coordinate substance abuse education for all juvenile offenders, and substance abuse treatment services as determined by the reintegration plan. Substance abuse treatment services must have direct oversight by a certified alcohol and drug counselor, or master's level clinician with three (3) years experience in the substance abuse field. ()

03. Suicide Prevention and Risk Management. In addition to the policy required in Paragraph 261.01.e., of this rule, providers must be able to demonstrate that they: ()

a. Train staff regularly to identify, document and appropriately respond to behavior that may indicate a risk of suicide; ()

b. Utilize medical or other staff trained by a mental health professional to review

history, and interview and observe juvenile offenders new to the program in order to complete suicide risk screening within two (2) hours of admission; ()

c. Utilize a mental health professional to complete a suicide risk assessment on a juvenile offender who has been identified by staff as presenting a risk of suicide; ()

d. Utilize mental health professionals to help develop a safety plan for each juvenile offender identified as presenting a risk for suicide, and to determine when that risk is reduced enough to reduce or terminate suicide precautions; and ()

e. Prohibit the use of separation and isolation of juvenile offenders identified as presenting a suicide risk, unless constant one-on-one (1 on 1) staff supervision is provided and that all juvenile offenders in separation or isolation are closely monitored to reduce the risk of suicidal behaviors. ()

04. Health Services. Programs must be able to demonstrate compliance with the required policy concerning access to routine and emergency health and mental health care and Providers must provide and document a suicide risk screening of each juvenile offender within two (2) hours of admission into the program. ()

05. Vocational and Prevocational Services. Programs must be able to demonstrate that each juvenile offender's vocational interests and needs have been assessed and an appropriate level of services has been provided. These services may range from a specific vocational skills curriculum, offered on site or in the community, to a prevocational skills component, which at a minimum, involves juvenile offenders in assessing their vocational interests and strengths. ()

06. Basic Life Skills and Independent Living. Programs must be able to demonstrate that juvenile offenders are taught basic life skills and that age-appropriate juvenile offenders are involved in independent living skills consistent with their age and needs. This program should include, at a minimum, instruction in: ()

a. Hygiene and grooming skills; ()

b. Laundry and maintenance of clothing; ()

c. Appropriate social skills; ()

d. Housekeeping; ()

e. Use of recreation and leisure time; ()

f. Use of community resources; ()

g. Handling personal finances, and issues such as leases, contracts, cell phone usage and agreements, insurance, banking and credit management with some support and intervention; ()

h. Use of public transportation, where available; ()

- i. Budgeting and shopping; ()
- j. Cooking; ()
- k. Punctuality, attendance and other employment-related matters; ()
- l. Vocational planning and job finding skills; ()
- m. Wears clothing appropriate for the weather and activity; ()
- n. Takes own medication, as prescribed; ()
- o. Obtains and produces identification, as needed; and ()
- p. Travels to and from necessary destinations. ()

278. EMPLOYMENT OF JUVENILE OFFENDERS.

01. Employment. If juvenile employment away from the program site is a part of the program, written policy and procedure must provide that program resources and staff time are devoted to helping employable juvenile offenders locate employment. Programs must ensure that each employment opportunity meets all legal and regulatory requirements for juvenile employment. The provider shall make periodic checks on the job-site to ensure the juvenile offender is working under acceptable conditions. The juvenile offender's employer shall be consulted regularly by the provider concerning the juvenile offender's work abilities and performance on the job-site. Under no circumstances should staff or the families of staff benefit financially, or otherwise, from work done by juvenile offenders in the program. Providers must make every reasonable effort to assure that each juvenile offender's transportation to and from a job-site is safe. ()

02. Employment Opportunities. Every reasonable effort shall be made to select employment opportunities that are consistent with the individual interests of the juvenile offender to be employed. Preference will be given to jobs that are related to prior training, work experience, or institutional training, and may be suitable for continuing post-release employment. Reasonable effort must be made to provide a juvenile offender with the highest paying job possible. Income earned by a juvenile offender shall be handled consistent with Sections 211 and 212, of these rules. ()

279. RELIGIOUS SERVICES.

Programs must ensure that attendance at religious services is voluntary. No juvenile offender shall be required to attend religious services, and no juvenile offender shall be penalized for not attending nor given privileges for certain attendance. ()

01. Voluntary Practice. All juvenile offenders must be provided the opportunity to voluntarily practice their respective religions in a manner and to the extent that will not compromise the safety, security, emotional, or physical well-being of the juvenile offenders in the facility. ()

02. Attendance. Juvenile offenders may be permitted to attend religious services of their choice in the community as long as community safety is ensured. ()

03. Transportation. Programs must, when reasonably possible, arrange transportation for those juvenile offenders who desire to take part in religious activities of their choice in the community, subject to Sections 204, 225, and 226 volunteers and interns may transport juvenile offenders to religious activities or services. ()

04. Risk to Community. If the juvenile offender cannot attend religious services in the community because staff has reason to believe he would attempt to escape, or otherwise present a risk to the safety of the community, the provider must make every reasonable effort to ensure that he has the opportunity to participate in religious services of his choice at the facility. ()

05. Visits. Juvenile offenders shall be permitted to receive visits from representatives of their respective faiths. ()

280. -- 299. (RESERVED).

300. EDUCATION SERVICES.

01. Appropriate Services. The provider shall ensure that each juvenile offender is given appropriate educational and vocational services that are consistent with the juvenile offender's abilities and needs, taking into consideration age, level of functioning, and any educational requirements specified by state or federal law. Providers must assure that educational services provided as a part of an overall program play an integral part in the process of reclaiming juvenile offenders to responsible roles in society. Educational services must strive to facilitate positive behavior change by helping juvenile offenders to develop abilities in academic, workplace, and technological areas; to restructure harmful or limiting cognitive patterns; and, to adopt appropriate social interactions skills. Educational services provided by providers must use whatever combination of approaches and motivations that will best facilitate the learning process in conjunction with the service implementation plan. All educational services provided must meet all mandates of the No Child Left Behind Act (NCLB), the IDEA, the Family Educational Rights and Privacy Act (FERPA), and Section 504, Rehabilitation Act of 1973 (Section 504). ()

02. Mandatory Enrollment. Providers must ensure that all juvenile offenders involved in their programs who are of mandatory school age, or who have not yet obtained a General Educational Development (GED) or high school diploma, are enrolled in a school system or in a program approved and certified by the Idaho Department of Education to provide both special education and other services. For those who have obtained a GED or high school diploma, an appropriate educational and vocational service shall be provided in accordance with the service implementation plan. The department shall provide providers access to the department's software programs to record courses and grades. When providers choose to use these software programs, they need not send the department report cards; they need only assure all grades are entered through the software program at the end of each grading period. ()

301. -- 319. (RESERVED).

320. PRIVACY OF MEDICAL RECORDS AND INFORMATION.

To the extent the provider has medical information, confidentiality of personal health information of each juvenile offender shall be maintained in accordance with the Privacy Regulations promulgated under HIPAA of 1996 or, if more stringent, the laws of the state of Idaho. Compliance with these regulations is the responsibility of the provider. Staff shall be provided information about a juvenile offender's medical condition only when that knowledge is necessary for the performance of their job duties. ()

01. Privacy Officer. The provider shall appoint a privacy officer to oversee that the control and maintenance of all juvenile offender health and medical records is in compliance with the federal Privacy Regulations, 45 Code of Federal Regulations Sections 160 and 164. ()

02. Separate Records. All juvenile offender medical and health records shall be kept in files that are physically separated from other juvenile offender files and information, and under a system of security against unauthorized access. ()

321. PROVISION OF MEDICAL SERVICES.

01. Medical Care. Each juvenile offender shall be provided with medical, dental, optical, mental health, emergency or any other related health services while in the provider's care. Each provider shall have access, on a twenty-four (24) hour basis, to a licensed general hospital, clinic or physician, psychiatrist, and dentist to provide juvenile offenders with professional and qualified physical or mental health services, including medications. Suicide risk screening must be provided within two (2) hours of a juvenile offender's admission to a program. ()

02. Medical Consent. As part of the admission process, the provider must have a copy of the department's Release of Information and Consent form signed by a juvenile offender over eighteen (18) years of age, a parent, guardian, or committing authority. The consent form shall be filed in the juvenile offender's case file maintained by the provider. ()

03. Emergency Medical Treatment. In cases of emergency medical treatment requiring signed authorization for juveniles in the custody of the department, the authorization may be signed by the department's regional R.N. or designee. This does not restrict the provider from taking action in life and death situations. ()

04. Reimbursement Sources. The provider shall utilize private insurance or Medicaid, if available, for funding medical, dental, optical, mental health, or related services, and pharmaceutical products for any juvenile offender. The provider shall not seek reimbursement from private insurance or Medicaid for health services that are the fiscal responsibility of the provider pursuant to its contract with the department. Any health services not listed in these rules, other than emergency treatment, which was not approved in advance by the department's regional R.N. or designee, will be at the expense of the provider. ()

322. ADMISSION AND ANNUAL HEALTH SERVICES AND TREATMENT RECORDS.

01. Prior Approval. Prior approval or review from the department's regional R.N. is

required for all health services, other than emergency services. Prior approval may be given for up to five routine, pre-scheduled medical appointments. ()

02. Medical Records. Any time a juvenile offender receives treatment under this section or for any health related service, the provider shall retain a copy of the signed approval from the department's regional R.N. The provider shall coordinate services, and will not receive or maintain copies of medical records from direct care service providers. ()

03. Medical Billing. The direct care provider shall submit medical bills directly to the department's regional R.N. that approved the provision of services. ()

323. NOTIFICATION OF CRITICAL HEALTH INCIDENTS.

The provider shall immediately report critical health incidents according to Subsection 262.02, of these rules. ()

324. COMMUNICABLE DISEASES.

01. Policies. The provider shall establish policies and procedures for serving juvenile offenders with infectious diseases such as tuberculosis, hepatitis, and HIV or AIDS. These policies and procedures should address the management of communicable diseases, provide an orientation for new staff and juvenile offenders concerning the diseases, and ongoing education for staff and juvenile offenders regarding these diseases. Policies and procedures should be updated as new information becomes available. Individual health information or counseling will be made available by a qualified health professional for juvenile offenders diagnosed with a communicable disease. ()

02. HIV Testing. In accordance with law, a juvenile offender over age fourteen (14) may request that he be tested for the presence of HIV. Any such juvenile offender requesting to be tested should be taken to a public health facility or, if available, a facility which accepts Medicaid reimbursement for administration of the test. ()

03. Examinations. Examinations shall be performed on any juvenile offender by medical professionals for all symptomatic cases of communicable diseases such as tuberculosis, ova and parasites, infectious hepatitis, and sexually transmitted diseases. Juvenile offenders will be tested and, if indicated, treated. ()

04. Confidentiality. Confidentiality shall be maintained. ()

325. PREGNANCY.

01. Individual Medical Plan. Within the individual medical plan, specific goals and objectives will be developed when a pregnancy has been diagnosed. The plan shall be based on the orders of the juvenile offender's community obstetric physician and shall include special care, location for delivery, regular medical check-ups, and special dietary and recreational needs. A copy of the individual medical plan will be sent to the department's regional R.N. ()

02. Parenting Classes. Parenting classes shall be an integral part of the individual medical plan for all pregnant female juvenile offenders. This service should also be offered as a

priority to male juvenile offenders in department custody who are already fathers or whose spouse or girlfriend is expecting a child. ()

03. Medicaid Reimbursement. Medical services relating to pregnancy shall be provided by a physician and hospital accepting Medicaid reimbursement, unless medical expenses are paid by the juvenile offender's family. ()

04. Infant Care. When an infant is delivered and the mother continues in department custody, the infant shall be placed with an appropriate family member or in the temporary care of the Family and Children Services Division of the Idaho Department of Health and Welfare, subject to any necessary court approval. At no time shall the infant remain in the provider's facility. ()

326. REFUSAL OF TREATMENT.

This is an incident requiring immediate notification under Subsection 262.02 of these rules. ()

01. Refusal of Recommended Treatment by Physician. If a juvenile offender chooses to refuse treatment or medication recommended by a physician, the juvenile offender must sign a detailed statement refusing this care. This refusal form must be sent from the direct care service provider to the regional R.N. ()

02. Where Refusal Poses Significant Risk. If a juvenile offender refuses a treatment or medication for a condition which poses a significant risk of death or permanent physical impairment, the provider shall issue its approval for the immediate administration of the medical treatment or medication in accordance with standard practice. If danger to the juvenile offender is not imminent, the provider shall contact the regional superintendent and the department's regional R.N. of the juvenile offender's refusal. ()

327. USE OF MEDICATIONS.

Policies shall conform to all applicable laws and regulations including, but not limited to, those of the Idaho Department of Health and Welfare. ()

328. SUICIDE PRECAUTIONS.

All providers must have a written plan for responding to juvenile offenders who present a risk of suicide. The procedure shall, at a minimum, include a process for determination or assessment of suicidal behavior and risk, a procedure for contacting appropriate health authorities and the department, and a plan of direct supervision of a juvenile offender until a suicide crisis has ended. A suicide risk screening must be completed on every juvenile offender within two (2) hours of admission. ()

329. FIRST AID KITS.

Each provider shall maintain first aid kits. The first aid kits shall be kept locked and shall be placed in areas of the facility readily accessible to staff. ()

330. -- 999. (RESERVED).

IDAPA 11 - IDAHO STATE POLICE

11.03.01 - RULES GOVERNING ALCOHOL TESTING

DOCKET NO. 11-0301-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 67-2901; Chapter 52, Title 67; 67-7036; and 49-1314, 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 current language of the rule is confusing, appearing to imply that ISP must approve individual vendors of breath alcohol testing solutions, rather than approving the solutions provided by the manufacturer (which is the intent of the rule). The proposed amendment clarifies that ISP approves the solution provided by the manufacturer. Further the amendment clarifies that breath alcohol testing is administered on the site of the traffic stop or at a police agency, and not in a laboratory.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 187 through 190.](#)

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: No negative fiscal impact will result from this change.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Matthew Gamette at (208) 884-7217.

DATED this 29th day of October, 2010.

Colonel G. Jerry Russell, Director
Idaho State Police
700 S. Stratford Drive
Meridian, ID 83643
phone: (208) 884-7003/ fax: (208) 884-7090

THIS NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is **September 1, 2010**.

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 Section 67-2901, 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 20, 2010.

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 current language of the rule is confusing, appearing to imply that ISP must approve individual vendors of breath alcohol testing solutions, rather than approving the solutions provided by the manufacturer (which is the intent of the rule). The proposed amendment clarifies that ISP approves the solution provided by the manufacturer. Further, the amendment clarifies that breath alcohol testing is administered on the site of the traffic stop or at a police agency, and not in a laboratory.

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

The current wording of the rule has led to suppression hearings in Idaho's courts, to suppress breath alcohol results. If the breath alcohol results are suppressed by the courts because of the current wording, DUI cases with breath test results would not be able to be prosecuted in Idaho. Not prosecuting DUI cases presents a public safety threat.

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(2), Idaho Code, negotiated rulemaking was not conducted because there is no change to the intent of the rule; the amending language removes the existing ambiguity of interpretation regarding ISP's approval authority.

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:

Section 004 incorporates by reference "Products List of Evidential Breath Measurement Devices" into this rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Matthew Gamette at (208) 884-7217.

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 October 27, 2010.

DATED this 20th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-0301-1001

000. LEGAL AUTHORITY.

The Director of the Idaho State Police has general rulemaking authority to prescribe rules and regulations for alcohol testing, pursuant to Section 67-2901, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 11.03.01, "Rules Governing Alcohol Testing." ()

02. Scope. The rules relate to the governance and operation of the Alcohol Testing Program. ()

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of this rule. ()

003. ADMINISTRATIVE APPEALS.

There is no provision for administrative appeals before the Idaho State Police under this chapter. ()

004. INCORPORATION BY REFERENCE

The following are incorporated by reference in this chapter of rules: ()

01. Conforming Products List of Evidential Breath Measurement Devices (revised 3/11/2010). This document is available on the internet at: <http://edocket.access.gpo.gov/2010/pdf/2010-5242.pdf>. ()

005. MAILING ADDRESS AND OFFICE HOURS.

The mailing address is Idaho State Police, Forensic Services, 700 S. Stratford Drive Suite 125, Meridian, ID 83642-6206. Lobby hours are Monday through Friday, 8 a.m. to 5:00 p.m. except holidays designated by the state of Idaho. ()

006. PUBLIC RECORDS AVAILABILITY.

This rule is subject to and in compliance with the Public Records Act. ()

007. WEBSITE.

Alcohol Testing information is available at: <http://www.isp.state.id.us/forensic/index.html>. ()

~~0008.~~ -- ~~0039.~~ (RESERVED).

~~00410.~~ DEFINITIONS.

01. **Alcohol.** "Alcohol" shall mean the chemical compound, ethyl alcohol. (7-1-93)
02. **Blood Alcohol Analysis.** "Blood alcohol analysis" shall mean an analysis of blood to determine the concentration of alcohol present. (7-1-93)
03. **Breath Alcohol Analysis.** "Breath alcohol analysis" shall mean an analysis of breath to determine the concentration of alcohol present. (7-1-93)
04. **Department.** "Department" shall mean the Idaho State Police. (7-1-93)
05. **Laboratory.** "Laboratory" shall mean the place at which specialized devices, instruments and methods are used by trained personnel to measure the concentration of alcohol in samples of blood, ~~breath~~ or urine for law enforcement purposes. ~~(7-1-93)~~()
06. **Proficiency Testing.** "Proficiency testing" shall mean a periodic analysis of specimens whose alcohol content is unknown to the testing laboratory, to evaluate the capability of that laboratory to perform accurate analysis for alcohol concentration. (3-19-99)
07. **Quality Control.** "Quality control" shall mean an analysis of referenced samples whose alcohol content is known, which is performed with each batch of urine or blood analysis to ensure that the laboratory's determination of alcohol concentration is reproducible and accurate. (3-19-99)
08. **Urine Alcohol Analysis.** "Urine alcohol analysis" shall mean an analysis of urine to determine the concentration of alcohol present. (7-1-93)

~~005.—010.~~ (RESERVED).

011. ABBREVIATIONS

There are no abbreviations or acronyms in this chapter.

()

012. GENERAL PROVISIONS.

01. Repeal of Prior Rules. All rules governing the Idaho State Forensic Laboratory are repealed, specifically Idaho State Police Emergency Rules 11.03.1, 11.03.2, 11.03.3, 11.03.4, 11.03.5 and 11.03.6. (7-1-93)

02. Continuation of Policies. All policies, training manuals, approvals of instruments, and/or certifications of officers in effect when the alcohol program was managed by the Department of Health and Welfare shall continue to be in effect in the Idaho State Police until the policy, training manual, approval and/or certification is changed or deleted by the Idaho State Police. (7-1-93)

013. REQUIREMENTS FOR LABORATORY ALCOHOL ANALYSIS.

01. Laboratory. Any laboratory desiring to perform urine alcohol or blood alcohol analysis shall meet the following standards: (3-19-99)

a. The laboratory shall prepare and maintain a written procedure governing its method of analysis, including guidelines for quality control and proficiency testing; (7-1-93)

b. The laboratory shall provide adequate facilities and space for the procedure used; (7-1-93)

c. Specimens shall be maintained in a secure storage area prior to analysis; (7-1-93)

d. All equipment, reagents and glassware necessary for the performance of the chosen procedure shall be on hand or readily available on the laboratory premises; (7-1-93)

e. The laboratory shall participate in approved proficiency testing and pass this proficiency testing according to standards set by the department. Failure to pass a proficiency test shall result in disapproval until the problem is corrected and a proficiency test is successfully completed; (7-1-93)

f. For a laboratory performing blood or urine alcohol analysis, approval shall be awarded to the laboratory director or primary analyst responsible for that laboratory. The responsibility for the correct performance of tests in that laboratory rests with that person; however, the duty of performing such tests may be delegated to any person designated by such director or primary analyst; (3-19-99)

g. Urine samples shall be collected in clean, dry containers. (7-1-93)

02. Blood Collection. Blood collection shall be accomplished according to the following requirements: (7-1-93)

a. Blood samples shall be collected using sterile, dry syringes and hypodermic needles, or other equipment of equivalent sterility; (7-1-93)

b. The skin at the area of puncture shall be cleansed thoroughly and disinfected with an aqueous solution of a nonvolatile antiseptic. Alcohol or phenolic solutions shall not be used as a skin antiseptic; (7-1-93)

c. Blood specimens shall contain ten (10) milligrams of sodium fluoride per cubic centimeter of blood plus an appropriate anticoagulant. (7-1-93)

03. Results. The results of analysis on blood for alcohol concentration shall be reported in units of grams of alcohol per one hundred (100) cubic centimeters of whole blood. (3-19-99)

04. Reported. The results of analysis on urine for alcohol concentration shall be reported in units of grams of alcohol per sixty-seven (67) milliliters of urine. Results of alcohol analysis of urine specimens shall be accompanied by a warning statement about the questionable value of urine alcohol results. (3-19-99)

05. Records. All records regarding proficiency tests, quality control and results shall be retained for three (3) years. (7-1-93)

0134. REQUIREMENTS FOR PERFORMING BREATH ALCOHOL TESTING.

01. Instruments. ~~Each B~~breath testing instruments model shall ~~either have been be~~ approved by the department ~~or and~~ shall be listed in the "Conforming Products List of Evidential Breath Measurement Devices" published in the Federal Register by the United States Department of Transportation, ~~or appear in that list's successor whatever its current name may be as~~ incorporated by reference in section 004 of this rule. (7-1-93)()

02. Report. Each direct breath testing instrument shall report alcohol concentration as grams of alcohol per two hundred ten (210) liters of breath. (7-1-93)

03. Administration. Breath tests shall be administered in conformity with standards established by the department. Standards shall be developed for each type of breath testing instrument used in Idaho, and such standards shall be issued in the form of analytical methods and standard operating procedures ~~and training manuals.~~ (3-19-99)()

04. Training. Each individual operator shall demonstrate that he has sufficient training to operate the instrument correctly. This shall be accomplished by successfully completing a training course approved by the department. Officers must retrain periodically as required by the department. (7-1-93)

05. Checks. Each breath testing instrument shall be checked on a schedule established by the Department for accuracy with a simulator solution provided by or approved by the department ~~or by a source approved by the department.~~ These checks shall be performed according to a procedure established by the department. (3-19-99)()

06. Records. All records regarding maintenance and results shall be retained for three (3) years. (3-19-99)

07. Deficiencies. Failure to meet any of the conditions listed in Sections 01~~2~~3 and 01~~3~~4. Any laboratory or breath testing instrument may be disapproved for failure to meet one (1) or more of the requirements listed in Sections 01~~2~~3 and 01~~3~~4, and approval may be withheld until the deficiency is corrected. (~~7-1-93~~)()

01~~4~~5. -- 999. (RESERVED).

IDAPA 11 - IDAHO STATE POLICE

11.05.01 - RULES GOVERNING ALCOHOL BEVERAGE CONTROL

DOCKET NO. 11-0501-0902

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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) 67-2901 and 23-901, 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 pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [November 3, 2010 Idaho Administrative Bulletin, Vol. 10-11, pages 81 and 82.](#)

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 Lt. Bob Clements, (208) 884-7060, or robert.clements@isp.idaho.gov.

DATED this 19th day of November, 2010.

Colonel G. Jerry Russell
Idaho State Police
700 S. Stratford Dr.
Meridian, ID 83642
Phone: (208) 884-7003
Facsimile: (208) 884-7090

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 67-2901 and 23-901, 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 November 17, 2010.

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 change establishes and clarifies differentiating hours of operation for movie theaters that are licensed alcohol beverage premises. The rule establishes when a minor can be within a movie theater and when the alcohol beverage licensee must post its premises as 21 years and over.

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

No fees or charges are 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 resulting from this rulemaking:

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because representatives of the affected parties were involved in the drafting and approval of the rule.

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:

No documents are incorporated by reference into this rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lt. Bob Clements, (208) 884-7060, or robert.clements@isp.idaho.gov.

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 November 24, 2010.

DATED this 29th day of September, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-0501-0902

022. AGE RESTRICTION REQUIREMENTS FOR LICENSED MOVIE THEATERS - WHEN MINORS PERMITTED.

01. Minors Prohibited. Persons under twenty-one (21) years of age are prohibited from entering or being in any movie theater licensed to sell alcoholic beverages during the time alcohol is available for sale or consumption in the movie theater. Age restriction signs must be posted as required in subsection 021.02 of these rules at all times alcoholic beverages are sold, served or consumed in the movie theater. ()

02. Minors Permitted. Any person under twenty-one (21) years of age is permitted in a movie theater licensed to sell alcoholic beverages and no age restriction posting is required at any time when all alcohol is secured, locked up and not available for sale or consumption. ()

03. Exemption. Nothing in this rule shall apply to any movie theater that qualifies under Section 23-944(7), Idaho Code. ()

0223. -- 999. (RESERVED).

IDAPA 11 - IDAHO STATE POLICE

11.10.01 - RULES GOVERNING IDAHO PUBLIC SAFETY AND SECURITY INFORMATION SYSTEM

DOCKET NO. 11-1001-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 19-5203, 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 making provides for ILETS Board proxy appointments for the purpose of establishing a quorum at ILETS Board meetings, and defines the allowable proxies.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 191 and 192.](#)

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: No negative fiscal impact will result from this change.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dawn Peck, BCI Manager, (208) 884-7136 or dawn.peck@isp.idaho.gov.

DATED this 29th day of October, 2010.

Colonel G. Jerry Russell, Director
Idaho State Police
700 S. Stratford Drive
Meridian, ID 83643
(208) 884-7003
(208) 884-7090

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 19-5203, 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 20, 2010.

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 rulemaking provides for proxy appointments for the purpose of establishing a quorum at ILETS Board meetings, and defines the allowable proxies.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: No fee or charge is imposed or increased.

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: No negative fiscal impact will result from this change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this is not a contested or controversial change.

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 the proposed rule, contact Dawn Peck, BCI Manager, (208) 884-7136 or dawn.peck@isp.idaho.gov.

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 27, 2010.

DATED this 16th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1001-1001

013. ILETS BOARD -- MEETINGS AND QUORUM.

01. Schedule of Meetings. The Board holds regular meetings twice annually and may hold special meetings at other times as the executive officer deems necessary or upon the written request of a majority of the Board. The regular semi-annual meetings of the Board will be scheduled on such dates and at such times as the executive officer may determine after consultation with the members. Meeting announcements and agendas will be mailed to each member not less than ten (10) working days before a regular meeting. (3-20-04)

02. Quorum. When meeting, four (4) members of the Board constitutes a quorum necessary for transacting business. (3-20-04)

03. Representation at Meetings. A board member may *not* appoint ~~an alternate~~ a proxy to attend a meeting and exercise the voting privilege of that member. (~~3-30-01~~)()

- a.** An Idaho State Police proxy must be at least a major in rank; ()
- b.** A police chief proxy must be an Idaho police chief; ()
- c.** A sheriff proxy must be an Idaho sheriff; and ()
- d.** Proxy designations must be made in writing to the Executive Officer prior to the meeting. ()

04. Posting and Minutes of Meetings. Notice of board meetings will be posted and meetings will be conducted in compliance with the "Idaho Open Meeting Law," Sections 67-2340 through 67-2347, Idaho Code. Minutes of all regular and special meetings of the Board will be prepared and maintained by staff assigned by the executive director to support the Board. (3-20-04)

IDAPA 11 - IDAHO STATE POLICE

11.11.01 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL

DOCKET NO. 11-1101-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 19-5107, 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 pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 193 and 194.](#)

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 Trish Christy at (208) 884-7253.

DATED this 9th day of November, 2010.

Col. G. Jerry Russell, Director
Idaho State Police
700 S. Stratford Dr.
Meridian, ID 83642-6202
Phone: (208) 884-7003
Facsimile: (208) 884-7090

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 19-5107, 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 20, 2010.

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 changes the title of the POST Executive Director position to POST Division Administrator; changes the POST Executive Director position from a classified to a non-classified position; and changes the hiring process for the POST Division Administrator to one of selection by the Idaho State Police Director with the advice and consent of the POST Council. The rule will ensure more appropriate agency alignment of the position now known as POST Executive Director. This change provides clarity in the areas of hiring, supervision, accountability and administration.

Other occurrences of this language in other chapters are also included as technical corrections.

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(2), Idaho Code, negotiated rulemaking was not conducted because representatives of the affected parties were involved in the drafting and approval of the rule.

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 the proposed rule, contact Trish Christy at (208) 884-7253.

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 27, 2010.

DATED this 25th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1101-1001

031. ~~EXECUTIVE DIRECTOR~~ DIVISION ADMINISTRATOR.

There shall be established in the Idaho State Police a nonclassified position of ~~Executive Director~~ Division Administrator of the Idaho Peace Officer Standards and Training Council.

(4-2-08)()

01. Selection of ~~Executive Director~~ Division Administrator.

(4-2-08)()

a. The Chairman of the POST Council shall recommend one Chief or Sheriff who is a member of the POST Council to serve on the examining board set up by the Idaho Division of Human Resources.

(4-2-08)

b. The ~~Executive Director~~ Division Administrator shall be selected by the ~~POST Council~~ Director of the Idaho State Police subject to approval of the ~~Director of the Idaho State Police~~ POST Council from the approved register established by the Idaho Division of Human Resources after competitive testing.

(4-2-08)()

02. Under POST Council's Direction. The ~~Executive Director~~ will Division Administrator shall be employed by the Idaho State Police to serve under the direction of the POST Council in carrying out the duties and responsibilities of the Council.

(4-2-08)()

03. Supervision Over Employees. The ~~Executive Director~~ Division Administrator shall have supervision over the employees and other persons necessary in carrying out the functions of POST.

(4-2-08)()

04. Administration. For administrative purposes, the ~~Executive Director~~ Division Administrator and his staff ~~will~~ shall be governed by the Policies and Rules of the state of Idaho and the Idaho State Police, concerning but not limited to fiscal, purchasing, and personnel matters.

(4-2-08)()

032. POST COUNCIL.

01. Compensation. Except for the ~~Executive Director~~ Division Administrator of the POST Council, the members of the Council receive no compensation from POST for their services, but shall be allowed their actual and necessary expenses incurred in the performance of their functions, as prescribed by law. ~~(4-2-08)~~()

02. Council Resignations. Any Council member who ceases to qualify as such shall at once notify the Governor and Chairman in writing. Any Council member who desires to terminate their services shall notify the Governor and Chairman in writing of their intentions. (4-2-08)

03. Contested Cases. Rules of Procedure in contested cases shall be governed by the Idaho Administrative Procedures Act. (4-2-08)

IDAPA 11 - IDAHO STATE POLICE

11.11.01 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL

DOCKET NO. 11-1101-1002

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 19-5107, 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 pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 195 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 Trish Christy at (208) 884-7253.

DATED this 9th day of November, 2010.

William L. Flink
Division Administrator
Idaho State Police
Peace Officer Standards & Training
700 S. Stratford Dr.
Meridian, ID 83642-6202
Phone: (208) 884-7251
Facsimile: (208) 884-7295

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 19-5107, 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 20, 2010.

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:

Eliminates restriction on Hearing Board appointments; clarifies minimum standards and documentation requirements; changes hardship requirement for closed campus exemption; removes specific curricula; provides POST graduates same challenge opportunities as vo-tech graduates; removes grace period for canine team certification; clarifies and updates instructor certification requirements and streamlines the process; establishes suspension of certification for non-compliance with continuing training requirement.

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(2), Idaho Code, negotiated rulemaking was not conducted because representatives of the affected parties were involved in the drafting and approval of the rule.

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 the proposed rule, contact Trish Christy at (208) 884-7253.

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 27, 2010.

DATED this 25th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1101-1002

033. HEARING BOARD.

The POST Council may appoint a Hearing Board to hear all matters appropriately brought before the POST Council for decision, pursuant to Chapter 51, Title 19, Idaho Code. (3-30-07)

01. Appointment of Members. The chairman of the POST Council shall appoint three members of the POST Council to serve on the Hearing Board. ~~The Hearing Board shall consist of a city chief of police, a county sheriff, and an attorney.~~ (3-30-07)()

02. Recommended and Final Orders. Orders issued by the Hearing Board at the conclusion of proceedings shall be considered recommended orders and ~~will~~ shall become final orders only after POST Council's review pursuant to Section 67-5244, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," Subsection 720.01. (3-30-07)()

03. Discovery. Pursuant to Section 19-5107, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," Sections 520 through 532, discovery may be conducted in contested cases before the Hearing Board and POST Council. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

052. EDUCATION.

The applicant shall be a high school graduate or have earned a GED certificate. (4-2-08)

01. Documentation. Proof of education shall not have been mutilated, altered, or damaged, and shall be in the form of a photocopy of one (1) of the following: (4-2-08)()

a. High school diploma; (4-2-08)

b. GED certificate; (4-2-08)

c. High school transcript that indicates the date of graduation; (4-2-08)()

d. GED test report form; ~~or~~ (4-2-08)()

e. High school equivalency certificate; or ()

ef. Official ~~€~~college transcript indicating the successful completion of a minimum of fifteen (15) academic credits. (4-2-08)()

053. EXPERIENCE AGE.

The applicant shall ~~have~~ be a minimum of ~~two (2) years of any combination of responsible work experience, military service, education, or any other productive activity~~ twenty-one (21) years of age. (4-2-08)()

(BREAK IN CONTINUITY OF SECTIONS)

056. MILITARY RECORD.

01. Military Discharge. A “dismissal,” “bad conduct discharge” (BCD), “dishonorable discharge” (DD), or administrative discharge of other than honorable (OTH) from the military service ~~will~~ shall disqualify the applicant. The administrative discharge of “general under honorable conditions” (GEN), a “general” discharge, or an “uncharacterized” discharge may be grounds for rejection. In the case of a “general under honorable conditions” or “uncharacterized” discharge, the applicant may be accepted upon approval of the POST ~~Executive Director~~ Division Administrator. The ~~Executive Director will~~ Division Administrator shall have the discretion to refer the application to the POST Council. In the case of a “general” discharge, the POST Council ~~will~~ shall review the application and determine whether the individual ~~will~~ shall be certifiable as a peace, detention, juvenile detention, ~~or~~ juvenile probation, adult probation and parole, or adult misdemeanor probation officer or as a direct care staff member of the Idaho Department of Juvenile Corrections in the state of Idaho. (3-30-07)()

02. Documentation. Proof of military record shall not have been mutilated, altered, or damaged; shall indicate character of service; and shall be in the form of a photocopy of the following: ()

a. DD-214 for any active military service, ()

b. NGB Form 22 for any National Guard service, and ()

c. AF-216 for any Air Force service. ()

(BREAK IN CONTINUITY OF SECTIONS)

059. PHYSICAL - MEDICAL.

01. Requirements. (7-1-93)

a. Hearing. The applicant must shall have unaided or aided hearing between zero (0) and twenty-five (25) decibels for each ear at the frequencies of five-hundred (500) Hz, one thousand (1000) Hz, two thousand (2000) Hz, and three thousand (3000) Hz. Waiver of the above may be considered by the POST Division Administrator if accompanied by the certificate of an audiologist or ear, nose, and throat physician that the applicant's condition will not jeopardize or impair the applicant's ability to perform the duties of a peace, detention, juvenile detention, ~~or~~ juvenile probation, or adult misdemeanor probation officer, or a direct care staff member of the Idaho Department of Juvenile Corrections. ~~If the applicant's unaided or aided hearing is between twenty-six (26) and forty (40) decibels, the applicant may be accepted upon approval of the POST Executive Director. The Executive Director will~~ POST Division Administrator shall have the discretion to refer the application to the POST Council. ~~If the applicant's unaided or aided hearing is over forty (40) decibels, the POST Council will review the application and determine whether the individual will be certifiable as a peace, detention, juvenile detention, or juvenile probation officer in the state of Idaho.~~ (4-2-08)()

b. Vision. (7-1-93)

i. The applicant must shall possess binocular coordination that does not manifest diplopia; depth of proficiency of a minimum of one (1) minute of arc at twenty (20) feet; peripheral vision must shall be binocularly two hundred (200) degrees laterally with sixty (60) degrees upward and seventy (70) degrees downward. There must shall be no pathology of the eye; applicant must shall possess a minimum seventy percent (70%) proficiency on a color discrimination test. Waiver of the above may be considered by the Council POST Division Administrator if accompanied by the certificate of a vision specialist that the applicant's condition will not jeopardize or impair the applicant's ability to perform the duties of a peace, detention, juvenile detention, ~~or~~ juvenile probation, or adult misdemeanor probation officer, or a direct care staff member of the Idaho Department of Juvenile Corrections. The POST Division Administrator shall have the discretion to refer the application to the POST Council. (4-2-08)()

ii. The applicant must shall have uncorrected vision in each eye of no weaker than twenty/two hundred (20/200) with the strong eye corrected to twenty/twenty (20/20) and the weaker eye corrected to twenty/sixty (20/60). An applicant who wears contact lenses is exempt from the uncorrected vision of twenty/two hundred (20/200), but must shall have the strong eye corrected to twenty/twenty (20/20) and the weaker eye corrected to twenty/sixty (20/60). A full eye examination must shall be administered by an optometrist or ophthalmologist to any applicant who wears glasses whose uncorrected vision in either eye is twenty/one hundred fifty (20/150) or weaker. Waiver of the above may be considered by the Council POST Division Administrator if accompanied by the certificate of a vision specialist that the applicant's condition will not jeopardize or impair the applicant's ability to perform the duties of a peace, detention, juvenile detention, ~~or~~ juvenile probation, or adult misdemeanor probation officer, or a direct care staff member of the Idaho Department of Juvenile Corrections. The POST Division Administrator shall have the discretion to refer the application to the POST Council. (4-2-08)()

c. Disease/Condition. The applicant must shall be free from any impediments of the senses of sight, hearing, taste, smell, and touch; physically sound; well developed physically and in possession of his extremities; free from any physical defects, chronic or organic diseases,

organic or functional conditions, or emotional or mental instabilities which may tend to impair efficient performance of duty or which might endanger the lives of others or the life of the officer. Waiver of the above may be considered by the Council upon the applicant's demonstration that the deficiency does not jeopardize or impair his ability to perform the duties of a peace, detention, juvenile detention, ~~or~~ juvenile probation, or adult misdemeanor probation officer, or a direct care staff member of the Idaho Department of Juvenile Corrections. (4-2-08)()

d. Agency Physical ~~Agility/Fitness~~ Readiness Test. To determine the applicant's physical capability, a physical ~~agility or fitness~~ readiness test based upon the job requirements of the appointing agency ~~must~~ shall be administered by the appointing agency to each applicant. (3-20-04)()

02. Procedures. (7-1-93)

a. A POST Council-approved medical history form ~~must~~ shall be supplied by each applicant to the examining physician. The medical history ~~must~~ shall include information on past and present diseases, injuries and operations. (3-20-04)()

b. A medical examination ~~must~~ shall be administered by a licensed physician or his designee to determine if the applicant is free from any physical, emotional, or mental condition which might adversely affect the applicant's ability to perform the duties of a peace, detention, juvenile detention, ~~or~~ juvenile probation, or adult misdemeanor probation officer, or a direct care staff member of the Idaho Department of Juvenile Corrections. The physician ~~must~~ shall record his findings on the appropriate form and ~~must~~ shall note thereon any past or present physical defects, diseases, injuries, operations or conditions of an abnormal or unusual nature, or indications of mental or emotional instability. A medical examination shall remain valid for one (1) year. (4-2-08)()

(BREAK IN CONTINUITY OF SECTIONS)

071. BASIC TRAINING ACADEMY.

Every peace and detention officer ~~must~~ shall begin the respective POST Basic Training Academy within six (6) months from the date of their appointment as a full-time officer. Every peace, detention, juvenile detention, and juvenile probation officer ~~must~~ shall successfully complete the respective POST Basic Training Academy, including the field training portion, within twelve (12) months from the date of their appointment as a full-time officer. This time period includes probationary time. (4-6-05)()

01. Closed Campus. The POST Basic Patrol, Juvenile Detention, and Juvenile Probation Training Academies ~~will~~ shall operate as a closed campus Monday through Thursday. The POST ~~Council~~ Division Administrator may consider an exemption to this requirement in the case of a documented ~~severe financial~~ personal hardship for the applicant where no other reasonable alternative exists and provided the applicant's agency head files a written request for review with the POST ~~Council~~ Division Administrator. A trainee granted a hardship exemption ~~will~~ shall be required to attend all mandatory classes, and ~~must~~ shall not be late to any class.

Unauthorized lateness to or absence from any class ~~will~~ shall be grounds for revocation of the hardship exemption by the POST ~~Executive Director~~ Division Administrator. The POST Council may consider an exemption to this requirement on a case-by-case basis for a scheduled POST Basic Patrol, Juvenile Detention, or Juvenile Probation Training Academy. (4-2-08)()

02. Open Campus. All other POST Basic Training Academies shall operate as an open campus. (4-2-08)

03. Attendance. Attendance ~~will~~ shall be required of each trainee at all classes in the Basic Training Academy. A trainee who is absent for more than one (1) day of the academy session ~~must~~ shall make up such course content. (3-20-04)()

04. Completion. A trainee ~~must~~ shall successfully complete the Basic Training Academy within six (6) months of the date they enroll in such course. In a case of delay of more than six (6) months, the entire course ~~must~~ shall be repeated. (3-20-04)()

05. Field Training. The field training portion ~~must~~ shall be completed to be eligible for certification. (3-20-04)()

(BREAK IN CONTINUITY OF SECTIONS)

075. THE BASIC PATROL ACADEMY TRAINING CURRICULUM.

01. Minimum Basic Training. The POST Council shall establish the requirements of minimum basic training which peace officers shall complete in order to be eligible for permanent employment as peace officers. ()

~~**01. Training Hours.** The amount of training for which certification may be granted in the Basic Patrol Academy will be a total of six hundred five and one half (605.5) hours, with forty (40) hours received in pre-academy computer-based training, five hundred twenty five and one half (525.5) hours received at the training academy, and forty (40) hours received in field training in the officer's appointing agency or another agency if necessary prior to or subsequent to attendance at the Basic Patrol Academy.~~ (4-6-05)

~~**02. Requirements.** (7-1-93)~~

~~**a.** Successful completion of forty (40) hours of pre-academy computer-based instruction in the following minimum prescribed subject areas will be required:~~

Summary	Hours
Child Abuse	4
Domestic Violence	8
Emotionally Disturbed Persons	4

Summary	Hours
Report Writing	8
Sexual Assault Investigation	46
Total	40

(4-6-05)

~~b. Successful completion of five hundred twenty five and one half (525.5) hours of instruction in the following minimum prescribed subject areas at the Basic Patrol Academy will be required:~~

Summary	Hours
Professional Orientation	7
Criminal Justice System	12.5
Police and the Law	44
Practical Police Skills/Health & Fitness	256
Human Relations	30
Investigations	60
Patrol Procedures	37
Traffic Enforcement	56
Administration/Examinations	23
Total	525.5

(4-6-05)

~~e02. **Additional Instruction Necessary.** It is emphasized that the established basic patrol academy training is only a minimum and that additional instruction beyond the basic academy is necessary if the proper training of a peace officer, as required by the profession, is to be accomplished.~~ (3-15-02)()

~~d03. **Field Training.** Successful completion of forty (40) hours of supervised field training in the appointing agency, or another agency if necessary, ~~will~~ shall be required.~~ (4-6-05)()

~~034. **Procedure Certificate of Graduation.**~~ (7-1-93)

~~a. Trainees must be enrolled in the Basic Patrol Academy within six (6) months from the date of their appointment as a full-time officer to permit completion of the course and the supervised field training during the twelve (12) month period following their appointment as a peace officer.~~ (4-6-05)

~~b. The Council ~~will~~ shall issue a certificate of graduation from the Basic Patrol Academy to each trainee who successfully completes the Basic Patrol Academy.~~ (4-6-05)()

(BREAK IN CONTINUITY OF SECTIONS)

077. THE BASIC DETENTION ACADEMY TRAINING CURRICULUM.

01. Minimum Basic Training. The POST Council shall establish minimum basic training standards for county detention officers. ()

~~01. **Training Hours.** The amount of training for which certification may be granted in the Basic Detention Academy will be a total of two hundred sixty (260) hours, with two hundred twenty (220) hours received at the training academy and forty (40) hours received in jail training in the officer's appointing agency or another agency if necessary prior to or subsequent to attendance at the Basic Detention Academy. (4-6-05)~~

~~02. **Requirements.** (3-15-02)~~

~~a. Successful completion of two hundred twenty (220) hours of instruction in the following minimum prescribed subject areas at the Basic Detention Academy will be required:-~~

Summary	Hours
Jail Standards Procedures	44
Detention Legal Issues	34
Practical Skills	68
Jail Medical Issues	14
Human Relations	17
Detention Techniques	21
Incident Procedures	18
Emergency Procedures	13
Physical Wellness	13
Administration/Examinations	11
Sub-Total	220
Jail Training Manual	40
Total	260

~~(4-6-05)~~

b02. Additional Instruction Necessary. It is emphasized that the established basic detention academy training is only a minimum and that additional instruction beyond the basic academy is necessary if the proper training of a detention officer, as required by the profession, is to be accomplished. ~~(3-15-02)()~~

~~e03.~~ **Jail Training.** Successful completion of forty (40) hours of supervised jail training in the appointing agency, or another agency if necessary, ~~will~~ **shall** be required. ~~(4-6-05)()~~

~~0304.~~ **Procedure Certificate of Graduation.** ~~(3-15-02)~~

~~a.~~ *Trainees must be enrolled in the Basic Detention Academy within six (6) months from the date of their appointment as a full-time officer to permit completion of the course and the supervised jail training during the twelve (12) month period following their appointment as a detention officer.* ~~(4-6-05)~~

~~b.~~ The Council ~~will~~ **shall** issue a certificate of graduation from the Basic Detention Academy to each trainee who successfully completes the Basic Detention Academy. ~~(4-6-05)()~~

(BREAK IN CONTINUITY OF SECTIONS)

096. COLLEGE CREDITS.

01. College Hour. One (1) college or university semester hour or unit shall equal one (1) college credit. (7-1-93)

02. College Quarter Hour. One (1) college or university quarter hour or unit shall equal two-thirds (2/3) of one (1) college credit. (7-1-93)

03. Conversion to POST Training Hours. College credits may be converted to POST training hours at the rate of one (1) college credit equals twenty (20) POST training hours. (4-2-03)

04. Credits for POST-Approved Training. When college credit is awarded or purchased for POST-approved training, it may be counted for either POST training hours or college credit, whichever is to the advantage of the applicant. (4-2-08)

05. Documentation. Proof of college education shall not have been mutilated, altered, or damaged, and shall be in the form of a photocopy of an official transcript. ()

097. THE BASIC AND PART-TIME BASIC CERTIFICATE.

In addition to the requirements set forth in Section 094 of these rules, the requirements in Section 097 are necessary for award of the basic certificate and the part-time basic certificate. (4-2-03)

01. Probation. The applicant shall have satisfactorily completed at least a six (6) month probationary period, which may include basic patrol academy time. The probationary period may be extended by the appointing agency which could delay certification until the probationary period is satisfactorily completed. This six (6) months' time shall be continuous with the agency the officer is appointed to when applying for certification. The probationary period

shall not extend over one (1) year for certification purposes. (4-2-03)

02. Basic Training. The applicant shall have satisfactorily completed: (4-2-03)

a. The POST Basic Patrol Academy as required by the Council in Section 071; or (4-2-03)

b. Be a graduate of a law enforcement vo-tech program, the curriculum of which has been certified by the Council as being equivalent to the POST Basic Patrol Academy, and shall have passed the POST patrol certification examination approved by the Council. The applicant shall be allowed two (2) attempts to pass the examination. The attempts shall be no less than thirty (30) days apart and no more than six (6) months apart. If an officer fails both attempts or fails to retake the examination within six (6) months, he shall successfully complete the POST Basic Patrol Academy to be certified. (4-2-03)

03. Field Training. The applicant shall have satisfactorily completed forty (40) hours of POST-approved field training. (4-2-03)

04. Vo-Tech Program Graduates. Graduates from Idaho POST-certified law enforcement vo-tech programs shall also comply with the requirements of Subsection 073.02. (4-2-03)

05. Patrol and Detention Vo-Tech Program or POST Academy Graduates. An applicant who is appointed to a peace officer position from three (3) to five (5) years after satisfactorily completing both the patrol and detention officer training through an Idaho POST-certified law enforcement vo-tech program or the Idaho POST Academy, shall be eligible for peace officer certification in Idaho without attending the POST Basic Patrol Academy, provided the officer: ~~(4-2-08)~~()

a. Was appointed to a county detention officer position in Idaho within three (3) years from graduating from the vo-tech program or POST Academy; ~~(4-2-08)~~()

b. Possesses detention officer certification from Idaho; (4-2-08)

c. Submits a POST Certification Patrol Challenge Packet; (4-2-08)

d. Attends an approved course of study in Idaho law and passes the POST Idaho law exam; (4-2-08)

e. Passes the following tests administered by a POST Training Specialist: (4-2-08)

i. The POST patrol certification examination approved by the Council, conducted in the manner set forth in Subsection 097.02.b.; (4-2-08)

ii. The POST Firearms Qualification Course; (4-2-08)

iii. The POST Physical Fitness Test Battery; and (4-2-08)

- f. Satisfies the probationary period requirement of Section 064. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

117. SUPERVISOR CERTIFICATE.

01. Requirements. For purposes herein, the term “first-line supervision position” means a position above the operational level which is occupied by an individual who **holds the rank of sergeant or equivalent title and**, in the upward chain of command, principally is responsible for the direct supervision of non-supervisory personnel of an agency ~~and most commonly holds the rank of sergeant~~. A candidate for the Supervisor Certificate **must shall**:
(3-30-07)()

a. Possess the Intermediate or Advanced Certificate, Level II or III Detention Officer Certificate, or Level II or III Communications Specialist Certificate. (3-30-07)

b. Have satisfactorily completed one hundred (100) hours of POST-certified supervisory-level training, of which fifty (50) hours **must shall** have been completed within three (3) years prior to submitting an application for the Supervisor Certificate. (3-30-07)()

c. Be presently appointed to a first-line supervision position with an Idaho law enforcement agency and **must shall** have served satisfactorily in that position for a minimum of one (1) year prior to application. Proof of position responsibilities **must shall** be submitted to the POST Council in the form of a job description or other documentation from the hiring authority.
(3-30-07)()

(BREAK IN CONTINUITY OF SECTIONS)

119. MANAGEMENT CERTIFICATE.

01. Requirements. For purposes herein, the term “middle-management position” means a position between a first-line supervision position and an executive position which is occupied by an individual who **holds the rank of lieutenant or higher, or equivalent title and**, in the upward chain of command, principally is responsible for the direct supervision of supervisory personnel of an agency and/or command duties ~~and most commonly holds the rank of lieutenant or captain~~. A candidate for the Management Certificate shall:
(4-2-03)()

a. Possess peace officer certification, detention officer certification, or communications specialist certification from Idaho; certification from another state that has minimum peace officer standards; or a certificate of completion from a city, county, state, or federal law enforcement academy. The academy attended shall meet or exceed that state's minimum training standards. (4-2-03)

b. Submits a POST Certification Patrol Challenge Packet to POST Council, which shall include copies of POST training records from other states to substantiate the officer's training; and transcripts, certificates, diplomas, or other documents that substantiate the officer's education and experience. Subsection 119.01.b. applies only to an officer who is uncertified in Idaho. ()

bc. Attend an approved course of study in Idaho law and pass the POST Idaho law exam. Subsection 119.01.c. applies only to an officer who is uncertified in Idaho. (4-2-03)

ed. Have satisfactorily completed one hundred (100) hours of POST-certified management-level training, of which fifty (50) hours shall have been completed within three (3) years prior to submitting an application for the Management Certificate. (4-2-03)

de. Be presently appointed to a middle-management, management, or executive position wherein the predominance of responsibilities are administrative or managerial in nature, and shall have served satisfactorily in that position for a period of six (6) months. Proof of position responsibilities shall be submitted to the POST Council in the form of a job description or other documentation from the hiring authority. (4-2-03)

02. City Police Chiefs. City police chiefs or administrators within state agencies having law enforcement powers, who, because of the number of full-time peace officers they supervise, have duties which are primarily administrative may satisfy the certification requirement of Section 19-5109(2), Idaho Code, by obtaining this certificate. All other city police chiefs or state agency administrators having law enforcement powers may be awarded this certificate upon meeting the requirements, but shall also complete the requirements necessary to obtain a Basic Certificate. (4-2-03)

120. EXECUTIVE CERTIFICATE.

01. Requirements. For purposes herein, the term "executive position" means the head of an agency and ~~most commonly is~~ shall be the Chief of Police, Sheriff, Director, or Chief Executive Officer. A candidate for the Executive Certificate shall: (4-2-03)()

a. Possess the Advanced Peace Officer Certificate or Management Certificate~~s~~ from Idaho or another state which has such certification meeting or exceeding Idaho standards. (4-2-03)()

b. Have satisfactorily completed one hundred (100) hours of POST-certified executive-level training, of which fifty (50) hours shall have been completed within three (3) years prior to submitting an application for the Executive Certificate. (4-2-03)

c. Be presently appointed to an executive position, and shall have served satisfactorily in that position for a period of three (3) years. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

133. MINIMUM TRAINING REQUIREMENTS.

01. Minimum Basic Training. The POST Council shall establish the requirements of minimum basic training which reserve peace officers shall complete in order to be eligible for appointment as reserve peace officers. ()

012. Level I Reserve Core Curriculum. Any reserve officer desiring Level I Reserve certification *must shall* successfully complete the POST Council-approved Level I Reserve core curriculum *consisting of two hundred thirty three (233) hours of training*. Part of the *two hundred thirty three (233) hour* core curriculum may be taught by uncertified instructors provided the high liability classes as identified by POST are taught by POST-certified instructors. (4-11-06)()

02. Curriculum.

* *Must be taught by a Prosecutor.*

** *Must be taught by a Judge.*

*** *Must be taught by a POST-certified Instructor.*

**** *Must be taught by a Prosecutor and/or a Judge.*

	Course	Hours
	<i>Law</i>	
<i>* 1.</i>	<i>Probable Cause and Laws of Arrest</i>	<i>4</i>
<i>* 2.</i>	<i>Constitutional Laws</i>	<i>2</i>
<i>* 3.</i>	<i>Search and Seizure Laws</i>	<i>8</i>
<i>* 4.</i>	<i>Court Procedures & Rules of Evidence</i>	<i>4</i>
<i>* 5.</i>	<i>Idaho Criminal Code</i>	<i>8</i>
<i>* 6.</i>	<i>Motor Vehicle Law</i>	<i>4</i>
<i>* 7.</i>	<i>Liquor Law</i>	<i>2</i>
		<i>-32</i>
	<i>Professional Orientation</i>	
<i>1.</i>	<i>Career Survival: Police Ethics and Professionalism</i>	<i>8</i>
		<i>-8</i>
	<i>Police Procedures</i>	
<i>1.</i>	<i>Jail Procedures</i>	<i>2</i>
<i>2.</i>	<i>Report Writing and Note Taking</i>	<i>8</i>
<i>**** 3.</i>	<i>Testifying in Court</i>	<i>4</i>
<i>*** 4.</i>	<i>Arrest Control Tactics</i>	<i>8</i>
<i>5.</i>	<i>Building Search</i>	<i>8</i>
<i>*** 6.</i>	<i>Emergency Vehicle Operation</i>	<i>24</i>

	<i>Course</i>	<i>Hours</i>
*** 7.	<i>Firearms</i>	<i>34</i>
		<i>-88</i>
	<i>Patrol Procedures</i>	
1.	<i>Patrol Procedures</i>	<i>8</i>
2.	<i>Domestic Disputes</i>	<i>8</i>
3.	<i>Traffic Control</i>	<i>3</i>
		<i>19</i>
	<i>Practical Problems</i>	
1.	<i>Traffic Stops</i>	<i>8</i>
		<i>8</i>
	<i>Investigations</i>	
*** 1.	<i>DUI Investigation</i>	<i>16</i>
2.	<i>Auto and R.V. Theft</i>	<i>2</i>
3.	<i>Traffic Collision</i>	<i>8</i>
4.	<i>Narcotics</i>	<i>4</i>
5.	<i>Juvenile Procedures</i>	<i>2</i>
6.	<i>Interview & Interrogation</i>	<i>2</i>
7.	<i>Crime Scene Investigation, Preservation of Evidence, and Fingerprinting</i>	<i>16</i>
		<i>50</i>
	<i>Enforcement Skills</i>	
*** 1.	<i>Hazardous Materials</i>	<i>8</i>
*** 2.	<i>Weapon Retention</i>	<i>8</i>
*** 3.	<i>Arrest Control Tactics</i>	<i>8</i>
		<i>24</i>
	<i>Administrative Matters</i>	
1.	<i>Registration, Explanation of Schedule</i>	<i>2</i>
2.	<i>Written Exam, Course Evaluations</i>	<i>2</i>
		<i>4</i>
	<i>Total Number of Training Hours</i>	<i>233</i>

(4-11-06)

03. Documentation of Completed Training. The Council shall accept written certification from the agency head as proof that a reserve officer has satisfactorily completed the required ~~two hundred thirty three (233) hour~~ core curriculum. However, no officer shall be awarded training hours on his POST training record for any training completed which has not

been certified by the Council as set out in Sections 281 through 287.

~~(4-11-06)~~()

(BREAK IN CONTINUITY OF SECTIONS)

135. LEVEL I RESERVE CERTIFICATION EXAMINATION.

Upon completion of the ~~one hundred sixty (160) hour~~ core curriculum, the reserve officer shall be allowed two (2) attempts to pass the POST Level I Reserve certification examination with a minimum score of seventy-five percent (75%). The attempts shall be no less than thirty (30) days apart and no more than six (6) months apart. If the officer fails both attempts or fails to retake the examination within six (6) months, he shall complete the entire POST Level I Reserve core curriculum again prior to retesting.

~~(4-2-03)~~()

(BREAK IN CONTINUITY OF SECTIONS)

147. MINIMUM TRAINING REQUIREMENTS.

01. Minimum Basic Training. The POST Council shall establish the requirements of minimum basic training which reserve peace officers shall complete in order to be eligible for appointment as reserve peace officers. ()

012. Level I Reserve Marine Deputy Core Curriculum. Any reserve marine deputy desiring Level I Reserve Marine Deputy certification shall successfully complete the POST Council-approved Level I Reserve Marine Deputy core curriculum ~~consisting of one hundred sixty (160) hours of training~~. Part of the ~~one hundred sixty (160) hour~~ core curriculum may be taught by uncertified instructors provided the high liability classes as identified by POST are taught by POST-certified instructors.

~~(4-2-03)~~()

02. Curriculum.

~~*-- Shall be taught by a Prosecutor.~~

~~**-- Shall be taught by a Judge.~~

~~***-- Shall be taught by a POST-certified Instructor.~~

	Course	Hours
	Basic Session	
*** 1.	Introduction to Marine Enforcement Patrol, Education, & Search and Rescue	2
*** 2.	Required Safety Equipment	6
*** 3.	Operational Laws	6
*** 4.	Boat & Trailer Operations	8
*** 5.	Accident Reporting, Inspections, Search & Rescue, Other	18

	<i>Course</i>	<i>Hours</i>
		40
	<i>Advanced Session</i>	
*** 1.	<i>Marine DUI</i>	16
*** 2.	<i>Boat Theft, Trailer Theft, Marine Equipment</i>	8
*** 3.	<i>Marine Accident Investigation</i>	8
*** 4.	<i>Boat Operation, Inspection, & Scenarios</i>	8
		40
	<i>General Law</i>	
* 1.	<i>Search & Seizure Laws</i>	10
* 2.	<i>Laws of Arrest</i>	6
* 3.	<i>Rules of Evidence</i>	4
		20
	<i>Arrest Techniques & Officer Safety Skills</i>	
*** 1.	<i>Arrest Techniques & Handcuffing</i>	12
*** 2.	<i>Handgun Retention & Disarming</i>	8
		20
	<i>Firearms Proficiency</i>	
*** 1.	<i>Firearms Training, Classroom</i>	4
*** 2.	<i>Firearms Training, Range</i>	12
*** 3.	<i>Firearms Qualification</i>	2
*** 4.	<i>Use of Deadly Force, Legal Aspects</i>	2
		20
	<i>On-the-Job Training</i>	
1.	<i>On-the-Job Training</i>	20
		20
	<i>Total Number of Training Hours</i>	160
	<i>Optional Classes</i>	
*** 1.	<i>Reactive Impact Weapons Training & Certification</i>	12
*** 2.	<i>Intoxilyzer 5000 or Alco Sensor Training & Certification</i>	8
*** 3.	<i>Personal Watercraft Patrol & Rescue Techniques</i>	24
4.	<i>Radio Procedures</i>	2
5.	<i>Booking & Jail Procedures</i>	4
*** 6.	<i>Marine Officer Survival Tactics</i>	24
7.	<i>Verbal Judo</i>	8

	Course	Hours
8.	Report Writing	4
***9.	Use of Aerosol Weapons (OC)	4
	Total Number of Optional Training Hours	90

(4-2-03)

03. Documentation of Completed Training. The Council shall accept written certification from the agency head as proof that a reserve marine deputy has satisfactorily completed the required ~~twenty (20) hours of Firearms Proficiency training and twenty (20) hours of On-the-Job training~~ core curriculum. However, no officer shall be awarded training hours on his POST training record for any training completed which has not been certified by the Council as set out in Sections 281 through 287. (4-2-03)()

(BREAK IN CONTINUITY OF SECTIONS)

149. LEVEL I RESERVE MARINE DEPUTY CERTIFICATION EXAMINATION.

Upon completion of the ~~one hundred sixty (160) hour~~ core curriculum, the reserve marine deputy shall be allowed two (2) attempts to pass the POST Level I Reserve Marine Deputy certification examination with a minimum score of seventy-five percent (75%). The attempts shall be no less than thirty (30) days apart and no more than six (6) months apart. If the officer fails both attempts or fails to retake the examination within six (6) months, he shall complete the entire POST Level I Reserve Marine Deputy core curriculum again prior to retesting. (4-2-03)()

(BREAK IN CONTINUITY OF SECTIONS)

175. COLLEGE CREDITS.

01. College Hour. One (1) college or university semester hour or unit shall equal one (1) college credit. (7-1-99)

02. College Quarter Hour. One (1) college or university quarter hour or unit shall equal two-thirds (2/3) of one (1) college credit. (7-1-99)

03. Conversion to POST Training Hours. College credits may be converted to POST training hours at the rate of one (1) college credit equals twenty (20) POST training hours. (4-2-03)

04. Credits for POST-Approved Training. When college credit is awarded or purchased for POST-approved training, it may be counted for either POST training hours or college credit, whichever is to the advantage of the applicant. (4-2-08)

05. Documentation. Proof of college education shall not have been mutilated, altered, or damaged, and shall be in the form of a photocopy of an official transcript. ()

176. THE LEVEL I CERTIFICATE.

In addition to the requirements set forth in Section 173 of these rules, the requirements in Section 176 are necessary for award of the Level I Certificate. (4-2-03)

01. Probation. The applicant shall have satisfactorily completed at least a six (6) month probationary period, which may include basic detention academy time. The probationary period may be extended by the appointing agency which could delay certification until the probationary period is satisfactorily completed. This six (6) months' time shall be continuous with the agency the officer is appointed to when applying for certification. The probationary period shall not extend over one (1) year for certification purposes. (4-2-03)

02. Basic Training. The applicant shall have satisfactorily completed: (4-2-03)

a. The POST Basic Detention Academy as required by the Council in Section 071; (4-2-03)

b. The POST Patrol-to-Detention Transition Academy; or (4-2-03)

c. Be a graduate of a law enforcement vo-tech program, the curriculum of which has been certified by the Council as being equivalent to the POST Basic Detention Academy, and shall have passed the POST detention certification examination approved by the Council. The applicant shall be allowed two (2) attempts to pass the examination. The attempts shall be no less than thirty (30) days apart and no more than six (6) months apart. If an officer fails both attempts or fails to retake the examination within six (6) months, he shall successfully complete the POST Basic Detention Academy to be certified. (4-2-03)

03. Jail Training. The applicant shall have satisfactorily completed forty (40) hours of POST-approved jail training. (4-2-03)

04. Vo-Tech Program Graduates. Graduates from Idaho POST-certified law enforcement vo-tech programs shall also comply with the requirements of Subsection 073.02. (4-2-03)

05. Patrol and Detention Vo-Tech Program or POST Academy Graduates. An applicant who is appointed to a detention officer position from three (3) to five (5) years after satisfactorily completing both the patrol and detention officer training through an Idaho POST-certified law enforcement vo-tech program or the Idaho POST Academy, may be eligible for detention officer certification in Idaho without attending the POST Basic Detention Academy, provided the officer: ~~(3-29-10)~~()

a. Was appointed to a peace officer position in Idaho within three (3) years from graduating from the vo-tech program or POST Academy; ~~(4-2-08)~~()

b. Possesses peace officer certification from Idaho; (4-2-08)

- c. Submits a POST Certification Detention Challenge Packet; (4-2-08)
- d. Discloses information regarding any decertification investigation or proceeding or the substantial equivalent from any other jurisdiction and the results thereof. (3-29-10)
- e. Attends an approved course of study in Idaho detention legal issues and passes the POST Idaho detention legal issues exam; (4-2-08)
- f. Passes the following tests administered by a POST Training Specialist: (4-2-08)
 - i. The POST detention certification examination approved by the Council, conducted in the manner set forth in Subsection 176.02.c.; (4-2-08)
 - ii. The POST Firearms Qualification Course; (4-2-08)
 - iii. The POST Physical Fitness Test Battery; and (4-2-08)
- g. Satisfies the probationary period requirement of Section 064. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

213. GENERAL PROVISIONS.

01. Mandatory Certification. A canine team *must shall* be Idaho-POST certified in order to perform their duties ~~unless the team is POST-certified in another state or approved by the federal government, in which case they will have six (6) months from the date the canine is put into service in Idaho to obtain Idaho POST certification. The Council, for good cause and in writing, may grant additional time to complete POST certification.~~ (4-11-06)()

02. Eligibility. The canine handler *must shall* be an Idaho POST-certified peace, detention, correction, ~~or~~ adult probation and parole, juvenile detention, juvenile probation, or adult misdemeanor probation officer employed by a law enforcement agency which is a part of or administered by the state or any political subdivision thereof, or an Idaho POST-certified direct care staff member of the Idaho Department of Juvenile Corrections to be eligible for certification under these rules. Contract employees shall not be eligible for canine team certification. (4-11-06)()

03. Notification of Canine Being Put Into Service. Prior to a canine being put into service, the law enforcement agency head *must shall* submit written notification to the Council of such pending action unless the canine team is POST-certified in another state or approved by the federal government, in which case notification *must shall* be submitted within fifteen (15) days of the canine being put into service in Idaho. (4-11-06)()

04. Training. (4-11-06)

a. A patrol canine handler ~~must~~ shall have completed two hundred forty (240) hours of POST-approved canine handler training. The training ~~must~~ shall include, but not be limited to:

(~~5-8-09~~)()

- i. Suspect search; (4-11-06)
- ii. Apprehension; (4-11-06)
- iii. Handler protection; (4-11-06)
- iv. Obedience; and (4-11-06)
- v. Agility. (4-11-06)

b. A tracking, evidence search, controlled substance detection, or explosive substance detection canine handler ~~must~~ shall have completed one hundred sixty (160) hours of POST-approved canine handler training. The training ~~must~~ shall include, but not be limited to:

(~~5-8-09~~)()

- i. Obedience; and (4-11-06)
- ii. Odor recognition specific to the area the canine team is seeking certification in. (4-11-06)

c. A tracking, evidence search, controlled substance detection, or explosive substance detection canine handler cross-trained as a patrol canine handler ~~must~~ shall have completed two hundred forty (240) hours of POST-approved canine handler training.

(~~5-8-09~~)()

05. Evaluation. In evaluating the proficiency of the canine teams, the evaluators ~~must~~ shall use the standards approved by the POST Council for that particular skill category. Performance ~~will~~ shall be rated on a pass/fail basis. The evaluator ~~will~~ shall have the discretion to discontinue the testing if excessive time has been spent without results. The evaluator ~~must~~ shall not be the owner or handler of the canine being evaluated, and ~~must~~ shall not have a proprietary interest in the training of the canine team being evaluated. A POST Training Specialist ~~must~~ shall be notified of all canine certification testing.

(~~4-11-06~~)()

06. Failed Evaluation. If a canine team fails any portion of an evaluation, the entire evaluation is considered to be failed, and all skills ~~must~~ shall be repeated and successfully demonstrated during retesting. The canine team ~~must~~ shall wait at least twenty-four (24) hours before retesting, and they ~~must~~ shall be retested by the same evaluator that evaluated the failed test or his designee.

(~~4-11-06~~)()

07. Areas of Certification. The Council ~~will~~ shall certify a canine team which successfully demonstrates the handler's ability to control the canine, under the scrutiny of a canine evaluator, in addition to proficiency in one (1) or more of the following areas:

(~~4-11-06~~)()

- a. Patrol; (3-30-01)
- b. Tracking; (3-30-01)
- c. Evidence search; (3-30-01)
- d. Controlled substance detection; or (3-30-01)
- e. Explosive substance detection. (3-30-01)

08. Expiration of Certification. Each certification issued pursuant to these rules ~~will~~ shall remain valid for fifteen (15) months. A canine team ~~must~~ shall be evaluated prior to their certification expiration date to maintain their certification. A canine team certification ~~will~~ shall lapse if the handler and canine cease to perform canine team functions together. ~~(4-11-06)~~()

09. Appeal. Any handler who believes there have been improper procedures applied in implementing the standards may file an appeal with the Idaho Peace Officer Standards and Training Academy in writing. This appeal ~~must~~ shall be filed within thirty (30) days of the testing date. ~~(4-11-06)~~()

(BREAK IN CONTINUITY OF SECTIONS)

251. GENERAL PROVISIONS.

01. Purpose. Instructor Certificates are established for the purpose of recognizing competence as an instructor of law enforcement subjects and/or general subjects pertinent to law enforcement personnel. (4-2-03)

02. Certification. The Council shall certify instructors who meet the requirements set forth in Sections 250 through 256 and are deemed qualified to teach one (1) or more of the prescribed training courses. (4-2-03)

03. Applications. All applications for award of Instructor Certificates shall be completed by the applicant on the prescribed "Certified Instructor Packet" as provided by the POST Council. (4-2-03)

04. Submission. The Certified Instructor Packet shall be submitted by the applicant to his agency head who shall review it prior to signing it and forwarding it to the POST Regional Training Specialist. Certificates shall be issued to the agency head for award to the applicant. (4-2-03)

05. POST Training Credit. No POST training credit shall be given for attendance at a school taught by one (1) or more instructors who are not POST-certified instructors. However, POST training credit may be given for attendance at a school taught by an instructor seeking

instructor certification in the respective subject pursuant to Sections 250 through 256. (4-2-03)

06. POST-Certified School. A school taught by one (1) or more POST-certified instructors in their respective subjects shall be considered a POST-certified school. (4-2-03)

07. Quality. Instructors certification cannot insure good instruction. Therefore, it shall be the continuing responsibility of school directors or coordinators to see that instructors are assigned only subjects which they are qualified to teach and are supervised on a regular basis to insure that instructional excellence is maintained. ~~(4-2-03)~~()

08. Revocation. Instructor certification may be revoked by the Council whenever an instructor is deemed to be unqualified to continue teaching. Review of instructor certification may be initiated upon the request of an agency head, school director or coordinator, or other reliable source. Such review may also be initiated by the Council in the absence of external requests or complaints. (4-2-03)

09. Exceptions. ~~(4-2-03)~~

~~a.~~ Judges, attorneys, educators, doctors, federal officials, state officials, and other non-police personnel **are exempt from the instructor certification requirements, and** should be utilized when their talents are **needed deemed appropriate.** ~~The requirements set forth in Sections 250 through 256 may be waived by the Council and the Council may certify such instructors or the course they teach upon recommendation of the school director or coordinator.~~ (4-2-03)()

~~b.~~ ~~Instructor applicants who do not meet the requirements of Sections 250 through 256, but who have taught at a training course pursuant to these rules may be eligible for instructor certification upon recommendation of the school director or coordinator.~~ (4-2-03)

252. REQUIREMENTS FOR INSTRUCTORS OF LAW ENFORCEMENT SUBJECTS. The requirements in Sections 250 through 252 are necessary for award of the instructor certificate for law enforcement subjects: (4-2-03)

01. Law Enforcement Experience. The applicant shall have a minimum of three (3) years of law enforcement experience. (4-2-03)

02. Education. The applicant shall be a high school graduate or the equivalent as recognized by the Council. (4-2-03)

03. Instructor Development Course. The applicant shall have satisfactorily completed an Instructor Development Course approved by the Council. The Council may waive this requirement in exceptional cases reflecting outstanding education, experience, or achievement; or under unusual circumstances upon written application by a school director or coordinator. (4-2-03)

04. Subsequent Applications. A current POST-certified instructor making application for instructor certification in an additional subject and who has already satisfactorily completed an Instructor Development Course approved by the Council shall not have to complete the course again. (4-2-03)

05. Conducted Energy Device Instructor Certification. An applicant for Conducted Energy Device Instructor Certification shall provide proof of successful completion of the manufacturer's "operator" and "instructor" courses for the Conducted Energy Device they will be instructing in. ()

(BREAK IN CONTINUITY OF SECTIONS)

254. PROCEDURES.

01. Application. After meeting the requirements set out in Sections 250 and 251, and either 252 or 253, the applicant shall submit to his POST Regional Training Specialist a completed Certified Instructor Packet, which shall include: (4-2-03)

- a. Three (3) letters of recommendation; (4-2-03)
- b. A resume of schools attended in preparation for instructing the selected subject; (4-2-03)
- c. A lesson plan, including visual aids, equipment needed, handouts, performance objectives, and test questions with answers. (4-2-03)

02. Evaluation. (4-2-03)

a. Within two (2) weeks after submitting the packet, the applicant shall contact his POST Regional Training Specialist to set up a time for the Training Specialist to monitor a class the applicant is instructing. In addition to evaluating the quality of instruction provided by the applicant, the Training Specialist shall take into consideration background, education, achievement, teaching experience, and qualifications, as well as such variables as need, region, and recommendations. (4-2-03)

b. A current POST-certified instructor making application for instructor certification in an additional subject and who has previously had a class monitored by a POST Training Specialist shall not be required to have a class in the additional subject monitored. (4-2-03)

03. Recommendation. After ensuring all requirements are met and the Certified Instructor Packet is complete, the POST Regional Training Specialist shall attach his recommendation to the packet and forward it to the POST ~~Executive Director~~ **Division Administrator**. The POST ~~Executive Director~~ **Division Administrator** shall review the ~~packet~~ **POST Regional Training Specialist's evaluation and recommendation**, and upon approval, ~~put the applicant's request for instructor certification on the agenda for the next POST Council meeting~~ **issue the certification.** (4-2-03)()

~~**04. POST Council.** The POST Council shall rely heavily on the endorsement of the POST Regional Training Specialist as to the applicant's qualifications and ability to effectively~~

~~communicate.~~

~~(4-2-03)~~

255. EXPIRATION.

01. Valid. Instructor certification shall remain valid for a period of two (2) years with the exception of firearms instructor certification which shall remain valid for a period of one (1) year. ~~(4-2-03)~~()

02. Conducted Energy Device. A POST-certified Conducted Energy Device instructor shall maintain valid certification through the manufacturer for each Conducted Energy Device they are POST-certified to instruct. If their certification through the manufacturer becomes invalid for any reason, their POST Conducted Energy Device Instructor Certification for that device shall immediately be deemed inactive. ()

256. RENEWAL.

01. Notification. At the end of the certification period, the POST Council shall send notification to the instructor, provided the instructor still meets the qualifications for instructor certification. (4-2-03)

02. Requirements. To renew the certification, the instructor shall submit the following to POST Council: (4-2-03)

a. A teaching log indicating the instruction of at least one (1) class during the last certification period; (4-2-03)

b. An updated lesson plan, if any changes have been made since it was last submitted; and (4-2-03)

c. A ~~POST Short Course~~ firearms qualification score sheet witnessed by a POST-certified firearms instructor other than the renewing instructor. The qualification course shall be the POST Council-approved course pertinent to the topic the instructor is certified to teach. This requirement applies only to POST-certified firearms instructors who are renewing their firearms instructor certification. ~~(4-2-03)~~()

d. Instructors ~~must~~ shall meet recertification requirements in compliance with Council and applicable industry standards. ~~(3-29-10)~~()

e. Conducted Energy Device instructors shall submit proof of successful completion of the manufacturer's recertification requirements for each Conducted Energy Device they are POST-certified to instruct. ()

(BREAK IN CONTINUITY OF SECTIONS)

267. REQUIREMENTS.

In addition to the requirements set forth in Sections 250 and 251 of these rules, the requirements in Sections 266 through 269 are necessary for award of the master instructor certificate: (4-2-03)

01. Instructor Development Course. The applicant shall have satisfactorily completed an Instructor Development Course approved by the Council. (4-2-03)

02. POST-Certified Instructor. The applicant shall be a current POST-certified instructor in the subject he is applying for Master Instructor certification in, and shall have held that certification for a minimum of three (3) years prior to application. The Council may waive this requirement in exceptional cases reflecting outstanding education, experience, or achievement; or under unusual circumstances upon written application by the POST ~~Executive Director~~ Division Administrator. (4-2-03)()

03. Instruction. The applicant shall have instructed a minimum of forty (40) hours of classes in the subject he is applying for Master Instructor certification in during each of the previous two (2) years. (4-2-03)

04. Additional Training or Education. The applicant shall have received additional training or education beyond basic training in the area of their instructor certification. ~~In addition to this requirement, an applicant who is applying to become a Master Instructor in Conducted Energy Devices shall attend and successfully complete a "Master Instructor" level Conducted Energy Device course offered by a reputable manufacturer as approved by the POST Council.~~ (3-29-10)()

05. Exceptional Ability. The applicant shall have demonstrated exceptional ability to develop and present training. (4-2-03)

06. Recommendation. The applicant shall be recommended for master instructor certification by a POST Regional Training Specialist or a current POST-certified master instructor. (4-2-03)

07. Maintain Certification. The applicant shall be willing to commit to teaching a minimum of one (1) instructor class during the certification period to maintain certification. (4-2-03)

08. Conducted Energy Device Master Instructor. An applicant who is applying to become a Master Instructor in Conducted Energy Devices shall also: ()

a. Attend and successfully complete a "Master Instructor"-level Conducted Energy Device course offered by a reputable manufacturer as approved by the POST Council; ()

b. Provide proof of successful completion of at least one (1) course on "excited delirium" or "positional asphyxia;" and ()

c. At the request of POST Council or the POST Division Administrator, serve as a subject matter expert on any conducted energy device product recommended for use by law enforcement. ()

09. Maintaining Conducted Energy Device Master Instructor Certification. A POST-certified Conducted Energy Device Master Instructor shall maintain and provide proof of valid “master instructor” certification through the manufacturer for each Conducted Energy Device they are POST-certified as a Master Instructor to instruct. If their “master instructor” certification through the manufacturer becomes invalid for any reason, their POST Conducted Energy Device Master Instructor Certification for that device shall immediately be deemed inactive. ()

(BREAK IN CONTINUITY OF SECTIONS)

333. CONDUCT AND BEHAVIOR.

01. POST Minimum Standards for Employment. ~~Any~~ Each vocational law enforcement student ~~that does not~~ shall meet the Minimum Standards for Employment as provided in Sections 050 through 064 of these rules ~~will~~ with the exception of age. Any vocational law enforcement student that does not meet the standards shall not be given the final test unless they have been granted a waiver in accordance with Subsection 327.03 of these rules. (4-2-08)()

02. Code of Conduct/Code of Ethics. Every vocational law enforcement student ~~must~~ shall attest that he has read, understands, and will abide by the Law Enforcement Code of Conduct as found in Subsection 091.04 of these rules and the Law Enforcement Code of Ethics as found in Subsection 091.05 of these rules. (4-2-08)()

03. Integrity. The vocational law enforcement program ~~must~~ shall have a policy on integrity. This policy ~~must~~ shall clearly state that dishonesty, including acts of academic dishonesty and plagiarism; untruthfulness; or discourtesy ~~will~~ shall not be tolerated. This policy ~~must~~ shall be reviewed with all vocational law enforcement students upon entry into the program. (4-11-06)()

04. Social Contact. The vocational law enforcement program ~~must~~ shall have a policy expressly prohibiting students from having social contact, either on or off campus, with any vocational law enforcement program staff member or instructor. Associations between students and vocational law enforcement program staff members or instructors ~~must~~ shall be professional in nature at all times. (4-11-06)()

05. Other Standards of Conduct and Behavior. The vocational law enforcement program ~~must~~ shall address other standards of conduct and behavior that reflect good taste, courtesy, consideration, and respect for the rights and privileges of others. Any conduct detrimental to the conduct, efficiency, or discipline of the vocational law enforcement program ~~must~~ shall be prohibited. (4-11-06)()

(BREAK IN CONTINUITY OF SECTIONS)

362. DOCUMENTATION.

01. Submission of Written Certification. In January of each year, the law enforcement agency head ~~must~~ shall submit written certification to the Council of the number of hours of continuing training each officer within his agency has completed during the previous calendar year. (4-6-05)()

02. No Credit on POST Training Record. The Council ~~will~~ shall accept written certification from the agency head as proof that an officer has satisfactorily completed the required forty (40) hours of continuing training every two (2) calendar years. However, no officer ~~will~~ shall be awarded training hours on his POST training record for any training completed which has not been certified by the Council as set out in Sections 281 through 311 of these rules. (4-6-05)()

03. Non-Compliance With Continuing Training Requirement. Any peace or county detention officer out of compliance with the continuing training requirement shall be notified in writing, along with his agency head. After notice and an opportunity to be heard, if compliance is still not achieved, the Council may suspend the officer's certification, which shall be immediately restored as soon as compliance is achieved. ()

04. Exception for Active Duty Military Service. The two (2) calendar year continuing training period shall be tolled during a peace or county detention officer's active duty military service, and shall recommence upon the officer's return to peace or county detention officer duties with his appointing agency. The appointing agency shall complete and submit to the Council a Notice of Separation/Change in Status form designated by the Council upon the officer's departure from and return to the agency. ()

IDAPA 11 - IDAHO STATE POLICE

11.11.02 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL FOR JUVENILE DETENTION OFFICERS

DOCKET NO. 11-1102-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 19-5107, 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 pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 216 and 217.](#)

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 Trish Christy at (208) 884-7253.

DATED this 9th day of November, 2010.

William L. Flink
Division Administrator
Idaho State Police
Peace Officer Standards & Training
700 S. Stratford Dr.
Meridian, ID 83642-6202
Phone: (208) 884-7251
Facsimile: (208) 884-7295

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 19-5107, 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 20, 2010.

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:

Establishes timelines for the lapse of Juvenile Detention officer certification and the requirements for reactivating certification.

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(2), Idaho Code, negotiated rulemaking was not conducted because representatives of the affected parties were involved in the drafting and approval of the rule.

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 the proposed rule, contact Trish Christy at (208) 884-7253.

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 27, 2010.

DATED this 25th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1102-1001

035. LAPSE OF JUVENILE DETENTION OFFICER CERTIFICATION.

The certification of any juvenile detention officer shall be considered lapsed if the officer does not serve as a juvenile detention officer in Idaho for three (3) consecutive years. Provided, however, that an Idaho POST-certified juvenile detention officer who remains in a juvenile probation officer, Juvenile Corrections direct care staff, or misdemeanor probation officer duty assignment with a law enforcement agency that is a part of or administered by the state of Idaho or any political subdivision thereof shall retain their POST certification provided they work at least sixty (60) hours per year in that capacity. The three-year period provided herein shall be tolled during any time period that a juvenile detention officer is the subject of a POST decertification investigation and is no longer employed in law enforcement. ()

01. Three to Five Years. A juvenile detention officer who has been out of full-time juvenile detention officer employment status from three (3) to five (5) years and who wants to reactivate certification shall meet the following POST requirements: ()

a. Submit a POST Certification Juvenile Detention Challenge Packet; ()

b. Pass the POST juvenile detention certification examination approved by the POST Council, administered by a POST Training Specialist, and conducted in the manner set forth in Subsection 030.02.c.; and ()

c. Satisfactorily complete a probationary period as set forth in Subsection 031.01. ()

02. Over Five Years. A juvenile detention officer who has been out of full-time juvenile detention officer employment status for over five (5) years shall attend the POST Basic Juvenile Detention Academy and comply with the requirements of Sections 030 and 031 of these rules to reactivate certification. The Council may waive this requirement on a showing of good cause by the officer supported by clear and convincing evidence that during a substantial part of the time out of full-time juvenile detention officer employment, the officer was engaged in an occupation requiring juvenile justice training, skill, and experience. This evidence shall be submitted with a POST Certification Juvenile Detention Challenge Packet. Upon receiving a waiver, the officer shall meet the following POST requirements: ()

a. Pass the POST juvenile detention certification examination approved by the POST Council, administered by a POST Training Specialist, and conducted in the manner set forth in Subsection 030.02.c.; and ()

b. Satisfactorily complete a probationary period as set forth in Subsection 031.01.

()

03. Over Eight Years. A juvenile detention officer who has been out of full-time juvenile detention officer employment status for over eight (8) years shall attend the POST Basic Juvenile Detention Academy and comply with the requirements of Sections 030 and 031 of these rules to reactivate certification. No waiver of this requirement shall be granted by the Council.

()

04. Exceptions.

()

a. The provisions of Subsections 035.01 through 035.03 shall not apply to officers holding a part-time Juvenile Detention certificate who work at least sixty (60) hours per year as a Juvenile Detention officer.

()

b. The certification of a full-time Juvenile Detention officer transferring to part-time Juvenile Detention officer employment shall remain valid as long as the officer works at least sixty (60) hours per year as a Juvenile Detention officer.

()

0356. -- 999. (RESERVED).

IDAPA 11 - IDAHO STATE POLICE

11.11.03 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL FOR JUVENILE PROBATION OFFICERS

DOCKET NO. 11-1103-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 19-5107, 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 pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 218 through 221.](#)

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 Trish Christy at (208) 884-7253.

DATED this 9th day of November, 2010.

William L. Flink
Division Administrator
Idaho State Police
Peace Officer Standards & Training
700 S. Stratford Dr.
Meridian, ID 83642-6202
Phone: (208) 884-7251
Facsimile: (208) 884-7295

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 19-5107, 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 20, 2010.

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:

Establishes minimum standards for training and certification of part-time Juvenile Probation Officers; establishes timelines for the lapse of Juvenile Probation officer certification and the requirements for reactivating certification.

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(2), Idaho Code, negotiated rulemaking was not conducted because representatives of the affected parties were involved in the drafting and approval of the rule.

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 the proposed rule, contact Trish Christy at (208) 884-7253.

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 27, 2010.

DATED this 25th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1103-1001

010. DEFINITIONS.

01. Basic Juvenile Probation Academy. A basic course of instruction for Juvenile Probation Officers as recognized by POST Council. (5-3-03)

02. Challenge Exam. A test to determine a person's competence for waiver of the basic Juvenile Probation Academy. (5-3-03)

03. Juvenile Probation Department. Any public or private agency administered by or contracted with the court, made up of one (1) or more staff to provide juvenile probation services to a county at the expense and concurrence of the county commissioners. Services may include intake, diversion, supervision, restitution, and community service work. (5-3-03)

04. Juvenile Probation Officer. Any full- or part-time employee of a county juvenile probation department who is responsible for preparing social history reports to the court, making recommendations regarding conditions of probation and the supervision of juvenile offenders' compliance with court orders. ~~(5-3-03)~~()

05. Juvenile Training Council. An advisory group to the POST Council that is represented by the Director of the Department of Juvenile Corrections, a Magistrate, a county Juvenile Detention Director, a county Chief Probation Officer, a county Commissioner, a county Clerk, and a county Sheriff. The purpose of the Juvenile Training Council is to advise POST Council in the planning, development, and operation of the Juvenile Probation Academy. (3-30-07)

06. Mandatory Certification. To issue a certificate to a juvenile probation officer based upon successful completion of the mandatory training requirements established by POST Council. (5-3-03)

07. Voluntary Certification. To issue a certificate to a juvenile probation officer based upon successful completion of the voluntary training requirements established by POST Council. (5-3-03)

011. -- 029. (RESERVED).

030. JUVENILE PROBATION OFFICER CERTIFICATION.

01. Decertification. The council may decertify any juvenile probation officer in the same manner as provided in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and

Training Council,” Subsection 091.03. (5-3-03)

02. Certification. ~~The following dates govern voluntary and mandatory certification:~~
(5-3-03)()

~~a. From October 1, 2001 through September 30, 2003, any county Juvenile Probation Officer may receive voluntary certification from POST upon successful completion of the requirements outlined in Sections 031 or 032.~~
(5-3-03)

ba. If Any full-time juvenile probation officer employed on or after October 1, 2003; ~~any juvenile probation officer~~ shall be certified by ~~obtaining mandatory certification from~~ the Peace Officer Standards and Training Council within one (1) year of their initial hire date ~~the officer was first employed~~ as a full-time juvenile probation officer. (5-3-03)()

eb. Any full-time Jjuvenile probation officerss employed prior to October 1, 2003; shall ~~comply with the training and certification provisions of Section 030~~ be certified by the Peace Officer Standards and Training Council by September 30, 2005; however, the requirement for successful completion of the POST Basic Juvenile Probation Academy ~~will~~ shall be waived if the officer scores a minimum of seventy-five percent (75%) on ~~a challenge~~ the POST juvenile probation certification examination ~~administered by POST and any other requirements for certification.~~ The officer ~~will~~ shall be allowed two (2) attempts to pass the examination. The attempts ~~must~~ shall be no less than thirty (30) days apart and no more than six (6) months apart. If the officer fails both attempts ~~or fails to retake the examination within six (6) months,~~ ~~the officer must~~ he shall successfully complete the POST Basic Juvenile Probation Academy to be certified. (5-3-03)()

c. Any part-time juvenile probation officer employed on or after October 1, 2010 shall be certified by the Peace Officer Standards and Training Council within one (1) year of their initial hire date as a part-time juvenile probation officer. ()

d. Any part-time juvenile probation officer employed prior to October 1, 2010 shall be certified by the Peace Officer Standards and Training Council by September 30, 2012; however, the requirement for successful completion of the POST Basic Juvenile Probation Academy shall be waived if the officer successfully completes the challenge procedure requirements prescribed in Section 032 of these rules. ()

03. Applications. All applications for award of the Juvenile Probation Officer Certificate shall be completed on the prescribed form “Application for Certification” as provided by the POST Council. (5-3-03)

04. Submission. The Application for Certification form ~~must~~ shall be submitted by the ~~officer/applicant to the applicant’s department~~ his agency head, who shall review it for accuracy prior to signing it and forwarding ~~the application it~~ to the Council. Certificates ~~will~~ shall be issued to the ~~department~~ agency head for award to the applicant. (5-3-03)()

05. Minimum Standards. Each applicant ~~must~~ shall meet the minimum standards for employment and basic training as provided in IDAPA 11.11.01, “Rules of the Idaho Peace Officer Standards and Training Council,” with the exception of ~~height, weight,~~ fitness; and physical

disability which ~~will~~ shall be left to the discretion of the employing agency. ~~(5-3-03)~~()

06. Retaining Certification. A certified juvenile probation officer shall work sixty (60) hours annually in a juvenile probation officer capacity to retain certification. Documentation of hours worked shall be kept on file at the employing agency. Any juvenile probation officer working less than sixty (60) hours annually shall complete all requirements set forth in Section 033 to be recertified. ()

(BREAK IN CONTINUITY OF SECTIONS)

033. LAPSE OF JUVENILE PROBATION OFFICER CERTIFICATION.

The certification of any juvenile probation officer shall be considered lapsed if the officer does not serve as a juvenile probation officer in Idaho for three (3) consecutive years. Provided, however, that an Idaho POST-certified juvenile probation officer who remains in a juvenile detention officer, Juvenile Corrections direct care staff, or misdemeanor probation officer duty assignment with a law enforcement agency that is a part of or administered by the state of Idaho or any political subdivision thereof shall retain their POST certification provided they work at least sixty (60) hours per year in that capacity. The three-year period provided herein shall be tolled during any time period that a juvenile probation officer is the subject of a POST decertification investigation and is no longer employed in law enforcement. ()

01. Three to Five Years. A juvenile probation officer who has been out of juvenile probation officer employment status from three (3) to five (5) years and who wants to reactivate certification shall meet the following POST requirements: ()

a. Submit a POST Certification Juvenile Probation Challenge Packet; ()

b. Pass the POST juvenile probation certification examination approved by the POST Council, administered by a POST Training Specialist, and conducted in the manner set forth in Subsection 030.02.b.; and ()

c. Satisfactorily complete a probationary period as set forth in Subsection 031.01. ()

02. Over Five Years. A juvenile probation officer who has been out of juvenile probation officer employment status for over five (5) years shall attend the POST Basic Juvenile Probation Academy and comply with the requirements of Sections 030 and 031 of these rules to reactivate certification. The Council may waive this requirement on a showing of good cause by the officer supported by clear and convincing evidence that during a substantial part of the time out of juvenile probation officer employment, the officer was engaged in an occupation requiring juvenile justice training, skill, and experience. This evidence shall be submitted with a POST Certification Juvenile Probation Challenge Packet. Upon receiving a waiver, the officer shall meet the following POST requirements: ()

a. Pass the POST juvenile probation certification examination approved by the POST

Council, administered by a POST Training Specialist, and conducted in the manner set forth in Subsection 030.02.b.; and ()

b. Satisfactorily complete a probationary period as set forth in Subsection 031.01. ()

03. **Over Eight Years.** A juvenile probation officer who has been out of juvenile probation officer employment status for over eight (8) years shall attend the POST Basic Juvenile Probation Academy and comply with the requirements of Sections 030 and 031 of these rules to reactivate certification. No waiver of this requirement shall be granted by the Council. ()

0334. -- 999. (RESERVED).

IDAPA 11 - IDAHO STATE POLICE

11.11.04 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL FOR CORRECTION OFFICERS AND ADULT PROBATION AND PAROLE OFFICERS

DOCKET NO. 11-1104-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 19-5107, 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 pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 222 through 225.](#)

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 Trish Christy at (208) 884-7253.

DATED this 9th day of November, 2010.

William L. Flink
Division Administrator
Idaho State Police
Peace Officer Standards & Training
700 S. Stratford Dr.
Meridian, ID 83642-6202
Phone: (208) 884-7251
Facsimile: (208) 884-7295

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 19-5107, 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 20, 2010.

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:

Clarifies minimum standards and documentation requirements; gives the POST Division Administrator additional authority to consider requests for hearing and vision waivers.

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(2), Idaho Code, negotiated rulemaking was not conducted because representatives of the affected parties were involved in the drafting and approval of the rule.

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 the proposed rule, contact Trish Christy at (208) 884-7253.

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 27, 2010.

DATED this 25th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1104-1001

033. EDUCATION.

The applicant shall be a high school graduate or have earned a GED (General Education Development) certificate. (4-2-08)

01. Documentation. Proof of education shall not have been mutilated, altered, or damaged, and shall be in the form of a photocopy of one (1) of the following: (4-2-08)()

a. High school diploma; (4-2-08)

b. GED certificate; (4-2-08)

c. High school transcript that indicates the date of graduation; (4-2-08)()

d. GED test report form; ~~or~~ (4-2-08)()

e. High school equivalency certificate; or ()

ef. Official ~~C~~college transcript indicating the successful completion of a minimum of fifteen (15) academic credits. (4-2-08)()

034. EXPERIENCE AGE.

The applicant shall ~~have be~~ a minimum of ~~two (2) years of any combination of responsible work experience, military service, education, or any other productive activity~~ twenty-one (21) years of age. (4-2-08)()

(BREAK IN CONTINUITY OF SECTIONS)

037. MILITARY RECORD.

01. Discharge. A “dismissal,” “bad conduct discharge” (BCD), “dishonorable discharge” (DD), or administrative discharge of other than honorable (OTH) from the military service ~~will~~ shall disqualify the applicant. The administrative discharge of “general under honorable conditions” (GEN), a “general” discharge, or an “uncharacterized” discharge may be grounds for rejection. In the case of a “general under honorable conditions” or “uncharacterized” discharge, the applicant may be accepted upon approval of the POST ~~Executive Director~~ Division Administrator. The ~~Executive Director will~~ Division Administrator shall have the discretion to refer the application to the POST Council. In the case of a “general” discharge, the POST Council

~~will shall~~ review the application and determine whether the individual ~~will shall~~ be certifiable as a correction officer in the state of Idaho. ~~(3-29-10)()~~

02. Documentation. Proof of military record shall not have been mutilated, altered, or damaged; shall indicate character of service; and shall be in the form of a photocopy of the following: ()

a. DD-214 for any active military service; ()

b. NGB Form 22 for any National Guard service; and ()

c. AF-216 for any Air Force service. ()

(BREAK IN CONTINUITY OF SECTIONS)

039. PHYSICAL -- MEDICAL.

01. Requirements. (4-11-06)

a. Hearing. The applicant ~~must shall~~ have unaided or aided hearing between zero (0) and thirty (30) decibels for each ear at the frequencies of one thousand (1000) Hz and two thousand (2000) Hz; and unaided or aided hearing between zero (0) and fifty (50) decibels for each ear at the frequency of three thousand (3000) Hz. Waiver of the above may be considered **by the POST Division Administrator** if accompanied by the certificate of an audiologist or ear, nose, and throat physician that the applicant's condition will not jeopardize or impair the applicant's ability to perform the duties of a correction officer. ~~If the applicant's unaided or aided hearing at one thousand (1000) Hz and two thousand (2000) Hz is between thirty-one (31) and forty (40) decibels, the applicant may be accepted upon approval of the POST Executive Director.~~ The ~~Executive Director~~ **POST Division Administrator** shall have the discretion to refer the application to the POST Council. ~~If the applicant's unaided or aided hearing at one thousand (1000) Hz and two thousand (2000) Hz is over forty (40) decibels or if the applicant's unaided or aided hearing at three thousand (3000) Hz is over fifty (50) decibels, the POST Council shall review the application and determine whether the individual shall be certifiable as a correction officer in the state of Idaho.~~ ~~(4-2-08)()~~

b. Vision. The applicant ~~must shall~~ have uncorrected vision in each eye of no weaker than twenty/two hundred (20/200) with the strong eye corrected to twenty/thirty (20/30) and the weaker eye corrected to twenty/sixty (20/60). An applicant who wears contact lenses is exempt from the uncorrected vision of twenty/two hundred (20/200), but ~~must shall~~ have the strong eye corrected to twenty/thirty (20/30) and the weaker eye corrected to twenty/sixty (20/60). A full eye examination ~~must shall~~ be administered by an optometrist or ophthalmologist to any applicant who wears glasses whose uncorrected vision in either eye is twenty/one hundred fifty (20/150) or weaker. Waiver of the above may be considered by the ~~Council~~ **POST Division Administrator** if accompanied by the certificate of a vision specialist that the applicant's condition will not jeopardize or impair the applicant's ability to perform the duties of a correction officer. **The POST**

Division Administrator shall have the discretion to refer the application to the POST Council.

(5-8-09)()

c. Disease/Condition. The applicant *must shall* be free from any impediments of the senses of sight, hearing, taste, smell, and touch; physically sound; well developed physically and in possession of his extremities; free from any physical defects, chronic or organic diseases, organic or functional conditions, or emotional or mental instabilities which may tend to impair efficient performance of duty or which might endanger the lives of others or the life of the officer. Waiver of Subsection 039.01.c. may be considered by the Council upon the applicant's demonstration that the deficiency does not jeopardize or impair his ability to perform the duties of a correction officer. (4-2-08)()

d. Physical Agility Readiness Test. The applicant *must shall* pass the POST Physical Agility Readiness Test for Correction Officers. (4-11-06)()

02. Procedures. (4-11-06)

a. A POST Council-approved medical history form *must shall* be supplied by each applicant to the examining physician. The medical history *must shall* include information on past and present diseases, injuries and operations. (4-11-06)()

b. A medical examination *must shall* be administered by a licensed physician or his designee to determine if the applicant is free from any physical, emotional, or mental condition which might adversely affect the applicant's ability to perform the duties of a correction officer. The physician *must shall* record his findings on the appropriate form or letter and *must shall* note thereon, for evaluation by the appointing authority, any past or present physical defects, diseases, injuries, operations or conditions of an abnormal or unusual nature, or indications of mental or emotional instability. A medical examination shall remain valid for one (1) year. (4-2-08)()

(BREAK IN CONTINUITY OF SECTIONS)

061. MINIMUM STANDARDS FOR EMPLOYMENT FOR ADULT PROBATION AND PAROLE OFFICERS.

Every adult probation and parole officer *must shall* meet the minimum standards for employment as provided in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council," Sections 050 through 065, with the exception of hearing, vision, and physical agility. (4-2-08)()

01. Hearing. An applicant for adult probation and parole officer certification *must shall* have unaided or aided hearing between zero (0) and twenty-five (25) decibels for each ear at the frequencies of one thousand (1000) Hz, two thousand (2000) Hz, and three thousand (3000) Hz. Waiver of the above may be considered by the POST Division Administrator if accompanied by the certificate of an audiologist or ear, nose, and throat physician that the applicant's condition will not jeopardize or impair the applicant's ability to perform the duties of an adult probation and parole officer. ~~If the applicant's unaided or aided hearing is between twenty six (26) and forty~~

~~(40) decibels, the applicant may be accepted upon approval of the POST Executive Director. The Executive Director POST Division Administrator shall have the discretion to refer the application to the POST Council. If the applicant's unaided or aided hearing is over forty (40) decibels, the POST Council shall review the application and determine whether the individual shall be certifiable as an adult probation and parole officer in the state of Idaho.~~ (4-2-08)()

02. Vision. (4-11-06)

a. An applicant for adult probation and parole officer certification must shall possess binocular coordination that does not manifest diplopia; depth of proficiency of a minimum of one (1) minute of arc at twenty (20) feet; peripheral vision must shall be binocularly two hundred (200) degrees laterally with sixty (60) degrees upward and seventy (70) degrees downward. There must shall be no pathology of the eye; applicant must shall possess a minimum of seventy percent (70%) proficiency on a color discrimination test. Waiver of the above may be considered by the Council POST Division Administrator if accompanied by the certificate of a vision specialist that the applicant's condition will not jeopardize or impair the applicant's ability to perform the duties of an adult probation and parole officer. The POST Division Administrator shall have the discretion to refer the application to the POST Council. (4-2-08)()

b. The applicant must shall have uncorrected vision in each eye of no weaker than twenty/two hundred (20/200) with the strong eye corrected to twenty/twenty (20/20) and the weaker eye corrected to twenty/sixty (20/60). An applicant who wears contact lenses is exempt from the uncorrected vision of twenty/two hundred (20/200), but must shall have the strong eye corrected to twenty/twenty (20/20) and the weaker eye corrected to twenty/sixty (20/60). A full eye examination must shall be administered by an optometrist or ophthalmologist to any applicant who wears glasses whose uncorrected vision in either eye is twenty/one hundred fifty (20/150) or weaker. Waiver of the above may be considered by the Council POST Division Administrator if accompanied by the certificate of a vision specialist that the applicant's condition will not jeopardize or impair the applicant's ability to perform the duties of an adult probation and parole officer. The POST Division Administrator shall have the discretion to refer the application to the POST Council. (4-2-08)()

03. Physical ~~Agility~~ Readiness Test. An applicant for adult probation and parole officer certification must shall pass the POST Physical Agility Readiness Test for Adult Probation and Parole officers. (4-11-06)()

IDAPA 11 - IDAHO STATE POLICE

11.11.05 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL FOR IDAHO DEPARTMENT OF JUVENILE CORRECTIONS DIRECT CARE STAFF

DOCKET NO. 11-1105-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 19-5107, 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 pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 226 and 227](#).

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 Trish Christy at (208) 884-7253.

DATED this 9th day of November, 2010.

William L. Flink
Division Administrator
Idaho State Police
Peace Officer Standards & Training
700 S. Stratford Dr.
Meridian, ID 83642-6202
Phone: (208) 884-7251
Facsimile: (208) 884-7295

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 19-5107, 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 20, 2010.

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:

Revises timelines for the lapse of Juvenile Corrections Direct Care Staff certification so they are in line with all of the other disciplines POST certifies.

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(2), Idaho Code, negotiated rulemaking was not conducted because representatives of the affected parties were involved in the drafting and approval of the rule.

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 the proposed rule, contact Trish Christy at (208) 884-7253.

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 27, 2010.

DATED this 25th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1105-1001

103. LAPSE OF JUVENILE CORRECTIONS CERTIFICATION.

The certification of any juvenile corrections direct care staff ~~will~~ **shall** be considered lapsed if the individual does not serve as a **juvenile corrections** direct care staff ~~for the department or as a POST-certified juvenile probation or juvenile detention officer~~ in Idaho for ~~two~~ **three (23)** consecutive years. **Provided, however, that an Idaho POST-certified juvenile corrections direct care staff who remains in a juvenile detention officer, juvenile probation officer, or misdemeanor probation officer duty assignment with a law enforcement agency that is a part of or administered by the state of Idaho or any political subdivision thereof shall retain their POST certification provided they work at least sixty (60) hours per year in that capacity. The three-year period provided herein shall be tolled during any time period that a juvenile corrections direct care staff is the subject of a POST decertification investigation and is no longer employed in law enforcement.** (5-8-09)(____)

01. ~~Over Two~~ **Three to Five Years.** A juvenile corrections direct care staff who has been out of ~~full-time status with the department in a juvenile corrections~~ direct care staff ~~role, or as a certified juvenile detention or juvenile probation officer in Idaho for over two (2)~~ **employment status from three (3) to five (5)** years and ~~whose job requires that he be recertified, or who wishes wants to be recertified, must~~ **reactivate certification shall** meet the following POST requirements: (5-8-09)(____)

a. Submit a POST **Certification** Juvenile Corrections ~~Certification~~ Challenge Packet; (5-8-09)(____)

b. Pass the POST juvenile corrections certification examination approved by the **POST** Council, **administered by a POST Training Specialist, and** conducted in the manner set forth in Subsection 100.06.c. of these rules, ~~administered by a POST Training Specialist;~~ and (5-8-09)(____)

c. Satisfactorily complete a probationary period ~~of not less than one thousand forty (1,040) hours of continuous employment in a direct care staff role with the department as set forth in Subsection 101.01 of these rules.~~ (5-8-09)(____)

02. ~~Over Three~~ **Five Years.** A juvenile corrections direct care staff who has been out of ~~full-time status with the department in a juvenile corrections~~ direct care staff ~~role, or as a certified juvenile detention or juvenile probation officer in Idaho for over three (3)~~ **employment status for over five (5)** years, ~~must shall~~ attend the POST Basic Juvenile Corrections Academy ~~in order to earn recertification and comply with the requirements of Sections 100 and 101 of these rules to reactivate certification.~~ The Council may waive this requirement on a showing of good cause by the direct care staff supported by clear and convincing evidence that during a substantial part of the time out of ~~full-time~~ juvenile corrections direct care staff ~~status~~ **employment**, the individual was engaged in an occupation requiring juvenile corrections direct care staff training, skill, and experience. This evidence ~~must shall~~ be submitted with a POST **Certification** Juvenile

Corrections ~~Certification~~ Challenge Packet. Upon receiving a waiver, the direct care staff ~~must~~ shall meet the following POST requirements: (5-8-09)()

a. Pass the POST juvenile corrections certification examination approved by the POST Council, administered by a POST Training Specialist, and conducted in the manner set forth in Subsection 100.06.c. of these rules, ~~administered by a POST Training Specialist~~; and (5-8-09)()

b. Satisfactorily complete a probationary period ~~of not less than one thousand forty (1,040) hours of continuous employment in a direct care staff role with the department~~ as set forth in Subsection 101.01 of these rules. (5-8-09)()

03. **Over ~~Five~~ Eight Years.** A juvenile corrections direct care staff who has been out of ~~full-time status with the department in a~~ juvenile corrections direct care staff ~~role, or as a certified juvenile detention or juvenile probation officer in Idaho for over five (5)~~ employment status for over eight (8) years ~~must~~ shall attend ~~and pass~~ the POST Basic Juvenile Corrections Academy ~~in order to earn recertification~~ and comply with the requirements of Sections 100 and 101 of these rules to reactivate certification. No waiver of this requirement ~~will~~ shall be granted by the Council. (5-8-09)()

IDAPA 11 - IDAHO STATE POLICE

11.11.06 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL FOR MISDEMEANOR PROBATION OFFICERS

DOCKET NO. 11-1106-1001 (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 2011 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 19-5107, 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 pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 228 through 232.](#)

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 Trish Christy at (208) 884-7253.

DATED this 9th day of November, 2010.

William L. Flink
Division Administrator
Idaho State Police
Peace Officer Standards & Training
700 S. Stratford Dr.
Meridian, ID 83642-6202
Phone: (208) 884-7251
Facsimile: (208) 884-7295

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 19-5107, 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 20, 2010.

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 new rule chapter establishes the minimum standards for employment, training, and certification for Misdemeanor Probation Officers.

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(2), Idaho Code, negotiated rulemaking was not conducted because representatives of the affected parties were involved in the drafting and approval of the rule.

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 the proposed rule, contact Trish Christy at (208) 884-7253.

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 27, 2010.

DATED this 25th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1106-1001

IDAPA 11, TITLE 11, CHAPTER 06

11.11.06 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL FOR MISDEMEANOR PROBATION OFFICERS

000. LEGAL AUTHORITY.

Pursuant to Section 19-5109(8), Idaho Code, the Peace Officer Standards and Training Council may, upon recommendation of the Misdemeanor Probation Training Council, establish minimum basic training and certification standards for misdemeanor probation officers. ()

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 11.11.06, "Rules of the Idaho Peace Officer Standards and Training Council for Misdemeanor Probation Officers," IDAPA 11, Title 11, Chapter 06. ()

02. Scope. These rules constitute the minimum standards of training, education, employment, and certification of misdemeanor probation officers in Idaho. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, any written statements which might pertain to the interpretation of the rules of this chapter or to the documentation of compliance with the rules of this chapter are available for public inspection and copying at cost at the Idaho State Police, Peace Officer Standards and Training, 700 South Stratford Drive, Meridian, Idaho, 83642-6202. ()

003. ADMINISTRATIVE APPEALS.

Any appeals allowed under these rules shall be governed by the Idaho Administrative Procedures Act (Title 67, Chapter 52, Idaho Code) and by IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." ()

004. INCORPORATION BY REFERENCE.

There are no documents that have been incorporated by reference into this rule. ()

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

The principal place of business of the Idaho State Police, Peace Officer Standards and Training is

in Meridian, Idaho. The office is located at 700 South Stratford Drive, Meridian, Idaho and is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is: Peace Officer Standards and Training, 700 S. Stratford Dr., Meridian, Idaho 83642-6202. The telephone number of administration is (208) 884-7250 and the telephone number of basic academy training is (208) 884-7337. The facsimile number of administration is (208) 884-7295 and the facsimile number of basic academy training is (208) 884-7398. The Peace Officer Standards and Training website is <http://www.idaho-post.org>. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

The rules contained herein have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. ()

007. -- 009. (RESERVED).

010. DEFINITIONS.

01. Basic Misdemeanor Probation Academy. A basic course of instruction for Misdemeanor Probation Officers as recognized by POST Council. ()

02. Misdemeanor Probation Department. Any public agency administered by the county, made up of one (1) or more staff to provide misdemeanor probation services to a county at the expense and concurrence of the county commissioners. Services may include intake, diversion, supervision, restitution, and community service work. ()

03. Misdemeanor Probation Officer. Any employee of a misdemeanor probation department who is responsible for preparing reports to the court, making recommendations regarding conditions of probation, and the supervision of misdemeanor offenders' compliance with court orders. ()

04. Misdemeanor Probation Training Council. An advisory group to the POST Council that is comprised of a Magistrate, two (2) county commissioners, three (3) misdemeanor probation department administrators, a representative of the Idaho Association of Counties, a representative of the Idaho Department of Correction, and a representative of the Administrative Office of the Courts. The purpose of the Misdemeanor Probation Training Council is to advise POST Council in the planning, development, and operation of the Basic Misdemeanor Probation Academy. ()

05. Part-Time Misdemeanor Probation Officer. Any employee of a misdemeanor probation department who is responsible for preparing reports to the court, making recommendations regarding conditions of probation, or the supervision of misdemeanor offenders' compliance with court orders, and is employed less than full time or does not meet the definition of "employee" as defined in Section 59-1302, Idaho Code. ()

011. -- 029. (RESERVED).

030. MISDEMEANOR PROBATION OFFICER CERTIFICATION.

01. Decertification. The POST Council may decertify any misdemeanor probation

officer in the same manner as provided in IDAPA 11.11.01, “Rules of the Idaho Peace Officer Standards and Training Council.” ()

02. Eligibility. To be eligible for the award of the Basic Misdemeanor Probation Certificate, an applicant shall be a full-time misdemeanor probation officer employed by an Idaho misdemeanor probation department. To be eligible for the award of the Part-Time Basic Misdemeanor Probation Certificate, an applicant shall be a part-time misdemeanor probation officer employed by an Idaho misdemeanor probation department. ()

03. Certification. ()

a. Any full-time or part-time misdemeanor probation officer employed on or after January 10, 2011 shall be certified by the Peace Officer Standards and Training Council within one (1) year of their initial hire date as a full-time or part-time misdemeanor probation officer. ()

b. Any full-time or part-time misdemeanor probation officer employed prior to January 10, 2011 shall be certified by the Peace Officer Standards and Training Council by January 9, 2014; however, the requirement for successful completion of the POST Basic Misdemeanor Probation Academy shall be waived if the officer has been continuously employed as a misdemeanor probation officer in Idaho since January 10, 2006 and successfully completes the following: ()

i. Submits a POST Certification Misdemeanor Probation Challenge Packet to POST Council, which shall include copies of training records, transcripts, certificates, diplomas, or other documents that substantiate the officer’s training, education, and experience; ()

ii. Passes the POST misdemeanor probation certification examination approved by the POST Council, administered by a POST Training Specialist, and conducted in the manner set forth in Subsection 031.03 of these rules; ()

iii. Attends and passes the Idaho POST Misdemeanor Probation Academy’s “Legal and Liability Issues” and “Appropriate Use of Physical Force” training or POST-approved equivalent; and ()

iv. Satisfactorily completes a probationary period as set forth in Subsection 031.01 of these rules. ()

04. Applications. All applications for award of a Misdemeanor Probation Certificate shall be completed by the applicant on the prescribed form “Application for Certification” as provided by the POST Council. ()

05. Submission. The Application for Certification form shall be submitted by the applicant to his department head who shall review it for accuracy prior to signing it and forwarding it to the Council. Certificates shall be issued to the department head for award to the applicant. ()

06. Minimum Standards. Each applicant shall meet the minimum standards for

employment and basic training as provided in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council," with the exception of fitness and physical disability which shall be left to the discretion of the employing department. ()

07. Limitation of Part-Time Officers. A part-time misdemeanor probation officer's certification shall be effective only during those periods when he is formally assigned by the employing department to perform the duties of a part-time misdemeanor probation officer. ()

08. From Full-Time to Part-Time Status. The certification of a full-time Misdemeanor Probation officer transferring to part-time Misdemeanor Probation officer employment shall remain valid as long as the officer works at least sixty (60) hours per year as a Misdemeanor Probation officer. ()

09. From Part-Time to Full-Time Status. To be certified as a full-time misdemeanor probation officer, a currently certified part-time misdemeanor probation officer, upon appointment to full-time misdemeanor probation officer status, shall submit an Application for Certification as prescribed in Subsections 030.04 and 030.05 of this rule. ()

031. THE BASIC AND PART-TIME BASIC MISDEMEANOR PROBATION CERTIFICATE.

The following requirements are necessary for award of the basic and the part-time basic misdemeanor probation certificate: ()

01. Probation. The applicant shall have satisfactorily completed at least a six (6) month probationary period, which may include Basic Misdemeanor Probation Academy time. The probationary period may be extended by the employing department which could delay certification until the probationary period is satisfactorily completed. This six (6) months' time shall be continuous with the department the officer is employed by when applying for certification. The probationary period shall not extend over one (1) year for certification purposes. ()

02. Basic Training. The applicant shall have satisfactorily completed the POST Basic Misdemeanor Probation Academy. ()

03. Certification Exam. The applicant shall have passed the POST misdemeanor probation certification examination approved by the POST Council. The applicant shall be allowed two (2) attempts to pass the examination with a minimum score of seventy-five percent (75%). The attempts shall be no less than thirty (30) days apart and no more than six (6) months apart. If an applicant fails both attempts or fails to retake the examination within six (6) months, he shall reapply and successfully complete the POST Basic Misdemeanor Probation Academy prior to taking the certification examination again. ()

04. Misdemeanor Probation Training Manual. The applicant shall have satisfactorily completed forty (40) hours of POST-approved, supervised misdemeanor probation training in the employing department, or another department if necessary. Evidence of the successful completion of such training shall be submitted to POST Council. ()

032. LAPSE OF MISDEMEANOR PROBATION OFFICER CERTIFICATION.

The certification of any misdemeanor probation officer shall be considered lapsed if the officer does not work as a misdemeanor probation officer in Idaho a minimum of sixty (60) hours per year for three (3) consecutive years. Provided, however, that an Idaho POST-certified misdemeanor probation officer who remains in a juvenile probation officer duty assignment with a law enforcement agency that is a part of or administered by the state of Idaho or any political subdivision thereof shall retain their POST certification provided they work at least sixty (60) hours per year in that capacity. The three-year period provided herein shall be tolled during any time period that a misdemeanor probation officer is the subject of a POST decertification investigation and is no longer employed in law enforcement. ()

01. Three to Five Years. A misdemeanor probation officer who has been out of misdemeanor probation officer employment status from three (3) to five (5) years and who wants to reactivate certification shall meet the following POST requirements: ()

a. Submit a POST Certification Misdemeanor Probation Challenge Packet; ()

b. Pass the POST misdemeanor probation certification examination approved by the POST Council, administered by a POST Training Specialist, and conducted in the manner set forth in Subsection 031.03 of this rule; and ()

c. Satisfactorily complete a probationary period as set forth in Subsection 031.01 of this rule. ()

02. Over Five Years. A misdemeanor probation officer who has been out of misdemeanor probation officer employment status for over five (5) years shall attend the POST Basic Misdemeanor Probation Academy and comply with the requirements of Section 031 of these rules to reactivate certification. The Council may waive this requirement on a showing of good cause by the officer supported by clear and convincing evidence that during a substantial part of the time out of misdemeanor probation officer employment, the officer was engaged in an occupation requiring criminal justice training, skill, and experience. This evidence shall be submitted with a POST Certification Misdemeanor Probation Challenge Packet. Upon receiving a waiver, the officer shall meet the following POST requirements: ()

a. Pass the POST misdemeanor probation certification examination approved by the POST Council, administered by a POST Training Specialist, and conducted in the manner set forth in Subsection 031.03 of this rule; and ()

b. Satisfactorily complete a probationary period as set forth in Subsection 031.01 of this rule. ()

03. Over Eight Years. A misdemeanor probation officer who has been out of misdemeanor probation officer employment status for over eight (8) years shall attend the POST Basic Misdemeanor Probation Academy and comply with the requirements of Section 031 of these rules to reactivate certification. No waiver of this requirement shall be granted by the Council. ()

033. -- 999. (RESERVED).

IDAPA 17 - INDUSTRIAL COMMISSION

17.05.01 - RULES UNDER THE CRIME VICTIMS COMPENSATION ACT

DOCKET NO. 17-0501-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 72-1004 and 72-1026, 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 pending rule is being adopted as proposed. The notice of the temporary and proposed rule was published in the [July 7, 2010, Idaho Administrative Bulletin, Vol. 10-7, pages 86 through 93.](#)

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 George Gutierrez at 208-334-6080.

DATED this November 18, 2010.

Mindy Montgomery
Director
Industrial Commission
700 S. Clearwater Lane
PO Box 83720
Boise, Idaho 83720-0041
Phone: 208-334-6059
Fax: 208-334-5145

THIS NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is **July 1, 2010**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 72-1004 and 72-1026, 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 21, 2010.

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 rulemaking implements new statutory authority for adopting a medical fee schedule for benefit payments under the Crime Victims Compensation Act.

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:

This rulemaking confers a benefit by enabling the Crime Victims Compensation Account funds to be used to benefit more injured victims of violent crime who are without the ability to pay for medical treatment.

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

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 due to the large number of potential parties affected and the short period of time between passage of the statute and the need to have an effective cost-saving fee schedule in place.

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: For assistance on technical questions concerning the temporary and proposed rule, contact George Gutierrez at 208-334-6070.

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 July 28, 2010.

DATED this 17th day of May, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0501-1001

000. LEGAL AUTHORITY.

In accordance with Section 72-1004(1)(a), Idaho Code, the Industrial Commission shall promulgate rules implementing the provisions of *Sections 72-1001 through 72-1025 Chapter 10, Title 72, Idaho Code.* (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

01. Commission. Where appropriate, references to the Commission in these rules includes the Commission and its employees. (11-17-86)

~~**02. Gender.** Reference within these rules to the masculine shall also include the feminine.~~ (11-17-86)

~~**032. Wages and Employer.** The terms “wages” and “employer” shall mean the wages and employer at the time of the criminally injurious conduct on which the Application for Compensation is based.~~ (11-17-86)()

~~**043. Wages.** *In addition to cash remuneration, t*The term “wages” shall mean the wages at the time of the criminally injurious conduct on which the Application for Compensation is based and shall include non-cash remuneration such as lodging and meals provided by the employer and gratuities such as tips, which are not paid by the employer, but which are received by the victim in the normal course of his employment.~~ (11-17-86)()

~~**05. Vacation.** Vacation pay shall not be considered a collateral source.~~ (11-17-86)

064. Compensation. For the purposes of Section 72-1023(1), Idaho Code, the term “compensation paid under this chapter” shall include attorney’s fees awarded pursuant to Section 72-1006, Idaho Code. (11-17-86)

~~**07. Welfare Benefits.** Pursuant to Section 72-1003(8), Idaho Code, funds payable to or on behalf of an indigent person under Chapter 35, Title 31, Idaho Code, shall be considered welfare only in those cases involving criminally injurious conduct that occurred on or after July 1, 1996. (7-1-97)~~

05. Medical Services. Words and terms used for determining the allowable payment for medical services under these rules are defined in Subsections 010.05.a. through 101.05.h. ()

a. “Allowable payment” means the lower of the charge for medical services calculated in accordance with this rule or as billed by the provider. ()

b. “Ambulatory Surgery Center (ASC)” means a facility providing surgical services on an outpatient basis only. ()

c. “Hospital” is any acute care facility providing medical or hospital services and which bills using a Medicare universal hospital billing form. ()

i. Large Hospital is any hospital with more than one hundred (100) acute care beds. ()

ii. Small Hospital is any hospital with one hundred (100) acute care beds or less. ()

d. “Provider” means any person, firm, corporation, partnership, association, agency, institution or other legal entity providing any kind of medical service related to the treatment of a claimant for benefits under the Idaho Crime Victims Compensation Act. ()

e. “Medical Service” means medical, surgical, dental, mental health or other attendance or treatment, nurse and hospital service, medicine, apparatus, appliance, prostheses, and related service, facility, equipment and supply. ()

f. “Reasonable” means a charge does not exceed the Provider’s “usual” charge and does not exceed the “customary” charge, as defined below. ()

g. “Usual” means the most frequent charge made by an individual Provider for a given medical service to non-industrially injured patients. ()

h. “Customary” means a charge which shall have an upper limit no higher than the 90th percentile, as determined by the Commission, of usual charges made by Idaho Providers for a given medical service. ()

011. APPLICATIONS FOR COMPENSATION.

01. Claim for Benefits. To claim benefits under the Crime Victims Compensation Act, the claimant shall file an Application for Compensation with the Commission. Applications for Compensation *by victims* shall be made using the form approved by the Commission ~~which is attached hereto as Appendix A. Applications for Compensation by dependents of deceased victims shall be made using the form approved by the Commission which is attached hereto as Appendix B.~~ An Application for Compensation shall be deemed filed when it is received at the Commission's office in Boise. (11-17-86)()

02. Providing Information. Before paying benefits to any claimant, the Commission shall gather sufficient information to establish that the claimant is eligible for benefits. The Commission may require the claimant to assist the Commission in obtaining that information. (11-17-86)

03. Employment Verification. To verify information concerning a victim's employment, the Commission may require the victim's employer or employers to complete an Employment Verification form or the Commission may obtain such information from an employer by telephone. (11-17-86)

04. Order. ~~The Commission shall appoint one (1) of its employees to be the Crime Victims Supervisor.~~ After sufficient information has been gathered pursuant to IDAPA 17.04.02 Subsection 011.02 of this rule, the Crime Victims Supervisor Commission may enter an award granting or partially granting benefits or an order denying benefits. The Crime Victims Supervisor Commission may also enter orders necessary to further the purposes of the Act. ~~Such awards and orders shall be deemed to be awards and orders of the Commission.~~ (11-17-86)()

05. Finality of Order. An award or order issued by the Crime Victims Supervisor Commission shall be final and conclusive as to all matters considered in the award or order; provided that within twenty (20) days from the date that such an award or order is issued, the claimant may file a request that the Crime Victims Supervisor Commission reconsider the order or award, or the Crime Victims Supervisor Commission may reconsider the matter on his its own motion, and the award or order of the Crime Victims Supervisor Commission shall be final upon issuance of the order on reconsideration; and provided further that, within forty five (45) days from the date that any award or order is issued by the Crime Victims Supervisor Commission, a claimant may file a Request for Hearing before the Commissioners. The Hearing shall be held in accordance with the procedures set out in Section 012 of these rules. Requests for Hearing and requests that the Crime Victims Supervisor Commission reconsider an order or award shall be deemed filed when received at the Commission's office in Boise. (11-17-86)()

06. Recipients of Payments for Medical Services. If, pursuant to any order of the Commission or the Crime Victims Supervisor, it is determined that a claimant is entitled to payment of medical expenses as provided in Section 72-1019(2), Idaho Code, or funeral or burial expenses as provided in Section 72-1019(4), Idaho Code, payment shall be made directly to the medical provider or the provider of funeral or burial services unless the claimant has already paid the provider; if the claimant has already paid the provider, payment shall be made to the claimant. (11-17-86)()

07. Allowable Payments for Medical Services. The Commission shall pay providers the allowable payment for medical services under these rules adopted in accordance with Section

72-1026, Idaho Code. ()

a. Adoption of Standard. The Commission hereby adopts the Resource-Based Relative Value Scale (RBRVS), published by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services, as amended, as the standard to be used for determining the allowable payment under the Crime Victims Compensation Act for medical services provided by providers other than hospitals and ASCs. The standard for determining the allowable payment for hospitals and ASCs shall be: ()

i. For large hospitals: Eighty-five percent (85%) of the reasonable inpatient charge. ()

ii. For small hospitals: Ninety percent (90%) of the reasonable inpatient charge. ()

iii. For ambulatory surgery centers (ASCs) and hospital outpatient charges: Eighty percent (80%) of the reasonable charge. ()

iv. Surgically implanted hardware shall be reimbursed at the rate of actual cost plus fifty percent (50%). ()

v. Paragraph 011.07.e. of this rule, shall not apply to hospitals or ASCs. The Commission shall determine the allowable payment for hospital and ASC services based on all relevant evidence. ()

b. Conversion Factors. The following conversion factors shall be applied to the fully-implemented facility or non-facility Relative Value Unit (RVU) as determined by place of service found in the latest RBRVS, as amended, that was published before December 31 of the previous calendar year for a medical service identified by a code assigned to that service in the latest edition of the Physicians' Current Procedural Terminology (CPT), published by the American Medical Association, as amended:

MEDICAL FEE SCHEDULE			
DESCRIPTION	CODE RANGE(S)		CONVERSION FACTOR
<u>Anesthesia</u>	<u>00000 - 09999</u>		<u>\$60.05</u>

MEDICAL FEE SCHEDULE			
<u>DESCRIPTION</u>	<u>CODE RANGE(S)</u>		<u>CONVERSION FACTOR</u>
<u>Surgery - Group One</u>	<u>22000 - 22999</u> <u>23000 - 24999</u> <u>25000 - 27299</u> <u>27300 - 27999</u> <u>29800 - 29999</u> <u>61000 - 61999</u> <u>62000 - 62259</u> <u>63000 - 63999</u>	<u>Spine</u> <u>Shoulder, Upper Arm, & Elbow</u> <u>Forearm, Wrist, Hand, Pelvis & Hip</u> <u>Leg, Knee, & Ankle</u> <u>Endoscopy & Arthroscopy</u> <u>Skull, Meninges & Brain</u> <u>Repair, Neuroendoscopy & Shunts</u> <u>Spine & Spinal Cord</u>	<u>\$144.48</u>
<u>Surgery - Group Two</u>	<u>28000 - 28999</u> <u>64550 - 64999</u>	<u>Foot & Toes</u> <u>Nerves & Nervous System</u>	<u>\$129.00</u>
<u>Surgery - Group Three</u>	<u>13000 - 19999</u> <u>20650 - 21999</u>	<u>Integumentary System</u> <u>Musculoskeletal System</u>	<u>\$113.52</u>
<u>Surgery - Group Four</u>	<u>20000 - 20615</u> <u>30000 - 39999</u> <u>40000 - 49999</u> <u>50000 - 59999</u> <u>60000 - 60999</u> <u>62260 - 62999</u> <u>64000 - 64549</u> <u>65000 - 69999</u>	<u>Musculoskeletal System</u> <u>Respiratory & Cardiovascular</u> <u>Digestive System</u> <u>Urinary System</u> <u>Endocrine System</u> <u>Spine & Spinal Cord</u> <u>Nerves & Nervous System</u> <u>Eye & Ear</u>	<u>\$87.72</u>
<u>Surgery - Group Five</u>	<u>10000 - 12999</u> <u>29000 - 29799</u>	<u>Integumentary System</u> <u>Casts & Strapping</u>	<u>\$69.14</u>
<u>Radiology</u>	<u>70000 - 79999</u>	<u>Radiology</u>	<u>\$87.72</u>
<u>Pathology & Laboratory</u>	<u>80000 - 89999</u>	<u>Pathology & Laboratory</u>	<u>To Be Determined</u>
<u>Medicine - Group One</u>	<u>90000 - 90799</u> <u>94000 - 94999</u> <u>97000 - 97799</u> <u>97800 - 98999</u>	<u>Immunization, Injections, & Infusions</u> <u>Pulmonary / Pulse Oximetry</u> <u>Physical Medicine & Rehabilitation</u> <u>Acupuncture, Osteopathy, & Chiropractic</u>	<u>\$46.44</u>

MEDICAL FEE SCHEDULE			
DESCRIPTION	CODE RANGE(S)		CONVERSION FACTOR
Medicine - Group Two	90800 - 92999 96040 - 96999 99000 - 99607	Psychiatry & Medicine Assessments & Special Procedures E / M & Miscellaneous Services	\$66.56
Medicine - Group Three	93000 - 93999 95000 - 96020	Cardiography, Catheterization, & Vascular Studies Allergy / Neuromuscular Procedures	\$72.24

()

c. The Conversion Factor for the Anesthesiology CPT Codes shall be multiplied by the Anesthesia Base Units assigned to that CPT Code by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services as of December 31 of the previous calendar year, plus the allowable time units reported for the procedure. Time units are computed by dividing reported time by fifteen (15) minutes. Time units will not be used for CPT Code 01996. ()

d. Adjustment of Conversion Factors. The conversion factors set out in this rule may be adjusted each fiscal year (FY), starting with FY 2012, as determined by the Commission. ()

e. Services Without a CPT Code, RVU or Conversion Factor. The allowable payment for medical services that do not have a current CPT code, a currently assigned RVU, or a conversion factor will be the reasonable charge for that service, based upon the usual and customary charge and other relevant evidence, as determined by the Commission. Where a service with a CPT Code, RVU, and conversion factor is, nonetheless, claimed to be exceptional or unusual, the Commission may, notwithstanding the conversion factor for that service set out in Subsection 011.07.b. of this rule, determine the allowable payment for that service, based on all relevant evidence. ()

f. Coding. The Commission will generally follow the coding guidelines published by the Centers for Medicare and Medicaid Services and by the American Medical Association, including the use of modifiers. The procedure with the largest RVU will be the primary procedure and will be listed first on the claim form. Modifiers will be reimbursed as follows: ()

i. Modifier 50: Additional fifty percent (50%) for bilateral procedure. ()

ii. Modifier 51: Fifty percent (50%) of secondary procedure. This modifier will be applied to each medical or surgical procedure rendered during the same session as the primary procedure. ()

iii. Modifier 80: Twenty-five percent (25%) of coded procedure. ()

iv. Modifier 81: Fifteen percent (15%) of coded procedure. This modifier applies to MD and non-MD assistants. ()

078. Wage Loss Benefits. For the purpose of determining compensation benefits under Sections 72-1019(1) and 72-1019(3), Idaho Code, “wages received at the time of the criminally injurious conduct” shall be the victim’s gross weekly wage; which shall be determined as follows: ~~(11-17-86)~~()

a. If the wages were fixed by the year, the weekly wage shall be the yearly wage divided by fifty-two (52). (11-17-86)

b. If the wages were fixed by the month, the weekly wage shall be the monthly wage multiplied by twelve (12) and divided by fifty-two (52). (11-17-86)

c. If the wages were fixed by the week, the amount so fixed shall be the weekly wage. (11-17-86)

d. If the wages were fixed by the hour, and the victim worked or was scheduled to work the same number of hours each week, the weekly wage shall be the hourly rate times the number of hours that the victim worked or was scheduled to work each week, plus one-half (1/2) the hourly wage times the number of hours worked or scheduled each week in excess of forty (40) hours if the victim was paid time-and-a-half for work in excess of forty (40) hours per week. (11-17-86)

e. If the wages were fixed by the hour and the victim did not work the same number of hours each week, or if the victim was paid on a piecework or commission basis, the weekly wage shall be computed by averaging the amounts that the victim was paid during his last four completed pay periods prior to the criminally injurious conduct and converting that amount to a weekly basis using a method consistent with parts 1 through 3 of this rule; provided that, if the victim was employed for less than four (4) pay periods before the criminally injurious conduct, the average shall be computed based upon the time period that he worked. (11-17-86)

f. If none of the above methods are applicable, the weekly wage shall be computed in a manner consistent with the above methods. (11-17-86)

089. Treating Physician. A victim may choose his own treating physician. If, after filing an Application for Compensation, a victim changes physicians without prior approval of the Commission, or if, without prior approval of the Commission, he seeks treatment or examination by a physician to whom he was referred by his treating physician, the Commission may deny payment for such treatment or examination. (11-17-86)

0910. Overpayment. If the Commission erroneously makes payments to which a claimant is not entitled, the Commission may reduce future payments to that claimant by an amount equal to the overpayment or request a refund when overpayments are made to either the claimant or the provider. ~~(11-17-86)~~()

101. Limit on Compensation. Compensation payable under Sections 72-1019(7)(a) and 72-1019(7)(b), Idaho Code, may not exceed twenty thousand dollars (\$20,000). Compensation payable to a victim or his dependents under Sections 72-1019(7)(a) and 72-1019(7)(b), Idaho Code, when added to compensation payable under Sections 72-1019(2) and 72-1019(4), Idaho Code, may not exceed twenty-five thousand dollars (\$25,000).

(11-17-86)()

11. Weekly Compensation Benefits If Victim Employable But Not Employed. If a victim was employable, but not employed at the time of the criminally injurious conduct and as a result of that conduct has no reasonable prospect of being regularly employed in the normal labor market, he shall receive benefits pursuant to Section 72-1019(7)(a), Idaho Code, as follows, only until the victim has a reasonable prospect of being regularly employed in the normal labor market, or for a shorter period as determined by the Commission.:

(11-17-86)()

a. If, at the time of the injurious conduct the victim was receiving unemployment benefits, and as a result of that conduct the victim becomes ineligible for those benefits, the claimant's weekly benefits under the Crime Victims Compensation Act shall be the lesser of one hundred and fifty dollars (\$150) or his weekly benefit amount under the Employment Security Law.

(11-17-86)()

b. If, at the time of the criminally injurious conduct the victim was unemployed, but scheduled to begin employment on a date certain, and if he was unable to work for one (1) week as a result of that conduct, weekly benefits under the Crime Victims Compensation Act shall be the lesser of one hundred and fifty dollars (\$150) or two-thirds (2/3) of the amount that he would have earned at his scheduled employment, and those benefits shall be payable beginning on the date that his employment was scheduled to begin.

(11-17-86)()

c. If, prior to the criminally injurious conduct the victim was performing necessary household duties which he is disabled from performing as a result of that conduct, and it is necessary to employ a person who does not reside in the victim's house to perform those duties, the victim shall receive weekly benefits under the Crime Victims Compensation Act equal to the amount paid to the person so employed, but not exceeding one hundred and fifty dollars (\$150) per week.

(11-17-86)()

d. In other circumstances, the Commission may award an amount it deems appropriate.

(11-17-86)

123. Effective Date. Benefits shall be paid only to claimants whose Applications for Compensation are based upon criminally injurious conduct which occurred on or after July 1, 1986.

(11-17-86)

012. HEARING PROCEDURES.

01. Request for Hearing. If a Request for Hearing is filed, an informal hearing shall be held. The Commission may conduct the hearing or it may assign the matter to a Commissioner or Referee. If the matter is assigned to a Commissioner or a Referee, the Commissioner or Referee shall submit recommended findings and decision to the Commission for its review.

(11-17-86)

02. Recommendations. If the Commission does not approve the recommendations of a member or Referee, the commission may (1) review the record and enter its own findings and decision, (2) conduct another informal hearing and issue a decision based upon the record of both hearings, or (3) assign the matter to another member or Referee to conduct another informal hearing and make recommendations pursuant to Subsection 012.01 above based upon the record of both hearings. (11-17-86)

03. Notice of Hearing. The Commission shall give the claimant at least ten (10) days' ~~advance~~ written notice of the time and place of hearing and of the issues to be heard, either by personal services or certified mail. Service by mail shall be deemed complete when a copy of such notice is deposited in the United States post office, with postage prepaid, addressed to a party at his last known address as shown in the records and files of the Commission. Evidence of service by certificate or affidavit of the person making the same shall be filed with the Commission. (~~11-17-86~~)()

04. Transcript of Hearing. All hearings shall be tape-recorded. In addition, the Commission may arrange for a stenographic or machine transcription of any hearing. (11-17-86)

05. Record. At ~~the~~ hearing, the Application for Compensation filed by the claimant and any other documents in the Commission's file which contain information relevant to the issues in the case, shall be admitted into the record. Such documents shall be marked for identification and the record shall specify that those documents are admitted. The Commission, member, or Referee conducting the hearing shall give those documents the weight that is appropriate under the circumstances of the particular case. (~~11-17-86~~)()

06. Evidence. At ~~the~~ hearing, after the claimant has presented his evidence, the Commission, or the Commissioner or Referee conducting the hearing, shall allow an employee of the Commission to present evidence. After the presentation of evidence by an employee of the Commission, the Commission, or the Commissioner or Referee conducting the hearing may, in its or his discretion, allow any other person to testify. (~~11-17-86~~)()

07. Finality of Decision. After a hearing, the decision of the Commission shall be final and conclusive as to all matters adjudicated; provided that, within twenty (20) days from the date that such decision is issued, the claimant may file a Motion for Reconsideration or the Commission may reconsider the matter on its own motion, and the decision shall be final upon issuance of the order on reconsideration. (~~11-17-86~~)()

08. Commission Review. At the request of the claimant or on its own motion, the Commission may review and amend any final order or award, within three (3) years of the date of issue of such order or award; (~~11-17-86~~)()

a. If there is a change in circumstances which affects the claimant's entitlement to benefits; (11-17-86)

b. To correct a manifest injustice; (11-17-86)

c. If the order or award is based upon facts which were misrepresented or which were

not fully disclosed; or

(11-17-86)

- d.** To comply with the annual review requirements of Section 72-1021, Idaho Code.

(11-17-86)

09. Subpoenas. Subpoenas shall be served in the manner provided by the Idaho Rules of Civil Procedure. Witness fees and mileage shall be in the amounts provided by the Idaho Rules of Civil Procedure and the Claimant shall pay the fees of any witness who is subpoenaed to testify in his behalf.

(11-17-86)

IDAPA 49 - CERTIFIED SHORTHAND REPORTERS BOARD

49.01.01 - RULES OF PROCEDURE OF THE IDAHO CERTIFIED SHORTHAND REPORTERS BOARD

DOCKET NO. 49-0101-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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) 54-3107, 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 pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 566 and 567.](#)

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 Cherie Simpson at 208 334-3233.

DATED this 3rd day of November, 2010.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
Boise, ID 83702
(208) 334-3233 phone
(208) 334-3945 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 Section 54-3107, 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 20, 2010.

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 Board of Certified Shorthand Reporters is identifying the certificates issued by the National Court Reporters Association (NCRA) and clarifying the conditions under which a temporary permit may be renewed.

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:

There is no fiscal impact on general or dedicated funds.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because discussions were held in a noticed, open meeting of the Board.

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 the proposed rule, contact Cherie Simpson at (208) 334-3233.

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 27, 2010.

DATED this 18th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 49-0101-1001

400. TEMPORARY PERMIT.

01. Eligibility. (7-1-93)

a. Any one (1) or more of the following shall be considered as minimum evidence that the applicant is qualified to hold a temporary certificate: (7-1-93)

i. Hold a Certificate of Merit Reporter (RMR) issued by the National Court Reporters Association (NCRA) merit certificate; (~~7-1-93~~)()

ii. Hold a Certificate of Registered Professional Reporter (RPR) issued by the National Court Reporters Association (NCRA); (~~7-1-93~~)()

iii. Hold a Certified Shorthand Reporter certificate in good standing from another state; (7-1-93)

iv. Hold a diploma or certificate of completion of all requirements to graduate from a National Court Reporter Association (NCRA) approved school; (7-1-93)

v. Has otherwise demonstrated his/her proficiency by a certificate from an agency from another state. (1-1-97)

b. The applicant shall in addition: (7-1-93)

i. Have graduated from an accredited high school, or have had an equivalent education. (7-1-93)

ii. Be of good moral character, and have filed a complete application with the Board, accompanied by the required fees, as set forth in these rules. (4-9-09)

02. Certificate. All temporary permits shall be issued for a period of one (1) year and may be renewable for a single additional year ~~upon payment of~~ if, before the permit expires, the permit holder: ()

a. Submits a written renewal request to the Board; ()

b. Establishes that they have passed at least one (1) skills portion of the Idaho Certified Shorthand Reporter Examination, the Registered Professional Reporter Examination (RPR), or the Registered Merit Reporter Examination (RMR) examination; and ()

c. Pays the required fees, as set forth in ~~the Act, and showing of just cause~~ this
Chapter. ()

d. The renewal of the permit may be upon such conditions as the Board may require.
The Board will not issue more than one (1) permit to any person. (~~4-9-09~~)()