

Dear Senators GOEDDE, Mortimer, Durst, and
Representatives DeMORDAUNT, Nielsen, 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 (Re collective
bargaining & negotiations) (Docket No. 08-0201-1301).

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 03/08/2013. 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 04/05/2013.

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.



Jeff Youtz
Director

Legislative Services Office Idaho State Legislature

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: February 19, 2013
SUBJECT: State Board of and State Department of Education - State Department of Education

IDAPA 08.02.01 - Rules Pertaining To The Rules Governing Administration (Re collective bargaining & negotiations) (Docket No. 08-0201-1301)

The State Department of Education submits notice of temporary and proposed rulemaking at IDAPA 08.02.01 - Rules Governing Administration (Re: collective bargaining & negotiations). This docket reflects the Department of Education repealing rules that governed aspects of collective bargaining and negotiations based upon the Students Come First statutes. However, the laws that these formed the basis of those rules were repealed in the November 2012 elections. Consequently, the Department has repealed those administrative rules. The Department states that the rules in this docket are in conflict with the laws that currently exist and therefore must be repealed. The Department states that the action found in this docket complies with current law.

The effective date of the temporary rule was December 13, 2012.

The action appears to be authorized pursuant to Sections 33-105, 33-107 and 67-5226, Idaho Code.

cc: State Board of and State Department of Education - State Department of Education
Tom Luna & Luci Willits

IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

08.02.01 - RULES GOVERNING ADMINISTRATION

DOCKET NO. 08-0201-1301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is December 13, 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 January 16, 2013.

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:

In 2011, the State Board of Education approved, and the Idaho Legislature subsequently approved, a rulemaking promulgated under Docket 08-0201-1101 that clarified aspects of collective bargaining and negotiations found in the Students Come First laws. On November 6, 2012, Idaho voters repealed the Students Come First laws. This rule change removes the language codified under Docket 08-0201-1101.

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:

On November 6, 2012, Idaho voters repealed the Students Come First laws. Because the authorizing statutes are no longer in existence, these administrative rules are now in conflict and must be repealed immediately. These changes comply with the amendments made to governing law.

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because: Because of the need for temporary rulemaking.

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: Luci Willits at lbwillits@sde.idaho.gov or 208-332-6814.

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 January 23, 2013.

DATED this 21st Day of December 13, 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
OF DOCKET NO. 08-0201-1301

~~151.~~ **NEGOTIATIONS.**

~~01. **Open Meeting.** For the purposes of Section 33-1273A, Idaho Code, all open meeting negotiations shall adhere to Sections 67-2340 through 67-2344 and 67-2346 through 67-2347, Idaho Code, including posting notices and agendas. In addition, notices and agendas shall be posted on the main page of the school district's website. (3-29-12)~~

~~02. **Collective Bargaining Limited to Compensation and Benefits.** Items that may be included in master contracts or negotiated agreements shall be limited to the specific items defined under the terms "Compensation" and "Benefits" under Section 33-1272, Idaho Code. For the purposes of the definition of "Compensation" as stated in Section 33-1272, Idaho Code, the term "salary" means: (3-29-12)~~

~~a. Any monies provided through public funding that are paid to an employee pursuant to an employment contract, the form of which is approved by the Superintendent of Public Instruction pursuant to Section 33-513, Idaho Code; and (3-29-12)~~

~~b. The process by which the school district board of trustees will determine local student achievement share awards pursuant to Section 33-1004I, Idaho Code. (3-29-12)~~

~~c. The inclusion of any other items in a master contract or negotiated agreement is hereby prohibited. Any items included in violation of this provision are hereby declared null, void and of no force or effect. (3-29-12)~~

~~152~~**1.** -- 199. (RESERVED)