

Dear Senators MARTIN, Souza, Jordan, and
Representatives WOOD, Wagoner, Chew:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the Department of Health and Welfare:

IDAPA 16.05.04 - Rules of the Idaho Council on Domestic Violence and Victim Assistance Grant Funding - Proposed Rule (Docket No. 16-0504-1901);

IDAPA 16.06.12 - Rules Governing the Idaho Child Care Program (ICCP) - Proposed Rule (Docket No. 16-0612-1901).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative Services. The final date to call a meeting on the enclosed rules is no later than 11/21/2019. If a meeting is called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis from Legislative Services. The final date to hold a meeting on the enclosed rules is 12/20/2019.

The germane joint subcommittee may request a statement of economic impact with respect to a proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement, and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the memorandum attached below.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee

FROM: Principal Legislative Drafting Attorney - Elizabeth Bowen

DATE: November 01, 2019

SUBJECT: Department of Health and Welfare

IDAPA 16.05.04 - Rules of the Idaho Council on Domestic Violence and Victim Assistance Grant Funding
- Proposed Rule (Docket No. 16-0504-1901)

IDAPA 16.06.12 - Rules Governing the Idaho Child Care Program (ICCP) - Proposed Rule (Docket No. 16-0612-1901)

Summary and Stated Reasons for the Rule

Docket No. 16-0504-1901: This proposed rule revises definitions, clarifies language regarding conflicts of interest, and removes obsolete language.

Docket No. 16-0612-1901: This proposed rule removes unnecessary language and updates existing rules to conform to federal regulations.

Negotiated Rulemaking / Fiscal Impact

Docket No. 16-0504-1901: Negotiated rulemaking was conducted. There is no anticipated negative fiscal impact on the state general fund.

Docket No. 16-0612-1901: Negotiated rulemaking was not conducted due to the nature of the rule change, which is to conform to federal regulations. Any anticipated impact to the state general fund is expected to be less than \$10,000.

Statutory Authority

This rulemaking appears to be within the Department's statutory authority.

cc: Department of Health and Welfare
Frank Powell and Trinetta Middlebrook

*** PLEASE NOTE ***

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statehouse, P.O. Box 83720
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Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
16.05.04 – RULES OF THE IDAHO COUNCIL ON DOMESTIC VIOLENCE
AND VICTIM ASSISTANCE GRANT FUNDING

DOCKET NO. 16-0504-1901

NOTICE OF RULEMAKING – 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 39-5209, 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 16, 2019.

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

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

The Council on Domestic Violence and Victim Assistance is revising its chapter of rules to remove obsolete language and update its language to reflect current best practices.

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

There is no anticipated fiscal impact to the state general fund or any other funds related to this rulemaking. Programs affiliated with the ICDVVA provide fees independently.

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 3, 2019, Idaho Administrative Bulletin, [Volume 19-7, pages 238-239](#).

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 Nicole Fitzgerald at (208) 332-1542 or Nicole.Fitzgerald@icdv.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 23, 2019.

Dated this 19th day of August, 2019.

Tamara Prisock
DHW – Administrative Rules Unit
450 W. State Street – 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
Phone: (208) 334-5564
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E-mail: dhwrules@dhw.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0504-1901
(Only Those Sections With Amendments Are Shown.)

000. LEGAL AUTHORITY.

Under Section 39-5209, Idaho Code, the Idaho Council on Domestic Violence and Victim Assistance (ICDVVA) is authorized to promulgate, adopt, and amend rules to implement the provisions of the Domestic Violence Project Grants Act, as contained in Title 39, Chapter 52, Idaho Code. ~~(3-30-11)~~()

001. TITLE AND SCOPE.

01. Title. The title of these rules is IDAPA 16.05.04, "~~Rules of~~ Grant Funding for the Idaho Council on Domestic Violence and Victim Assistance ~~Grant Funding~~." ~~(3-30-11)~~()

02. Scope. These rules define the application process, eligibility determination, and other requirements for the grants administered by the ~~Idaho Council on Domestic Violence and Victim Assistance~~ (ICDVVA). ~~(3-30-11)~~()

03. Relationship to the Department of Health and Welfare. The ~~Council on Domestic Violence and Victim Assistance~~ (ICDVVA) is attached to the Department of Health and Welfare for fiscal and administrative purposes, and any grant awards, disbursement of funds, and other procedural matters must be in compliance with Department requirements. Programmatically, the Council is independent of the Department. ~~(5-3-03)~~()

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATION BY REFERENCE.

01. Documents Incorporated by Reference. In accordance with Section 67-5229, Idaho Code, the following documents are incorporated by reference into this chapter of rules: (7-1-14)

a. "Service Standards for ICDVVA-Funded Programs," Edition 2014-1, published by the ~~Idaho Council on Domestic Violence and Victim Assistance~~ (ICDVVA), effective July 1, 2014. ~~(7-1-14)~~()

b. "Minimum Standards for Domestic Violence Offender Intervention Programs," published by the ~~Idaho Council on Domestic Violence and Victim Assistance~~ (ICDVVA), edition 2019-1, effective July 1, 2019. ~~(7-1-19)~~()

02. Availability of Reference Material. Copies of the documents incorporated by reference into these rules are available: (7-1-14)

a. At the Idaho Council on Domestic Violence and Victim Assistance, 304 North 8th Street, Suite 140, P.O. Box 83720, Boise, Idaho 83720-0036. (7-1-14)

b. On the internet at: <http://www.icdv.idaho.gov>. (7-1-14)

(BREAK IN CONTINUITY OF SECTIONS)

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS ACT REQUESTS.

01. Confidentiality of Records. Any information about an individual covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department

Records.”

~~(3-30-11)~~()

02. Public Records Act. The Department will comply with Title, 74, Chapter 1, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure.

~~(3-30-11)~~()

007. -- 009. (RESERVED)

010. DEFINITIONS.

For the purpose of these rules, the following ~~terms are defined herein~~ definitions apply:

~~(3-12-90)~~()

01. Conflict of Interest. No member of the Council ~~on Domestic Violence and Victim Assistance~~ may vote on any matter before the Council in which ~~they have~~ any substantial ownership, ~~or~~ fiduciary, contractual, consultative, creditor, or directly competitive relationship, and any such relationship be made publicly known.

~~(5-3-03)~~()

a. Appearance. In the use of grantor agency project funds, officials or employees of state or local units of government and nongovernmental grantees/subgrantees ~~shall~~ **must** avoid any action ~~which that~~ might result in, or create the appearance of:

~~(3-12-90)~~()

- i. Using his official position for private gain; (3-12-90)
- ii. Giving preferential treatment to any person; (3-12-90)
- iii. Losing complete independence or impartiality; (3-12-90)
- iv. Making an official decision outside official channels; or (3-12-90)
- v. Adversely affecting the confidence of the public in the integrity of government or the program. (3-12-90)

b. Fiduciary. Exercising a position of trust on behalf of an organization or entity, including any trustee, member of the Board of Directors, officer, legal counsel, or any other person with a legal obligation to act in the best interest of such an organization or entity. (3-12-90)

02. Contract. The grant contract between the program and the Council ~~which that~~ results from a Council ~~on Domestic Violence and Victim Assistance~~ grant award. ~~(5-3-03)~~()

03. Council. The Idaho Council on Domestic Violence and Victim Assistance (**ICDVVA**) as outlined in Section 39-5201, et seq., Idaho Code. ~~(5-3-03)~~()

04. Department. The **Idaho** Department of Health and Welfare. ~~(3-12-90)~~()

05. Domestic Violence. ~~The physical injury, sexual abuse, or forced imprisonment or threat thereof of a family or household member. Crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Idaho. This definition also includes criminal or non-criminal acts constituting intimidation, control, coercion and coercive control, emotional and psychological abuse and behavior, expressive and psychological aggression, financial abuse, harassment, tormenting behavior, distributing or alarming behavior, and additional acts. This definition applies to individuals and relationships as set forth in 45 CFR 1370.2.~~ ~~(3-12-90)~~()

~~**06. Family or Household Member.** One who is related by blood or marriage or who resides or has resided with, or who has been married to the person committing the domestic violence. (3-12-90)~~

~~**07. Region(s).** One (1) or the seven (7) regions of the Idaho Department of Health and Welfare as set~~

~~out in Subsections 005.04.a. through 005.04.g.~~

~~(3-12-90)~~

~~06. **Victim.** A person who suffers direct or threatened physical, emotional, or financial harm as a result of an act by someone else, which is a crime.~~ ()

011. -- 014. (RESERVED)

015. GRANTS.

01. **Family Violence Grant.** Money awarded to a program ~~pursuant to~~ under the Family Violence Prevention and Services Act, Title III of the Child Abuse Amendments of 1984 P.L. 98-457, 42 U.S.C. 10401, and any applicable rules and regulations. ~~(3-12-90)~~ ()

02. **State Domestic Violence Grant.** Money awarded to a program ~~pursuant to~~ under Sections 39-5201 through 39-5213, Idaho Code (domestic violence project grants), and any applicable rules and regulations. ~~(3-12-90)~~ ()

03. **VOCA Grant.** Money awarded to a program ~~pursuant to~~ under Victims of Crime Act of 1984, P.L. 98-473, Title II, Chapter XIV, 42 U.S.C. 10601, et seq. and any applicable rules and regulations. ~~(3-12-90)~~ ()

04. **Regions.** The seven (7) regions of the Department of Health and Welfare are as follows: (3-12-90)

a. REGION I -- Benewah County, Bonner County, Boundary County, Kootenai County, Shoshone County. (3-12-90)

b. REGION II -- Clearwater County, Idaho County, Latah County, Lewis County, Nez Perce County. (3-12-90)

c. REGION III -- Adams County, Canyon County, Gem County, Owyhee County, Payette County, Washington County. (3-12-90)

d. REGION IV -- Ada County, Boise County, Elmore County, Valley County. (3-12-90)

e. REGION V -- Blaine County, Camas County, Cassia County, Gooding County, Jerome County, Lincoln County, Minidoka County, Twin Falls County. (3-12-90)

f. REGION VI -- Bannock County, Bear Lake County, Bingham County, Caribou County, Franklin County, Oneida County, Power County. (3-12-90)

g. REGION VII -- Bonneville County, Butte County, Clark County, Custer County, Fremont County, Jefferson County, Lemhi County, Madison County, Teton County. (3-12-90)

05. **Grant Applications.** Applications for grant funding ~~which~~ that are obtained from the Council. These will have eligibility, legal, and paperwork requirements for the grants administered by the Council. ~~(5-3-03)~~ ()

016. COUNCIL **DUTIES.**

~~The Council shall:~~

~~(3-12-90)~~

01. **Membership.** ~~Pursuant to~~ Under Section 39-5204, Idaho Code, consist of seven (7) members appointed by the Governor of Idaho. At least one (1) member ~~shall~~ must reside in one (1) of the seven (7) Department of Health and Welfare regions. Members ~~shall~~ must be representative of persons who have been victims of domestic violence, care providers, law enforcement officials, medical and mental health personnel, counselors, and interested and concerned members of the general public. ~~(3-12-90)~~ ()

02. **Purpose.** Be the advisory body for programs and services affecting victims of crime. For budgetary purposes and for administrative support purposes, the Council is assigned by the Governor to the Department.

(3-12-90)

03. Grants Awards Process. Award available state and federal grant money to eligible victims' services programs within the state of Idaho. The current available grants are: (3-12-90)

- a. State domestic violence; (3-12-90)
- b. Federal family violence; (5-3-03)
- c. Federal VOCA; and (5-3-03)
- d. State ~~batterer treatment~~ offender intervention program grants. (5-3-03)()

04. Other Grants. The Council may establish other state or federal grants ~~which are~~ authorized under Executive Orders and ~~pursuant to~~ under Section 39-5208(2), Idaho Code. (3-12-90)()

017. ELIGIBILITY.

01. State Domestic Violence Grants. To be eligible for a state domestic violence grant, a program must comply with ~~all~~ the applicable requirements of Title 39, Chapter 52, Idaho Code, as specified in Appendix A, ~~A program must also comply with~~ these rules, and with any additional requirements in the grant applications, or ~~that the~~ from the Council ~~may require~~. (3-12-90)()

02. Federal Family Violence Grant. To be eligible for a federal family violence grant, a program must comply with all the applicable sections of the Family Violence and Services Act, ~~and~~ other federal rules and regulations, and any additional requirements in the grant applications or that from the Council may require. (5-3-03)()

03. Federal VOCA Grant. To be eligible for a federal VOCA grant, a program must comply with all the applicable sections of the Victims of Crime Act, any other federal rules and regulations ~~which that~~ apply, these rules and any additional requirements listed in the grant applications, or ~~that from~~ the Council ~~may require~~. (5-3-03)()

04. Tribes. All federally acknowledged tribes in the state of Idaho are eligible for ICDVVA funding. ()

~~045.~~ **Application Process.** The application process for grants, ~~under the grants~~ including time frames for both submission and disposition of applications and the form and contents of applications for annual or supplemental funding, is described in Section 018 of these rules. (5-3-03)()

018. TIME FRAMES.

01. Grant Applications for Annual Grants from the Council. (5-3-03)

a. No less than once a year, the Department will publish a "Grant Applications" (GA) at least two (2) times (once a week for two (2) consecutive weeks, on the same day of the week) in a major daily newspaper in each service area. The GA will specify the deadline for submission of proposals. In no event will the deadline be less than sixty (60) days from the date of first publication of the GA. (3-12-90)

b. A copy of each GA will also be sent to current grantees and to persons and organizations who have requested timely notification ~~of such announcement~~. Requests for advance notification of the solicitation of grant proposals should be directed to the Executive Director of the Idaho Council on Domestic Violence and Victim Assistance, P.O. Box. 83720, ~~450 West State Street~~, Boise, Idaho 83720 - 0036, or info@icdv.idaho.gov. (5-3-03)()

c. Applications for annual grants must be postmarked, ~~or~~ hand-delivered, e-mailed, or electronically delivered as specified in the ICDVVA application RFP, ~~no~~ later than the date designated in the "Grant Applications."

~~(5-3-03)~~()

02. Proposals or Supplemental Grants. Applications for supplemental grants may be submitted for consideration at any time during the effective period of a grant. (5-3-03)

019. DISPOSITION OF APPLICATIONS.

The Council ~~shall act to~~ **will** deny or grant funding as specified below, and all applicants will be notified in writing as to the disposition of their application. ~~(3-12-90)~~()

01. Annual Applications. The Council ~~shall act to~~ **will** deny or grant funding for an annual application within ninety (90) days of the GA deadline. ~~(5-3-03)~~()

02. Supplemental Applications. Allocation of supplemental funding ~~shall be~~ **is** made based upon the availability of funds. ~~(3-12-90)~~()

03. Late Applications. An application for annual funding received after the deadline specified in any GA will be acted upon at a regularly-scheduled meeting of the Council, following consideration of all timely initial and renewal applications for the service area. (5-3-03)

020. EVALUATION OF APPLICATIONS.

Applications from each region ~~shall~~ **are** be evaluated according to the following criteria: ~~(3-12-90)~~()

01. Threshold Factors. Before an application is evaluated and ranked, an affirmative determination must be made that: (3-12-90)

a. The applicant meets eligibility requirements as specified in Section 017 of these rules; and ~~(5-3-03)~~()

b. The applicant has the administrative capacity, or has adequately described how provisions for that capacity will be made if not present at the time of application, to administer a grant including having, contracting for, or obtaining staff and expertise to: (3-12-90)

i. Provide proper management and maintain the proper records; ~~and~~ ~~(3-12-90)~~()

ii. Assure fiscal control and efficient disbursement of grant funds; ~~and~~ ~~(3-12-90)~~()

iii. Fulfill grant requirements, including meeting reporting requirements; and (3-12-90)

iv. Provide the proposed services. (3-12-90)

02. Conflict of Interest. Under the following circumstances, a Council member ~~shall~~ **must** declare a conflict of interest in writing to the Executive Director and subsequently refrain from evaluating or ranking, or casting a vote to award a grant to an applicant who: ~~(3-12-90)~~()

a. An applicant on whose Serves on a board of directors or advisory board with the Council member, or a member of her the Council member's immediate family serves; ~~or~~ ~~(3-12-90)~~()

b. An applicant employing the Council member or a member of her immediate family; and Has been, or would be, directly involved in the project as an advisory board member, a consultant, collaborator, or trainer whose expenses would be paid from the subgrant, etc.; ~~(3-12-90)~~()

c. Is from the same institution or organization as the Council member, or was employed by that organization within the past year; ()

d. Has collaborated recently on work related to the current application or other proposal; ()

e. May consider the Council member for a position at the applicant's organization or institution;

- ()
- f.** Has an organization in which the Council member has served in an official or unofficial capacity within the past year. ()
- g.** Has an organization in which the Council member has employees, or closely affiliated officials, who serve as board members or in other official capacities for the applicant; ()
- h.** Has a family relationship with the Council member; ()
- i.** Is known to be close friends or open antagonists with the Council member; or ()
- j.** Is currently directly involved in a closely associated project with the Council member. ()
- 03. Evaluation Criteria.** The Council ~~shall~~ uses the following criteria to evaluate applications: ~~(5-3-03)~~()
- a.** Assessment of existing victim services in the community and demonstrated need for proposed services in the area. (3-12-90)
- b.** Scope of services or number of eligible activities to be provided. (3-12-90)
- c.** Estimated number of clients to be served and expansion potential, if any. (3-12-90)
- d.** Knowledge and use of other available funding sources or fund-raising activities. (3-12-90)
- e.** Involvement and coordination with community resources including identification of sources of victim access. (3-12-90)
- f.** Recruitment efforts for volunteers to meet the specific needs of the program and the community. (3-12-90)
- g.** Performance record of past activities, if any, including: (3-12-90)
- i.** Creative use of volunteers; (3-12-90)
- ii.** Training of volunteers; (3-12-90)
- iii.** Fund-raising activities; (3-12-90)
- iv.** Administrative performance; (3-12-90)
- v.** Degree of incorporation of self-help activities into program; and (3-12-90)
- vi.** Education service to community. (3-12-90)
- h.** Cooperation with other area domestic violence and victim assistance programs to insure services to all areas and victims without duplicating services. (3-12-90)

(BREAK IN CONTINUITY OF SECTIONS)

022. DOMESTIC VIOLENCE GRANT DISTRIBUTION.
Domestic violence project grants will be awarded in the following manner: (3-12-90)

01. Distribution of Domestic Violence Grants to Regions. ~~On an annual basis,~~ **f**ollowing

determination by the Council of the total funds available for domestic violence grant awards for the following fiscal year, the Council ~~shall~~ **will** establish and announce the base level of funding available for each region. ~~(5-3-03)~~()

a. In accordance with Section 39-5212, Idaho Code, not less than fifty-one percent (51%) of available grant funds will be allocated to programs within the seven (7) regions in the proportion that marriage licenses are filed in each region, based on statistics compiled by the state registrar of Vital Statistics. (3-12-90)

b. The allocation of the remaining percentage of available grant funds ~~shall~~ **must** be established and announced annually in varying percentages based on consideration of the following and in the order of priority shown below: ~~(3-12-90)~~()

i. Identification of critical needs and evidence of relative distribution of victim population within the state. (3-12-90)

ii. Calculation of a population/area factor, using current U.S. census data and employing the following formula: (3-12-90)

(1) Multiply the population of a region by two (2) and divide the product by the total state population; and (3-12-90)

(2) Divide the square miles for a region by the total square miles for the state and add the resulting figure to the figure determined by calculating the amount as set out in Subsection 022.01.b.i.(1) ~~of this rule.~~ ~~(5-3-03)~~()

(3) Divide the sum by three (3), yielding a percentage figure ~~which that~~ represents the population/area factor for the region. ~~(3-12-90)~~()

iii. Identification of programs with statewide applicability. (3-12-90)

c. ~~In the event that proposals received from eligible applicants within a given region are insufficient and/or inadequate or that grants awarded are not accepted or grant agreements finalized on a timely basis, or a grant is terminated prior to the completion date, the Council shall~~ **must** solicit qualified new or supplemental proposals from the region and will hold the funds available for the region for a period of six (6) months, **in the event of any of the following:-** ~~(5-3-03)~~()

~~i. The proposals received from eligible applicants within a given region are insufficient or inadequate, or both;~~ ()

~~ii. A grant awarded is not accepted or grant agreement finalized on a timely basis; or~~ ()

~~iii. A grant is terminated prior to the completion date.~~ ()

d. Any domestic violence grant funds not obligated or expended during any award period will be apportioned by the Council at its discretion. (3-12-90)

02. Distribution of Domestic Violence Grants Within the Regions. (3-12-90)

a. Programs ~~shall be~~ **are** selected through a comparative application process; ~~and~~ ~~(3-12-90)~~()

b. Applicants ~~shall be~~ **are** compared only with other applicants from the same region; and ~~(3-12-90)~~()

c. The Council is not obligated to select or approve any proposal received. (5-3-03)

03. Timing and Duration of Grant Awards. Grant awards under the domestic violence grants project ~~shall be~~ **are** made for a period not to exceed one (1) year unless revoked. Actual funds ~~shall be~~ **are** distributed in accordance with the schedule of payments established for each grant. ~~(3-12-90)~~()

023. VICTIM ASSISTANCE GRANT DISTRIBUTION.

Victim assistance grants ~~will be~~ are awarded in the following manner: (3-12-90)()

01. Distribution of Victim Assistance Grants to Priority Categories and Regions. ~~On an annual basis, f~~Following the Council's receipt of an award letter from the U.S. Justice Department announcing the amount available for victim assistance grants for the following fiscal year, the Council ~~shall will~~ establish and announce the base level of funding available for the priority categories and for each region. Determination of the actual percentage and amount of funds to be allocated for the priority and other categories for the regions, and for statewide projects will be based on data available to the Council. (5-3-03)()

a. Allocations for Priority and Other Categories. The Council ~~shall~~ allocates the federal crime victim assistance funds awarded to Idaho to programs by complying with regulations of the Victims of Crime Act of 1989, P.L. 98-473, Title II, Chapter XIV, 42 U.S.C. 10601, et seq. (3-12-90)()

b. Allocations for Service Areas. (3-12-90)

i. The Council ~~shall~~ allocates the victim assistance funds by region based on a population/area factor, as outlined in Subsection 022.01.b.ii of these rules. (5-3-03)()

ii. At its discretion, the Council may reserve a portion of the victim assistance grant funds for programs with statewide applicability. (3-12-90)

c. Any victim assistance grant funds not obligated or expended during any award period ~~shall be~~ are apportioned by the Council at its discretion, within the established federal limits governing use of the funds. (3-12-90)()

02. Distribution of Victim Assistance Grants Within Priority Categories and Regions. Grants ~~shall be~~ are awarded through comparison and consideration of applications within a region according to the category of victim services being proposed. The Council is not obligated to select or approve any proposal received. (3-12-90)()

03. Timing and Duration of Grant Awards. Grant awards made under the victim assistance grants project ~~shall be~~ are made for a period not to exceed ~~one~~ three (+3) years, unless revoked. Actual funds ~~shall be~~ are distributed in accordance with the schedule of payments established for each grant. (3-12-90)()

024. FAMILY VIOLENCE GRANT DISTRIBUTION.

Family violence grants ~~shall be~~ are awarded ~~on an~~ annually ~~basis~~, following receipt of an award letter from the United States Department of Health and Human Services, announcing the amount available for family violence grants for the following fiscal year. The Council ~~shall~~ establishes and ~~announces~~ the funding available for each region based upon the following allocation. (3-12-90)()

01. Allocation. If all seven (7) regions have qualified and eligible applicants, the amount available ~~shall be~~ is divided by seven (7). If not all regions have qualified and eligible applicants, the amount available ~~shall be~~ is divided by the number of regions that have qualified and eligible applicants. The Council is not obliged to accept or approve any proposal received. (3-12-90)()

02. Timing and Duration of Grant Awards. Grant awards made under the family violence grant project will be made for a period not to exceed ~~one~~ two (+2) years, unless revoked by the Council. Actual funds ~~shall be~~ are distributed in accordance with the payment scheduled for each grant. (3-12-90)()

025. -- 030. (RESERVED)

031. AWARDING OF GRANTS.

Notification of grant awards ~~shall be~~ is accomplished through preparation and issuance of a contract specifying, at a minimum, the eligible activities for which the grant is to be awarded, including the beginning and termination dates of the grant, the amount of the grant award, the schedule of payments, and any terms and conditions additional to

these rules which are agreed to by the parties.

~~(3-12-90)~~()

01. Acceptance of Grant Award by Grantee. Acceptance of the grant award is to be accomplished by returning two (2) copies of the contract bearing the original, signature of the duly authorized representative of the grantee. The copies of the signed contract are to be returned to the Council within fifteen (15) days of the date of the letter transmitting the agreement to the grantee. (5-3-03)

02. Approval or Grant Agreement. The agreement will be deemed approved and the grant effective upon the effective date specified in the agreement when signed by the authorized official for the Council. If more than sixty (60) days have elapsed between the stated effective date and the date the agreement is signed for the Council: (5-3-03)

a. There will be no penalty or reduction of funding if the delay was attributable to the Council. (5-3-03)

b. The program may face a reduction in funding and renegotiation of the agreement if the delay was attributable to the program. (3-12-90)

032. DENIAL, SUSPENSION, OR TERMINATION OF GRANT.

01. Compliance Issues. A grant may be suspended pending investigation to determine compliance with these rules. An application for a grant may be denied or a grant terminated if the program is not in compliance with these rules. (3-12-90)

02. Disincorporation. ~~In the event~~ If a legal entity ~~which that~~ is the recipient of a grant disincorporates, the Council must be informed in writing within twenty (20) days and the grant terminated. Grant funds for all but the portion of the fiscal year during which services required under the grant were performed must be recovered by the Council. Reallocation of remaining grant funds will be in accordance with applicable law. ~~(3-12-90)~~()

03. Internal Take-Over. If the governing board of one (1) of an agency's programs takes over the agency, with the program's board actually becoming the new board of the agency, the Council must be notified in writing within twenty (20) days. The grant may continue in effect without interruption. (3-12-90)

(BREAK IN CONTINUITY OF SECTIONS)

035. STATE AND FEDERAL DOMESTIC VIOLENCE GRANT -- RECORD KEEPING REQUIREMENTS.

Each program receiving a grant(s) from the Department must maintain accurate, current, and complete client, administrative, and fiscal records, including accurate records of the receipt, obligation, and disbursement of funds. Records must be accessible to authorized state officials during normal operating hours for purposes of inspection ~~and~~ or audit, ~~or both~~, with or without prior notification, ~~pursuant to~~ under Section 39-108, Idaho Code. The fiscal and program record requirements required for each grant are in the contract. ~~(3-12-90)~~()

036. AUDITS.

01. Projects Subject to Audit. Projects selected for funding by the Council ~~will be~~ are subject to audit. ~~Pursuant to the~~ Under U.S. Office of Management and Budget (OMB) Circular A-128, "Audits of State and Local Governments," grantees have the responsibility to provide for an audit of their activities. These audits ~~shall~~ must be ~~made~~ conducted annually. Grantees as well as their contractors or other organizations under cooperative agreements or purchase of service contracts are to arrange for examination in the form of independent audits in conformance with OMB Circular A-128. ~~(3-12-90)~~()

02. Audit Requirement. These audits ~~shall~~ must be ~~made~~ performed by an independent auditor in accordance with generally accepted governmental auditing standards governing financial and compliance audits. The ~~required~~ audits are to be performed on an organization-wide basis. The audit ~~reports~~ must include: ~~(3-12-90)~~()

- a. ~~The auditor's~~ **A** report on financial statements of the recipient's organization and a schedule of financial assistance showing the total expenditures for each assistance program; (3-12-90)()
- b. ~~The auditor's~~ **A** report on compliance containing: (3-12-90)()
- i. A ~~statement of~~ positive assurance ~~with respect to those~~ **that** items **were** tested for compliance, ~~including compliance~~ with laws and regulations pertaining to financial reports and claims for advances and reimbursements; (3-12-90)()
- ii. A negative assurance of those items not tested and a summary of all instances of noncompliance; and (3-12-90)
- iii. ~~The auditor's report on~~ **T**he study and evaluation of internal control systems, which must identify accounting controls, and those controls designed to provide reasonable assurance that federal programs are being managed in compliance with applicable laws and regulations. It must also identify the controls that were not evaluated, and the material weaknesses identified ~~as a result of~~ **by** that identification. (3-12-90)()

~~02. **Audit Objectives.** Grants and other agreements are awarded subject to conditions of fiscal, program and general administration to which the recipient expressly agrees. Accordingly, the audit objective is to renew the recipient's administration of grant funds and required non-federal contributions for the purpose of determining whether the recipient has:~~ (3-12-90)

~~a. Financial statements of the government, department, agency, or establishment that present fairly its financial position and the results of financial operations in accordance with generally accepted accounting principles;~~ (3-12-90)

~~b. The organization has internal accounting and other control systems to provide reasonable assurance that it is managing federal financial assistance programs in compliance with applicable laws and regulations; and~~ (3-12-90)

~~c. The organization has complied with laws and regulations that may have material effect on its financial statements and on each federal assistance program.~~ (3-12-90)

037. -- 999. (RESERVED)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
16.06.12 – RULES GOVERNING THE IDAHO CHILD CARE PROGRAM (ICCP)
DOCKET NO. 16-0612-1901
NOTICE OF RULEMAKING – 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 56-202, Idaho Code, and CFR Title 45 Part 98, Child Care and Development Fund.

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 16, 2019.

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

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

The Idaho Child Care Program is removing sections that are no longer necessary and updating language to existing rules to align with federal regulations. The language updates pertain to health and safety training for providers. The Idaho Child Care Program received federal guidance pertaining to identified sections of IDAPA and changes and additions must be completed to come into compliance with the regulations. The program also began reviewing components of the rule that can be removed to comply with the Red Tape Reduction Act.

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:

The program anticipates minimal, if any, negative impact on the state general fund as a result of this rulemaking. Removal of language pertaining to co-pays and mandatory reporting requirements for activity hours may result in small positive or negative impacts, depending on individual family circumstances, but the net impact of these changes is anticipated to be less than \$10,000 in additional costs to the general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this rulemaking is to align with federal regulations and is simple in nature.

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 Ericka Rupp, (208) 334-5641.

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 23, 2019.

Dated this 19th day of August, 2019.

Tamara Prisock
DHW – Administrative Rules Unit
450 W. State Street – 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
Phone: (208) 334-5564
Fax: (208) 334-6558
E-mail: dhwrules@dhw.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0612-1901
(Only Those Sections With Amendments Are Shown.)

401. IN-HOME CARE HEALTH AND SAFETY REQUIREMENTS.

~~Annually~~ Each in-home care provider is responsible to ensure that health and safety requirements are met for children being cared for in the children's own home, as defined in Section 802 of these rules. ~~(3-20-14)~~()

~~01. **Health and Safety Inspections.** In-home health and safety inspections, described in Section 802 of these rules, are not required for in-home care providers caring for children in the children's own home. (3-20-14)~~

~~02. **Health and Safety Training.** Because in-home care providers are exempt from health and safety inspections, each in-home care provider must annually complete health and safety training provided by the local Health District covering requirements listed in Section 802 of these rules. (3-2-17)~~

(BREAK IN CONTINUITY OF SECTIONS)

503. COPAYMENTS.

Eligible families, except TAFI families participating in non-employment TAFI activities and guardians of foster children, must pay part of their child care costs. Providers are responsible for ensuring families pay the determined child care costs and must not waive these costs. (3-2-17)

01. Poverty Rates. Poverty rates will be one hundred thirty percent (130%) of the Federal Poverty Guidelines (FPG) available on the U.S. Health and Human Services website at <http://aspe.hhs.gov/poverty>. The monthly rate will be calculated by dividing the yearly rate by twelve (12). (4-4-13)

02. Calculating Family Payment. Family income and activity for the month of the child care will determine the family share of child care costs. The payment made by the Department will be the allowable local market rate or billed costs, whichever is lower, less the co-payment. (4-4-13)

~~03. **Changes to Copayments.** A family's share of child care costs will not increase due to a change in income only. (4-11-19)~~

(BREAK IN CONTINUITY OF SECTIONS)

CHANGE REPORTING REQUIREMENTS FOR THOSE RECEIVING CHILD CARE BENEFITS
(Sections 600 - 699)

600. CHANGE REPORTING REQUIREMENTS.

A family who receives child care benefits must report the following permanent changes by the tenth day of the month following the month in which the change occurred. (4-4-13)

~~01. **Change in Full-time or Part-time Activity Hours.** (3-28-18)~~

~~02. **Change in Permanent Address.** (3-28-18)~~

~~03. **Change in Household Composition.** (4-4-13)~~

~~04. **Change in Income.** When the household's total gross income for family of the same size exceeds~~

- any of the following: (4-11-19)
- a. One hundred and thirty percent (130%) of the Federal Poverty Guidelines (FPG); (4-11-19)
 - b. Eighty-five percent (85%) of the State Median Income (SMI); or (4-11-19)
 - c. The graduated phase-out income limit as defined in the Idaho Child Care State Plan. (4-11-19)
- ~~054.~~ **Change in Child Care Provider.** (5-1-11)

601. ~~REQUIRED ACTION ON REPORTED CHANGES. (RESERVED)~~

~~The Department will take the actions listed below on changes that are reported within the time frame listed in Section 600 of these rules. (5-1-11)~~

- ~~01. **Change in Income or Hours of Activity.** (5-1-11)~~
- ~~a. *If a change in income or hours of qualifying activity results in a decrease in the amount of the child care benefit, the Department will make the change effective the month following the month the change is reported.* (4-2-08)~~
 - ~~b. *If a change results in an increase in the amount of the child care benefit, the Department will make the change effective in the month the change was reported.* (5-1-11)~~
- ~~02. **Change in Billed Amount.** *If the billed amount of child care changes, the Department will make the change effective for the month the change is reported.* (5-1-11)~~

(BREAK IN CONTINUITY OF SECTIONS)

801. HEALTH AND SAFETY TRAINING.

All child care providers must complete a series of health and safety trainings during an orientation period of not more than ninety (90) days, in addition to ongoing annual training that address each of the following topics: (3-2-17)

- 01. **Infectious Diseases.** The prevention and control of infectious diseases (including immunization). (3-2-17)
- 02. **Sudden Infant Death Syndrome.** The prevention of sudden infant death syndrome and use of safe sleeping practices. (3-2-17)
- 03. **Medication.** The administration of medication, consistent with standards for parental consent. (3-2-17)
- 04. **Allergic Reactions.** The prevention of and response to emergencies due to food and allergic reactions. (3-2-17)
- 05. **Environmental Safety.** Building and physical premises safety, including identification of and protection from hazards, bodies of water, and vehicular traffic. (3-2-17)
- 06. **Child Abuse Prevention.** Prevention of shaken baby syndrome, ~~and~~ abusive head trauma, child maltreatment, and recognition and reporting of child abuse and neglect. ~~(3-2-17)~~()
- 07. **Emergency Preparedness.** Emergency preparedness and response planning for emergencies resulting from a natural disaster, or a man-caused event. (3-2-17)
- 08. **Hazardous Substances.** Proper handling, storage, and disposal of medicines, cleaning supplies, and other hazardous substances, including biocontaminants. (3-2-17)

09. Transportation. Appropriate precautions in transporting children, including the use of child safety restraints and seat belts. (3-2-17)

10. Child Development. Address major domains such as cognitive, social, emotional, physical development, and approaches to learning. ()

802. HEALTH AND SAFETY REQUIREMENTS.

All providers must comply with the health and safety requirements listed in Subsections 802.01 through 802.13 of this rule. All providers must agree to an annual, unannounced health and safety inspection, with the exception of in-home child care described in Section 401 of these rules. Compliance with these standards does not exempt a provider from complying with stricter health and safety standards under state law, tribal law, local ordinance, or other applicable law. (3-2-17)

01. Age of Provider. All child care providers providing services must be eighteen (18) years old or older. Persons sixteen (16) or seventeen (17) years old may provide child care if they have direct, on-site supervision from a licensed child care provider who is at least eighteen (18) years old. (4-2-08)

02. Sanitary Food Preparation. Food for use in child care facilities must be prepared and served in a sanitary manner. Utensils and food preparation surfaces must be cleaned and sanitized before using to prevent contamination. (4-2-08)

03. Food Storage. All food served in child care facilities must be stored to protect it from potential contamination. (4-2-08)

04. Hazardous Substances. Medicines, cleaning supplies, and other hazardous substances must be handled safely and stored out of the reach of children. Biocontaminants must be disposed of appropriately. (3-2-17)

05. Emergency Communication. A telephone or some type of emergency communication system is required. (4-2-08)

06. Smoke Detectors, Fire Extinguishers, and Exits. A properly installed and operational smoke detector must be on the premises where child care occurs. Adequate fire extinguishers and fire exits must be available on the premises. (4-2-08)

07. Hand Washing. Each provider must wash his hands with soap and water at regular intervals, including before feeding, after diapering or assisting children with toileting, after nose wiping, and after administering first aid. (4-2-08)

08. CPR/First Aid. ~~All P~~providers must ~~insure that at all times children are present at least one (1) adult on the premises has~~ **have** current certification in pediatric rescue breathing (CPR) and pediatric first aid treatment from a certified instructor. (3-2-17)()

09. Health of Provider. Each provider must certify that he does not have a communicable disease or any physical or psychological condition that might pose a threat to the safety of a child in his care. (4-2-08)

10. Child Abuse. Providers must report suspected child abuse to the appropriate authority. (4-2-08)

11. Transportation. Providers who transport children as part of their child care operations must operate safely and legally, using child safety restraints and seat belts as required by state and local statutes. (3-2-17)

12. Disaster and Emergency Planning. Providers must have documented policies and procedures planning for emergencies resulting from a natural disaster, or man-caused event that include: (3-2-17)

a. Evacuation, relocation, shelter-in-place, and lock-down procedures, and procedures for communication and reunification with families, continuity of operations, and accommodation of infants and toddlers, children with disabilities, and children with chronic medical conditions. (3-2-17)

- b. Procedures for staff and volunteer emergency preparedness training and practice drills. (3-2-17)
- c. Guidelines for the continuation of child care services in the period following the emergency or disaster. (3-2-17)
- 13. Environmental Safety.** Building and physical premises must be safe, including identification of and protection from hazards that can cause bodily injury including electrical hazards, bodies of water, and vehicular traffic. (3-2-17)
- 14. Safe Sleep.** Providers must place newborn infants to twelve (12) months in a safe sleep environment. Safe sleep practices include, alone, on their backs, and in a Consumer Product Safety Commission (CPSC) certified crib. (3-28-18)