

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

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the Division of Vocation Rehabilitation: 47.01.01 Division of Vocational Rehabilitation - Service Delivery.

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 10-10-08. 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 11-7-08.

\_\_\_\_\_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 Subcommittee of the Senate Education Committee and the House Education Committee

FROM: Brooke Murdoch, Research Analyst

DATE: September 23, 2008

SUBJECT: Division of Vocational Rehabilitation

IDAPA 47.01.01 – Rules of the Idaho Division of Vocational Rehabilitation  
(Docket No. 47-0101-0801)

The Division of Vocational Rehabilitation submits notice of proposed rulemaking at IDAPA 47.01.01 – Rules of the Idaho Division of Vocational Rehabilitation. The rule updates the Division's field services manual which is incorporated by reference. The rule provides URL addresses for access to documents incorporated by reference, including documents relating to the client/participant appeals process. Finally, the proposed rule mandates that all vocational providers must: (1) use a voluntary board for advice of the organizational services to IDVR clients, (2) publicly disclose audit information annually and (3) publish the salary of the CRP CEO annually. The Division states that negotiated rulemaking was not conducted because of the noncontroversial nature of the changes.

We note a few minor suggestions. In Subsection 004.03, reference to Subsection 004.03 should be changed to Subsection 004.02. In Subsection 010.08, there should be a space between 34 and CFR. In Section 100, reference to Subsection 004.01.b. should be changed to Subsection 004.02.b. Lastly, Section 100 should end with a period (.).

Aside from the minor observations, the rule appears to be within the authority of the Division pursuant to Sections 33-221 and 33-2303, Idaho Code.

cc: Tracie Bent  
State Board of Education

## **IDAPA 47 - DIVISION OF VOCATIONAL REHABILITATION**

### **47.01.01 - RULES OF THE IDAHO DIVISION OF VOCATIONAL REHABILITATION**

**DOCKET NO. 47-0101-0801**

#### **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 33-2211 and 33-2303, 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, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

These changes will provide succinct language regarding the service delivery process, update the service delivery manual incorporated by reference, and add language regarding transparency of annual audits for vocational providers.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: 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 resulting from this rulemaking: NA

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the non controversial nature of the changes. Stakeholder groups were contacted and asked for input informally by the Division of Vocational Rehabilitation.

**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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 47-0101-0801**

**002. WRITTEN INTERPRETATIONS.**

Written interpretations to these rules in the form of the explanatory comments accompanying the notice of proposed rulemaking ~~that originally proposed the rules~~ are available from the Idaho Division of Vocational Rehabilitation, 650 W. State Street, Boise, Idaho 83720. Other agency guidance documents, as well as agency policy statements or interpretations not rising to the legal effect of a rule, if any, are available for inspection and replication at the agency Central Office during regular business hours. (4-5-00)( )

**003. ADMINISTRATIVE APPEALS.**

~~This chapter does not provide for appeal of the administrative requirements for agencies.~~ Administrative appeals are governed by Section 100 of these rules in accordance with 34 CFR Part 361.57. (4-5-00)( )

**004. INCORPORATION BY REFERENCE.**

**01. General.** Unless provided otherwise, any reference in these rules to any document identified in Subsection 004 shall constitute the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term “documents” includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (3-30-01)

**032. Documents Incorporated by Reference.** The following documents are incorporated by reference into these rules: (3-30-01)

**a.** All federal publications through the Rehabilitation Services Administration; http://www.gpoaccess.gov/index.html. (5-3-03)( )

**b.** Idaho Division of Vocational Rehabilitation Field Services Manual, ~~2003~~—20048, available for review at http://www.vr.idaho.gov/. (3-20-04)( )

**c.** Federal State Plan for Vocational Rehabilitation 20038 - 20104, available for review at http://www.vr.idaho.gov/. (3-20-04)( )

**d.** Workforce Investment Act, Public Law 105-220. (5-3-03)

**e.** Federal Register, Department of Education, 34 CFR Part 361-363. (3-30-01)( )

**f.** The Rehabilitation Act of 1973, as amended ~~1998~~. (3-30-01)( )

**023. Availability of Reference Material.** Copies of the documents incorporated by reference into these rules are available at the ~~following locations:~~ (3-30-01)

~~a.~~ Central Office, Idaho Division of Vocational Rehabilitation, 650 W. State Street, Room 150, Boise, Idaho 83720, (208) 334-3390 or through access to the internet URL addresses outlined in Subsection 004.03 below. (3-30-01)( )

~~b.~~ ~~Regional Offices, Idaho Division of Vocational Rehabilitation, located at:~~ (3-30-01)

~~i.~~ ~~1010 Ironwood Drive, Suite 101, Coeur d'Alene, Idaho 83814, (208) 769-1441.~~ (3-30-01)

~~ii.~~ ~~1118 F. Street, P.O. Box 1164, Lewiston, Idaho 83501, (208) 799-5070.~~ (5-3-03)

~~iii.~~ ~~3350 Americana Terrace, Suite 210, Boise, Idaho 83706, (208) 334-3650.~~ (5-3-03)

~~iv.~~ ~~10200 W. Emerald Street, Suite 101, Boise, Idaho 83704, (208) 327-7411.~~ (3-30-01)

~~v.~~ ~~245 3rd Avenue North, Twin Falls, Idaho 83301, (208) 736-2156.~~ (3-30-01)

- ~~vi. 1070 Hilina, Suite 200, Pocatello, Idaho 83201, (208) 236-6333. (3-30-01)~~  
~~vii. 1825 Hoopes Avenue, Idaho Falls, Idaho 83404, (208) 525-7149. (3-30-01)~~  
~~viii. 3110 E. Cleveland Blvd. #A7, Caldwell, Idaho 83605, (208) 454-7606. (5-3-03)~~  
~~ix. This document is also available at website <http://www.state.id.us/idvr/idvrhome.htm>. (3-30-01)~~

**005. -- 009. (RESERVED).**

**010. DEFINITIONS.**

- 01. Authorization to Purchase.** A purchase order issued on behalf of the Division. (5-3-03)
- 02. CFR.** Code of Federal Regulations. (7-1-93)
- 03. Client/Participant.** Any individual who has applied for or is eligible for Vocational Rehabilitation services. (5-3-03)
- 04. Designated State Agency.** The Idaho State Board of Education. (5-3-03)
- 05. Designated State Unit.** The Idaho Division of Vocational Rehabilitation. (7-1-93)
- 06. IDVR.** The Idaho Division of Vocational Rehabilitation. (4-5-00)
- 07. IPE.** Individualized Plan for Employment. (4-5-00)
- 08. Most Significant Disability (MSD).** Meets the criteria as Significant Disability as found in the Rehabilitation Act of 1973, as amended, and defined in 34CFR Part 361.5 (b) 30 and is further defined as:  
(5-3-03)(\_\_\_\_)
- a.** Having a severe physical, mental, cognitive or sensory impairment which seriously limits two (2) or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance or work skills) in terms of an employment outcome; and (5-3-03)
- b.** Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time. (3-20-04)
- 09. Method of Written Notification.** The written notification of findings and conclusions arising from an Informal Dispute Resolution, Mediation, Impartial Due Process Hearing, shall be served to the client via the U.S. Postal Service by means of certified mail. Durational requirements for appeals shall commence on the day received by the client as noted by the certified mail records. (5-3-03)
- 10. PM.** Policy Memorandum. (5-3-03)
- 11. RSA.** Rehabilitation Services Administration, U.S. Department of Education. (5-3-03)
- 12. State Administrator.** The Chief Executive Officer of the Idaho Division of Vocational Rehabilitation. (4-5-00)
- 13. VRC.** Vocational Rehabilitation Counselor. (5-3-03)
- ~~**14. Vocational Rehabilitation Services.** Services that reduce the impact of functional limitations on the ability to achieve an employment outcome. (3-20-04)~~

**011. -- 099. (RESERVED).**

**100. CLIENT/PARTICIPANT APPEALS.**

In accordance with 34 CFR Part 361.57, the client/participant appeals process is governed by Section 100 of these rules and is outlined in the Division's agency Field Services Manual that is incorporated by reference into these rules in Section 004.01.b. (See <http://www.vr.idaho.gov/>) ( )

~~**01. Informal Dispute Resolution.** Within ten (10) calendar days of notification of the contested action, lack of action or decision, the client/participant may request that an Informal Dispute Resolution be held. The request shall be made in writing to the Regional Manager. The written request should state the reason for the review. (5-3-03)~~

~~**a.** The Regional Manager shall inform the client/participant in writing as to the time, place, and date of the Informal Dispute Resolution. The client/participant may choose to represent himself/herself or may have a representative(s) speak on his/her behalf. (5-3-03)~~

~~**b.** The Regional Manager will make a decision regarding the specifics of the Informal Dispute Resolution. This decision will be in written form and it will be sent to the client/participant, with a copy in the case file. (5-3-03)~~

~~**02. Mediation.** The request shall be made in writing to the Regional Manager. A written request should state the reason for the review. The Mediation must take place within the sixty (60) day requirement for an Impartial Due Process Hearing. (5-3-03)~~

~~**03. Impartial Due Process Hearing.** An Impartial Due Process Hearing can be held without an Informal Dispute Resolution or Mediation or if the client/participant is dissatisfied with the result of the Informal Dispute Resolution or Mediation. The Impartial Due Process Hearing will deal with the issues involved in the original Informal Dispute Resolution or Mediation, if one took place. The request for an Impartial Due Process Hearing will be made in writing to the Administrator of the Division within ten (10) calendar days of the Regional Manager's decision from the Informal Dispute Resolution or the Mediation Agreement from Mediation. The hearing by an impartial hearing officer must be held within sixty (60) days of a request by the client unless both parties agree to a specified delay. (5-3-03)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**301. TRANSPARENCY.**

To provide transparency of for-profit and not-for-profit vocational providers, on an equal footing, all vocational providers must: ( )

~~**01. Use of Voluntary Board.** Use a voluntary board for advice and guidance of the organizational services to IDVR clients. ( )~~

~~**02. Public Disclosure of Audit Information.** Publicly disclose audit information on an annual basis. ( )~~

~~**03. Publish Salary of CRP (Community Rehabilitation Program) CEO.** Annually publish the salary of the CRP CEO. ( )~~

~~301.2. -- 999. (RESERVED).~~