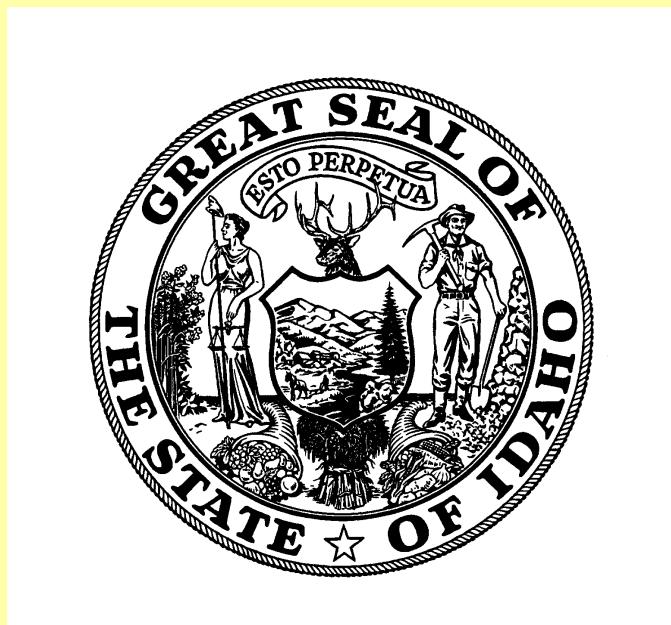


PENDING RULES

COMMITTEE RULES

REVIEW BOOK

Submitted for Review Before
Senate Education Committee
66th Idaho Legislature
First Regular Session – 2021



Prepared by:

*Office of the Administrative Rules Coordinator
Division of Financial Management*

January 2021



State of Idaho
DIVISION OF FINANCIAL MANAGEMENT
Executive Office of the Governor

BRAD LITTLE
Governor

ALEX J. ADAMS
Administrator

January 11, 2021

M E M O R A N D U M

TO: **Members of the 2021 Idaho State Legislature**
FROM: **Alex J. Adams, Administrator** *Alex J. Adams*
Bradley A. Hunt, Rules Coordinator *Bradley A. Hunt*
SUBJECT: **Overview of Executive Agency Rulemaking in 2020**

Background. Governor Little initiated a rules moratorium for calendar year 2020 and thus the volume of rulemaking is down substantially relative to most years. Most rules published in the Legislative Rules Review book are simply re-published because the 2020 Legislature adjourned *sine die* without passing a concurrent resolution approving any pending fee rules as specified in Section 67-5224, Idaho Code. The necessary fee rules were re-published in the following special bulletins:

- [April 15](#) – Temporary Fee Rules
- [September 16](#) – Proposed Fee Rules
- [November 18](#) – Pending Fee Rules

Changes in Existing Fee Rules. Since all fee rules expired upon sine die, there is no existing rule available to amend. Therefore, only a clean version of the rule chapter is able to be presented to the Legislature in January 2021. In some cases, fee rules were modified based on public comment, or to implement Executive Order [2020-13](#), among other reasons. Given the unprecedented volume, all edits are incorporated within a single docket and presented as a clean fee rule chapter. There are several ways that legislators may view previous rules for comparison purposes:

- An [archive of any rule](#) since 1996 is available on the DFM website. This allows legislators to see the evolution of a rule over time.
- The Legislative Services Office analyzes all proposed rules. You can find their analysis of proposed rules which, in some cases, may discuss changes to rules between sine die and the proposed rules. These may be found on the [Legislature's website](#).
- Changes made between the proposed and pending rule stages were noted in the [November 18th](#) bulletin where applicable.

Process for Approving/Extending Rules. Below, you will find a brief description on legislative actions and outcomes regarding the rules review process and contents of the Legislative Rules Review Books:

- Pending Fee Rules must be affirmatively approved by both bodies via adoption of concurrent resolution to become final.
- Temporary Rules must be affirmatively approved by both bodies via adoption of concurrent resolution to be extended.
- Pending Rules become final and effective sine die unless rejected, in whole or in part, via concurrent resolution adopted by both bodies.
 - Pending rules may be approved, in whole or in part, or rejected if determined to be inconsistent with legislative intent of the governing statute.
 - If rejected, new or amended language must be identified at a numerical or alphabetical designation within the rule and specified in the concurrent resolution.
- A link to LSO's proposed rule analysis is provided at the beginning of each docket and includes any required supporting documentation (e.g. Cost Benefit Analysis (CBA), Incorporation By Reference Synopsis (IBRS)) as part of the analysis.
- All 2021 review books can be accessed on the DFM website [here](#).

Contact Information. If questions arise during the rules review process, please do not hesitate to contact the Rules Coordinator, Brad Hunt: Brad.Hunt@dfm.idaho.gov; 208-854-3096.

SENATE EDUCATION COMMITTEE

ADMINISTRATIVE RULES REVIEW

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IDAPA 08 – STATE BOARD OF EDUCATION
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DOCKET NO. 08-0201-2001

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Proposed Rule Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2021 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 Article IX, Section 2, Idaho Constitution and under Sections 33-105, 33-107, 33-116, 33-1001, 33-1002, and 33-1027, 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.

HB 293 (2019) requires the State Board of Education to promulgate rules establishing how enrollment would be counted and reported to the state for students who attend public schools part-time or attend more than one public school at the same time. Amendments to this rule establish the methodology for reporting full-time equivalent (FTE) student enrollment as required in Section 33-1027, Idaho Code. Additional conflicts between the language in IDAPA 08.02.01 and existing statutory language were identified during the negotiated rulemaking process and corrected. The original language regarding days of attendance required students to be physically present, at the same time Section 33-1003C, Idaho Code and Section 33-5208, Idaho Code, allow for counting students in attendance when receiving online instruction or through virtual programs when they are not physically present. Because Idaho statute governs over Administrative Code this conflict has not affected funding for these programs in the past, however, this was an opportunity to align the language in Administrative Code with the statutory provisions. Additional amendments address and remove the high school equivalency certificate application requirement and make technical corrections or cleanup existing provisions pertaining to student counts and student reporting that were identified during the negotiated rulemaking process.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 7, 2020 Idaho Administrative Bulletin, [Vol.20-10, pages 16-21](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: The requirement for reporting FTE student enrollment has been established in Section 33-1027, Idaho Code. This rule has no fiscal impact outside of the existing statutory requirement.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Tracie Bent at tracie.bent@osbe.idaho.gov or (208) 332-1582.

Dated this 7th day of December, 2020.

Tracie Bent, Chief Planning and Policy Officer
State Board of Education
650 W. State Street
P.O. Box 83720
Boise, ID and 83720-0037

Phone: (208) 332-1582
Fax: (208) 334-2632

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 26, 2020.

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 Article IX, Section 2, Idaho Constitution and under Sections 33-105, 33-107, 33-116, 33-1001, 33-1002, 33-1004, 33-1004B, 33-1612, and 33-1027, 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 close of business on October 21, 2020.

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:

HB 293 (2019) requires the State Board of Education to promulgate rules establishing how enrollment would be counted and reported to the state for students who attend public schools full or part-time or attend more than one public school at the same time. This bill also established additional provisions on how school districts and charter school will report on the student populations based on specific student characteristics and how school districts use appropriated funds. The intent of the negotiated rulemaking is to establish a methodology for reporting student enrollment and provide any additional clarification identified by school districts for meeting the requirements established in HB 293 (2019). Additional amendments will explore methodologies for reporting average daily attendance when students are receiving virtual or blended instruction, removing the high school equivalency certificate application requirement and for making technical corrections or cleanup to existing provisions pertaining to funding and student counts that are identified during the negotiated rulemaking process as well as the removal of outdated or obsolete sections.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: This rule will establish a methodology for school districts and charter schools to report student that are receiving instruction regardless of the methodology of instruction (in-person or virtual). Due to the pandemic and the need for school to be able to transition between in-person and remote instruction, the current methodology only accounts of traditional in-person courses and full-time virtual programs. Additionally, HB293 (2019) established a requirement for the Board to identify a methodology for enrollment reporting. The methodology was run as a temporary rule in 2019 to establish its validity and now needs to be established through a temporary and proposed rules, the language has been slightly modified from the 2019 version to account for areas of improvement that were identified during the pilot run of the data in 2019.

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: The change in reporting methodology, based on the 2019-2020 FTE Enrollment report would result in approximately 2,000 additional full time students. The potential impact would vary depending on how the students were grouped in individual schools and could be mitigated through the appropriation process.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in [September 2, 2020 Idaho Administrative Bulletin, Vol 20-9, page 16](#).

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 temporary and proposed rule, Tracie Bent at tracie.bent@osbe.idaho.gov or (208) 332-1582.

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 the close of business on October 28, 2020.

Dated this 28th day of October, 2020.

Red italicized double underscored text indicates amendments between the proposed and pending rule.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0201-2001

08.02.01 – RULES GOVERNING ADMINISTRATION

(BREAK IN CONTINUITY OF SECTIONS)

008. DEFINITIONS.

01. Course. A unit of instruction that may be determined based on the amount of instructional time or predetermined level of content and course outcomes. ()

02. Virtual Course. A course where instruction is provided in an on-line or virtual format and does not necessarily include face-to-face instruction. ()

00~~89~~. -- 049. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

250. PUPIL ACCOUNTING AND REQUIRED INSTRUCTIONAL TIME.
(Section 33-512, Idaho Code)

(4-1-97)

01. Required Instructional Time. Excluding transportation to and from school, lunch periods, passing times, and recess, schools must schedule at least the following instructional times: kindergarten, four hundred fifty (450) hours per year or equivalent amount of instruction through an online, distance, or blended learning format; grades one through three (1-3), eight hundred ten (810) hours per year or equivalent amount of instruction through an

online, distance, or blended learning format; grades four through eight (4-8), nine hundred (900) hours per year or equivalent amount of instruction through an online, distance, or blended learning format; and grades nine through twelve (9-12), nine hundred ninety (990) hours per year or equivalent amount of instruction through an online, distance, or blended learning format. The equivalent amount of instruction shall be based on the amount of time reported for the same course or amount of coursework delivered in an in-person setting. (4-1-97)()

02. Required Attendance. All pupils will complete four (4) years of satisfactory attendance in grades nine through twelve (9-12) to graduate from an accredited high school, except those who are approved for early graduation. (4-1-97)

03. Day in Session When Counting Pupils in Attendance. (4-1-97)

a. A school day for grades one through twelve (1-12) may be counted as a “day in session” when the school is open in session and students are under the guidance and direction of teachers in the teaching process for not less than four (4) hours or its equivalent of instruction per day. Lunch periods, breaks, passing time and recess will not be included in the four (4) hours. For kindergarten, each session will be at least two and one-half (2 1/2) hours per day. (4-1-97)()

b. Half-day Session. A half-day in session occurs when the students in grades one through twelve (1-12) are under the guidance and direction of teachers in the teaching process for a minimum of two and one-half (2 1/2) hours or its equivalent of instruction or the teachers are involved in staff development activities for not less than two and one-half (2 1/2) hours Students attending less than a half-day in session may have their hours aggregated by week for reporting purposes. (4-1-97)()

c. Teacher In-service Activities. For grades one through twelve (1-12), not more than twenty-two (22) hours may be utilized for teacher in-service activities, based on the district approved calendar. In the event a school district chooses to utilize full days instead of half-days, the attendance reported for these full days will be the average of the attendance for the other days of that same week. (4-1-97)

04. Day of Attendance - Kindergarten. A day of attendance for a kindergarten pupil is one in which a pupil is physically present for a period of two and one-half (2 1/2) hours under the direction and guidance of a teacher while school is in session or under homebound instruction. A homebound student is one who is unable to attend school for at least ten (10) consecutive days due to illness, accident or an unusual disabling condition. Attendance will be reported in half-day increments. Attendance reports for any day in the school year will reflect only those students physically present. Particularly, enrollment figures are not to be used for the beginning nor closing weeks of school. (Section 33-1001(5), Idaho Code.) (4-1-97)()

05. Day of Attendance (ADA) - Grades One Through Twelve (1-12). A day of attendance is one in which a pupil is physically present for the full day under the guidance and direction of a teacher or other authorized school district personnel while school is in session or is a homebound student under the instruction of a teacher employed by the district in which the pupil resides, with the exception as stated in “day in session” above. A homebound student is one who is unable to attend school for at least ten (10) consecutive days due to illness, accident or an unusual disabling condition. Attendance will be reported in full or half-days. Attendance reports for any day in the school year will reflect only those students physically present or under homebound instruction. (Section 33-1001(4), Idaho Code) (4-1-97)()

06. Average Daily Attendance. In a given school year, the annual average daily attendance for a given school is the aggregate scheduled days of attendance divided by the number of days school was actually in session. (Section 33-1001(2), Idaho Code) (4-1-97)()

07. Full-Time Equivalent (FTE) Enrollment Reporting. ()

a. Kindergarten students enrolled in one (1) LEA for a total number of courses that equal six hundred (600) or more minutes per week shall equal zero point five (0.5) FTE. Grade one (1) through grade twelve (12) students enrolled in one (1) LEA for a total number of courses that equal one thousand two hundred (1,200) or more minutes per week shall equal one (1) FTE. ()

b. Kindergarten students enrolled in one (1) or more LEAs for a total number of courses at all LEAs that equal less than six hundred (600) minutes per week, the FTE shall be based on the percentage of time each student's courses are of six hundred (600) minutes. Grade one (1) through grade twelve (12) students enrolled in one (1) or more LEAs for a total number of courses at all LEAs that equal less than one thousand two hundred (1,200) minutes per week, the FTE shall be based on the percentage of time each student's courses are of one thousand two hundred (1,200) minutes. ()

c. Kindergarten students enrolled in more than one (1) LEA for a total number of courses at all LEAs that equal six hundred (600) or more minutes per week and less than or equal to seven hundred fifty (750) minutes per week the FTE shall be fractionalized based on percentage of time for which the student is enrolled. Grade one (1) through grade twelve (12) students enrolled in more than one (1) LEA for a total number of courses at all LEAs that equal one thousand two hundred (1,200) or more minutes per week and less than or equal to the respective amounts in the following subsections the FTE shall be fractionalized based on percentage of time for which the student is enrolled: ()

- i.** Kindergarten: seven hundred fifty (750) minutes. ()
- ii.** Grade one (1) through grade three (3): one thousand three hundred fifty (1,350) minutes. ()
- iii.** Grade four (4) through grade eight (8): one thousand five hundred (1,500) minutes. ()
- iv.** Grade nine (9) through grade twelve (12): one thousand six hundred fifty (1,650) minutes. ()

d. Students enrolled in more than one (1) LEA for a total number of courses at all LEAs that equal more than the following minutes the FTE shall be based on the percentage of time for which the student is enrolled: ()

- i.** Grade one (1) through grade three (3): one thousand three hundred fifty (1,350) minutes. ()
- ii.** Grade four (4) through grade eight (8): one thousand five hundred (1,500) minutes. ()
- iii.** Grade nine (9) through grade twelve (12): one thousand six hundred fifty (1,650) minutes. ()

e. Courses in LEAs with block scheduling that results in students attending courses for a period greater than one (1) week in order to encompass all courses the student is enrolled in for the term will use average minutes per week over the applicable time period to determine the courses minutes per week. ()

f. Students enrolled in an alternative summer school or alternative night school program of two hundred twenty-five (225) or more hours of instruction may be counted as an additional zero point two five (0.25) FTE. Alternative summer school enrollment will be included in the October 1 reporting period. ()

g. Students enrolled in an alternative summer school or night school program of less than two hundred twenty-five (225) hours FTE will be determined based on the proportional share of two hundred twenty-five (225) hours the program consists of. ()

h. Students enrolled in more than one (1) LEA in grade seven (7) through grade twelve (12) shall count enrollment at all LEAs for determining eligibility of overload courses identified in Sections 33-4601 and 33-4602, Idaho Code. ()

(BREAK IN CONTINUITY OF SECTIONS)

650. GENERAL EDUCATION DEVELOPMENT TESTS/IDAHO HIGH SCHOOL EQUIVALENCY CERTIFICATE.

The primary objective of the State Board of Education is to have all students complete their formal education and graduate from high school. However, students who drop out of school and believe it is in their best interest to take the (General Education Development) GED test may do so under the following conditions and, upon successful completion of all GED requirements, may apply for an Idaho High School Equivalency Certificate (HSEC). (4-1-97)

01. General Education Development Tests. General Education Development (GED) tests are given by approved testing centers for a statewide fee set by the Idaho Division of Career Technical Education. Candidates must make the minimum score for passing the GED test as established by the GED Testing service. (3-20-14)

02. Age Criteria. The applicant must satisfy one (1) of the following age criteria: (4-1-97)

a. The applicant must be at least eighteen (18) years of age; (4-1-97)

b. The applicant may be sixteen (16) or seventeen (17) years of age and be one (1) year or more behind in credits earned, expelled, recommended by the school, pregnant, or a parent. In such cases, the applicant is eligible if the applicant's school verifies in writing that the student meets one of the above criteria and this verification is on file at the testing center prior to any testing. The school may give its verification only after the applicant and his or her parent or guardian submit in writing a request for the applicant to take the GED tests and the applicant and the applicant's parent or guardian have met with school officials to review and discuss the request. (In cases where the applicant is not living with a parent or guardian, the parent or guardian's verification is not necessary.); (4-1-97)

c. The applicant may be sixteen (16) or seventeen (17) years of age and be entering college, the military, or an employment training program, enrolled in an Adult Basic Education Program, enrolled in the Job Corps, or incarcerated. In such cases, the applicant is eligible if the institution involved applies in writing for the applicant to take the GED tests and this application is on file at the testing center prior to any testing. (3-20-14)

03. Proof of Identity. Test takers must present proof of identification that shows legal name, date of birth, signature, address and photograph. Valid drivers' licenses, passports, military, and other forms of government-issued identification are acceptable. Two (2) forms of identification may be provided to meet these criteria. (3-20-14)

04. Idaho High School Equivalency Certificate. The State Department of Education will issue an Idaho High School Equivalency Certificate (HSEC) to eligible applicants. *The normal fee for issuing a certificate is ten dollars (\$10); however, this fee will be waived for military service personnel and veterans.* To be eligible to receive an HSEC, an applicant must submit the following documents to the Division of Career Technical Education: (3-25-16)()

a. An official report of GED test results showing successful completion of all requirements applicable to the version of the GED test taken by the applicant. Test scores are accepted as official only when reported directly by the State's approved vendor for transcripts and records management, the Transcript Service of the Defense Activity for Non-Traditional Education Support (DANTES), or, in special cases, the GED Testing Service. (3-25-16)

b. Individuals who took the exam prior to January 1, 2014, must also furnish documentation that they met the American Government requirement of the State of Idaho. This requirement may be met by resident study in high school or college, correspondence study from an accredited university, DANTES, or by successfully passing the American Government test furnished by the testing center. (3-25-16)

c. A completed form DD295 on all service personnel. This form is not required of veterans and non-veteran adults. (4-1-97)

d. A copy of a discharge if the applicant is a veteran of military service. (4-1-97)

e. Applicants should submit their request using the form furnished by the Division of Career Technical Education, along with the ten dollar (\$10) processing fee and appropriate documentation of above requirements. After the applicant completes this form and pays the ten dollar (\$10) processing fee, the applicant will be awarded an Idaho High School Equivalency Certificate (HSEC). (3-25-16)

IDAPA 08 – STATE BOARD OF EDUCATION
08.02.02 – RULES GOVERNING UNIFORMITY
DOCKET NO. 08-0202-2002
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Proposed Rule Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2021 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 Article IX, Section 2, Idaho Constitution and under Sections 33-105, 33-107, 33-1002B, 33-1201A, and 33-1202, 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 will make two amendments to IDAPA 08.02.02 to bring it into alignment with HB 523 (2020) and SB 1329 (2020). This rule will update subsection 028. Professional Endorsement, to also reference the new Advanced Professional Endorsement, pursuant to Section 33-1201A, Idaho Code, as amended by HB 523 (2020). The second amendment will amend Subsection 015.06. Industry-Based Occupational Specialist Certificate (CTE Certification) to align with Section 33-2205, Idaho Code, as amended in SB 1329 (2020), setting provisions for career technical educator degree based certification, and hours of professional experience. Additional technical correction or the elimination of obsolete language that are identified during the negotiated rulemaking will also be considered.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 7, 2020 Idaho Administrative Bulletin, [Vol. 20-10, pages 22-31](#).

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 amendments update certification requirements to align with statutory changes and will have no fiscal impact outside of the fiscal impact created by the applicable statutory requirements.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tracie Bent at tracie.bent@osbe.idaho.gov or (208) 332-1582.

Dated this 30th day of November, 2020.

Tracie Bent
Chief Planning and Policy Officer
State Board of Education
650 W. State Street
PO Box 83720
Boise, ID 83720-0037
Phone: (208) 332-1582
Fax: (208) 334-2632

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 Article IX, Section 2, Idaho Constitution and under Sections 33-105, 33-107, 33-1002B, 33-1201A, and 33-1202, 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 the close of business on October 21, 2020.

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 will make two amendments to IDAPA 08.02.02 to bring it into alignment with HB 523 (2020) and SB 1329 (2020). This rule will update Section 028. Professional Endorsement, to also reference the new Advanced Professional Endorsement, pursuant to Section 33-1201A, Idaho Code, as amended by HB 523 (2020). The second amendment will amend Subsection 015.06. Industry-Based Occupational Specialist Certificate (CTE Certification) to align with Section 33-2205, Idaho Code, as amended by SB 1329 (2020), setting provisions for career technical educator degree based certification, and hours of professional experience. Additional technical correction or the elimination of obsolete language that are identified during the negotiated rulemaking will also be considered.

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: These amendments update certification requirements to align with statutory changes and will have no fiscal impact outside of the fiscal impact due to the applicable statutes.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the [September 2, 2020 Idaho Administrative Bulletin, 20-9, page 17](#).

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 Tracie Bent at tracie.bent@osbe.idaho.gov or (208) 332-1582.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before the close of business on October 28, 2020.

Dated this 28th day of October, 2020.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0202-2002

015. IDAHO EDUCATOR CREDENTIAL.

The State Board of Education authorizes the State Department of Education to issue certificates and endorsements to those individuals meeting the specific requirements for each area provided herein. (3-25-16)

01. Standard Instructional Certificate. A Standard Instructional Certificate makes an individual eligible to teach all grades, subject to the grade ranges and subject areas of the valid endorsement(s) attached to the certificate. A standard instructional certificate may be issued to any person who has a baccalaureate degree from an accredited college or university and who meets the following requirements: (3-29-17)

a. Professional education requirements: (3-29-17)

i. Earned a minimum of twenty (20) semester credit hours, or thirty (30) quarter credit hours, in the philosophical, psychological, methodological foundations, instructional technology, and in the professional subject matter, which shall include at least three (3) semester credit hours, or four (4) quarter credit hours, in reading and its application to the content area; (3-29-17)

ii. The required minimum credit hours must include at least six (6) semester credit hours, or nine (9) quarter credit hours, of student teaching in the grade range and subject areas as applicable to the endorsement; and (3-29-17)

b. Completed an approved educator preparation program and have an institutional recommendation from an accredited college or university specifying the grade ranges and subjects for which they are eligible to receive an endorsement in; (4-11-19)

c. Individuals seeking endorsement must complete preparation in at least two (2) fields of teaching. One (1) of the teaching fields must consist of at least thirty (30) semester credit hours, or forty-five (45) quarter credit hours and a second field of teaching consisting of at least twenty (20) semester credit hours, or thirty (30) quarter credit hours. Preparation of not less than forty-five (45) semester credit hours, or sixty-seven (67) quarter credit hours, in a single subject area may be used in lieu of the two (2) teaching field requirements; (3-20-20)

d. Proficiency in areas noted above is measured by completion of the credit hour requirements provided herein. Additionally, each candidate must meet or exceed the state qualifying score on the state board approved content area and pedagogy assessments. (3-29-17)

e. The Standard Instructional Certificate is valid for five (5) years. Six (6) semester credit hours are required every five (5) years in order to renew the certificate. (3-29-17)

02. Pupil Service Staff Certificate. Persons who serve as school counselors, school psychologists, speech-language pathologists, school social workers, school nurses and school audiologists are required to hold the Pupil Service Staff Certificate, with the respective endorsement(s) for which they qualify. Persons who serve as an occupational therapist or physical therapist may be required, as determined by the local educational agency, to hold the Pupil Service Staff Certificate with respective endorsements for which they qualify. (3-28-18)

a. School Counselor (K-12) Endorsement. To be eligible for a Pupil Service Staff Certificate - School Counselor (K-12) endorsement, a candidate must have satisfied the following requirements. The Pupil Service Staff Certificate with a School Counselor (K-12) endorsement is valid for five (5) years. Six (6) semester credit hours are required every five (5) years in order to renew the endorsement. (3-28-18)

i. Hold a master's degree and provide verification of completion of an approved program of graduate study in school counseling, including sixty (60) semester credits, from a college or university approved by the Idaho State Board of Education or the state educational agency of the state in which the program was completed. The program must include successful completion of seven hundred (700) clock hours of supervised field experience, seventy-five percent (75%) of which must be in a K-12 school setting. This K-12 experience must be in each of the following levels: elementary, middle/junior high, and high school. Previous school counseling experience may be considered to help offset the field experience clock hour requirement; and (3-20-20)

ii. An institutional recommendation is required for a School Counselor (K-12) endorsement. (3-28-18)

b. School Counselor – Basic (K-12) Endorsement. (3-28-18)

i. Individuals serving as a school counselor pursuant to Section 33-1212, Idaho Code, shall be granted a Pupil Service Staff Certificate with a School Counselor – Basic (K-12) endorsement. The endorsement is valid for five (5) years or until such time as the holder no longer meets the eligibility requirements pursuant to Section 33-1212, Idaho Code. Six (6) semester credit hours are required every five (5) years in order to renew the endorsement. (4-11-19)

ii. Individuals who received their endorsement pursuant to Section 33-1212, Idaho Code, prior to July 1, 2018, will be transitioned into the School Counselor – Basic (K-12) endorsement. Renewal date will remain the same as the initial credential. (3-28-18)

c. School Psychologist Endorsement. This endorsement is valid for five (5) years. In order to renew the endorsement, six (6) professional development credits are required every five (5) years. The renewal credit requirement may be waived if the applicant holds a current valid National Certification for School Psychologists (NCSP) offered through the National Association of School Psychologists (NASP). To be eligible for initial endorsement, a candidate must complete a minimum of sixty (60) graduate semester credit hours which must be accomplished through one (1) of the following options: (3-25-16)

i. Completion of an approved thirty (30) semester credit hour, or forty-five (45) quarter credit hours, master's degree in education or psychology and completion of an approved thirty (30) semester credit hour, or forty-five (45) quarter credit hour, School Psychology Specialist Degree program, and completion of a minimum of twelve hundred (1,200) clock-hour internship within a local education agency under the supervision of the training institution and direct supervision of a certificated school psychologist; (3-20-20)

ii. Completion of an approved sixty (60) semester credit hour, or ninety (90) quarter credit hour, master's degree program in School Psychology, and completion of a minimum of twelve hundred (1,200) clock-hour internship within a local education agency under the supervision of the training institution and direct supervision of a certificated school psychologist; (3-20-20)

iii. Completion of an approved sixty (60) semester credit hour, or ninety (90) quarter credit hour, School Psychology Specialist degree program which did not require a master's degree as a prerequisite, with laboratory experience in a classroom, which may include professional teaching experience, student teaching or special education practicum, and completion of a minimum twelve hundred (1,200) clock-hour internship within a local education agency under the supervision of the training institution and direct supervision of a certificated school psychologist; and (3-20-20)

iv. Earn a current and valid National Certification for School Psychologists (NCSP) issued by the National Association of School Psychologists (NASP). (3-25-16)

d. Interim Endorsement – School Psychologist. This endorsement will be granted for those who do not meet the educational requirements but hold a master's degree in school psychology and are pursuing an educational specialist degree. This non-renewable endorsement will be issued for three (3) years while the applicant is meeting the educational requirements. (3-20-20)

e. School Nurse Endorsement. This endorsement is valid for five (5) years. Six (6) credits are required every five (5) years in order to renew the endorsement. Initial endorsement may be accomplished through completion of either requirements in Subsections 015.02.c.i. or 015.02.c.ii. (4-11-19)

i. The candidate must possess a valid professional nursing (RN) license issued by the Idaho State Board of Nursing, and a baccalaureate degree in nursing, education, or a health-related field from an accredited institution. (4-11-19)

ii. The candidate must possess a valid professional nursing (RN) license issued by the Idaho State Board of Nursing; have two (2) years of full-time (or part-time equivalent) school nursing, community health nursing, or any other area of pediatric, adolescent, or family nursing experience; and have completed six (6) semester credit hours from a university or college in any of the following areas: (4-11-19)

- (1) Health program management. (3-25-16)
- (2) Nursing leadership. (4-11-19)
- (3) Pediatric nursing or child development. (4-11-19)
- (4) Population of community health. (4-11-19)
- (5) Health care policy, ethics, or cultural competency. (4-11-19)
- (6) Research and/or statistics. (4-11-19)

f. Interim Endorsement - School Nurse. This endorsement will be granted for those who do not meet the educational and/or experience requirements but who hold a valid professional nursing (RN) license in Idaho. An Interim School Nurse Endorsement will be issued for three (3) years while the applicant is meeting the educational or experience requirements, or both, and it is not renewable. (4-11-19)

g. Speech-Language Pathologist Endorsement. This endorsement is valid for five (5) years. Six (6) credits are required every five (5) years in order to renew the endorsement. The initial endorsement will be issued to candidates who possess a master's degree from an accredited college or university in a speech/language pathology program approved by the State Board of Education, and who receive an institutional recommendation from an accredited college or university. (3-25-16)

h. Interim Endorsement - Speech-Language Pathologist. This endorsement will be granted for those who do not meet the educational requirements but hold a baccalaureate degree in speech-language pathology and are pursuing a master's degree. This endorsement will be issued for three (3) years while the applicant is meeting the educational requirements, and is not renewable. (3-20-20)

i. Audiology Endorsement. This endorsement is valid for five (5) years. Six (6) credits are required every five (5) years in order to renew the endorsement. The initial endorsement will be issued to candidates who possess a master's degree from an accredited college or university in an audiology program approved by the State Board of Education, and who receive an institutional recommendation from an accredited college or university. (3-25-16)

j. School Social Worker Endorsement. This endorsement is valid for five (5) years. Six (6) credit hours are required every five (5) years in order to renew the endorsement. Initial endorsement shall be accomplished by meeting the following requirements: (3-20-20)

i. A master's degree in social work (MSW) from a postsecondary institution accredited by an organization recognized by the State Board of Education. The program must be currently approved by the state educational agency of the state in which the program was completed; and (3-29-17)

ii. An institution recommendation from an Idaho State Board of Education approved program; and (3-29-17)

iii. The successful completion of a school social work practicum in a preschool through grade twelve (Pre-K-12) setting. Post-LMSW extensive experience working with children and families may be substituted for the completion of a school social work practicum in a Pre-K-12 setting; and (3-20-20)

iv. A current and valid social work license pursuant to chapter 32, title 54, Idaho Code, and the rules of the State Board of Social Work Examiners. (3-20-20)

k. Occupational Therapist Endorsement. A candidate with a current and valid Occupational Therapy license issued by the Occupational Therapy Licensure Board of Idaho will be granted an Occupational Therapist endorsement. The Pupil Service Staff Certificate with an Occupational Therapist endorsement is valid for five (5) years. Six (6) semester credit hours are required every five (5) years in order to renew the endorsement. Candidate must maintain current and valid Occupational Therapy Licensure for the endorsement to remain valid. (4-11-19)

l. Physical Therapist Endorsement. A candidate with a current and valid Physical Therapy license issued by the Idaho Physical Therapy Licensure Board will be granted a Physical Therapist endorsement. The Pupil Service Staff Certificate with a Physical Therapist endorsement is valid for five (5) years. Six (6) semester credit hours are required every five (5) years in order to renew the endorsement. Candidate must maintain current and valid Physical Therapy Licensure for the endorsement to remain valid. (3-28-18)

03. Administrator Certificate. Every person who serves as superintendent, director of special education, secondary school principal, or principal of an elementary school with eight (8) or more teachers (including the principal), or is assigned to conduct the summative evaluation of certified staff is required to hold an Administrator Certificate. The certificate may be endorsed for service as school principal, superintendent, or director of special education. Assistant superintendents are required to hold the Superintendent endorsement. Assistant principals or vice-principals are required to hold the School Principal endorsement. Directors of special education are required to hold the Director of Special Education endorsement. Possession of an Administrator Certificate does not entitle the holder to serve as a teacher at a grade level for which the educator is not qualified or certificated. All administrator certificates require candidates to meet the Idaho Standards for School Principals. The Administrator Certificate is valid for five (5) years. Six (6) semester credit hours are required every five (5) years in order to renew the certificate. (3-20-20)

a. School Principal (Pre-K-12) Endorsement. To be eligible for an Administrator Certificate endorsed for School Principal (Pre-K-12), a candidate must have satisfied the following requirements: (3-28-18)

i. Hold a master's degree from an accredited college or university. (3-25-16)

ii. Have four (4) years of full-time certificated experience working with students, Pre-K-12, while under contract in an accredited school setting. (3-25-16)

iii. Have completed an administrative internship in a state-approved program, or have one (1) year of experience as an administrator in grades Pre-K-12. (3-25-16)

iv. Provide verification of completion of a state-approved program of at least thirty (30) semester credit hours, forty-five (45) quarter credit hours, of graduate study in school administration for the preparation of school principals at an accredited college or university. This program shall include the competencies of the Idaho Standards for School Principals. (3-28-18)

v. An institutional recommendation is required for a School Principal (Pre-K-12) Endorsement. (3-28-18)

b. Superintendent (Pre-K-12) Endorsement. To be eligible for an Administrator Certificate with a Superintendent (Pre-K-12) endorsement, a candidate must have satisfied the following requirements: (3-28-18)

i. Hold an education specialist or doctorate degree or complete a comparable post-master's sixth year program at an accredited college or university. (3-25-16)

ii. Have four (4) years of full-time certificated/licensed experience working with Pre-K-12 students while under contract in an accredited school setting. (3-25-16)

iii. Have completed an administrative internship in a state-approved program for the superintendent endorsement or have one (1) year of out-of-state experience as an assistant superintendent or superintendent in grades Pre-K-12. (3-25-16)

iv. Provide verification of completion of an approved program of at least thirty (30) semester credit

hours, or forty-five (45) quarter credit hours, of post-master's degree graduate study for the preparation of school superintendents at an accredited college or university. This program in school administration and interdisciplinary supporting areas shall include the competencies in Superintendent Leadership, in additional to the competencies in the Idaho Standards for School Principals. (3-28-18)

- v. An institutional recommendation is required for a School Superintendent Endorsement (Pre-K-12). (3-28-18)

c. Director of Special Education (Pre-K-12) Endorsement. To be eligible for an Administrator Certificate endorsed for Director of Special Education (Pre-K-12), a candidate must have satisfied all of the following requirements: (3-28-18)

- i. Hold a master's degree from an accredited college or university; (3-25-16)

ii. Have four (4) years of full-time certificated/licensed experience working with students Pre-K-12, while under contract in a school setting; (3-25-16)

iii. Obtain college or university verification of demonstrated the competencies of the Director of Special Education in Idaho Standards for Initial Certification of Professional School Personnel; (3-28-18)

iv. Obtain college or university verification of demonstrated competencies in the following areas, in addition to the competencies in the Idaho Standards for School Principals: Concepts of Least Restrictive Environment; Post-School Outcomes and Services for Students with Disabilities Ages Three (3) to Twenty-one (21); Collaboration Skills for General Education Intervention; Instructional and Behavioral Strategies; Individual Education Programs (IEPs); Assistive and Adaptive Technology; Community-Based Instruction and Experiences; Data Analysis for Instructional Needs and Professional Training; Strategies to Increase Program Accessibility; Federal and State Laws and Regulations and School District Policies; Resource Advocacy; and Technology Skills for Referral Processes, and Record Keeping; (3-28-18)

- v. Have completed an administrative internship in the area of administration of special education; and (4-11-19)

vi. An institutional recommendation is required for Director of Special Education (Pre-K-12) endorsement. (3-28-18)

04. Certification Standards For Career Technical Educators. Teachers of career technical courses or programs in secondary schools must hold an occupational specialist certificate and an endorsement in an appropriate occupational discipline. All occupational certificates must be approved by the Division of Career Technical Education regardless of the route an individual is pursuing to receive the certificate. (3-28-18)

05. Degree Based Career Technical Certification. (3-25-16)

a. Individuals graduating from an approved occupational teacher preparation degree program qualify to teach in the following ~~five~~ seven (~~57~~) disciplines: agricultural science and technology; business technology education; computer science technology; engineering; family and consumer sciences; marketing technology education; and technology education. Occupational teacher preparation course work must meet the Idaho Standards for the Initial Certification of Professional School Personnel. The occupational teacher education program must provide appropriate content to constitute a major in the identified field. Student teaching shall be in an approved program and include experiences in the major field. Applicants shall have accumulated one thousand (1,000) clock hours of related work experience or practicum in their respective field of specialization, as approved by the Division of Career Technical Education. The certificate is valid for five (5) years. Six (6) semester credit hours are required every five (5) years pursuant to Section 060 of these rules. (3-28-18)()

b. The Career Technical Education Administrator certificate is required for an individual serving as an administrator, director, or manager of career technical education programs at the state Division of Career Technical Education or in Idaho public schools. Individuals must meet one (1) of the two (2) following prerequisites to qualify for the Career Technical Education Administrator Certificate. The certificate is valid for five (5) years. Six (6)

semester credit hours are required every five (5) years pursuant to Section 060 of these rules to renew.

(3-28-18)()

i. Qualify for or hold an Advanced Occupational Specialist certificate or hold an occupational endorsement on a standard instructional degree based career technical certificate; provide evidence of a minimum of four (4) years teaching, three (3) of which must be in a career technical discipline; hold a master's degree; and complete at least fifteen (15) semester credits of administrative course work.

(3-28-18)()

(1) Applicants must have completed credits in: education finance, administration and supervision of personnel, legal aspects of education; and conducting evaluations using the statewide framework for teacher evaluations.

(3-28-18)

(2) Additional course work may be selected from any of the following areas: administration and supervision of occupational programs; instructional supervision; administration internship; curriculum development; curriculum evaluation; research in curriculum; school community relations; communication; teaching the adult learner; coordination of work-based learning programs; and/or measurement and evaluation.

(3-28-18)

ii. Hold a superintendent or principal (Pre-K-12) endorsement on a standard administrator certificate and provide evidence of a minimum or four (4) years teaching, three (3) of which must be in a career technical discipline or successfully complete the Division of Career Technical Education twenty-seven (27) month Idaho career technical education leadership institute.

(3-28-18)

e. Work-Based Learning Coordinator Endorsement. Educators assigned to coordinate approved work-based experiences must hold the Work-Based Learning Coordinator endorsement. To be eligible, applicants must hold an occupational endorsement on the Standard Instructional Certificate or qualify for an Occupational Specialist Certificate, plus complete course work in coordination of work based learning programs. (3-29-17)

d. Career Counselor Endorsement. The endorsement for a Career Counselor may be issued to applicants who hold a current Pupil Service Staff Certificate with a School Counselor (K-12) endorsement, and who have satisfied the following career technical requirement: Career Pathways and Career Technical Guidance; Principles/Foundations of Career Technical Education; and Theories of Occupational Choice. (3-28-18)

06. Industry-Based Occupational Specialist Certificate. The industry-based Occupational Specialist Certificates are industry-based career technical certifications issued in lieu of a degree-based career technical certificate. Certificate holders must meet the following eligibility requirements:

(3-28-18)

a. Be at least twenty-two (22) years of age; document recent, gainful employment in the area for which certification is requested; possess either a high school diploma or General Educational Development (GED) certificate; meet provisions of Idaho Code; and, verify technical skills through work experience, industry certification or testing as listed below. When applicable, requirements of occupationally related state agencies must also be met. Since educational levels and work experiences vary, applicants may be determined highly qualified under any one (1) of the following three (3) options: (3-28-18)()

i. Have six three (6) years or twelve six thousand (126,000) hours of recent, gainful employment in the occupation for which certification is requested. Up to forty-eight (48) months credit or up to eight thousand (8,000) hours can be counted toward the six (6) years or twelve thousand (12,000) hours on a month-to-month basis for journeyman training or completed postsecondary training in a career technical education program, at least half of which must have been during the immediate previous five (5) years; or (3-28-18)()

ii. Have a baccalaureate degree in the specific occupation or related area, plus two one (21) years or four two thousand (42,000) hours of recent, gainful employment in the occupation for which certification is required requested, at least half of which must have been during the immediate previous five (5) years; or (3-28-18)()

iii. Have completed a formal apprenticeship program in the occupation or related area for which certification is requested plus two (2) years or four thousand (4,000) hours of recent, gainful, related work experience, at least half of which must have been completed in the immediate previous five (5) years. Hold or have held an industry certification in a field closely related to the content area in which the individual seeks to teach as

approved by the Division of Career Technical Education.

(3-28-18)()

b. Limited Occupational Specialist Certificate. This certificate is issued to individuals who are new to teaching in Idaho public schools or new to teaching in career technical education in Idaho public schools. The certificate is an interim certificate and is valid for three (3) years and is non-renewable. Applicants must meet all of the minimum requirements established in Subsection 015.06.a. of these rules. Individuals on a limited occupational specialist certificate must complete one (1) of the two (2) following pathways during the validity period of the certificate:

(3-28-18)

i. Pathway I - Coursework: Within the three-year period of the Limited Occupational Specialist Certificate, the instructor must satisfactorily complete the pre-service training prescribed by the Division of Career Technical Education and demonstrate competencies in principles/foundations of occupational education and methods of teaching occupational education. Additionally, the instructor must satisfactorily demonstrate competencies in two (2) of the following areas: career pathways and guidance; analysis, integration, and curriculum development; and measurement and evaluation.

(3-28-18)

ii. Pathway II – Cohort Training: Within the first twelve (12) months, the holder must enroll in the Division of Career Technical Education sponsored ~~two-year cohort~~ training and complete ~~the two (2) training~~ within the three-year validity period of the interim certificate.

(3-28-18)()

c. Standard Occupational Specialist Certificate. (3-28-18)

i. This certificate is issued to individuals who have held a limited occupational specialist certificate and completed one (1) of the pathways for completions.

(3-28-18)

ii. The Standard Occupational Specialist Certificate is valid for five (5) years. Six (6) semester credit hours are required every five (5) years pursuant to Section 060 of these rules to renew. Credit equivalency will be based on verification of forty-five (45) hours of participation at approved technical conferences, institutes, or workshops where participation is prorated at the rate of fifteen (15) hours per credit; or one hundred twenty (120) hours of approved related work experience where hours worked may be prorated at the rate of forty (4) hours per credit; or any equivalent combination thereof, and having on file a new professional development plan for the next certification period.

(3-28-18)

d. Advanced Occupational Specialist Certificate. This certificate is issued to individuals who: (3-29-17)

i. Are eligible for the Standard Occupational Specialist Certificate; (3-28-18)

ii. Provide evidence of completion of a teacher training degree program or eighteen (18) semester credits of Division of Career Technical Education approved education or content-related course work in addition to the twelve (12) semester credits required for the Standard Occupational Specialist Certificate (a total of thirty (30) semester credits); and

(3-28-18)

iii. Have on file a new professional development plan for the next certification period. (3-28-18)

iv. The Advanced Occupational Specialist Certificate is valid for five (5) years. Six (6) semester credit hours are required every five (5) years pursuant to Section 060 of these rules to renew.

(3-28-18)

07. Postsecondary Specialist. A Postsecondary Specialist certificate will be granted to a current academic faculty member whose primary employment is with any accredited Idaho postsecondary institution. To be eligible to teach in the public schools under this postsecondary specialist certificate, the candidate must supply a recommendation from the employing institution (faculty's college dean). The primary use of this state-issued certificate is for distance education, virtual classroom programs, and public and postsecondary partnerships.

(3-20-20)

a. Renewal. This certificate is good for five (5) years and is renewable. To renew the certificate, the renewal application must be accompanied with a new written recommendation from the postsecondary institution

(faculty's college dean level or higher). (3-25-16)

- b. Fees. The fee is the same as an initial or renewal certificate as established in Section 066 of these rules. (3-20-20)
 - c. The candidate must meet the following qualifications: (3-25-16)
 - i. Hold a master's degree or higher in the content area being taught; (3-25-16)
 - ii. Be currently employed by the postsecondary institution in the content area to be taught; and (3-25-16)
 - iii. Complete and pass a criminal history background check as required by Section 33-130, Idaho Code. (3-20-20)

08. American Indian Language. Each Indian tribe shall provide to the State Department of Education the names of those highly and uniquely qualified individuals who have been designated to teach the tribe's native language in accordance with Section 33-1280, Idaho Code. Individuals identified by the tribe(s) may apply for an Idaho American Indian Certificate as American Indian languages teachers. (3-25-16)

a. The Office of Indian Education at the State Department of Education will process an application that has met the requirements of the Tribe(s) for an American Indian languages teacher. (3-25-16)

b. Once an application with Tribal approval has been received, it will be reviewed and, if approved, it will be forwarded to the Office of Certification for a criminal history background check as required in Section 33-130, Idaho Code. The application must include a ten-finger fingerprint card or scan and a fee for undergoing a background investigation check pursuant to Section 33-130, Idaho Code. (3-28-18)

c. The Office of Certification will review the application and verify the applicant is eligible for an Idaho American Indian Certificate. The State Department of Education shall authorize an eligible applicant as an American Indian languages teacher. An Idaho American Indian Certificate is valid for not more than five (5) years. Individuals may apply for a renewal certificate. (3-25-16)

09. Junior Reserved Officer Training Corps (Junior ROTC) Instructors. (3-25-16)

a. Each local education agency with a Junior ROTC program shall provide the State Department of Education a list of individuals who have completed an official armed forces training program to qualify as Junior ROTC instructors in high schools and a notarized copy of their certificate(s) of completion. (3-20-20)

b. Authorization Letter. Upon receiving the items identified in Subsection 015.09.a., the State Department of Education shall issue a letter authorizing these individuals as Junior ROTC instructors. (3-20-20)

10. Additional Renewal Requirements. In addition to specific certificate or endorsement renewal requirements, applicants must meet the following renewal requirements as applicable: (3-25-16)

a. Administrator certificate renewal. In order to recertify, holders of an administrator certificate must complete a course consisting of a minimum of three (3) semester credits in the Idaho framework for teachers' evaluation pursuant to Section 33-1204, Idaho Code. Credits must be earned through an approved educator preparation program and include a laboratory component. The laboratory component must include in-person or video observation and scoring of teacher performance using the statewide framework for teacher's evaluation. The approved course must include the following competencies: (3-28-18)

i. Understanding professional practice in Idaho evaluation requirements, including gathering accurate evidence and artifacts, understanding and using the state framework for evaluation rubric with fidelity, proof of calibration and interrater reliability, ability to provide effective feedback for teacher growth, and understanding and advising teachers on individualized learning plan and portfolio development. (3-28-18)

ii. Understanding student achievement and growth in the Idaho evaluation framework, including understanding how measurable student achievement and growth measures impact summative evaluation ratings and proficiency in assessment literacy. (3-28-18)

(BREAK IN CONTINUITY OF SECTIONS)

028. PROFESSIONAL ENDORSEMENT.

Eligibility for the professional and advanced professional endorsement pursuant to Section 33-1201A, Idaho Code, may be established by providing additional evidence demonstrating effective teaching for the purpose of determining proficiency and student achievement in the event required standards for the professional endorsement are not met.

(4-11-19)()

01. Measurable Student Achievement and Student Success Indicators. Evidence of a majority of the applicable staff person's students meeting measurable student achievement targets, or student success indicator targets, may be demonstrated by the certificated staff member providing evidence that students from an accredited private or out-of-state public school have met targets set by the certificated staff member. The measurable student achievement or student success indicators must be comparable to the measurable student achievement or student success indicator targets established by the hiring school for certificated staff in similar employment areas and similar grade ranges pursuant to Section 33-1001, Idaho Code.

(4-11-19)()

02. Performance Criteria. Evidence of an overall rating of proficient, and no components rated as unsatisfactory on the state framework for teaching evaluation meeting the performance criteria as applicable to the professional or advanced professional endorsement pursuant to Section 33-1001, Idaho Code, may be provided through the submittal of annual evaluations showing standards aligned to the Idaho framework for teaching evaluation standards.

(4-11-19)()

03. Validity of Evidence. Evidence provided must show that the certificated staff member met each of the proficiency and student achievement requirements in each year required. (4-11-19)

04. Evaluation of Evidence. The local education agency administrator shall be responsible for evaluating the evidence provided and determining alignment with the school district or charter schools measurable student achievement and student success indicators and alignment with the Idaho framework for teaching evaluation standards. The reviewing administrator shall sign an affidavit stating the evidence meets the district and state standards for measurable student achievement and student success indicators and performance criteria. The local education agency shall report the equivalent performance criteria rating the certificated staff member received and indicate if any equivalent components were rated as unsatisfactory and the measurable student achievement or student success indicator used with verification that the majority of their students have met the measurable student achievement targets or student success indicators. Targets must be comparable to targets set for like groups of students at the hiring school. The state board of education or state department of education may request to review the evidence provided for determining proficiency and student achievement. (4-11-19)

IDAPA 08 – STATE BOARD OF EDUCATION

08.05.01 – RULES GOVERNING SEED AND PLANT CERTIFICATION

DOCKET NO. 08-0501-2001 (CHAPTER REPEAL)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Proposed Rule Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2021 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 Article IX, Section 2 of the Idaho Constitution and under Sections 33-101, 33-105, and Chapter 15, Title 22, Idaho Code, 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 will vacate the entire chapter, IDAPA 08.05.01 Seed Certification Standards. Allowing this chapter to be repealed at this time will align with the 2020 Legislative action removing the requirement that seed certification standards are promulgated through the rulemaking process.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 7, 2020 Idaho Administrative Bulletin, [Vol. 20-10, page 32](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: None.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tracie Bent at tracie.bent@osbe.idaho.gov or (208) 332-1582.

Dated this 30th day of November, 2020.

Tracie Bent
Chief Planning and Policy Officer
State Board of Education
650 W. State Street
PO Box 83720
Boise, ID and 83720-0037
Phone: (208) 332-1582
Fax: (208) 334-2632

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 Article IX, Section 2 of the Idaho Constitution and under Sections 33-101, 33-105, and Chapter 15, Title 22, Idaho Code, 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 the close of business on October 21, 2020.

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 will vacate the entire chapter, IDAPA 08.05.01 Seed Certification Standards. Allowing this chapter to be repealed at this time will align with the 2020 Legislative action removing the requirement that seed certification standards are promulgated through the rulemaking process.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this amendment is simple in nature and the statutory authority for promulgating seed certification standards in administrative rule was removed during the 2020 Legislature.

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 Tracie Bent at tracie.bent@osbe.idaho.gov or (208) 332-1582.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before the close of business on October 28, 2020.

Dated this 28th day of October, 2020.

IDAPA 08.05.01 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 47 – IDAHO DIVISION OF VOCATIONAL REHABILITATION

47.01.01 – RULES GOVERNING VOCATIONAL REHABILITATION SERVICES

DOCKET NO. 47-0101-2001 (NEW CHAPTER)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Proposed Rule Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2021 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 pursuant to Article IX, Section 2 of the Idaho Constitution, Sections 33-101, 33-105, 33-2303, Idaho Code, and the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act (WIOA).

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 provides clarification to federal vocational rehabilitation program requirements. The Idaho Division of Vocational Rehabilitation is in the second year of a two year process to promulgate rules governing the vocational rehabilitation program. The state vocational rehabilitation program is heavily governed by federal requirements. This rule provides clarification to federal requirement that govern the vocational rehabilitation program, including but not limited to the customer appeals and fair hearing process, customer eligibility, individualized plans for employment, financial participation requirements, purchasing requirements and standards, and provisions for community rehabilitation program services. Amendments were made to the proposed rule based on public comments that were received by the agency. The amendments provide additional clarity around defined terms, review, mediation, and fair hearing processes and eligibility and work experience provisions.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 2, 2020 Idaho Administrative Bulletin, [Vol. 20-9, pages 111-119](#).

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: None.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tracie Bent at tracie.bent@osbe.idaho.gov or (208) 332-1582.

Dated this 30th day of November, 2020.

Tracie Bent
Chief Planning and Policy Officer
State Board of Education
650 W. State Street
PO Box 83720
Boise, ID 83720-0037
Phone: (208) 332-1582
Fax: (208) 334-2632

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is June 10, 2020.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Article IX, Section 2 of the Idaho Constitution, Sections 33-101, 33-105, 33-2303, Idaho Code, and the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act (WIOA).

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

PUBLIC HEARINGS

**Thursday, September 10, 2020 - 4:00 p.m to 5:30 p.m. (MT), Location TBD
and
Thursday, September 17, 2020 - 9:30 a.m to 11:00 a.m. (MT), Location TBD**

Locations and process to participate virtually will be posted at:

<https://vr.idaho.gov/>

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

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule provides clarification to federal vocational rehabilitation program requirements. The Idaho Division of Vocational Rehabilitation is in the second year of a two year process to promulgate rules governing the vocational rehabilitation program. The vocational rehabilitation is heavily governed by federal requirements. This rule provides clarification to federal requirement that govern the vocational rehabilitation program, including but not limited to the customer appeals and fair hearing process, customer eligibility, individualized plans for employment, financial participation requirements, purchasing requirements and standards, and provision for community rehabilitation program services.

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

This rule is to comply with 34 CFR 361, the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act.

FEE SUMMARY: The following is a specific description of the fee or charge 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: Not Applicable

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because negotiated rulemaking for this rule was conducted in 2019.

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: Not Applicable

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Teresa Pitt, Planning and Evaluation Manager at (208) 287-6466 or teresa.pitt@vr.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 September 23, 2020.

Dated this 17th day of August, 2020.

Italicized red text indicates amendments between the proposed and pending rule.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 47-0101-2001

47.01.01 – RULES GOVERNING VOCATIONAL REHABILITATION SERVICES

000. LEGAL AUTHORITY.

Article IX, Section 2 of the Idaho Constitution, Section 33-2303, Idaho Code and the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act (WIOA). ()

001. TITLE AND SCOPE.

01. **Title.** The title of this chapter is IDAPA 47.01.01, “Rules Governing Vocational Rehabilitation Services.” ()

02. **Scope.** The provision of these rules is to establish the program requirements and to implement program changes necessitated by the Rehabilitation Act of 1973, as amended by WIOA. ()

002. ADMINISTRATIVE APPEALS.

Administrative appeals are governed by Section 100-103 of these rules in accordance with 34 CFR 361.57. ()

003. CONFIDENTIAL RECORDS.

All personal information concerning the Division’s customers is confidential. The information is used only for purposes directly connected to the administration of Vocational Rehabilitation services, and may not be released without the informed, written consent of the customer, except as otherwise provided by law. ()

004.– 009. (RESERVED)

010. DEFINITIONS.

01. **Authorization for Purchase.** A purchase order issued on behalf of the Division. ()

02. **Customer.** Any individual who has applied for or is eligible for vocational rehabilitation services. ()

03. *Designee.* A person selected or designated to carry out a duty or role. ()

04. **Division.** The Idaho Division of Vocational Rehabilitation. ()

05. *Informed Choice.* To make an informed choice, customers need accurate, clear, and useful information to make decisions regarding their vocational goal, necessary services and options for selecting approved service providers to reach their goal. ()

06. *Information and Referral.* Information and possible referral to other appropriate federal, state, and local programs and service providers best suited to address the rehabilitation and employment needs of an individual with a disability. ()

07. **State Administrator.** The Chief Executive Officer of the Idaho Division of Vocational Rehabilitation. ()

08. *Vocational Rehabilitation Counselor.* A professional staff member of the Division who determines customer eligibility and the provision of vocational rehabilitation services. ()

011. ABBREVIATIONS.

01. **AFP.** Authorization for Purchase. ()

02. **CAP.** Client Assistance Program. ()

03. **CFR.** Code of Federal Regulations. ()

04. **IPE.** Individualized Plan for Employment. ()

05. **VRC.** Vocational Rehabilitation Counselor. ()

06. **WIOA.** Workforce Innovation and Opportunity Act. ()

012. – 099. (RESERVED)

100. CUSTOMER APPEALS.

In accordance with 34 CFR 361.57, the customer appeals process is governed by Sections 101-103 of these rules. ()

101. INFORMAL REVIEW PROCESS.

An informal review process is an optional *informal process* to resolve disagreements or dissatisfaction with services. An individual may request an informal review *within twenty-one (21) calendar days of the agency's notice regarding the provision or denial of services*. The request must be in writing to the regional manager *and* describe the complaint. The regional manager will function as the administrative review officer in *this* process. At the customer's *written* request another regional manager may be substituted. The reviewer will be responsible for: ()

01. Advising the Customer. Advising the customer of their right to *representation and services available through* the Client Assistance Program (CAP). ()

02. Conducting the Review. The review *will be conducted* within twenty-one (21) calendar days following receipt of a written request, unless both parties agree *to* an extension. ()

03. Documented Effort. The Division *may extend* the *informal review period* when the customer makes a documented effort to utilize CAP or another advocate to resolve the dissatisfaction. ()

04. Review Location. The review *will be held* at a time and *location* convenient to the customer, generally at a Division office. ()

05. Communication Method. Provide *the communication in the most appropriate method for the customer.* ()

06. Transportation. Provide transportation to and from the review site, if needed. ()

07. Informal Review Decision. The regional manager or *designee* will provide a written decision after conducting the informal review. The customer may request mediation or fair hearing within twenty-one (21) calendar days of the informal review written decision. ()

102. MEDIATION.

Mediation is an alternate dispute resolution method available to applicants and eligible customers who initiate the formal appeals process or when the *informal review did not resolve the customer's concern.* ()

01. Timeline. A customer may request mediation as long as the request is made within twenty-one (21) calendar days of the original decision or twenty-one (21) calendar days following the written decision from the informal review. ()

02. Written Request. Requests for mediation must be made in writing to the field services chief and clearly state the reason for dissatisfaction with the decision or results of the informal review. The field services chief will represent the Division or assign a *management level staff* member who has not participated in the agency action that created the customer's dissatisfaction. ()

03. Participation. Participation in the mediation process is voluntary for the customer and for the Division. Either party may reject mediation as an alternate dispute resolution method. Once mediation has been accepted as an alternate dispute resolution method, either party may terminate the mediation process. ()

04. Right to Fair Hearing. Mediation may not be used to deny or delay the customer's right to pursue a fair hearing. Should the customer and/or designated representative select mediation in lieu of a fair hearing, the option for a fair hearing will be extended to allow the results of the mediation to be established. Once the final results of the mediation are determined, the customer retains the right to request a fair hearing. ()

05. Mediator. All mediation is conducted by a qualified and impartial mediator who is selected randomly from a list maintained by the Division. ()

06. Confidentiality. Mediation discussions are confidential and may not be used as evidence in a fair hearing. Both parties will sign a confidentiality agreement. ()

07. Mediation Agreement. The mediator will develop a written mediation agreement if an agreement between the parties is reached. The agreement must be signed by all parties involved in the mediation. ()

08. Cost. Cost of mediation is paid by the Division, except for customer representation. ()

103. FAIR HEARING PROCESS.

The fair hearing process is an option available to any customer who is dissatisfied with any determination made by Division personnel that affects the provision of vocational rehabilitation services. A customer may request a fair hearing immediately without going through any other appeal steps. A customer or if appropriate their representative may request a timely review of the determination. Such requests must be made within twenty-one (21) calendar days of the Division's decision resulting in the initial disagreement or within twenty-one (21) calendar days of the conclusion of the informal review or mediation process, whichever is later. The fair hearing will be conducted by a fair hearing officer. ()

01. Procedure. A fair hearing is a procedure whereby a customer who is dissatisfied with any determination concerning the provision or denial of Division services or the findings of the informal review or mediation may seek a determination of agency action before a fair hearing officer. ()

02. Written Request. Requests for a fair hearing must be sent in writing to the field services chief and clearly state the customer's dissatisfaction with the agency's decision. ()

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

04. Fair Hearing Officers. The *Division Administrator, or designee*, and the State Rehabilitation Council will *jointly* identify a list of fair hearing officers. The Administrator and the customer will select the fair hearing officer from the list. ()

05. Written Report. The fair hearing officer will issue a written report of the findings and decision of the hearing within thirty (30) calendar days of the completion of the hearing. ()

06. Decision. The decision of the fair hearing officer will be considered final by the Division. ()

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

104. – 199. (RESERVED)

200. PROVISION OF SERVICES ON A STATEWIDE BASIS.

Vocational Rehabilitation services are offered on a statewide basis to individuals with disabilities, subject to eligibility determination. ()

201. REFERRAL AND APPLICATION FOR SERVICES.

01. Referral. An agency, organization, individual (including self) or programs of the American Job Center Network may refer an individual for services. The Division will make a minimum of three (3) attempts to respond to the individual before closing the referral. ()

02. Application for Services. The application process includes the following; an individual must sign and date an application, or make a request for alternate application, provide necessary information to begin an assessment of eligibility, information gathered in the intake interview meets this criterion, and the customer is available and free of restrictions to complete the assessment process for determining eligibility for Division services. ()

a. **Residency Requirement.** There is no duration of residency to apply for Division services. Individuals must be living in the state of Idaho and legally able to work in the United States (i.e., non-U.S. citizens must show they are legally able to work within the United States). ()

b. **Other Requirements.** Customers must be available to participate in the eligibility determination process and will be informed of their rights and responsibilities as a customer of the program. ()

202. ELIGIBILITY REQUIREMENTS.

Eligibility for vocational rehabilitation services provided by the Division is based upon the following criteria: ()

01. Professional Documentation of Impairment. The customer has a physical or mental impairment documented by a qualified professional; ()

02. Impediment Determined by Counselor. The customer's physical or mental impairment constitutes a substantial impediment to employment as determined by a qualified Vocational Rehabilitation Counselor (VRC); ()

03. Determination of Services for Employment. A determination by a qualified VRC employed by the Division, *who meets the Division's Comprehensive System of Personnel Development policy*, that the customer

requires vocational rehabilitation services to prepare for, secure, retain, advance in, or regain employment consistent with the applicant's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. ()

04. Severity of Disability. *The Division presumes that an applicant who meets the eligibility requirements in Subsections 202.01 and 202.02, of these rules, can benefit in terms of an employment outcome, unless the severity of disability places this presumption of benefit in question, as outlined in Sections 203 and 205 of these rules.* ()

203. PRESUMPTIVE ELIGIBILITY.

Individuals eligible for Social Security benefits under Title II or Title XVI of the Social Security Act, based upon their disability, are presumed to meet the eligibility requirements for vocational rehabilitation services, unless the VRC questions the individual's ability to benefit from vocational rehabilitation services because of the severity of the individual's disability. ()

204. TRIAL WORK EXPERIENCE.

In cases where a VRC questions a customer's ability to benefit from vocational rehabilitation services, due to the severity of their disability, the VRC must obtain clear and convincing evidence that the individual cannot benefit from services, prior to closing the individual's case. A trial work plan should include *only those services which will assess an individual's ability to work in competitive integrated employment through an exploration of the individual's abilities, capabilities, and capacity to perform in realistic work situations*. *Trial work experiences include supported employment, on-the-job training, and other experiences using realistic integrated work settings. The Division must provide appropriate support services to accommodate the rehabilitation needs of the individual during the trial work experience. Trial work experiences must be of sufficient variety and over a sufficient period of time.* ()

205. SEVERITY OF DISABILITY.

At the time a customer is determined eligible for vocational rehabilitation services, a determination of the significance of disability, as it relates to employment, will also be determined. A priority category assignment will be determined for all eligible individuals, in one (1) of the following categories: ()

01. Priority Category 1 - Eligible Individuals with the Most Significant Disabilities (MSD). ()

- a. Meets criteria established for a customer with a significant disability; and ()
- b. Experiences a severe physical and/or mental impairment that seriously limits three (3) or more functional categories (such as mobility, work skills, self-care, interpersonal skills, communication, self-direction or work tolerance) in terms of an employment outcome; and ()
- c. Requires multiple primary Individualized Plan for Employment (IPE) services *over an extended period of time.* ()

02. Priority Category 2 - Eligible Individuals with Significant Disabilities (SD). ()

- a. Meets the criteria for a customer with no significant disability; and ()
- b. Experiences a severe physical and/or mental impairment that seriously limits *one (1) or more* functional categories (such as mobility, work skills, self-care, interpersonal skills, communication, self-direction or work tolerance) in terms of an employment outcome; and ()

03. Priority Category 3 - All other Eligible Individuals with Disabilities (D). ()

- a. Has a physical or mental impairment; and ()
- b. Impairment constitutes or results in a substantial impediment to employment; and ()

c. Who can benefit in terms of an employment outcome from the provision of vocational rehabilitation services. ()

206. COMPREHENSIVE ASSESSMENT OF REHABILITATION NEEDS.

A comprehensive assessment of rehabilitation needs is a process utilized to identify the customer's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice as it relates to identifying and selecting a vocational goal. The assessment will be conducted in the most integrated setting possible, consistent with the informed choice of the customer. ()

207. INDIVIDUALIZED PLAN FOR EMPLOYMENT (IPE).

01. **IPE Requirements.** An eligible customer, or their representative, may develop all or part of their IPE, with or without assistance from the Division, however the IPE must be agreed to by a qualified *rehabilitation professional*. The Division will not pay for IPE development services from other providers. The customer is given a copy of the signed IPE and any subsequent IPEs. There will be only one (1) active IPE at any given time. The Division supports vocational goals in competitive integrated employment, including supported employment and self-employment. ()

02. **IPE Content.** Per federal requirements, the IPE will contain the following elements, *per 34 CFR 361.46, including:* ()

- a. Identification of a specific employment outcome; ()
- b. Necessary rehabilitation services to achieve the employment outcome; ()
- c. Timelines for achieving the employment outcome and for the initiation of services; ()
- d. Identification of service providers; ()
- e. Criteria used to evaluate progress; ()
- f. Terms and conditions including customer rights and responsibilities; ()
- g. Customer's financial participation, if appropriate; ()
- h. Identification of comparable benefits as appropriate; and ()
- i. The expected need for post-employment services. ()

03. **Annual IPE Review.** IPEs will be reviewed *at least* on an annual basis. ()

208. CASE CLOSURE.

The Division may close a customer's case at any time in the vocational rehabilitation process for various reasons, in compliance with federal regulations *as stated in 34 CFR 361.43, 44, and 56 and federal reporting guidelines*. General reasons for case closure may occur when the VRC determines that a customer is either not eligible or no longer eligible for vocational rehabilitation services; is unavailable to participate in the VR program; declines to participate in the VR program; or the customer achieves an employment outcome. Regardless of when in the process the record of service is closed, the VRC must make reasonable attempts to contact the individual, or as appropriate their representative, prior to case closure to discuss the pending case closure. A closure letter or appropriate form of communication *will be sent to all individuals whose case is being closed.* ()

209. ORDER OF SELECTION.

01. **Order of Selection.** When the Division cannot provide the full range of vocational rehabilitation services to all eligible customers because of fiscal or personnel capacity constraints, the agency will enter an order of selection. The order of selection will be based on the following requirements: ()

a. Students with disabilities, as defined by 34 CFR 361.5(c)(51), who received pre-employment transition services prior to eligibility determination and assignment to a disability priority category will continue to receive such services. ()

b. All customers who have an Individualized Plan for Employment will continue to be served. ()

02. Priority Status. Priority will be given to eligible individuals with the most significant disabilities, followed by those eligible individuals with significant disabilities, and finally those eligible individuals with disabilities. All eligible customers will be assigned to one (1) of the priority categories as outlined in Section 205 of these rules. ()

03. When Unable to Serve Eligible Individuals. If the Division cannot serve all eligible individuals within a given priority category, individuals will be released from the statewide waitlist based on disability priority category and date of application. ()

210. – 299. (RESERVED)

300. FINANCIAL PARTICIPATION REQUIREMENTS.

The Division will consider the financial need of an eligible customer for the purposes of determining the extent of their participation in the costs of vocational rehabilitation services. Financial participation will not be a consideration in the determination of eligibility for vocational rehabilitation services but will be a consideration in allocating the cost of vocational rehabilitation services, with some exceptions. ()

01. Financial Participation Assessment. Financial participation will be assessed after eligibility, during plan development, while exploring comparable benefits, prior to a plan amendment, and on an annual basis or if a customer's financial circumstances change significantly, whichever occurs sooner. ()

02. Services Exempt from Financial Participation. Services exempt from financial participation include: ()

a. Assessment for determining eligibility and vocational rehabilitation needs. ()

b. Vocational rehabilitation counseling and guidance and referral services. ()

c. Auxiliary aid or services (e.g., interpreter services or reader services) that an individual with a disability requires in order to participate in the vocational rehabilitation program. ()

d. Personal assistance services. ()

e. Job related services, including; job readiness training, job search assistance and placement assistance, SE job coaching, job supports – short term, and youth extended services. ()

f. Pre-employment Transition Services. ()

03. Financial Participation Criteria. Several factors are considered in determining a customer's level of financial participation, including the household income, family size, estimated annual plan costs, exclusions such as disability impairment related work expenses, and available financial resources which exceed the Department of Health and Human Services (HHS) Federal Poverty Guidelines. Individuals who receive Social Security benefits, because of their disability, are exempt for contributing towards plan costs, except for those costs exceeding Division limits. The Division has limits for services and uses a low bid, when possible. Exceptions to financial participation may be granted with appropriate approval when adherence to financial participation could seriously jeopardize the customer's opportunity to achieve the IPE objectives and employment outcome. ()

301. COMPARABLE BENEFITS.

Eligible customers will identify and use all comparable benefits that may be available during the development of the

IPE, including, but not limited to, accommodations and auxiliary aids and services, which may meet, in whole or in part, the cost of vocational rehabilitation services. Comparable benefits and services must be utilized before agency funds are used. ()

01. Exempt Services. Services exempt from the requirement to utilize comparable services and benefits include; medical, psychological or other examinations to determine eligibility, vocational counseling and guidance, information and referral, job related services to include job search, job supports, job placement and retention services, evaluation of vocational rehabilitation potential, and rehabilitation technology (not including personally prescribed devices). ()

02. Availability of Comparable Benefits. If comparable services or benefits are not available at the time needed to ensure progress toward achieving the employment outcome, the Division may provide such services until comparable services and benefits become available. ()

302. – 399. (RESERVED)

400. PURCHASING REQUIREMENTS.

All services and purchases will follow federal, state, and *Idaho Division of Purchasing* guidelines. Purchases require written authorization prior to the initiation of the purchased service. Authorizations are issued on or before the beginning date of service. If services are provided without an approved authorization, the Division reserves the right to deny the vendor's invoice. The method of procurement is determined in partnership with the customer; however the Division prefers that an authorization for purchase be used over other methods, with an invoice from the vendor documenting the service provision. The Division will pay for pre-employment transition services and other services that contribute to the determination of eligibility or that are necessary to achieve an employment outcome. ()

401. PURCHASING STANDARDS.

The Division pays usual, customary, and reasonable charges for services. The Division has established hierarchical levels of purchasing authority to balance process efficiency with the Division's internal controls. The majority of service negotiation is at the counselor level. When necessary, varying levels of exceptions to purchasing authority are available by appropriate management staff. Decisions on case expenditures are determined on an individualized basis. The customer may choose their preferred vendor, however, if the cost of a service exceeds a control threshold, the customer will be responsible for the excess amount, absent an exception. Services that will meet the customer's need at the least cost to the Division will be the service cost considered for planning purposes. Services available in the State of Idaho are preferred over more costly out-of-state options, where applicable. ()

402. PROVISION OF COMMUNITY REHABILITATION PROGRAM (CRP) SERVICES.

The Division will purchase vocational services from CRPs that are accredited by either the Commission on Accreditation of Rehabilitation Facilities (CARF) or the Rehabilitation Services Accreditation System (RSAS). In collaboration with the customer, the qualified professional Vocational Rehabilitation Counselor will determine which CRP services, if any, are required for the customer to achieve an employment outcome. The Division will determine the method for establishing CRP service rates. ()

403. – 999. (RESERVED)