

Dear Senators MORTIMER, Thayn, Buckner-Webb, and
Representatives CLOW, Kerby, McCrostie:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of
the Idaho Commission for Libraries:

IDAPA 30.01.01 - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking (Docket
No. 30-0101-1900).

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 12/30/2019. 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 01/29/2020.

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 Education Committee and the House Education Committee

FROM: Principal Legislative Drafting Attorney - Elizabeth Bowen

DATE: December 10, 2019

SUBJECT: Idaho Commission for Libraries

IDAPA 30.01.01 - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking (Docket No. 30-0101-1900)

The Idaho Commission for Libraries has submitted temporary and proposed rules that reauthorize and republish IDAPA 30.01.01. These rules were previously analyzed and reviewed by the Legislative Services Office upon their initial promulgation. Changes of a technical nature have been made. The changes appear to be within the Commission's statutory authority.

cc: Idaho Commission for Libraries
Stephanie Bailey-White

***** PLEASE NOTE *****

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 30 – IDAHO COMMISSION FOR LIBRARIES

DOCKET NO. 30-0101-1900

NOTICE OF OMNIBUS RULEMAKING – TEMPORARY AND PROPOSED RULEMAKING

EFFECTIVE DATE: The effective date of the temporary rules listed in the descriptive summary of this notice is June 30, 2019.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 33-2503, Idaho Code.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

DESCRIPTIVE SUMMARY: This temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 30, rules of the Idaho Commission for Libraries:

IDAPA 30

- 30.01.01, *Rules of the Idaho Commission for Libraries Governing the Use of Commission Services*

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. Rules for the Idaho Commission for Libraries allow the agency to provide state and federal grants for eligible libraries and circulate audio books and equipment for qualified Idahoans. The rules also allow exemptions for the criteria for a proposed library district and govern the digital repository of state publications. They are in place to allow the agency to function in an orderly and fair manner.

FEE SUMMARY: This rulemaking does not impose a fee or charge.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary and proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Deputy State Librarian Stephanie Bailey-White, (208) 639-4145.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 19th of June, 2019.

Stephanie Bailey-White
Deputy State Librarian
Idaho Commission for Libraries
325 W. State Street
Boise, ID 83702
Phone: (208) 334-2150
Fax: (208) 334-4016

**IDAPA 30
TITLE 01
CHAPTER 01**

IDAPA 30 – IDAHO COMMISSION FOR LIBRARIES

**30.01.01 – RULES OF THE IDAHO COMMISSION FOR LIBRARIES
GOVERNING THE USE OF COMMISSION SERVICES**

000. LEGAL AUTHORITY.

In accordance with Section 33-2503(2), Idaho Code, the Board of Library Commissioners has the authority to promulgate rules for the proper conduct of business for the Idaho Commission for Libraries. (4-2-08)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 30.01.01, “Rules of the Idaho Commission for Libraries Governing the Use of Commission Services.” (4-2-08)

02. Scope. These rules govern the use of the Idaho Commission for Libraries services. (4-2-08)

002. WRITTEN INTERPRETATIONS.

This Commission may have written statements that pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. These documents are available for public inspection and copying at cost at the Commission office. (4-2-08)

003. ADMINISTRATIVE APPEALS.

Appeals from the agency’s denial of eligibility for grant funding or denial of a request for exemption from criteria for a proposed library district will be governed by the provisions of the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, and IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General.” (4-11-19)

004. INCORPORATION BY REFERENCE.

The Library Services and Technology Act, 20 U.S.C.A. Section 9101, et. seq. Copies of the Library Services and Technology Act are available at the offices of the Commission and at Museum and Library Services website at https://www.imls.gov/assets/1/AssetManager/MLSA_2010_asamended.pdf. (4-11-19)

005. COMMISSION OFFICE LOCATION, MAILING ADDRESS, TELEPHONE NUMBER, FACSIMILE NUMBER, ELECTRONIC ADDRESS, AND OFFICE HOURS.

01. Street Address. The offices of the Commission are located at 325 W. State Street, Boise, Idaho. (4-2-08)

02. Mailing Address. The mailing address of the Commission is 325 W. State Street, Boise, Idaho 83702. (4-2-08)

03. Telephone Number. The telephone number of the Commission is (208) 334-2150. (4-2-08)

04. Facsimile. The facsimile number of the Commission is (208) 334-4016. (4-2-08)

05. Electronic Address. The Commission’s website is <http://libraries.idaho.gov>. (4-2-08)

06. Hours. The Commission office hours are from 8 a.m. until 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (4-2-08)

006. PUBLIC RECORDS ACT COMPLIANCE.

All rules contained in this chapter are subject to and in compliance with the Idaho Public Records Act (Title 74, Chapter 1, Idaho Code). (4-2-08)

007. -- 010. (RESERVED)

011. DEFINITIONS.

01. Academic Library. A library organized and operating as part of an institution of higher education. An academic library may be, or be part of, a registered non-profit organization with tax exempt status. (4-11-19)

02. Board. The Idaho Board of Library Commissioners as established in Title 33, Chapter 25, Idaho Code. (4-2-08)

03. Commission. The Idaho Commission for Libraries as established in Title 33, Chapter 25, Idaho Code. (4-2-08)

04. Library Clientele. The clientele of a library is dependent upon the type of library: (4-2-08)

a. Academic library. The students, staff, and faculty of the academic institution. (4-2-08)

b. Public library. The residents of the library's legal service area, as defined by the boundaries of its jurisdiction, and any non-residents as further defined by the library board's policies and contracts. (4-2-08)

c. School library. The students, staff, and faculty of the school or school district. (4-2-08)

d. Special library. The patrons of the individual library or its parent institution, or both. (4-2-08)

05. Library Consortia. A local, regional, statewide, or interstate cooperative association of library entities which provides for the systematic and effective coordination of the resources of academic, public, school, and special libraries for improved services for the clientele of the member library entities. (4-2-08)

06. Public Library. A library organized and operating in compliance with Title 33, Chapter 26 or Title 33, Chapter 27, Idaho Code. (4-2-08)

07. School Library. A library organized and operating as part of a primary or secondary school, or both, or school district. Also called a school library media center. (4-2-08)

08. Special Library. A library that is not an academic, public, or school library, usually organized to meet a specialized mission and operating with a specialized collection, or to serve a specialized clientele. A special library may be a tribal, military or correctional institution library, or one that is, or is part of, a registered non-profit organization with tax exempt status. (4-11-19)

012. ABBREVIATIONS.

01. LiLI. Libraries Linking Idaho. (4-2-08)

02. LSTA. Library Services and Technology Act. (4-2-08)

013. -- 019. (RESERVED)

020. GRANT PROGRAMS – ELIGIBILITY REQUIREMENTS.

01. General Eligibility Requirements for Public, School, Academic, and Special Library Grant Program Applicants. Any grant program library applicant must meet the following eligibility requirements: (4-11-19)

a. The library consists of a specific, permanent space exclusively designated for providing library services. (4-2-08)

- b.** The library collects, provides, and coordinates access to library materials. (4-2-08)
- c.** The library serves its clientele free of charge. (4-2-08)
- d.** The library maintains regular hours of operation posted at the library door, and is open at least five (5) hours per week. (4-11-19)
- e.** The library has complied with previous Commission grant conditions during the preceding fiscal year. (4-11-19)
- f.** The library has at least one (1) paid staff member responsible for the daily operation of the library. (4-11-19)
- g.** The library is not affiliated with any school, university or organization controlled by any church, sectarian, or religious denomination (Idaho State Constitution, Article IX, Section 5). (4-11-19)
- h.** The library seeking to participate in any grant program must apply on forms provided by the Commission for that purpose. (4-11-19)

02. Additional Eligibility Requirements for School and Academic Library Grant Program Applicants. In addition to the criteria set forth in Subsection 020.01 of these rules, any grant program school or academic library applicant must also meet the following requirements: (4-11-19)

- a.** For school libraries, the school maintains a space that: (4-11-19)

 - i. Is dedicated to library services, and is not space solely used for other instructions, such as a teacher’s classroom; (4-11-19)
 - ii. Houses books and other tools supporting the curriculum, research and reading requirements of students and staff; (4-11-19)
 - iii. Is accessible for the students, teachers and staff at the school; and (4-11-19)
- b.** For academic libraries, the academic institution is accredited by the Northwest Commission on Colleges and Universities. (4-11-19)

03. Additional Eligibility Requirements for Public Library Grant Program Applicants. In addition to the criteria set forth in Subsection 020.01 of these rules, any grant program public library applicant must also meet the following requirements: (4-11-19)

- a.** The library is established and operating in compliance with Title 33, Chapter 26 or Title 33, Chapter 27, Idaho Code. (4-2-08)
- b.** The library is open to the general public and does not charge a fee to any resident of its legal service area for any basic library service. Basic library services include: (4-11-19)

 - i. Access during posted operating hours to library collections and the internet. (4-11-19)
 - ii. Circulation of library materials, regardless of format. (4-2-08)
 - iii. Access to interlibrary loan services. Postage charges for interlibrary loans are assumed by the library, not the user. (4-2-08)
 - iv. Reference services, regardless of format. (4-2-08)
- c.** The library has a completed annual “Idaho Public Library Survey” for the preceding fiscal year accepted by, and on file at, the Commission. (4-11-19)

d. The library has adopted a written internet safety policy that has been reviewed within the last three (3) years by the library’s board of trustees and is posted at the library. (4-11-19)

e. The library maintains a web presence that provides current information about, or access to, its services including: (4-11-19)

i. Library contact information. (4-11-19)

ii. Link to the LiLI Portal or to the LiLI Databases with the “funded by LiLI” icon. (4-11-19)

021. LIBRARY CONSORTIUM GRANT PROGRAM APPLICANTS.

In addition to the criteria set forth in Subsection 020.01 of these rules, any grant program library consortium applicant must have a formal organizational structure with at least the following elements in place: (4-11-19)

01. Name. A name for the consortium. (4-2-08)

02. Identification Number. A tax identification number or an employer identification number (EIN) for the consortium. (4-2-08)

03. Members List. A list of all the members. (4-2-08)

04. Governance Structure. A representative governance structure and the name or names of the individuals with leadership roles and responsibilities identified. (4-2-08)

05. Funding Mechanism. A sustaining funding mechanism supported in part by local funds from the members involved. (4-2-08)

06. Agreement or By-Laws. A cooperative agreement or by-laws of the organization signed by each member. (4-2-08)

022. – 029. (RESERVED)

030. REQUEST FOR EXEMPTION FROM THE CRITERIA FOR A PROPOSED LIBRARY DISTRICT - SECTION 33-2703(5), IDAHO CODE.

01. Exemption Requests. An applicant requesting exemption must apply on forms provided by the Commission and must submit the completed application at least six (6) months prior to the election to be conducted to establish the district. (4-2-08)

02. Factors in Evaluating the Request for Exemption. In reviewing applications for exemption, the following factors shall be considered: (4-2-08)

a. Service plan and budget. (4-2-08)

i. Will the proposed district meet the Commission’s LSTA grant eligibility requirements? (4-2-08)

ii. Is there an awareness of current trends in library service and the ability to offer new services as the need is identified? (4-2-08)

iii. Is the proposed budget commensurate with the service plan? (4-2-08)

iv. Is the district as described likely to be able to sustain a level of library services that is consistent with state plans? (4-2-08)

b. Proposed boundaries, population size, and levy. (4-2-08)

- i. Have the organizers investigated all reasonable alternatives, including those identified by Commission staff? (4-2-08)
- ii. Have the organizers met with neighboring library boards to discuss possible annexation or combination? Have those neighboring boards indicated that they are not interested? (4-2-08)
- iii. Does area history suggest the election is not likely to pass with expanded boundaries? (4-2-08)
- iv. Is the proposal part of a plan to use the proposed district as a stepping stone to a larger district? (4-2-08)
- c. Anticipated impact in the event exemption is not granted. (4-2-08)
 - i. Will current services significantly decline? (4-2-08)
 - ii. Will the long-term effects be so negative that library service will be badly damaged in the long run? (4-2-08)

031. -- 039. (RESERVED)

040. DIGITAL REPOSITORY OF STATE PUBLICATIONS.

All state publications intended for distribution to the public must be deposited with the Commission according to Section 33-2505, Idaho Code. The Board may, however, grant exemptions from Section 33-2505, Idaho Code, for any publication or class of publications in the interest of economy and efficiency. Exemption requests may be made by state agencies or the State Librarian. Any formal Board action will be documented in the Board minutes and communicated to the requestor. (6-30-19)T

041. -- 049. (RESERVED)

050. TALKING BOOK SERVICE (TBS).

- 01. Patron Status.** (3-29-10)
 - a. Active status. To remain active, users must borrow or download at least one (1) book per year or subscribe to at least one (1) magazine provided through the service. (4-11-19)
 - b. Changes of status. The user must notify the Talking Book Service of address changes, a desire to cancel the service, and temporary or permanent service transfer to another state. (3-29-10)
- 02. Materials Loaned.** (3-29-10)
 - a. Formats. Audio and Braille books, magazines, and print/Braille books are loaned free to eligible registered users. The Talking Book Service keeps records of all loans. (4-11-19)
 - b. Equipment. Equipment necessary to listen to audio materials will be loaned for as long as the user meets National Library Service eligibility requirements and is using the equipment to listen to materials provided by the Talking Book Service. Materials received from sources other than the Talking Book Service do not qualify for continuance of service. Playback equipment needing repair must be returned to the Talking Book Service. A replacement will be provided upon request. The user should not attempt to repair the playback equipment or replace the battery. (4-11-19)
 - c. Sharing materials. Users may not lend Talking Book Service materials or equipment to other persons. (3-29-10)
- 03. Circulation.** (3-29-10)
 - a. Number of titles loaned. The Board shall establish the maximum number of titles each user may

request and that information is available at the Commission office. Once a user reaches the established maximum number of titles, no additional titles will be sent in that format until outstanding titles are returned. A user may request a change in the number of titles received at any time, up to the maximum. (3-29-12)

b. Loan periods. The Board shall establish loan periods for all titles and that information is available at the Commission office. (3-29-12)

c. Overdue materials. Users are urged to return materials promptly so they can be circulated to other patrons. (3-29-12)

d. Fines. No fines are levied for materials returned later than the circulation due date. (3-29-10)

e. Returning materials. Materials can be returned free via the United State Postal Service using Free Matter for the Blind mailing cards. Place materials in a mailbox or take them to the Post Office. (3-29-10)

04. Service Suspension. If any of the rules of Section 050 of these rules are repeatedly violated, the user's service may be suspended pursuant to the following suspension procedure: (3-29-10)

a. Service staff will discuss the violation with the user. (3-29-10)

b. A warning letter will be sent to the user that summarizes the discussion and the violation. The user will have an opportunity to reply within ten (10) business days. (3-29-10)

c. If rule violations continue, a second warning letter will be sent citing the earlier warning letter and listing examples of subsequent violations. The service can be suspended for up to six (6) months. A specific date to reinstate service will be included in this letter. The user will have an opportunity to reply within ten (10) business days. (3-29-10)

d. When service is reinstated, a letter will be sent notifying the user of reinstatement of service and reminding the user that further documented violations will result in another suspension of service. (3-29-10)

051. -- 999. (RESERVED)