



**Terri Kondeff**  
**Director**

# Legislative Services Office Idaho State Legislature

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## MEMORANDUM

**TO:** Senators THAYN, Lent, Ward-Engelking and,  
Representatives CLOW, Kerby, McCrostie

**FROM:** Elizabeth Bowen - Principal Legislative Drafting Attorney

**DATE:** June 02, 2022

**SUBJECT:** Temporary Rule

IDAPA 08.02.01 - Rules Governing Administration - Adoption of Temporary Rule - Docket No.  
08-0201-2201

We are forwarding this temporary rule to you for your information only. No analysis was done by LSO. This rule is posted on our web site. If you have any questions, please call Elizabeth Bowen at the Legislative Services Office at (208) 334-4845. Thank you.

Attachment: Temporary Rule

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## **IDAPA 08 – STATE BOARD OF EDUCATION**

### **08.02.01 – RULES GOVERNING ADMINISTRATION**

**DOCKET NO. 08-0201-2201**

#### **NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is April 20, 2022.

**AUTHORITY:** In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant Article IX, Section 2, Idaho Constitution and under Sections 33-105, 33-107, 33-116, 33-1001, 33-1002, and 33-1027, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

The temporary rule would allow for Average Daily Attendance, as it pertains to the calculation of support units for public school funding, to be calculated based on average FTE student enrollment rather than the current methodology that uses daily attendance. This change is for the remainder of state fiscal year 2022 and is extended for state fiscal year 2023 as well, at which point this temporary rule is intended to expire.

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

As a result of the pandemic, schools have seen a shift in attendance patterns of students. For example, parents are much more likely to keep a student home who is not feeling well than in the past. This has resulted in an overall decrease of our statewide attendance rates. Prior to the pandemic, the state funded approximately 95% of the students attending Idaho public schools due to the fact that few students attend school 100% of the time. In FY 21, the statewide daily attendance rates were down to 91.77% and in FY 22 the estimated statewide daily attendance rate is down to 90.3% with some local education agencies reporting periods where the attendance rate was as low as 80%. The end result of this trend is that schools are educating the same number of students or more, but because those students may be allowed by their parents to stay home more often, attendance-based ADA would result in decreases in the amount of funding being distributed to Idaho schools. It is estimated that student headcount will continue to increase in FY 23 while student daily attendance rates continue to decrease and then start to stabilize at a much lower rate than schools have historically experienced. The overall impact without a temporary rule in place would result in many school districts and charter schools receiving less funding than the funding levels appropriated in FY 22 and FY 23.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: 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:

This amendment to the temporary would allow for Average Daily Attendance (ADA), as it pertains to the calculation of support units for public school funding, to be calculated based on average FTE student enrollment rather than the current methodology that uses daily attendance. This change will cover the remainder of state fiscal year 2022 and is extended for state fiscal year 2023 as well, at which point this temporary rule is intended to expire. The Board intends for this to stabilize the budgets of schools and provide certainty heading into the next school year given the ongoing effects of the pandemic.

By using average FTE enrollment, based on current school district and charter school reporting, it is estimated the fiscal impact would be approximately \$22.4M over the amount estimated in setting the FY 2022 public school appropriation. This amount was added to the FY 2022 public school appropriation in House Bills 792 and 797. Based on the current FY2022 appropriation language prohibiting any withdrawals from the Public Education Stabilization Fund, any overages to this amount would automatically be offset by a reduction in the discretionary support unit value.

Similarly, it is estimated the fiscal impact would be approximately \$23.5M over the amount estimated in setting the FY 2023 public school appropriation using the current methodology. This amount was added to the FY 2023 public school appropriation in House Bill 807. As this change in methodology is intended to provide stability, it is the Board's intention that any overage to this amount will be mitigated through the appropriation process as an adjustment to discretionary support unit value next legislative session.

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

DATED this 21st day of April 2022.

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State Board of Education  
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**THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 08-0201-2201  
(Only Those Sections With Amendments Are Shown.)**

**250. PUPIL ACCOUNTING AND REQUIRED INSTRUCTIONAL TIME.**

**01. Day in Session When Counting Pupils in Attendance. (3-15-22)**

**a.** A school day for grades one through twelve (1-12) may be counted as a "day in session" when the school is in session and students are under the guidance and direction of teachers in the teaching process for not less than four (4) hours or its equivalent of instruction per day. Lunch periods, breaks, passing time and recess will not be included in the four (4) hours. For kindergarten, each session will be at least two and one-half (2 1/2) hours per day. (3-15-22)

**b.** Half-day Session. A half-day in session occurs when the students in grades one through twelve (1-12) are under the guidance and direction of teachers in the teaching process for a minimum of two and one-half (2 1/2) hours or its equivalent of instruction or the teachers are involved in staff development activities for not less than two and one-half (2 1/2) hours. Students attending less than a half-day in session may have their hours aggregated by week for reporting purposes. (3-15-22)

**02. Day of Attendance - Kindergarten.** A day of attendance for a kindergarten pupil is one in which a pupil is under the direction and guidance of a teacher while school is in session or under homebound instruction. A homebound student is one who is unable to attend school for at least ten (10) consecutive days due to illness, accident or an unusual disabling condition. Attendance will be reported in half-day increments. Particularly, enrollment figures are not to be used for the beginning nor closing weeks of school. (3-15-22)

**03. Day of Attendance (ADA) - Grades One Through Twelve (1-12).** A day of attendance is one in which a pupil is under the guidance and direction of a teacher or other authorized school district personnel while school is in session and under the instruction of a teacher employed by the district in which the pupil resides or employed through the Idaho digital learning academy, with the exception as stated in "day in session" above. Attendance will be reported in full or half-days. (3-15-22)

**04. Average Daily Attendance.** Average daily attendance will be reported by averaging the full-time equivalent enrollment by week for students receiving instruction. To be considered as a student receiving instruction the student must have regular contact with the applicable instructional or pupil service staff member and be completing assignments as applicable to the grade range and course the student is enrolled in. For funding purposes full-time equivalent enrollment in an alternative summer school program shall be based on the student attending 225 (two hundred twenty-five) hours or more or the proportional share of hours up to one (1) average day of attendance. (4-20-22)T

**045. Full-Time Equivalent (FTE) Enrollment Reporting.** (3-15-22)

**a.** Full-time equivalent (FTE) enrollment will be based on the courses in which students are reported to be enrolled. To appropriately account for the differences in courses and schedules, FTE will be calculated using the minutes per week metric of the reported courses which is an indicator of the amount of content delivered in the course. (3-15-22)

**b.** For each student, the minutes per week of all reported courses will be summed to provide a total course minutes per week, and this number will be used to determine the FTE enrollment of the individual student. The student will generate an FTE enrollment equal to the proportion of the total minutes per week of the reported courses for the student divided by 1200 with a maximum FTE of: (3-15-22)

i. Kindergarten: 0.5 FTE (3-15-22)

ii. Grades one (1) to twelve (12): 1.0 FTE (3-15-22)

**c.** Students enrolled in more than one (1) LEA will have their FTE enrollment fractionalized between the LEAs in which they are enrolled by dividing the course minutes per week that the student is enrolled at each LEA by the total course minutes per week for the student reported by all LEAs. (3-15-22)

**d.** Courses in LEAs with block scheduling that result in students receiving instruction for a period greater than one (1) week will use an average of the course minutes per week over a two-week period as the minutes per week for the course. (3-15-22)

**e.** Students enrolled in an alternative summer school or alternative night school program of two hundred twenty-five (225) or more hours of instruction may be counted as an additional zero point two five (0.25) FTE. Alternative summer school enrollment will be included in the October 1 reporting period. (3-15-22)

**f.** Students enrolled in an alternative summer school or alternative night school program of less than two hundred twenty-five (225) hours FTE will be determined based on the proportional share of two hundred twenty-five (225) hours the program consists of. (3-15-22)

**g.** Students enrolled in more than one (1) LEA in grade seven (7) through grade twelve (12) shall count enrollment at all LEAs for determining eligibility of overload courses identified in Sections 33-4601 and 33-4602, Idaho Code. (3-15-22)