

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

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

IDAPA 08.02.01 - Rules Pertaining To The Rules Governing Administration (Docket No.
08-0201-1201);

IDAPA 08.02.02 - Rules Pertaining To The Rules Governing Uniformity (Docket No. 08-0202-1202);

IDAPA 08.02.03 - Rules Pertaining To The Rules Governing Thoroughness - Adolescent Relationship
Abuse (Docket No. 08-0203-1202);

IDAPA 08.02.03 - Rules Pertaining To The Rules Governing Thoroughness - High School Online
Learning Graduation Requirements (Docket No. 08-0203-1203);

IDAPA 08.02.03 - Rules Pertaining To The Rules Governing Thoroughness (HB 604 - Review
& Approval of Online Courses) (Docket No. 08-0203-1204).

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 09/12/2012. 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 10/10/2012.

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 on the
memorandum attached below.



Legislative Services Office Idaho State Legislature

Jeff Youtz
Director

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Education Committee and the House Education Committee

FROM: Principal Legislative Research Analyst - Eric Milstead

DATE: August 23, 2012

SUBJECT: State Board of and State Department of Education - State Department of Education

IDAPA 08.02.01 - Rules Pertaining To The Rules Governing Administration (Docket No. 08-0201-1201)

IDAPA 08.02.02 - Rules Pertaining To The Rules Governing Uniformity (Docket No. 08-0202-1202)

IDAPA 08.02.03 - Rules Pertaining To The Rules Governing Thoroughness - Adolescent Relationship Abuse (Docket No. 08-0203-1202)

IDAPA 08.02.03 - Rules Pertaining To The Rules Governing Thoroughness - High School Online Learning Graduation Requirements (Docket No. 08-0203-1203)

IDAPA 08.02.03 - Rules Pertaining To The Rules Governing Thoroughness (HB 604 - Review & Approval of Online Courses) (Docket No. 08-0203-1204)

1. The state board of education has submitted temporary and proposed rulemaking at IDAPA 08.02.01 - Rules Governing Administration. This temporary and proposed rule includes revisions to the current rule that reflect changes adopted to Section 33-1002A, Idaho Code, via Senate Bill 1184 (passed during the 2011 legislative session). The temporary and proposed rule provides the specifics regarding how to count for average daily attendance funding where such specifics are not found in the statute. The rule reflects the unanimous recommendation of the 2011 Public School Technology Task Force that credits be used as the basis of dividing time spent by students in various programs or online courses. The temporary and proposed rule also provides that the State Department of Education is authorized to determine what constitutes an overload course.

The agency states that negotiated rulemaking was not conducted because the temporary and proposed rule is a "stop-gap" until a more permanent solution can be implemented based upon the Task Force's recommendations. The effective date of the temporary rule was June 21, 2012.

It appears that the temporary and proposed rule is authorized pursuant to 33-105 and 33-107, Idaho Code.

2. The state board of education has submitted temporary and proposed rulemaking at IDAPA 08.02.02 - Rules Governing Uniformity. The proposed rule provides a waiver to certain educators relating to a required teaching course, the Mathematical Thinking for Instruction class (MTI). The waiver is provided to educators who are not currently employed or who live outside of the state. The proposed rule also offers a three-year interim certificate for educators who move into the state but who have not take the MTI course. Under this proposed rule, such educators would be certified while they are taking the MTI course.

Mike Nugent Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

The agency states that negotiated rulemaking was not conducted because the waiver provides a method for certain educators to obtain certification while completing required coursework.

The proposed rule appears to be authorized pursuant to section 33-1512, Idaho Code.

3. The state board of education has submitted proposed rulemaking at IDAPA 08.02.03 - Rules Governing Thoroughness (Docket No. 08-0203-1202). The proposed rule adds a new requirement to comprehensive district policy and procedures to include the topic of relationship abuse and sexual assault prevention and response. The agency notes that this proposed rule reflects information (both local and national) on this subject matter that has been gathered by the Idaho Coalition Against Sexual and Domestic violence and the state Department of Education.

The agency notes that negotiated rulemaking was not conducted because "this is a proposed addition to an already existing rule that ensures schools have a comprehensive set of policies to deal with all student safety issues."

The proposed rule appears to be authorized pursuant to sections 33-105, 33-107 and 33-1612, Idaho Code.

4. The state board of education has submitted temporary and proposed rulemaking at IDAPA 08.02.03 - Rules Governing Thoroughness (Docket No. 08-0203-1203). The temporary and proposed rule two aspects of high school graduation requirements, including the requirement that students take two online courses and a revision to math graduation requirements. The revisions to math graduation requirements permit students to be exempt from the requirement to take a math course in the final year of high school if the have met certain math related criteria (See Section 105.1.d.v).

The agency states that negotiated rulemaking was not conducted because the temporary and proposed online rule was agreed to in the previous legislative session by the Idaho School boards Association and the Idaho Association of School Administrators. The mathematics rule was not formally negotiated due to time constraints because the proposed rule applies to students entering their senior year in the fall of 2012.

The temporary and proposed rule appears to be authorized pursuant to sections 33-105, 33-107, 33-118 and 33-1612, Idaho Code.

5. The state board of education has submitted temporary and proposed rulemaking at IDAPA 08.02.03 - Rules Governing Thoroughness--FEE RULE (Docket No. 08-0203-1204). The temporary and proposed rule implements the provisions authorized through House Bill 604 which was approved during the 2012 Legislative Session. That bill provided that the state board of education shall determine how and under what rules curricular materials shall be adopted for the public schools, including the fees necessary to defray the cost of such adoption process. The bill also authorized the state board to determine the process by which the department of education reviews and approves online courses and the fees necessary to defray the department's cost of such review and approval process.

The effective date of the temporary rule was June 21, 2012.

The temporary and proposed rule appears authorized pursuant to section 33-105, 33-107 and 33-1612, Idaho Code.

cc: State Board of and State Department of Education - State Department of Education
Tom Luna, Jason Hancock, Luci Willits & Shannon Page

IDAPA 08 - BOARD OF AND DEPARTMENT OF EDUCATION

08.02.01 - RULES GOVERNING ADMINISTRATION

DOCKET NO. 08-0201-1201

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is June 21, 2012.

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 regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 33-105, Idaho Code, Section 33-107, Idaho Code, and Section 33-1612, 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 15, 2012.

The hearing site 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:

Changes to IDAPA 08.02.01.250 are being proposed consistent with Senate Bill 1184. Senate Bill 1184, passed during the 2011 legislative session, and now enacted as Section 33-1002A, Idaho Code, provides that average daily attendance funding be counted and divided based on the "time" spent in multiple school district or public charter school programs, or online courses in which the content provider is not the student's home school district or public charter school. Since the law does not specify how "time" is to be counted, IDAPA rules must be revised to provide specificity. The 2011 Public School Technology Task Force examined this issue in detail, and it was their unanimous recommendation that credits be used as the basis of dividing "time" spent in various programs or online courses. Of the various methodologies considered by the task force, a credit-based methodology was the only one that offered both uniformity of basis and simplicity of implementation.

This rule also includes language allowing the State Department of Education to determine what constitutes an overload class, within the language of the law, and prescribe consistent schedules to govern the timing of fractional average daily attendance (ADA) payments from students' home school districts and public charter schools to other multiple enrollments and non-government online course providers.

There is also new language allowing school districts and/or public charter schools to share ADA in the case of dual enrolled students. This language is temporary, applying only to the 2012-2013 school year. This will allow school districts and public charter schools to be funded according to these mutual agreements while a more permanent, systemic approach is developed to address these situations beginning in the 2013-2014 school year.

TEMPORARY RULE JUSTIFICATION: The temporary adoption of the rule is appropriate because Fractional ADA becomes effective for the 2012-2013 school year.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: No fiscal impact to the state.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule is a stop gap until a more permanent solution can be found and based on the 2011 Public School Technology Task Force recommendations.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this temporary and proposed rule, contact: Jason Hancock, State Department of

Education, P. O. 83720, Boise, Idaho, 83720-0027, jhancock@sde.idaho.gov, 208-332-6853.

Anyone may submit written comments regarding this temporary and proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 22, 2012.

DATED this 21st day of June, 2012.

Tom Luna
Superintendent of Public Instruction
State Department of Education
650 West State Street, 2nd Floor
P.O. Box 83720
Boise, ID 83720-0027
(208) 332-6812; fax (208) 334-2228

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
FOR DOCKET NO. 08-0201-1201**

250. PUPIL ACCOUNTING AND REQUIRED INSTRUCTIONAL TIME.

(Section 33-512 [and 33-1002A](#), Idaho Code)

~~(4-1-97)~~(6-21-12)T

01. Required Instructional Time. Excluding transportation to and from school, lunch periods, passing times, and recess, schools must schedule at least the following instructional times: kindergarten, four hundred fifty (450) hours per year; grades one through three (1-3), eight hundred ten (810) hours per year; grades four through eight (4-8), nine hundred (900) hours per year; and grades nine through twelve (9-12), nine hundred ninety (990) hours per year. (4-1-97)

02. Required Attendance. All pupils will complete four (4) years of satisfactory attendance in grades nine through twelve (9-12) to graduate from an accredited high school, except those who are approved for early graduation. (4-1-97)

03. Day in Session When Counting Pupils in Attendance. (4-1-97)

a. A school day for grades one through twelve (1-12) may be counted as a “day in session” when the school is open and students are under the guidance and direction of teachers in the teaching process for not less than four (4) hours of instruction per day. Lunch periods, breaks, passing time and recess will not be included in the four (4) hours. For kindergarten, each session will be at least two and one-half (2 1/2) hours per day. (4-1-97)

b. Half-day Session. A half-day in session occurs when the students in grades one through twelve (1-12) are under the guidance and direction of teachers in the teaching process for a minimum of two and one-half (2 1/2) hours of instruction or the teachers are involved in staff development activities for not less than two and one-half (2 1/2) hours. (4-1-97)

c. Teacher In-service Activities. For grades one through twelve (1-12), not more than twenty-two (22) hours may be utilized for teacher in-service activities, based on the district approved calendar. In the event a school district chooses to utilize full days instead of half-days, the attendance reported for these full days will be the average of the attendance for the other days of that same week. (4-1-97)

04. Day of Attendance - Kindergarten. A day of attendance for a kindergarten pupil is one in which a

pupil is physically present for a period of two and one-half (2 1/2) hours under the direction and guidance of a teacher while school is in session or under homebound instruction. A homebound student is one who is unable to attend school for at least ten (10) consecutive days due to illness, accident or an unusual disabling condition. Attendance will be reported in half-day increments. Attendance reports for any day in the school year will reflect only those students physically present. Particularly, enrollment figures are not to be used for the beginning nor closing weeks of school. (Section 33-1001(5), Idaho Code.) (4-1-97)

05. Day of Attendance (ADA) - Grades One Through Twelve (1-12). A day of attendance is one in which a pupil is physically present for the full day under the guidance and direction of a teacher or other authorized school district personnel while school is in session or is a homebound student under the instruction of a teacher employed by the district in which the pupil resides, with the exception as stated in "day in session" above. A homebound student is one who is unable to attend school for at least ten (10) consecutive days due to illness, accident or an unusual disabling condition. Attendance will be reported in full or half-days. Attendance reports for any day in the school year will reflect only those students physically present or under homebound instruction. (Section 33-1001(4), Idaho Code) (4-1-97)

06. Average Daily Attendance. In a given school year, the average daily attendance for a given school is the aggregate days attendance divided by the number of days school was actually in session. (Section 33-1001(2), Idaho Code) (4-1-97)

07. Average Daily Attendance Sharing Agreements. For the 2012-2013 school year only, school districts and/or public charter schools may enter into written agreements to share the average daily attendance (ADA) of dual enrolled students, provided that the percentage shares negotiated are proportional to the number of credits in which students are enrolled in each school district and/or public charter school, and the total equals no more than one (1.00) ADA per student. A copy of each written agreement shall be provided to the State Department of Education as a condition of receiving ADA funding for such students. (6-21-12)T

08. Fractional Average Daily Attendance. The basis of Fractional Average Daily Attendance calculations for period-based courses in grades 6-12 shall be credits, as such term is defined in Subsections 105.01.a. and 105.01.b. Two-thirds (2/3) of the amount owed by school districts and public charter schools shall be paid based on the number of eligible students enrolled, and one-third (1/3) based on the number of students successfully completing courses. The timing of such payments shall be based on a schedule of payments prescribed by the State Department of Education. The State Department of Education shall determine what constitutes an overload course in which school districts and public charter schools are not liable for Fractional Average Daily Attendance payments, pursuant to Section 33-1002A, Idaho Code. (Section 33-1002A, Idaho Code) (6-21-12)T

IDAPA 08 - STATE BOARD AND DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-1202

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 33-1511(2), 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 15, 2012.

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:

As part of the Idaho Math Initiative, teachers and administrators must take the Mathematical Thinking for Instruction class (MTI). Section 33-1204, Idaho Code, Idaho Administration Code - IDAPA 08.02.02.016

The proposed rule would offer a waiver to those educators who are not currently employed or live outside of the state of Idaho. The rule also offers a standard three year interim certificate for those educators who move to the state and haven't taken the MTI course to be certified while they take the course.

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:

Negotiated Rulemaking was not conducted because the waiver allows time for an out-of-state applicant to meet the requirement or those not currently employed as an educator, an opportunity to waive the certification requirement until such time as they become employed as an educator in Idaho.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact: Luci Willits at the address listed below or by e-mail at lbwillits@sde.idaho.gov or phone 208-332-6814.

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 August 22, 2012.

DATED this 21st day of June, 2012.

Tom Luna
Idaho Superintendent of Public Instruction
State Department of Education
650 West State Street

P.O. Box 83720
Boise, Idaho 83720-0027
208-332-6800 telephone – 208-334-2228 fax

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 08-0202-1202

016. IDAHO EDUCATOR CREDENTIAL.

The State Board of Education authorizes the State Department of Education to issue certificates and endorsements to those individuals meeting the specific requirements for each area provided herein. (Section 33-1201, Idaho Code) (3-16-04)

01. Renewal Requirement - Mathematics In-Service Program. In order to recertify, the state approved mathematics instruction course titled "Mathematical Thinking for Instruction" shall be required. The "Mathematical Thinking for Instruction" course consists of three (3) credits (or forty-five (45) contact hours of in-service training). Teachers and administrators shall take one (1) of the three (3) courses developed that each teacher deems to be most closely aligned with their current assignment prior to September 1, 2014. Any teacher or administrator successfully completing said course shall be deemed to have met the requirement of Subsection 060.03.c. of this rule, regardless of whether such course is part of any official transcript. Successful completion of state approved mathematics instruction course shall be a one-time requirement for renewal of certification for those currently employed in an Idaho school district and shall be included within current requirements for continuing education for renewal. The following individuals listed in Subsection 016.01.a. through 016.01.e. shall successfully complete the "Mathematical Thinking for Instruction" course in order to recertify: (4-7-11)

- a. Each teacher holding an Early Childhood/Early Childhood Special Education Blended Certificate (Birth - Grade 3) who is employed in an elementary classroom (multi-subject classroom, K-8); (3-29-10)
- b. Each teacher holding a Standard Elementary Certificate (K-8); (3-29-10)
- c. Each teacher holding a Standard Secondary Certificate (6-12) teaching in a math content classroom (grade six (6) through grade twelve (12)) including Title I classrooms; (3-29-10)
- d. Each teacher holding a Standard Exceptional Child Certificate (K-12); and (3-29-10)
- e. Each school administrator holding an Administrator Certificate (Pre K-12), including all school district and charter administrators. ~~(3-29-10)~~ ()

02. Out-of-State Applicants. ()

a. Out-of-state applicants shall take the state approved mathematics instruction course titled "Mathematical Thinking for Instruction" as a certification requirement. The "Mathematical Thinking for Instruction" course consists of three (3) credits (or forty-five (45) contact hours of in-service training). (3-29-10)

b. Those individuals who qualify for an Idaho certificate through state reciprocity shall be granted a three-year, non-renewable, interim certificate to allow time to meet the Idaho Mathematics In-service program requirement. ()

03. Waiver of Mathematics In-Service Program. When applying for certificate renewal, an automatic waiver of the mathematics in-service program requirement shall be granted for any certificated individual who lives outside of the state of Idaho or who is not currently employed as an educator in the state of Idaho. This waiver applies only as long as the individual remains outside the state of Idaho or as long as the individual is not employed as an educator in the state of Idaho. Upon returning to Idaho or employment in an Idaho public school, the educator will need to complete this requirement prior to the next renewal period. ()

IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-1202

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 33-105, Idaho Code, Section 33-107, Idaho Code, and Section 33-1612 and 33-118, 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 15, 2012.

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:

At the October 19-20, 2011 State Board of Education meeting, the Idaho Coalition Against Sexual and Domestic Violence and the State Department of Education presented local and national data about the critical issue of adolescent relationship abuse and its effects on Idaho students. At that time, the State Department of Education indicated that it would come before the Board at a later meeting with a proposed rule change to address the prevention of and response to adolescent relationship abuse and sexual assault in Idaho schools.

Adolescent relationship abuse and sexual assault is a serious problem receiving national and local attention. According to the Centers for Disease Control and Prevention, "one in five women and nearly one in seven men who experienced rape, physical violence, and/or stalking by an intimate partner, first experienced some form of violence between 11 and 17 years of age" (CDC, 2011). Approximately one in three adolescent girls in the United States is a victim of physical, emotional, or verbal abuse from a dating partner (Davis, 2008). In 2011, 8.7% of Idaho high school students were hit, slapped, or physically hurt on purpose by their boyfriend or girlfriend (CDC, 2011). Almost half of all female victims who have been raped experienced their first rape before age 18 (30% between 11 and 17) (CDC, 2011).

Promoting healthy adolescent relationships can reduce adolescent risk behaviors, relationship abuse and sexual assault, early sexual activity, alcohol and drug abuse, and other forms of violence (Wolfe et al., 2006). Adolescent relationship abuse and sexual assault, along with other risk behaviors, rarely occurs in a vacuum. Rather, these behaviors almost always take place within a relationship. It is critical for communities and schools to promote healthy relationships and teach adolescents the skills they need to negotiate relationship issues, including responding to pressure to participate in risk behaviors (Wolfe et al., 2006).

Over 40 percent of young people who report they are victims of relationship abuse say that the incidents occurred in a school building or on school grounds (Molidor & Tolman, 1998). In addition to becoming involved in other risk behaviors, victims of relationship abuse or sexual assault are more likely to be truant, have lower grades, and drop out of school (Futures Without Violence, 2011). Students who don't feel safe can't learn effectively. It is imperative that school personnel, in concert with parents and the community, have the knowledge and skills to teach healthy adolescent relationship skills and to respond to incidents of abuse.

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 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:

This is a proposed addition to an already existing rule that ensures schools have a comprehensive set of policies to deal with all student safety issues.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact: Shannon Page, ICASDV Policy Consultant, 300 E. Mallard Dr. Ste 1300, Boise, Idaho, 83706, Slpage208@msn.com, 208-861-1567; or Portia Flynn at pflynn@sde.idaho.gov, 208-332-6812.

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 August 22, 2012.

DATED this 21st day of June, 2012.

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

THE FOLLOWING IS THE TEXT OF THE PROPOSED RULE FOR DOCKET NO. 08-0203-1202

160. SAFE ENVIRONMENT AND DISCIPLINE.

Each school district will have a comprehensive district wide policy and procedure encompassing the following:

School Climate
Discipline
Student Health
Violence Prevention
Gun-free Schools
Substance Abuse - Tobacco, Alcohol, and Other Drugs
Suicide Prevention
Student Harassment
Drug-free School Zones
Building Safety including Evacuation Drills
<u>Relationship Abuse and Sexual Assault Prevention and Response</u>

Districts will conduct an annual review of these policies and procedures. (See Section 33-1612) ~~(4-1-97)~~()

IDAPA 08 - BOARD OF AND DEPARTMENT OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-1203

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is June 21, 2012.

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 regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 33-105, Idaho Code, Section 33-107, Idaho Code, and Section 33-1612, Idaho Code and 33-118.

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 15, 2012.

The hearing site 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:

This rule addresses two areas of high school graduation requirements that must be addressed in the same section of administrative code.

The first is a requirement for students to take two online courses. At the February 2012 Board meeting the Board approved a temporary rule amending the online learning graduation requirement. The amendments allowed for either an asynchronous or synchronous course to be used to meet the two (2) credit requirement. Due to timing issues related to promulgation of rules during the legislative session only a temporary rule could be promulgated at that time. For the rule change to become permanent the Board approved a new temporary and proposed rule at its June 2012 meeting.

The second is a requirement concerning math graduation requirements. In 2007, the State Board of Education approved a number of revisions to Section 105 that were collectively known as High School Redesign. These revisions, in part, require students to take three years of mathematics. Two of the six credits must be taken in the student's final year of high school.

Recently, during the February 16, 2012 State Board meeting held at Boise State University, the Boise School District brought three appeals forward, requesting that three students be allowed to waive the requirements outlined in Subsection 105.01.d.iv. which require that two credits of the required six credits of mathematics be taken in a student's last year of high school. At that time, the State Board requested that the State Department of Education put together a temporary and proposed rule. This amendment is in response to that request. The revised rule allows students to be exempt from the requirement to take a math course in their last year of high school as outlined in Subsection 105.01.d.iv if they have met the following criteria:

Students who have completed six (6) credits of math prior to the fall of their last year of high school, including at least two (2) semesters of an Advanced Placement or dual credit calculus or higher level course, are exempt from taking math during their last year of high school.

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:

The first is a requirement for students to take two online courses and is required for students who are graduating in the 2016 school year. The graduation requirement is currently in place and the temporary rule ensures students are taking the correct classes to graduate.

The class of 2013 is the first class to be required to take additional math and science courses. This rule affects

students who are entering their senior year and would be subject to this requirement prior to the Idaho Legislature convening.

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because: The online rule was agreed to in the previous legislative session by the Idaho School Boards Association and the Idaho Association of School Administrators. The math rule was not formally negotiated due to time constraints as this rule applies to students entering their senior year in the fall of 2012.

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: No materials have been incorporated by reference into this rule through this rulemaking. N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this temporary and proposed rule, contact: Luci Willits at the address listed below or by e-mail at lwillits@sde.idaho.gov or phone 208-332-6814.

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 August 22, 2012.

DATED this 21st Day of June, 2012.

Tom Luna
Superintendent of Public Instruction
State Department of Education
650 West State Street, 2nd Floor
P.O. Box 83720
Boise, ID 83720-0027
(208) 332-6812; fax (208) 334-2228

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
FOR DOCKET NO. 08-0203-1203**

007. DEFINITIONS A - G.

01. Achievement Standards. Define “below basic,” “basic,” “proficient,” and “advanced” achievement levels on the Idaho Standards Achievement Tests (ISAT) and “beginning,” “advanced beginning,” “intermediate,” “early fluent” and “fluent” on the Idaho English Language Assessment (IELA) by setting scale score cut points. These cut scores are paired with descriptions of how well students are mastering the material in the content standards. These descriptions are called performance level descriptors or PLDs, and are provided by performance level, by content area, and by grade. (4-2-08)

02. Advanced Opportunities. Are defined as Advanced Placement courses, Dual Credit courses, Tech Prep, or International Baccalaureate programs. (4-11-06)

03. Advanced Placement® (AP) - College Board. The Advanced Placement Program is administered by the College Board at <http://www.collegeboard.com>. AP students may take one (1) or more college level courses in

a variety of subjects. AP courses are not tied to a specific college curriculum, but rather follow national College Board curricula. While taking the AP exam is optional, students can earn college credit by scoring well on the national exams. It is up to the discretion of the receiving college to accept the scores from the AP exams to award college credit or advanced standing. (4-11-06)

04. All Students. All students means all public school students, grades K-12. (4-11-06)

05. Alternative Assessment (Other Ways of Testing). Any type of assessment in which students create a response to a question rather than choose a response from a given list, as with multiple-choice or true/false. Alternative assessments can include short-answer questions, essays, oral presentations, exhibitions, and portfolios. (4-5-00)

06. Assessment. The process of quantifying, describing, or gathering information about skills, knowledge or performance. (4-5-00)

07. Assessment Standards. Statements setting forth guidelines for evaluating student work, as in the “Standards for the Assessment of Reading and Writing.” (4-5-00)

08. Asynchronous Course. An online course in which an online platform is used to deliver all curricula. The majority of communication exchanges occur in elapsed time and allow students and teachers to participate according to their schedule. Asynchronous courses do not prohibit the use of a paraprofessional, certificated staff or other staff member being present at the physical location during instructional periods where instruction takes place, such as a school computer lab. ~~(3-29-12)~~(6-21-12)T

09. Authentic. Something that is meaningful because it reflects or engages the real world. An “authentic task” asks students to do something they might really have to do in the course of their lives, or to apply certain knowledge or skills to situations they might really encounter. (4-5-00)

10. Basic Educational Skills Training. Instruction in basic skills toward the completion/attainment of a certificate of mastery, high school diploma, or GED. (4-5-00)

11. Blended Course. A blended course, sometimes called hybrid course, consists of a course having between fifty-one percent (51%) and seventy-nine percent (79%) of the course content delivered through the use of technology, and may include the following models: (3-29-12)

a. Flex Model. Features an online platform that delivers most of the curricula. Teachers provide on-site support on a flexible and adaptive, as-needed basis through in-person tutoring sessions and small group sessions. (3-29-12)

b. Online Lab Model. Programs rely on an online platform to deliver the entire course but in a brick-and-mortar lab environment. Paraprofessionals or other staff supervise but offer little content expertise. (3-29-12)

c. Rotation Model. Students rotate on a fixed schedule between learning online in a self-paced environment and sitting in a classroom with a traditional face-to-face teacher. (3-29-12)

12. Classic Texts. Literary or other works (e.g., films, speeches) that have been canonized, either continuously or intermittently, over a period of time beyond that of their initial publication and reception. (4-5-00)

13. Content Standards. Describe the knowledge, concepts, and skills that students are expected to acquire at each grade level in each content area. (4-2-08)

14. Context (of a Performance Assessment). The surrounding circumstances within which the performance is embedded. For example, problem solving can be assessed in the context of a specific subject (such as mathematics) or in the context of a real-life laboratory problem requiring the use of mathematics, scientific, and communication skills. (4-5-00)

15. Cooperative Work Experience. Classroom learning is integrated with a productive, structured

work experience directly related to the goals and objectives of the educational program. Schools and participating businesses cooperatively develop training and evaluation plans to guide and measure the progress of the student. School credit is earned for successful completion, and the work may be paid or unpaid. Cooperative work experiences are also known as co-operative education or co-op. (4-5-00)

16. Criteria. Guidelines, rules or principles by which student responses, products, or performances, are judged. What is valued and expected in the student performance, when written down and used in assessment, become rubrics or scoring guides. (4-5-00)

17. Cues. Various sources of information used by readers to construct meaning. The language cueing systems include the graphophonic (also referred to as graphophonemic) system, which is the relationship between oral and written language (phonics); the syntactic system, which is the relationship among linguistic units such as prefixes, suffixes, words, phrases, and clauses (grammar); and semantic system, which is the study of meaning in language. Reading strategies and language cueing systems are also influenced by pragmatics-the knowledge readers have about the ways in which language is understood by others in their culture. (4-5-00)

18. "C" Average. A combined average of courses taken on a four (4) point scale with "C" equal to two (2) points. (4-11-06)

19. Decode. (4-5-00)

a. To analyze spoken or graphic symbols of a familiar language to ascertain their intended meaning. (4-5-00)

b. To change communication signals into messages, as to decode body language. (4-5-00)

20. Dual Credit. Dual credit allows high school students to simultaneously earn credit toward a high school diploma and a postsecondary degree or certificate. Postsecondary institutions work closely with high schools to deliver college courses that are identical to those offered on the college campus. Credits earned in a dual credit class become part of the student's permanent college record. Students may enroll in dual credit programs taught at the high school or on the college campus. (4-11-06)

21. Emergent Literacy. Development of the association of print with meaning that begins early in a child's life and continues until the child reaches the stage of conventional reading and writing. (4-5-00)

22. Employability Skills. Work habits and social skills desirable to employers, such as responsibility, communication, cooperation, timeliness, organization, and flexibility. (4-5-00)

23. Entry-Level Skills. The minimum education and skill qualifications necessary for obtaining and keeping a specific job; the starting point in a particular occupation or with a certain employer. (4-5-00)

24. Evaluation (Student). Judgment regarding the quality, value, or worth of a response, product, or performance based on established criteria, derived from multiple sources of information. Student evaluation and student assessment are often used interchangeably. (4-5-00)

25. Experiential Education (Application). Experiential education is a process through which a learner constructs knowledge, skill, and value from direct experiences. (4-5-00)

26. Exploratory Experience (Similar to a Job Shadow). An opportunity for a student to observe and participate in a variety of worksite activities to assist in defining career goals. An in-school exploratory experience is a school-based activity that simulates the workplace. (4-5-00)

27. Fluency. The clear, rapid, and easy expression of ideas in writing or speaking; movements that flow smoothly, easily, and readily. (4-5-00)

28. Genre (Types of Literature). A category used to classify literary and other works, usually by form, technique, or content. Categories of fiction such as mystery, science fiction, romance, or adventure are

considered genres. (4-5-00)

29. Graphophonic/Graphophonemic. One (1) of three (3) cueing systems readers use to construct texts; the relationships between oral and written language (phonics). (4-5-00)

008. DEFINITIONS H - S.

01. Interdisciplinary or Integrated Assessment. Assessment based on tasks that measures a student's ability to apply concepts, principles, and processes from two (2) or more subject disciplines to a project, issue, or problem. (4-5-00)

02. International Baccalaureate (IB) - Administered by the International Baccalaureate Organization, the IB program provides a comprehensive liberal arts course of study for students in their junior and senior years of high school. IB students take end-of-course exams that may qualify for college credit. Successful completion of the full course of study leads to an IB diploma. (4-11-06)

03. Laboratory. A laboratory science course is defined as one in which at least one (1) class period each week is devoted to providing students with the opportunity to manipulate equipment, materials, specimens or develop skills in observation and analysis and discover, demonstrate, illustrate or test scientific principles or concepts. (4-11-06)

04. Learning Plan. The plan that outlines a student's program of study, which should include a rigorous academic core and a related sequence of electives in academic, professional-technical education (PTE), or humanities aligned with the student's post graduation goals. (4-11-06)

05. Narrative. Text in any form (print, oral, or visual) that recounts events or tells a story. (4-5-00)

06. Norm-Referenced Assessment. Comparing a student's performance or test result to performance of other similar groups of students; (e.g., he typed better than eighty percent (80%) of his classmates.) (4-5-00)

07. On-Demand Assessment. Assessment that takes place at a predetermined time and place. Quizzes, state tests, SATs, and most final exams are examples of on-demand assessment. (4-5-00)

08. Online Course. A course in which at least eighty percent (80%) of the course content is delivered over the Internet or through the use of technology. An online course may be asynchronous or synchronous. Online teachers may perform the course work from an alternate location while a paraprofessional or other school staff member supervises students in a computer lab environment. (3-29-12)

09. Online Learning. Education in which the majority of course content is delivered online or through the use of technology. Courses may be delivered in an asynchronous or synchronous course format and may include blended or hybrid course models or fully online course models. (3-29-12)

a. Online learning does not include printed-based correspondence education, broadcast television or radio, videocassettes, and stand-alone education software programs that do not have a significant internet-based instructional component. (3-29-12)

b. Online learning is not simply computer based instruction, but rather requires that the online teacher and the student have ongoing access to one another for purposes of teaching, evaluating, and providing assistance to the student throughout the duration of the course. (3-29-12)

c. *All online learning must meet the Idaho content standards.* (3-29-12)

10. Online Teacher (Instructor). The teacher of record who holds an appropriate Idaho certification and provides the primary instruction for an online course. (3-29-12)

11. Performance Assessment. Direct observation of student performance or student work and professional judgment of the quality of that performance. Good quality performance assessment has pre-established

performance criteria. (4-5-00)

12. Performance-Based Assessment. The measurement of educational achievement by tasks that are similar or identical to those that are required in the instructional environment, as in performance assessment tasks, exhibitions, or projects, or in work that is assembled over time into portfolio collections. (4-5-00)

13. Performance Criteria. A description of the characteristics that will be judged for a task. Performance criteria may be holistic, analytic trait, general or specific. Performance criteria are expressed as a rubric or scoring guide. Anchor points or benchmark performances may be used to identify each level of competency in the rubric or scoring guide. (4-5-00)

14. Phonics. Generally used to refer to the system of sound-letter relationships used in reading and writing. Phonics begins with the understanding that each letter (or grapheme) of the English alphabet stands for one (1) or more sounds (or phonemes). (4-5-00)

15. Portfolio. A collection of materials that documents and demonstrates a student's academic and work-based learning. Although there is no standard format for a portfolio, it typically includes many forms of information that exhibit the student's knowledge, skills, and interests. By building a portfolio, students can recognize their own growth and learn to take increased responsibility for their education. Teachers, mentors, and employers can use portfolios for assessment purposes and to record educational outcomes. (4-5-00)

16. Print Awareness. In emergent literacy, a learner's growing awareness of print as a system of meaning, distinct from speech and visual modes of representation. (4-5-00)

17. Professional-Technical Education. Formal preparation for semi-skilled, skilled, technical, or paraprofessional occupations, usually below the baccalaureate level. (4-11-06)

18. Proficiency. Having or demonstrating a high degree of knowledge or skill in a particular area. (4-5-00)

19. School-to-Work Transition. A restructuring effort that provides multiple learning options and seamless integrated pathways to increase all students' opportunities to pursue their career and educational interests. (4-5-00)

20. Service Learning. Combining service with learning activities to allow students to participate in experiences in the community that meet actual human needs. Service learning activities are integrated into the academic curriculum and provide structured time for a student to think, talk, or write about what was done or seen during the actual service activity. Service learning provides students with opportunities to use newly acquired skills and knowledge in real-life situations in their communities, and helps foster the development of a sense of caring for others. (4-5-00)

21. Skill Certificate. Portable, industry-recognized credential that certifies the holder has demonstrated competency on a core set of performance standards related to an occupational cluster area. Serving as a signal of skill mastery at benchmark levels, skill certificates may assist students in finding work within their community, state, or elsewhere. A National Skills Standards Board is presently charged with issuing skill voluntary standards in selected occupations based on the result of research and development work completed by twenty-two (2) contractors. (4-5-00)

22. Standards. Statements about what is valued in a given field, such as English language arts, and/or descriptions of what is considered quality work. See content standards, assessment standards, and achievement standards. (4-2-08)

23. Standardization. A set of consistent procedures for constructing, administering and scoring an assessment. The goal of standardization is to ensure that all students are assessed under uniform conditions so the interpretation of performance is comparable and not influenced by differing conditions. Standardization is an important consideration if comparisons are to be made between scores of different individuals or groups. (4-5-00)

24. Standards-Based Education. Schooling based on defined knowledge and skills that students must attain in different subjects, coupled with an assessment system that measures their progress. (4-5-00)

25. Structured Work Experience. A competency-based educational experience that occurs at the worksite but is tied to the classroom by curriculum through the integration of school-based instruction with worksite experiences. Structured work experience involves written training agreements between school and the worksite, and individual learning plans that link the student's worksite learning with classroom course work. Student progress is supervised and evaluated collaboratively by school and worksite personnel. Structured work experience may be paid or unpaid; may occur in a public, private, or non-profit organization; and may or may not result in academic credit and/or outcome verification. It involves no obligation on the part of the worksite employer to offer regular employment to the student subsequent to the experience. (4-5-00)

26. Student Learning Goals (Outcomes). Statements describing the general areas in which students will learn and achieve. Student learning goals typically reflect what students are expected to know by the time they leave high school, such as to read and communicate effectively; think critically and solve problems; develop positive self-concept, respect for others and healthy patterns of behavior; work effectively in groups as well as individually; show appreciation for the arts and creativity; demonstrate civic, global and environmental responsibility; recognize and celebrate multicultural diversity; exhibit technological literacy; have a well developed knowledge base which enhances understanding and decision making, and demonstrate positive problem solving and thinking skills. (4-5-00)

27. Synchronous Course. A course in which the teacher and students interact at the same time. May be applied to both traditional and technology based courses. (3-29-12)

(BREAK IN CONTINUITY OF SECTIONS)

105. HIGH SCHOOL GRADUATION REQUIREMENTS.

A student must meet all of the requirements identified in this section before the student will be eligible to graduate from an Idaho high school. The local school district or LEA may establish graduation requirements beyond the state minimum. (5-8-09)

01. Credit Requirements. The State minimum graduation requirement for all Idaho public high schools is forty-two (42) credits. The forty-two (42) credits must include twenty-five (25) credits in core subjects as identified in Paragraphs 105.01.c. through 105.01.h. All credit-bearing classes must be aligned with state high school standards in the content areas for which standards exist. For all public school students who enter high school at the 9th grade level in Fall 2009 or later, the minimum graduation requirement will be forty-six (46) credits and must include twenty-nine (29) credits in core subjects as identified in Paragraphs 105.01.c. through 105.01.h. (3-29-12)

a. Credits. (Effective for all students who enter the ninth grade in the fall of 2010 or later.) One (1) credit shall equal sixty (60) hours of total instruction. School districts or LEA's may request a waiver from this provision by submitting a letter to the State Department of Education for approval, signed by the superintendent and chair of the board of trustees of the district or LEA. The waiver request shall provide information and documentation that substantiates the school district or LEA's reason for not requiring sixty (60) hours of total instruction per credit. (3-29-10)

b. Mastery. A student may also achieve credits by demonstrating mastery of a subject's content standards as defined and approved by the local school district or LEA. (3-29-10)

c. Secondary Language Arts and Communication. Nine (9) credits are required. Eight (8) credits of instruction in Language Arts. Each year of Language Arts shall consist of language study, composition, and literature and be aligned to the Idaho Content Standards for the appropriate grade level. One (1) credit of instruction in communications consisting of oral communication and technological applications that includes a course in speech, a course in debate, or a sequence of instructional activities that meet the Idaho Speech Content Standards requirements. (3-29-10)

d. Mathematics. Four (4) credits are required. Secondary mathematics includes Applied Mathematics, Business Mathematics, Algebra, Geometry, Trigonometry, Fundamentals of Calculus, Probability and Statistics, Discrete Mathematics, and courses in mathematical problem solving and reasoning. For all public school students who enter high school at the 9th grade level in Fall 2009 or later, six (6) semester credits are required. For such students, secondary mathematics includes instruction in the following areas: (3-29-10)

i. Two (2) credits of Algebra I or courses that meet the Idaho Algebra I Content Standards as approved by the State Department of Education; (3-29-10)

ii. Two (2) credits of Geometry or courses that meet the Idaho Geometry Content Standards as approved by the State Department of Education; and (3-29-10)

iii. Two (2) credits of mathematics of the student's choice. (3-29-10)

iv. Two (2) credits of the required six (6) credits of mathematics must be taken in the last year of high school. (3-29-10)

v. Students who have completed six (6) credits of math prior to the fall of their last year of high school, including at least two (2) semesters of an Advanced Placement or dual credit calculus or higher level course, are exempt from taking math during their last year of high school. (6-21-12)T

e. Science. Four (4) credits are required, two (2) of which will be laboratory based. Secondary sciences include instruction in applied sciences, earth and space sciences, physical sciences, and life sciences. (3-29-10)

i. Effective for all public school students who enter high school at the 9th grade level in Fall 2009 or later, six (6) credits will be required. (3-29-10)

ii. Secondary sciences include instruction in the following areas: biology, physical science or chemistry, and earth, space, environment, or approved applied science. Four (4) credits of these courses must be laboratory based. (3-29-10)

f. Social Studies. Five (5) credits are required, including government (two (2) credits), United States history (two (2) credits), and economics (one (1) credit). Courses such as geography, sociology, psychology, and world history may be offered as electives, but are not to be counted as a social studies requirement. (3-29-10)

g. Humanities. Two (2) credits are required. Humanities courses include instruction in visual arts, music, theatre, dance, or world language aligned to the Idaho content standards for those subjects. Other courses such as literature, history, philosophy, architecture, or comparative world religions may satisfy the humanities standards if the course is aligned to the Idaho Interdisciplinary Humanities Content Standards. (3-29-10)

h. Health/Wellness. One (1) credit is required. Course must be aligned to the Idaho Health Content Standards. (3-29-10)

i. Online Learning Requirement. (Effective for all students who enter the ninth grade in the fall of 2012 or later.) Students must take two (2) online learning credits, are required: one credit shall be from an asynchronous online course and the second credit may be any combination of online course or blended courses credit, either asynchronous or synchronous as determined by the local school district or LEA. The local school district or LEA may determine which courses are to be used to fulfill this requirement. (3-29-12)(6-21-12)T

i. A student who has taken a one (1) credit *asynchronous* online course and failed to earn the credit may appeal to the school district or LEA and will be given an opportunity to demonstrate proficiency of the technology content standards through some other locally-established plan. School districts or LEAs shall adopt an alternate plan and provide notice of that plan to all students who have not earned the credits to meet the online learning requirement prior to the fall semester of the student's junior year. All locally-established alternate plans used to demonstrate proficiency shall be forwarded to the State Board of Education for review and information. Alternate

plans must be promptly re-submitted to the Board whenever changes are made in such plans. ~~(3-29-12)~~(6-21-12)T

(1) ~~Before entering an alternate measure, the student must be~~ Students who: ~~(3-29-12)~~(6-21-12)T

(a) ~~Are~~ Enrolled in a special education program and have an Individual Education Plan (IEP); or ~~(3-29-12)~~(6-21-12)T

(b) ~~Has~~ Have been identified as eligible to receive services under Section 504 of the Federal Rehabilitation Act of 1973; or ~~(3-29-12)~~(6-21-12)T

(c) Are Enrolled in an Limited English Proficient (LEP) program for three (3) academic years or less, may enter the school district or LEA alternative plan without taking the (1) credit online course. ~~(3-29-12)~~(6-21-12)T

(2) The alternate plan must: (3-29-12)

(a) Contain multiple measures of student achievement; (3-29-12)

(b) Be aligned at a minimum to Idaho technology content standards; and (3-29-12)

(c) Be valid and reliable. (3-29-12)

02. Content Standards. Each student shall meet locally established subject area standards (using state content standards as minimum requirements) demonstrated through various measures of accountability including examinations or other measures. (3-29-10)

03. College Entrance Examination. (Effective for all public school students who enter high school at the 9th grade level in Fall 2009 or later.) (3-29-12)

a. A student must take one (1) of the following college entrance examinations before the end of the student's eleventh grade year: COMPASS, ACCUPLACER, ACT or SAT. Scores must be included in the Learning Plan. (3-29-12)

b. A student may elect an exemption in their 11th grade year from the college entrance exam requirement if the student is: (3-29-12)

i. Enrolled in a special education program and has an Individual Education Plan (IEP) that specifies accommodations not allowed for a reportable score on the approved tests; or (3-29-12)

ii. Enrolled in a Limited English Proficient (LEP) program for three (3) academic years or less. (3-29-12)

04. Senior Project. (Effective for all public school students who enter high school at the 9th grade level in Fall 2009 or later.) A student must complete a senior project by the end of grade twelve (12). The project must include a written report and an oral presentation. Additional requirements for a senior project are at the discretion of the local school district or LEA. (3-29-10)

05. Middle School. If a student completes any required high school course with a grade of C or higher before entering grade nine (9), and if that course meets the same standards that are required in high school, then the student has met the high school content area requirement for such course. However, the student must complete the required number of credits in all high school core subjects as identified in Subsections 105.01.c. through 105.01.h. in addition to the courses completed in middle school. (3-29-12)

06. Proficiency. Each student must achieve a proficient or advanced score on the Grade 10 Idaho Standards Achievement Test (ISAT) in math, reading and language usage in order to graduate. A student who does not attain at least a proficient score prior to graduation may appeal to the school district or LEA, and will be given an opportunity to demonstrate proficiency of the content standards through some other locally established plan. School districts or LEAs shall adopt an alternate plan and provide notice of that plan to all students who have not achieved a

proficient or advanced score on the Grade 10 Idaho Standards Achievement Test by the fall semester of the student's junior year. All locally established alternate plans used to demonstrate proficiency shall be forwarded to the State Board of Education for review and information. Alternate plans must be promptly re-submitted to the Board whenever changes are made in such plans. (4-7-11)

- a. Before entering an alternate measure, the student must be: (4-2-08)
 - i. Enrolled in a special education program and have an Individual Education Plan (IEP); or (3-20-04)
 - ii. Enrolled in an Limited English Proficient (LEP) program for three (3) academic years or less; or (3-20-04)
 - iii. Enrolled in the fall semester of the senior year. (3-20-04)
- b. The alternate plan must: (4-7-11)
 - i. Contain multiple measures of student achievement; (4-7-11)
 - ii. Be aligned at a minimum to tenth grade state content standards; (4-7-11)
 - iii. Be aligned to the state content standards for the subject matter in question; (4-7-11)
 - iv. Be valid and reliable; and (4-7-11)
 - v. Ninety percent (90%) of the alternate plan criteria must be based on academic proficiency and performance. (4-7-11)
- c. A student is not required to achieve a proficient or advanced score on the ISAT if: (5-8-09)
 - i. The student received a proficient or advanced score on an exit exam from another state that requires a standards-based exam for graduation. The state's exit exam must approved by the State Board of Education and must measure skills at the tenth grade level and be in comparable subject areas to the ISAT; (5-8-09)
 - ii. The student completes another measure established by a school district or LEA and received by the Board as outlined in Subsection 105.06; or (3-29-10)
 - iii. The student has an IEP that outlines alternate requirements for graduation or adaptations are recommended on the test; (5-8-09)
 - iv. The student is considered an LEP student through a score determined on a language proficiency test and has been in an LEP program for three (3) academic years or less; (5-8-09)

07. Special Education Students. A student who is eligible for special education services under the Individuals With Disabilities Education Improvement Act must, with the assistance of the student's Individualized Education Program (IEP) team, refer to the current Idaho Special Education Manual for guidance in addressing graduation requirements. (4-11-06)

08. Foreign Exchange Students. A foreign exchange student may be eligible for graduation by completing a comparable program as approved by the school district or LEA. (4-11-06)

PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

Department or Agency: State Department of Education

Agency Contact: Jason Hancock Phone: 208-332-6853

Date: July 26, 2012

IDAPA, Chapter and Title Number and Chapter Name:

IDAPA 08.02.03.128 – Rules Governing Thoroughness

Fee Rule Status: Proposed Temporary

Rulemaking Docket Number: 08-0203-1204

STATEMENT OF ECONOMIC IMPACT:

At present, IDAPA 08.02.03 Section 128 makes no provision for the charging of fees for both textbook review and approval and online course provider review and approval. However, the SDE currently charges, and has done so for a number of years, \$60 per textbook review to defray the costs of the review. While textbook adoption of hard copies has declined, the online course submission and digital content review will become the predominant facet of this curricular and provider review process. The changes to this rule ensure a process for the timely and effective review of all state-approved online courses. The fee will be based on the number of courses the provider submits, and will help defray the cost of completing reviews of the entire provider application and selected courses.

Lastly, in the rule, a specific number of participants have been specified. The participation guidelines have been rewritten to both streamline and expedite the process while still keeping a strong external review process in place. Finally, provision has been made for Idaho certified teachers to complete the review of online courses.

IDAPA 08 - STATE BOARD OF AND DEPARTMENT OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-1204

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is June 21, 2012.

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 regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 33-105, Idaho Code, Section 33-107, Idaho Code, and Section 33-1612, Idaho Code and 33-118.

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 15, 2012.

The hearing site 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:

Changes to IDAPA code 08.02.03.128 are being proposed consistent with House Bill 604. House Bill 604, passed during the 2012 legislative session, and now incorporated 33-118, Idaho Code, gave authority to the Idaho State Board of Education to determine the process by which the State Department of Education reviews and approves online courses and providers and charges fees for this work as well as approval and adoption of textbooks. Therefore, IDAPA rules must be revised to reflect this new law.

At present, IDAPA 08.02.03 Section 128 makes no provision for the charging of fees for both textbook review and approval and online course provider review and approval. However, the SDE currently charges, and has done so for a number of years, \$60 per textbook review to defray the costs of the review. While textbook adoption of hard copies has declined, the online course submission and digital content have continued to increase and will become the predominant facet of this curricular and provider review process. The changes to this rule ensure a process for the timely and effective review of all state-approved online courses. The fee will be based on the number of courses the provider offers, and will help defray the cost of completing reviews of the entire provider application and selected courses, including all resources, syllabi, assignments, level of teacher-to-student and student-to-student interactions, assessments, and standards alignment.

Lastly, in the rule, a specific number of participants have been specified. The participation guidelines have been rewritten to both streamline and expedite the process while still keeping a strong external review process in place. Finally, provision has been made for Idaho certified teachers to complete the review of online course providers.

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:

Changes to IDAPA code 08.02.03.128 are being proposed consistent with House Bill 604. House Bill 604, passed during the 2012 legislative session, and now enacted as Section 33-118, Idaho Code, gave authority to the Idaho State Board of Education to determine the process by which the State Department of Education reviews and approves online courses and providers and charges fees for this work as well as approval and adoption of textbooks. Therefore, IDAPA rules must be revised to reflect this new law.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

The SDE will continue to charge \$60 per textbook or equal to the price of the textbook and will charge per online course submissions and for digital content review.

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:

Textbook and curricular review fees typically yield at least \$60,000 in annual dedicated revenue to help defray SDE's cost of review. The reviews associated with reviewing online courses are unknown, since it has never been done before. Any dedicated revenues will be used to defray SDE's cost of review.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because: The rule is temporary.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this temporary and proposed rule, contact: Jason Hancock at the address listed below or by e-mail at jhancock@sde.idaho.gov or phone 208-332-6853.

Anyone may submit written comments regarding this temporary and proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 22, 2012.

DATED this 21st Day of June, 2012.

Tom Luna
Superintendent of Public Instruction
State Department of Education
650 West State Street, 2nd Floor
P.O. Box 83720
Boise, ID 83720-0027
(208) 332-6812; fax (208) 334-2228

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
FOR DOCKET NO. 08-0203-1204**

128. CURRICULAR MATERIALS SELECTION AND ONLINE COURSE APPROVAL (SECTIONS 33-118; 33-118A, IDAHO CODE).

The State Board of Education will appoint a committee to select curriculum materials. Committee appointments will be for a period of five (5) years. ~~The membership of the committee will include one (1) representative from each of the state's institutions of higher education (Boise State University, Idaho State University, Lewis Clark State College, and University of Idaho); two (2) Idaho public school administrators; two (2) Idaho public school elementary classroom teachers; two (2) Idaho public school secondary classroom teachers; one (1) person who is not a public school educator nor a public school trustee, one (1) person (parent, teacher, or administrator) representing Idaho's private/parochial schools, who will not be a public school educator or trustee; one (1) public school trustee; three (3) parents and one (1) curriculum consultant from the Division of Instruction of the State Department of Education and one (1) from the Division of Vocational Education whose appointment will be for one (1) year.~~ Committee appointments shall consist of not less than 10 total members from the following stakeholder groups: certified Idaho classroom teachers, Idaho public school administrators, Idaho higher education officials, parents, trustees, local board of education members, members of the Division of Vocational Education, and State Department of Education personnel from the content group in the 21st Century Classroom Division. The Executive Secretary will be an employee of the State Department of Education and will be a voting member of the committee. The State Department of Education shall charge publishers submission fees of sixty dollars (\$60) or equal to the retail price of each textbook, whichever is

greater, to defray the costs incurred in the curricular material review and adoption process. ~~(3-20-04)~~(6-21-12)T

01. Subject Areas. Curricular materials are adopted by the State Board of Education for a period of six (6) years in the following subject areas: reading, English, spelling, speech, journalism, languages other than English, art, drama, social studies, music, mathematics, business education, career education and counseling, vocational/technical education, science, health, handwriting, literature, driver education, limited English proficiency. (4-11-06)

02. Multiple Adoptions are Made in Each Subject Area. (4-5-00)

03. Bids. Each publisher must deliver, according to the committee schedule, a sealed bid on all curricular materials presented for adoption. (4-5-00)

04. Depository. The State Board will appoint a depository for the state-adopted curricular materials. Resource materials are a local option. (4-5-00)

05. Local Policies. School districts will follow their own policies for adoption in subject areas offered by a school district for which materials are not covered by the state curriculum materials committee. (4-5-00)

06. Online Course Review and Approval Process. The State Department of Education shall administer the review and approval of online course providers and courses. Reviewers shall be certified Idaho classroom teachers. Online course providers are approved for a period of four (4) years. The State Department of Education shall charge online course providers submission fees based on the number of courses offered, not to exceed the actual costs incurred in the online course and course provider review and approval process. (6-21-12)T