

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 662

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO EDUCATION; AMENDING SECTION 33-1303, IDAHO CODE, TO DEFINE
2 A TERM; AMENDING SECTION 33-1304, IDAHO CODE, TO REVISE TERMINOLOGY
3 AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-3402, IDAHO
4 CODE, TO REVISE A DEFINITION; AMENDING SECTION 33-3407, IDAHO CODE,
5 TO PROVIDE THAT THE IDAHO BUREAU OF EDUCATIONAL SERVICES FOR THE
6 DEAF AND THE BLIND SHALL BE A GOVERNMENTAL ENTITY, TO PROVIDE THAT
7 THE BUREAU, ITS EMPLOYEES AND ITS BOARD OF DIRECTORS ARE SUBJECT TO
8 CERTAIN PROVISIONS, AND TO PROVIDE THAT THE IDAHO BUREAU OF EDUCATIONAL
9 SERVICES FOR THE DEAF AND THE BLIND SHALL BE CONSIDERED A STATE
10 DEPARTMENT FOR CERTAIN PURPOSES; AMENDING SECTION 33-3408, IDAHO CODE,
11 TO PROVIDE THAT THE IDAHO BUREAU OF EDUCATIONAL SERVICES FOR THE DEAF
12 AND THE BLIND SHALL SUBMIT ITS ANNUAL APPROPRIATION REQUEST IN THE
13 BUDGET REQUEST OF THE EDUCATIONAL SUPPORT PROGRAM; AND AMENDING SECTION
14 33-3411, IDAHO CODE, TO PROVIDE THAT THE STATE BOARD OF EDUCATION MAY
15 REQUEST MONEYS FROM THE PERMANENT BUILDING FUND FOR THE CONSTRUCTION
16 AND MAINTENANCE OF BUILDINGS ON CERTAIN LAND USED BY THE IDAHO BUREAU OF
17 EDUCATIONAL SERVICES FOR THE DEAF AND THE BLIND.
18

19 Be It Enacted by the Legislature of the State of Idaho:

20 SECTION 1. That Section 33-1303, Idaho Code, be, and the same is hereby
21 amended to read as follows:

22 33-1303. DEFINITIONS. The following words and phrases used in this
23 chapter are defined as follows:

24 (1) "Board" means the state board of education.

25 (2) "Bureau" means the Idaho bureau of educational services for the
26 deaf and the blind.

27 (3) "Deaf" means a person who is not able to process information aurally
28 and whose primary means of communication is visual.

29 (34) "Deaf-blind" means a person who is deaf or hard of hearing and who
30 also has significant visual impairment or is legally blind.

31 (45) "Educational interpreter" means a person employed in the Idaho
32 public schools, kindergarten through grade twelve (12), to provide
33 interpreting services to students who are deaf, hard of hearing or
34 deaf-blind.

35 (56) "Educational interpreter performance assessment" means a
36 statistically valid and reliable assessment tool administered by the boys
37 town national research hospital or its successor organization.

38 (67) "Hard of hearing" means a person who has a hearing deficit, who is
39 able to process information aurally with or without the use of a hearing aid
40 or other device that enhances the ability of the person to hear, and whose
41 primary means of communication may be visual.

1 (78) "Interpreter education program" means a postsecondary degree
 2 program of at least two (2) years in duration that is accredited by the state
 3 board of education or an equivalent program accredited by another state,
 4 district or territory or by a professional accreditation body.

5 (89) "Interpreting" means the process of providing accessible
 6 communication between and among persons who are deaf, hard of hearing or
 7 deaf-blind, and those who are hearing. The process includes, but is not
 8 limited to, communication between American sign language or other form of
 9 manual communication and English. The process may also involve various
 10 other modalities that involve visual, gestural and tactile methods.

11 SECTION 2. That Section 33-1304, Idaho Code, be, and the same is hereby
 12 amended to read as follows:

13 33-1304. QUALIFICATION OF EDUCATIONAL INTERPRETERS. (1) Except as
 14 provided in this section, no person shall act as an educational interpreter
 15 in an Idaho public school unless the person has been qualified to do so. The
 16 person shall be qualified if the person:

17 (a) Has achieved a score of 3.5 or higher on the educational interpreter
 18 performance assessment or has achieved a comparable score on an
 19 equivalent test as determined by the ~~board~~ bureau; or

20 (b) Is currently certified by:

21 (i) The registry of interpreters for the deaf;

22 (ii) The national association of the deaf at a level of III or
 23 higher;

24 (iii) The registry of interpreters for the deaf, oral
 25 transliteration for oral transliterators; or

26 (iv) The testing, evaluation, and certification unit for cued
 27 language transliterators.

28 (2) An educational interpreter currently employed in an Idaho public
 29 school may continue in the practice of educational interpreting without
 30 meeting the requirements of subsection (1) of this section, provided that
 31 such requirements are met on or before June 30, 2009.

32 (3) Effective July 1, 2009, newly-hired educational interpreters,
 33 who have not worked in an Idaho public school as an educational interpreter
 34 in kindergarten through grade twelve (12) prior to the enactment of
 35 this chapter, may apply in writing to the ~~board~~ bureau for emergency
 36 authorization to work as an educational interpreter for two (2) years before
 37 being required to meet the requirements of subsection (1) of this section.
 38 An educational interpreter who has received an emergency authorization
 39 under this subsection (3) may apply in writing to the ~~board~~ bureau for a
 40 one-time, one (1) year extension of the emergency authorization. The ~~board~~
 41 bureau may grant such a one (1) year extension of the emergency authorization
 42 for good cause shown.

43 (4) A graduate of an interpreter education program may serve as an
 44 educational interpreter in Idaho public schools, kindergarten through
 45 grade twelve (12) before meeting the requirements of subsection (1) of this
 46 section for one (1) year following such graduation.

47 (5) Educational interpreters employed by an Idaho public school in
 48 kindergarten through grade twelve (12) must complete a minimum of eighty
 49 (80) hours of training in the areas of interpreting or transliterating every

1 five (5) years. This training must be documented and may include home study
2 coursework, seminars, workshops and mentoring programs.

3 (6) The board is authorized to promulgate rules necessary to implement
4 this chapter.

5 SECTION 3. That Section 33-3402, Idaho Code, be, and the same is hereby
6 amended to read as follows:

7 33-3402. DEFINITIONS. As used in this chapter:

8 (1) "Blind or visually impaired" means impacted by an impairment in
9 vision that, even with correction, adversely affects a child's educational
10 performance. The term includes both partial sight and blindness.

11 (2) "Board of directors" also referred to in this chapter as "the board"
12 means the board of directors of the Idaho bureau of educational services for
13 the deaf and the blind as such board is established in section 33-3404, Idaho
14 Code.

15 (3) "Bureau" means the Idaho bureau of educational services for the
16 deaf and the blind as created in section 33-3403, Idaho Code.

17 (4) "Deaf or hard of hearing" means impacted by an impairment in
18 hearing, whether permanent or fluctuating, that adversely affects a child's
19 educational performance, or impacted by a hearing impairment that is so
20 severe that the child is impaired in processing linguistic information
21 through hearing, with or without amplification that adversely affects a
22 child's educational performance.

23 (5) "Idaho school for the deaf and the blind" means the campus program
24 used to provide residential and day campus instruction and services to deaf
25 or hard of hearing and/or blind or visually impaired students.

26 (6) "Outreach services" means off-campus statewide supplemental
27 services provided by the Idaho bureau of educational services for the deaf
28 and the blind to school districts, students and families.

29 (7) "Sensory impairment" means an impairment of vision or hearing, or
30 both.

31 (8) "Specialized/certified personnel" means all personnel nationally
32 certified and/or certified by the state of Idaho as required by applicable
33 law to provide services and instruction to students who are deaf or hard of
34 hearing and/or blind or visually impaired, including, but not limited to,
35 certified teachers of the deaf, certified teachers of the visually impaired,
36 certified interpreters, certified orientation and mobility specialists,
37 speech language pathologists, and certified low vision therapists.

38 (9) "State board" means the Idaho state board of education.

39 (10) "Student" means an individual who is deaf or hard of hearing and/or
40 blind or visually impaired and who qualifies for educational services as
41 provided for in this chapter pursuant to eligibility criteria set forth in
42 the Idaho standards for infants, toddlers, children, and youth who are deaf
43 or hard of hearing as incorporated by reference in IDAPA 08.02.03.004.08
44 ~~and or are blind or visually impaired as incorporated by reference in IDAPA~~
45 08.02.03.004.09, in effect on January 1, 2009.

46 (11) "Supplemental services" means services provided to deaf or hard of
47 hearing and/or blind or visually impaired students and their families, in
48 addition to and in support of services the student may receive from his or

1 her school district. Such services may include assessment, consultation and
2 direct instruction.

3 SECTION 4. That Section 33-3407, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 33-3407. GOVERNMENTAL ENTITY -- LIABILITY -- INSURANCE. (1) The
6 Idaho bureau of educational services for the deaf and the blind ~~shall be~~
7 ~~a governmental entity,~~ as provided ~~in section 33-5502, Idaho Code for in~~
8 this chapter, is not a single department of state government unto itself,
9 nor is it a part of any of the twenty (20) departments of state government
10 authorized by section 20, article IV, of the constitution of the state of
11 Idaho, or of the departments provided for in section 67-2402, Idaho Code.
12 It is legislative intent that the Idaho bureau of educational services for
13 the deaf and the blind operate and be recognized not as a state agency or
14 department, but as a governmental entity whose creation has been authorized
15 by the state, much in the manner as other single purpose districts. For
16 the purposes of section 59-1302(15), Idaho Code, the Idaho bureau of
17 educational services for the deaf and the blind created pursuant to this
18 chapter shall be deemed a governmental entity. Pursuant to the provisions
19 of section 63-36220, Idaho Code, sales to or purchases by the Idaho bureau of
20 educational services for the deaf and the blind are exempt from payment of
21 the sales and use tax. The Idaho bureau of educational services for the deaf
22 and the blind, its employees and its board of directors are subject to the
23 following provisions in the same manner as a traditional public school and
24 the board of trustees of a school district:

25 (a) Sections 18-1351 through 18-1362, Idaho Code, on bribery and
26 corrupt influence, except as provided by section 33-5204A(2), Idaho
27 Code;

28 (b) Chapter 2, title 59, Idaho Code, on prohibitions against contracts
29 with officers;

30 (c) Chapter 7, title 59, Idaho Code, on ethics in government;

31 (d) Chapter 23, title 67, Idaho Code, on open public meetings; and

32 (e) Chapter 3, title 9, Idaho Code, on disclosure of public records⁺.

33 (2) The Idaho bureau of educational services for the deaf and the
34 blind, its employees and its board of directors are subject to the following
35 provisions:

36 (~~fa~~) Section 33-1216, Idaho Code, on sick and other leave, or the laws,
37 rules and policies of the state of Idaho for sick and other leave as
38 provided for in chapter 53, title 67, Idaho Code, as determined by the
39 board;

40 (~~gb~~) Section 33-1217, Idaho Code, on accumulation of unused sick leave,
41 or the laws, rules and policies of the state of Idaho for accumulation
42 of unused sick leave as provided for in section 67-5333, Idaho Code, as
43 determined by the board;

44 (~~hc~~) Section 33-1218, Idaho Code, on sick leave in excess of statutory
45 minimum amounts, or the laws, rules and policies of the state of Idaho
46 for sick leave in excess of statutory minimum amounts as provided for in
47 section 67-5333, Idaho Code, as determined by the board; and

48 (~~id~~) Section 33-1228, Idaho Code, on severance allowance at
49 retirement, or the laws, rules and policies of the state of Idaho for

1 severance allowance at retirement as provided for in section 67-5342,
2 Idaho Code, as determined by the board.

3 (23) The Idaho bureau of educational services for the deaf and the blind
4 may sue or be sued, purchase, receive, hold and convey real and personal
5 property for school purposes, and its employees, directors and officers
6 shall enjoy the same immunities as employees, directors and officers of
7 traditional public school districts and other public schools, including
8 those provided by chapter 9, title 6, Idaho Code.

9 (34) The Idaho bureau of educational services for the deaf and the blind
10 shall ~~secure insurance for liability and property loss~~ be considered a state
11 department for purposes of risk management and group insurance pursuant to
12 chapter 57, title 67, Idaho Code, and the department of administration shall
13 treat the bureau as such.

14 (45) It shall be unlawful for:

15 (a) Any director to have pecuniary interest directly or indirectly
16 in any contract or other transaction pertaining to the maintenance or
17 conduct of the Idaho bureau of educational services for the deaf and the
18 blind, or to accept any reward or compensation for services rendered
19 as a director except as may be otherwise provided in this subsection
20 ~~(4)~~. The board of directors of the Idaho bureau of educational services
21 for the deaf and the blind may accept and award contracts involving
22 the Idaho bureau of educational services for the deaf and the blind
23 to businesses in which the director or a person related to him by
24 blood or marriage within the second degree of consanguinity has a
25 direct or indirect interest, provided that the procedures set forth in
26 section 18-1361 or 18-1361A, Idaho Code, are followed. The receiving,
27 soliciting or acceptance of moneys of the Idaho bureau of educational
28 services for the deaf and the blind for deposit in any bank or trust
29 company, or the lending of moneys by any bank or trust company to
30 the Idaho bureau of educational services for the deaf and the blind,
31 shall not be deemed to be a contract pertaining to the maintenance or
32 conduct of the Idaho bureau of educational services for the deaf and
33 the blind within the meaning of this section; nor shall the payment
34 of compensation by the Idaho bureau of educational services for the
35 deaf and the blind board of directors to any bank or trust company for
36 services rendered in the transaction of any banking business with the
37 Idaho bureau of educational services for the deaf and the blind board
38 of directors be deemed the payment of any reward or compensation to any
39 officer or director of any such bank or trust company within the meaning
40 of this section.

41 (b) The board of directors of the Idaho bureau of educational services
42 for the deaf and the blind to enter into or execute any contract with
43 the spouse of any member of such board, the terms of which said contract
44 require, or shall require, the payment or delivery of any Idaho bureau
45 of educational services for the deaf and the blind funds, moneys or
46 property to such spouse, except as provided in section 18-1361 or
47 18-1361A, Idaho Code.

48 (56) When any relative of any director, or relative of the spouse of a
49 director related by affinity or consanguinity within the second degree, is
50 to be considered for employment in the Idaho bureau of educational services

1 for the deaf and the blind, such director shall abstain from voting in the
2 election of such relative, and shall be absent from the meeting while such
3 employment is being considered and determined.

4 SECTION 5. That Section 33-3408, Idaho Code, be, and the same is hereby
5 amended to read as follows:

6 33-3408. EXPENDITURES -- BUDGET -- FUNDING. (1) There is hereby
7 created in the state treasury the Idaho bureau of educational services for
8 the deaf and the blind trust fund, which is hereby continuously appropriated
9 to the Idaho bureau of educational services for the deaf and the blind. The
10 fund shall consist of appropriations, fees, grants, gifts or moneys from any
11 other source. The state treasurer shall invest all idle moneys in the fund
12 and interest earned on such investments shall be retained by the fund.

13 (2) On or before the first Monday in July, there shall be held at the
14 time and place determined by the Idaho bureau of educational services for
15 the deaf and the blind board, a budget meeting and public hearing upon the
16 proposed budget of the Idaho bureau of educational services for the deaf and
17 the blind. Notice of the budget meeting and public hearing shall be posted
18 at least ten (10) full days prior to the date of the meeting in at least one
19 (1) conspicuous place to be determined by the Idaho bureau of educational
20 services for the deaf and the blind board of directors. The place, hour and
21 day of the hearing shall be specified in the notice, as well as the place
22 where such budget may be examined prior to the hearing. On or before the
23 first Monday in July a budget for the Idaho bureau of educational services
24 for the deaf and the blind shall be agreed upon and approved by the majority
25 of the Idaho bureau of educational services for the deaf and the blind board
26 of directors.

27 (3) The Idaho bureau of educational services for the deaf and the blind
28 shall submit its annual appropriation request to the state superintendent
29 of public instruction, by no later than the first day of August, for the
30 superintendent's review, approval, and inclusion in the budget request of
31 the educational support program/~~division of children's programs~~. The state
32 superintendent of public instruction shall disburse any funds appropriated
33 to the Idaho bureau of educational services for the deaf and the blind trust
34 fund. The Idaho bureau of educational services for the deaf and the blind
35 board of directors shall use such moneys to provide supplemental services to
36 deaf or hard of hearing and blind or visually impaired students in the state
37 of Idaho.

38 SECTION 6. That Section 33-3411, Idaho Code, be, and the same is hereby
39 amended to read as follows:

40 33-3411. ACQUISITION OF AND TITLE TO PROPERTY. (1) All rights and
41 title to property, real and personal, belonging to the state of Idaho and
42 vested in the Idaho state board of education for use as a school for the deaf
43 and the blind shall remain with the Idaho state board of education.

44 (2) The Idaho state board of education may request moneys from the
45 permanent building fund for the construction and maintenance of buildings on
46 land owned by the state of Idaho and used by the Idaho bureau of educational
47 services for the deaf and the blind.