

Dear Senators LODGE, Broadsword & LeFavour, and
Representatives BLOCK, Nielsen & Rusche:

The Legislative Services Office, Research and Legislation, has received the enclosed
rules of the Dept. of Health & Welfare:

**IDAPA 16.05.04 – Rules of the Idaho Council on Domestic Violence & Victim Assistance
Grant Funding (Docket #16-0504-1001).**

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by
the co-chairmen 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 10-29-10. 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 11-30-10.

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 334-4845, or send a written request to the
address or FAX number indicated on the memorandum attached.



Legislative Services Office Idaho State Legislature

Serving Idaho's Citizen Legislature

Jeff Youtz
Director

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee

FROM: Research & Legislation Staff - Paige Alan Parker **PAP**

DATE: October 12, 2010

SUBJECT: Department of Health and Welfare - IDAPA 16.05.04 - Rules of the Idaho Council on Domestic Violence & Victim Assistance Grant Funding (Docket No. 16-0504-1001) (Proposed)

Docket No. 16-0504-1001, dealing with rules of the Idaho Council on Domestic Violence and Victim Assistance Grant Fund (hereafter "proposed rule"), is submitted by that Council to update minimum standards documents for the Domestic Violence Batterer Treatment Program in order to reflect current research on domestic violence treatment, including evidence-based batterer intervention and to update the standard required rule chapter sections.

The Council relies upon section 39-5209, Idaho Code, as its authority. Section 39-5209, grants the Council the duty to promulgate, adopt and amend rules and the criteria to implement chapter 52, title 39, Idaho Code, regarding applications and grants for domestic violence project funding and for funding under any other grant program administered by the Council.

According to the Council, no fee or charge is imposed by the proposed rule. The Council states that there is no impact to the General Fund. The Council states that extensive informal negotiated rulemaking was conducted through open forums that were held in June and July of 2009 in Boise, Idaho Falls and Pocatello.

The Council states that public hearings will be scheduled if requested in writing by 25 persons, a political subdivision or agency, not later than October 20, 2010. The deadline for written comments is October 27, 2010.

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

Don H. Berg, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

ANALYSIS

The Council's legal authority is revised to delete reference to Executive Order 85-18 and several Idaho Code sections contained in chapter 52, title 39, Idaho Code. Section 000. The scope of the rules chapter is modified to define the application process, eligibility determination and other requirements for grants administered by the Council. Section 001.02. Incorporated by reference are the updated editions of the Minimum standards for Domestic Violence Offender Intervention Program, published by the Council, effective July 1, 2011. Section 004.03.b.

New sections are provided on written interpretations [none], administrative appeals [referencing an existing rule section], office hours - mailing address - street address - telephone - website [standard], and confidentiality or records and public records request [standard]. Sections 002, 003, 005 and 006.

Unnecessary sections on inclusive gender and severability have been deleted. Existing rule sections 998 and 999.

SUMMARY

The proposed rule represents housekeeping and appears to be authorized by section 39-5209, Idaho Code.

cc: Department of Health and Welfare: Tamara Prisock and Luann Dettman

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.05.04 - RULES OF THE IDAHO COUNCIL ON DOMESTIC VIOLENCE
AND VICTIM ASSISTANCE GRANT FUNDING

DOCKET NO. 16-0504-1001

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 39-5209, 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 20, 2010.

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 Idaho Council on Domestic Violence is proposing to update the minimum standards document for the Domestic Violence Batterer Treatment Program that is incorporated by reference in this chapter of rules. The minimum standards are being updated to reflect current research on domestic violence treatment, in particular, evidence-based batterer intervention.

The proposed changes will benefit individuals and organizations involved in the effective response to domestic violence as well as those receiving treatment, their families, and their communities. The rule changes will support, with best practices, an effective response to domestic violence that promotes safety, accountability of offenders, and a positive family environment.

In addition, the standard "required sections" of this chapter of rules are being included and updated to conform to the current requirements of the Office of the Administrative Rules Coordinator.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no anticipated fiscal impact to the state general fund related to this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, informal negotiated rulemaking was conducted. However, no Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the Idaho Administrative Bulletin. Extensive informal negotiated rulemaking in the form of open forums was held during June and July of 2009, in Boise Idaho Falls, and Coeur d'Alene. For more information, go to: <http://codvbtps.blogspot.com/>.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the *Minimum Standards for Domestic Violence Offender Intervention Programs* document is being incorporated by reference into these rules to give it the force and effect of law. The document is not being published in this chapter of rules due to its length and format, and because of the cost for republication. The document will be available at <http://www.icdv.idaho.gov> upon approval by the 2011 Legislature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Luann Dettman at (208) 332-1540.

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 27, 2010.

DATED this 11th day of August, 2010.

Tamara Prisock
DHW - Administrative Procedures Section
450 W. State Street - 10th Floor
P.O. Box 83720, Boise, ID 83720-0036
phone: (208) 334-5564; fax: (208) 334-6558
e-mail: dhwrules@dhw.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 16-0504-1001

000. LEGAL AUTHORITY.

~~Pursuant to~~ Under Sections ~~39-5207(2) and~~ 39-5209, Idaho Code, the Council on Domestic Violence and Victim Assistance is authorized to promulgate, adopt, and amend rules to implement the provisions of the Domestic Violence Project Grants Act, as contained in Chapter 52, Title 39, Idaho Code. ~~Furthermore, pursuant to Executive Order No. 85-18 and Section 39-5208(2), Idaho Code, the Council is authorized to administer such other funds as may be made available to accomplish in whole or in part any of the purposes of the laws or orders administered by the Council and to disseminate information on the availability of funds and the application process.~~ (5-3-03)()

001. TITLE AND PURPOSE SCOPE.

01. Title. These title of these rules ~~are to be cited as Idaho Department of Health and Welfare Rules, is~~ IDAPA 16.05.04, "Rules of the Idaho Council on Domestic Violence and Victim Assistance Grant Funding." (5-3-03)()

02. Purpose Scope. These rules ~~hereby establish the~~ define the application process, eligibility determination, and other requirements for the grants administered by the Idaho Council on Domestic Violence and Victim Assistance ~~and subsequent authority to award state and federal grants to programs in the state of Idaho that provide aid to victims of crime.~~ (5-3-03)()

03. Relationship to the Department of Health and Welfare. The Council on Domestic Violence and Victim Assistance is attached to the Department of Health and Welfare for fiscal and administrative purposes, and any grant awards, disbursement of funds, and other procedural matters must be in compliance with Department requirements. Programmatically the Council is independent of the Department. (5-3-03)

~~002.—003. (RESERVED).~~

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for these rules. ()

003. ADMINISTRATIVE APPEALS.

The requirements for appealing a grant award decision are found under Section 033 of these rules. ()

004. INCORPORATION BY REFERENCE.

01. General. Unless provided otherwise, any reference in these rules to any document identified in Section 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 "document" 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. (5-3-03)

02. Availability of Reference Material. Copies of the documents incorporated by reference into these rules are available: (5-3-03)

a. At the Idaho Council on Domestic Violence and Victim Assistance, 450 West State Street 304 North 8th Street, Suite 140, P.O. Box 83720, Boise, Idaho 83720-0036. (5-3-03)()

b. On the internet at: <http://www.icdv.idaho.gov>. (5-3-03)

03. Documents Incorporated by Reference. The following documents are incorporated by reference into these rules: (5-3-03)

a. “Domestic Violence Program and Personnel Standards,” published by the Idaho Council on Domestic Violence and Victim Assistance, effective November 20, 1998. (5-3-03)

b. “Minimum Standards for ~~Batterer Treatment~~ Domestic Violence Offender Intervention Programs,” published by the Idaho Council on Domestic Violence and Victim Assistance, effective ~~April 29, 1999~~ July 1, 2011. (5-3-03)()

c. “Sexual Assault Program and Personnel Standards,” published by the Idaho Council on Domestic Violence and Victim Assistance, effective April 27, 2001. (5-3-03)

005. OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE -- WEBSITE.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. ()

02. Mailing Address. ()

a. The mailing address for the business office of the Idaho Department of Health and Welfare is P.O. Box 83720, Boise, Idaho 83720-0036. ()

b. The mailing address for the business office of the Idaho Council on Domestic Violence and Victim Assistance is P.O. Box 83720, Boise, Idaho 83720-0036. ()

03. Street Address. ()

a. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. ()

b. The business office of the Idaho Council on Domestic Violence and Victim Assistance is located at 304 North 8th Street, Suite 140, Boise, Idaho 83702. ()

04. Telephone. ()

a. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. ()

b. The telephone number for the Idaho Council on Domestic Violence and Victim Assistance is (208) 332-1540, or, Toll Free: 1-800-291-0463. ()

05. Internet Website. ()

a. The Department’s internet website is found at <http://www.healthandwelfare.idaho.gov>. ()

b. The website for the Idaho Council on Domestic Violence and Victim Assistance is found at <http://www.icdv.idaho.gov>. ()

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.

01. Confidential Records. Any information about an individual covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." ()

02. Public Records. The Department will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. ()

0057. -- 009. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

033. APPEAL OF GRANT AWARD DECISION.

No later than fifteen (15) days from the date of written notification from the Council to a program announcing denial of its grant application or suspension or termination of its grant, a program may file a written request for reconsideration of the Council's decision. All requests for reconsideration must be addressed and submitted to the executive director of the Council. (3-12-90)

01. Contents of Request for Reconsideration. Any request for reconsideration must contain all pertinent facts supporting the program's request for the Council to reconsider its grant award decision. (3-12-90)

02. Disposition of Request for Reconsideration. Upon notification of a timely request for reconsideration, the chairperson of the Council will appoint a panel composed of three (3) Council members to review the contents of the request and all pertinent data upon which the Council based its original decision. (3-12-90)

03. Disposition of Funds for Service Area Pending Reconsideration. While a timely and valid request for reconsideration received from a program is pending, fifty percent (50%) of the funds allocated to the service area in which the program is located will be held. (3-12-90)

04. Issuance of Decision. Following consideration of all data pertinent to the issue, the appointed panel will prepare a written report of its deliberations and issue a dated decision concerning the recommended resolution of the dispute. Copies of the report and the decision will be transmitted to the full Council and to the program submitting the request. (3-12-90)

05. Appeal of the Council's Decision. If the program is unsatisfied by the decision of the Council, a written appeal setting out the basis for the appeal may be filed. It must be received by the executive director of the Council no later than fifteen (15) days from the date of the Council's written decision. (3-12-90)

06. Hearing on Appeal. Upon notification of receipt of a timely appeal, the chairperson of the Council will appoint a hearing officer to convene a hearing pursuant to in accordance with the Idaho Administrative Procedure Act, Sections 67-52091, et seq. through 67-5212, Idaho Code. (3-12-90)()

(BREAK IN CONTINUITY OF SECTIONS)

037. -- 9979. (RESERVED).

998. INCLUSIVE GENDER

For the purposes of these rules, words used in the feminine gender include the masculine and vice versa, where appropriate. (3-12-90)

999. SEVERABILITY.

~~Idaho Department of Health and Welfare Rules, IDAPA 16.05.04, "Rules Governing the Domestic Violence and Victim Assistance Grant Projects" are severable. If any rule or part thereof, or the application of such rule to any person or circumstances is declared invalid, that invalidity does not affect the validity of any remaining portion of these rules.~~

~~(3-12-90)~~