

Dear Senators GOEDDE, Mortimer & Malepeai, and
Representatives NONINI, Shirley & Boe:

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

IDAPA 08.02.02 - Uniformity/Online Virtual Schools & Programs K-12

(Docket #08-0202-0904);

08.02.02 - Uniformity/Driver Education Operating Procedures

(Docket #08-0202-0905);

08.02.03 - Thoroughness/Middle School

(Docket #08-0203-0903);

08.02.03 - Thoroughness/Academic Achievement Standards

(Docket #08-0203-0904) (Temporary Rule - No analysis done).

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 8-7-09. 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 9-8-09.

_____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: July 21, 2009

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

1. IDAPA 08.02.02 - Rules Governing Uniformity (Docket No. 08-0202-0904)

The State Department of Education submits notice of proposed rulemaking at IDAPA 08.02.02 - Rules Governing Uniformity. The proposed rule reflects an update to an incorporated document and provides that such document may be found on the State Board of Education's website. The Department notes that proposed rulemaking was conducted.

The department's proposed rule appears to be authorized pursuant to Section 33-107, Idaho Code.

2. IDAPA 08.02.02 - Rules Governing Uniformity (Docket No. 08-0202-0905)

The State Department of Education submits notice of temporary and proposed rulemaking at IDAPA 08.02.02 - Rules Governing Uniformity. The Department states that this temporary and proposed rule reflects directives stemming from 2009 Senate Bill 1133. That legislation separated private driver education courses from public driver education courses and directed that private instructors and schools be administered by the Bureau of Occupational Licensing.

The department notes that negotiated rulemaking was not used in this instance because eight workshops were conducted which permitted private instructors and private school owners the opportunity to participate in the drafting of the temporary and proposed rules.

The temporary rule took effective June 18, 2009. The temporary and proposed rule appears to be authorized pursuant to Sections 33-105 and 33-107, Idaho Code.

3. IDAPA 08.02.03 - Rules Governing Thoroughness (Docket No. 08-0203-0903)

The State Department of Education submits notice of proposed rulemaking at IDAPA 08.02.03 - Rules Governing Thoroughness. The proposed rule reflects recommendations from the Middle Level Task Force which was established in May 2007. The Task Force was charged with examining middle school issues by the High School Redesign project. More specifically, the Middle Level Task Force was charged with developing methods to bring more rigor and relevance to the middle grades by identifying successful programs throughout the state and country that Idaho's junior high and middle schools can model to ensure every Idaho student is successful in high school and after graduation.

The proposed rule requires each local education agency or district to design a credit system beginning no later than the 7th grade. Among other provisions, the proposed rule includes:

- Students shall attain a minimum of 80% of credits to pass to the next grade;
- Students may not fail a full year of credit in a single subject and still be promoted; however, students who do fail a single subject shall be provided an alternative method/mechanism to recover such failed credits; and
- Attendance shall be a considered factor.

The Department states that negotiated rulemaking was not conducted because the proposed rule was recommended by the Middle Level Task Force which was comprised of a number of stakeholders.

The rule appears to be authorized pursuant to Sections 33-105 and 33-207, Idaho Code.

cc: State Department of Education, Tom Luna
Christine Linder or Katie Rhodenbaugh, Brian Johns & Rob Sauer

IDAPA 08 - STATE BOARD AND DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0904

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 33-1254 and 33-1258, 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 Wednesday, August 19, 2009.

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:

Past trends indicate, and current forecasts project, continued growth in online virtual schools and programs aimed at K-12 learners (Hassel & Terrell, 2004; Long, 2004; O’Gorman, 2005; Southern Regional Education Board [SREB], 2007). Forty-four states currently offer either state supplemental programs, full-time online programs or both. Increases in enrollments of 50% from fall 2007 to fall 2008 have been reported by one-third of supplemental programs (Watson, Gemin & Ryan, 2008). Idaho K-12 student enrollments in distance learning courses and programs continue to increase exponentially. In Fall 2008 over 10,000 Idaho kids were enrolled in online learning courses for either a portion or all of their school day. This spring that number rose to 15,000 students. Forces fueling the growing enrollments include funding shortages, outdated facilities (Clark, 2001; Fulton, 2002), and policy initiatives supportive of expanded opportunities for alternative routes to education (Hassell & Terrell, 2004; U. S. Department of Education, 2004; Web-Based Education Commission, 2000).

Many virtual schools have responded to this emerging need by training their own teachers. While this model can be useful for contextualized training to a specific environment, it also poses a resource burden on schools not prepared to train both teachers and children. It also creates issues with accountability and consistency in training. Historically, initial teacher training has been the realm of higher education. However, without standards for online teachers, teacher education programs are left having to develop their own guidelines and competencies to map to their coursework, resulting in inconsistencies in the quality of training provided to teachers.

With the exponential growth of online course offerings throughout the state, a need to create a set of standards for those teaching in an online environment was identified. These standards will be the framework for creating a new endorsement to be added to teaching certificates. The endorsement will not be mandated immediately by the state in order to teach online, but many of our virtual schools are interested in making it a requirement for all of their teachers. The amended version of these standards is herein incorporated by reference into these rules.

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 at (208) 332-6886 or Katie Rhodenbaugh (208) 332-6885. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and delivered on or before Wednesday, August 26, 2009.

DATED this 1st Day of July, 2009.

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

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 08-0202-0904

004. INCORPORATION BY REFERENCE.

The State Board of Education adopts and incorporates by reference into its rules: (5-8-09)

01. Incorporated Document. The Idaho Standards for the Initial Certification of Professional School Personnel as approved ~~in August~~ on June 18, 2008~~9~~. (5-8-09)(____)

02. Document Availability. ~~The Standards are available at the~~ Copies of this document can be found on 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~~ website at ~~http://www.idahoboardofed.org~~ <http://www.boardofed.idaho.gov>. (3-16-04)(____)

03. Incorporated Document. The Standards for Idaho School Buses and Operations as approved on November 7, 2008. (5-8-09)

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>. (5-8-09)

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)

IDAPA 08 - STATE BOARD AND DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0905

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is June 18, 2009.

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 33-0105 and 33-107, 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 August 19, 2009.

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 revised Driver Education Operating Procedures will bring Idaho into better alignment with national standards for Driver Education and Training programs and will specify rules that have been unclear in the past. The revisions also include additions of new rules that will improve the service driver training programs offer to Idaho teens. Examples of improvements include clarifying reasons students may be dropped from a course, the duration of a course, hours per day students may be in class and in a car, requiring parent-teacher contact, reducing paperwork for teachers, and disallowing multiple D.U.I. offenders and felony offenders against children from becoming Driver Education and Training instructors.

The change in IDAPA 08.02.02.230 corrects the name of the Idaho Operating Procedures for Public Driver Education Programs from the previously named Idaho Standards for the Initial Certification of Professional School Personnel. The name change is a result of confusion between the operating procedures and the driver education standards- two separate documents.

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:

This rule is being presented for approval as a temporary and proposed rule due to the passage of S1133 Driving Businesses Licensure Board, which becomes effective July 1, 2009. This bill separates private driver education from public driver education and moves private instructors and schools to the Department of Occupational Licensing. IDAPA 08.02.02.004 and 08.02.02.230 are incompatible with this change; therefore, the Idaho Operating Procedures for Public Driver Education Programs must be updated before July 1, 2009.

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: 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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because eight state workshops were conducted, allowing more than 250 instructors and private school owners the opportunity to comment and participate in the creation of the operating procedures.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Brian Johns at (208) 332-6984. 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 August 26, 2009.

DATED this 1st Day of July, 2009.

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

THE FOLLOWING IS THE TEMPORARY AND PROPOSED TEXT FOR DOCKET NO. 08-0202-0905

004. INCORPORATION BY REFERENCE.

The State Board of Education adopts and incorporates by reference into its rules: (5-8-09)

01. Incorporated Document. The Idaho Standards for the Initial Certification of Professional School Personnel as approved in August 2008. (5-8-09)

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 7, 2008. (5-8-09)

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>. (5-8-09)

05. Incorporated Document. The Idaho Standards Operating Procedures for Public ~~School~~ Driver Education ~~and Training~~ Programs as approved on ~~August 13~~ June 18, 2004~~9~~. (~~4-6-05~~)(6-18-09)T

06. Document Availability. The Idaho Standards Operating Procedures for Public ~~School~~ Driver Education ~~and Training~~ Programs 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>. (~~5-3-03~~)(6-18-09)T

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)

230. DRIVER EDUCATION.

01. Commercial Schools. Pursuant to Section 004 of these rules, all driver education courses offered in Idaho commercial schools must be conducted in compliance with all the requirements in the Idaho Standards for Commercial Driving Schools, as incorporated. (4-11-06)

02. Public Schools. Pursuant to Section 004 of these rules, all driver education courses offered in Idaho public schools must be conducted in compliance with all the requirements in the Idaho ~~Standards~~ Operating Procedures for Public ~~School~~ Driver Education ~~and Training Programs~~, as incorporated. (~~4-6-05~~)(6-18-09)T

IDAPA 08 - STATE BOARD AND DEPARTMENT OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-0903

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, 33-107, and 33-1612, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled during the last two weeks of August and first two weeks of September. Hearings will take place throughout the state. For information, times, and locations about the public hearings please visit www.sde.idaho.gov and click on "Public Comments."

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 Middle Level Task Force was created in May 2007 to examine middle school issues as recommended by the High School Redesign efforts. Two goals of the task force were to ensure all students are prepared to be successful in high school and to increase academic engagement and student accountability for middle school students through a relevant and rigorous curriculum. Desired outcomes included ensuring all students are prepared to be successful in high school and beyond and to improve student preparation for high school and post-secondary education. To achieve these goals and work toward the desired outcomes, the Middle Level Task Force determined that students need to be introduced to the language and concept of a credit system before entering high school. The task force recognizes the need for flexibility for individual districts and schools to have credit requirements that can be fitted to their unique needs and structures and has kept this need at the forefront of their considerations.

This rule change would require each LEA (local education agency) or district to design and implement a credit system starting no later than the seventh grade. The effective date is July 1, 2010 (for the 2010-2011 school year). Students entering the 7th grade at the beginning of the 2010-2011 school year would have to meet credit requirements or complete an alternate mechanism to be promoted to the 8th grade.

Each LEA's middle level credit system must include the following minimum requirements:

1. Students shall be required to attain a minimum of 80% of their credits in order to be promoted to the next grade level.
2. Students will not be allowed to lose a full year of credit in one area (i.e. a student would not be able to fail a full year of math).
3. Students not meeting (or in jeopardy of not meeting) credit requirements will be given an opportunity to recover credits or complete an alternate mechanism in order to be eligible for promotion to the next grade level.
4. Attendance is a factor either in the credit system or the alternate mechanism or both.

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(2), Idaho Code, negotiated rulemaking was not conducted because the recommendations for change were proposed by the Middle Level Task Force which was comprised of a variety of stakeholders. Stakeholder organizations that were also consulted include the Idaho Middle Level Association, Idaho Council on Developmental Disabilities, Idaho Parent-Teacher Association and the Idaho Education Association.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Rob Sauer at (208) 332-6934.

The comment period for this rulemaking has been extended. Anyone may submit written comments regarding this rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Friday, September 11, 2009.

Anyone may submit written comments at the public hearing regarding this rulemaking. Any written comments submitted at a public hearing carry the same weight as oral testimony.

DATED this 1st Day of July, 2009.

Tom Luna
Superintendent of Public Instruction
State Department of Education
650 West State St., 2nd Floor

PO Box 83720
Boise, ID 83720-0027
phone: (208) 332-6812
fax: (208) 334-2228

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 08-0203-0903

107. ~~(RESERVED)~~ MIDDLE LEVEL CREDIT REQUIREMENTS.

A school district or LEA must implement a credit system no later than grade seven (7). The local school district or LEA may establish credit requirements beyond the state minimum. ()

01. Credit Requirements. The credit system shall require students to attain a minimum of eighty percent (80%) of the total credits attempted before the student will be eligible for promotion to the next grade level. A student must attain, at a minimum, a portion of the total credits attempted in each area in which credits are attempted except for areas in which instruction is less than a school year. ()

02. Credit Recovery. A student who does not meet the minimum requirements of the credit system shall be given an opportunity to recover credits or complete an alternate mechanism in order to become eligible for promotion to next grade level. ()

03. Attendance. Attendance shall be an element included in the credit system, alternate mechanism, or both. ()

04. Alternate Mechanism. A school district or LEA may establish an alternate mechanism to determine eligibility for grade level promotion. The alternate mechanism shall require a student to demonstrate proficiency of the appropriate content standards. ()

05. Special Education Students. A student who is eligible for special education services under the Individuals with Disabilities Education Improvement Act may, with the assistance of the student's Individualized Education Program (IEP) team, outline alternate requirements or accommodations to credit requirements as determined by the IEP team and are deemed necessary for the student to complete credit requirements for promotion to the next grade level. ()

06. Limited English Proficient (LEP) students. Limited English Proficient (LEP) students, as defined in Subsection 112.04.d.iv. may, with the assistance of the student's Educational Learning Plan (ELP) team, outline alternate requirements or accommodations to credit requirements as determined by the ELP team and are deemed necessary for the student to complete credit requirements for promotion to the next grade level. ()