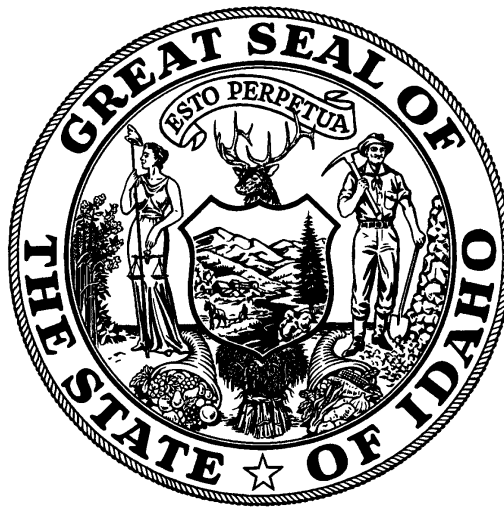


# **PENDING RULES COMMITTEE RULES REVIEW BOOK**

**Submitted for Review Before  
Senate Judiciary & Rules Committee  
67th Idaho Legislature  
First Regular Session – 2023**



*Prepared by:*

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

*January 2023*

**SENATE JUDICIARY & RULES COMMITTEE**

**ADMINISTRATIVE RULES REVIEW**

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## IDAPA 05 – IDAHO DEPARTMENT OF JUVENILE CORRECTIONS

### 05.01.03 – RULES OF THE CUSTODY REVIEW BOARD

#### DOCKET NO. 05-0103-2201 (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 Section(s) 20-520(1)(t), Idaho Code.

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

This proposed rulemaking updates the Rules of the Custody Review Board to comply with [Executive Order 2020-01, Zero-Based Regulation](#) and updates to 20-502, 20-532 and 39-1202, Idaho Code, approved during the 2022 Legislative Session.

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 July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 80-86](#).

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

No fiscal impact is anticipated with this rule. The Board is already in operation and this rule serves to update operating procedures.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Estela Cabrera at 208.577.5451.

DATED this 2nd day of September, 2022.

Monty Prow, Director  
Idaho Department of Juvenile Corrections  
954 W. Jefferson St.  
P.O. Box 83720,  
Boise, ID 83720-0285  
Phone: 208.334.5100  
Fax: 208.334.5120

**THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 20-520(1)(t), Idaho Code.

**PUBLIC HEARING SCHEDULE:** A public hearing concerning this rulemaking will be held as follows:

**Monday, July 25, 2022, at 2:30 p.m. MT**

***Physical Location:***  
**954 W. Jefferson St**  
**Boise, Idaho 83702**

***To participate virtually via BlueJeans meeting:***  
**contact [Estela.Cabrera@idjc.idaho.gov](mailto:Estela.Cabrera@idjc.idaho.gov) or**  
**call (208) 577-5451 to obtain meeting login information**

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

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

This proposed rulemaking updates the Rules of the Custody Review Board to comply with [Executive Order 2020-01, Zero-Based Regulation](#) and updates Sections 20-502, 20-532, and 39-1202, Idaho Code, approved during the 2022 Legislative Session.

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

This rulemaking does not involve imposing or increasing fees.

**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 as a result of this rulemaking:

No fiscal impact is anticipated with this rule. The Board is already in operation and this rule serves to update operating procedures.

**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 April 6, 2022, Idaho Administrative Bulletin, [Volume 22-4, page 15](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Estela Cabrera at 208.577.5451.

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 July 27, 2022.

DATED this sixth day of July, 2022.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 05-0103-2201

**05.01.03 – RULES OF THE CUSTODY REVIEW BOARD**

**000. LEGAL AUTHORITY.**

Title 20, Chapter 5, Idaho Code. ( )

**001. SCOPE.**

These rules are established to ensure that the juvenile corrections system in Idaho and determinations of the Custody Review Board are based on the principles of accountability, community protection, and competency development. ( )

**002. -- 009. (RESERVED)**

**010. DEFINITIONS.**

In addition to the definitions in Section 20-502, Idaho Code, the following definitions apply: ( )

**01. Case Management Team.** A team consisting of juvenile services coordinator, rehabilitation specialist and juvenile probation officer who provide input in setting and following through with treatment goals. ( )

**02. Extended Time in Custody.** Any period a juvenile remains in custody after age nineteen (19) or beyond eighteen (18) consecutive months and not to exceed age twenty-one (21). ( )

**011. -- 099. (RESERVED)**

**100. GENERAL PROVISIONS.**

**01. Hearings.** All matters and testimony concerning juveniles, before the Board, are confidential and are conducted in accordance with Title 74, Chapters 1 and 2, Idaho Code; and Title 20, Chapter 5, Idaho Code, regarding juvenile records and proceedings. ( )

**101. POWERS AND DUTIES.**

**01. Review.** The Board reviews cases that are referred according to Section 201 of these rules. ( )

**02. Board Determinations.** The Board will determine whether the juvenile needs an extended time in custody to address accountability, community protection, and competency. ( )

**03. Placement.** The Board cannot direct the placement or treatment of a juvenile. ( )

**04. Release Date for Juveniles.** If the Board determines that a juvenile not be retained in custody, the Director sets a release date, as follows: ( )

**a.** A juvenile referred per Subsection 201.01.a. who appears before the Board prior to his nineteenth birthday is released by his nineteenth birthday. The Department may retain the juvenile up to forty-five (45) days after the juvenile's nineteenth birthday only if necessary to finalize an appropriate release plan. ( )

**b.** In cases referred per Subsection 201.01.b., the Department may retain the juvenile long enough to finalize an appropriate release plan, not to exceed forty-five (45) days after the Director signs the Board's determination. ( )

**c.** The Director retains release authority for cases referred per Subsection 201.01.c. ( )

**102. STRUCTURE AND COMPOSITION OF THE CUSTODY REVIEW BOARD.**

**01. Board Members and Appointment.** The Board is composed of four (4) members appointed by the Director who represent a variety of experiences. Terms are four (4) years, at the pleasure of the Director. In the case of vacancies, appointments are for the remainder of the original term. ( )

**02. Compensation of Board Members.** Members serve without honorarium or compensation but are reimbursed for expenses, subject to the limits provided in Section 67-2008, Idaho Code. ( )

**103. -- 199. (RESERVED)**

**200. REVIEW PROCESS.**

A juvenile in the custody of the Department does not have the legal right or ability to request or demand a case review by the Board. A review by the Board does not create a liberty interest for the juvenile, and cannot be appealed. All cases come before the Board as outlined in Section 201 of these rules ( )

**201. REFERRAL OF CASES TO THE BOARD.**

**01. Cases Eligible for Referral.** A case is eligible for referral to the Board if: ( )

**a.** The juvenile is no more than six (6) months from his nineteenth birthday and one (1) or more members of the case management team believes that the juvenile needs extended time in custody beyond that juvenile's nineteenth birthday; ( )

**b.** The juvenile, at the time of commitment to the Department, is past age nineteen (19) or will reach age nineteen (19) prior to the next scheduled meeting of the Board; or ( )

**c.** The juvenile is no more than three (3) months from being in custody for eighteen (18) consecutive months and one (1) or more members of the case management team believes that the juvenile needs extended time in custody beyond eighteen (18) months. ( )

**d.** Cases referred per Subsection 201.01.c. will be heard every six (6) months thereafter until the juvenile is released from custody. ( )

**02. Hearing Schedules.** The Board will set a dates for the hearings annually. ( )

**03. Written Submissions.** All documents to be considered at a particular hearing need to be submitted in advance of the scheduled hearing. ( )

**202. PERSONS TO ATTEND OR COMMENT.**

**01. Juvenile.** The subject of a hearing is required to appear either in person or by video. ( )

**02. Witnesses.** The Board allows victims, attorneys, members of the case management team, and approved family members or others who have a direct relationship to the specific hearing or subject of the hearing to participate. ( )

**03. Participation.** Persons who want to participate in hearings shall notify the Board staff in advance of the scheduled hearing. Children, including victims, under the age of fourteen (14), are not allowed to attend the hearings without prior approval of the Board. Parents or guardians of child victims in a case may participate. ( )

**04. Time Limited.** The Board may limit the time allotted to each participant during the hearing. ( )

**05. Exclusion.** The Board may exclude witnesses or participants for inappropriate or disruptive behavior, or other good cause. ( )

**203. CONFLICT OF INTEREST.**

A member of the Board who has personal knowledge of a case, shall notify all other Board members prior to the hearing where that case is to be considered. The remaining members will determine whether that member should be disqualified from participating in the review of that case and determination. ( )

**204. -- 299. (RESERVED)**

**300. BOARD DETERMINATIONS.**

**01. Board's Determination.** The Board's written determination will be given to the Director no later than thirty (30) calendar days after the date the Board receives the last documents or interviews the last witness pertaining to the case. All determinations will be held by the Department in the case management file. ( )

**02. Reconsideration.** The Board may reconsider its determination prior to the determination being given to the Director. Only the members who heard the case may discuss or vote on any reconsideration. ( )

**a.** Any member of the Board who was present for and heard the case may call for a vote to reconsider the Board's determination by making a request through the Board chair. ( )

**b.** The chair will call for a motion to reconsider, and a vote. ( )

**03. Indeterminate Sentence Remains.** If the Board determines that extended time in custody is necessary, that determination does not create a determinate sentence of any kind, and the Director retains the authority to release the juvenile at any time deemed appropriate. ( )

**04. Official Record of Hearing/Review.** The signed summary minutes are the official record of a hearing or case review and are maintained with records of the Department. ( )

**05. Evaluation of Juvenile Cases.** Cases are evaluated on the individual merits of each case. The Board's evaluation of a case and a juvenile's need for extended time in custody are not based upon any predetermined hearing standard, criteria, or precedent. Factors that may be considered by the Board include, but are not limited to: ( )

**a.** Seriousness of the crime; ( )

**b.** Prior criminal history; ( )

**c.** Progress or completion of program, treatment plan, accountability; ( )

**d.** Institutional history to include conformance to established rules, involvement in programs and overall behavior; ( )

**e.** Evidence of the development of a positive social attitude and the willingness to fulfill the obligations of a good citizen; and ( )

**f.** Information regarding physical, psychological, or other conditions. ( )

**301. -- 399. (RESERVED)**

**400. VICTIMS.**

The Department and the Board will respect the rights of victims of crime, pursuant to the Idaho Constitution and statute. When a case is referred, the Department will provide the Board with a list of crime victims who were officially identified by the adjudicating court or prosecuting attorney. ( )

**01. Notice to Victims.** The Board will notify identified victims of a juvenile's crime that a custody review hearing is scheduled and of their right to submit written statements or information and testimony. After the hearing, the Department shall notify victims of the Board's determination. ( )

**a.** Notices including the Board's final determination and any anticipated release documents will be sent to the victim of record at the last known address or through a victim witness coordinator. The victim is responsible for providing any change of address. ( )

**b.** Victims may request that they not be notified or contacted. ( )

**02. Victim Testimony.** A victim may attend all hearings pertinent to their case and provide testimony. The victim may be allowed to testify before the Board members during a hearing session outside the juvenile's presence. ( )

**401. -- 999. (RESERVED)**



**IDAPA 11 – IDAHO STATE POLICE**  
**11.07.02 – RULES GOVERNING SAFETY GLAZING MATERIAL**  
**DOCKET NO. 11-0702-2201 (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 July 1, 2023, 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 Section 67-2901(4), Idaho Code, and Section 49-901, Idaho Code, reference the standards and specifications set for in 49 C.F.R. Sections 571.1 through 571.500, revised as of June 3, 2019.

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

ISP is proposing to repeal IDAPA 11.07.02 in its entirety.

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 September 7th, 2022, Idaho Administrative Bulletin, [Vol. 22-9, page 12](#).

**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:

There will be no fiscal impact to the State of Idaho due to this change.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Captain Matt Smith, phone (208) 884-7022, Email [matt.smith@isp.idaho.gov](mailto:matt.smith@isp.idaho.gov).

DATED this 21st day of November 2022.

Lt. Colonel Bill Gardiner  
Chief of Staff  
Idaho State Police  
700 S Stratford Drive  
Meridian ID 83642  
(208) 884-7004  
[Bill.Gardiner@isp.idaho.gov](mailto:Bill.Gardiner@isp.idaho.gov)

**THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-2901(4) Idaho Code, and Section 49.901, Idaho Code, reference the standards and specifications set for in 49 C.F.R. Sections 571.1 through 571.500, revised as of June 3, 2019.

**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 September 21, 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:

ISP is proposing to repeal IDAPA 11.07.02 in its entirety.

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

No fees are associated with IDAPA 11.07.02.

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

There will be no fiscal impact to the State of Idaho due to this change.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because it is a simple repeal of IDAPA 11.07.02.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Captain Matt Smith, Phone (208) 884-7022, Fax: (208) 884-7290, email [Matt.Smith@isp.idaho.gov](mailto:Matt.Smith@isp.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2022.

DATED this August 5, 2022.

**IDAPA 11.07.02 IS BEING REPEALED IN ITS ENTIRETY**

**IDAPA 11 – IDAHO STATE POLICE**  
**11.10.03 – RULES GOVERNING THE SEX OFFENDER REGISTRY**  
**DOCKET NO. 11-1003-2201**  
**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 Title 18, Chapter 83, Idaho Code, and Sections 18-8301 through 18-8331, Idaho Code.

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

This change is to reinstate a section of the rule required by Section 18-8305(2), Idaho Code, which requires rules for expunging records of persons who are deceased.

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, pages 255-258](#).

**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:

There is no fiscal impact.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Program Manager, Leila McNeill, Phone (208) 884-7136, Fax (208) 884-7193, Email [Leila.McNeill@isp.idaho.gov](mailto:Leila.McNeill@isp.idaho.gov).

DATED this 22nd day of November, 2022.

Lt. Colonel Bill Gardiner  
Chief of Staff  
Idaho State Police  
700 S Stratford Drive  
Meridian ID 83642  
(208) 884-7004  
[Bill.Gardiner@isp.idaho.gov](mailto:Bill.Gardiner@isp.idaho.gov)

**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 Title 13, Chapter 83, Idaho Code, and Sections 18-8301 through 18-8331, 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:

This change is to reinstate a rule section required by 18-8305(2) Idaho Code which requires rules for expunging records of persons who are deceased.

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

There are no fees associated with this rule.

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

No fiscal impact.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because no comments were received from stakeholders and no significant changes are being proposed.

**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: There are no documents incorporated by reference affected by this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Leila McNeill, Phone, 208-884-7136, Fax, 208-884-7193 Email, [Leila.McNeill@isp.idaho.gov](mailto:Leila.McNeill@isp.idaho.gov).

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

DATED this 26th day of August, 2022.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1003-2201**

**000. LEGAL AUTHORITY.**

~~The Idaho State Police has authority to make rules to implement the sex offender central registry pursuant to~~ Title 18, Chapter 83, Idaho Code, Sections 18-8301 through 18-8331. ~~(3-23-22)( )~~

(BREAK IN CONTINUITY OF SECTIONS)

**010. DEFINITIONS.**

The terms defined in Section 67-3001, Idaho Code, ~~will have the same meaning in these rules. In addition, apply as do~~ the following terms ~~have the meanings set forth below:~~ (3-23-22)(    )

~~01. Central Registry. The state-level records system containing information, photographs and fingerprints relating to persons required to register as a sex offender under Title 18, Chapters 83 and 84, Idaho Code.~~ (3-23-22)

**021. Substantially Equivalent.** Any sex offense related crime, regardless of whether a felony or misdemeanor, that consists of similar elements defined in Title 18 of the Idaho Criminal Code. It does not mean exactly the same, nor exactly identical to. (3-23-22)

~~032.~~ **Working Days.** Each day except Saturday, Sunday, or a legal state holiday. (3-23-22)

(BREAK IN CONTINUITY OF SECTIONS)

**012. SEX OFFENDER CENTRAL REGISTRY -- ADMINISTRATION.**

**01. Central Registry Established.** ~~Pursuant to Title 18, Chapter 83, Idaho Code, the department establishes a sex offender central registry in t~~ The bureau of criminal identification. ~~The bureau~~ is responsible for administration of the central registry pursuant to the requirements ~~set forth~~ in Title 18, Chapters 83 and 84, Idaho Code and these rules. (3-23-22)(    )

**02. Forms.** The following forms and procedures will be used to provide notice to and collect information from persons required to register as a sex offender ~~pursuant to Title 18, Chapters 83 and 84, Idaho Code.~~ (3-23-22)(    )

**a.** “Idaho Sex Offender Registry Form-:” ~~This three (3) page form~~ notifies an offender of register requirements and collects from an offender information required for registration or any change of address or status, as required by statute. (3-23-22)(    )

**b.** “Idaho Sex Offender Registry Homeless - Location Verification Form-:” ~~This one (1) page form~~ is used during ~~weekly~~ bi-weekly reporting to collect from an offender the information required when the offender does not provide a physical address at the time of registration. (3-23-22)(    )

**03. Photographs and Fingerprints.** (3-23-22)

**a.** An offender’s photograph will be in color. The sheriff will forward a copy of the photograph with tagging information so it may easily be located by registry staff in the department of transportation photo database. Photographs submitted to the central registry will be a copy of the new photographs taken at the time of each registration. From collected registration fees, the sheriff will pay to the state the cost of photography materials lawfully required by a state agency or department. (3-23-22)

**b.** The sheriff will also submit the required fingerprints and palmprints for each registrant, in a manner prescribed by the department, either by manual card or electronic submission each registration. (3-23-22)

**04. Notification to Local Law Enforcement.** Lists of all offenders registered within a county are available on the sex offender registry web site. The bureau will notify the appropriate county law enforcement agency with jurisdiction any time the bureau becomes aware of a change of status or change of residence of a registered sex offender; and of a registered offender’s intent to reside in an agency’s jurisdiction. (3-23-22)

**05. Notification to Other Jurisdictions.** Within one (1) working day of receiving notification that a registered sex offender is moving to another jurisdiction, the bureau will notify the receiving jurisdiction's designated sex offender registration agency of the move by mail or electronic means. (3-23-22)

**06. Expungement of Central Registry Information.** (3-23-22)

**a.** Upon receipt of a certified copy of a death certificate or official government documentation recording the death of a person registered with the central registry, the bureau will expunge all records concerning the person from the central registry. ( )

**b.** Upon receipt of a duly attested copy of a pardon issued by the governor or official pardoning body of the jurisdiction where the conviction was entered and then reported to the central registry, the bureau will expunge all records concerning the conviction from the central registry. If the pardoned person has no other conviction requiring registration, the bureau will expunge all references concerning the person from the central registry. ~~(3-23-22)~~( )

**c.** Upon receipt of a duly attested document from a court clerk that a conviction previously reported to the central registry has been reversed by the court of conviction, the bureau will expunge all records concerning the conviction from the central registry, provided that the person has no other conviction requiring registration. (3-23-22)

**d.** Expungement of a record will not occur in cases where a court has ordered a dismissal for a withheld judgment. (3-23-22)

**e.** Pursuant to Section 18-8310(5), Idaho Code, if a person is exempted from the registration requirement by court order, the bureau will expunge all records and references concerning the offender from the central registry. (3-23-22)

**f.** “Any periods of supervised release, probation, or parole” in Section 18-8310(1)(a), Idaho Code, means those periods resulting from the underlying conviction requiring registration. ( )

**07. Determination of Substantially Equivalent or Similar Crime.** (3-23-22)

**a.** A person convicted of a sex offense in another jurisdiction and who moves to, works in, or becomes a student in Idaho may be required to register as a sex offender in Idaho pursuant to Title 18, Chapters 83 or 84, Idaho Code. (3-23-22)

**b.** The bureau shall determine if a person's out-of-jurisdiction conviction is substantially equivalent or similar to an Idaho sex related offense, as defined by Idaho's Criminal Code, for the purposes of requiring a person to register in Idaho. (3-23-22)

**c.** The bureau may make all substantially equivalent determinations using the police report (of the incident related to the sex offense), indictment or information or other lawful charging document, judgment or order (of sex offense conviction), psychosexual evaluation report, and order of probation. (3-23-22)

**d.** If a person seeks a substantially equivalent determination by the bureau before moving to, working in, or becoming a student in Idaho, that person shall provide a completed application and attach certified copies of all above-named documents to the bureau. (3-23-22)

**e.** The bureau shall issue a substantially equivalent determination within sixty (60) days upon receipt of a completed application and the required documents. (3-23-22)

**f.** The bureau's determination is a declaratory ruling as defined by Chapter 52, Title 67, Idaho Code. (3-23-22)

**g.** Judicial review of the bureau's determination will be made in accordance with Chapter 52, Title 67, Idaho Code. (3-23-22)

**IDAPA 11 – IDAHO STATE POLICE  
PEACE OFFICER STANDARDS AND TRAINING COUNCIL**

**11.11.01 – RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL**

**DOCKET NO. 11-1101-2201**

**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 first regular session of the 67th 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 Section 19-5107, Idaho Code.

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

When adding mandatory topic training for Patrol certified officers as approved by the Council, the in-service training requirement for certified Detention officers was inadvertently deleted. This change adds the in-service training requirement for certified Detention officers back to the rule, as under previous versions.

Secondly, the charts added to the rule addressing qualifying experience for advanced certifications for Misdemeanor Probation Officers incorrectly allow for any Law Enforcement experience rather than Misdemeanor Probation experience. This change corrects that to require Misdemeanor Probation experience as qualifying for advanced certifications.

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, pages 259-263](#).

**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:

There is no fiscal impact associated with this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact POST Division Administrator, Brad Johnson, phone 208-884-7251, fax 208-884-7295, email [brad.johnson@POST.idaho.gov](mailto:brad.johnson@POST.idaho.gov).

DATED this 28th day of November, 2022.

Lt. Colonel Bill Gardiner  
Chief of Staff  
Idaho State Police  
700 S. Stratford Dr.  
Meridian, Idaho 83642  
(208) 884-7004  
[Bill.Gardiner@isp.idaho.gov](mailto:Bill.Gardiner@isp.idaho.gov)

**THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given this agency has initiated proposed rulemaking. The action is authorized pursuant to Section 19-5107, Idaho Code.

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

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

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

When adding mandatory topic training for Patrol certified officers as approved by the Council, the in-service training requirement for certified Detention officers was inadvertently deleted. This change adds the in-service training requirement for certified Detention officers back to the rule, as under previous versions.

Secondly, the charts added to the rule addressing qualifying experience for advanced certifications for Misdemeanor Probation Officers incorrectly allow for any Law Enforcement experience rather than Misdemeanor Probation experience. This change corrects that to require Misdemeanor Probation experience as qualifying for advanced certifications.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: None.

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

There is no fiscal impact associated with this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was not published due to the simple nature of the rulemaking.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: Not Applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions about the proposed rules, contact POST Division Administrator, Brad Johnson, via phone (208) 884-7251, fax (208) 884-7295, or email [brad.johnson@POST.idaho.gov](mailto:brad.johnson@POST.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 21st day of September, 2022.



**THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1101-2201**

**072. INTERMEDIATE AND ADVANCED CERTIFICATION.**

*POST Intermediate and Advanced certification recognizes the additional training and experience of patrol, detention, emergency communications officers, juvenile probation officers and juvenile detention officers already possessing a basic POST certification. In addition to the requirements otherwise set forth in these Rules, the following are required for an Intermediate or Advanced Certificate. (3-31-22)*

**01. Intermediate Certification.** An applicant shall hold a current POST basic certification, and have acquired either the combination of college credits and/or POST training hours, combined with the prescribed years of law enforcement experience, or an associate or baccalaureate degree from a college recognized by a regional accreditation agency, combined with the prescribed years of law enforcement experience, as set forth in the following subsections: (3-31-22)

**a. Peace officers.**

POST Training Hours Including POST Basic Patrol Academy	600 hours	800 hours	1,200 hours	1,600 hours	1,800 hours	POST Basic Patrol Academy	
One College Credit Equals Twenty (20) POST Training Hours	The above may be a combination of College Credits and POST Training Hours					Associate Degree	Baccalaureate Degree
Years of Law Enforcement Experience	8 or more	7	6	5	4	4	2

(3-31-22)

**b. Detention officers.**

POST Training Hours Including POST Basic Detention Academy	600 hours	800 hours	1,200 hours	1,600 hours	1,800 hours	POST Basic Detention Academy	
One College Credit Equals Twenty (20) POST Training Hours	The above may be a combination of College Credits and POST Training Hours					Associate Degree	Baccalaureate Degree
Years of Law Enforcement Experience	8 or more	7	6	5	4	4	2

(3-31-22)

**c. Emergency communications officers. The applicant shall:** (3-31-22)

**i.** Have completed a minimum of one hundred twenty (120) hours of POST certified training, which must include Emergency Communications basic training. (3-31-22)

- ii. A minimum of three (3) years of emergency communications officer experience. (3-31-22)
- d. Juvenile detention officers.

POST Training Hours Including POST Basic Juvenile Detention Academy	200 hours	400 hours	600 hours	800 hours	1,000 hours	POST Basic Juvenile Detention Academy	
One College Credit Equals Twenty (20) POST Training Hours	The above may be a combination of College Credits and POST Training Hours					Associate Degree	Baccalaureate Degree
Years of Juvenile Justice Experience	8 or more	7	6	5	4	4	2

(3-31-22)

- e. Juvenile probation officers.

POST Training Hours Including POST Basic Juvenile Probation Academy	200 hours	400 hours	600 hours	800 hours	1,000 hours	POST Basic Juvenile Probation Academy	
One College Credit Equals Twenty (20) POST Training Hours	The above may be a combination of College Credits and POST Training Hours					Associate Degree	Baccalaureate Degree
Years of Juvenile Justice Experience	8 or more	7	6	5	4	4	2

(3-31-22)

- f. Misdemeanor probation officers.

POST Training Hours Including POST Basic MPO Academy	600 hours	800 hours	1,200 hours	1,600 hours	1,800 hours	POST MPO Basic Academy	
One College Credit Equals Twenty (20) POST Training Hours	The above may be a combination of College Credits and POST Training Hours					Associate Degree	Baccalaureate Degree
Years of <u>Law Enforcement Misdemeanor Probation</u> Experience	8 or more	7	6	5	4	4	2

(3-31-22)( )

**02. Advanced Certification.** An applicant shall hold a current POST basic certification, possess or be eligible to possess an intermediate certificate, and have acquired either the combination of college credits and POST training hours, combined with the prescribed years of law enforcement experience, or an associate, baccalaureate, master's or doctoral degree from a college recognized by a regional accreditation agency, combined with the

prescribed years of law enforcement experience, as set forth in the following subsections: (3-31-22)

**a. Peace officers.**

POST Training Hours Including POST Basic Patrol Academy	500 hours	600 hours	700 hours	800 hours	900 hours	1,200 hours	POST Basic Patrol Academy		
College Credits	15	20	30	40	45	60	Associate Degree	Baccalaureate Degree	Master's Degree or PhD
Years of Law Enforcement Experience	13 or more	12	11	10	9	8	8	6	4

Graduation from the Drug Enforcement Administration School in Washington, D.C., the Northwestern University Traffic Institute School of Police Staff and Command, the FBI National Academy or Southern Police Institute's Administrative Officers Course/Command Officers Development Course shall be accepted in lieu of the fifteen (15) college credits required for the Advanced Certificate with thirteen (13) years or more of experience. (3-31-22)

**b. Detention officers.**

POST Training Hours Including POST Basic Detention Academy	500 hours	600 hours	700 hours	800 hours	900 hours	1,200 hours	POST Basic Detention Academy		
College Credits	15	20	30	40	45	60	Associate Degree	Baccalaureate Degree	Master's Degree or PhD
Years of Law Enforcement Experience	13 or more	12	11	10	9	8	8	6	4

Graduation from the Drug Enforcement Administration School in Washington, D.C., the Northwestern University Traffic Institute School of Police Staff and Command, the FBI National Academy or Southern Police Institute's Administrative Officers Course/Command Officers Development Course shall be accepted in lieu of the fifteen (15) college credits required for the Advanced Certificate with thirteen (13) years or more of experience. (3-31-22)

**c. Emergency communications officers. (3-31-22)**

i. Have completed a minimum of five hundred (500) hours of POST certified training, which must include POST approved Emergency Communications basic training. (3-31-22)

ii. Have at least ten (10) years of communications specialist experience. (3-31-22)

**d. Misdemeanor probation officers.**

POST Training Hours Including POST Basic MPO Academy	500 hours	600 hours	700 hours	800 hours	900 hours	1,200 hours	POST Basic MPO Academy		
College Credits	15	20	30	40	45	60	Associate Degree	Baccalaureate Degree	Master's Degree or PhD
Years of <u>Law Enforcement Misdemeanor Probation</u> Experience	13 or more	12	11	10	9	8	8	6	4

~~(3-31-22)~~ ( )

**03. Probationary Period.** An applicant shall have completed a probationary period of at least six (6) consecutive months with the employing agency prior to applying for intermediate or advanced certificates. Agencies may require a longer probationary period prior to application. (3-31-22)

**(BREAK IN CONTINUITY OF SECTIONS)**

**131. IN-SERVICE TRAINING REQUIREMENTS FOR RETAINING BASIC CERTIFICATION.**

**01. Peace Officers.** To retain POST certification, a peace officer must complete a minimum of forty (40) hours of continuing law enforcement training as directed by the POST Council every two (2) calendar years beginning January 1 following the date the officer was certified. This training must include a combined minimum twenty-four (24) hours of continuing law enforcement training in the following topics: (3-31-22)

- a. Firearms: Eight (8) hours and an annual proficiency test (qualification); (3-31-22)
- b. Arrest Techniques/Defensive Tactics (ARCON): Eight (8) hours; (3-31-22)
- c. Emergency Vehicle Operation: Four (4) hours; (3-31-22)
- d. Legal Update(s): Four (4) hours. (3-31-22)

**02. County Detention Officers.** To retain POST certification, a county detention officer must complete a minimum of forty (40) hours of continuing law enforcement training related to law enforcement every two (2) calendar years beginning January 1 following the date the officer was certified. ( )

**023. Emergency Communications Officers.** To retain POST certification, an emergency communications officer must complete a minimum of forty (40) hours of continuing training related to public safety emergency communications every two (2) calendar years beginning January 1 following the date the officer was certified. (3-31-22)

**034. Tolling of Two-Year Period.** The two (2) year continuing training period shall be tolled while an officer is on active military duty, and recommence upon the officer's return to duty with his agency. The agency shall submit a Notice of Separation/Change in Status form upon the officer's departure from and return to the agency. (3-31-22)

## IDAPA 21 – IDAHO DIVISION OF VETERANS SERVICES

### 21.01.01 – RULES GOVERNING ADMISSION, RESIDENCY, AND MAINTENANCE CHARGES IN IDAHO STATE VETERANS HOMES AND DIVISION OF VETERANS SERVICES ADMINISTRATIVE PROCEDURE

DOCKET NO. 21-0101-2201

#### 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 65-202; 65-204; and 66-907, Idaho Code.

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

This rule change removes a contradiction in the existing rule that conflicts with Title 14 Chapter 5, Idaho Code, the Unclaimed Property Act (UCPA). It also clarifies the rights of a resident regarding a notice of transfer or discharge and the rights of an applicant regarding notice of a denial of an application for residency.

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 November 2022 Idaho Administrative Bulletin, [Vol. 22-11, pages 39-42](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Kevin Wallior at 208-780-1308.

DATED this 21st day of November 2022.

Kevin Wallior, Management Assistant  
Idaho Division of Veterans Services  
351 Collins Road  
Boise, ID 83702  
Phone: 208-780-1308  
Fax: 208-780-1301  
Email: [kevin.wallior@veterans.idaho.gov](mailto:kevin.wallior@veterans.idaho.gov)

**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 65-202; 65-204; and 66-907, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than November 16, 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:

This rule change removes a contradiction in the existing rule that conflicts with Title 14 Chapter 5, Idaho Code, the Unclaimed Property Act (UCPA). It also clarifies the rights of a resident regarding a notice of transfer or discharge and the rights of an applicant regarding notice of a denial of an application for residency.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this brings the Division's existing rule in alignment with existing Idaho Statute.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Kevin Wallior at 208-780-1308.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before November 23, 2022.

DATED this November 2, 2022.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 21-0101-2201**

**200. ~~CONDITIONS FOR DENIAL OF~~ ADMISSION.**

~~01. Denial of Admission.~~ Admission may be denied to an otherwise eligible applicant for any reason for which an admitted resident could be involuntarily discharged. ~~(3-23-22)( )~~

~~02. Assignment of Personal Property.~~ Prior to admission to a Home, an eligible applicant must agree

~~that while he is a resident of a Home he will assign the following, under the conditions specified: (3-23-22)~~

~~a. Pursuant to Section 66-906, Idaho Code, all personal property owned, money held, or assets to which he is entitled at the time of his death— unless disposed of by will or rightfully claimed within five (5) years of the death of the resident by an heir or person named in the resident's will— must be assigned to the Division Administrator at the time of application for the sole use and benefit of a Home. (3-23-22)~~

~~b. Upon discharge or voluntary departure from a Home, and after written notification is sent to the resident, all personal property owned or money deposited with the Home which is unclaimed by the former resident will be converted for the sole use and benefit of a Home as specified below: (3-23-22)~~

~~i. Personal property unclaimed within thirty (30) days of departure or discharge will be made available to needy Home residents or disposed of at public auction or private sale and the proceeds deposited with the state; or (3-23-22)~~

~~ii. Money deposited with the Home will be retained and deposited with the state; however, said money may be claimed by the former resident within five (5) years of departure or discharge. (3-23-22)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**980. NOTICE OF RESIDENT TRANSFER OR DISCHARGE AND NOTICE OF DENIAL OF AN APPLICATION FOR RESIDENCY.**

The Home Administrator or his designee must notify the applicant or resident of any action to be taken regarding rejection of an application or involuntary transfer or discharge from a Home. The Home does not need to provide notice of voluntary transfer or discharge pursuant to Subsection 350.04 of these rules. (3-23-22)( )

**01. Form of Notice.** (3-23-22)

~~a. The notices of denial of application may be made orally. (3-23-22)~~

~~b. The notice of or ineligibility for residency; transfer; or discharge must be in writing. (3-23-22)( )~~

**02. Content of Notice of Transfer or Discharge.** The notice must state the following: (3-23-22)

**a.** The reason for the impending action and a reference to the pertinent rules under which the action is being brought or decision has been made; (3-23-22)

**b.** The effective date of the action; (3-23-22)

**c.** The location to which the resident is transferred or discharge, which is established for Nursing Care transfers and discharges only; (3-23-22)

**d.** The applicant's or resident's right to request a hearing according to the provisions deadlines in Section 982 of these rules; and (3-23-22)( )

**e.** The procedure for requesting a hearing, as provided in Subsection 982.03 of these rules. (3-23-22)

**f.** The name, address, and telephone number of the State long term care ombudsman; (3-23-22)

**g.** The name, address, and telephone number of the State Disability Rights agency responsible for the protection and advocacy for those residents with developmental disabilities or mental illness. (3-23-22)

**03. Notification Deadlines for Domiciliary Care. The Notice shall be provided to the applicant or resident according to the following notification deadlines are established for Domiciliary Care only:**

~~(3-23-22)( )~~

~~a. Denial of application or findings of ineligibility. Notice of a denial of application or findings of ineligibility for residency must be mailed to the applicant within three (3) working days after receipt of the completed application citing the reasons for rejection. ( )~~

~~a.b. Domiciliary Care. Discharge or transfer notices to residents receiving Domiciliary Care must be sent to the resident three (3) days prior to the intended effective date of the action, except under the conditions noted in Subsections 350.01, 350.03 and 350.04 of these rules. (3-23-22)( )~~

~~b. Notification of findings of ineligibility for residency will be mailed to the applicant within three (3) working days after receipt of the completed application citing the reasons for rejection. (3-23-22)~~

~~04. Notification Deadlines for Residential Care. The following notification deadlines are established for Residential Care only: (3-23-22)~~

~~a.c. Residential Care. Discharge or transfer notices to residents receiving Residential Care must be sent to the resident fifteen (15) days prior to the intended effective date of the action, except under the conditions noted in Subsections 350.01, 350.03 and 350.04 of these rules. (3-23-22)( )~~

~~b. Notification of findings of ineligibility for residency will be mailed to the applicant within three (3) working days after receipt of the completed application citing the reasons for rejection. (3-23-22)~~

~~05. Notification Deadlines for Nursing Care. The following notification deadlines are established for Nursing Care only: (3-23-22)~~

~~d. Nursing Care. Residents receiving Nursing Care must receive notice as follows: ( )~~

~~d.i. Notices of general discharge or transfer pursuant to Subsection 350.02 of these rules must be sent to the resident thirty (30) days prior to the intended effective date of the action. (3-23-22)~~

~~d.ii. Notices of emergency discharge or transfer pursuant to Subsection 350.01 of these rules must be sent to the resident as soon as practical. (3-23-22)~~

~~d.iii. Notices of discharge or transfer during absence pursuant to Subsection 350.03 of these rules must be sent to the resident within three (3) working days of the Home's determination to transfer or discharge. (3-23-22)( )~~

~~d.iv. Notice of discharge or transfer for unauthorized absences pursuant to Paragraph 350.02.g. of these rules must be sent to the resident within three (3) days of the last unauthorized absence establishing a basis for discharge. (3-23-22)( )~~

~~e. The Home does not need to provide notice of voluntary transfer or discharge pursuant to Subsection 350.04 of these rules. (3-23-22)~~

~~f. Notification of the denial of an application for residency will be mailed to the applicant within three (3) working days after receipt of the completed application citing the reasons for rejection. (3-23-22)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**982. PROVISIONS FOR CONTESTED CASES.**

**01. Inapplicability of Idaho Rules of Administrative Procedure of the Attorney General.** All contested cases shall be governed by the provisions of these rules. The Commission and Division Administrator find that the provisions of IDAPA 04.11.01, et seq., "Idaho Rules of Administrative Procedure of the Attorney General,"



are inapplicable and inappropriate for contested cases before the Commission, because of the specific and unique requirements of federal and state law regarding notices, hearing processes, procedural requirements, time lines, and other provisions requiring the Division to adopt its own procedures pursuant to Section 67-5206(5)(b), Idaho Code, and hereby affirmatively promulgate and adopt alternative procedures and elect not to be governed by any of the provisions of IDAPA 04.11.01, et seq., “Idaho Rules of Administrative Procedure of the Attorney General.” (3-23-22)

**02. Hearing Rights.** Residents and applicants have the following rights to a hearing: (3-23-22)

**a.** If a resident of a Home is notified of transfer or discharge, the resident will be afforded an opportunity for a hearing. A resident of a Home must attempt to resolve the bases stated on the notice of action through verbal discussions with the Home Administrator or his designee prior to submission of a written request for a hearing. A resident will not be afforded an opportunity for a hearing based upon a voluntary transfer or discharge under Subsection 350.04 of these rules. (3-23-22)

**b.** If an application for residency in a Home is rejected, the applicant may request a hearing. (3-23-22)

**03. Requesting a Hearing for Nursing Care.** A request for a hearing from a nursing care resident for residency in a Home must be submitted to the Idaho Department of Health and Welfare, *Fair Hearing Office*, P.O. Box 83720, Boise, Idaho 83720-0036. Requests for appeal should be received by the Idaho Department of Health and Welfare before thirty (30) days have passed in order to stop the discharge or transfer before it occurs. ~~(3-23-22)~~ ( )

**04. Requesting a Hearing for Residential and Domiciliary Care.** (3-23-22)

**a.** A request for a hearing from a resident for residential and domiciliary care residency in a Home must be submitted through the Home Administrator to the Division Administrator for possible resolution or the scheduling of a hearing. A resident's request must contain a description of what effort he has taken to satisfy the requirements of Paragraph 982.02.a. of these rules. (3-23-22)

**b.** A request for a hearing must be in writing and signed by the applicant/resident. (3-23-22)

**c.** A request for a hearing must be submitted within three (3) days of receipt of the written notice of action or denial. (3-23-22)

**d.** Pending a hearing, benefits will be continued or held in abeyance as follows: (3-23-22)

**i.** Benefits for domiciliary care, residential care, and nursing care residents will not be continued when the transfer or discharge is an emergency discharge under Subsection 350.01 of these rules or a discharge for unauthorized absences under Paragraph 350.02.g. of these rules. If the hearing request is made before the effective date of action and within three (3) days of receipt of the notice, no action will be taken by the Home Administrator on a general discharge under Subsection 350.02 of these rules, except Paragraph 350.02.g., or a transfer under Subsection 350.03 of these rules pending receipt of the final order. (3-23-22)

**e.** The Division Administrator will not accept a request for a hearing from a voluntary transfer or discharge pursuant to Subsection 350.04 of these rules. (3-23-22)