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**IDAPA 08
TITLE 01
CHAPTER 01**

IDAPA 08 - STATE BOARD OF EDUCATION

**08.01.01 - RULES OF THE STATE BOARD OF EDUCATION AND BOARD OF REGENTS
OF THE UNIVERSITY OF IDAHO - ADMINISTRATIVE PROCEDURES AND RECORDS**

000. -- 049. (RESERVED).

050. RULEMAKING AND CONTESTED CASE PROCEDURES.

The Board, by operation of law, adopts the Idaho Rules of Administrative Procedure of the Attorney General, IDAPA 04.11.01 et seq., except to the extent a specific grievance, hearing, or appeal procedure is set forth in these rules and with the exception of the notice of proposed rulemaking provisions of IDAPA 04.11.01.800 et seq. Pursuant to Section 33-105(3), Idaho Code, the Board shall be deemed to be in full compliance with the notice requirements of Section 67-5221, Idaho Code, if it follows the procedures set forth in Section 33-105(3), Idaho Code. (7-1-93)

051. -- 099. (RESERVED).

100. PROCEDURES FOR RESPONDING TO REQUESTS FOR EXAMINATION AND/OR COPYING PUBLIC RECORDS.

The offices, agencies, and institutions under the governance of the State Board of Education and the Board of Regents of the University of Idaho will comply with Sections 9-337 through 9-347, Idaho Code, when requests for the examination and/or copying of public records in this custody are made. Unless otherwise exempt, as set forth in Section 9-340, Idaho Code, and other state and federal laws and regulations, all public records within the custody of the offices, agencies, and institutions are subject to disclosure. (7-1-93)

01. Public Record. Includes, but is not limited to, any writing containing information relating to the conduct or administration of the public's business prepared, owned, used, or retained by the office, agency, or institution regardless of physical form or characteristics. (7-1-93)

02. Writing. Includes, but is not limited to, handwriting, typewriting, printing, photostating, photographing, and every means of recording, including letters, words, pictures, sounds or symbols or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, or other documents. (7-1-93)

03. Written Request. Any person requesting to examine and/or copy records shall make a written request upon a form prescribed by the office, agency, or institution with custody of the record. (7-1-93)

04. Obligation of Custodian of Records. In all cases in which a request to examine and/or copy records is made, it shall be the obligation of the public records custodian or his designee to assist the person making the request. Custodians of records or expected to be familiar with the provisions of Sections 9-337 through 9-347, Idaho Code. (7-1-93)

05. Fees. No fee will be charged for the examination of public records during regular business hours. The office, agency, or institution may charge, in advance, a reasonable fee for examination and/or copying which occurs outside regular business hours, for providing copies of public records, for use of copy equipment, and for duplication of computerized records at the following rates: (7-1-93)

a. Inspection outside regular business hours. For inspection and/or copying of public records during other than regular business hours, the actual hourly compensation to which the custodian or his designee is entitled in addition to copying costs established herein. The final decision concerning whether to permit inspection and/or copying outside regular business hours shall rest with the chief executive officer or agency director or his designee of the office, agency, or institution. (7-1-93)

b. Copying charge. For providing copies of public records, an amount not to exceed the actual cost as

determined in consultation with the state auditor's office. (7-1-93)

c. Charge for computer or similar records. For reproducing public records which are in the form of a computer tape, computer disc, microfilm, or similar or analogous record system, a charge not to exceed the sum of the direct cost of copying the information in that form or the standard cost, if any, for selling the same information in the form of a publication. Media type will be restricted based upon the equipment available for production of the records at the office, agency, or institution requested to produce the records. Available media will be listed on the request form prescribed by the office, agency, or institution. Any conversion of the record to make it readable by specific equipment is the sole responsibility of the person requesting the record, and the cost of providing the record will not be adjusted due to the incompatibility of the requestor's equipment. Any magnetic media required will be provided by the person requesting the record. (7-1-93)

06. Determination of Exempt Records. The custodian or his designee, and where appropriate, in consultation with counsel for the office, agency, or institution, will determine whether a record requested in accordance with these procedures is exempt from disclosure under applicable federal and state statutes. (7-1-93)

07. Time for Granting or Denying Request. Public records custodians shall grant or deny a request to examine or copy public records within a maximum of three (3) working days of the date of receipt of the request. (7-1-93)

08. Extensions of Time. If the public records custodian determines that a longer period of time is needed to locate or retrieve the public records, the custodian shall notify, in writing, the person making the request and shall provide the public records to the person no later than ten (10) working days following the person's request. (7-1-93)

09. Denials. All denials or partial denials of requests for examination and/or copying of public records shall include: (7-1-93)

a. Reason for denial. A written statement specifying the reason for the denial, including reference to the specific statutory authority for the denial. (7-1-93)

b. Attorney or agency review. A statement that the attorney for the office, agency, or institution has reviewed the request for examination and/or copying or a statement that the department has had an opportunity to consult with an attorney regarding the request for examination or copying of a record and has chosen not to do so. (7-1-93)

c. Appeal rights. A statement notifying the person making the request for examination and/or copying of a record of the person's right to appeal the denial or partial denial and the time period for doing so. Appeal shall be to the district court of the county where the records or some part of them are located and shall be commenced within one hundred eighty (180) calendar days of the date of the mailing of the notice of denial. (7-1-93)

10. Protection of Public Records. Records shall not be removed from the place designated for their inspection unless the custodian of records specifically agrees otherwise. (7-1-93)

11. Additional Guidelines. Section 9-347, Idaho Code, requires that every state agency adopt guidelines that identify the general subject matter of all public records kept or maintained by the state agency, the custodian, and the physical location of such documents. Because of the diverse nature, locations, and magnitude of the records maintained by the various offices, agencies, and institutions under the governance of the State Board of Education and the Board of Regents of the University of Idaho, each such office, agency, and institution shall identify its own records custodian and prepare the guidelines required by Section 9-347, Idaho Code, by January 1, 1991. The Guidelines for the Office of the State Board of Education are located at Section VI, Subsection B, of the State Board of Education Governing Policies and Procedures. (7-1-93)

101. -- 999. (RESERVED).

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