

Dear Senators GOEDDE, Fulcher & Burkett, and  
Representatives NONINI, Shirley & Boe:

The Legislative Services Office, Research and Legislation, has received the enclosed  
rules of the State Board & Dept. Of Education:

1. IDAPA 08.01.04 - Rules Governing Residency Classification  
(Docket No. 08-0104-0801);
2. IDAPA 08.02.02 - Rules Governing Uniformity (Docket No. 08-0202-0803);
3. IDAPA 08.02.02 - Rules Governing Uniformity (Docket No. 08-0202-0804);
4. IDAPA 08.02.02 - Rules Governing Uniformity (Docket No. 08-0202-0805);
5. IDAPA 08.02.02 - Rules Governing Uniformity (Docket No. 08-0202-0806);
6. IDAPA 08.02.02 - Rules Governing Uniformity (Docket No. 08-0202-0807 –  
Fee Rule);
7. IDAPA 08.02.03 - Rules Governing Thoroughness (Docket No. 08-0203-0803);
8. IDAPA 08.02.03 - Rules Governing Thoroughness (Docket No. 08-0203-0804).

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 10-27-08. 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 11-24-08.

\_\_\_\_\_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 334-2475, or send a written request to the address or FAX number indicated on the memorandum enclosed.

## MEMORANDUM

TO: Rules Review Subcommittees of the Senate Education Committee and the House Education Committee

FROM: Research & Legislation Staff - Eric Milstead

DATE: October 8, 2008

SUBJECT: Rules of the State Board of Education and the State Department of Education

1. IDAPA 08.01.04 - Rules Governing Residency Classification  
(Docket No. 08-0104-0801)

The State Board of Education submits notice of temporary and proposed rulemaking at IDAPA 08.01.04 - Rules Governing Residency Classification. The rule incorporates changes stemming from 2008 House Bill 401 which revised provisions relating to tuition residency requirements for students at Idaho public postsecondary institutions. The rule also outlines additional factors to be considered in establishing residency for tuition purposes at such institutions. The Board notes that negotiated rulemaking was not conducted because the proposed changes are noncontroversial. The Board states that informal discussions were held with registrars from the state's public postsecondary institutions. The temporary rule took effect August 1, 2008.

The Board's temporary and proposed rule appears to be authorized pursuant to Sections 33-105 and 33-107, Idaho Code.

2. IDAPA 08.02.02 - Rules Governing Uniformity (Docket No. 08-0202-0803)

The State Department of Education submits notice of proposed rulemaking at IDAPA 08.02.02 - Rules Governing Uniformity. The proposed rule revises and updates references to the Standards for Idaho School Buses and Operations and the Idaho Standards for the Initial Certification of Professional School Personnel. The Department notes that, for Idaho Standards for the Initial Certification of Professional School Personnel, negotiated rulemaking was conducted and brought before the Standards Committee of the Professional Standards Committee. Following discussion and some revision, the rule was proposed to the Professional Standards Commission which voted in support of the proposed changes.

The proposed rule appears to be authorized pursuant to Sections 33-105, 33-107, 33-1201, 33-1258, 33-1508 and 33-1511, Idaho Code.

3. IDAPA 08.02.02 - Rules Governing Uniformity (Docket No. 08-0202-0804)

The State Department of Education submits notice of proposed rulemaking at IDAPA 08.02.02 - Rules Governing Uniformity. The proposed rule includes revisions to the process for native language certification through Tribal governments and the Department of Education's Office of Indian Education. The Department states that negotiated rulemaking was conducted through meetings with members from Idaho tribes.

The rule appears to be authorized pursuant to Sections 33-105, 33-107 and 33-1280, Idaho Code.

4. IDAPA 08.02.02 - Rules Governing Uniformity (Docket No. 08-0202-0805)

The State Department of Education submits notice of proposed rulemaking at IDAPA 08.02.02 - Rules Governing Uniformity. The proposed rule revises requirements for school counselor and school psychologist endorsements by increasing the hours of required field experience. The Department states that the revisions more closely align Idaho standards to most other states and reflect current research. The Department notes that negotiated rulemaking was conducted and that the proposed rule was presented to the Standards Committee of the Professional Standards Commission. The Commission then voted in support of the proposed rule.

The rule appears to be authorized pursuant to Sections 33-105, 33-107, 33-1201 and 33-1258, Idaho Code.

5. IDAPA 08.02.02 - Rules Governing Uniformity (Docket No. 08-0202-0806)

The State Department of Education submits notice of proposed rulemaking at IDAPA 08.02.02 - Rules Governing Uniformity. The proposed rule provides additional routes to expedite endorsements for teachers who are needed to teach in areas outside their current endorsement. The additional routes to endorsement under alternative authorization allow teachers to obtain these endorsements through three alternative options: traditional coursework through a college or university, national board certification and through other testing or assessment. The Department notes that negotiated rulemaking was conducted and that the proposed rule was proposed and amended before the Standards Committee of the Professional Standards Commission.

The proposed rule is authorized pursuant to Sections 33-150, 33-107, 33-1201 and 33-1258, Idaho Code.

6. IDAPA 08.02.02 - Rules Governing Uniformity (Docket No. 08-0202-0807 – Fee Rule)

The State Department of Education submits notice of temporary and proposed rulemaking

at IDAPA 08.02.02 - Rules Governing Uniformity. The temporary and proposed rule implements provisions stemming from 2008 House Bill 566 which relate to criminal history checks for school district employees or applicants for certificates. The temporary and proposed rule requires student teacher and other individuals with unsupervised contacts with students to have criminal history checks. The rule also imposes a \$40 fee for the criminal history check. The Department notes that negotiated rulemaking was conducted and that comments were solicited from school administrators and others who would be involved in the criminal history check process. The effective date of the temporary rule was August 20, 2008.

The temporary and proposed rule appears to be authorized pursuant to Sections 33-105, 33-107, 33-130 and 33-312, Idaho Code.

7. IDAPA 08.02.03 - Rules Governing Thoroughness (Docket No. 08-0203-0803)

The State Department of Education submits notice of proposed rulemaking at IDAPA 08.02.03 - Rules Governing Thoroughness. The Department states that the proposed rule reflects an essential element of the state longitudinal data system -- the unique student identifier. Such an identifier connects student data across databases and across years. Specifically, the rule defines a unique student identifier (Section 009.06); requires all students taking the ISAT to have such an identifier (Section 111.05); and requires that, effective April 1, 2009, each student enrolled in an Idaho school district will be assigned such an identifier. The Department states that the 2008 Legislature appropriated funds for the statewide longitudinal data system. We do note that the Department states that negotiated rulemaking was not used because of the lack of “identifiable representatives of affected interests” and because “affected interests are not likely to reach consensus.”

The proposed rule appears to be authorized pursuant to Sections 33-105 and 33-107, Idaho Code.

8. IDAPA 08.02.03 - Rules Governing Thoroughness (Docket No. 08-0203-0804)

The State Board of Education submits notice of temporary and proposed rulemaking at IDAPA 08.02.03 - Rules Governing Thoroughness. The Department states that the temporary and proposed rule reflects U.S. Department of Education non-regulatory guidance, released in May, 2007, relating to first-year limited English proficient students. In accordancd with the federal guidance, under the temporary and proposed rule, such students are required to take the standard achievement tests for both math and science beginning in 2008. The rule also revises a provision relating to using either the Fall or Spring 10<sup>th</sup> grade ISAT for graduation purposes. The Department notes that negotiated rulemaking was not conducted because of the noncontroversial nature of the revisions and because of the need to meet federal guidelines. The temporary rule became effective August 15, 2008.

The proposed rule appears to be authorized pursuant to Sections 33-105, 33-107, 33-130 and 33-312, Idaho Code.

cc: State Board of Education, Tracie Bent, Ray Merial, Mary Jane Oatman Wak-Wak,  
Christina Linder, & Rene Hughes  
State Department of Education, Tom Luna

## IDAPA 08 - STATE BOARD OF EDUCATION

### 08.01.04 - RULES GOVERNING RESIDENCY CLASSIFICATION

DOCKET NO. 08-0104-0801

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is August 1, 2008.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) (include the agency's specific statutory authority for rulemaking), Idaho Code, and (include any specific section(s) of the Idaho Code or the federal statute or regulation if that is the basis of authority or requirement for the rulemaking).

**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 15, 2008.

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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The changes bring the rule into alignment with changes made to Section 33-3171B, Idaho Code during the 2008 legislative session, and clarify additional factors a student may use to establish residency for tuition purposes at an Idaho public postsecondary institution.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1) Pursuant to Section(s) 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: To be in compliance with amendments to governing law.

**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: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rulemaking is non-controversial in nature. Informal meetings were conducted with registrars from Idaho's public postsecondary institutions.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Tracie Bent at (208) 332-1582.

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 22, 2008.

DATED this 20th day of August, 2008.

Tracie Bent  
Planning, Policy and HR Officer  
State Board of Education  
650 West State Street  
PO Box 83720-0037  
Boise, ID 83720-0037  
(208) 332-1582 phone  
(208) 334-2632 FAX

THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0104-0801

**000. LEGAL AUTHORITY.**

This chapter is adopted under the legal authority of Section 33-3717B, Idaho Code.

~~(1-1-94)~~(8-1-08)T

**001. TITLE AND SCOPE.**

The title of this chapter is Residency. This chapter has the following scope: the four-year institutions under the supervision of the State Board of Education and the Regents of the University of Idaho, the University of Idaho, Boise State University, Idaho State University, and Lewis-Clark State College are required to make residency determinations pursuant to Section 33-3717B, Idaho Code, and these rules.

~~(1-1-94)~~(8-1-08)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**005. DEFINITIONS.**

**01. Resident Student.** Resident student is defined in Section 33-3717B, Idaho Code, and specifically includes:

~~(1-1-94)~~(8-1-08)T

**a.** Any student who has one (1) or more parent or parents or court appointed guardians who are domiciled in the state of Idaho for at least ~~one~~ twelve (12) year months prior to the opening day of the term for which the student matriculates, and the parent or parents or guardians provide at least fifty percent (50%) of the student's support.

~~(1-1-94)~~(8-1-08)T

**b.** Any student who receives less than fifty percent (50%) of his support from a parent, parents, or legal guardians ~~who are not residents of Idaho for voting purposes and which student who~~ has continuously resided and maintained a bona fide domicile in the state for twelve (12) months immediately preceding the opening day of the term during which the student proposes to attend ~~and who has in fact established a bona fide domicile in the state of Idaho~~ primarily for purposes other than educational.

~~(1-1-94)~~(8-1-08)T

**c.** Unless disqualified as a nonresident student as defined in Subsection 005.02, any student who is a graduate of an accredited secondary school in the state of Idaho and who matriculates during the term immediately following such graduation.

(1-1-94)

**d.** The spouse of a person who is classified or is eligible for classification as a resident of the state for purposes of attending a college or university, provided that the institution shall require the filing of proof of marriage by the applicant.

(1-1-94)

**e.** A member of the armed forces of the United States stationed in the state on military orders.

(1-1-94)

**f.** An officer or an enlisted member of the Idaho national guard.

(8-1-08)T

**fg.** A student whose parent or guardian is a member of the armed forces and stationed in the state on military orders and who receives fifty percent (50%) or more of his support from a parent or guardian, provided that the student, while in continuous attendance, shall not lose residency status when the student's parent or guardian is transferred on military orders.

(1-1-94)

**gh.** A person separated, under honorable conditions, from the United States armed forces after at least two (2) years of service, who at the time of separation designates the state of Idaho as his intended domicile or who has Idaho as the home of record in service and enters a college or university in the state within one (1) year of the date of separation.

(1-1-94)

**hi.** Any person who has been domiciled in the state, has qualified and would otherwise be qualified under Section 33-3717B, Idaho Code, and who is away from the state for a period of less than ~~one~~ thirty (30) calendar-year months and has not established legal residence elsewhere, provided a twelve (12) month period of continuous residence has been established immediately prior to departure. ~~(1-1-94)~~(8-1-08)T

**j.** A student who is a member of any of the following Idaho Native American Indian tribes, regardless of current domicile, shall be considered an Idaho state resident for purposes of fees or tuition at institutions of higher education: members of the following Idaho Native American Indian tribes, whose traditional and customary tribal boundaries included portions of the state of Idaho, or whose Indian tribe was granted reserved lands within the state of Idaho: (8-1-08)T

- i.** Coeur d'Alene tribe: (8-1-08)T
- ii.** Shoshone-Paiute tribes: (8-1-08)T
- iii.** Nez Perce tribe: (8-1-08)T
- iv.** Shoshone-Bannock tribes: (8-1-08)T
- v.** Kootenai tribe. (8-1-08)T

**02. Nonresident Student.** Nonresident student is defined in Section 33-3717B, Idaho Code, and includes: ~~(1-1-94)~~(8-1-08)T

- a.** A student who does not qualify as a resident student as defined in Subsection 005.01. (1-1-94)
- b.** A student attending an institution in this state with financial assistance provided by another state or governmental entity thereof, such nonresidency continuing for one (1) year after the completion of the semester for which such assistance is last provided. (1-1-94)

**c.** A person who is not a citizen of the United States of America, who does not have permanent or temporary resident status or who does not hold "refugee-parolee" or "conditional entrant" status with the United States Immigration and Naturalization Service, or is not otherwise permanently residing in the United States under color of law, and who does not also comply with and meet all applicable sections of Section 33-3717B, Idaho Code, and this chapter. ~~(1-1-94)~~(8-1-08)T

**03. Continuously Resided.** The term "continuously resided" as used in this chapter means physical presence in the state for twelve (12) consecutive months. Absence from the state for normal vacations, family travel, work assignments, short-term military training, and similar occasions totaling not more than thirty (30) days during the twelve (12) month qualifying period, in and of itself, will not be regarded as negating the continuous residence of the individual. (1-1-94)

**04. Continuous Attendance.** For purposes of Subsection 005.01.fg., "continuous attendance" means attendance at a college or university for continuing and succeeding semesters or terms excluding summer semesters or terms. ~~(1-1-94)~~(8-1-08)T

**05. Accredited Secondary School.** "Accredited secondary school" means an Idaho secondary school accredited by the State Board of Education. (1-1-94)

**06. Term Immediately Following Graduation.** For purposes of Subsection 005.01.c., "the term immediately following graduation" does not include the summer semester or term of a college or university. (1-1-94)

**07. Armed Forces.** "Armed forces" means the United States Army, Navy, Air Force, Marine Corps, and United States Coast Guard. It does not include the National Guard or other reserve force. (3-30-01)

**08. Domicile.** "Domicile" means an individual's true, fixed, and permanent home and place of habitation; the place where the individual intends to remain and to which the individual expects to return when he

leaves without intending to establish a new domicile elsewhere. The establishment of domicile in Idaho occurs when a person is physically present in Idaho primarily for purposes other than educational and can show satisfactory proof that such person is without a present intention to return to another state or acquire a domicile at some other place outside the state and the person has met any other applicable requirements of this chapter. (1-1-94)

**09. Support.** "Support" means financial support given to the student during the twelve (12) months preceding the opening date of the term for which resident status is requested. Any student who receives less than fifty percent (50%) support may demonstrate this by showing that he is not claimed as a dependent by a parent or guardian for income tax purposes or that a parent or guardian provides less than fifty percent (50%) of the cost of attending an institution according to the financial aid office of that institution or that other similar evidence exists of parental support such as dental bills, medical bills, etc. (1-1-94)

**006. -- 099. (RESERVED).**

**100. RESIDENT CLASSIFICATION BY ALL INSTITUTIONS.**

Any student classified as a resident for purposes of higher education by one institution must be considered a resident by all other institutions. "Institutions" means the University of Idaho, Idaho State University, Boise State University, ~~and~~ Lewis-Clark State College, and Eastern Idaho Technical College. (7-1-93)(8-1-08)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**102. FACTORS FOR DETERMINING DOMICILE.**

Pursuant to Section 33-3717B, Idaho Code, the overriding factor for determining whether a student is a "resident student" is domicile. For these purposes, the establishment of domicile in Idaho occurs when a person is physically present in Idaho primarily for purposes other than educational and can show satisfactory proof that such person is without a present intention to return to another state or acquire a domicile at some other place outside the state and the person has met any other applicable requirements of this chapter. In determining whether a student is domiciled in Idaho primarily for purposes other than educational, the institutions shall consider the following: (1-1-94)(8-1-08)T

**01. ~~Registration and Payment of Idaho Taxes or Fees.~~ Registration and payment of Idaho taxes or fees on a motor vehicle, mobile home, travel trailer, or other item of personal property for which state registration and the payment of state tax or fee is required. Domicile Established.** Any of the following, if done for at least twelve (12) months before the term in which the student proposes to enroll as a resident student, proves the establishment and maintenance of domicile in Idaho for purposes other than educational: (1-1-94)(8-1-08)T

**a.** Filing of Idaho state income tax returns covering a period of at least twelve (12) months before the term in which the student proposes to enroll as a resident student. (8-1-08)T

**b.** Permanent full-time employment or the hourly equivalent thereof in the state of Idaho. (8-1-08)T

**c.** Ownership by the student of the students living quarters. (8-1-08)T

**02. Rebuttable Presumption.** A student who is enrolled for more than eight (8) hours in any semester or quarter during a twelve (12) month period shall be presumed to be in Idaho for primarily educational purposes. Such period of enrollment shall not be counted toward the establishment of a bona fide domicile in the state unless the student proves, in fact, establishment of a bona fide domicile in the state primarily for purposes other than educational. A student who establishes at least five (5) of the seven (7) factors listed in Subsection 102.03., if done for a least twelve (12) months before the term in which the student proposes to enroll as a resident student, proves the establishment and maintenance of domicile in Idaho for purposes other then educational. (8-1-08)T

**03. Additional Factors to Determine Domiciliary Intent.** A student who establishes at least five (5) of the seven (7) following factors, if done for at least twelve (12) months before the term in which the student proposes to enroll as a resident student, proves the establishment and maintenance of domicile in Idaho for purposes



other than educational: (8-1-08)T

**a. Registration and Payment of Idaho Taxes or Fees.** Registration and payment of Idaho taxes or fees on a motor vehicle, mobile home, travel trailer, or other item of personal property for which state registration and the payment of state tax or fee is required. (8-1-08)T

~~02. Filing of Idaho State Income Tax Returns.~~ (1-1-94)

~~03. Employment. Permanent full-time employment or the hourly equivalent thereof in the state of Idaho.~~ (1-1-94)

**04b. Registration to Vote.** Registration to vote for state elected officials in Idaho at a general election. (1-1-94)

~~05. Real Property Ownership in Idaho.~~ (1-1-94)

**06c. Holding of an Idaho Driver's License.** An Idaho state-issued ID card may be used in lieu of an Idaho driver's license. (1-1-94)(8-1-08)T

**07d. Evidence of the Abandonment of a Previous Domicile.** (1-1-94)

**08e. The Presence of Household Goods in Idaho.** (1-1-94)

**09f. The Establishment of Accounts With Idaho Financial Institutions in Idaho.** (1-1-94)(8-1-08)T

**104. And Other Similar Factors Indicating Intent to be Domiciled in Idaho and the Maintenance of Such Domicile.** Factors may include, but are not limited to, enrollment of dependent children in Idaho primary or secondary schools, establishment of acceptance of an offer of permanent employment for self in Idaho, or documented need to care for a relative in Idaho. (1-1-94)(8-1-08)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**104. INTERPRETATIONS RELATING TO RESIDENCY CLASSIFICATION.**

**01. Common Law Marriage.** Any student who wants to establish residency on the basis of a common law marriage must complete an Affidavit of Common Law Marriage as approved by the Board. (7-1-93)

**02. Nonresident Aliens -- Marital Privilege.** Nonresident aliens who marry Idaho residents become eligible for residency classification for purposes of higher education, as provided in Section 33-3717B, Idaho Code, upon filing proof of marriage in the admissions office. However, the institutions remain responsible for complying with requirements set forth in regulations of the U.S. Immigration and Naturalization Service relating to non-immigrant alien students until such time as the alien is granted lawful resident alien status by the U.S. Immigration and Naturalization Service. (7-1-93)(8-1-08)T

**105. RESIDENCY REQUIREMENTS FOR SPECIAL GRADUATE OR PROFESSIONAL PROGRAMS.**

As provided in Section 33-3717B, Idaho Code, a residency requirement of at least one (1) calendar year is in effect for certain special graduate and professional programs. Those programs include, but are not limited to, the WAMI Regional Medical Program, the WICHE Professional Student Exchange Program, the Idaho Dental Education Program, the Creighton Dental Education Program, the WOI Regional Veterinary Program, and the University of Utah Medical Program. For purposes of this section, the requirement of "at least one (1) calendar year" means a period of twelve (12) consecutive months of continuous residency consistent with the requirements of Section 33-3717B, Idaho Code, immediately prior to the date of application. (1-1-94)(8-1-08)T

**01. Delegation of Certification Administration.** The following office or institutions are delegated the

responsibility for the evaluation of applicants and determination of residency for the special graduate and professional programs for purposes of certification. (7-1-93)

- a. The University of Idaho -- WAMI Regional Medical Program, WOI Regional Veterinary Program. (7-1-93)
- b. Idaho State University -- Idaho Dental Education Program and the University of Utah Medical Program. (6-30-95)
- c. Office of the State Board of Education -- WICHE Professional Student Exchange Program. (6-30-95)

**02. Appeal to the State Board of Education.** Applicants for the special graduate and professional programs, upon institutional denial of residency status, may petition the Board for a hearing on the denial. The decision to grant such a hearing is discretionary with the Board and will be granted for errors in determination of residency pursuant to Section 33-3717B, Idaho Code. (~~7-1-94~~)(8-1-08)T

# IDAPA 08 - BOARD OF AND DEPARTMENT OF EDUCATION

## 08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0803

### 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(s) 33-105 and 33-107, Idaho Code and Sections 33-1508 and 33-1511, Idaho Code and Sections 33-1201 and 33-1258, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be held as follows:

**Tuesday - October 21, 2008 - 1:00 p.m.**

#### STATE DEPARTMENT OF EDUCATION

Lewis & Clark Conference Room  
Len B. Jordan Building, 2nd Floor  
650 West State Street, Boise, ID

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:

1. The two documents that are being modified that are incorporated by reference in this rule are the Standards for Idaho School Buses and Operations (SISBO) and the Idaho Standards for the Initial Certification of Professional School Personnel.
2. The majority of the changes to the SISBO reflect revisions to the National Standards and include a structure for referencing paragraphs. The change in depreciation schedule would benefit a few rural school districts that have bus routes that are particularly long and rough. Buses on these routes have a shorter life span. The option to use a depreciation schedule based on mileage and type of use rates would allow a district with one of these routes to receive their reimbursement at a potentially faster rate that more closely matches the actual life span of the bus. These worn out buses are currently kept and left unused by the districts until the end of the traditional 12 year life expectancy; during this time the school must still pay for maintenance and inspect the bus every sixty days. The district is subject to financial penalty if the bus is sold or traded in before the end of the depreciation schedule.
3. Idaho Standards for the Initial Certification of Professional School Personnel are used for postsecondary programs in the preparation of these individuals. The change to the standards for school counselors clarifies that the Idaho Comprehensive School Counseling Program Mode is based on the American School Counselor Association national standards. Changes to the school psychologist standards more accurately reflect the school psychologist's role in a school both with students and with other school staff. Changes were also made to better reflect current professional terminology for school psychologists.

**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: N/A

**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 2, 2008 Idaho Administrative Bulletin, Vol. 08-7, page 27. For Idaho Standards for the Initial Certification of Professional School Personnel, pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. This proposed

rule change was brought before the Standards Committee of the Professional Standards Commission. It was presented and discussed, amended, and revisited. The final version was then proposed to the entire Professional Standards Commission for a vote.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Ray Mercial for the SISBO at (208) 332-6855 or Christina Linder for the Idaho Standards for the Initial Certification of Professional School Personnel at (208) 332-6886.

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 22, 2008.

DATED this 18th Day of August, 2008.

Tom Luna  
Superintendent of Public Instruction  
State Department of Education  
650 West State St, 2<sup>nd</sup> Floor  
PO Box 83720, Boise, ID 83720-0027  
(208) 332-6812; f (208) 334-2228

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0202-0803**

**004. INCORPORATION BY REFERENCE.**

The State Board of Education adopts and incorporates into its rules: (4-5-00)

**01. Incorporated Document.** The Idaho Standards for the Initial Certification of Professional School Personnel as approved in ~~April 2006~~ August 2008. (~~3-30-07~~)(\_\_\_\_)

**02. Document Availability.** The Standards are available at the Office of the State Board of Education, 650 W. State St., PO Box 83720, Boise, Idaho 83720-0037, and can also be accessed electronically at <http://www.idahoboardofed.org>. (3-16-04)

**03. Incorporated Document.** The Standards for Idaho School Buses and Operations as approved on ~~November 1, 2006~~ August 2008. (~~3-30-07~~)(\_\_\_\_)

**04. Document Availability.** The Standards for Idaho School Buses and Operations are available at the Idaho State Department of Education, 650 W. State St., Boise Idaho, 83702 and can also be accessed electronically at <http://www.sde.idaho.gov>. (~~7-1-02~~)(\_\_\_\_)

**05. Incorporated Document.** The Idaho Standards for Public School Driver Education and Training as approved on August 13, 2004. (4-6-05)

**06. Document Availability.** The Idaho Standards for Public School Driver Education and Training are available at the Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702. (5-3-03)

**07. Incorporated Document.** The Idaho Standards for Commercial Driving Schools as approved on March 10, 2005. (4-11-06)

**08. Document Availability.** The Idaho Standards for Commercial Driving Schools is available at the

Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702.

(3-14-05)

**(BREAK IN CONTINUITY OF SECTIONS)**

**150. TRANSPORTATION.**

Minimum School Bus Construction Standards. All new school bus chassis and bodies must meet or exceed Standards for Idaho School Buses and Operations as approved on ~~November 1, 2006~~ August 6, 2008, as authorized in Section 33-1511, Idaho Code. (~~3-30-07~~)(\_\_\_\_)

**151. -- 159. (RESERVED).**

**160. MAINTENANCE STANDARDS AND INSPECTIONS.**

**01. Safety.** School buses will be maintained in a safe operating condition at all times. Certain equipment or parts of a school bus that are critical to its safe operation must be maintained at prescribed standards. When routine maintenance checks reveal any unsafe condition identified in the Standards for Idaho School Buses and Operations as approved on ~~November 1, 2006~~ August 6, 2008, the school district will eliminate the deficiency before returning the vehicle to service. (~~3-30-07~~)(\_\_\_\_)

**02. Annual Inspection.** After completion of the annual school bus inspection, and if the school bus is approved for operation, an annual inspection sticker, indicating the year and month of inspection, will be placed in the lower, right-hand corner of the right side front windshield. The date indicated on the inspection sticker shall correlate to State Department of Education's annual school bus inspection certification report signed by pupil transportation maintenance personnel and countersigned by the district superintendent. (Section 33-1506, Idaho Code) (7-1-02)

**03. Sixty-Day Inspections.** At intervals of not more than sixty (60) calendar days, excluding documented out-of-use periods in excess of thirty (30) days, the board of trustees shall cause inspection to be made of each school bus operating under the authority of the board. Except that, no bus with a documented out-of-use period in excess of sixty (60) days shall be returned to service without first completing a documented sixty (60) day inspection. Annual inspections are considered dual purpose and also meet the sixty (60) day inspection requirement. (Section 33-1506, Idaho Code) (7-1-04)

**04. Documentation of Inspection.** All inspections will be documented in writing. Annual inspections must be documented in writing on the form provided by the State Department of Education. (4-1-97)

**05. Unsafe Vehicle.** When a bus has been removed from service during a State Department of Education inspection due to an unsafe condition, the district will notify the State Department of Education on the appropriate form before the bus can be returned to service. When a bus has been found to have deficiencies that are not life-threatening, it will be repaired within thirty (30) days and the State Department of Education notified on the appropriate form. If the deficiencies cannot be repaired within thirty (30) days, the bus must be removed from service until the deficiencies have been corrected or an extension granted. (7-1-02)

**06. Withdraw from Service Authority.** Subsequent to any federal, national, or state advisory with good cause given therefor, the district shall, under the direction of the State Department of Education, withdraw from service any bus determined to be deficient in any prescribed school bus construction standard intended to safeguard life or minimize injury. No bus withdrawn from service under the provisions of this section shall be returned to service or used to transport students unless the district submits to the State Department of Education a certification of compliance specific to the school bus construction standard in question. (Section 33-1506, Idaho Code) (7-1-04)

**161. -- 169. (RESERVED).**

**170. SCHOOL BUS DRIVERS AND VEHICLE OPERATION.**

All school districts and school bus drivers must meet or exceed the training, performance and operation requirements delineated in the Standards for Idaho School Buses and Operations as approved on ~~November 1, 2006~~ August 6,

2008. (Section 33-1508; 33-1509, Idaho Code)

~~(3-30-07)~~(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**190. PROGRAM OPERATIONS.**

School district fiscal reporting requirements as well as reimbursable and non-reimbursable costs within the Pupil Transportation Support Program, including but not limited to administration, field and activity trips, safety busing, contracting for transportation services, leasing of district-owned buses, insurance, ineligible and non-public school students, ineligible vehicles, capital investments including the purchasing of school buses and equipment, program support and district waiver procedures shall be delineated in Standards for Idaho School Buses and Operations as approved on ~~November 1, 2006~~ August 6, 2008. (Section 33-1006, Idaho Code)

~~(3-30-07)~~(\_\_\_\_)

**IDAPA 08 - STATE BOARD OF EDUCATION  
DEPARTMENT OF EDUCATION**

**08.02.02 - RULES GOVERNING UNIFORMITY**

**DOCKET NO. 08-0202-0804**

**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 Sections 33-105 and 33-107 Idaho Code, and Section 33-1280, Idaho Code.

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

**Tuesday - October 21, 2008 - 1:00 p.m.**

**STATE DEPARTMENT OF EDUCATION  
Lewis & Clark Conference Room  
Len B. Jordan Building, 2nd Floor  
650 West State Street, Boise, ID**

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 outlines procedures for native language certification through Tribal governments, State Department of Education Office of Indian Education and Office of Certification. Certification procedures are similar to standard teacher certification although approval must also be given by the Tribe(s) and SDE Indian Education Coordinator. Process includes fingerprinting and criminal history check.

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

Section 33-130, Idaho Code, requires a \$40.00 fee for a criminal history check (CHC) for all applicants for certification, school district employees, and anyone with unsupervised contact with students in the K-12 setting. The criminal history check and corresponding fee apply to applicants seeking certification to teach American Indian Languages.

**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: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The rulemaking was initiated through meetings with members from Idaho tribes.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Mary Jane Oatman Wak-Wak (208) 332-6968.

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 22, 2008.

DATED this 18th day of August, 2008.

Tom Luna  
Superintendent of Public Instruction  
State Department of Education  
650 West State St, 2nd Floor  
PO Box 83720  
Boise, ID 83720-0027  
(208) 332-6812; f (208) 334-2228

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0202-0804**

**025. ~~NATIVE~~ AMERICAN INDIAN LANGUAGE (SECTION 33-1280, IDAHO CODE).**

Each Indian tribe shall provide to the State Department of Education the names of those highly and uniquely qualified individuals who have been designated to teach the tribe's native language in accordance with Section 33-1280, Idaho Code. ~~Upon receiving the names of American Indian languages teachers designated by an Indian tribe, the State Department of Education shall authorize those individuals~~ Individuals identified by the tribe(s) may apply for an Idaho American Indian Certificate as American Indian languages teachers. (3-16-04)( )

**01. Process the Application.** The Office of Indian Education at the State Department of Education will process an application that has met the requirements of the Tribe(s) for an American Indian languages teacher. ( )

**02. Approval Has Been Received.** Once an application with Tribal approval has been received, it will be reviewed and if approved it will be forwarded to the Office of Certification for a criminal history background check as required in 33-130, Idaho Code. The application must include a ten finger fingerprint card or scan and a forty dollar (\$40) for undergoing a criminal history check pursuant to 33-130, Idaho Code. ( )

**03. Office of Certification.** The Office of Certification will review the application and verify the applicant is eligible for an Idaho American Indian Certificate. The State Department of Education shall authorize an eligible applicant as an American Indian languages teacher. An Idaho American Indian Certificate is valid for not more than five (5) years. Individuals may apply for a renewal certificate. ( )



**IDAPA 08 - STATE BOARD OF EDUCATION  
DEPARTMENT OF EDUCATION**

**08.02.02 - RULES GOVERNING UNIFORMITY**

**DOCKET NO. 08-0202-0805**

**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 Sections 33-105 and 33-107 Idaho Code, and Sections 33-1201 and 33-1258, Idaho Code.

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

**Tuesday - October 21, 2008 - 1:00 p.m.**

**STATE DEPARTMENT OF EDUCATION  
Lewis & Clark Conference Room  
Len B. Jordan Building, 2nd Floor  
650 West State Street, Boise, ID**

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:

Changes in the requirements for a school counselor endorsement increases percentage of time of the required field experience to be in the K-12 setting, and that the field experience is in all grade levels (elementary, middle/junior high and high school). The proposed change to the school psychologist endorsement increases the minimum number of hours of the required internship from three hundred hours to twelve hundred hours. The increase in hours more closely aligns Idaho's standards to most other states and reflects current research in the area of preparation for school psychologists. Most of Idaho's programs that prepare school psychologists already require more than the current minimum of three hundred hours.

**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: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. This proposed rule change was brought before the Standards Committee of the Professional Standards Commission. It was presented and discussed, amended, and revisited. The final version was then proposed to the entire Professional Standards Commission for a vote.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Christina Linder (208) 332-6886.

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 22, 2008.

DATED this 18th day of August, 2008.

Tom Luna  
Superintendent of Public Instruction  
State Department of Education  
650 West State St, 2nd Floor  
Boise, ID 83720-0027  
(208) 332-6812; Fax (208) 334-2228

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0202-0805

**027. PUPIL PERSONNEL SERVICES CERTIFICATE.**

Persons who serve as school counselors, school psychologists, speech-language pathologists, school social workers, school nurses and school audiologists are required to hold the Pupil Personnel Services Certificate, with the respective endorsement(s) for which they qualify. (3-16-04)

**01. Counselor Endorsement (K-12).** To be eligible for a Pupil Personnel Services Certificate endorsed Counselor K-12, a candidate must have satisfied the following requirements. The Pupil Personnel Services Certificate with a Counselor endorsement is valid for five (5) years. Six (6) semester credits hours are required every five (5) years in order to renew the endorsement. (~~3-16-04~~)( )

**a.** Hold a master's degree and provide verification of completion of an approved program of graduate study in school guidance and counseling from a college or university approved by the Idaho State Board of Education or the state educational agency of the state in which the program was completed. The program must include successful completion of seven hundred (700) clock hours of supervised field experience, ~~one-half~~ seventy-five percent (75%) of which must be in a K-12 school setting. Substantial amounts of this K-12 experience must be in each of the following levels: elementary, middle/junior high and high school. Previous school counseling experience may be considered to help offset the field experience clock hour requirement. (~~3-16-04~~)( )

**b.** An institutional recommendation is required for a ~~School~~ Counselor K-12 Endorsement. (~~3-16-04~~)( )

**02. School Psychologist Endorsement.** This endorsement is valid for five (5) years. Six (6) credits are required every five (5) years in order to renew the endorsement. To be eligible for initial endorsement, a candidate must complete a minimum of sixty (60) graduate semester credit hours which must be accomplished through one (1) of the following options: (3-16-04)

**a.** Completion of an approved thirty (30) semester credit hour, or forty-five (45) quarter credit hours, master's degree in education or psychology and completion of an approved thirty (30) semester credit hour, or forty-five (45) quarter credit hour, School Psychology Specialist Degree program. (3-16-04)

**b.** Completion of an approved sixty (60) semester credit hour, or ninety (90) quarter credit hour, master's degree program in School Psychology. (3-16-04)

**c.** Completion of an approved sixty (60) semester credit hour, or ninety (90) quarter credit hour, School Psychology Specialist degree program which did not require a master's degree as a prerequisite, with laboratory experience in a classroom, which may include professional teaching experience, student teaching or special education practicum, and completion of a minimum ~~three~~ twelve hundred (~~312~~1200) clock-hour internship within a school district under the supervision of the training institution and direct supervision of a certificated school psychologist. (~~3-16-04~~)( )

**03. School Nurse Endorsement.** This endorsement is valid for five (5) years. Six (6) credits are

required every five (5) years in order to renew the endorsement. Initial endorsement may be accomplished through completion of the following requirements. (3-16-04)

**a.** The candidate must possess a valid nursing (RN) license issued by the Idaho State Board of Nursing, and a bachelor's degree in nursing, education, or a health-related field from an accredited institution. (11-2-07)T

**b.** The candidate must possess a valid professional nursing (RN) license issued by the Idaho State Board of Nursing and have completed nine (9) semester credit hours from a university or college in at least three (3) of the following areas: (11-2-07)T

- i. Health program management; (11-2-07)T
- ii. Child and adolescent health issues; (11-2-07)T
- iii. Counseling, psychology, or social work; or (11-2-07)T
- iv. Methods of instruction. (11-2-07)T

**c.** Additionally, each candidate must have two (2) years' full-time (or part-time equivalent) school nursing, community health nursing, or any area of pediatric, adolescent, or family nursing experience. (11-2-07)T

**04. Provisional Endorsement - School Nurse.** This certificate will be granted for those who do not meet the educational and/or experience requirements but who hold a valid professional nursing (RN) license in Idaho. An Interim Certificate will be issued for three (3) years while the applicant is meeting the educational requirements, and it is not renewable. (11-2-07)T

**05. Speech-Language Pathologist Endorsement.** This endorsement is valid for five (5) years. Six (6) credits are required every five (5) years in order to renew the endorsement. Initial endorsement will be issued to candidates who possess a master's degree from an accredited college or university in a speech/language pathology program approved by the State Board of Education, and who receive an institutional recommendation from an accredited college or university. (3-16-04)

**06. Audiology Endorsement.** This endorsement is valid for five (5) years. Six (6) credits are required every five (5) years in order to renew the endorsement. Initial endorsement will be issued to candidates who possess a master's degree from an accredited college or university in an audiology program approved by the State Board of Education, and who receive an institutional recommendation from an accredited college or university. (3-16-04)

**07. School Social Worker Endorsement.** This endorsement is valid for five (5) years. Six (6) credit hours are required every five (5) years in order to renew the endorsement. Initial endorsement may be accomplished through possession of a social work certificate issued by the Idaho Bureau of Occupational Licenses, an institutional recommendation, and completion of one (1) of the following options: (3-16-04)

**a.** A master's degree in social work from an Idaho college or university approved by the State Board of Education, or a master's degree in social work from an out-of-state college or university. The program must be currently approved by the state educational agency of the state in which the program was completed. (3-16-04)

**b.** A master's degree in guidance and counseling, sociology, or psychology plus thirty (30) semester credit hours of graduate work in social work education, including course work in all the following areas: understanding the individual; casework method; field placement; social welfare programs and community resources; and research methods. (3-16-04)

**IDAPA 08 - STATE BOARD OF EDUCATION  
DEPARTMENT OF EDUCATION**

**08.02.02 - RULES GOVERNING UNIFORMITY**

**DOCKET NO. 08-0202-0806**

**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(s) 33-105 and 33-107 Idaho Code, and Sections 33-1201 and 33-1258, Idaho Code.

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

**Tuesday - October 21, 2008 - 1:00 p.m.**

**STATE DEPARTMENT OF EDUCATION  
Lewis & Clark Conference Room  
Len B. Jordan Building, 2nd Floor  
650 West State Street, Boise, ID**

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:

These additional routes expedite the attainment of endorsements for teachers who are needed to teach in areas outside of their current endorsement. Under the alternative authorization provisions these additional routes would only be allowed for Idaho school districts who are requesting emergency endorsement/certification when a professional position cannot be filled with someone who has the correct endorsement/certification and is only valid for up to three years and is nonrenewable. These additional routes to endorsement under alternative authorization allow teachers to obtain additional endorsements through three options including traditional coursework through a college or university, National Board certification and through testing or assessment such as the Praxis II test. Those utilizing National Board certification and testing routes are required to complete a year of mentoring and supervision. Some pedagogy in content area best practices is required for those under the testing route.

**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: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. This proposed rule change was brought before the Standards Committee of the Professional Standards Commission. It was presented and discussed, amended, and revisited. The final version was then proposed to the entire Professional Standards Commission for a vote.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Christina Linder (208) 332-6886.

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 22, 2008.

DATED this 18th day of August, 2008.

Tom Luna  
Superintendent of Public Instruction  
State Department of Education  
650 West State St, 2nd Floor  
PO Box 83720  
Boise, ID 83720-0027  
(208) 332-6812; f (208) 334-2228

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0202-0806

**043. ALTERNATIVE AUTHORIZATION – TEACHER TO NEW CERTIFICATION (EFFECTIVE JULY 1, 2006).**

The purpose of this alternative authorization is to allow Idaho school districts to request emergency endorsement/certification when a professional position cannot be filled with someone who has the correct endorsement/certification. Alternative authorization in this area is valid for up to three (3) years and is nonrenewable.

(3-20-04)( )

**01. Initial Qualifications.** Prior to application, a candidate must hold a Bachelor's degree, and a valid Idaho teacher certificate without full endorsement in content area of need. The school district must declare an emergency and provide supportive information attesting to the ability of the candidate to fill the position. (3-20-04)

**02. Alternative Route Preparation Program.** (3-20-04)

**a. Option I – Teacher to New Certification/Endorsement.** ( )

**i.** Candidate will work toward completion of the alternative route preparation program through a participating college/university, and the employing school district. Candidate must complete a minimum of nine (9) semester credits annually to be eligible for extension of up to a total of three (3) years. (3-20-04)

**ii.** The participating college/university shall provide procedures to assess and credit equivalent knowledge, dispositions, and relevant life/work experiences. (3-20-04)

**iii.** Candidate shall meet all requirements for the endorsement/certificate as provided herein. (3-20-04)

**b. Option II – National Board (endorsement only). By earning National Board certification in content specific areas teachers may gain endorsement in a corresponding subject area.** ( )

**c. Option III – Testing and/or Assessment (endorsement only). Two (2) pathways are available to some teachers, depending upon endorsement(s) already held.** ( )

**i.** Pathway 1 – Endorsements may be added through state-approved testing only, provided that the appropriate test is successfully completed within the first year of authorization in an area closely compatible with an endorsement for which they already qualify and are experienced. Additionally requires the successful completion of a one-year mentoring component. ( )

**ii.** Pathway 2 - Endorsements may be added through state-approved testing provided that the appropriate test is successfully completed within the first year of the authorization in an area closely compatible with an endorsement for which a teacher already qualifies and is experienced. Additionally requires the successful completion of a one (1)-year mentoring component and passing a final pedagogy assessment. ( )

**IDAPA 08 - STATE BOARD OF EDUCATION  
DEPARTMENT OF EDUCATION**

**08.02.02 - RULES GOVERNING UNIFORMITY**

**DOCKET NO. 08-0202-0807**

**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is August 20, 2008.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 33-105 and 33-107 Idaho Code, and 33-130 and 33-312, Idaho Code.

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

**Tuesday - October 21, 2008 - 1:00 p.m.**

**STATE DEPARTMENT OF EDUCATION  
Lewis & Clark Conference Room  
Len B. Jordan Building, 2nd Floor  
650 West State Street, Boise, ID**

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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The 2008 Legislature passed a bill requiring student teachers and individuals who have unsupervised contact with students to have a criminal history check (CHC). The bill also provides for a statewide list of substitute teachers. The rule includes definitions and addresses the process of obtaining a criminal history check for applicants for certification, school district employees, substitute teachers, student teachers and individuals who have unsupervised contact with students in a K-12 setting.

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

The rule will help implement the legislated changes which became effective July 1, 2008 and clarify current procedures for criminal history checks on required persons in the K-12 school setting which now includes people with unsupervised contact with students and student teachers.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), Idaho Code, 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:

\$40.00 for undergoing a criminal history check (CHC). The CHC is based on a ten finger fingerprint card or scan sent to the Idaho State Police, Bureau of Criminal Identification (BCI) and the Federal Bureau of Investigations (FBI). The fee established in Section 33-130.

**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: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. Comments were solicited from parties involved in the criminal history check process including school administrators and human resources personnel.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Christina Linder, (208) 332-6886.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2008.

DATED this 18th day of August, 2008.

Tom Luna  
Superintendent of Public Instruction  
State Department of Education  
650 West State St, 2nd Floor  
PO Box 83720  
Boise, ID 83720-0027  
(208) 332-6812; f (208) 334-2228

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0202-0807**

**067. -- 0754. (RESERVED).**

**075. FINGERPRINTING AND CRIMINAL HISTORY CHECKS (SECTIONS 33-130 AND 33-512, IDAHO CODE).**

All certificated and noncertificated employees and other individuals who are required by the provisions of section 33-130, Idaho Code must undergo a criminal history check. (8-20-08)T

**01. Definitions.** (8-20-08)T

**a. Applicant.** An individual applying for Idaho Certification or a certificated or non-certificated individual applying for employment. (8-20-08)T

**b. Break-in-service.** A voluntary or involuntary termination in employment, including retirement. (8-20-08)T

**c. Candidate.** An individual attending a postsecondary program. (8-20-08)T

**d. Certificated Employee.** An individual who holds an Idaho education certificate and is employed in a certificated position in a LEA. (8-20-08)T

**e. Contractor.** An agency, company/business, or individual that has signed a contract or agreement to provide services to an LEA and private or parochial school. (8-20-08)T

**f. Conviction.** The final judgment on a verdict or finding of guilty, a plea of guilty, a plea of nolo contendere, or the sentence has been suspended, deferred, or withheld on a felony or misdemeanor as defined by Section 18-110 and Section 18-111, Idaho Code. (8-20-08)T

**g. Criminal History Check (CHC).** A ten (10) finger fingerprint process to determine if an applicant has criminal arrests and convictions in Idaho, any other state, or applicable jurisdictions. (8-20-08)T

**h. Criminal History Check Result.** Information resulting from processing fingerprints through the

databases maintained by the Bureau of Criminal Identification (BCI), Federal Bureau of Investigation (FBI) and the Idaho Statewide Sex Offender Registry. (8-20-08)T

**i.** Multiple Assignments. When an individual works in two or more LEAs or an LEA and private school simultaneously. (8-20-08)T

**j.** Non-Certificated Employee. An individual employed in a non-certificated position. (8-20-08)T

**k.** Open Date. The date a fingerprint card or scan is entered into the database as an electronic file. (8-20-08)T

**l.** Rejected fingerprint cards. A fingerprint card that has been returned by the BCI, FBI or SDE for poor quality prints, lack of signature, card being older than six (6) months, or other incomplete information. (8-20-08)T

**m.** Scan. The process of capturing an individual's fingerprints by an electronic process. (8-20-08)T

**n.** Unsupervised Contact. Direct contact or interaction with students not under the direct supervision of a school district employee on a continuing basis in a K-12 setting. This includes contact or interaction with students in scheduled school activities that occur outside of the school or outside of normal school hours. This excludes extra-curricular trips of one-day length starting during the school day. (8-20-08)T

**02.** Fee. The state department of education shall charge a forty dollars (\$40.00) fee for undergoing a criminal history check. (8-20-08)T

**03.** Rejected Fingerprint Cards or Scans. (8-20-08)T

**a.** When a fingerprint card has been rejected a new completed fingerprint card is required. (8-20-08)T

**b.** The rejected fingerprint card will be sent back to the originating LEA, private or parochial school, contractors, postsecondary program, or individual. (8-20-08)T

**c.** A new fingerprint card must be completed by a law enforcement agency to ensure legible fingerprints. Both the rejected fingerprint card and the new fingerprint card must be returned to the SDE within twenty (20) calendar days. (8-20-08)T

**d.** If the new fingerprint card and rejected fingerprint card are returned after the twenty (20) calendar day time period a forty dollar (\$40) fee is required to be paid. (8-20-08)T

**04.** Secured CHC Website. The SDE will maintain a CHC website listing the CHC results. The LEA, private or parochial school, contractor or postsecondary program may view the results or status of an applicant, employee or candidate. (8-20-08)T

**a.** Upon a signed agreement the SDE will issue a password to access the CHC website. (8-20-08)T

**b.** Each LEA, private or parochial school, contractor and postsecondary program will have access to the CHC secure site listing their employees, statewide substitute teacher list, newly certified list and student teacher list. (8-20-08)T

**05.** Certificated Educators. (8-20-08)T

**a.** The SDE will maintain a list of newly certificated educators. Educators stay on this list for one year from their individual open date. Educators on this list may be employed by a LEA without a new CHC. (8-20-08)T

**b.** The SDE will make the final determination if an applicant is eligible for Idaho certification. (8-20-08)T



**c.** If the SDE makes a determination that the applicant is not eligible for Idaho certification, the SDE may deny the applicant Idaho certification. Upon receiving the written denial the applicant may request a hearing pursuant to section 33-1209, Idaho Code. (8-20-08)T

**06. Non-Certificated Employees.** Non-certificated employees are required to complete a CHC pursuant to section 33-130, Idaho Code. The CHC results will be posted on the CHC website for their employer to review. (8-20-08)T

**07. Substitute Teachers.** Substitute teachers as defined in section 33-512(15), Idaho Code must undergo a criminal history check. The State Department of Education shall maintain a statewide substitute teacher list. To remain on the list a substitute teacher shall undergo a criminal history check every five (5) years in accordance with section 33-512, Idaho code. Substitute teachers on the list do not need to complete a multiple assignment form nor are subject to break in service provisions. (8-20-08)T

**08. Break In Service.** (8-20-08)T

**a.** When an employee returns to any LEA after a break in service a new criminal history check must be completed. (8-20-08)T

**b.** When an employee changes employment between LEAs a new CHC must be completed regardless of the most recent CHC. (8-20-08)T

**09. Postsecondary.** (8-20-08)T

**a.** The postsecondary program will submit a completed fingerprint card or scan for all candidates who are applying for student teaching, internships or practicum. (8-20-08)T

**b.** The SDE will make a preliminary determination based on the CHC result if the candidate is eligible for certification in Idaho. This decision will be forwarded to the postsecondary program concerning the eligibility of their candidate. (8-20-08)T

**c.** The SDE will move a candidate from the student teacher list to the newly certified list when an application for certification is approved. (8-20-08)T

**IDAPA 08 - STATE BOARD OF EDUCATION  
DEPARTMENT OF EDUCATION**

**08.02.03 - RULES GOVERNING THOROUGHNESS**

**DOCKET NO. 08-0203-0803**

**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 Sections 33-105 and 33-107, Idaho Code.

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

**TUESDAY - OCTOBER 21, 2008 - 1:00 pm**

**STATE DEPARTMENT OF EDUCATION  
Lewis & Clark Conference Room  
Len B. Jordan Building, 2nd Floor  
650 West State Street, Boise, ID**

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 essential element of a State Longitudinal Data System is the ability to assign a unique student identifier to students. A unique statewide student identifier connects student data laterally across key databases as well as longitudinally from year to year. This relationship gives the state the capacity to match individual students' test records over time, identify trends in student movement, and measure postsecondary statistics in order to provide accurate enrollment and demographic data that ultimately allows decision makers to better meet the needs of all Idaho students. The unique student identifier is addressed in four administrative rules. The rules include definitions, submission of required information to assign a unique student identifier, and requires that effective April 1, 2009, all students taking the Idaho Standards Achievement Test (ISAT) have a unique student identifier.

**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 2008 legislature made an appropriation for the statewide longitudinal data system which includes the unique student identifier.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the lack of identifiable representatives of affected interests, and the determination that affected interests are not likely to reach a consensus.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Rene Hughes (208) 332-6971.

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 22, 2008.

DATED this 18th Day of August, 2008.

Tom Luna  
Superintendent of Public Instruction  
State Department of Education  
650 West State St, 2nd Floor  
PO Box 83720  
Boise, ID 83720-0027  
(208) 332-6812; f (208) 334-2228

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0203-0803**

**009. DEFINITIONS T - Z.**

**01. Tech Prep.** Tech Prep is a sequenced program of study that combines at least two (2) years of secondary and two (2) years of postsecondary education. It is designed to help students gain academic knowledge and technical skills, and often earn college credit for their secondary coursework. Programs are intended to lead to an associate's degree or a certificate in a specific career field, and ultimately, to high wage, high skill employment or advanced postsecondary training. (4-11-06)

**02. Technology Education.** A curriculum for elementary, middle, and senior high schools that integrates learning about technology (e.g., transportation, materials, communication, manufacturing, power and energy, and biotechnology) with problem-solving projects that require students to work in teams. Many technology education classrooms and laboratories are well equipped with computers, basic hand tools, simple robots, electronic devices, and other resources found in most communities today. (4-5-00)

**03. Total Quality Management.** A systematic approach to standardizing and increasing the efficiency of internal systems and processes, whether in a business or a school, using statistical and management tools for continuous improvement. Emphasis is on documenting effective processes, committing to meet customers' needs and sharing decision making. (3-15-02)

**04. Transferable Skills.** Skills that are inter-changeable among different jobs and workplaces. For example, the ability to handle cash is a skill one could use as both a restaurant cashier and a bank teller. The ability to problem solve or work as a team member is transferable among most jobs and workplaces. (4-11-06)

**05. 2+2 or 4+2.** A planned, streamlined sequence of academic and professional-technical courses which eliminates redundancies between high school and community college curricula; 2+2 is high school years eleven (11) and twelve (12) and community college years thirteen (13) and fourteen (14); 4+2 is high school years nine (9), ten (10), eleven (11), and twelve (12) and community college years thirteen (13) and fourteen (14). (4-11-06)

**06. Unique Student Identifier.** A number issued and assigned by the State Department of Education to each student currently enrolled or who will be enrolled in an Idaho local education agency to obtain data. ( )

**067. Writing Process.** The many aspects of the complex act of producing written communication; specifically, planning, drafting, revising, editing, and publishing. (4-5-00)

**078. Word Recognition.** (4-5-00)

**a.** The quick and easy identification of the form, pronunciation, and appropriate meaning of a word previously met in print or writing; (4-5-00)

**b.** The process of determining the pronunciation and some degree of meaning of a word in written or

printed form.

(4-5-00)

**(BREAK IN CONTINUITY OF SECTIONS)**

**111. ASSESSMENT IN THE PUBLIC SCHOOLS.**

**01. Philosophy.** Acquiring the basic skills is essential to realization of full educational, vocational and personal/social development. Since Idaho schools are responsible for instruction in the basic scholastic skills, the State Board of Education has a vested interest in regularly surveying student skill acquisition as an index of the effectiveness of the educational program. This information can best be secured through objective assessment of student growth. The State Board of Education will provide oversight for all components of the comprehensive assessment program. (4-2-08)

**02. Purposes.** The purpose of assessment in the public schools is to: (3-15-02)

**a.** Measure and improve student achievement; (3-15-02)

**b.** Assist classroom teachers in designing lessons; (3-15-02)

**c.** Identify areas needing intervention and remediation, and acceleration; (3-15-02)

**d.** Assist school districts in evaluating local curriculum and instructional practices in order to make needed curriculum adjustments; (3-15-02)

**e.** Inform parents and guardians of their child's progress; (3-15-02)

**f.** Provide comparative local, state and national data regarding the achievement of students in essential skill areas; (3-15-02)

**g.** Identify performance trends in student achievement across grade levels tested and student growth over time; and (3-15-02)

**h.** Help determine technical assistance/consultation priorities for the State Department of Education. (3-15-02)

**03. Content.** The comprehensive assessment program will consist of multiple assessments, including, the Idaho Reading Indicator (IRI), the Direct Writing Assessment (DWA), the Direct Mathematics Assessment (DMA), the National Assessment of Educational Progress (NAEP), the Idaho English Language Assessment, the Idaho Standards Achievement Tests (ISAT), and the Idaho Alternate Assessment. (4-2-08)

**04. Testing Population.** All students in Idaho public schools, grades kindergarten through twelve (K-12), are required to participate in the comprehensive assessment program approved by the State Board of Education and funded. (4-2-08)

**a.** All students who are eligible for special education shall participate in the statewide assessment program. (4-6-05)

**b.** Each student's individualized education program team shall determine whether the student shall participate in the regular assessment without accommodations, the regular assessment with accommodations or adaptations, or whether the student qualifies for and shall participate in the alternate assessment. (4-6-05)

**c.** Limited English Proficient (LEP) students, as defined in Subsection 112.03.d.iv., who receive a score below the fluent level on the Idaho English Language Assessment and have an Education Learning Plan (ELP), shall be given the ISAT with accommodations or adaptations as outlined in the ELP. Students can be categorized as

LEP students for two (2) years after testing proficient on the language proficiency test and exiting the LEP program. LEP students who do not have an ELP or a language acquisition score will be given the regular ISAT without accommodations or adaptations. LEP students who are enrolled in their first year of school in the United States may take the IELA in lieu of the reading/language usage ISAT, but will still be required to take the math ISAT with accommodations or adaptations as determined by the language proficiency score and ELP. Such LEP students will be counted as participants for the ninety-five percent (95%) participation target, as described in Subsection 112.03. However, such LEP students are not required to be counted for AYP purposes in determining proficiency, as described in Subsection 112.02. (4-2-08)

**05. Scoring and Report Formats.** Scores will be provided for each subject area assessed and reported in standard scores, benchmark scores, or holistic scores. Test results will be presented in a class list report of student scores, building/district summaries, content area criterion reports by skill, disaggregated group reports, and pressure sensitive labels as appropriate. Information about the number of students who are eligible for special education who participate in regular and alternate assessments, and their performance results, shall be included in reports to the public if it is statistically sound to do so and would not disclose performance results identifiable to individual students. Effective April 1, 2009, all students taking the Idaho Standards Achievement Test (ISAT) must have a unique student identifier. (5-3-03)( )

**06. Comprehensive Assessment Program.** The State approved comprehensive assessment program is outlined in Subsections 111.06.a. through 111.06.l. Each assessment will be comprehensive of and aligned to the Idaho State Content Standards it is intended to assess. In addition, districts are responsible for writing and implementing assessments in those standards not assessed by the state assessment program. (4-2-08)

**a.** Kindergarten - Idaho Reading Indicator, Idaho Alternate Assessment, Idaho English Language Assessment. (4-2-08)

**b.** Grade 1 - Idaho Reading Indicator, Idaho Alternate Assessment, Idaho English Language Assessment. (4-2-08)

**c.** Grade 2 - Idaho Reading Indicator, Grade 2 Idaho Standards Achievement Tests, Idaho Alternate Assessment, Idaho English Language Assessment. (4-2-08)

**d.** Grade 3 - Idaho Reading Indicator, Grade 3 Idaho Standards Achievement Tests, Idaho Alternate Assessment, Idaho English Language Assessment. (4-2-08)

**e.** Grade 4 - Direct Math Assessment, National Assessment of Educational Progress, Grade 4 Idaho Standards Achievement Tests, Idaho Alternate Assessment, Idaho English Language Assessment. (4-2-08)

**f.** Grade 5 - Direct Writing Assessment, Grade 5 Idaho Standards Achievement Tests, Idaho Alternate Assessment, Idaho English Language Assessment. (4-2-08)

**g.** Grade 6 - Direct Math Assessment, Grade 6 Idaho Standards Achievement Tests, Idaho Alternate Assessment, Idaho English Language Assessment. (4-2-08)

**h.** Grade 7 - Direct Writing Assessment, Grade 7 Idaho Standards Achievement Tests, Idaho Alternate Assessment, Idaho English Language Assessment. (4-2-08)

**i.** Grade 8 - Direct Math Assessment, National Assessment of Educational Progress, Grade 8 Idaho Standards Achievement Tests, Idaho Alternate Assessment, Idaho English Language Assessment. (4-2-08)

**j.** Grade 9 - Direct Writing Assessment, Grade 9 Idaho Standards Achievement Tests, Idaho Alternate Assessment, Idaho English Language Assessment. (4-2-08)

**k.** Grade 10 - High School Idaho Standards Achievement Tests, Idaho Alternate Assessment, Idaho English Language Assessment. (4-2-08)

**l.** Grade 11 – Idaho English Language Assessment. (4-2-08)

- m.** Grade 12 - National Assessment of Educational Progress, Idaho English Language Assessment. (4-2-08)
- n.** \*Students who achieve a proficient or advanced score on a portion or portions of the ISAT, or the Idaho Alternate Assessment, offered in the Spring of their tenth grade year or later are not required to continue taking that portion or portions. (4-2-08)
- 07. Comprehensive Assessment Program Schedule.** (5-3-03)
- a.** The Idaho Reading Indicator will be administered in accordance with Section 33-1614, Idaho Code. (3-15-02)
- b.** The Direct Math Assessment and the Direct Writing Assessment will be administered in December in a time period specified by the State Department of Education. (3-15-02)
- c.** The National Assessment of Educational Progress will be administered in timeframe specified by the U.S. Department of Education. (3-15-02)
- d.** The Idaho Standards Achievement Tests will be administered twice annually in the Fall and Spring in a time period specified by the State Board of Education. (5-3-03)
- e.** The Idaho Alternate Assessment will be administered in a time period specified by the State Board of Education. (4-2-08)
- f.** The Idaho English Language Assessment will be administered in a time period specified by the State Board of Education. (4-2-08)
- 08. Costs Paid by the State.** Costs for the following testing activities will be paid by the state: (4-1-97)
- a.** All consumable and non-consumable materials needed to conduct the prescribed statewide comprehensive assessment program; (3-15-02)
- b.** Statewide distribution of all assessment materials; (3-15-02)
- c.** Processing and scoring student response forms, distribution of prescribed reports for the statewide comprehensive assessment program; and (3-15-02)
- d.** Implementation, processing, scoring and distribution of prescribed reports for the Direct Writing Assessment and the Direct Mathematics Assessment. (3-15-02)
- 09. Costs of Additional Services.** Costs for any additional administrations or scoring services not included in the prescribed statewide comprehensive assessment program will be paid by the participating school districts. (3-15-02)
- 10. Services.** The comprehensive assessment program should be scheduled so that a minimum of instructional time is invested. Student time spent in testing will not be charged against attendance requirements. (3-15-02)
- 11. Test Security, Validity and Reliability.** Test security is of the utmost importance. To ensure integrity of secure test items and protect validity and reliability of test outcomes, test security must be maintained. School districts will employ security measures in protecting statewide assessment materials from compromise. Each individual who has any opportunity to see test items must sign a state-provided confidentiality agreement, which the district must keep on file in the district for at least two (2) years. Documentation of security safeguards must be available for review by authorized state and federal personnel. (4-2-08)

**a.** All ISAT paper and pencil test booklets will be boxed and shipped to the test vendor to be counted no later than two (2) weeks after the end of the testing window. (3-20-04)

**b.** The ISAT will be refreshed each year to provide additional security beginning with grades four (4) eight (8) and ten (10) in 2007. Items will be refreshed for grades three (3) and seven (7) in 2008; grades five (5) and six (6) in 2009; and grades two (2) and nine (9) in 2010. (3-20-04)

**c.** Any assessment used for federal reporting shall be independently reviewed for reliability, validity, and alignment with the Idaho Content Standards. (4-2-08)

**12. Demographic Information.** Accurate demographic information must be submitted as required for each test to assist in interpreting test results. It may include but is not limited to race, sex, ethnicity, and special programs, (Title I, English proficiency, migrant status, special education status, gifted and talented status, and socio-economic status). (4-2-08)

**13. Dual Enrollment.** For the purpose of non-public school student participation in non-academic public school activities as outlined in Section 33-203, Idaho Code, the Idaho State Board of Education recognizes the following: (3-15-02)

**a.** The Idaho Standards Achievement Tests (grades 2-9 and High School). (5-3-03)

**b.** A portfolio demonstrating grade level proficiency in at least five (5) of the subject areas listed in Subsections 111.13.b.i. through 111.13.b.vi. Portfolios are to be judged and confirmed by a committee comprised of at least one (1) teacher from each subject area presented in the portfolio and the building principal at the school where dual enrollment is desired. (4-6-05)

i. Language Arts/Communications. (3-15-02)

ii. Math. (3-15-02)

iii. Science. (3-15-02)

iv. Social Studies. (3-15-02)

v. Health. (3-15-02)

vi. Humanities. (3-15-02)

**(BREAK IN CONTINUITY OF SECTIONS)**

**115. DATA COLLECTION.**

The State Department of Education will collect the required information from participating school files for state and federal reporting and decision-making. The enrollment collection will contain information about the enrollment of the student attributes such as unique student identifier, active special education, Limited English Proficient (LEP), migrant, grade level, gender, race, and free/reduced lunch status. The collection will be done in mid-October, early February, and May (end of the testing window). Each participating school is required to verify and assure the accuracy of the data submitted in the files. (4-2-08)(\_\_\_\_)

**116. UNIQUE STUDENT IDENTIFIER.**

Effective April 1, 2009, each student enrolled or enrolling in an Idaho school district or LEA will be assigned a unique student identifier. The unique student identifier shall follow the student from each school district or LEA or upon return to a school district or LEA after an absence from a school district or LEA no matter how long of absence has occurred. (\_\_\_\_)

**a.** School districts must obtain unique student identifiers by providing the following information to the State Department of Education for each student: ( )

**i.** First and last name as written on a legal document such as birth certificate, passport, visa, social security card, or other such legal document. ( )

**ii.** Date of birth. ( )

**iii.** Ethnicity. ( )

**iv.** Gender. ( )

**b.** School districts or LEAs may provide any or all of the following additional information to help ensure unique identification such as: ( )

**i.** Birth mother's first and last name. ( )

**ii.** Parents' or guardians' first and last name(s). ( )

**iii.** Social security number. ( )

**iv.** County of birth. ( )

**1167. -- 127. (RESERVED).**



**IDAPA 08 - STATE BOARD OF EDUCATION  
DEPARTMENT OF EDUCATION**

**08.02.03 - RULES GOVERNING THOROUGHNESS**

**DOCKET NO. 08-0203-0804**

**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is August 15, 2008.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 33-105 and 33-110, 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 15, 2006.

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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

US Department of Education released non-regulatory guidance that stated first year limited English proficient (LEP) students are required to take the standard achievement test for not only math, but science as well, beginning in 2008, changes to the rule address this requirement. Additionally languages stating only the scores on the Spring ISAT for 10th grade students or later may be used to meet the graduation requirement of passing the 10th grade ISAT. Eliminating the word spring would allow scores on either the Fall or Spring 10th grade ISAT to be used for graduation purposes.

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

To be in compliance with amendments to governing law or federal programs, and confers a benefit.

**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: NA

**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: NA

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the non controversial nature of the changes, and the need to meet a Federal requirement.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Tracie Bent at (208) 332-1582. 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 22, 2008.

DATED this 20th day of August, 2008.

Tracie Bent  
Planning, Policy and HR Officer  
State Board of Education  
650 West State Street

PO Box 83720-0037  
Boise, ID 83720-0037  
(208) 332-1582 phone  
(208) 334-2632 FAX

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0203-0804**

**111. ASSESSMENT IN THE PUBLIC SCHOOLS.**

**01. Philosophy.** Acquiring the basic skills is essential to realization of full educational, vocational and personal/social development. Since Idaho schools are responsible for instruction in the basic scholastic skills, the State Board of Education has a vested interest in regularly surveying student skill acquisition as an index of the effectiveness of the educational program. This information can best be secured through objective assessment of student growth. The State Board of Education will provide oversight for all components of the comprehensive assessment program. (4-2-08)

- 02. Purposes.** The purpose of assessment in the public schools is to: (3-15-02)
- a.** Measure and improve student achievement; (3-15-02)
  - b.** Assist classroom teachers in designing lessons; (3-15-02)
  - c.** Identify areas needing intervention and remediation, and acceleration; (3-15-02)
  - d.** Assist school districts in evaluating local curriculum and instructional practices in order to make needed curriculum adjustments; (3-15-02)
  - e.** Inform parents and guardians of their child's progress; (3-15-02)
  - f.** Provide comparative local, state and national data regarding the achievement of students in essential skill areas; (3-15-02)
  - g.** Identify performance trends in student achievement across grade levels tested and student growth over time; and (3-15-02)
  - h.** Help determine technical assistance/consultation priorities for the State Department of Education. (3-15-02)

**03. Content.** The comprehensive assessment program will consist of multiple assessments, including, the Idaho Reading Indicator (IRI), the Direct Writing Assessment (DWA), the Direct Mathematics Assessment (DMA), the National Assessment of Educational Progress (NAEP), the Idaho English Language Assessment, the Idaho Standards Achievement Tests (ISAT), and the Idaho Alternate Assessment. (4-2-08)

**04. Testing Population.** All students in Idaho public schools, grades kindergarten through twelve (K-12), are required to participate in the comprehensive assessment program approved by the State Board of Education and funded. (4-2-08)

**a.** All students who are eligible for special education shall participate in the statewide assessment program. (4-6-05)

**b.** Each student's individualized education program team shall determine whether the student shall participate in the regular assessment without accommodations, the regular assessment with accommodations or adaptations, or whether the student qualifies for and shall participate in the alternate assessment. (4-6-05)

**c.** Limited English Proficient (LEP) students, as defined in Subsection 112.03.d.iv., who receive a score below the fluent level on the Idaho English Language Assessment and have an Education Learning Plan (ELP), shall be given the ISAT with accommodations or adaptations as outlined in the ELP. Students can be categorized as LEP students for two (2) years after testing proficient on the language proficiency test and exiting the LEP program. LEP students who do not have an ELP or a language acquisition score will be given the regular ISAT without accommodations or adaptations. LEP students who are enrolled in their first year of school in the United States may

take the IELA in lieu of the reading/language usage ISAT, but will still be required to take the math and science ISAT with accommodations or adaptations as determined by the language proficiency score and ELP. Such LEP students will be counted as participants for the ninety-five percent (95%) participation target, as described in Subsection 112.03. However, such LEP students are not required to be counted for AYP purposes in determining proficiency, as described in Subsection 112.02. ~~(4-2-08)~~(8-15-08)T

**05. Scoring and Report Formats.** Scores will be provided for each subject area assessed and reported in standard scores, benchmark scores, or holistic scores. Test results will be presented in a class list report of student scores, building/district summaries, content area criterion reports by skill, disaggregated group reports, and pressure sensitive labels as appropriate. Information about the number of students who are eligible for special education who participate in regular and alternate assessments, and their performance results, shall be included in reports to the public if it is statistically sound to do so and would not disclose performance results identifiable to individual students. (5-3-03)

**06. Comprehensive Assessment Program.** The State approved comprehensive assessment program is outlined in Subsections 111.06.a. through 111.06.l. Each assessment will be comprehensive of and aligned to the Idaho State Content Standards it is intended to assess. In addition, districts are responsible for writing and implementing assessments in those standards not assessed by the state assessment program. (4-2-08)

**a.** Kindergarten - Idaho Reading Indicator, Idaho Alternate Assessment, Idaho English Language Assessment. (4-2-08)

**b.** Grade 1 - Idaho Reading Indicator, Idaho Alternate Assessment, Idaho English Language Assessment. (4-2-08)

**c.** Grade 2 - Idaho Reading Indicator, Grade 2 Idaho Standards Achievement Tests, Idaho Alternate Assessment, Idaho English Language Assessment. (4-2-08)

**d.** Grade 3 - Idaho Reading Indicator, Grade 3 Idaho Standards Achievement Tests, Idaho Alternate Assessment, Idaho English Language Assessment. (4-2-08)

**e.** Grade 4 - Direct Math Assessment, National Assessment of Educational Progress, Grade 4 Idaho Standards Achievement Tests, Idaho Alternate Assessment, Idaho English Language Assessment. (4-2-08)

**f.** Grade 5 - Direct Writing Assessment, Grade 5 Idaho Standards Achievement Tests, Idaho Alternate Assessment, Idaho English Language Assessment. (4-2-08)

**g.** Grade 6 - Direct Math Assessment, Grade 6 Idaho Standards Achievement Tests, Idaho Alternate Assessment, Idaho English Language Assessment. (4-2-08)

**h.** Grade 7 - Direct Writing Assessment, Grade 7 Idaho Standards Achievement Tests, Idaho Alternate Assessment, Idaho English Language Assessment. (4-2-08)

**i.** Grade 8 - Direct Math Assessment, National Assessment of Educational Progress, Grade 8 Idaho Standards Achievement Tests, Idaho Alternate Assessment, Idaho English Language Assessment. (4-2-08)

**j.** Grade 9 - Direct Writing Assessment, Grade 9 Idaho Standards Achievement Tests, Idaho Alternate Assessment, Idaho English Language Assessment. (4-2-08)

**k.** Grade 10 - High School Idaho Standards Achievement Tests, Idaho Alternate Assessment, Idaho English Language Assessment. (4-2-08)

**l.** Grade 11 – Idaho English Language Assessment. (4-2-08)

**m.** Grade 12 - National Assessment of Educational Progress, Idaho English Language Assessment. (4-2-08)

**n.** Students who achieve a proficient or advanced score on a portion or portions of the ISAT, or the Idaho Alternate Assessment, offered in ~~the Spring of~~ their tenth grade year or later are not required to continue taking that portion or portions. ~~(4-2-08)~~(8-15-08)T

**07. Comprehensive Assessment Program Schedule. (5-3-03)**

**a.** The Idaho Reading Indicator will be administered in accordance with Section 33-1614, Idaho Code. (3-15-02)

**b.** The Direct Math Assessment and the Direct Writing Assessment will be administered in December in a time period specified by the State Department of Education. (3-15-02)

**c.** The National Assessment of Educational Progress will be administered in timeframe specified by the U.S. Department of Education. (3-15-02)

**d.** The Idaho Standards Achievement Tests will be administered twice annually in the Fall and Spring in a time period specified by the State Board of Education. (5-3-03)

**e.** The Idaho Alternate Assessment will be administered in a time period specified by the State Board of Education. (4-2-08)

**f.** The Idaho English Language Assessment will be administered in a time period specified by the State Board of Education. (4-2-08)

**08. Costs Paid by the State.** Costs for the following testing activities will be paid by the state: (4-1-97)

**a.** All consumable and non-consumable materials needed to conduct the prescribed statewide comprehensive assessment program; (3-15-02)

**b.** Statewide distribution of all assessment materials; (3-15-02)

**c.** Processing and scoring student response forms, distribution of prescribed reports for the statewide comprehensive assessment program; and (3-15-02)

**d.** Implementation, processing, scoring and distribution of prescribed reports for the Direct Writing Assessment and the Direct Mathematics Assessment. (3-15-02)

**09. Costs of Additional Services.** Costs for any additional administrations or scoring services not included in the prescribed statewide comprehensive assessment program will be paid by the participating school districts. (3-15-02)

**10. Services.** The comprehensive assessment program should be scheduled so that a minimum of instructional time is invested. Student time spent in testing will not be charged against attendance requirements. (3-15-02)

**11. Test Security, Validity and Reliability.** Test security is of the utmost importance. To ensure integrity of secure test items and protect validity and reliability of test outcomes, test security must be maintained. School districts will employ security measures in protecting statewide assessment materials from compromise. Each individual who has any opportunity to see test items must sign a state-provided confidentiality agreement, which the district must keep on file in the district for at least two (2) years. Documentation of security safeguards must be available for review by authorized state and federal personnel. (4-2-08)

**a.** All ISAT paper and pencil test booklets will be boxed and shipped to the test vendor to be counted no later than two (2) weeks after the end of the testing window. (3-20-04)

**b.** The ISAT will be refreshed each year to provide additional security beginning with grades four (4)

eight (8) and ten (10) in 2007. Items will be refreshed for grades three (3) and seven (7) in 2008; grades five (5) and six (6) in 2009; and grades two (2) and nine (9) in 2010. (3-20-04)

**c.** Any assessment used for federal reporting shall be independently reviewed for reliability, validity, and alignment with the Idaho Content Standards. (4-2-08)

**12. Demographic Information.** Accurate demographic information must be submitted as required for each test to assist in interpreting test results. It may include but is not limited to race, sex, ethnicity, and special programs, (Title I, English proficiency, migrant status, special education status, gifted and talented status, and socio-economic status). (4-2-08)

**13. Dual Enrollment.** For the purpose of non-public school student participation in non-academic public school activities as outlined in Section 33-203, Idaho Code, the Idaho State Board of Education recognizes the following: (3-15-02)

**a.** The Idaho Standards Achievement Tests (grades 2-9 and High School). (5-3-03)

**b.** A portfolio demonstrating grade level proficiency in at least five (5) of the subject areas listed in Subsections 111.13.b.i. through 111.13.b.vi. Portfolios are to be judged and confirmed by a committee comprised of at least one (1) teacher from each subject area presented in the portfolio and the building principal at the school where dual enrollment is desired. (4-6-05)

i. Language Arts/Communications. (3-15-02)

ii. Math. (3-15-02)

iii. Science. (3-15-02)

iv. Social Studies. (3-15-02)

v. Health. (3-15-02)

vi. Humanities. (3-15-02)