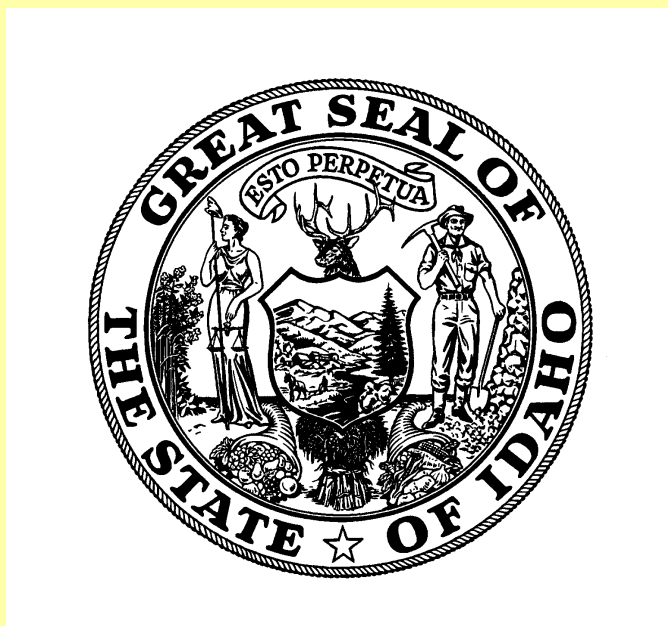


PENDING RULES

COMMITTEE RULES

REVIEW BOOK

Submitted for Review Before
Senate Education Committee
67th Idaho Legislature
First Regular Session – 2023



Prepared by:

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

January 2023

SENATE EDUCATION COMMITTEE

ADMINISTRATIVE RULES REVIEW

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IDAPA 08 – STATE BOARD OF EDUCATION

08.01.11 – REGISTRATION OF POSTSECONDARY EDUCATIONAL INSTITUTIONS AND PROPRIETARY SCHOOLS

DOCKET NO. 08-0111-2201 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 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 Sections 33-105, 33-107, 33-2402, and 33-2403, Idaho Code, to implement the provisions of Chapter 24, Title 33, Idaho Code.

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

In accordance with [Executive Order 2020-01](#), this rulemaking proposes amendments based on review of the chapter for evaluation on how it can be improved, simplified, and streamlined. Amendments include combining duplicative language that applies to postsecondary degree granting institutions and proprietary schools into a single section. Any provisions duplicative of statutory language will also be removed.

Amendments between the proposed and pending rules stages include one technical correction to fix sentence structure, removing duplicative language from two definitions, and moving the Western Governors University from the Proprietary School Registration exemption list to the Postsecondary Institution Registration exemption list. As a degree granting institution, Western Governors University belongs in the Postsecondary Institution Registration section of rule.

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 5, 2022, Idaho Administrative Bulletin, [Vol. 22-10, pages 39-50](#).

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: NA

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Nicholas Wagner at nick.wagner@osbe.idaho.gov or (208) 488-7886.

DATED this 16th day of November, 2022.

Nicholas Wagner
Administrative Rules Coordinator
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THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 33-105, 33-107, 33-2402, and 33-2403, Idaho Code, to implement the provisions of Chapter 24, Title 33, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking: In accordance with [Executive Order 2020-01](#), this rulemaking proposes amendments based on review of the chapter for evaluation on how it can be improved, simplified, and streamlined. Amendments include combining duplicative language that applies to postsecondary degree granting institutions and proprietary schools into a single section. Any provisions duplicative of statutory language will also be removed.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2022 Idaho Administrative Bulletin, [Volume 22-7, page 87](#).

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: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tracie Bent at (208)332-1582 or tracie.bent@osbe.idaho.gov. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this 2nd day of September, 2022.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 08-0111-2201

Italicized red text indicates changes between the text of the proposed rule as adopted in the pending rule.

**08.01.11 – REGISTRATION OF POSTSECONDARY EDUCATIONAL INSTITUTIONS
AND PROPRIETARY SCHOOLS**

000. LEGAL AUTHORITY.

The following rules are made under authority of Sections 33-105, 33-107, 33-2402, and 33-2403, Idaho Code, to implement the provisions of Chapter 24, Title 33, Idaho Code. ()

001. SCOPE.

This rule sets forth the registration requirements for postsecondary educational institutions that are required to register with the Idaho State Board of Education (“Board”) under Section 33-2402, Idaho Code, and for proprietary schools required to register with the Board under Section 33-2403, Idaho Code. In addition, this rule describes the standards and criteria for Board recognition of accreditation organizations, for registration purposes. ()

002. DELEGATION.

The Board delegates authority to its Executive Director and the Office of the State Board of Education to administer the registration of postsecondary educational institution and proprietary schools, in accordance with Title 33, Chapter 24, Idaho Code, and this rule. ()

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. Nonprofit. Means an entity that is recognized under the Internal Revenue Code and applicable regulations as being tax exempt, or an entity such as a nonprofit or not-for-profit organization that possesses the following characteristics that distinguish it from a business enterprise: (a) contribution of significant amounts of resources from resource providers who do not expect commensurate or proportionate pecuniary return, (b) operating purposes other than to provide goods or services at a profit, and (c) absence of ownership interests like those of business enterprises. ()

02. Postsecondary Educational Institution. Sometimes referred to in this rule simply as an institution, is defined in Section 33-2401, Idaho Code. ()

03. Proprietary School. Sometimes referred to in this rule simply as a school, is defined in Section 33-2401, Idaho Code. ()

011. -- 099. (RESERVED)

100. RECOGNITION OF ACCREDITATION ORGANIZATIONS.

For purposes of registration of postsecondary educational institutions, the Board recognizes the regional accreditation organizations that are recognized by and in good standing with the United States Department of Education, and which accredit entire colleges or universities, and which do not accredit only courses or courses of study (such as specialized accreditation organizations). Further, the Board may recognize other accreditation organizations on a case-by-case basis. A request for recognition of other accreditation organizations for purposes of registration should be made to the Board’s Chief Academic Officer, who will review and evaluate the request with the input and advice of the Board’s Committee on Academic Affairs and Programs (CAAP). The Board will make a final decision based on such evaluation and review. ()

101. REGISTRATION

01. Registration Requirement. Unless exempted by statute or this rule, as provided herein, an institution or school which maintains an Idaho presence, or that operates or purports to operate from a location within the state of Idaho, shall register annually and hold a valid certificate of registration issued by the Board. An institution shall not conduct, provide, offer, or sell a course or courses of study, or degree unless registered. A school shall not solicit students for or on behalf of such school, or advertise in the state unless registered. ()

a. Renewal of registration shall be for the period beginning on July 1 of any year, and continue through June 30 of the next succeeding year. Registration must be renewed annually. Renewal of registration is not automatic. ()

b. An institution or school shall be deemed to have a presence in Idaho, or to be operating or purporting to be operating from a location within the state of Idaho, if it owns, rents, leases, or uses any office or other type of physical location in Idaho, including a mailing or shipping center, or if it represents in any way, such as on an electronic or Internet website, to have an Idaho street or mailing address, including a post office box in Idaho, for purposes of conducting, providing, offering or selling a course or courses of study or degrees. ()

c. An institution or school that is required to register under this rule must submit to the Board office an application for registration (either an application for initial registration or renewal of registration, as applicable), on the form provided by the Board office. The application must include a list of each course, course of study, and degree the applicant institution intends to conduct, provide, offer, or sell in Idaho during the registration year. ()

d. The annual registration fee for initial registration or renewal of registration must accompany the application for registration, and shall be one-half of one percent (.5%) of the gross Idaho tuition revenue of the school during the previous tax reporting year (Jan 1 - Dec 31), but not less than one hundred dollars (\$100) and not to exceed five thousand dollars (\$5,000). The school shall provide documentation to substantiate the amount of revenue reported. Registration fees are nonrefundable. ()

e. An initial application for registration may be submitted to the Board at any time. The review process for an initial registration will take approximately three (3) to five (5) months. An application for renewal of registration must be submitted to the Board on or before the first business day of May that precedes the registration year. The renewal will be processed within thirty (30) days. Institutions or schools that do not adhere to this schedule and whose renewals are not processed by July 1st must cease all active operations until approval of registration is received. ()

102. THE BOARD MAY NOTIFY THE INSTITUTION OR SCHOOL OF ADDITIONAL INFORMATION REQUIRED.

If the Board is unable to determine the nature and activities of an institution or school on the basis of the information provided by the institution or school, then the Board may notify the institution or school of additional information that it will be required to provide in connection with the application for registration. ()

01. Verification of Information. The Board may verify the accuracy of submitted information by inspection, visitation, or any other means it considers necessary. The applicant institution shall be responsible for any costs the Board incurs, including travel, associated with this review. ()

02. Criteria for Approval of Registration. To be approved for registration, the institution or school must demonstrate that it is in compliance with Chapter 24, Title 33, Idaho Code and this rule. An institution or school must remain in compliance for the registration year. ()

03. Public Information. All information submitted to the Board in connection with the application is subject to disclosure as set forth in the Public Records Act, Chapter 1, Title 74, Idaho Code. ()

04. Certificate of Registration or Exemption. ()

a. A certificate of registration will be issued to an institution or school that has paid its registration fee and has been approved under this rule. A certificate evidencing initial registration will be effective the date it is issued, and continue through June 30 of the next succeeding year. A renewal certificate will be for the period July 1 through June 30 of the next succeeding year. No institution or school that is registered with the Board shall advertise or represent in any manner that it is accredited or endorsed by the Board. An institution or school may only represent that it is "Registered with the Idaho State Board of Education." Registration is not an endorsement of the institution or school or any of its courses, courses of study, or degrees. ()

b. An institution or school exempt from registration under these rules may request a certificate of exemption. ()

c. If an institution or school wishes to offer additional courses, courses of study, or degrees during a registration year that were not included in its annual registration application to the Board, then the institution or school must submit a letter to the Board Office along with documentation of its accrediting agency or by the applicable professional or trade board, council, or commission's approval of the specific changes. ()

05. Disapproval and Appeal. If an institution's or school's request for initial registration, or renewal of registration, is disapproved by the Board, then the institution or school may appeal such decision within thirty (30) days of the date the institution or school is notified of the disapproval. ()

06. Withdrawal of Approval. ()

a. The Board may refuse to renew, or may revoke or suspend approval of, an institution or school's registration by giving written notice and the reasons therefore to the institution or school. The institution or school may request a hearing relating to such decision under IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." ()

b. Withdrawal of approval may be for one (1) or more of the following reasons: ()

i. Violation of Chapter 24, Title 33, Idaho Code or this rule; ()

ii. Providing false, misleading, deceptive, or incomplete information to the Board; ()

iii. Presenting information to prospective or current students which is false, fraudulent, misleading, deceptive, or inaccurate in a material respect; ()

iv. Refusing to allow reasonable inspection or to supply reasonable information after a written request by the Board Office has been received; or ()

v. Loss of accreditation status. ()

c. If any information contained in the application submitted by the institution or school becomes incorrect or incomplete, then the registered institution or school shall notify the Board office of such change within thirty (30) days. An institution or school that ceases operation during the course of a registration year shall immediately inform the Board Office of this event. ()

103. -- 199. (RESERVED)

200. REGISTRATION OF POSTSECONDARY EDUCATIONAL INSTITUTIONS.

01. Registration Requirement. ()

a. A new or start-up entity that desires to operate as a postsecondary educational institution in Idaho but which is not yet accredited by an accreditation organization recognized by the Board must register and operate as a proprietary school until accreditation is obtained. A new or start-up entity that is accredited and authorized to operate in another state, and which desires to operate as a postsecondary educational institution in Idaho offering degrees for which specialized program accreditation is required, may be granted approval to operate subject to the successful attainment of such program accreditation within the regular program accreditation cycle required by the accreditor. ()

b. There is no inherent or private right to grant degrees in Idaho. That authority belongs only to institutions properly authorized to operate in Idaho under these rules. ()

02. Idaho Presence. ()

a. Idaho presence shall include medical/osteopathic education clinical instruction occurring in the state of Idaho as part of a course of study leading to a degree pursuant to a formal multi-year arrangement or agreement between such clinic and an institution providing medical/osteopathic education instruction where eleven (11) or more students of the institution are physically present simultaneously at a single field site. ()

b. Idaho presence shall not include: ()

i. Distance or online education delivered by an institution located outside of the state of Idaho to students in this state when the institution does not otherwise have physical presence in Idaho, as provided in Subsection 200.03.a. of this rule; ()

ii. Medical education instruction occurring in the state of Idaho by an institution pursuant to a medical education program funded by the state of Idaho; ()

iii. Internship or cooperative training programs occurring in the state of Idaho where students are employed by or provide services to a business or company in this state and receive course credit from an institution related to such activities; or ()

iv. Activities limited to the recruiting or interviewing of applicants or potential students in the state of Idaho, whether conducted by a compensated employee, agent, or representative of an institution, or by volunteer alumnus of an institution, even if such individual is physically located in this state. ()

03. Institutions Exempt from Registration. ()

a. Provided that they remain lawfully organized in the state of Idaho with their principal place of business in Idaho, and remain accredited by an accreditation organization recognized by the Board, the following private, nonprofit, postsecondary educational institutions that were established and operational as of the date when this rule first went into effect, are exempt from registration: Brigham Young University - Idaho, College of Idaho, Northwest Nazarene University, New Saint Andrews College, Boise Bible College, *and Western Governors University*. An institution exempt under this subsection may voluntarily register by following the procedure for registration provided herein. ()

b. Idaho religious institutions. A religious institution located within the state of Idaho that is owned, controlled, operated, and maintained by a religious organization lawfully operating as a nonprofit religious corporation and that grants only religious degrees shall not be required to register. ()

04. Institutions That Must Register. Unless exempt under Subsection 200.03 of this rule, any entity that desires to operate as a postsecondary educational institution in Idaho must register as provided herein. ()

05. Information Required. ()

a. An application must include all the information requested on the application form, as well as the following information: ()

i. Copy of most recent accreditation letter showing the period of approval; ()

ii. Current list of chief officers - e.g. president, board chair, chief academic officer, chief fiscal officer; ()

iii. Enrollment data for current and past two (2) years; ()

iv. Copy of annual audited financial statement, or other financial instrument as established by the executive director; ()

v. Any additional information that the Board may request. ()

vi. All advertising, pamphlets, and other literature used to solicit students and all contract forms must

accurately represent the purpose of the school, its courses or courses of study, and other relevant information to assist students in making an informed decision to enroll. Institutions offering courses or courses of study which require clinical, practicum or internship components must provide students in writing information regarding the number of clinical, practicum or internship positions available and the location of said positions. Institutions with courses or courses of study that have not been fully accredited must disclose to prospective students in these courses or courses of study the accreditation status of the program and anticipated date for full accreditation. ()

b. The Board may, in connection with a renewal of registration, request that an institution only submit information that documents changes from the previous year, provided that the institution certifies that all information and/or documentation submitted in a previous registration year remains current. The annual registration fee, described in Section 101 of this rule, shall remain applicable. ()

201. -- 299. (RESERVED)

300. REGISTRATION OF PROPRIETARY SCHOOLS.

01. Registration Requirement. ()

a. For a school that has not previously registered with the Board, registration shall be for the period beginning on the date of issuance of a certificate of registration and continue through June 30 of the next succeeding year. ()

b. Renewal of registration shall be for the period beginning on July 1 of any year, and continue through June 30 of the next succeeding year. ()

02. Idaho Presence. ()

a. Idaho presence shall not include: ()

i. Distance or online education delivered by an institution located outside of the state of Idaho to students in this state when the institution does not otherwise have physical presence in Idaho, as provided in Subsection 101 of this rule; ()

ii. Internship or cooperative training programs occurring in the state of Idaho where students are employed by or provide services to a business or company in this state and receive course credit from an institution related to such activities; or ()

iii. Activities limited to the recruiting or interviewing of applicants or potential students in the state of Idaho, whether conducted by a compensated employee, agent, or representative of an institution, or by volunteer alumnus of an institution, even if such individual is physically located in this state. ()

03. Application Information Required. In addition to providing the information requested on the application form, a school must attest by signature of the primary official that it is in compliance with Standards I through V set forth in Section 301 of this rule and must provide verification of compliance with Standards I through V set forth in Section 301 of this rule upon request. The Board may, in connection with a renewal of registration, request that a school only submit information that documents changes from the previous year, provided that the school certifies that all information and/or documentation submitted in a previous registration year remains current. The annual registration fee shall remain applicable. ()

301. APPROVAL STANDARDS FOR REGISTRATION OF PROPRIETARY SCHOOLS.

The Board and its designee accepts the responsibility for setting and maintaining approval standards for proprietary schools that plan to offer courses or a set of related courses in or from Idaho in order to protect consumers and to ensure quality educational programs are provided throughout the state. A school must meet all of the standards prior to issuance of a certificate of registration and the school must provide required evidence to document compliance with the standards as identified in the application form. A certificate of registration may be denied if all of the standards are not met. ()

01. Standard I - Legal Status and Administrative Structure. The school must be in compliance with all local, state and federal laws, administrative rules, and other regulations applicable to proprietary schools. ()

a. The school must have a clearly stated educational purpose that is consistent with the courses or a set of related courses under consideration for approval. ()

b. The ownership of the school, its agents, and all school officials must be identified by name and title. ()

c. Each owner, agent, instructor and/or school official must be appropriately qualified by the trade board (as applicable) to ensure courses are of high quality and the rights of students are protected. ()

d. Written policies must be established to govern admissions and re-admission of dismissed students, hiring procedures, and working conditions; evaluation/assessment of all employees and instructional offerings; student and instructor rights and responsibilities; grievance procedures; approval of the curriculum and other academic procedures to ensure the quality of educational offerings. ()

e. Procedures for assessing/evaluating the effectiveness of instruction must be established. Evaluation and assessment results must be used to improve courses or courses of study. ()

f. All advertising, pamphlets, and other literature used to solicit students and all contract forms must accurately represent the purpose of the school, its courses or courses of study, anticipated job opportunities, and other relevant information to assist students in making an informed decision to enroll. Schools offering courses or courses of study which require clinical, practicum or internship components must provide students in writing information regarding the number of clinical, practicum or internship positions available and the location of said positions. The school must provide to each prospective student, newly-enrolled student, and returning student complete and clearly presented information indicating the school's current completion and job placement rate. ()

02. Standard II - Courses or Courses of Study. Instruction must be the primary focus of the school. All courses or courses of study must prepare students to enter employment upon completion of the program or prepare them for self-employment. ()

a. The requirements for each course or courses of study must be defined clearly including applicable completion requirements or other requirements such as practicums and clinicals. Courses or courses of study must follow applicable trade or occupational board training curriculum standards or be designed using effective learning strategies for students, identifying and organizing all instructional materials and specialized facilities, identifying instructional assessment methods, and evaluating the effectiveness of the course offerings. Applicants must include an attestation that courses or courses of study applicable to occupations, which are otherwise regulated, licensed, or registered with another state agency or state board, meet the regulating state agency or state board standards for licensure or certification at the time of application. The office of the state board of education does not review course or program curriculum. ()

b. Written course descriptions must be developed for all courses or courses of study. Written course descriptions must be provided to instructors. Instructors are expected to follow course descriptions. A syllabus must be developed for each course and distributed to students at the beginning of the course. ()

c. The school must assure that a course or courses of study will be offered with sufficient frequency to enable students to complete courses or courses of study within the minimum time for completion. ()

d. The school must clearly state the cost of each course or courses of study and identify the payment schedule. This information, and the refund policy, must be given to students in writing. ()

03. Standard III - Student Support Services. The school must have clearly defined written policies that are readily available to students. Policies must address students rights and responsibilities, grievance procedures, and define what services are available to support students. ()

a. The admission of students must be determined through an orderly process established in a written

policy using published criteria which must be uniformly applied. Admissions decisions must take into account the capacity of the student to grasp and complete the instructional training program and the ability of the school to handle the unique needs of the students it accepts. ()

b. There must be a clearly defined policy to re-evaluate students dismissed from the school and, if appropriate, to readmit them. ()

c. The school must establish and adhere to a clear and fair policy regarding due process in disciplinary matters for all students, given to each student upon enrollment in the school. The school must provide the name and contact information for the individual who is responsible for dealing with student grievances and other complaints and for handling due process procedures. ()

d. Prior to enrollment, all prospective students must receive the following information in writing: ()

i. Information describing the purpose, length, and objectives of the courses or courses of study; ()

ii. Completion requirements for the courses or courses of study; ()

iii. The schedule of tuition, fees, and all other charges and all expenses necessary for completion of the courses or courses of study; ()

iv. Cancellation and refund policies; ()

v. An explanation of satisfactory progress, including an explanation of the grading/assessment system; ()

vi. The calendar of study including registration dates, beginning and ending dates for all courses, and holidays; ()

vii. A complete list of instructors and their qualifications; ()

viii. A listing of available student services; and ()

e. Accurate and secure records must be kept for all aspects of the student record including, at minimum, admissions information, and the courses each student completed. ()

04. Standard IV - Faculty/Instructor Qualifications and Compensation. ()

a. Instructor qualifications (training and experience) must be recorded and available to students. ()

b. There must be a sufficient number of full-time instructors to maintain the continuity and stability of courses. ()

c. The ratio of instructors to students in each course must be sufficient to assure effective instruction. ()

d. Commissions may not be used for any portion of the faculty compensation. ()

e. Procedures for evaluating instructors must be established. Provisions for student evaluation are recommended. ()

05. Standard V - Resources, Finance, Facilities, and Instructional Resources. ()

a. Adequate financial resources must be provided to accomplish instructional objectives and to

effectively support the instructional program, including classroom and training facilities, instructional materials, supplies and equipment, instructors, staff, library, and the physical and instructional technology infrastructure. ()

b. The school must have sufficient instructional resource materials so that, together with tuition and fees, it is able to complete its educational obligations to currently enrolled students. If the school is unable to fulfill its obligations to students, the school must make arrangements for a comparable teach-out opportunity with another proprietary school or refund one hundred (100) percent of prepaid tuition. ()

c. School financial/business records and reports must be kept separate and distinct from those of any affiliated or sponsoring person or entity. Financial records and reports at a school shall be kept in accordance recognized financial accounting methods. ()

d. The school must have adequate instructional resource materials available to students, either on site or through electronic means. These materials must be housed in a designated area and be available for students and instructors with sufficient regularity and at appropriate hours to support achievement of course objectives or to promote effective teaching. ()

e. If the school relies on other schools or entities to provide library resources or instructional resources, the school must demonstrate how these arrangements effectively meet the needs of students and faculty. These arrangements must be documented through written agreements. Student and faculty use must be documented and frequently evaluated to ensure quality services are being provided. ()

302. ADDITIONAL REQUIREMENTS.

01. Agent's Certificate of Identification. Each proprietary school shall ensure that its agents have a valid certificate of identification, and that all of its agents are in compliance with Section 33-2404, Idaho Code. The school shall complete a criminal history check that includes, at a minimum, the State Bureau of Identification, and statewide sex offender registry for each agent having unsupervised contact with minors in the minor's home or at secondary schools, prior to making application for the agent's certificate of identification. The criminal history check shall be valid for five (5) years and be kept on file by the school. When an employee returns to any proprietary school after a break in service of six (6) months or more a new criminal history check must be obtained. When an employee changes employment between proprietary schools, a new criminal history check must be obtained by the new employer. ()

a. The Board shall revoke any agent's certificate of identification issued or authorized under this Section and shall deny the application for issuance of a new certificate of identification of a person who pleads guilty to, or is found guilty of, notwithstanding the form of the judgment or withheld judgment, any of the following felony offenses against a child: ()

i. The aggravated assault of a child, Section 18-905, Idaho Code, or the assault with intent to commit a serious felony against a child, Section 18-909, Idaho Code. ()

ii. The aggravated battery of a child, Section 18-907, Idaho Code, or the battery with intent to commit a serious felony against a child, Section 18-911, Idaho Code. ()

iii. The injury or death of a child, Section 18-1501, Idaho Code. ()

iv. The sexual abuse of a child under sixteen (16) years of age, Section 18-1506, Idaho Code. ()

v. The ritualized abuse of a child under eighteen (18) years of age, Section 18-1506A, Idaho Code. ()

vi. The sexual exploitation of a child, Section 18-1507, Idaho Code. ()

vii. Possession of photographic representations of sexual conduct involving a child, Section 18-1507A, Idaho Code. ()

- viii. Lewd conduct with a child under the age of sixteen (16) years, Section 18-1508, Idaho Code. ()
- ix. The sexual battery of a minor child sixteen (16) or seventeen (17) years of age, Section 18-1508A, Idaho Code. ()
- x. The sale or barter of a child for adoption or other purposes, Section 18-1511, Idaho Code. ()
- xi. The murder of a child, Section 18-4003, Idaho Code, or the voluntary manslaughter of a child, Section 18-4006 1., Idaho Code. ()
- xii. The kidnapping of a child, Section 18-4502, Idaho Code. ()
- xiii. The importation or exportation of a juvenile for immoral purposes, Section 18-5601, Idaho Code. ()
- xiv. The abduction of a person under eighteen (18) years of age for prostitution, Section 18-5610, Idaho Code. ()
- xv. The rape of a child, Section 18-6101 or 18-6108, Idaho Code. ()
- b.** The general classes of felonies listed in Section 302 shall include equivalent laws of federal or other state jurisdictions. For the purpose of Subsection 302.07, “child” means a minor or juvenile as defined by the applicable state or federal law. ()

02. Surety Bond. Each proprietary school shall comply with the provisions in Section 33-2406, Idaho Code, relating to a surety bond. ()

a. The amount of the surety bond shall be not less than the total tuition and fees to be collected by the school from its students, currently engaged in instructional activities, that covers the period from the beginning through completion of the course of instruction the student has contracted and paid for. This amount shall be based upon the projected tuition and fee revenue for the coming registration year, subject to modification in the event a school experiences significant changes in tuition and fee revenue during the current year. The Executive Director shall determine the appropriate format and method by which this bond value is to be calculated and reported. ()

b. Schools must keep a valid bond in force, via periodic renewal as needed, throughout the entire registration year with no lapse in coverage. Schools shall ensure that all bonds include “extended coverage” clauses to remain in effect for one hundred twenty (120) days after the date of a school’s closure. ()

c. No party to the surety bond may cancel without one hundred twenty (120) day prior notice to all parties, including the Office of the State Board of Education. ()

d. The Board shall be the beneficiary of the bond and shall oversee the distribution of funds to students who file claims. Schools shall provide proof of the required bond and submit said documentation with their registration applications. ()

303. -- 399. (RESERVED)

400. ENFORCEMENT.

The Board, acting by and through its Executive Director may initiate on its own initiative any investigation relating to a violation of the state laws or rules relating to the requirement that an institution or school register with the Board pursuant to Title 33, Chapter 24, Idaho Code. ()

401. -- 499. (RESERVED)

500. COMPLAINTS.

A complaint concerning an institution or school operating in the State of Idaho (maintaining an Idaho presence) that pertains to a matter described herein shall be reviewed and acted upon as appropriate in accordance with the specific procedures described below: ()

01. Violations of State Consumer Protection Laws. A complaint alleging a violation of Idaho consumer protection laws shall be instituted, reviewed, and acted upon in accordance with IDAPA 04.02.01, "Idaho Rules of Consumer Protection, Office of the Attorney General." ()

02. Violations of State Laws or Rules Related to the Registration of Postsecondary Educational Institutions and Proprietary Schools. A complaint alleging violations of state laws or rules related to the requirement that an institution or school register with the Board shall be submitted in writing to the Board's Executive Director for investigation and appropriate enforcement action, including the remedies specified in Section 33-2408, Idaho Code. ()

03. Complaints Related to Quality of Education, or Other Matters. ()

a. A complaint relating to the quality of education provided by an institution or school or accreditation matters, or any other matter related to the operations or practices of an institution or school other than a state consumer protection matter, shall be submitted on a form provided by the Board to the Executive Director for review and appropriate action. ()

b. If after initial review the Executive Director determines that the complaint relates to the quality of education or accreditation matters, the Executive Director may refer the matter to the accreditation organization of the institution or school at issue for review and recommendation. If a matter referred to an accreditation organization results in resolution of the complaint to the satisfaction of the complainant, then the matter shall be considered resolved and there shall be no further action on the matter. If the matter is not successfully resolved, then the Executive Director will review the recommendation of the accreditation organization and follow the procedures for investigations of complaints described in Subsection 500.03.c. of these rules. ()

c. If the complaint pertains to any other matter related to the operations or practices of an institution or school, other than a state consumer protection matter, then the Executive Director will review the complaint to determine whether such complaint falls within the regulatory authority of the Board. If it does not, then Board office will notify the complainant in writing of such determination, and may offer referral of such matter to an appropriate agency or entity. If after initial review the Executive Director determines that the complaint falls within the regulatory authority of the Board, then Board staff will notify both the complainant and the respondent institution or school of the complaint resolution process to be utilized and applicable timelines. The review and investigation of a complaint shall occur as expeditiously as possible. The parties may be asked to respond in writing to the complaint, to submit to interviews, and to provide additional records, documents, statements, or other collateral information as necessary. Any request by the investigator for additional information related to such complaint must be provided promptly. The Board's investigator will review the materials submitted by all parties and at the conclusion of the investigation prepare a summary of the allegations, the investigator's findings, and a recommendation for disposition to the Executive Director. If the Executive Director determines that the facts indicate a probable violation of law or rule over which the Board has regulatory authority, then the Executive Director shall issue a written decision on the disposition of such complaint. Within thirty (30) days after a decision is issued a party aggrieved by such decision may file with the Executive Director a request for a hearing. The provisions of the Idaho Administrative Procedure Act, Chapter 52, Title 67, Idaho Code, shall apply to such hearing and to judicial review of such decision. ()

d. If the Board office receives a complaint relating to an institution or school that is exempt from registration under Idaho law or these rules, and such institution or school has not elected to voluntarily register, then such institution or school shall be responsible for reimbursing the Board office for the actual costs incurred to process and act on such complaint. ()

501. -- 999. (RESERVED)

IDAPA 08 – STATE BOARD OF EDUCATION
08.01.13 – RULES GOVERNING THE OPPORTUNITY SCHOLARSHIP PROGRAM
DOCKET NO. 08-0113-2201 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 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 Sections 33-105, 33-107, and 33-4303, Idaho Code.

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

In accordance with [Executive Order 2020-01](#), this rulemaking will amend the chapter based on an evaluation of how it can be improved, simplified, and streamlined. Any provisions duplicative of statutory language will be removed.

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 5, 2022, Idaho Administrative Bulletin, [Vol. 22-10, page\(s\) 51-56](#).

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: NA

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 16th day of November 2022.

Nicholas Wagner
Administrative Rules Coordinator
Idaho State Board of Education
650 W State St. PO Box 83720
Boise, Idaho and 83720-0037
Phone: (208)488-7586
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 Sections 33-105, 33-107, 33-2402, and 33-2403, Idaho Code, to implement the provisions of Chapter 24, Title 33, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

In accordance with [Executive Order 2020-01](#), this rulemaking will amend the chapter based on an evaluation of how it can be improved, simplified, and streamlined. Any provisions duplicative of statutory language will be removed.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2022 Idaho Administrative Bulletin, [Volume 22-7, page 88](#).

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: NA

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this 2nd day of September, 2022.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 08-0113-2201

08.01.13 – RULES GOVERNING THE OPPORTUNITY SCHOLARSHIP PROGRAM

000. LEGAL AUTHORITY.

In accordance with Sections 33-105, and 33-4303, Idaho Code, the State Board of Education (Board) shall promulgate rules implementing the provisions of Title 33, Chapter 56, Idaho Code. ()

001. SCOPE.

These rules constitute the requirements for the Opportunity Scholarship Program. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. **Adult Learner.** An individual who: ()
- a. Is not currently enrolled in a postsecondary institution accredited by a body recognized by the State Board of Education; ()
- b. Has not attended more than two (2) courses at a postsecondary institution at any time during the twenty-four (24) month period immediately prior to application for the Opportunity Scholarship; and ()
- c. Has earned twenty-four (24) or more transferable credits from a postsecondary institution accredited by a body recognized by the State Board of Education. ()
02. **Grade Point Average (GPA).** The average grade earned by a student, figured by dividing the grade points earned by the number of credits attempted. ()
03. **Graduation Plan.** A plan developed by the postsecondary student in consultation with the postsecondary institution that identifies the certificate or degree the student is pursuing, the course and credit requirements necessary for earning the certificate or degree, the application of previously earned credits and credits granted through prior learning assessments, the estimated number of terms remaining to complete the certificate or degree and the proposed courses to be taken during each term. ()

011. -- 100. (RESERVED)

101. ELIGIBILITY.

Applicants must meet all of the eligibility requirements to be considered for the scholarship award. ()

01. **Academic Eligibility.** To be eligible for an opportunity scholarship, an applicant must meet minimum academic eligibility criteria, as follows: ()
- a. A student who has not yet graduated from an eligible secondary school or its equivalent in the state of Idaho must have an un-weighted minimum cumulative grade point of average of two point seven (2.7) or better on a scale of four point zero (4.0) to be eligible to apply for an opportunity scholarship. Cumulative grade point averages of more than one (1) decimal place shall be rounded to one (1) place. Home schooled students must provide a transcript of subjects taught and grades received signed by the parent or guardian of the student; or ()
- b. A student who has obtained a general equivalency diploma must have taken the ACT assessment and received a minimum composite score of twenty (20) or better, or the equivalent SAT assessment and received a one thousand ten (1,010) or better, to be academically eligible to apply for an opportunity scholarship; or ()
- c. A student currently enrolled in an eligible Idaho postsecondary educational institution must have a minimum cumulative grade point average of two point seven (2.7) or better on a scale of four point zero (4.0) at such institution in order to be academically eligible to apply for an opportunity scholarship. Cumulative grade point averages of more than one (1) decimal place shall be rounded to one (1) place. ()
- d. An Adult Learner must have a minimum cumulative grade point average of two point five (2.5) or higher on a scale of four point zero (4.0). Cumulative grade point averages of more than one (1) decimal place shall be rounded to one (1) decimal place. ()
02. **Financial Eligibility.** The financial need of an applicant for an opportunity scholarship will be based upon the verified expected family contribution, as identified by the free application for federal student aid (FAFSA) Student Aid report. The Student Aid report used to calculate financial need will be the report generated on the scholarship application deadline. ()

03. Additional Eligibility Requirements. ()

a. A student must not be in default on a student educational loan, or owe a repayment on a federal grant, and must be in good financial standing with the opportunity scholarship program. ()

b. If a student has attempted or completed more than one hundred and twenty (120) postsecondary credits, then such student must identify a major, the required number of credits necessary for graduation in such major, and shall submit an academic transcript that contains all courses taken and all postsecondary credit received to the Board office. A student shall not be eligible for an opportunity scholarship if: ()

i. The student has completed more than one hundred fifty percent (150%) of the courses and academic credit necessary to graduate in such major; or ()

ii. Upon review of the student's academic transcript(s), the student cannot complete a degree/certificate in the major identified within two (2) semesters based on normal academic course load unless a determination by the executive director or designee has been made that there are extenuating circumstances and the student has a plan approved by the executive director or designee outlining the courses that will be taken and the completion date of the degree or certificate. ()

102. -- 201. (RESERVED)

202. APPLICATION PROCESS.

01. Applications. An eligible student must complete and submit the opportunity scholarship program application to the Board electronically on or before the date specified in the application, but not later than the deadline set by the executive director each year. Adult Learner applications will be processed and awarded on a monthly basis up to the application deadline. An applicant without electronic capabilities may request a waiver of this requirement and, if granted, submit an application on the form established by the Board through the United States Postal Service that must be postmarked not later than the applicable application deadline. The FAFSA must be completed on or prior to the application deadline. ()

02. Announcement of Award. Announcement of the award of initial scholarships will be made no later than June 1 of each year, with awards to be effective at the beginning of the first full term following July 1 of that year. Announcements must clearly state the award is part of the state's scholarship program and is funded through state appropriated funds. Additional award announcement may be made after this date based on the availability of funds and the acceptance rate of the initial awards. ()

03. Communication with State Officials. Applicants must respond by the date specified to any communication from officials of the opportunity scholarship program. Failure to respond within the time period specified will result in cancellation of the scholarship unless extenuating circumstances are involved and approved by the executive director or designee. ()

203. -- 299. (RESERVED)

300. SELECTION OF SCHOLARSHIP RECIPIENTS.

01. Selection Process. Scholarship awards will be based on the availability of scholarship program funds. Opportunity scholarships will be awarded to applicants, based on ranking and priority, in accordance with the following criteria: ()

a. Eligible students shall be selected based on ranking criteria that assigns seventy percent (70%) to financial eligibility, and thirty percent (30%) to academic eligibility. In the event that this weighted score results in a tie, an eligible student who submitted an application to the Board earlier in time will be assigned a higher rank. ()

b. Notwithstanding Subsection 300.01.a. of these rules, the priority for the selection of recipients of opportunity scholarship awards shall be to scholarship recipients who received an opportunity scholarship award

during the previous fiscal year, and have met all of the continuing eligibility requirements provided in these rules.

()

02. Monetary Value of the Opportunity Scholarship.

()

a. The monetary value of the opportunity scholarship award to a student shall be based on the educational costs for attending an eligible Idaho postsecondary educational institution, less the following:

()

i. The amount of the assigned student responsibility, established by the Board annually;

()

ii. The amount of federal grant aid, as identified by the Student Aid Report (SAR) that is known at the time of award determination;

()

iii. The amount of other financial aid awarded the student, from private or other sources that is known at the time of award determination.

()

iv. The eligible maximum award amount for Adult Learners enrolled in less than twenty-four (24) credit hours or its equivalent in an academic year attending an eligible four-year postsecondary institution, or less than eighteen (18) credit hours or its equivalent in an academic year attending an eligible two-year institution, will be prorated as follows:

()

(1) Enrolled in six (6) to eight (8) credits or its equivalent per term - fifty percent (50%) of the maximum;

()

(2) Enrolled in nine (9) to eleven (11) credits or its equivalent per term - seventy-five percent (75%) of the maximum; and

()

(3) Enrolled in twelve (12) or more credits or its equivalent per term - one hundred percent (100%) of the maximum.

()

b. The amount of an opportunity scholarship award to an individual student shall not exceed the actual cost of tuition and fees at the institution the student attends or will attend, or if the student attends or will attend an Idaho private postsecondary educational institution, the average tuition at Idaho's public four (4) year postsecondary educational institutions.

()

301. OPPORTUNITY SCHOLARSHIP AWARD.

01. Payment. Payment of opportunity scholarship awards will be made in the name of the recipient and will be sent to a designated official at the eligible Idaho postsecondary educational institution in which the recipient is enrolled. The official must transmit the payment to the recipient within a reasonable time following receipt of the payment.

()

02. Duration. Scholarships will be awarded on an annual basis and payments will correspond to academic terms, semesters, quarters, or equivalent units. In no instance will the entire amount of a scholarship be paid in advance to, or on behalf of, a scholarship recipient. The scholarship may cover up to four (4) educational years, or eight (8) semesters or equivalent for attendance at an eligible Idaho postsecondary educational institution. Awards are contingent on annual appropriations by the legislature and continued eligibility of the student.

()

03. Eligibility. If a student receives an opportunity scholarship payment and it is later determined that the student did not meet all of the Opportunity Scholarship Program eligibility requirements, then the student is considered in overpayment status, and must return program funds in accordance with the eligible Idaho postsecondary educational institution's refund policy.

()

302. CONTINUING ELIGIBILITY.

To remain eligible for renewal of an opportunity scholarship, the recipient must comply with all of the provisions of the Opportunity Scholarship Program.

()

01. Credit Hours. To remain eligible for renewal of an opportunity scholarship, the scholarship recipient attending a four (4) year eligible postsecondary institution must have completed a minimum of twenty-four (24) credit hours or its equivalent each academic year that the student received an opportunity scholarship award. A scholarship recipient attending a two (2) year eligible postsecondary institution must have completed a minimum of eighteen (18) credit hours or its equivalent each academic year that the student received an opportunity scholarship award. Notwithstanding these provisions, a scholarship recipient who has received the Opportunity Scholarship as an Adult Learner may retain eligibility by completing twelve (12) or more credit hours or its equivalent each academic year the student received the Opportunity Scholarship award. All students may use the summer term to meet the annual credit accumulation requirements. ()

02. Academic Progress. To remain eligible for renewal of an opportunity scholarship, the scholarship recipient must have maintained a minimum cumulative grade point average of two point seven (2.7) on a scale of four point zero (4.0), and must be maintaining satisfactory academic progress toward their identified postsecondary credential as determined by the institution they are enrolled in. Students receiving an Opportunity Scholarship award as an Adult Learner must make satisfactory progress on their graduation plan established with the eligible institution at the time of admission. ()

03. Eligibility Following Interruption of Continuous Enrollment. A scholarship recipient whose continuous enrollment is interrupted for more than four (4) months but less than two (2) years for any reason but who intends to re-enroll in an eligible Idaho postsecondary educational institution must file a letter of intent to withdraw no later than thirty (30) days prior to the first day of the academic term of the discontinued attendance to the Office of the State Board of Education. Failure to do so may result in forfeiture of the scholarship. The Board's Executive Director or designee will review each request for interruption and notify the individual of approval or denial of the request. In addition, the individual must file a statement with the Board declaring intent to re-enroll as a full-time undergraduate student in an academic or career technical program in an eligible Idaho postsecondary educational institution for the succeeding academic year no later than thirty (30) days prior to the first day of the academic term in which the individual intends to re-enroll within two (2) years of the approval of the request to withdraw. Failure to do so will result in forfeiture of the scholarship unless an extension has been granted. An extension of interruption of continuous enrollment period may be granted for eligible students due to military service in the United States armed forces, medical circumstances, or other circumstances approved by the executive director. All requests for extension must be made thirty (30) days prior to the start of the succeeding academic year. ()

303. -- 399. (RESERVED)

400. RESPONSIBILITIES OF ELIGIBLE IDAHO POSTSECONDARY EDUCATIONAL INSTITUTIONS.

01. Statements of Continuing Eligibility. An eligible Idaho postsecondary educational institution participating in this Opportunity Scholarship Program must submit statements of continuing student eligibility to the Board by the 30th day after the end of the spring semester or equivalent term. Such statements must include verification that the scholarship recipient is still enrolled, attending part-time, if an Adult Learner, and full-time for all other scholarship recipients, maintaining satisfactory academic progress, and has not exceeded the award eligibility terms. ()

02. Other Requirements. An eligible Idaho postsecondary educational institution must: ()

a. Be eligible to participate in Federal Title IV financial aid programs, and must supply documentation to the Board verifying this eligibility, and prompt notification regarding any changes in this status; ()

b. Have the necessary administrative computing capability to administer the Opportunity Scholarship Program on its campus, and electronically report student data records to the Board; ()

c. Provide data on student enrollment and federal, state, and private financial aid for students to the Board within set timelines, and ()

d. Agree to permit periodic Opportunity Scholarship Program audits to verify compliance with Idaho ()

law and these rules related to the program. ()

03. Adult Learner Evaluation. Upon admission, scholarship recipients receiving an award as an Adult Learner will be administered prior learning assessments to determine eligibility for credit for prior learning, including credit for prior experiential learning. As part of this process an eligible institution will work with the student to develop a graduation plan for the program they are entering that includes estimated completion dates. ()

401. -- 500. (RESERVED)

501. APPEALS.

An opportunity scholarship applicant or recipient adversely affected by a decision made under provisions of these rules may file a written appeal detailing the basis of the appeal within thirty (30) days following notice of the decision. Decisions based on specific requirements established in Idaho Code or these rules may not be appealed. The appeal must be submitted to the executive director of the Board. The office of the board shall acknowledge receipt of the appeal within seven (7) days. The executive director of the Board may or may not agree to review the action, or may appoint a subcommittee of three (3) persons to hear the appeal, including at least one (1) financial aid administrator at an eligible postsecondary educational institution in Idaho. ()

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

502. -- 999. (RESERVED)

IDAPA 08 – STATE BOARD OF EDUCATION

08.02.02 – RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-2201

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo and Incorporation By Reference Synopsis \(IBRS\)](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 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 Sections 33-105, 33-107, 33-116, 33-1006, 33-1201 and 33-1612, Idaho Code.

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

In accordance with [Executive Order 2020-01](#), proposed amendments are based on a review of the chapter for evaluation on how it can be improved, simplified, and streamlined. Any provisions duplicative of statutory language are removed. Additional amendments include amendments that streamline and clarify the certification requirements for certificated staff in our public schools and provide clarification to certification and endorsement requirements due to legislative changes made during the 2022 Legislative Session; and amendments to transportation reimbursement requirements for alternative fuel buses and extending the maximum mileage allowed for trips outside of the state of Idaho. Additional technical corrections identified as part of the negotiated rulemaking process may be made.

Amendments between the proposed and pending rules stages include technical corrections to fix sentence structure, removal of duplicative language, and language restructuring for rule clarification.

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 5, 2022, Idaho Administrative Bulletin, [Vol. 22-10, page\(s\) 57-75](#).

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: NA

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Nicholas Wagner at nick.wagner@osbe.idaho.gov or (208) 488-7886.

DATED this 16th day of November 2022.

Nicholas Wagner
Administrative Rules Coordinator
Idaho State Board of Education
650 W State St. PO Box 83720
Boise, Idaho and 83720-0037
Phone: (208)488-7586
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 33-105, 33-107, 33-116, 33-1006, 33-1201 and 33-1612, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2022.

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking: In accordance with [Executive Order 2020-01](#), proposed amendments are based on a review of the chapter for evaluation on how it can be improved, simplified, and streamlined. Any provisions duplicative of statutory language are removed. Additional amendments include amendments that streamline and clarify the certification requirements for certificated staff in our public schools and provide clarification to certification and endorsement requirements due to legislative changes made during the 2022 Legislative Session; and amendments to transportation reimbursement requirements for alternative fuel buses and extending the maximum mileage allowed for trips outside of the state of Idaho. Additional technical corrections identified as part of the negotiated rulemaking process may be made.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2022 Idaho Administrative Bulletin, [Volume 22-7, page 89](#).

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: This rule includes two incorporated by reference documents establishing minimum standards for drivers education programs and school bus operations. These provisions are very technical in nature and do not lend themselves to the required formatting for Administrative Rules. The proposed rule amendments amend the Standards for Idaho School Bus Operations Manual.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tracie Bent at (208)332-1582 or tracie.bent@osbe.idaho.gov. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this 2nd day of September, 2022.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0202-2201

Italicized red text that is *double underscored* indicates amendments to the proposed text as adopted in the pending rule.

004. INCORPORATION BY REFERENCE.

The State Board of Education adopts and incorporates by reference into its rules: (3-15-22)

01. Standards for Idaho School Buses and Operations as approved on ~~November 15, 2017~~ *August 24, 2022*. The Standards for Idaho School Buses and Operations are available at the Idaho State Department of Education, 650 W. State St., Boise Idaho, 83702 and can also be accessed electronically at <https://boardofed.idaho.gov>. (~~3-15-22~~)()

02. Operating Procedures for Idaho Public Driver Education Programs as approved on June 16, 2016. The Operating Procedures for Idaho Public Driver Education Programs are available at the Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702 and can also be accessed electronically at <https://boardofed.idaho.gov>. (3-15-22)

005. -- 006. (RESERVED)

007. DEFINITIONS.

01. Clinical Experience. Guided, hands-on, practical applications and demonstrations of professional knowledge of theory to practice, skills, and dispositions through collaborative and facilitated learning in field-based assignments, tasks, activities, and assessments across a variety of settings. Clinical experience includes field experience and clinical practice as defined in this section. (3-15-22)

02. Clinical Practice. Student teaching or internship opportunities that provide candidates with an intensive and extensive culminating field-based set of responsibilities, assignments, tasks, activities, and assessments that demonstrate candidates' progressive development of the professional knowledge, skills, and dispositions to be effective educators. Clinical practice includes student teaching and internship. (3-15-22)

03. Credential. The general term used to denote the document on which all of a person's educational certificates and endorsements are listed. The holder is entitled to provide educational services in any and/or all areas listed on the credential. (3-15-22)

04. Endorsement. Term used to refer to the content area or specific area of expertise in which a holder is granted permission to provide services. (3-15-22)

05. Field Experience. Early and ongoing practice opportunities to apply content and pedagogical knowledge in Pre-K-12 settings to progressively develop and demonstrate knowledge, skills, and dispositions. (3-15-22)

06. Individualized Professional Learning Plan. An individualized professional development plan based on the Idaho framework for teaching evaluation as outlined in Section 120 of these rules to include interventions based on the individual's strengths and areas of needed growth. (3-15-22)

07. Institutional Recommendation. Signed form or written verification from an accredited institution with a state board approved educator preparation program stating that an individual has completed the program, received a basic or higher rating in all components of the approved Idaho framework for teaching evaluation, has an individualized professional learning plan, has demonstrated the ability to produce measurable student achievement or student success, has the ability to create student learning objectives, and is *now being* recommended for state certification. Institutional recommendations must include statements of identified competency areas and grade ranges. Institutional ~~re~~commendation for administrators must additionally include a competency statement indicating proficiency in conducting accurate evaluations of instructional practice based upon the state's framework for evaluation as outlined in Section 120 of these rules. (~~3-15-22~~)()

08. Internship. Full-time or part-time supervised clinical practice experience in Pre-K-12 settings where candidates progressively develop and demonstrate their knowledge, skills, and dispositions. (3-15-22)

09. Local Education Agency (LEA). An Idaho public school district or charter school pursuant to Section 33-5203(8), Idaho Code. (3-15-22)

10. Paraprofessional. A noncertificated individual who is employed by a local education agency to support educational programming. Paraprofessionals must work under the direct supervision of a properly certificated staff member for the areas they are providing support. Paraprofessionals cannot serve as the teacher of record and may not provide direct instruction to a student unless the paraprofessional is working under the direct supervision of a teacher. (3-15-22)

a. To qualify as a paraprofessional the individual must have a high school diploma or general equivalency diploma (GED) and: (3-15-22)

i. Demonstrate through a state board approved academic assessment knowledge of and the ability to assist in instructing or preparing students to be instructed ~~as applicable to~~ in the academic areas they are providing support in; or (3-15-22)()

ii. Have completed at least two (2) years of study at an accredited postsecondary educational institution; or (3-15-22)

iii. Obtained an associate degree or higher level degree; demonstrate through a state board approved academic assessment knowledge of and the ability to assist in instructing or preparing students to be instructed ~~as applicable to~~ in the academic areas they are providing support in. (3-15-22)()

b. Individuals who do not meet these requirements will be considered school or classroom aides. (3-15-22)

c. Duties of a paraprofessional include, but are not limited to, one-on-one tutoring; assisting in classroom management; assisting in computer instruction; conducting parent involvement activities; providing instructional support in a library or media center; acting as a translator in instructional matters; and providing instructional support services. Non-instructional duties such as providing technical support for computers, personal care services, and clerical duties are generally performed by classroom or school aides, however, this does not preclude paraprofessionals from also assisting in these non-instructional areas. (3-15-22)

11. Pedagogy. Teaching knowledge and skills. (3-15-22)

12. Portfolio. An organized collection of artifacts that demonstrates an individual's performance, growth, and/or reflection regarding their professional practice, in alignment with the applicable professional standards used for evaluation. (3-15-22)

13. Practicum. Full-time or part-time supervised, industry-based experience in an area of intended career technical education teaching field to extend understanding of industry standards, career development opportunities, and application of technical skills. (3-15-22)

14. Semester Credit Hours. Two (2) semester credit hours are equivalent to three (3) quarter credit hours. (3-15-22)

15. Student Learning Objective (SLO). A measurable, long-term academic growth target that a teacher sets at the beginning of the year for all student or for subgroups of students. SLOs demonstrate a teacher's impact on student learning within a given interval of instruction based upon baseline data gathered at the beginning of the course. (3-15-22)

16. Student Teaching. Extensive, substantive, and supervised clinical practice in Pre-K-12 schools for candidates preparing ~~to teach~~ for an instructional certificate. (3-15-22)()

~~17. **Teacher Leader.** A teacher who facilitates the design and implementation of sustained, intensive, and job-embedded professional learning based on identified student and teacher needs. (3-15-22)~~

~~18. **Teacher of Record.** The teacher who is primarily responsible for planning instruction, delivering or supervising the instruction provided to a class of students, assessing student performance, and designating final grades. (3-15-22)()~~

(BREAK IN CONTINUITY OF SECTIONS)

013. CERTIFICATION OF TEACHERS TRAINED IN FOREIGN INSTITUTIONS.

An educator having graduated from a foreign institution educator preparation program shall be ~~considered~~ treated as an out of state applicant for certification purposes and may be issued a nonrenewable, three (3) year interim certificate. The applicant must provide transcripts and/or credentials that have been translated and evaluated by an approved evaluation service. (3-15-22)()

014. CERTIFICATES ISSUED TO APPLICANTS FROM REGIONALLY ACCREDITED INSTITUTIONS.

Idaho certificates may be issued to applicants completing accredited educator preparation programs from regionally accredited institutions recognized by the state board of education meeting requirements for certification or equivalent in other states when they substantially meet the requirements for a standard Idaho educator certificate. (3-15-22)()

015. IDAHO EDUCATOR CREDENTIAL.

All standard educator certificates are valid for five (5) years and are renewable, subject to the applicable renewal requirements set by the state board of education and any applicable conditions applied to an individual's certificate by the professional standards commission. (3-15-22)

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 or higher from an accredited college or university and who meets the following requirements or successfully completes an interim certificate requirements: (3-15-22)()

a. Minimum Credit Hours. Earned a minimum of twenty (20) semester credit hours in the philosophical, psychological, methodological foundations, instructional technology, and in the professional subject matter of education, which shall include demonstration of competencies as specified in the Idaho comprehensive literacy plan; and (3-15-22)

b. Student Teaching. Complete a minimum of ten (10) undergraduate or six (6) graduate semester credit hours, of student teaching; and (3-15-22)

c. Complete a state board approved educator preparation program and receive an institutional recommendation from the program specifying the grade ranges and subjects for which the applicant is eligible to receive an endorsement ~~in~~; (3-15-22)()

i. To receive endorsement in two (2) fields of teaching, preparation must consist of completion of at least thirty (30) semester credit hours in one (1) field of teaching, and completion of at least twenty (20) semester credit hours in a second field of teaching. (3-15-22)

ii. To receive endorsement in (1) field of teaching, preparation must consist of completion of at least forty-five (45) semester credit hours in a single subject area; (3-15-22)

d. Meet or ~~exceed~~ ed the state qualifying score on the state board approved content area and pedagogy assessments. (3-15-22)()

02. Standard Pupil Service Staff Certificate. Persons who serve as school counselors, school psychologists, school social workers, and school nurses are required to hold the Standard Pupil Service Staff Certificate, with the respective endorsement(s) for which they qualify. Persons who serve as a speech-language pathologist, school audiologist, occupational therapist, or physical therapist may be required, as determined by the local educational agency, to hold ~~the~~ a Standard Pupil Service Staff Certificate with respective endorsements for which they qualify. (3-15-22)()

a. School Counselor Endorsement. To be eligible for a School Counselor endorsement, a candidate must have satisfied the following requirements. (3-15-22)

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 (3-15-22)

ii. An institutional recommendation is required for a School Counselor endorsement. (3-15-22)

b. School Counselor – Basic Endorsement. (3-15-22)

i. Individuals serving as a school counselor pursuant to Section 33-1212, Idaho Code, shall be granted a School Counselor – Basic 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. (3-15-22)

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 endorsement. Renewal date will remain the same as the initial credential. (3-15-22)

c. School Psychologist Endorsement. The renewal credit requirement may be waived if the applicant holds a current and valid National Certification for School Psychologists (NCSP) offered through the National Association of School Psychologists (NASP). To be eligible for a school psychologist 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: (3-15-22)

i. Completion of an approved thirty (30) semester credit hour master's degree in education or psychology and completion of an approved thirty (30) semester 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; (3-15-22)

ii. Completion of an approved sixty (60) semester 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; (3-15-22)

iii. Completion of an approved sixty (60) semester 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 (3-15-22)

iv. Earn a current and valid National Certification for School Psychologists (NCSP) issued by the National Association of School Psychologists (NASP). (3-15-22)

d. Interim Certificate – School Psychologist Endorsement. This certificate will be issued to those who do not meet the educational requirements but hold a master’s degree or higher in psychology and are working toward a standard pupil service staff certificate with school psychologist endorsement. This certificate will be issued for three (3) years while the applicant is meeting the educational requirements or obtaining the applicable experience leading to certification. If the educational requirements cannot be met within the three (3)-year time frame of the certificate, the employing LEA may request one (1)-time renewal of this interim certificate for the applicant. (3-15-22)

e. School Nurse Endorsement. To be eligible for a school nurse endorsement, a candidate must complete one (1) of the following options: (3-15-22)

i. 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. (3-15-22)

ii. 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. (3-15-22)

f. Interim Certificate - School Nurse Endorsement. This certificate will be issued to those who do not meet the educational and/or experience requirements but who hold a valid professional nursing (RN) license in Idaho. This non-renewable certificate will be issued for three (3) years while the applicant is meeting the educational or experience requirements. (3-15-22)

g. Speech-Language Pathologist Endorsement. To be eligible for a speech-language pathologist endorsement, a candidate must possess a master's degree from an accredited college or university in a speech/language pathology program approved by the State Board of Education. The renewal credit requirement may be waived if the applicant holds a current and valid Certificate of Clinical Competence in Speech-Language Pathology offered through the American Speech-Language-Hearing Association and/or a current and valid speech-language pathologist license issued by the appropriate Idaho state licensing board. (3-15-22)

h. Interim Certificate - Speech-Language Pathologist Endorsement. This certificate will be issued to 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 certificate will be issued for three (3) years while the applicant is meeting the educational requirements. If the educational requirements cannot be met within the three (3)-year timeframe of the certificate, the employing LEA may request one (1)-time renewal of this interim certificate for the applicant if the applicant holds a valid occupational license or is supervised by a speech-language pathologist with a standard pupil service certificate. (3-15-22)

i. Audiology Endorsement. To be eligible for an audiology endorsement, a candidate must possess a master's degree from an accredited college or university in an audiology program approved by the State Board of Education. The renewal credit requirement may be waived if the applicant holds a current and valid Certificate of Clinical Competence in Audiology offered through the American Speech-Language-Hearing Association and/or a current and valid audiologist license issued by the appropriate Idaho state licensing board. (3-15-22)

j. School Social Worker Endorsement. To be eligible for a school social worker endorsement, a candidate must meet the following requirements: (3-15-22)

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 (3-15-22)

ii. An institutional recommendation from a state board approved program; and (3-15-22)

iii. The successful completion of a school social work practicum in a preschool through grade twelve 12 (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 (3-15-22)

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. (3-15-22)

k. Occupational Therapist Endorsement. To be eligible for an occupational therapist endorsement, a candidate must have a current and valid occupational therapy license issued by the Occupational Therapy Licensure Board of Idaho. The candidate must maintain current and valid occupational therapy licensure for the endorsement to remain valid. (3-15-22)

l. Physical Therapist Endorsement. To be eligible for a physical therapist endorsement a candidate must have a current and valid physical therapy license issued by the Idaho Physical Therapy Licensure Board. The candidate must maintain current and valid physical therapy licensure for the endorsement to remain valid. (3-15-22)

03. Standard Administrator Certificate. Persons who serve 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 are assigned to conduct the summative evaluation of certified staff are 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. (3-15-22)

a. School Principal Endorsement. To be eligible for the School Principal endorsement, a candidate must meet the following requirements: (3-15-22)

i. Hold a master's degree from an accredited college or university. (3-15-22)

ii. Have four (4) years of full-time certificated experience working with students, while under contract in an accredited school setting. (3-15-22)

iii. Complete an administrative internship in a state-approved program, or have one (1) year of experience as an administrator. (3-15-22)

iv. Provide verification of completion of a state-approved program of at least thirty (30) semester 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 demonstration of proficiency in conducting instructional and pupil service staff evaluations based on the statewide framework for evaluation, and competencies in the Idaho Standards for School Principals. (3-15-22)

v. Receive an institutional recommendation for a School Principal endorsement. (3-15-22)

b. Superintendent Endorsement. To be eligible for the Superintendent endorsement, a candidate must meet the following requirements: (3-15-22)

i. Hold an education specialist or doctorate degree or complete a comparable post-master's sixth year program at an accredited college or university. (3-15-22)

ii. Have four (4) years of full-time certificated/licensed experience working with students while under contract in an accredited school setting. (3-15-22)

iii. Complete an administrative internship in a state board approved program for the superintendent endorsement or have one (1) year of out-of-state experience as an assistant superintendent or superintendent. (3-15-22)

iv. Provide verification of completion of an approved program of at least thirty (30) semester 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 must include demonstration of proficiency in conducting instructional and pupil service staff evaluations based on the statewide framework for evaluation, and demonstration

of competencies in the Idaho standards for superintendents and the Idaho Standards for School Principals. (3-15-22)

- v. Receive an institutional recommendation for a Superintendent endorsement. (3-15-22)
- c. Director of Special Education Endorsement. To be eligible for the Director of Special Education endorsement, a candidate must meet the following requirements: (3-15-22)
 - i. Hold a master's degree from an accredited college or university; (3-15-22)
 - ii. Have four (4) years of full-time certificated/licensed experience working with students Pre-K-12, while under contract in a school setting; (3-15-22)
 - iii. Provide verification of a state board approved program of graduate study of school administration for the preparation of directors of special education at an accredited college or university. This program shall include demonstration of proficiency in conducting instructional and pupil service staff evaluations based on the statewide framework for evaluation, and demonstration of competencies in the Idaho Standards for Directors of Special Education and the Idaho Standards for School Principals. Coursework shall include knowledge and competence in understanding the Individuals with Disabilities Education Act, utilizing the Idaho Special Education Manual, special education funding and fiscal accountability, results-driven leadership and accountability in special education, and instructional, behavioral, and management strategies for supporting students in the least restrictive environment. (3-15-22)
 - iv. Have completed an administrative internship in the area of administration of special education; and (3-15-22)
 - v. An institutional recommendation is required for Director of Special Education endorsement. (3-15-22)

04. Career Technical Certification Requirements. 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. (3-15-22)

a. Standard Degree Based Career Technical Certificate. Persons who hold a degree based career technical certificate are eligible to teach in a career technical area, subject to the grade range(s) and subject area(s) of the valid endorsement(s) attached to the certificate. All degree based career technical certificates require candidates to meet the Idaho Core Teaching Standards. The degree based career technical certificate is valid for five years. A degree based career technical certificate may be issued to any person who has a baccalaureate degree from an accredited college or university and meets the following requirements: (3-15-22)

- i. Earned a minimum of twenty (20) semester credit hours in the philosophical, psychological, methodological foundations, instructional technology, and in the professional subject matter of education, which shall include demonstration of competencies as specified in the Idaho Comprehensive Literacy Plan; (3-15-22)
- ii. Earned a minimum of twelve (12) semester credit hours in career technical education foundation coursework to include principles and philosophies of career technical education, evaluation and assessment in career technical education, leadership and career technical student organization leadership, career guidance and transition, occupational analysis and curriculum development, and lab safety; (3-15-22)
- iii. Accumulated one thousand (1,000) clock hours of related industry experience, or practicum as approved by the higher education institution, in the respective field of specialization; (3-15-22)
- iv. Completed a total of at least ten (10) undergraduate semester credit hours or six (6) graduate semester credit hours of student teaching: (3-15-22)
- v. Completed a state board approved educator preparation program and received an institutional recommendation specifying the grade ranges and subjects for which the person is eligible to receive an endorsement;

(3-15-22)

(1) To receive endorsement in two (2) fields of teaching, preparation must consist of at least thirty (30) semester credit hours in one (1) field of teaching and completion of at least twenty (20) semester credit hours in a second field of teaching. (3-15-22)

(2) To receive endorsement in one (1) field of teaching, preparation must consist of completion of at least forty-five (45) semester credit hours in a single subject area. (3-15-22)

vi. Met or exceeded the state qualifying score on the state board-approved content area and pedagogy assessments. (3-15-22)

vii. ~~Six (6) semester credit hours are required every five (5) years to renew.~~ The renewal credits required in Section 060 may be waived if the applicant holds a current, valid certificate from the National Board for Professional Teaching Standards at the time of renewal. Credits must be earned during the validity period of the certificate. ~~(3-15-22)~~ ()

b. Career Technical Education Program Administrator Certificate. The career technical education program administrator certificate is required for an individual serving as an administrator, director, or manager of career technical education programs in Idaho public schools. Individuals must meet one (1) of the two (2) following prerequisites to qualify for the career technical education program administrator certificate. The certificate is valid for five (5) years. ~~Six (6) semester credit hours are required every five (5) years~~ and must meet the renewal requirements pursuant to Section 060 of these rules to renew. ~~(3-15-22)~~ ()

(1). Qualify for or hold an advanced occupational specialist certificate or hold an occupational endorsement on a 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 education discipline; hold a master's degree; and complete at least fifteen (15) semester credits of administrative course work to include required credits in education finance, administration and supervision of personnel, and legal aspects of education. Remaining coursework may be selected from: 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. (3-15-22)

(2) Hold a superintendent or principal endorsement on a standard administrator certificate and provide evidence of either a minimum of four (4) years teaching, three (3) of which must be in a career technical discipline; or successfully completeion the of a Division of Career Technical Education ~~twenty-seven (27) month Idaho~~ career technical education leadership institute; or completion of course work including credits in: principles and foundations of career technical education, career technical student organizations, occupational analysis, curriculum design, one or more externships with career technical education industry advisor partners totaling 100 hours, and ongoing participation in technical advisory committee meetings associated with the school's career technical education programs. ~~(3-15-22)~~ ()

c. Industry-Based Occupational Specialist Certificate. Persons who hold an occupational specialist career technical certificate are eligible to teach in a career technical program pathway(s), subject to the grade range(s) and pathway areas(s) of the valid endorsement(s) attached to the certificate. All occupational specialist career technical certificates require candidates to meet the core teaching standards of the Idaho Standards for Initial Certification of Professional School Personnel. An occupational specialist career technical certificate may be issued to an experienced industry expert entering the teaching profession and meeting the following eligibility requirements: (3-15-22)

i. 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 qualified under any one (1) of the following three (3) options: (3-15-22)

(1) Have three (3) years or six thousand (6,000) hours of recent, gainful employment in the occupation for which certification is requested, at least half of which must have been during the immediate previous five (5) years; or (3-15-22)

(2) Have a baccalaureate degree in the specific occupation or related area, plus one (1) year or two thousand (2,000) hours of recent, gainful employment in the occupation for which certification is requested, at least half of which must have been during the immediate previous five (5) years; or (3-15-22)

(3) 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. (3-15-22)

i. 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: (3-15-22)

(1) 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. (3-15-22)

(2) Pathway II – Cohort Training: Within the first twelve (12) months, the holder must enroll in the Division of Career Technical Education sponsored education pedagogy training and complete all requirements within the three-year validity period of the interim certificate. (3-15-22)

ii. Standard Occupational Specialist Certificate. (3-15-22)

(1) This certificate is issued to individuals who have held a limited occupational specialist certificate and completed one (1) of the pathways for renewable certification. (3-15-22)

(2) The Standard Occupational Specialist Certificate is valid for five (5) years. ~~Six (6) semester credit hours are required every five (5) years~~ and must meet the renewal requirements 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. ~~(3-15-22)~~ ()

iii. Advanced Occupational Specialist Certificate. This certificate is issued to individuals who are eligible for the Standard Occupational Specialist Certificate; and 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. The Advanced Occupational Specialist Certificate is valid for five (5) years. ~~Six (6) semester credit hours are required every five (5) years~~ and must meet the renewal requirements pursuant to Section 060 of these rules to renew. ~~(3-15-22)~~ ()

05. Postsecondary Specialist Certificate. 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. (3-15-22)

a. To renew this certificate, the renewal application must be accompanied with a new written

recommendation from the postsecondary institution (faculty's college dean level or higher). (3-15-22)

b. The candidate must meet the following qualifications: (3-15-22)

i. Hold a baccalaureate degree or higher in the content area being taught; (3-15-22)

ii. Be currently employed by the postsecondary institution in the content area to be taught; and (3-15-22)

iii. Complete and pass a criminal history background check as required by Section 33-130, Idaho Code. (3-15-22)

06. American Indian Tribal Language Certificate. The five (5) federally recognized tribes of Idaho shall provide to the State Department of Education the names of those highly and uniquely qualified individuals who have been designated to teach tribal language(s) in accordance with Section 33-1280, Idaho Code. To be eligible for an American Indian Tribal Languages certificate an applicant designated to teach tribal language(s) shall submit a complete application. If approved the certificate shall be issued for five years and is renewable. (3-15-22)

07. Junior Reserved Officer Training Corps (Junior ROTC) Instructors. (3-15-22)

a. To be eligible for a Junior ROTC Instructor certificate, an applicant shall submit a complete application and provide a copy of their certificate(s) or letter of completion of an armed forces Junior ROTC training program. (3-15-22)

b. If approved the certificate shall be issued for five years and is renewable. (3-15-22)

08. Additional Renewal Requirements. In addition to specific certificate or endorsement renewal requirements, applicants must meet the following renewal requirements as applicable: (3-15-22)

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: (3-15-22)

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. (3-15-22)

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. (3-15-22)

016. IDAHO INTERIM CERTIFICATE.

A three (3) year interim certificate may be issued to applicants who hold a valid certificate or license from another state or other entity that participates in the National Association of State Directors of Teacher Education and Certification (NASDTEC) Interstate Agreement pursuant to Section 33-4104, Idaho Code, or who are engaged in or completed a non-traditional route or alternative authorization to ~~teacher~~ certification as prescribed herein. An interim certificate gives the holder the same rights and responsibilities as an individual with a standard certificate. (3-15-22)()

01. Interim Certificate Not Renewable. Interim certification is only available on a one (1) time basis except under extenuating circumstances approved by the State Department of Education or Division of Career Technical Education. An applicant must meet the requirements of the applicable alternate authorization route or non-traditional route to obtain a standard Idaho Educator Credential during the term of the interim certificate. (3-15-22)

02. Non-Traditional Route to Teacher Certification. An individual may acquire interim certification through a state board approved non-traditional route to teacher certification program. The non-traditional route may be used for first-time certification, subsequent certificates, and additional endorsements. (3-15-22)

a. Individuals who possess a baccalaureate degree or higher from an institution of higher education accredited by an entity recognized by the state board of education may receive an interim instructional certificate. To receive the interim certificate, the individual must: (3-15-22)

i. Complete or enroll in a state board approved program; and (3-15-22)

ii. Pass the state board approved pedagogy and content area assessment. (3-15-22)

b. Standard certification. Upon completion of the non-traditional route the applicant must complete a two (2) year state board approved teacher mentoring program and receive two (2) years of ~~successful~~ Idaho evaluations pursuant to Section 33-1001, Idaho Code with a summative rating of proficient or better. (3-15-22)()

03. Idaho Comprehensive Literacy Course. All Idaho teachers working on an interim certificate (alternate authorizations, nontraditional routes, reinstatement, or coming from out of state), must complete a state board approved Idaho Comprehensive Literacy course or assessment as a one-time requirement for standard instructional certificate. (3-15-22)

04. Teaching For Mathematical Thinking. All Idaho teachers or administrators ~~working on~~ with an interim certificate (alternate authorizations, nontraditional routes, reinstatements or coming from out of state), with an All Subjects (K-8) endorsement, any mathematics endorsement, Exceptional Child Education endorsement, Blended Early Childhood/Early Childhood Special Education endorsement, or Administrator certificate must complete the state board approved Teaching for Mathematical Thinking, course, as a one-time requirement for full certification. (3-15-22)()

05. Reinstatement of Expired Certificate. An individual holding an expired Idaho certificate may be issued an interim certificate. During the validity period of the interim certificate, the applicant must meet the following requirements to obtain standard certification during the term of the interim certificate: (3-15-22)

a. Two (2) years of ~~successful~~ Idaho evaluations as per Section 33-1001, Idaho Code, as applicable to the type of certification, with a summative rating of proficient or better; (3-15-22)()

b. Measured annual progress on specific goals identified on the applicant's Individualized Professional Learning Plan; (3-15-22)

c. Completion of six (6) credit renewal requirement; and (3-15-22)()

d. Completion of the Idaho Comprehensive Literacy Course or Teaching for Mathematical Thinking as provided herein. (3-15-22)

e. Individuals holding an expired certificate that was in good standing at the time the certificate expired, may have the certificate reinstated within one (1) year of the time the certificate expired by completing any outstanding professional development requirements that were pending at the time the certificate expired. ()

06. Codes of Ethics. All laws and rules governing standard certificated staff with respect to conduct, discipline, and professional standards shall apply to all certified staff serving in an Idaho public school, including those employed under an interim certificate. (3-15-22)

(BREAK IN CONTINUITY OF SECTIONS)

021. ENDORSEMENTS.

Holders of an Instructional Certificate or Occupational Specialist Certificate must have one (1) or more endorsements attached to their certificate ~~and~~ as applicable to the type of certification. Instructional staff are eligible to teach in the grades and content areas of their endorsements. Idaho educator preparation programs shall prepare candidates for endorsements in accordance with these certification requirements and the Idaho Standards for Initial Certification of Professional School Personnel approved by the board. An official statement from the college of education of competency in a content area or field is acceptable in lieu of required credits if such statements are created in consultation with the department or division of the accredited college or university in which the competency is established and are approved by the director of teacher education of the recommending college or university. Statements must include the number of credits the competency evaluation is equivalent to. To add an endorsement to ~~an existing~~ certificate, an individual shall must complete the credit hour requirements as established by the state board of education and meet or exceed the state qualifying score on a state board approved content, pedagogy ~~and or~~ performance assessments. (3-15-22)()

01. Clinical Experience Requirement. All standard endorsements require supervised clinical experience in the relevant content area, or a State Department of Education or Division of Career Technical Education approved alternative clinical experience as applicable to the area of endorsement. (3-15-22)()

02. Alternative Authorization - Teacher to New Endorsement. This alternative authorization allows a local education agency to request additional endorsement for a candidate. This authorization is valid for one (1) year and may be renewed for two (2) additional years with evidence of satisfactory progress. ~~The candidate shall provide evidence of pursuing on~~ one (1) of the following options: (3-15-22)()

a. Option I -- An official statement of competency in a teaching area or field from the college of education of an accredited college or university is acceptable in lieu of courses if the statement is created in consultation with the department or division in which the competency is established and is approved by the director of teacher education of the recommending college or university. (3-15-22)

b. Option II -- Master's degree or higher. By earning a graduate degree in a content specific area, candidates may add an endorsement in that same content area to a valid instructional certificate. Successful completion of a one (1) year, state board approved mentoring program ~~is required to maintain the endorsement after the first year~~ must be completed during the first year to maintain the endorsement. (3-15-22)()

c. Option III -- Content area assessment and mentoring. A candidate may add an endorsement by successfully completing a state board-approved content areas assessment and a one-year, state board-approved mentoring program within the first year of authorization. (3-15-22)

d. For all candidates moving to an initial certification in a career technical education endorsement area, the candidate will be required to complete or have completed coursework in principles and foundations of career technical education and career technical student organizations, training in occupational analysis and curriculum design, and a minimum of two hundred (200) internship/externship hours in the career technical education endorsement area. ()

03. National Board Certification. An applicant holding an instructional certificate and current national board certification may add an endorsement in a corresponding content-specific area. (3-15-22)

022. -- 027. (RESERVED)

028. PROFESSIONAL ENDORSEMENTS.

The professional endorsement is required for movement onto and across the professional compensation rung of the career ladder and the advanced professional endorsement is required for movement onto and across the advanced professional rung of the career ladder. 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. (3-15-22)()

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. (3-15-22)

02. 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. (3-15-22)

03. 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. (3-15-22)

029. -- 041. (RESERVED)

042. ALTERNATIVE AUTHORIZATION.

Alternative authorization allows a local education agency *with an area of need* to request certification for a candidate. This authorization grants an interim certificate that allows individuals to serve as the teacher of record while pursuing standard certification. Evidence of satisfactory progress toward standard certification must be provided each year. Individuals who hold a current instructional certificate may obtain additional endorsements through an alternative authorization ~~—teacher to new endorsement~~ as prescribed in Subsection 021 of these rules. (3-15-22)()

01. Alternative Authorization -- Teacher ~~To~~ New Certification. This alternative authorization allows a local education agency to request additional certification for a candidate who already holds a current ~~and valid~~ Idaho certificate in good standing to add an additional type of certificate in a new certification area. (3-15-22)()

a. Prior to application, the candidate must hold a baccalaureate degree or higher and a current and valid Idaho certificate. The local education agency must attest to the candidate's ability to fill the position. (3-15-22)

b. The candidate must participate in a state board- approved educator preparation program. (3-15-22)

i. The candidate will work toward completion of a state board-approved educator preparation program. The candidate must complete a minimum of nine (9) semester credits annually to maintain continued eligibility for ~~renewal~~ the interim certificate; and (3-15-22)()

ii. The participating educator preparation program shall provide procedures to assess and credit equivalent knowledge, dispositions, and relevant life/work experiences toward program completion requirements. (3-15-22)()

02. Alternative Authorization -- Content Specialist. This alternative authorization allows a local education agency to request an ~~instructional~~ interim certificate for an individual who possesses distinct content knowledge and skills to teach in a content area. (3-15-22)()

a. Initial Qualifications. (3-15-22)

i. A candidate must hold a baccalaureate degree or have completed all of the requirements of a baccalaureate degree except the student teaching portion; and (3-15-22)

ii. Prior to entering the classroom, the local education agency shall ensure the candidate is qualified to teach in the content area. The candidate shall meet or exceed the state qualifying score on the appropriate state board-approved content or pedagogy assessment, including demonstration of content knowledge through a combination of employment, experience, and education. (3-15-22)

b. State Board Approved Educator Preparation Program. (3-15-22)

i. Prior to authorization, a consortium comprised of a state board-approved educator preparation program representative, a local education agency representative, and the candidate shall determine the preparation needed and develop a plan to meet the Idaho Standards for Initial Certification of Professional School Personnel. The educator preparation program shall provide procedures to assess and credit: equivalent knowledge, dispositions, and relevant life or work experiences. The plan must include a state board-approved mentoring program. While teaching under the alternative authorization, the mentor shall provide a minimum of one (1) classroom observation per month, which will include feedback and reflection. The plan must include annual progress goals that must be met for ~~annual renewal~~ continued eligibility; (3-15-22)()

ii. The candidate must complete a minimum of nine (9) semester credit hours or its equivalent of accelerated study in education pedagogy prior to the end of the first year of authorization. The number of required credits will be specified in the consortium developed plan; and (3-15-22)

iii. At the time of authorization the candidate must enroll in and work toward completion of the plan. The candidate must complete a minimum of nine (9) semester credits or equivalent annually to maintain eligibility for ~~renewal the interim certificate~~. The candidate must complete the plan to ~~receive a certificate of completion~~ move to a standard instructional certificate. (3-15-22)()

c. Career Technical Education Industry-based Route Plan. Local education agencies with candidates seeking a limited occupational specialist certification may request approval, with an approved division of career technical education alternative authorization route plan, to meet the program of study requirements. ()

03. Alternative Authorization - Pupil Service Staff. This alternative authorization allows a local education agency to request interim certification and endorsement for a candidate when a position requiring the Pupil Service Staff Certificate cannot be filled. (3-15-22)()

a. Initial Qualifications. The applicant must complete the following: (3-15-22)

i. Prior to application, a candidate must hold a baccalaureate degree or higher; and (3-15-22)

ii. The local education agency must attest to the ability of the candidate to fill the position. (3-15-22)

b. Educator Preparation Program. (3-15-22)

i. At the time of authorization the candidate must enroll in and work toward completion of a state board approved educator preparation program through a participating college ~~or~~ or university and the local education agency. The educator preparation program must include annual progress goals. (3-15-22)()

ii. The candidate must complete a minimum of nine (9) semester credits or equivalent annually to maintain eligibility for ~~renewal~~ the interim certificate. (3-15-22)()

iii. The participating educator preparation program will provide procedures to assess and credit equivalent knowledge, dispositions, and relevant life/work experiences. (3-15-22)

iv. The candidate must meet all requirements for the endorsement/certificate as provided herein. (3-15-22)

~~04. Alternative Authorization Renewal. Annual continuation will be based on the school year and satisfactory progress toward completion of the applicable alternate authorization requirements.~~ (3-15-22)

(BREAK IN CONTINUITY OF SECTIONS)

077. DEFINITIONS FOR USE WITH THE CODE OF ETHICS FOR IDAHO PROFESSIONAL EDUCATORS (SECTIONS 33-1208 AND 33-1209, IDAHO CODE).

01. Administrative Complaint. A document outlining the specific, purported violations of Section 33-1208, Idaho Code, or the Code of Ethics for Idaho Professional Educators. (3-15-22)

~~02. Allegation.~~ *A purported violation of the Code of Ethics for Idaho Professional Educators or Idaho Code.* (3-15-22)

~~03. Certificate Denial.~~ *The refusal of the state to grant a certificate.* (3-15-22)

~~04. Certificate Suspension.~~ *A time-certain invalidation of any Idaho certificate.* (3-15-22)

~~05. Conditioned Certificate.~~ *Stated Certificate conditions as determined by the Professional Standards Commission (Section 33-1209(02), Idaho Code).* (3-15-22)

~~06.2. Educator.~~ A person who held, holds, or applies for an Idaho Certificate (Section 33-1201, Idaho Code). (3-15-22)

~~07.3. Education Official.~~ An individual identified by local school board policy, including, but not limited to, a superintendent, principal, assistant principal, or school resource officer (SRO). (3-15-22)

08.4. Executive Committee. A decision-making body comprised of members of the Professional Standards Commission, including the chair and/or vice-chair of the Commission. A prime duty of the Committee is to review alleged violations of the Code of Ethics for Idaho Professional Educators to determine probable cause and recommend possible disciplinary action. (3-15-22)

~~09.5. Hearing.~~ A formal review proceeding that ensures the respondent due process. The request for a hearing is initiated by the respondent and is conducted by a panel of peers. (3-15-22)

~~10.6. Hearing Panel.~~ A minimum of three (3) educators appointed by the chair of the Professional Standards Commission and charged with the responsibility to make a final determination regarding the charges specifically defined in the Administrative Complaint. (3-15-22)

~~11.7. Investigation.~~ The process of gathering factual information concerning a valid, written complaint in preparation for review by the Professional Standards Commission Executive Committee, or following review by the Executive Committee at the request of the deputy attorney general assigned to the Professional Standards Commission. (3-15-22)

~~12.8. No Probable Cause.~~ A determination by the Executive Committee that there is not sufficient evidence to take action against an educator's certificate. (3-15-22)

~~13.9. Principles.~~ Guiding behaviors that reflect what is expected of professional educators in the state of Idaho while performing duties as educators in both the private and public sectors. (3-15-22)

14. Probable Cause. A determination by the Executive Committee that sufficient evidence exists to issue an administrative complaint. (3-15-22)

~~15. Reprimand.~~ *A written letter admonishing the Certificate holder for their conduct.* (3-15-22)

16.1. Respondent. The legal term for the professional educator who is under investigation for a purported violation of the Code of Ethics for Idaho Professional Educators. (3-15-22)

~~172.~~ **Revocation.** The invalidation of any Certificate held by the educator. (3-15-22)

~~183.~~ **Stipulated Agreement.** A written agreement between the respondent and the Professional Standards Commission to resolve matters arising from an allegation of unethical conduct following a complaint or an investigation. The stipulated agreement is binding to both parties and is enforceable under its own terms. (3-15-22)

078. -- 099. (RESERVED)

100. OFFICIAL VEHICLE FOR APPROVING EDUCATOR PREPARATION PROGRAMS.

01. The Official Vehicle for the Approval of Traditional Educator Preparation Programs. Traditional educator preparation programs will be accredited by an accrediting body that approves educator preparation programs and is recognized by the state board of education and meets the board approved Idaho Standards for the Initial Certification of Professional School Personnel. The Idaho Standards for the Initial Certification of Professional School Personnel will be posted on the state board of education and state department of education websites. All standards will include an implementation date. ~~(3-15-22)~~()

02. Non-Traditional Educator Preparation Program. To be considered for approval each non-traditional educator preparation program must include the following components: (3-15-22)

a. Assessment of pedagogy and content knowledge; and (3-15-22)

b. Alignment to the Idaho Standards for the Initial Certification of Professional School Personnel. (3-15-22)

~~03. Reference Availability. The Idaho Standards for the Initial Certification of Professional School Personnel, are available for inspection on the Office of the State Board of Education's website at www.boardofed.idaho.gov. (3-15-22)~~

~~043.~~ **Continuing Approval.** Approved educator preparation programs will be reviewed for continued approval on a timeline and in a format established by the state board of education. Program reviews will take into consideration the instructional methodology used by the approved program. (3-15-22)

~~054.~~ **Payment Responsibilities for Educator Preparation Program Reviews.** The Professional Standards Commission is responsible for Idaho educator preparation program reviews, including assigning responsibility for paying for program reviews. To implement the reviews, it is necessary that: (3-15-22)

a. The Professional Standards Commission pay for all state review team expenses for on-site teacher preparation reviews from its budget. (3-15-22)

b. Requesting institutions pay for all other expenses related to on-site educator preparation program reviews, including all standards review. (3-15-22)

101. -- 109. (RESERVED)

110. PERSONNEL STANDARDS.

The State Board of Education supports the efforts made by the Idaho Legislature to lower class size. ~~Significant progress has been made in grades one through three (1-3). The State Board of Education believes that class sizes in grades four through six (4-6) are too high.~~ Districts are encouraged to lower all class sizes as funds become available. Each district will develop personnel policies and procedures to implement the educational program of the district. The policies and procedures will address representation in each of the following personnel areas, as appropriate to student enrollment and the needs of each attendance area. Districts should strive to achieve ratios consistent with the following state class size ratio goals.

INSTRUCTIONAL PERSONNEL

TEACHERS	STATE GOALS
Kindergarten	20
Grades 1, 2, 3	20
Grades 4, 5, 6	26
Middle School/Jr. High	160 teacher load
High School	160 teacher load
Alternative School (7-12)	18 average daily class load

Schools are encouraged to explore technological options that provide for credible alternative delivery systems. Present and emerging information transmission technology may provide for greater teacher/pupil class size ratios.

PUPIL PERSONNEL	
(Certificated School Counselors, Social Workers, Psychologists)	400 <u>250</u> :1 * student/district average
Secondary Media Generalist and Assistants	500:1 * student/district average
Elementary Media Generalist or Assistants	500:1 * student/district average
Building Administrative Personnel	Not to exceed 500:1 * district average

* The stated pupil to personnel ratio is the goal; each school district will assign personnel as appropriate to student enrollment and the needs of each attendance area.

Classroom Assistants - State Goal: will be provided where the student/teacher ratio is deemed excessive by the district or where other student special needs exist (e.g., limited English proficiency or special education).

Classified Personnel - State Goal: will be employed in each building to support the needs of the staff, students, and community. ~~(3-15-22)~~()

(BREAK IN CONTINUITY OF SECTIONS)

220. RELEASE TIME PROGRAM FOR ELEMENTARY AND SECONDARY SCHOOLS.

~~In the view of the State Board of Education, p~~Public elementary and secondary school programs that permit the practice of releasing students from school for the purpose of attending classes in religious education or for other purposes ~~should observe certain practices that are in keeping with the present state of the law. These practices are designed to ensure that the public school operation is not adversely affected and that public funds and property are not used for sectarian religious instruction in a way which violates the United States Constitution, the Idaho State Constitution, or state law. These practices should~~ **must develop policies that** include the following: ~~(3-15-22)~~()

01. Scheduling. The local school board will have reasonable discretion over the scheduling and timing of the release program. Release time programs may not interfere with the scheduling of classes, activities and programs of the public schools. (3-15-22)

02. Voluntary Decision. The decision of a school district to permit release time programs for kindergarten through grade eight (K-8), as well as the decision of individual students to participate, must be purely voluntary. (3-15-22)

03. Time Limit. Release time will be scheduled upon the application of a parent or guardian of a

student in grades nine through twelve (9-12), not to exceed five (5) periods per week or one hundred sixty-five (165) hours during any one (1) academic school year. Students with a graduation plan that allows the student to meet the minimum state graduation requirements and graduate within four (4) years may be granted additional release time at the discretion of the local education agency. (3-15-22)()

04. Location. Release time programs will be conducted away from public school buildings and public school property. (3-15-22)

05. Request by Parent. No student will be permitted to leave the school grounds during the school day to attend release time programs except upon written request from a parent or guardian filed with the school principal. Such written request by the parent will become a part of the student's permanent record. (3-15-22)

06. Record Maintenance. The public school will not be responsible for maintaining attendance records for a student who, upon written request of a parent or guardian, is given permission to leave the school grounds to attend a release time program. The school district will maintain a record of each student's daily schedule that indicates when a student is released for classes in religious education or for other purposes. (3-15-22)

07. Liability. The school district is responsible for ensuring that no public school property, public funds or other public resources are used in any way to operate these programs. The school district is not liable for any injury, act or event occurring while the student participates in such programs. (3-15-22)

08. Course Credit. No credit will be awarded by the school or district for satisfactory completion by a student of a course or courses in release time for religious instruction. Credit may be granted for other purposes, at the discretion of the local school board. (3-15-22)

09. Separation From Public Schools. Public schools will not include schedules of classes for release time programs in school catalogs, registration forms or any other regularly printed public school material. Registration for release time programs must occur off school premises, and must be done on forms and supplies furnished by the group or institution offering the program. Teachers of release time programs are not to be considered members of any public school faculty and should not be asked to participate as faculty members in any school functions or to assume responsibilities for operation of any part of the public school program. (3-15-22)

10. Transportation Liability. Public schools and school districts will not be liable or responsible for the health, safety and welfare of students while they are being transported to and from or participating in release time programs. (3-15-22)

IDAPA 08 – STATE BOARD OF EDUCATION

08.02.03 – RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-2201

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo and Incorporation By Reference Synopsis \(IBRS\)](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 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 Sections 33-105, 33-116, 33-118, and 33-1612, Idaho Code.

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

In accordance with [Executive Order 2020-01](#), this rulemaking is a result of a review of the chapter and evaluation of how it could be improved, simplified, and streamlined. Any provisions duplicative of statutory language have been removed. Additional proposed amendments remove the incorporated by reference assessment standards (cut scores) while retaining the requirement that they be set by the Board; adds computational thinking to the instructional requirements area for elementary and middle schools; update the graduation requirements to create more focus on financial literacy; updates the state and federal accountability framework to include chronic absenteeism as the school quality measure; restructures the accountability section; moves the parent and student survey to the general accountability section; provides additional clarification regarding student safety policies aligned with Idaho statute; and makes technical edits identified as part of the negotiated rulemaking process. Additional amendments update references to the English language arts, mathematics, and science content standards from the incorporated by section and replace it with a reference to the new statutory language for these standards; and update the physical education and health and social studies content standards incorporated by reference.

Amendments between the proposed and pending rules stages include a technical correction to fix language in “Achievement Standards” and “Advanced Opportunities” definitions. Removal of the computer science graduation requirement for students entering grade 9 in the fall of 2025 and expand the student health policies section. Amendments between the proposed and pending rules stages were made based on the public comments received.

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 5, 2022, Idaho Administrative Bulletin, [Vol. 22-10, pages 76-93](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Nicholas Wagner at nick.wagner@osbe.idaho.gov or (208) 488-7886.

DATED this 16th day of November 2022.

Nicholas Wagner
Administrative Rules Coordinator
Idaho State Board of Education
650 W State St. PO Box 83720
Boise, Idaho and 83720-0037
Phone: (208)488-7586
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 33-105, 33-116, 33-118, and 33-1612, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking: In accordance with [Executive Order 2020-01](#), this rulemaking is a result of a review of the chapter and evaluation of how it could be improved, simplified, and streamlined. Any provisions duplicative of statutory language have been removed. Additional proposed amendments remove the incorporated by reference assessment standards (cut scores) while retaining the requirement that they be set by the Board; adds computational thinking to the instructional requirements area for elementary and middle schools; update the graduation requirements to create more focus on financial literacy; adds a computer science graduation requirement for students entering grade 9 in the fall of 2025; updates the state and federal accountability framework to include chronic absenteeism as the school quality measure; restructures the accountability section; moves the parent and student survey to the general accountability section; provides additional clarification regarding student safety policies aligned with Idaho statute; and makes technical edits identified as part of the negotiated rulemaking process. Additional amendments update references to the English language arts, mathematics, and science content standards from the incorporated by section and replace it with a reference to the new statutory language for these standards; and update the physical education and health and social studies content standards incorporated by reference.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2022 Idaho Administrative Bulletin, [Volume 22-7, page 90](#).

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: IDAPA 08.02.03 includes the minimum content standards for the core subject areas, and college and career competencies each public school student must learn, minimum instructional standards for student who are deaf or heard of hearing; blind or visually impaired, and the state special education manual. These minimum standards are technical documents written for the benefit our educational professionals and do not lend themselves to the required formatting of administrative rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tracie Bent at (208)332-1582 or tracie.bent@osbe.idaho.gov. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this 2nd day of September, 2022.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0203-2201

Italicized red text that is *double underscored* indicates amendments to the proposed text as adopted in the pending rule.

004. INCORPORATION BY REFERENCE.

The following documents are incorporated into this rule: (3-15-22)

01. The Idaho Content Standards. The Idaho Content Standards as adopted by the State Board of Education. Individual subject content standards are adopted in various years in relation to the curricular materials adoption schedule. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-15-22)

- a. Arts and Humanities Categories: (3-15-22)
 - i. Dance, as revised and adopted on August 11, 2016; (3-15-22)
 - ii. Interdisciplinary Humanities, as revised and adopted on August 11, 2016; (3-15-22)
 - iii. Media Arts, as adopted on August 11, 2016. (3-15-22)
 - iv. Music, as revised and adopted on August 11, 2016; (3-15-22)
 - v. Theater, as revised and adopted on August 11, 2016; (3-15-22)
 - vi. Visual Arts, as revised and adopted on August 11, 2016; (3-15-22)
 - vii. World languages, as revised and adopted on August 11, 2016. (3-15-22)
- b. Computer Science, adopted on November 28, 2016. (3-15-22)
- c. Driver Education, as revised and adopted on August 10, 2017. (3-15-22)
- d. Health, as revised and adopted on August ~~11, 2016~~ 24, 2022. (~~3-15-22~~)()
- e. Information and Communication Technology, as revised and adopted on August 10, 2017. (3-15-22)
- ~~f. Limited English Proficiency, as revised and adopted on August 21, 2008. (~~3-15-22~~)()~~
- ~~g. Physical Education, as revised and adopted on August 11, 2016~~ 24, 2022. (~~3-15-22~~)()

- ~~hg.~~ Social Studies, as revised and adopted on November 28, 2016. (3-15-22)
- ~~ih.~~ College and Career Readiness Competencies adopted on June 15, 2017. (3-15-22)
- ~~02.~~ ~~*The English Language Development (ELD) Standards. The WIDA 2020 English Language Development (ELD) Standards statements as adopted by the State Board of Education on August 26, 2021. Copies of the document can be found at <https://wida.wisc.edu>.*~~ (3-15-22)
- ~~03.~~ ~~*The Idaho English Language Proficiency Assessment (ELPA) Achievement Standards. The Idaho English Language Proficiency Assessment (ELPA) Achievement Standards as adopted by the State Board of Education on October 18, 2017. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>.*~~ (3-15-22)
- ~~04.~~ ~~*The Idaho Standards Achievement Tests (ISAT) Achievement Level Descriptors. Achievement Level Descriptors as adopted by the State Board of Education on April 14, 2016. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>.*~~ (3-15-22)
- ~~05.~~ ~~*The Idaho Content Standards Core Content Connectors. The Idaho Content Standards Core Content Connectors as adopted by the State Board of Education. Copies of the document can be found at the State Board of Education website at <https://boardofed.idaho.gov>.*~~ (3-15-22)
- ~~a.~~ ~~*English Language Arts, as adopted by the State Board of Education on August 10, 2017. (3-15-22)*~~
- ~~b.~~ ~~*Mathematics, as adopted by the State Board of Education on August 10, 2017. (3-15-22)*~~
- ~~e.~~ ~~*Science, as adopted by the State Board of Education on June 19, 2019. (3-15-22)*~~
- ~~06.~~ ~~*The Idaho Alternate Assessment Achievement Standards. Alternate Assessment Achievement Standards as adopted by the State Board of Education on October 18, 2017. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>.*~~ (3-15-22)
- 072.** **The Idaho Standards for Infants, Toddlers, Children, and Youth Who Are Deaf or Hard of Hearing.** As adopted by the State Board of Education on October 11, 2007. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-15-22)
- 083.** **The Idaho Standards for Infants, Toddlers, Children, and Youth Who Are Blind or Visually Impaired.** As adopted by the State Board of Education on October 11, 2007. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-15-22)
- 094.** **The Idaho Special Education Manual.** The Idaho Special Education Manual as adopted by the State Board of Education on October 17, 2018. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-15-22)

005. -- 006. (RESERVED)

007. DEFINITIONS.

01. Achievement Standards. Define “below basic,” “basic,” “proficient,” and “advanced” achievement levels on the Idaho Standards Achievement Tests (ISAT) and level one (1) through level six (6) on Idaho’s English language assessment by setting scale score cut points. These cut scores are set by the state board of education and paired with descriptions of how well students are mastering the material in the content standards. These descriptions are called performance achievement level descriptors or PLDs, and are provided by performance achievement level, by content area, and by grade. (3-15-22)()

02. Advanced Opportunities. Advanced Placement courses, Dual Credit courses, Technical Competency Credit, or International Baccalaureate programs. (3-15-22)()

- 03. Advanced Placement® (AP) - College Board.** The Advanced Placement Program is administered by the College Board at <http://www.collegeboard.com>. AP students may take one (1) or more college level courses in a variety of subjects. AP courses are not tied to a specific college curriculum, but rather follow national College Board curricula. While taking the AP exam is optional, students can earn college credit by scoring well on the national exams. It is up to the discretion of the receiving college to accept the scores from the AP exams to award college credit or advanced standing. (3-15-22)
- 04. All Students.** All public school students, grades K-12. (3-15-22)
- 05. Assessment.** The process of quantifying, describing, or gathering information about skills, knowledge or performance. (3-15-22)
- 06. Assessment Standards.** Statements setting forth guidelines for evaluating student work, as in the “Standards for the Assessment of Reading and Writing.” (3-15-22)
- 07. Career Pathway Plan.** The plan that outlines a student’s program of study, which should include a rigorous academic core and a related sequence of electives in academic, career technical education (CTE), or humanities aligned with the student’s post-graduation goals. (3-15-22)
- 08. Career Technical Education.** Formal preparation for semi-skilled, skilled, technical, or paraprofessional occupations, usually below the baccalaureate level. (3-15-22)
- 09. College and Career Readiness.** College and career readiness is the attainment and demonstration of state board adopted competencies that broadly prepare high school graduates for a successful transition into some form of postsecondary education and/or the workplace. (3-15-22)
- 10. Content Standards.** Describe the knowledge, concepts, and skills that students are expected to acquire at each grade level in each content area. (3-15-22)
- 11. Criteria.** Guidelines, rules or principles by which student responses, products, or performances, are judged. What is valued and expected in the student performance, when written down and used in assessment, become rubrics or scoring guides. (3-15-22)
- 12. Diploma.** A document awarded to a student by a secondary school to show the student has successfully completed the state and local education agency graduation requirements. Diplomas may be awarded to individuals who attended a secondary school prior to the year in which the student is requesting issuance of a diploma based on the graduation requirements in existence at the time the student attended. Determination of meeting past graduation requirements may be determined based on proficiency as determined by the local education agency. Each local education agency may determine the format of the diploma, including the recognition of emphasis areas based on a student’s completion of courses or courses or studies in an emphasis area or educational pathways, including but not limited to science, technology, engineering and math (STEM), career technical education, or arts and music. (3-15-22)
- 13. Dual Credit.** Dual credit allows high school students to simultaneously earn credit toward a high school diploma and a postsecondary degree or certificate. Postsecondary institutions work closely with high schools to deliver college courses that are identical to those offered on the college campus. Credits earned in a dual credit class become part of the student’s permanent college record. Students may enroll in dual credit programs taught at the high school or on the college campus. (3-15-22)
- 14. Idaho Standards Achievement Tests.** Statewide assessments aligned to the state content standards and used to measure a student’s knowledge of the applicable content standards. (3-15-22)
- 15. International Baccalaureate (IB).** Administered by the International Baccalaureate Organization, the IB program provides a comprehensive liberal arts course of study for students in their junior and senior years of high school. IB students take end-of-course exams that may qualify for college credit. Successful completion of the full course of study leads to an IB diploma. (3-15-22)

16. Laboratory. A laboratory course is defined as one in which at least one (1) class period each week is devoted to providing students with the opportunity to manipulate equipment, materials, specimens or develop skills in observation and analysis and discover, demonstrate, illustrate or test scientific principles or concepts. (3-15-22)

17. Portfolio. A collection of materials that documents and demonstrates a student’s academic and work-based learning. A portfolio typically includes many forms of information that exhibit the student’s knowledge, skills, and interests. By building a portfolio, students can recognize their own growth and learn to take increased responsibility for their education. Teachers, mentors, and employers can use portfolios for assessment purposes and to record educational outcomes. (3-15-22)

18. Project Based Learning. A hands-on approach to learning that encourages students to create/interpret/communicate an original work or project and assesses quality and success of learning through performance/presentation/production of that work or project. (3-15-22)

19. Proficiency. Having or demonstrating a high degree of knowledge or skill in a particular area. (3-15-22)

20. Standards. Statements about what is valued in a given field, such as English language arts, and/or descriptions of what is considered quality work. See content standards, assessment standards, and achievement standards. (3-15-22)

21. Technical Competency Credit. Technical competency credit is a sequenced program of study that allows secondary students to document proficiency in the skills and abilities they develop in approved high school career technical programs to be evaluated for postsecondary transcription at a later date. Technical Competency Credits are awarded for skills and competencies identified as eligible through an agreement with at least one Idaho postsecondary institution. Eligible skills and competencies are included as part of a high school career technical program and approved by the postsecondary institution through the agreement in advance to student participation. Credits are granted by the postsecondary institution for which the agreement is with and are transcribed at the time the student enrolls at the postsecondary institution. (3-15-22)

22. Technology Education. A curriculum for elementary, middle, and senior high schools that integrates learning about technology (e.g., transportation, materials, communication, manufacturing, power and energy, and biotechnology) with problem-solving projects that require students to work in teams. Many technology education classrooms and laboratories are well equipped with computers, basic hand tools, simple robots, electronic devices, and other resources found in most communities today. (3-15-22)

23. Unique Student Identifier. A number issued and assigned by the Board or designee to each student currently enrolled or who will be enrolled in an Idaho local education agency to obtain data. (3-15-22)

(BREAK IN CONTINUITY OF SECTIONS)

104. OTHER REQUIRED INSTRUCTION. Other required instruction for all students and other required offerings of the school are: (3-15-22)

01. Elementary Schools. (3-15-22)

a. The following section outlines other information required for all elementary students, as well as other required offerings of the school:

- Fine Arts (art and music)
- Health (wellness)
- Physical Education (fitness)
- Computational thinking and digital literacy (3-15-22)()

- b.** Additional instructional options as determined by the local school district. For example:

Languages other than English
Career Awareness (3-15-22)

02. Middle Schools/Junior High Schools. (3-15-22)

a. No later than the end of Grade eight (8) each student shall develop parent-approved student career pathway plans for their high school and post-high school options. The career pathway plan shall be developed by students with the assistance of parents or guardians, and with advice and recommendation from school personnel. It shall be reviewed annually and may be revised at any time. The purpose of a parent-approved student career pathway plan is to outline a course of study and learning activities for students to become contributing members of society. A student career pathway plan describes, at a minimum, the list of courses and learning activities in which the student will engage while working toward meeting the state and school district's or LEA's graduation standards in preparation for postsecondary goals. The school district or LEA will have met its obligation for parental involvement if it makes a good faith effort to notify the parent or guardian of the responsibility for the development and approval of the career pathway plan. A career pathway plan will not be required if the parent or guardian requests, in writing, that no career pathway plan be developed. (3-15-22)

b. A student must have met the grade eight (8) mathematics standards before the student will be permitted to enter grade nine (9). (3-15-22)

- c.** Other required instruction for all middle school students:

Career exploration
Health (wellness)
Physical Education (fitness)
Computational thinking and digital literacy (~~3-15-22~~)()

- d.** Other required offerings of the school:

Fine and Performing Arts
Career Technical Education
Advisory Period (middle school only, encouraged in junior high school) (3-15-22)

03. High Schools. (3-15-22)

a. High schools must offer a wide variety of courses to satisfy state and local graduation requirements. High schools are required to provide instructional offerings in Physical Education (fitness) and Career Technical Education and the instruction necessary to assure students are college and career ready at the time of graduation. (3-15-22)

b. High schools will annually review and update with the student the student career pathway plans specified in Subsection 104.02.a. (3-15-22)

105. HIGH SCHOOL GRADUATION REQUIREMENTS.

A student must meet all of the requirements identified in this section before the student will be eligible to graduate from an Idaho high school. The local school district or LEA may establish graduation requirements beyond the state minimum. (3-15-22)

01. Credit Requirements. The State minimum graduation requirement for all Idaho public high schools is forty-six (46) credits and must include twenty-nine (29) credits in core subjects as identified in Paragraphs 105.01.c. through 105.01.h. (3-15-22)

a. Credits. One (1) credit shall equal sixty (60) hours of total instruction. School districts or LEA's may request a waiver from this provision by submitting a letter to the State Department of Education for approval, signed by the superintendent and chair of the board of trustees of the district or LEA. The waiver request shall

provide information and documentation that substantiates the school district or LEA's reason for not requiring sixty (60) hours of total instruction per credit. (3-15-22)

b. Mastery. Notwithstanding the credit definition of Subsection 105.01.a., a student may also achieve credits by demonstrating mastery of a subject's content standards as defined and approved by the local education agency (LEA.) (3-15-22)

c. Secondary Language Arts and Communication. Nine (9) credits are required. Eight (8) credits of instruction in Language Arts. Each year of Language Arts shall consist of language study, composition, and literature and be aligned to the Idaho Content Standards for the appropriate grade level. One (1) credit of instruction in communications consisting of oral communication and technological applications that includes a course in speech, a course in debate, or a sequence of instructional activities that meet the Idaho Speech Content Standards requirements. (3-15-22)

d. Mathematics. Six (6) credits are required. Secondary mathematics includes Integrated Mathematics, Applied Mathematics, Business Mathematics, Algebra, Geometry, Trigonometry, Fundamentals of Calculus, Probability and Statistics, Discrete Mathematics, and courses in mathematical problem solving and quantitative reasoning including mathematics taken through career technical education programs. Dual credit engineering courses and computer science courses aligned to the state standards for grades nine (9) through (12), including AP Computer Science and dual credit computer Science courses may also be counted as a mathematics credit. Students who choose to take computer science and dual credit engineering courses may not concurrently count such courses as both a mathematics and science credit for the same course. ~~(3-15-22)~~ ()

i. Students must complete secondary mathematics in the following areas: (3-15-22)

(1) Two (2) credits of Algebra I, Algebra I level equivalent Integrated Mathematics or courses that meet the High School Algebra Content Standards; (3-15-22)

(2) Two (2) credits of Geometry, Geometry level equivalent Integrated Mathematics, or courses that meet the Idaho High School Geometry Content Standards; and (3-15-22)

(3) Two (2) credits of mathematics of the student's choice. (3-15-22)

e. Science. Six (6) credits are required, two (2) of which will be laboratory based. Secondary sciences include instruction in applied sciences, earth and space sciences, physical sciences, life sciences, and computer science. (3-15-22)

i. Secondary sciences include instruction in the following areas: biology, computer science, physical science or chemistry, and earth, space, environment, or approved applied science. (3-15-22)

f. Social Studies. Five (5) credits are required, including government (two (2) credits), United States history (two (2) credits), and economics ~~and~~ financial literacy (one (1) credit). Courses such as geography, sociology, psychology, and world history may be offered as electives, but are not to be counted as a social studies requirement. ~~(3-15-22)~~ ()

g. Humanities. Two (2) credits are required. Humanities courses include instruction in visual arts, music, theatre, dance, or world language aligned to the Idaho content standards for those subjects. Other courses such as literature, history, philosophy, architecture, or comparative world religions may satisfy the humanities standards if the course is aligned to the Interdisciplinary Humanities Content Standards. (3-15-22)

h. Health/Wellness. One (1) credit is required. Course must be aligned to the Idaho Health Content Standards. Effective for all public school students who enter grade nine (9) in Fall 2015 or later, each student shall receive a minimum of one (1) class period on psychomotor cardiopulmonary resuscitation (CPR) training as outlined in the American Heart Association (AHA) Guidelines for CPR to include the proper utilization of an automatic external defibrillator (AED) as part of the Health/Wellness course. (3-15-22)

i. Students participating in one (1) season in any sport recognized by the Idaho High School

Activities Association or club sport recognized by the local school district, or eighteen (18) weeks of a sport recognized by the local school district may choose to substitute participation up to one (1) credit of physical education. Students must show mastery of the Physical Education Content Standards in a format provided by the school district. (3-15-22)

02. Content Standards. Each student shall meet locally established subject area standards (using state content standards as minimum requirements) demonstrated through various measures of accountability including examinations or other measures. (3-15-22)

03. Senior Project. The senior project is a culminating project to show a student's ability to analyze, synthesize, and evaluate information and communicate that knowledge and understanding. A student must complete a senior project by the end of grade twelve (12). Senior projects may be multi-year projects, group or individual projects, or approved pre-internship or school to work internship programs, at the discretion of the school district or charter school. The project must include elements of research, development of a thesis using experiential learning or integrated project based learning experiences and presentation of the project outcome. Additional requirements for a senior project are at the discretion of the local school district or LEA. Completion of a postsecondary certificate or degree at the time of high school graduation or an approved pre-internship or internship program may be used to meet this requirement. (3-15-22)

04. Civics and Government Proficiency. Pursuant to Section 33-1602, Idaho Code, each LEA may establish an alternate path for determining if a student has met the state civics and government content standards. Alternate paths are open to all students in grades seven (7) through twelve (12.) Any student who has been determined proficient in the state civics and government content standards either through the completion of the civics test or an alternate path shall have it noted on the student's high school transcript. (3-15-22)

05. Middle School. A student will have met the high school content and credit area requirement for any high school course if the requirements outlined in Subsections 105.06.a. through 105.06.c. of this rule are met. (3-15-22)

a. The student completes such course with a grade of C or higher before entering grade nine (9); (3-15-22)

b. The course meets the same content standards that are required in high school for the same course; and (3-15-22)

c. The course is taught by a teacher properly certified to teach high school content and who meets the federal definition of highly qualified for the course being taught. (3-15-22)

d. The student shall be given a grade for the successful completion of that course and such grade and the number of credit hours assigned to the course will be transferred to the student's high school transcript. Notwithstanding this requirement, the student's parent or guardian shall be notified in advance when credits are going to be transcribed and may elect to not have the credits and grade transferred to the student's high school transcript. Courses taken in middle school appearing in the student's high school transcript, pursuant to this subsection, shall count for the purpose of high school graduation. However, the student must complete the required number of credits in all high school core subjects as identified in Subsections 105.01.c. through 105.01.h. except as provided in 105.01.d.iii. The transcribing high school is required to verify the course meets the requirements specified in Subsections 105.05.a. through 105.05.c. of this rule. (3-15-22)

06. Special Education Students. A student who is eligible for special education services under the Individuals With Disabilities Education Improvement Act may, with the assistance of the student's Individualized Education Program (IEP) team, meet the graduation requirements through to the current Idaho Special Education Manual specifications. (3-15-22)

07. Foreign Exchange Students. A foreign exchange student may be eligible for graduation by completing a comparable program as approved by the LEA. (3-15-22)

(BREAK IN CONTINUITY OF SECTIONS)

110. ALTERNATIVE SECONDARY PROGRAMS.

Alternative secondary instructional programs are those that provide special instructional courses and offer special services to eligible at-risk youth to enable them to earn a high school diploma. Designated differences must be established between the alternative school programs and the regular secondary school programs. Alternative secondary school programs will include course offerings, teacher/pupil ratios and evidence of teaching strategies that are clearly designed to serve at-risk youth, pursuant to Section 33-1001, Idaho Code. (3-15-22)()

01. Instruction. Special instruction courses for at-risk youth enrolled in an alternative secondary instructional program will include: (3-15-22)()

- a. Core academic content that meets or exceeds minimum state standards; (3-15-22)
- b. A physical fitness and personal health component; (3-15-22)
- c. Career and technical education component approved by the state division of career technical education; (3-15-22)
- d. A personal finance, parenting, and child care component; and (3-15-22)
- e. A personal and career counseling component. (3-15-22)

02. Graduation Credit. Graduation credit may be earned in the following areas: academic subjects, electives, and approved work-based learning experiences. Nonacademic courses, i.e., classroom and office aides do not qualify for credit unless they are approved work-based learning experiences. (3-15-22)

03. Special Services. Special services for at-risk youth enrolled in alternative secondary programs include the following where appropriate: (3-15-22)

- a. A day care center when enrollees are also parents. This center should be staffed by a qualified child care provider. (3-15-22)
- b. Direct social services that may include officers of the court, social workers, counselors/psychologists. (3-15-22)
- c. All services in accordance with the student's Individualized Education Program. (3-15-22)

111. ASSESSMENT IN THE PUBLIC SCHOOLS.

01. Philosophy. Acquiring the basic skills is essential to realization of full educational, vocational and personal/social development. Since Idaho schools are responsible for instruction in the basic scholastic skills, the State Board of Education has a vested interest in regularly surveying student skill acquisition as an index of the effectiveness of the educational program. This information can best be secured through objective assessment of student growth. The State Board of Education will provide oversight for all components of the comprehensive assessment program. (3-15-22)

- 02. Purposes.** The purpose of assessment in the public schools is to: (3-15-22)
- a. Measure and improve student achievement; (3-15-22)
 - b. Assist classroom teachers in designing lessons; (3-15-22)
 - c. Identify areas needing intervention and remediation, and acceleration; (3-15-22)
 - d. Assist school districts in evaluating local curriculum and instructional practices in order to make needed curriculum adjustments; (3-15-22)

- e. Inform parents and guardians of their child's progress; (3-15-22)
- f. Provide comparative local, state and national data regarding the achievement of students in essential skill areas; (3-15-22)
- g. Identify performance trends in student achievement across grade levels tested and student growth over time; and (3-15-22)
- h. Help determine technical assistance/consultation priorities for the State Department of Education. (3-15-22)

03. Content. The comprehensive assessment program will consist of multiple assessments, including, the Idaho Reading Indicator (IRI), the National Assessment of Educational Progress (NAEP), the Idaho English Language Assessment, the Idaho Standards Achievement Tests (ISAT), the Idaho Alternate Assessment, and a college entrance exam. (3-15-22)

04. Testing Population. All students in Idaho public schools, grades kindergarten through twelve (K-12), are required to participate in the comprehensive assessment program approved by the State Board of Education and funded. (3-15-22)

a. All students who are eligible for special education shall participate in the statewide assessment program. (3-15-22)

b. Each student's individualized education program team shall determine whether the student shall participate in the regular assessment without accommodations, the regular assessment with accommodations or adaptations, or whether the student qualifies for and shall participate in the alternate assessment. (3-15-22)

c. Limited English Proficient (LEP) students, as defined in Subsection 112.05.g.iv., may receive designated supports or accommodations, or both, for the ISAT assessment if need has been indicated by the LEP student's Educational Learning Plan (ELP) team. The team shall outline the designated supports or accommodations, or both, in an ELP prior to the assessment administration. Designated supports or accommodations, or both, shall be familiar to the student during previous instruction and for other assessments. LEP students who are enrolled in their first year of school in the United States may take Idaho's English language assessment in lieu of the English language ISAT, but will still be required to take the ISAT (Mathematics and Science). Such LEP students will be counted as participants for the ninety-five percent (95%) participation target, as described in Subsection 112.05.e. However, such LEP students are not required to be counted for accountability purposes as described in Subsection 112.05.i. (3-15-22)

05. Scoring and Report Formats. Scores will be provided for each subject area assessed and reported in standard scores, benchmark scores, or holistic scores. Test results will be presented in a class list report of student scores, building/district summaries, content area criterion reports by skill, disaggregated group reports, and pressure sensitive labels as appropriate. Information about the number of students who are eligible for special education who participate in regular and alternate assessments, and their performance results, shall be included in reports to the public if it is statistically sound to do so and would not disclose performance results identifiable to individual students. (3-15-22)

a. All students taking the Idaho Standards Achievement Test (ISAT) must have a unique student identifier. (3-15-22)

b. Districts must send all assessment results and related communication to parents within three (3) weeks of receipt from the state. (3-15-22)

06. Comprehensive Assessment Program. The State approved comprehensive assessment program is outlined in Subsections 111.06.a. through 111.06.n. Each assessment will be comprehensive of and aligned to the Idaho State Content Standards it is intended to assess. In addition, districts are responsible for writing and implementing assessments in those standards not assessed by the state assessment program. (3-15-22)

- a.** Kindergarten - Idaho Reading Indicator, Idaho Alternate Assessment, Idaho English Language Assessment. (3-15-22)
- b.** Grade 1 - Idaho Reading Indicator, Idaho Alternate Assessment, Idaho English Language Assessment. (3-15-22)
- c.** Grade 2 - Idaho Reading Indicator, Idaho Alternate Assessment, Idaho English Language Assessment. (3-15-22)
- d.** Grade 3 - Idaho Reading Indicator, Grade 3 Idaho Standards Achievement Tests in English language usage and mathematics, Idaho Alternate Assessment, Idaho English Language Assessment. (3-15-22)
- e.** Grade 4 - National Assessment of Educational Progress, Grade 4 Idaho Standards Achievement Tests in English language usage and mathematics, Idaho Alternate Assessment, Idaho English Language Assessment. (3-15-22)
- f.** Grade 5 - Grade 5 Idaho Standards Achievement Tests in English language usage, mathematics, and science; Idaho Alternate Assessment; Idaho English Language Assessment. (3-15-22)
- g.** Grade 6 - Grade 6 Idaho Standards Achievement Tests in English language usage and mathematics, Idaho Alternate Assessment, Idaho English Language Assessment. (3-15-22)
- h.** Grade 7 - Grade 7 Idaho Standards Achievement Tests in English language usage and mathematics, Idaho Alternate Assessment, Idaho English Language Assessment. (3-15-22)
- i.** Grade 8 - National Assessment of Educational Progress; Grade 8 Idaho Standards Achievement Tests in English language usage, mathematics, and science; Idaho Alternate Assessment; Idaho English Language Assessment. (3-15-22)
- j.** Grade 9 - High School Idaho Standards Achievement Tests (optional at the discretion of the school district or charter school), Idaho Alternate Assessment, Idaho English Language Assessment. (3-15-22)
- k.** Grade 10 - High School Idaho Standards Achievement Tests (optional at the discretion of the school district or charter school), Idaho Alternate Assessment, Idaho English Language Assessment. ~~(3-15-22)~~()
- l.** Grade 11 - High School Idaho Standards Achievement Test in English language usage and mathematics, science, Idaho Alternate Assessment, Idaho English Language Assessment, and college entrance exam (optional at the discretion of the student's parent). ~~(3-15-22)~~()
- m.** Grade 12 - National Assessment of Educational Progress, Idaho English Language Assessment, and college entrance exam (optional at the discretion of the student's parent). ~~(3-15-22)~~()
- 07. Comprehensive Assessment Program Schedule.** (3-15-22)
- a.** The Idaho Standards Achievement Tests will be administered in the Spring in a time period specified by the State Board of Education. (3-15-22)
- b.** The Idaho Alternate Assessment will be administered in a time period specified by the State Board of Education. (3-15-22)
- c.** Idaho's English Language Assessment will be administered in a time period specified by the State Board of Education. (3-15-22)

08. Achievement Standards. Assessment achievement standards, development standards, and performance level descriptors will be set by the State Board of Education in a schedule and format established by the Board and will be made available through the State Board of Education and Department of Education websites.

Achievement standards, development standards, and performance level descriptors include, but are not limited to:

- a. The Idaho English Language Proficiency Assessment Achievement Standards. ()
- b. The Idaho Standards Achievement Tests (ISAT) Achievement Standards. ()
- c. The Idaho Alternate Assessment Achievement Standards. ()

~~08~~**9.** **Costs Paid by the State.** Costs for the following testing activities will be paid by the state: (3-15-22)

- a.** All consumable and non-consumable materials needed to conduct the prescribed statewide comprehensive assessment program; (3-15-22)
- b.** Statewide distribution of all assessment materials; and (3-15-22)
- c.** Processing and scoring student response forms, distribution of prescribed reports for the statewide comprehensive assessment program. (3-15-22)

~~09~~**10.** **Costs of Additional Services.** Costs for any additional administrations or scoring services not included in the prescribed statewide comprehensive assessment program will be paid by the participating school districts. (3-15-22)

~~10~~**1.** **Test Security, Validity and Reliability.** (3-15-22)

a. Test security is of the utmost importance. To ensure integrity of secure test items and protect validity and reliability of test outcomes, test security must be maintained. School districts will employ security measures in protecting statewide assessment materials from compromise. Each individual who has any opportunity to see test items must sign a state-provided confidentiality agreement, which the district must keep on file in the district for at least two (2) years. Documentation of security safeguards must be available for review by authorized state and federal personnel. (3-15-22)

b. Any assessment used for federal reporting shall be independently reviewed for reliability, validity, and alignment with the Idaho Content Standards. (3-15-22)

~~11~~**2.** **Demographic Information.** Accurate demographic information must be submitted as required for each test to assist in interpreting test results. It may include but is not limited to race, sex, ethnicity, and special programs, (Title I, English proficiency, migrant status, special education status, gifted and talented status, and socio-economic status). (3-15-22)

~~12~~**3.** **Dual Enrollment.** For the purpose of non-public school student participation in non-academic public school activities as outlined in Section 33-203, Idaho Code, the Idaho State Board of Education recognizes the following: (3-15-22)

a. The Idaho Standards Achievement Tests (grades 3-8 and High School). (3-15-22)

b. A portfolio demonstrating grade level proficiency in at least five (5) of the subject areas listed in Subsections 111.13.b.i. through 111.13.b.vi. Portfolios are to be judged and confirmed by a committee comprised of at least one (1) teacher from each subject area presented in the portfolio and the building principal at the school where dual enrollment is desired. (3-15-22)

i. Language Arts/Communications. (3-15-22)

ii. Math. (3-15-22)

iii. Science. (3-15-22)

- iv. Social Studies. (3-15-22)
- v. Health. (3-15-22)
- vi. Humanities. (3-15-22)

112. ACCOUNTABILITY.

School district, charter district and public charter school accountability will be based on multiple measures aimed at providing meaningful data showing progress toward interim and long-term goals set by the State Board of Education for student achievement and school improvement. The state accountability framework will be used to meet both state and federal school accountability requirements and will be broken up by school category and include measures of student academic achievement and school quality as determined by the State Board of Education. In addition to those measures identified in the state accountability framework, all school categories will administer an annual satisfaction and engagement survey to parents, students, and teachers. (3-15-22)()

01. School Category. (3-15-22)

- a. Kindergarten through grade eight (K-8): Schools in this category include elementary and middle schools as defined in Subsection 112.05.f. (3-15-22)
- b. High Schools, not designated as alternative high schools, as defined in Subsection 112.05.f. (3-15-22)
- c. Alternative High Schools. (3-15-22)

02. Academic Measures ~~by School Category.~~ (3-15-22)()

a. K-8, High School, and Alternative High School: (3-15-22)()

- i. Idaho Standards Achievement Tests (ISAT) Proficiency. (3-15-22)
- ii. ISAT growth toward proficiency based on a trajectory model approved by the State Board of Education. At the high school and alternative high school level growth will be measured for students who remain in the testing cohort in both grade 8 and high school. (3-15-22)()

iii. ISAT proficiency gap closure. (3-15-22)

~~iv. Idaho statewide reading assessment proficiency.~~ (3-15-22)

~~iv.~~ English Learners achieving English language proficiency. (3-15-22)

~~vi.~~ English Learners achieving English language growth toward proficiency. (3-15-22)

b. K-8 only: ()

i. Idaho statewide reading assessment proficiency as applicable to the grades served. ()

~~bc.~~ High School and Alternative High School specific: (3-15-22)()

~~i.~~ ISAT proficiency. (3-15-22)

~~ii.~~ ISAT proficiency gap closure. (3-15-22)

~~iii.~~ English Learners achieving English language proficiency. (3-15-22)

~~iv.~~ English Learners achieving English language growth toward proficiency. (3-15-22)

~~v.i.~~ Four (4) year cohort graduation rate, including students who complete graduation requirements prior to the start of the school district or charter schools next fall term. (3-15-22)

~~v.ii.~~ Five (5) year cohort graduation rate, including students who complete graduation requirements prior to the start of the school district or charter schools next fall term. (3-15-22)

~~e.~~ *Alternative High School:* (3-15-22)

~~i.~~ *ISAT proficiency.* (3-15-22)

~~ii.~~ *English learners achieving English language proficiency.* (3-15-22)

~~iii.~~ *English learners achieving English language growth towards proficiency.* (3-15-22)

~~iv.~~ *Four (4) year cohort graduation rate, including students who complete graduation requirements prior to the start of the school district or charter schools next fall term.* (3-15-22)

~~v.~~ *Five (5) year cohort graduation rate, including students who complete graduation requirements prior to the start of the school district or charter schools next fall term.* (3-15-22)

03. School Quality Measures by School Category. (3-15-22)

a. K-8, High School, and Alternative High School: (3-15-22)()

i. Communication with parents on student achievement ()

ii. Chronic absenteeism ()

b. K-8 Only ()

i. Students in grade 8 enrolled in pre-algebra or higher. (3-15-22)

~~ii.~~ *Communication with parents on student achievement (effective starting in the 2018-2019 school year).* (3-15-22)

~~bc.~~ High School and Alternative High School: (3-15-22)()

i. College and career readiness determined through a combination of students participating in advanced opportunities, earning industry recognized certification, and/or participation in recognized high school apprenticeship programs. (3-15-22)

ii. Credit recovery and accumulation. ()

d. High School only: ()

ii. Students in grade 9 enrolled in algebra I or higher. (3-15-22)

~~iii.~~ *Communication with parents on student achievement (effective starting in the 2018-2019 school year).* (3-15-22)

ee. Alternative High School only: (3-15-22)()

i. Credit recovery and accumulation. (3-15-22)

~~ii.~~ *College and career readiness determined through a combination of students participating in advanced opportunities, earning industry recognized certification, and/or participation in recognized high school*

~~apprenticeship programs.~~

~~(3-15-22)~~

~~ii. State satisfaction and engagement survey administered to parents, students, and teachers (effective starting in the 2018-2019 school year).~~

~~(3-15-22)()~~

~~iv. Communication with parents on student achievement (effective starting in the 2018-2019 school year).~~

~~(3-15-22)~~

04. Reporting. Methodologies for reporting measures and determining performance will be set by the State Board of Education. (3-15-22)

05. Annual Measurable Progress Definitions. For purposes of calculating and reporting progress, the following definitions shall be applied. (3-15-22)

a. Annual Measurable Progress. (3-15-22)

i. The State Department of Education will make determinations for schools and districts each year. Results will be given to the districts at least one (1) month prior to the first day of school. (3-15-22)

ii. The State Board of Education will set long-term goals and measurements of interim progress targets toward those goals. The baseline for determining measurable student progress will be set by the State Board of Education and shall identify the amount of growth (percentage of students reaching proficiency) required for each intermediate period. (3-15-22)

b. Full Academic Year (continuous enrollment). (3-15-22)

i. A student who is enrolled continuously in the same public school from the end of the first eight (8) weeks or fifty-six (56) calendar days of the school year through the state approved spring testing administration period, not including the make-up portion of the test window, will be included in the calculation to determine if the school achieved progress in any statewide assessment used for determining proficiency. A student is continuously enrolled if the student has not transferred or dropped-out of the public school. Students who are serving suspensions are still considered to be enrolled students. (3-15-22)

ii. A student who is enrolled continuously in the school district from the first eight (8) weeks or fifty-six (56) calendar days of the school year through the state approved spring testing administration period, not including the make-up portion of the test window, will be included when determining if the school district has achieved AYP. (3-15-22)

iii. A student who is enrolled continuously in a public school within Idaho from the end of the first eight (8) weeks or fifty-six (56) calendar days of the school year through the state approved spring testing administration period, not including the make-up portion of the test window, will be included when determining if the state has achieved progress in any statewide assessment used for determining proficiency. (3-15-22)

c. Participation Rate. (3-15-22)

i. Failure to include ninety-five percent (95%) of all students and ninety-five percent (95%) of students in designated subgroups automatically identifies the school as not having achieved measurable progress in ISAT proficiency. The ninety-five percent (95%) determination is made by dividing the number of students assessed on the Spring ISAT by the number of students reported on the class roster file for the Spring ISAT. (3-15-22)

(1) If a school district does not meet the ninety-five percent (95%) participation target for the current year, the participation rate can be calculated by the most current three (3) year average of participation. (3-15-22)

(2) Students who are absent for the entire state-approved testing window because of medical reasons or are homebound are exempt from taking the ISAT if such circumstances prohibit them from participating. Students who drop out, withdraw, or are expelled prior to the beginning of the final makeup portion of the test window are considered exited from the school. (3-15-22)

ii. For groups of ten (10) or more students, absences for the state assessment may not exceed five percent (5%) of the current enrollment or two (2) students, whichever is greater. Groups of less than ten (10) students will not have a participation determination. (3-15-22)

d. Schools. As used in this section, schools refers to any school within a school district or charter district and public charter schools. (3-15-22)

i. An elementary school includes a grade configuration of grades Kindergarten (K) through six (6) inclusive, or any combination thereof. (3-15-22)

ii. A middle school is a school that does not meet the definition of an elementary school and contains grade eight (8) but does not contain grade twelve (12). (3-15-22)

iii. A high school is any school that contains grade twelve (12). (3-15-22)

iv. An alternative high school is any school that contains grade twelve (12) and meets the requirements of Section 110 of these rules. (3-15-22)

v. The accountability of public schools without grades assessed by this system (i.e., K-2 schools) will be based on the third grade test scores of the students who previously attended that feeder school. (3-15-22)

vi. A “new school” for purposes of accountability is a wholly new entity receiving annual measurable progress determinations for the first time, or a school with a significant student population change as a result of schools being combined or geographic boundaries changing, or a result of successful school restructuring sanctioned by the Office of the State Board of Education. (3-15-22)

e. Subgroups. Scores on the ISAT must be disaggregated and reported by the following subgroups: (3-15-22)

i. Race/Ethnicity - Black/African American, Asian, Native Hawaiian/Pacific Islander, White, Hispanic/Latino Ethnicity, American Indian/Alaska Native. (3-15-22)

ii. Economically disadvantaged - identified through the free and reduced lunch program. (3-15-22)

iii. Students with disabilities - individuals who are eligible to receive special education services through the Individuals with Disabilities Education Act (IDEA). (3-15-22)

iv. Limited English Proficient - individuals who do not score proficient on the state-approved language proficiency test and meet one (1) of the following criteria: (3-15-22)

(1) Individuals whose native language is a language other than English; or (3-15-22)

(2) Individuals who come from environments where a language other than English is dominant; or (3-15-22)

(3) Individuals who are American Indian and Alaskan natives and who come from environments where a language other than English has had a significant impact on their level of English language proficiency, and who, by reason thereof, have sufficient difficulty speaking, reading, writing, or understanding the English language to deny such individuals the opportunity to learn successfully in classrooms, where the language of instruction is English. (3-15-22)

f. Graduation Rate. The graduation rate will be based on the rate of the cohort of students entering grade nine (9) during the same academic year and attending or exiting the school within a four (4) year or five (5) year period as applicable to the measure being determined. In determining the graduation cohort the school year shall include the students who complete graduation requirements prior to the start of the school district or charter schools next fall term. School districts may only report students as having graduated if the student has met, at a minimum, the

state graduation requirements, pursuant to Section 105, and will not be returning to the school in following years to complete required academic course work. The State Board of Education will establish a target for graduation. All high schools must meet the target or make sufficient progress toward the target each year, as determined by the State Board of Education. The graduation rate will be disaggregated by the subgroups listed in Subsection 112.05.g. (3-15-22)

g. Additional Academic Indicator. The State Board of Education will establish a target for all additional academic and school quality measures. All schools must maintain or make progress toward the additional academic and school quality measure target each year. The additional academic and school quality measure targets will be disaggregated by the subpopulations listed in Subsection 112.05.g. (3-15-22)

(BREAK IN CONTINUITY OF SECTIONS)

160. SAFE ENVIRONMENT AND DISCIPLINE.

01. Each school district and public charter school will have a comprehensive school district school or charter school wide policy and procedures encompassing the following: ()

School Climate
Discipline
Student Health
Violence Prevention
Possessing Weapons on Campus
Substance Abuse - Tobacco, Alcohol, and Other Drugs
Suicide Prevention
Student Harassment
Drug-free School Zones
Building Safety including Evacuation Drills
Relationship Abuse and Sexual Assault Prevention and Response

a. Student health policies must include: ()

i. seizure action plans identifying staff qualified to assist in the instance of a seizure, administration of seizure rescue medication, and any required staff training and timelines for training. ()

ii. administration of medical inhalers, epinephrine auto-injectors, insulin and blood glucose monitoring, pursuant to Section 33-520, Idaho code. ()

iii. Allowed uses of opioid-related overdose intervention, including any permissible uses of naloxone if approved by the local education agency for use. ()

b. Districts will conduct an annual **Δ** review of these policies and procedures will be conducted annually. (See Section 33-1612, Idaho Code) (3-15-22)()

(BREAK IN CONTINUITY OF SECTIONS)

200. K-12 IDAHO CONTENT STANDARDS.

~~As stated in~~ Subsection 105-02 ~~of these Thoroughness rules,~~ **sets forth the minimum graduation requirements for** all students graduating from Idaho public high schools ~~must meet locally established content standards, as authorized by Section 33-118, Idaho Code.~~ The standards set forth in Section 004 ~~of this rule are state content standards that shall be~~ **are** the minimum standards **to be** used by every school district in the state in order to establish a level of academic content necessary to graduate from Idaho's public schools. Each school district may set standards more rigorous than these state content standards but no district shall use any standards less rigorous than those set forth in these Thoroughness rules. (3-15-22)

IDAPA 08 – STATE BOARD OF EDUCATION
08.02.04 – RULES GOVERNING PUBLIC CHARTER SCHOOLS
DOCKET NO. 08-0204-2201 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 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 Sections 33-105, and chapter 52, title 33, Idaho Code.

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

In accordance with [Executive Order 2020-01](#), this rulemaking is the result of a review of the chapter for evaluation on how it can be improved, simplified, and streamlined. Amendments include the removal of unnecessary provision to streamline and simply the regulations and remove requirements that are duplicative of provisions established in chapter 52, title 33, Idaho code. Additionally, provisions identified in IDAPA 08.03.01 regarding the charter school petition process that were not previously included in IDAPA 08.02.04 have been added to IDAPA 08.02.04 and IDAPA 08.03.01 is proposed to be repealed under Docket 08-0301-2201. Update specific governing board references to charter holder.

Amendments between the proposed and pending rules stages include the addition of Education Service Provider, Petition and Performance Certificate to the definition section, as well as continuity of the new definitions throughout the rule language. Additional amendments make technical corrections that were identified during the public comment period and add additional clarification to the notification and acceptance process section and petitioner's requirements for the admission procedure framework and equitable selection 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 5, 2022, Idaho Administrative Bulletin, [Vol. 22-10, page\(s\) 94-108](#).

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: NA

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Nicholas Wagner at nick.wagner@osbe.idaho.gov or (208) 488-7886.

DATED this 16th day of November 2022.

Nicholas Wagner
Administrative Rules Coordinator
Idaho State Board of Education
650 W State St. PO Box 83720
Boise, Idaho and 83720-0037
Phone: (208)488-7586
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 Sections 33-105, and chapter 52, title 33, Idaho Code

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

In accordance with [Executive Order 2020-01](#), this rulemaking is the result of a review of the chapter for evaluation on how it can be improved, simplified, and streamlined. Amendments include the removal of unnecessary provision to streamline and simply the regulations and remove requirements that are duplicative of provisions established in chapter 52, title 33, Idaho code. Additionally, provisions identified in IDAPA 08.03.01 regarding the charter school petition process that were not previously included in IDAPA 08.02.04 have been added to IDAPA 08.02.04 and IDAPA 08.03.01 are proposed to be repealed under Docket 08-0301-2201.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2022 Idaho Administrative Bulletin, [Volume 22-7, page 91](#).

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: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tracie Bent at (208)332-1582 or tracie.bent@osbe.idaho.gov. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this 2nd day of September, 2022.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 08-0204-2201

Italicized red text indicates changes between the text of the proposed rule as adopted in the pending rule.

08.02.04 – RULES GOVERNING PUBLIC CHARTER SCHOOLS

000. LEGAL AUTHORITY.

In accordance with Sections 33-105, 33-5203, and 33-5210(4)(e), Idaho Code, the Board is authorized to promulgate rules implementing the provisions of Title 33, Chapter 52, Idaho Code. ()

001. SCOPE.

These rules establish a consistent application and review process for the approval and maintenance of public charter schools in Idaho. ()

002. (RESERVED)

003. ADMINISTRATIVE APPEALS.

The provisions found in Sections 400 through 404, of these rules, govern administrative appeals of public charter schools. ()

004. -- 009. (RESERVED)

010. DEFINITIONS.

01. Authorizer Fee. Fee paid by each public charter school to its authorized chartering entity. ()

02. Board. Means the Idaho State Board of Education. ()

03. Charter Holder. Means the governing board of the non-profit corporation to which a charter has been granted by an authorized chartering entity, as defined in Section 33-5202A(a), Idaho Code. ()

04. Commission. Means the Idaho Public Charter School Commission, as provided by Section 33-5213, Idaho Code. ()

05. Department. Means the Idaho Department of Education. ()

06. District. Means an Idaho public school district. ()

07. Educational Service Provider. Means a nonprofit or for-profit entity that contracts with a public charter school to provide educational services and resources including both (i) administrative support, and (ii) educational design, implementation, or management. ()

08. Institution. Means an Idaho public college, university of community college, or a private, nonprofit Idaho-based, nonsectarian college or university that is accredited by the same organization that accredits Idaho public colleges and universities. ()

09. Performance Certificates. Means the certificate that sets forth the academic and operational performance expectations as identified in Section 33-5205B, Idaho Code, and constitutes a contractual agreement between the charter holder and the authorizer. ()

10. Petition. Means the Petition required in Section 33-5205B, Idaho Code, and incorporates the performance certificate once approved. ()

11. Petitioners. Means the group of persons who submit a petition to establish a new public charter school, or to convert an existing traditional public school to a public charter school, as provided by Section 33-5205, Idaho Code, and the procedures described in Sections 200 through 205 of these rules. ()

12. School Year. Means the period beginning on July 1 and ending the next succeeding June 30 of

each year. ()

011. -- 099. (RESERVED)

100. LIMITATIONS ON NEW PUBLIC CHARTER SCHOOLS.

01. Responsibilities of Petitioners on Approval of Charter. Upon the approval of a new public charter school by an authorized chartering entity, the petitioners shall provide the Board with written notice of such approval. The authorized chartering entity of the public charter school shall provide the Board with copies of the charter and any charter revisions upon request. ()

02. Authorization to Begin Educational Instruction. The public charter schools authorized to begin educational instruction during a given school year shall be those public charter schools that have received approval from their authorized chartering entities to begin educational instruction during such school year. A public charter school that is approved by an authorized chartering entity, but which does not begin educational instruction must confirm with the Board, on or before June 1 preceding the next succeeding school year, that it is able to begin educational instruction during such school year. ()

101. AUTHORIZED CHARTERING ENTITY.

01. Governing Board. An institution or district shall receive approval from their governing board prior to accepting petitions or authorizing any charter schools. ()

a. Notwithstanding Sections 400 through 404, of these rules, denial of a new petition by an institution is final. A petitioner may submit a petition that has been denied by an institution to any other authorized chartering entity. ()

102. AUTHORIZER FEE.

01. Notification. It is the responsibility of each authorizer to notify the Department if the authorizer fee has not been received by the date specified in Section 33-5208, Idaho Code. ()

a. The authorizer must provide notification of the delinquent fee to the charter school prior to reporting to the Department. ()

b. The authorizer must provide the amount delinquent and proof of notification to the charter school within thirty (30) days of the non-payment of the authorizer fee. ()

c. The Department shall withhold the amount of the delinquent fee from the next scheduled release of funds to the charter school. The funds will be withheld until the Department has received notification from the authorizer that the authorizer fee has been paid in full. ()

103. -- 199. (RESERVED)

200. PROCEDURE FOR FORMATION OF A NEW PUBLIC CHARTER SCHOOL.

01. Public Charter School Workshops. The purpose of the public charter school workshops shall be to provide public charter school petitioners with a brief overview of a variety of educational and operational issues relating to public charter schools, as well as to answer questions and to provide technical assistance, as may be necessary, to aid petitioners in the preparation of public charter school petitions. ()

02. Petition Submittal. A public charter school petition may be submitted to only one (1) authorized chartering entity at a time. A petitioner may submit a petition that has been denied by an authorized chartering entity to any other authorized chartering entity after an appeal process, if any, is complete and a final decision has been reached. ()

201. POLICIES AND PROCEDURES ADOPTED BY AN AUTHORIZED CHARTERING ENTITY.

An authorized chartering entity must adopt policies and procedures describing the charter school petition process and the procedures that petitioners must comply with in order to form a new public charter school, including a public virtual school. Petitioners must comply with the policies and procedures adopted by the authorized chartering entity with which a petition is submitted. Such charter school policies and procedures must comply with Title 33, Chapter 52, Idaho Code, and the rules promulgated by the Board. If there is any conflict between the charter school policies and procedures adopted by an authorized chartering entity and rules promulgated by the Board, then the Board rules shall govern. ()

202. NEW PUBLIC CHARTER SCHOOL APPLICATION REQUIREMENTS.

Petitioners seeking to establish a new public charter school must apply to an authorized chartering entity through the submittal of a petition consisting of all of the following elements: ()

01. Introduction. Briefly introduce the proposed public charter school by providing the following: ()

a. Cover page with the proposed school’s name, intended opening year, general location, and the contact information for one (1) petitioner who will serve as liaison with the authorizer during the petition process; ()

b. Table of contents; ()

c. One-page (1) executive summary describing the proposed school’s organizational structure, educational program, and student outcome expectations; and ()

d. Mission statement. ()

02. Educational Program. Describe the proposed school’s educational program by explaining the following: ()

a. Educational philosophy; ()

b. Student academic achievement standards and any additional goals and methods for measuring achievement; ()

c. Key educational design elements, including curricula, tools and instructional methods identified to carry out the educational philosophy and meet the stated academic achievement standards and goals, which may include evidence demonstrating efficacy of these elements; and ()

d. Strategies for meeting the needs of specific student populations, including, but not limited to, students identified as at-risk, students who qualify for special education or gifted and talented services, or students identified as English language learners. ()

03. Financial and Facilities Plan. Demonstrate a sound understanding of public charter school finances and facilities needs. ()

a. State whether the school intends to provide transportation or food service, and provide plans for provision of these services if they will be offered; ()

b. Describe how the school’s finances will be managed and monitored; ()

c. Provide a working draft of the school’s prospective facilities plan, including likely facilities needs and estimated costs; ()

d. Provide a description of any potential facilities that have been identified and a timeline and process for securing appropriate space; and ()

e. Attach the following to Appendix *Series* A: Pre-opening budget and three-year operating budget, including detailed assumptions for all revenue and expenditures for each year; year one (1), break-even budget demonstrating the minimum enrollment needed to achieve a zero (0) or marginal net income balance at the end of the year; cash flow projection for the first operational year, demonstrating an understanding of charter school monetary flow; evidence of existing and anticipated funds; and evidence that projected facilities costs are reasonable within the start-up and three-year budgets. ()

04. Board Capacity and Governance Structure. Provide information about the legal entity and the individuals involved in opening the proposed school. ()

a. Attach copies of the nonprofit corporation's Articles of Incorporation and Corporate Bylaws to Appendix *Series* B, though note that they will not be incorporated as part of the school's charter; ()

b. Provide a description of the governance structure; ()

c. List any already identified members of the board of directors, attach their professional resumes to Appendix *Series* C, and provide any additional information about their qualifications; ()

d. Describe the board's plan for a smooth transition from initial founding members to subsequent members; and ()

e. Describe the plan for board member recruitment and training. ()

05. Student Demand and Primary Attendance Area. Demonstrate the need and community demand for the proposed public charter school in the selected location. ()

a. Describe the primary attendance area and list the public school districts that overlap this area; ()

b. Clearly articulate the need and demand for a school in the selected location, including demographics for the intended neighborhood. Need is the reason(s) existing schools are insufficient or inadequate and includes state performance data. Demand is evidence of desire from prospective families to attend the school; ()

c. Describe the population of students the proposed school intends to serve and how the selected location supports serving such students; ()

d. Provide the target enrollment by grade level and projected growth over the first three (3) years of operations and maximum student enrollment capacity if the petitioners do not anticipate reaching capacity by year three (3); ()

e. Describe any community partnerships or other local support for the proposed school; and ()

f. Describe strategies for informing under-served students and their families about the prospective school and the enrollment process. ()

06. School Leadership and Management. Describe the proposed school's administrative leadership structure, and provide information about any potential education service providers. ()

a. Attach an organizational chart to Appendix *Series* D illustrating the proposed school's leadership structure and indicating the reporting structures of school leaders to the board. If school leaders have already been identified, include their names, contact information, resumes, and any additional information about their qualifications in the appendices. ()

b. Describe the responsibilities of and relationships among school leadership, the *charter holder*, instructional leaders, and staff, and include a plan for evaluating school leaders. ()

c. If the proposed school intends to work with an educational service provider, provide the name of

the company, a contact within the company, and specify in detail the extent of the entity's participation in the management and operation of the school. Attach the following to Appendix *Series E*: ()

i. A term sheet indicating the fees to be paid by the proposed school to the *educational service provider*, the length of the proposed contract, the terms for the contracts renewal, provisions for termination, *and fee schedule by type of service*; ()

ii. Copies of the two (2) most recent contracts that the entity has executed with operating charter schools; and ()

iii. A detailed description of the education service provider's relationship to the school's board of directors; ()

iv. A detailed description of how and why the educational service provider was selected, and evidence that the organization provides high-quality service to similarly situated schools, if applicable. ()

07. Supporting Documents. ()

a. Appendix *Series A – Financial Plan.* ()

b. Appendix *Series B – Facility Plan.* ()

c. Appendix *Series C – Governance Documents.* ()

d. Appendix *Series D – Board of Directors and Petitioners.* ()

e. Appendix *Series E – Administration and Organization.* ()

f. Appendix *Series F – Education Services Provider.* ()

g. *Appendix Series G – LEA Notification Letters.* ()

h. *Appendix Series H – Optional Additional Supporting Documents.* ()

203. ADMISSION PROCEDURES.

01. Idaho Public Charter School Commission. *The Idaho public charter school commission shall adopt policies and procedures establishing a framework for the equitable selection process and make available to all public charter schools a model procedure. Petitioners are required to adopt admission procedures that align with the Commission approved model procedures.* ()

02. Equitable Selection Process. Admission to a public charter school shall be determined by an equitable selection process. The equitable selection process must be held within seven (7) days of the enrollment deadlines as defined in Subsection 203.02 and must take place in a public setting, the date and time of which must be noticed to the public at least *forty-eight (48)* hours in advance. ()

03. Enrollment Deadline. A charter holder shall establish an enrollment deadline for each school year and may establish an enrollment capacity below that stated in the public charter school's performance certificate. The deadline shall be established either by annual vote of the charter holder's board of directors or by establishment of charter holder policy. The enrollment deadline shall be the date by which all written requests for admission to attend the public charter school for the next school year must be received. Neither the enrollment deadline nor a lowered enrollment capacity may be changed once the enrollment information is disseminated as required by Subsection 203.03. ()

04. Enrollment Opportunities. A charter holder shall ensure that citizens in the primary attendance area, as it is defined in the school's performance certificate, are made aware of the enrollment opportunities of the public charter school. ()

a. The notice must include the enrollment deadline, the public charter school's total enrollment capacity for the next school year, and an advisory that all prospective students will be given the opportunity to enroll in the public charter school, regardless of race, color, national origin, ethnicity, religion, gender, socioeconomic status, or special needs; ()

b. One (1) or more notices must be publicly disseminated within the primary attendance area by an independent third party. Notices include, but are not limited to, printed publications, technology and social media broadcasts, or signage displayed by community partners outside of the school's physical location. ()

05. Requests for Admission. A parent, guardian, or other person with legal authority to make decisions regarding school attendance on behalf of a child residing in this state, must make a request in writing in electronic or hard-copy format for such child to attend a public charter school. ()

a. The written request for admission shall contain the name and contact information of a legal guardian of the prospective student; the name of the student, the last grade level completed, and address of the prospective student if different from the legal guardian. Requests must indicate whether the prospective student is a sibling of a currently enrolled student. The request for admission may only request that information that is necessary for determining the students eligibility for admittance as approved in the charter school performance certificate. ()

b. In the case of a family with more than one (1) child seeking to attend a public charter school, a single written request for admission must be submitted on behalf of all siblings. The written request for admission must be submitted to, and received by, the public charter school on or before the established enrollment deadline. The written request for admission shall contain the name, grade level, address, and telephone number of each prospective student in a family. If the initial capacity of the public charter school is insufficient to enroll all prospective students, then an equitable selection process, such as a lottery or other random method, shall be utilized to determine which prospective students will be admitted to the public charter school, as described in Subsection 203.09 of this rule. Only those written requests for admission submitted on behalf of prospective students that are received prior to the enrollment deadline established by the public charter school shall be permitted in the equitable selection process. Written requests for admission received after the established enrollment deadline will be added to the bottom of the waiting list for the appropriate grade. ()

c. Where a weighted lottery has been approved through the charter school's *petition* and in compliance with the admission preference requirements established in Section 33-5206, Idaho Code, the charter school may request such data as is necessary to apply the provisions of the weighted lottery. ()

06. Admission Procedure. Admission to a public charter school shall be determined by an equitable selection process. The equitable selection process must be held within seven (7) days of the enrollment deadlines as defined in Subsection 203.02 and must take place in a public setting, the date and time of which must be noticed to the public at least forty-eight (48) hours in advance. ()

07. Final Selection List. The names of the persons in highest order on the final selection list shall have the highest priority for admission to the public charter school in that grade, and shall be offered admission to the public charter school in such grade until all seats for that grade are filled. A waitlist of prospective students shall be compiled each year after the equitable selection process has been completed. The waitlist shall consist of students for whom no open seat is currently available and shall prioritize first, prospective students for whom a request for admission was received before the enrollment deadline in the order in which the students were selected during the equitable selection process, and second, prospective students for whom a written request for admission was received after the enrollment deadline in the order in which the request was received. ()

08. Notification and Acceptance Process. With respect to students selected for admission to the public charter school, within seven (7) days after conducting the equitable selection process, the public charter school shall send an offer letter to the legal guardian who submitted a written request for admission on behalf of a student, advising such person that the student has been selected for admission to the public charter school. The offer letter must be signed by such student's parent, or guardian, and returned to the public charter school by the date designated in such offer letter *shall be retained* by the public charter school *in the student's permanent record*. ()

a. With respect to a prospective student not eligible for admission to the public charter school, within seven (7) days after conducting the selection process, the public charter school shall send a letter to the legal guardian who submitted a request for admission on behalf of such student, advising such person that the prospective student is not eligible for admission, but will be placed on a waiting list and may be eligible for admission at a later date if a seat becomes available. ()

b. If a legal guardian receives an offer letter on behalf of a student and declines admission, or fails to timely sign and return such offer by the date designated in such offer letter by the public charter school, then the name of such student will be stricken from the final selection list, and the seat that opens in that grade will be made available to the next eligible student on the final selection list. ()

c. If a student withdraws from the public charter school during the school year for any reason, then the seat that opens in that grade will be made available to the next eligible student on the final selection list. ()

09. Subsequent School Years. The final selection list for a given school year shall not roll over to the next subsequent school year. The legal guardian of a student who remains on the waitlist when the next enrollment deadline is noticed to the public must be notified that a new written request for admission must be completed prior to the new enrollment deadline in order for the student to be added to the prospective student list. If the capacity of the public charter school is insufficient to enroll all prospective students during the next subsequent school year, then a new equitable selection process shall be conducted by the public charter school for such school year. ()

204. (RESERVED)

205. NEW CHARTER SCHOOL PETITIONS.

01. Approval of a New Charter School Petition. ()

a. If a petition is approved, then the authorized chartering entity and the petitioners must execute a performance certificate within seventy-five (75) days of the approval. ()

b. The authorized chartering entity shall provide the Board with written notice of approval of a new public charter school. The authorized chartering entity of the public charter school shall provide the Board with copies of the charter and any charter revisions upon request. ()

02. Denial of a New Charter School Petition. ()

a. If a petition is denied, then the authorized chartering entity must promptly prepare for petitioners a written notice of its decision to deny the charter. The written decision shall include all of the reasons for the denial, and shall also include a reasoned statement that states or explaining the criteria and standards considered relevant by the authorized chartering entity, the relevant contested facts relied upon, and the rationale for the decision based on the applicable statutory provisions and factual information presented to the authorized chartering entity. ()

b. Only petitions submitted to a local board of trustees of a school district or the public charter school commission may be appealed. The petitioners may appeal the decision of the authorized chartering entity, in accordance with the procedures described in Sections 401 through 402 of these rules. ()

206. -- 299. (RESERVED)

300. CHARTER HOLDER RESPONSIBILITIES.

01. General. The charter holder of a public charter school shall be responsible for ensuring that the public charter school is adequately staffed, and that such staff provides sufficient oversight over all operational and educational activities. In addition, the *charter holder* shall be responsible for ensuring that the school complies with all applicable federal and state education standards, as well as all applicable state and federal laws, rules and regulations, and policies. ()

02. Compliance with Terms of Performance Certificate. The *charter holder* of a public charter school shall be responsible for ensuring that the school is in compliance with the terms and conditions of the performance certificate approved executed in accordance with Section 33-5205B(1), Idaho Code. Intentional failure to operate a charter school within the terms and conditions of the executed performance certificate are grounds to initiate a review by the authorized chartering entity and may result in the addition of stipulations on the performance certificate or revocation of the charter. ()

03. Annual Reports. An authorized chartering entity may request that a public charter school provide additional information to ensure that the public charter school is meeting the terms of its performance certificate. ()

04. Operational Issues. The charter holder shall be responsible for promptly notifying its authorized chartering entity if it becomes aware that the school is not operating in compliance with the terms and conditions of its performance certificate. Thereafter, the charter holder shall also be responsible for advising its authorized chartering entity with follow-up information as to when, and how, such operational issues are finally resolved and corrected. ()

05. Articles of Incorporation and Bylaws. The charter holder shall be responsible for promptly notifying its authorized chartering entity of any revisions or amendments to the articles of incorporation or bylaws. ()

06. Required Documentation. Public charter schools shall ensure that the following documentation is up to date and on file with the school's authorized chartering entity: a copy of the lease agreement for leased building(s) at which students will be taught; a copy of any notice from the school's accrediting body that the school has failed to meet or maintain full accreditation requirements; copies of any complaints filed against the school including, but not limited to, lawsuits and complaints filed with the Idaho professional standards commission relating to school employees; a current list of all school board members, including full name, address, telephone number, and resume must be on file with the *authorizer* within five (5) business days of any changes; and any additional proof of compliance as reasonably requested by the authorizer. ()

301. AUTHORIZED CHARTERING ENTITY RESPONSIBILITIES.

01. Monitoring. Notwithstanding Section 300 of these rules, the authorized chartering entity of a public charter school shall be responsible for monitoring the public charter school's operations in accordance with all of the terms and conditions of the performance certificate, including compliance with all applicable federal and state education standards and all applicable state and federal laws, regulations, and policies. ()

02. Pre-opening Site Visit. Authorized chartering entities may conduct site visits to the physical location of the public charter school to verify the facility meets all state, local, and federal requirements for operating a public school. ()

03. Performance Certificate Review. Pursuant to Section 33-5209B, Idaho Code, an authorized chartering entity may renew a charter for a term of five (5) years or may nonrenew a charter following the initial operating term. Should an authorized chartering entity take no action to renew or nonrenew the charter, and the charter school has met all of the existing performance certificate targets, the charter school shall be provisionally renewed until such time as the chartering entity takes action. The five-year term of the renewed charter shall be based on the provisional renewal date. ()

302. CHARTER REVISIONS.

01. Request for Revision of Charter or Performance Certificate. The *charter holder* of a public charter school that desires to revise its charter or performances certificate must submit a written request and the proposed revisions to the public charter school's authorized chartering entity. ()

02. Procedure for Reviewing Request for Charter or Performance Certificate Revision. The authorized chartering entity shall have seventy-five (75) days from the date of receipt of the written request and proposed revisions in which to issue its decision on the request for charter or performance certificate revision. The

authorized chartering entity shall consider the request for charter or performance certificate revision at its next regular meeting following the date of receipt of the written request and proposed revisions, provided that the request and proposed revisions are submitted no fewer than thirty (30) days in advance of that meeting. If permitted by applicable policies and procedures adopted by the authorized chartering entity, the review of a request for a charter or performance certificate revision may be delegated to appropriate staff employed by the authorized chartering entity. An authorized chartering entity may, but is not required to, conduct a public hearing to consider the request for charter or performance certificate revision. ()

03. Approval of Proposed Charter or Performance Certificate Revision. If the authorized chartering entity approves the proposed charter or performance certificate revision, a copy of such revision shall be executed by each of the parties to the charter or performance certificate and shall be treated as either a supplement to, or amendment of, the final approved charter or performance certificate, whatever the case may be. ()

04. Denial of Proposed Charter or Performance Certificate Revision. If the proposed charter or performance certificate revision is denied, then the authorized chartering entity must prepare a written notice of its decision which shall contain all of the reasons for the decision. The public charter school may appeal the decision to the Board. The provisions of Section 403 shall govern the appeal. ()

303. REVOCATION.

An authorized chartering entity may revoke a charter in accordance with the procedure described in this Section if a public charter school has failed to meet any of the specific, written conditions for necessary improvements established pursuant to the provisions of Section 33-5209B(1), Idaho Code, by the dates specified. ()

01. Written Notice of Intention to Revoke Charter. The authorized chartering entity must provide the public charter school with reasonable written notice of the intent to revoke the charter, which must include all of the reasons for such proposed action. In addition, such notice shall provide the public charter school with a reasonable opportunity to reply, which shall not be less than thirty (30) days after the date of such notice. ()

02. Public Hearing. The authorized chartering entity shall conduct a public hearing with respect to its intent to revoke a charter. Such hearing shall be held no later than thirty (30) days after receipt of such written reply. If the public charter school does not reply by the date set in the notice, then such hearing shall be held no later than sixty (60) days after the date the notice was sent by the authorized chartering entity. ()

a. Written notification of the hearing shall be sent to the public charter school at least ten (10) days in advance of the hearing. ()

b. The public hearing shall be conducted by the authorized chartering entity, or such other person or persons appointed by the authorized chartering entity to conduct public hearings and receive evidence as a contested case in accordance with Section 67-5242, Idaho Code. ()

03. Charter Revocation. If the authorized chartering entity determines that the public charter school has failed to meet any of the specific written conditions for necessary improvements established pursuant to the provisions of Section 33-5209B(1), Idaho Code, by the dates specified, then the authorized chartering entity may revoke the charter. Such decision may be appealed to the Board. The provisions of Section 403 of these rules shall govern the appeal. ()

304. -- 400. (RESERVED)

401. APPEAL TO THE DEPARTMENT OF A DECISION RELATING TO THE FORMATION OF A NEW PUBLIC CHARTER SCHOOL OR CONVERSION OF A PUBLIC SCHOOL.

The following procedures govern appeals pursuant to Section 33-5207(1), Idaho Code. ()

01. Submission of Appeal. To institute an appeal, the petitioners/appellants shall submit a notice of appeal and request for public hearing in writing to the Department that describes, in detail, all of the grounds for the appeal, and the remedy requested, within thirty (30) days from the date of the written decision of the authorized chartering entity that reviewed the petition. A copy of the notice of appeal shall be submitted to the authorized chartering entity, and with the Board. In addition, contemporaneous with the submission of the notice of appeal, the

petitioners/appellants shall also submit to the Department copies of the complete record of all actions taken with respect to the consideration of the public charter school petition. The record must be in chronological order and must be appropriately tabbed and indexed. The record must contain, at a minimum, all of the following documents:

()

a. The name, address, and telephone number of the person or persons submitting the appeal on behalf of petitioners/appellants, as well as the authorized chartering entity that issued the decision being appealed. ()

b. The complete petition that was submitted to the authorized chartering entity, including any amendments thereto or supplements thereof. ()

c. Copies of audio or video recordings, if any, and the minutes from all meeting(s) where the petition was considered or discussed. ()

d. All correspondence between the petitioners/appellants and the authorized chartering entity relating to the petition from the date the original petition was submitted until the date the authorized chartering entity issued the decision being appealed. ()

e. The written decision provided by the authorized chartering entity to the petitioner. A copy of such notice of appeal shall be submitted to the authorized chartering entity whose decision is being appealed, and to the Board. ()

02. Hearing Officer. The Department shall hire a hearing officer to review the action of the authorized chartering entity and to conduct a public hearing, pursuant to Section 67-5242, Idaho Code. The Department shall forward to the hearing officer one (1) copy of the record provided by petitioners/appellants and attached to the notice of appeal within ten (10) business days of receipt. ()

03. Public Hearing. A public hearing to review the decision of the authorized chartering entity shall be conducted within thirty (30) days after the hearing officer receives the notice of appeal and request for a public hearing submitted to the Department. ()

04. Notice of Hearing. All parties in an appeal shall be notified of a public hearing at least ten (10) days in advance, or within such time period as may be mandated by law. The notice shall identify the time, place, and nature of the hearing; a statement of the legal authority under which the hearing is to be held; the particular sections of the statutes and any rules involved; the issues involved; and the right to be represented. The notice shall identify how and when documents for the hearing will be provided to all parties. ()

05. Prehearing Conference. The hearing officer may, upon written or other sufficient notice to all interested parties, hold a prehearing conference to formulate or simplify the issues; obtain admissions or stipulations of fact and documents; identify whether there is any additional information that had not been presented to the authorized chartering entity; arrange for exchange of any proposed exhibits or prepared expert testimony; limit the number of witnesses; determine the procedure at the hearing; and to determine any other matters which may expedite the orderly conduct and disposition of the proceeding. ()

06. Hearing Record. The hearing shall be recorded unless a party requests a stenographic recording by a certified court reporter, in writing, at least seven (7) days prior to the date of the hearing. Any party requesting a stenographic recording by a certified court reporter shall be responsible for the costs of same. Any party may request that a transcript of the recorded hearing be prepared, at the expense of the party requesting such transcript, and prepayment or guarantee of payment may be required. Once a transcript is requested, any party may obtain a copy at the party's own expense. ()

07. Hearing Officer's Recommendation. The hearing officer shall issue a recommendation within ten (10) days after the date of the hearing. The recommendation shall include specific findings on all major facts at issue; a reasoned statement in support of the recommendation; all other findings and recommendations of the hearing officer; and a recommendation affirming or reversing the decision of the authorized chartering entity. The hearing officer shall mail or deliver a copy of the recommendation to the Department, the petitioners/appellants, and the authorized chartering entity. ()

08. Review of Recommendation by Authorized Chartering Entity. ()

a. The authorized chartering entity shall hold a public hearing to review the recommendation of the hearing officer within thirty (30) days of receipt of the recommendation. ()

b. Written notification of the scheduled public hearing shall be sent by the authorized chartering entity to the petitioners/appellants at least ten (10) days prior to the scheduled hearing date. ()

c. The authorized chartering entity shall make a final decision to affirm or reverse its initial decision within ten (10) days after the date the public hearing is conducted. ()

09. Reversal of Initial Decision. ()

a. If the authorized chartering entity reverses its initial decision and denies the conversion of a traditional public school to a public charter school, then that decision is final and there shall be no further appeal. ()

b. If the authorized chartering entity reverses its initial decision and approves the new public charter school, then the charter shall be granted and there shall be no further appeal. ()

10. Affirmation of Initial Decision. ()

a. If the authorized chartering entity affirms its initial decision to authorize the conversion of a traditional public school to a public charter school, then the charter shall be granted and there shall be no further appeal. ()

b. If the authorized chartering entity affirms its initial decision and denies the grant of a new public charter school, then the petitioners/appellants may appeal such final decision further to the Board in accordance with the procedure described in Section 402 of these rules. ()

402. APPEAL TO THE BOARD RELATING TO THE DENIAL OF A REQUEST TO FORM A NEW PUBLIC CHARTER SCHOOL.

01. Submission of Appeal. The petitioners/appellants shall submit a notice of appeal in writing with the Board that describes, in detail, all of the grounds for the appeal, and the remedy requested, within thirty (30) days from the date the authorized chartering entity issues its final decision to deny a petition to form a new public charter school. A copy of the notice of appeal shall be submitted to the authorized chartering entity. In addition, contemporaneous with the submission of the notice of appeal, the petitioners/appellants shall also submit to the Board, a complete record of all actions taken with respect to the consideration of the public charter school petition. The record must be in chronological order, must be tabbed and indexed, and must contain, at a minimum, the following documents: ()

a. The complete record submitted to the Department, as provided in Subsection 401.01.a. through 401.01.e. of these rules. ()

b. A transcript, prepared by a neutral person whose interests are not affiliated with a party to the appeal, of the recorded public hearing conducted by the hearing officer, as described in Subsection 401.06 of these rules. ()

c. A copy of the hearing officer's recommendation. ()

d. Copies of audio or video recordings, if any, and the minutes of the public hearing conducted by the authorized chartering entity to consider the recommendation of the hearing officer, as described in Subsection 401.08.a. through 401.08.c. of these rules. ()

e. Copies of any additional correspondence between the petitioners/appellants and the authorized

chartering entity relating to the petition subsequent to the public hearing conducted by the Department. ()

f. The final written decision provided by the authorized chartering entity to the petitioners/appellants. ()

g. No new evidence is permitted on appeal to the Board. ()

02. Public Hearing. A public hearing to review the final decision of the authorized chartering entity shall be conducted within a reasonable time from the date that the Board receives the notice of appeal, but not later than sixty (60) calendar days from such date. The public hearing shall be for the purpose of considering all of the materials in the record that were presented at prior proceedings. ()

03. Notice of Hearing. All parties in an appeal shall be notified of a public hearing at least ten (10) days in advance, or within such time period as may be mandated by law. The notice shall identify the time and place of the hearing; a statement of the legal authority under which the hearing is to be held; the particular sections of the statutes and any rules involved; the issues involved; and the right to be represented. The notice shall identify how and when documents for the hearing will be provided to all parties. ()

04. Appointment of Charter Appeal Committee or Public Hearing Officer. The Board may appoint a charter appeal committee composed solely of Board members, or a combination of Board members and Board staff, or a public hearing officer, for the purpose of conducting the public hearing. If the Board determines not to make such an appointment, then the Board shall conduct the public hearing. ()

05. Recommended Findings. If the public hearing is conducted by a charter appeal committee or appointed public hearing officer, then such committee or appointed public hearing officer shall forward to the Board all materials relating to the hearing as soon as reasonably practicable after the date of the public hearing. If requested by the Board, the entity conducting the public hearing may prepare recommended findings for the Board to consider. The recommended findings shall include specific findings on all major facts at issue; a reasoned statement in support of the recommendation; all other findings and recommendations of the charter appeal committee or public hearing officer; and a recommended decision affirming or reversing the decision of the authorized chartering entity, or such other action recommended by the charter appeal committee or public hearing officer, such as remanding the matter back to the authorized chartering entity, or redirecting the petition to another authorized chartering entity. A copy of the recommended findings shall be mailed or delivered to all the parties. ()

06. Final Decision and Order by the Board. The Board shall consider the materials forwarded by the entity conducting the public hearing, including any recommended findings of the charter appeal committee or appointed public hearing officer, as may be applicable, in a meeting open to the public at the next regularly scheduled meeting of the Board that occurs after the public hearing. If the public hearing was not conducted by the Board, then the Board may allow representatives for both the petitioner/appellant and the authorized chartering entity an opportunity to deliver oral arguments to the Board advocating their respective positions, limited to thirty (30) minutes for each party. Whether the public hearing is conducted by the Board or by a charter appeal committee, the Board shall issue a final written decision on such appeal within sixty (60) days from the date of the public hearing. The final decision and order of the Board shall be sent to both the petitioners/appellants and the authorized chartering entity, and will not be subject to reconsideration. With respect to such written decision, the Board may take any of the following actions: ()

a. Approve the charter, if the Board determines that the authorized chartering entity failed to appropriately consider the charter petition, or if it acted in an arbitrary manner in denying the request. In the event the Board approves the charter, the charter shall operate under the jurisdiction of the Commission, as provided by Section 33-5207(6), Idaho Code. ()

b. Remand the petition back to the authorized chartering entity for further consideration with directions or instructions relating to such further review. If the authorized chartering entity further considers the matter and again denies the petition, then that decision is final and there shall be no further appeal. ()

c. Redirect the petition for consideration by the Commission, if the appeal is regarding a denial decision made by the board of trustees of a local school district. ()

- d. Deny the appeal submitted by the petitioners/appellants. ()

403. APPEAL RELATING TO THE DENIAL OF A REQUEST TO REVISE A CHARTER OR PERFORMANCE CERTIFICATE OR A CHARTER NON-RENEWAL OR REVOCATION DECISION.

The following procedures shall govern an appeal relating to the denial of a request to revise a charter or a charter non-renewal or revocation decision. ()

01. Submission of Appeal. The public charter school shall submit a notice of appeal in writing to the Board that describes, in detail, all of the grounds for the appeal, and the remedy requested, within thirty (30) days from the date of the written decision of the authorized chartering entity to non-renew or revoke a charter or to deny a charter or performance certificate revision. A copy of the notice of appeal shall be submitted to the authorized chartering entity. In addition, contemporaneous with the submission of the notice of appeal, the appellant charter school shall also submit to the Board one (1) hard copy and one (1) electronic copy of the complete record of all actions taken with respect to the matter being appealed. The record must be in chronological order and must be appropriately tabbed and indexed. The record must contain, at a minimum, all of the following documents: ()

a. The name, address, and telephone number of the appellant public charter school and the authorized chartering entity that issued the decision being appealed. ()

b. Copies of all correspondence or other documents between the appellant public charter school and the authorized chartering entity relating to the matter being appealed. ()

c. Copies of audio or video recordings, if any, and the minutes from all meeting(s) where the matter on appeal was considered or discussed. ()

d. The written decision provided by the authorized chartering entity to the appellant public charter school. ()

e. No new evidence will be considered on appeal to the Board. ()

02. Public Hearing. A public hearing to review the decision of the authorized chartering entity shall be conducted within thirty (30) days after the date of the filing of the notice of appeal. ()

03. Notice of Hearing. All parties in an appeal shall be notified of a public hearing at least ten (10) days in advance, or within such time period as may be mandated by law. The notice shall identify the time and place of the hearing; a statement of the legal authority under which the hearing is to be held; the particular sections of the statutes and any rules involved; the issues involved; and the right to be represented. The notice shall identify how and when documents for the hearing will be provided to all parties. ()

04. Appointment of Charter Appeal Committee or Public Hearing Officer. The Board may, in its reasonable discretion, determine to appoint a charter appeal committee, composed solely of Board members, or a combination of Board members and Board staff, or alternatively, to appoint a public hearing officer, for the purpose of conducting the public hearing. If the Board determines not to make such an appointment, then the Board shall conduct the public hearing. ()

05. Prehearing Conference. The entity conducting the public hearing may, upon written or other sufficient notice to all interested parties, hold a prehearing conference to formulate or simplify the issues; obtain admissions or stipulations of fact and documents; identify whether there is any additional information that had not been presented to the authorized chartering entity; arrange for exchange of any proposed exhibits or prepared expert testimony; limit the number of witnesses; determine the procedure at the hearing; and to determine any other matters which may expedite the orderly conduct and disposition of the proceeding. ()

06. Hearing Record. The hearing shall be recorded unless a party requests a stenographic recording by a certified court reporter, in writing, at least seven (7) days prior to the date of the hearing. Any party requesting a stenographic recording by a certified court reporter shall be responsible for the costs of same. The record shall be transcribed at the expense of the party requesting a transcript, and prepayment or guarantee of payment may be

required. Once a transcript is requested, any party may obtain a copy at the party's own expense. ()

07. Recommended Findings. If the public hearing is conducted by a charter appeal committee or appointed public hearing officer, then such committee or public hearing officer shall forward to the Board all materials relating to the hearing as soon as reasonably practicable after the date of the public hearing. If so requested by the Board, the entity conducting the public hearing may prepare recommended findings for the Board to consider. The recommended findings shall include specific findings on all major facts at issue; a reasoned statement in support of the recommendation; all other findings and recommendations of the charter appeal committee or public hearing officer; and a recommended decision affirming, or reversing the action or decision of the authorized chartering entity. A copy of the recommended findings shall be mailed or delivered to all the parties. ()

08. Final Decision and Order by the Board. The Board shall consider the materials forwarded by the entity conducting the public hearing, including any recommended findings of the charter appeal committee or appointed public hearing officer, as may be applicable, in a meeting open to the public at the next regularly scheduled meeting of the Board that occurs after the public hearing. If the public hearing was not conducted by the Board, then the Board may allow representatives for both the appellant public charter school and the authorized chartering entity an opportunity to deliver oral arguments to the Board advocating their respective positions, limited to thirty (30) minutes for each party. Whether the public hearing is conducted by the Board, or by a charter appeal committee or appointed public hearing officer, the Board shall issue a final written decision on such appeal within sixty (60) days from the date of the public hearing. The decision shall be sent to both the appellant public charter school and the authorized chartering entity. With respect to such written decision, the Board may take any of the following actions: ()

a. Grant the appeal and reverse the decision of the authorized chartering entity if the Board determines that the authorized chartering entity failed to appropriately consider the non-renewal or revocation of the charter, or the request to revise the charter or performance certificate, or that the authorized chartering authority acted in an arbitrary manner in determining to non-renew or revoke the charter, or in denying the request to revise the charter or performance certificate. ()

b. Deny the appeal filed by the appellants. ()

404. EX PARTE COMMUNICATIONS.

Unless required for the disposition of a matter specifically authorized by statute to be done ex parte, no party to the appeal nor any representative of any such party to the appeal, nor any person or entity interested in such appeal, may communicate, directly or indirectly, regarding any substantive issue in the appeal with the Board or the charter appeal committee or any hearing officer appointed to hear or preside over the appeal hearing, except upon notice and opportunity for all parties to participate in the communication. ()

405. -- 499. (RESERVED)

500. MISCELLANEOUS.

01. LEA Designations. Section 33-5203(7), Idaho Code, provides that the board of trustees of a school district may designate a public charter school it authorizes as an LEA, with the concurrence of the public charter school board of directors. In order to designate a public charter school as an LEA, the board of trustees of the school district must submit to the Department the following no later than February 1 in order for any such designation to be effective for the following school year: ()

a. Verification that the board of trustees is the authorized chartering entity of the public charter school it wishes to designate as an LEA. ()

b. Written documentation that the board of trustees of the school district and the board of trustees of the public charter school have agreed to the designation of the public charter school as an LEA. Such documentation shall be signed by representatives of both parties. ()

501. PROCEEDINGS BEFORE THE COMMISSION.

01. Communications with Commission. All written communications and documents intended to be part of an official record of decision in any proceeding before the Commission or any hearing officer appointed by the Commission must be filed with the individual designated by the Commission. Unless otherwise provided by statute, rule, order, or notice, documents are considered filed when received by the officer designated to receive them, not when mailed or otherwise transmitted. ()

502. -- 999. (RESERVED)

IDAPA 08 – STATE BOARD OF EDUCATION
08.03.01 – RULES OF THE PUBLIC CHARTER SCHOOL COMMISSION
DOCKET NO. 08-0301-2201 (ZBR CHAPTER REPEAL)
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 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 Sections 33-105, and chapter 52, title 33, Idaho Code.

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

In accordance with [Executive Order 2020-01](#), this rulemaking is the result of a review of the chapter for evaluation on how it can be improved, simplified, and streamlined. IDAPA 08.03.01 is being repealed in its entirety. Necessary provisions that are not duplicative of IDAPA 08.02.04 are being moved to IDAPA 08.02.04.

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 5, 2022, Idaho Administrative Bulletin, [Vol. 22-10, page 109](#).

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: NA

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Nicholas Wagner at nick.wagner@osbe.idaho.gov or (208) 488-7886.

DATED this 15th day of November 2022.

Nicholas Wagner
Administrative Rules Coordinator
Idaho State Board of Education
650 W State St. PO Box 83720
Boise, Idaho and 83720-0037
Phone: (208)488-7586
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THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 33-105, and chapter 52, title 33, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking: In accordance with [Executive Order 2020-01](#), this rulemaking is the result of a review of the chapter for evaluation on how it can be improved, simplified, and streamlined. IDAPA 08.03.01 is being repealed in its entirety. Provisions that are not duplicative of IDAPA 08.02.04 are being moved to IDAPA 08.02.04.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2022 Idaho Administrative Bulletin, [Volume 22-7, page 92](#).

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: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tracie Bent at (208)332-1582 or tracie.bent@osbe.idaho.gov. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this 2nd day of September, 2022.

IDAPA 08.03.01 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 47 – IDAHO DIVISION OF VOCATION REHABILITATION
47.01.01 – RULES GOVERNING VOCATIONAL REHABILITATION SERVICES
DOCKET NO. 47-0101-2200
NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 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, or 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, 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 pending rule adopts and publishes the following rule chapters previously submitted to and reviewed by the Idaho Legislature under IDAPA 47, rules of the Idaho Division of Vocation Rehabilitation:

IDAPA 47

- 47.01.01, *Rules Governing Vocational Rehabilitation Services.*

Amendments between the proposed and pending rule clarifies the Application for Services section regarding residency requirement participation based on feedback from the most recent federal program review.

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 July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 252 – 258](#).

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

This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2023 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Nicholas Wagner at nick.wagner@osbe.idaho.gov or (208) 488-7886.

DATED this 15th day of November, 2022.

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

EFFECTIVE DATE: The effective date of the temporary rule being adopted through this omnibus rulemaking as listed in the descriptive summary of this notice is July 1, 2022.

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 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: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code. If scheduled, the hearing site(s) will be accessible to persons with disabilities and requests for accommodation are 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 temporary and proposed rulemaking adopts and publishes the following rule chapter previously submitted to and reviewed by the Idaho Legislature under IDAPA 47, rules of the Idaho Division of Vocation Rehabilitation:

IDAPA 47

- 47.01.01, *Rules Governing Vocational Rehabilitation Services.*

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

This temporary rule is necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. The temporary rule chapter implements the duly enacted laws of the state of Idaho, provides citizens with the detailed rules and standards for complying with those laws, and assists in the orderly execution and enforcement of those laws. The expiration of this rule chapter without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by this rule.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2023 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rule chapter(s) being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the proposed rule attached hereto.

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; or Tracie Bent, Chief Planning and Policy Officer at (208)332-1582 or tracie.bent@osbe.idaho.gov.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

DATED this July 6, 2022.

THE FOLLOWING IS THE TEXT OF OMNIBUS PENDING DOCKET NO. 47-0101-2200

Italicized red text indicates changes between the text of the proposed rule as adopted in the pending rule.

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). (Public Law 113-128). ()

001. SCOPE.

The provision of these rules is to establish the procedures, program requirements and to implement program changes necessitated by the Rehabilitation Act of 1973, as amended, which address the provision of vocational rehabilitation services to the disability population of Idaho. ()

002. 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. ()

003. – 009. (RESERVED)

010. DEFINITIONS.

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

02. Division. The Idaho Division of Vocational Rehabilitation. ()

03. 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. ()

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

011. ABBREVIATIONS.

01. IPE. Individualized Plan for Employment. ()

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.

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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. Inform the customer of their right to representation and services available through the client assistance program. ()

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 the client assistance program 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. Communication will be provided in the most appropriate method for the customer. ()

06. Transportation. Transportation will be provided to and from the review site, if practicable. ()

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 or informal review decision. ()

02. Written Request. Requests for mediation must be made in writing to the field services chief and state the reason for dissatisfaction with the decision. The field services chief will represent the Division or assign a management level staff member who was not involved in the decision. ()

03. Participation. Mediation is voluntary, either party may reject mediation. Once mediation has been accepted, 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 mediation to be established. Once the final mediation results 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.

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

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

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

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

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

06. Dispute. Any party who disagrees with the 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. REFERRAL AND APPLICATION FOR SERVICES.

01. Referral. The Division will attempt contact within seven (7) business days after receipt of a referral request and will make a minimum of three (3) attempts to contact 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, including information gathered in the intake interview, and the customer is determined to be 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 required to apply for Division services.

Individuals must be *available to participate in the vocational rehabilitation process* 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. ()

201. ELIGIBILITY REQUIREMENTS.

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

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

02. Documentation of Impediment. A determination by qualified personnel that the customer's physical or mental impairment constitutes a substantial impediment to employment; ()

03. Determination of Need for Services. A determination by qualified personnel employed by the Division, 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. Presumption of Benefit. The Division presumes that a customer who meets the eligibility requirements, can benefit in terms of an employment outcome, unless the severity of disability places this presumption of benefit in question, pursuant CFR 361.42(e). ()

202. 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 vocational rehabilitation counselor questions the individual's ability to benefit from vocational rehabilitation services due to the severity of the individual's disability. ()

203. SEVERITY OF DISABILITY.

At the time a customer is determined eligible for vocational rehabilitation services, a determination of the severity 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 ()

c. Requires multiple primary IPE services over an extended period of time. ()

- 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. ()

204. INDIVIDUALIZED PLAN FOR EMPLOYMENT.

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. The IPE will contain the mandatory components per 34 CFR 361.46. ()

02. Annual IPE Review. IPEs will be reviewed at least once annually. ()

205. 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 vocational rehabilitation counselor determines that a customer is either not eligible or no longer eligible for vocational rehabilitation services; is unavailable to participate in the vocational rehabilitation program; declines to participate in the vocational rehabilitation program; or the customer achieves an employment outcome. Regardless of when in the process the record of service is closed, the vocational rehabilitation counselor 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 individuals whose case is being closed. ()

206. 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 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 203 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. ()

04. Employment Maintenance. The Division will serve individuals who are in immediate jeopardy of losing their employment and who require specific services or equipment to maintain employment, regardless of severity of disability category assignment, in accordance with 34 CFR 361.36.a(3)(v). ()

207. – 299. (RESERVED)

300. FINANCIAL PARTICIPATION REQUIREMENTS.

The Division will consider the financial participation of an eligible customer for the purposes of determining the extent of their participation in the costs of vocational rehabilitation services in accordance with 34 CFR 361.54. 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, except those services described in 34 CFR 361.54(b)(3). ()

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

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 SERVICES.

The Division will purchase vocational services from the community rehabilitation programs that are accredited by the Commission on Accreditation of Rehabilitation Facilities, the Rehabilitation Services Accreditation System or from individuals who have employment related certificates from the Association of Community Rehabilitation Educators or who are Certified Employment Support Professional. ()

403. – 999. (RESERVED)