

Dear Senators GOEDDE, Mortimer and Malepeai, and  
Representatives NONINI, Shirley and Pence:

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

IDAPA 08.02.03 - Rules Governing Thoroughness (Docket No. 08-0203-1101)

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 07/26/2011. 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 08/23/2011.

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 enclosed.



Jeff Youtz  
Director

# Legislative Services Office Idaho State Legislature

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*Serving Idaho's Citizen Legislature*

## MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Education Committee and the House Education Committee  
**FROM:** Principal Legislative Analyst - Eric Milstead  
**DATE:** July 7, 2011  
**SUBJECT:** State Board and State Department of Education

IDAPA 08.02.03 - Rules Governing Thoroughness (Docket No. 08-0203-1101)

The state Department of Education submits notice of temporary and proposed rulemaking at IDAPA 08.02.03 - Rules Governing Thoroughness. This temporary and proposed rule reflects the latest revisions to maintain compliance with alternate achievement standards for the alternate assessments. The changes adopt the alternate assessment standards adopted by the state Board of Education on May 18, 2011.

The Department states that negotiated rulemaking was not conducted because the revisions reflected in this docket are required for compliance with provisions of the Elementary and Secondary Education Act relating to Adequate Yearly Progress.

The temporary and proposed rule appears to be authorized pursuant to Sections 33-105, -107, -2002 and 67-5226, Idaho Code.

cc: State Department of Education - Carissa Miller, Deputy Superintendent, Division of Assessment;  
Tom Luna, Superintendent of Public Instruction

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

## **08.02.03 - RULES GOVERNING THOROUGHNESS**

### **DOCKET NO. 08-0203-1101**

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

**EFFECTIVE DATE:** The effective date of the temporary rule is May 18, 2011.

**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, 33-107, 33-2002, Idaho Code, and 34 CFR Part 200 Elementary and Secondary Education Act.

**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 July 20, 2011.

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:

In September 2010, the ISAT-Alternate Achievement Standards were approved by the State Board of Education and incorporated by reference into the rule under temporary rule docket 08-0203-1001 which expired sine die 2011. The rulemaking is now being promulgated as a temporary and proposed rule to include the latest revisions. The revisions of the ISAT-Alt to a portfolio system in mathematics, science, reading and language usage during the 2009-2010 school year required that new achievement standards be set. In addition, the science and mathematics achievement levels were reset in April 2011 based on the recommendations of the standards setting participants to add a fourth complexity level.

**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 reason:

To maintain compliance with deadlines in amendments to governing law.

**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:

If the achievement standards are not approved and consequently the ISAT-Alt scoring cannot be completed, Idaho could lose 25%, or \$105,000, of its Title I administrative funding in the form of a compliance fine from the U.S. Department of Education.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the need to be in compliance with the requirements of the Elementary and Secondary Education Act, which must be completed during June-July 2011. The alternate achievement standards are necessary to calculate Adequate Yearly Progress for schools and districts that have students who take the alternate assessment. Without those standards to do the calculations the state would be in violation of the requirements of the Act.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

The alternate achievement standards for the alternate assessment were established in the Incorporation by Reference section of the rule at the onset of the alternate assessment program dating back to 2005. This change is an update to the current standards that are incorporated by reference effective May 18, 2011.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact: Carissa Miller, Deputy Superintendent,

Division of Assessment, State Department of Education, P.O. Box 83720, Boise, Idaho 83720-0027, [cmiller@sde.idaho.gov](mailto:cmiller@sde.idaho.gov), 208-332-6901.

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 July 27, 2011.

DATED this 31st day of May, 2011.

Tom Luna  
Idaho Superintendent of Public Instruction  
State Department of Education  
650 West State Street  
P.O. Box 83720  
Boise, Idaho 83720-0027  
Phone: 208-332-6800  
Fax: 208-334-2228

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**THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT FOR DOCKET NO. 08-0203-1101**

**004. INCORPORATION BY REFERENCE.**

The following documents are incorporated into this rule: (3-30-07)

**01. The Idaho Content Standards.** The Idaho Content Standards as adopted by the State Board of Education. Individual subject content standards are adopted in various years in relation to the curricular materials adoption schedule. Copies of the document can be found on the State Board of Education website at [www.boardofed.idaho.gov](http://www.boardofed.idaho.gov). (3-29-10)

- a.** Driver Education, as revised and adopted on August 21, 2008. (3-29-10)
- b.** Health, as revised and adopted on April 17, 2009. (3-29-10)
- c.** Humanities Categories: (3-29-10)
  - i.** Art, as revised and adopted on April 17, 2009; (3-29-10)
  - ii.** Dance, as revised and adopted on April 17, 2009; (3-29-10)
  - iii.** Drama, as revised and adopted on April 17, 2009; (3-29-10)
  - iv.** Interdisciplinary, as revised and adopted on April 17, 2009; (3-29-10)
  - v.** Music, as revised and adopted on April 17, 2009; (3-29-10)
  - vi.** World languages, as revised and adopted on April 17, 2009. (3-29-10)
- d.** English Language Arts, as revised and adopted on August 11, 2010. (4-7-11)
- e.** Limited English Proficiency, as revised and adopted on August 21, 2008. (3-29-10)

- f. Mathematics, as revised and adopted on August 11, 2010. (4-7-11)
- g. Physical Education, as revised and adopted on April 17, 2009. (3-29-10)
- h. Science, as revised and adopted on April 17, 2009. (3-29-10)
- i. Social Studies, as revised and adopted on April 17, 2009. (3-29-10)
- j. Information and Communication Technology, as revised and adopted on April 22, 2010. (4-7-11)
- 02. The Idaho English Language Development Standards.** The Idaho English Language Development Standards as adopted by the State Board of Education on August 10, 2006. Copies of the document can be found on the State Board of Education website at [www.boardofed.idaho.gov](http://www.boardofed.idaho.gov). (4-2-08)
- 03. The Limited English Proficiency Program Annual Measurable Achievement Objectives (AMAOs) and Accountability Procedures.** The Limited English Proficiency Program Annual Measurable Achievement Objectives and Accountability Procedures as adopted by the State Board of Education on November 11, 2009. Copies of the document can be found on the State Department of Education website at [www.sde.idaho.gov](http://www.sde.idaho.gov). (4-7-11)
- 04. The Idaho English Language Assessment (IELA) Achievement Standards.** The Idaho English Language Assessment (IELA) Achievement Standards as adopted by the State Board of Education on November 11, 2009. Copies of the document can be found on the State Department of Education website at [www.sde.idaho.gov](http://www.sde.idaho.gov). (4-7-11)
- 05. The Idaho Standards Achievement Tests (ISAT) Achievement Standards.** Achievement Standards as adopted by the State Board of Education on May 30, 2007. Copies of the document can be found on the State Board of Education website at [www.boardofed.idaho.gov](http://www.boardofed.idaho.gov). (4-2-08)
- 06. The Idaho Extended Content Standards.** The Idaho Extended Content Standards as adopted by the State Board of Education on April 17, 2008. Copies of the document can be found at the State Board of Education website at [www.boardofed.idaho.gov](http://www.boardofed.idaho.gov). (5-8-09)
- 07. The Idaho Alternative Assessment ~~Extended~~ Achievement Standards.** Alternative Assessment ~~Extended~~ Achievement Standards as adopted by the State Board of Education on ~~February 28, 2008~~ May 18, 2011. Copies of the document can be found on the State Board of Education website at [www.boardofed.idaho.gov](http://www.boardofed.idaho.gov). ~~(5-8-09)~~ (5-18-11)T
- 08. The Idaho Standards for Infants, Toddlers, Children, and Youth Who Are Deaf or Hard of Hearing.** As adopted by the State Board of Education on October 11, 2007. Copies of the document can be found on the State Board of Education website at [www.boardofed.idaho.gov](http://www.boardofed.idaho.gov). (4-2-08)
- 09. The Idaho Standards for Infants, Toddlers, Children, and Youth Who Are Blind or Visually Impaired.** As adopted by the State Board of Education on October 11, 2007. Copies of the document can be found on the State Board of Education website at [www.boardofed.idaho.gov](http://www.boardofed.idaho.gov). (4-2-08)