

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 08.02.02 - Rules Pertaining To The Rules Governing Uniformity (Feedback & Evaluation)
(Docket No. 08-0202-1301)

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 07/23/2013. 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 08/20/2013.

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: Deputy Division Manager - Eric Milstead
DATE: July 03, 2013
SUBJECT: State Board of and State Department of Education

IDAPA 08.02.02 - Rules Pertaining To The Rules Governing Uniformity (Feedback & Evaluation) (Docket No. 08-0202-1301)

The State Board of Education submits notice of temporary and proposed rulemaking at IDAPA 08.02.02 -- Rules governing Uniformity. The temporary and proposed rule reflects removal of requirements relating to the evaluation of certain certificated employees. Specifically, the language that has been removed governed the use of parent input and student achievement in the employee evaluations. The statutory authority for the language that has been removed was found in the Students Come First legislation rejected in the 2012 elections. Consequently, the temporary and proposed rule has eliminated those provisions authorized by that legislation.

The agency states that negotiated rulemaking was not conducted because of the need for temporary rulemaking.

The effective date of the temporary rule was April 18, 2013.

The agency's temporary and proposed rule appears to be authorized pursuant to section 67-5226 and 33-105, Idaho Code.

cc: State Board of and State Department of Education - State Department of Education
Superintendent Tom Luna

IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-1301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is April 18, 2013.

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 Sections 33-105, 33-107, 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 June 19, 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:

On February 21, 2012 the State Department of Education (SDE) submitted an Elementary and Secondary Education Act (ESEA) waiver to gain relief from the mandates of No Child Left Behind (NCLB). There were two application periods for waivers: November 2011 and February 2012. Idaho chose to apply in the second round so that the SDE was able to offer additional time for feedback and evaluation. Principle 3 of the ESEA waiver clearly outlined required elements of teacher and principal evaluation models. As a result, Idaho needed to make adjustments to our teacher evaluation model and adopt a principal evaluation model for the state. The excerpt below is from the cover page that accompanied the waiver which was presented and approved at the State Board Meeting on February 16, 2012 and again on October 18, 2012:

Supporting Effective Instruction and Leadership:

Idaho developed a statewide framework for teacher evaluation. Schools also receive financial rewards for effective instruction as measured by student achievement. The State Department is currently creating a statewide framework for principal evaluation which should be completed by May 2012. The state will use their frameworks to then make necessary changes with teacher and administrator preparation programs.

As a result of the work of both the Administrator Evaluation Focus Group and the Evaluation Capacity Task Force, both of which are referenced throughout the ESEA Waiver, that State Department of Education brought forth recommended rule changes for increased rigor and utility of teacher evaluations as well as a new section specific to administrator evaluation at the August 16, 2012 State Board meeting.

The State Board of Education approved these revisions during that meeting. On November 6, 2012, Idaho voters repealed the Students Come First laws that formed the foundation of Idaho's teacher and principal evaluation systems. Because of this, Idaho was no longer in compliance with the ESEA Waiver requirements which required student achievement and multiple measures to be a part of both teacher and principal evaluations. As a result, Idaho needed to work with stakeholders to extensively redraft the rules to bring Idaho's teacher and principal evaluation standards back in to compliance with the ESEA Waiver requirements. Because of this, the Idaho State Department of Education vacated the rule making process to allow an Educator Evaluation Task Force to be convened to analyze the gaps between Idaho's current evaluation systems and what was needed to bring Idaho's evaluation system back in to compliance with the ESEA Waiver requirements.

In December 2012, the Idaho State Department of Education submitted the following timeline and plan to the US Department of Education outlining how we would ensure that Idaho was in compliance with the ESEA Waiver requirements.

January - March:

- Convene Educator Evaluation Task Force with the specific goal of making recommendations on the following items to the State Board of Education:
 - The percentage of the evaluation that will be based on Student Achievement?
 - What multiple measures will be used in the evaluation, i.e. Parental Input, Student Input, Work Place Survey, etc.?
 - The inclusion of an Individualized Professional Learning Plan that will be created for each teacher based upon evaluation findings, and shall be used in subsequent years as the baseline measurement for professional development and growth?
 - How many observations are required annually and who must perform the observations?
 - Will administrators be required to complete a proficiency assessment prior to performing any evaluation or as part of their ongoing professional development for recertification?
 - Will we require a proficiency assessment for initial administrator licensure?

April - May:

- Take evaluation rule revisions for IDAPA 08.02.02.120 (Teacher Evaluation) and the addition of IDAPA 08.02.02.121 (Principal Evaluation) to the State Board of Education as Temporary and Proposed Rule.
- Receive State Board of Education approval of revisions to rule.
- Put rule revisions out for public comment.
- Receive final approval from the State Board of Education on Temporary and Proposed Rule.

2013 - 2014 School Year:

- Districts pilot revised evaluation models.

2014 - 2015 School Year:

- Full implementation of revised evaluation models in accordance with ESEA Waiver requirements.

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:

This rule is being brought forth as temporary and proposed to ensure that Idaho is able to meet the demands of the timeline outlined above.

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: No Fiscal Impact.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted 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: Nick Smith, State Department of Education, nwsmith@sde.idaho.gov, 208-332-6954.

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 June 26, 2013.

DATED this 18th Day of April, 2013.

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 TEXT OF THE PROPOSED RULE
FOR DOCKET NO. 08-0202-1301**

120. LOCAL DISTRICT EVALUATION POLICY.

Each school district board of trustees will develop and adopt policies for teacher performance evaluation in which criteria and procedures for the evaluation of certificated personnel are research based and aligned to Charlotte Danielson's Framework for Teaching Second Edition domains and components of instruction. The process of developing criteria and procedures for certificated personnel evaluation will allow opportunities for input from those affected by the evaluation; i.e., trustees, administrators and teachers. The evaluation policy will be a matter of public record and communicated to the certificated personnel for whom it is written. (3-29-10)

01. Standards. Each district evaluation model shall be aligned to state minimum standards that are based on Charlotte Danielson's Framework for Teaching Second Edition domains and components of instruction. Those domains and components include: (3-29-10)

- a.** Domain 1 - Planning and Preparation: (3-29-10)
 - i. Demonstrating Knowledge of Content and Pedagogy; (3-29-10)
 - ii. Demonstrating Knowledge of Students; (3-29-10)
 - iii. Setting Instructional Goals Outcomes; (3-29-12)
 - iv. Demonstrating Knowledge of Resources; (3-29-10)
 - v. Designing Coherent Instruction; and (3-29-10)
 - vi. Designing Student Assessments. (3-29-12)
- b.** Domain 2 - The Classroom Environment: (3-29-12)
 - i. Creating an Environment of Respect and Rapport; (3-29-10)
 - ii. Establishing a Culture for Learning; (3-29-10)
 - iii. Managing Classroom Procedures; (3-29-10)
 - iv. Managing Student Behavior; and (3-29-10)
 - v. Organizing Physical Space. (3-29-10)

- c. Domain 3 - Instruction and Use of Assessment: (3-29-10)
 - i. Communicating with Students; (3-29-12)
 - ii. Using Questioning and Discussion Techniques; (3-29-10)
 - iii. Engaging Students in Learning; (3-29-10)
 - iv. Using Assessment in Instruction; and (3-29-12)
 - v. Demonstrating Flexibility and Responsiveness. (3-29-12)
- d. Domain 4 - Professional Responsibilities: (3-29-10)
 - i. Reflecting on Teaching; (3-29-10)
 - ii. Maintaining Accurate Records; (3-29-10)
 - iii. Communicating with Families; (3-29-10)
 - iv. Participating in a Professional Community; (3-29-12)
 - v. Growing and Developing Professionally; and (3-29-10)
 - vi. Showing Professionalism. (3-29-10)

~~**02. Parent Input.** Input from the parents and guardians of students shall be considered as a factor in the evaluation of any school-based certificated employees. For such certificated employees on a Category A, B or grandfathered renewable contract, this input shall be part of the first portion of the evaluation (as stipulated in 33-514(4), Idaho Code,) that must be completed before February 1 of each year (Section 33-513 and 33-514, Idaho Code). (3-29-12)~~

~~**03. Student Achievement.** For evaluations conducted on or after July 1, 2012, all certificated employees must receive an evaluation in which at least fifty percent (50%) of the evaluation results are based on objective measures of growth in student achievement as determined by the board of trustees. This student achievement portion of the evaluation shall be completed by the end of the school year in which the evaluation takes place (Section 33-513 and 33-514, Idaho Code). (3-29-12)~~

042. Participants. Each district evaluation policy will include provisions for evaluating all certificated employees identified in Section 33-1001, Idaho Code, Subsection 16, and each school nurse and librarian. Policies for evaluating certificated employees should identify the differences, if any, in the conduct of evaluations for nonrenewable contract personnel and renewable contract personnel. (3-29-12)

053. Evaluation Policy - Content. Local school district policies will include, at a minimum, the following information: (4-1-97)

- a. Purpose -- statements that identify the purpose or purposes for which the evaluation is being conducted; e.g., individual instructional improvement, personnel decisions. (4-1-97)
- b. Evaluation criteria -- statements of the general criteria upon which certificated personnel will be evaluated. (4-1-97)
- c. Evaluator -- identification of the individuals responsible for appraising or evaluating certificated personnel performance. The individuals assigned this responsibility should have received training in evaluation. (4-1-97)
- d. Sources of data -- description of the sources of data used in conducting certificated personnel

evaluations. For classroom teaching personnel, classroom observation should be included as one (1) source of data.
(4-1-97)

- e.** Procedure -- description of the procedure used in the conduct of certificated personnel evaluations.
(4-1-97)
- f.** Communication of results -- the method by which certificated personnel are informed of the results of evaluation.
(4-1-97)
- g.** Personnel actions -- the action, if any, available to the school district as a result of the evaluation and the procedures for implementing these actions; e.g., job status change. Note: in the event the action taken as a result of evaluation is to not renew an individual's contract or to renew an individual's contract at a reduced rate, school districts should take proper steps to follow the procedures outlined in Sections 33-513 through 33-515, Idaho Code in order to assure the due process rights of all personnel.
(4-1-97)
- h.** Appeal -- the procedure available to the individual for appeal or rebuttal when disagreement exists regarding the results of certificated personnel evaluations.
(4-1-97)
- i.** Remediation -- the procedure available to provide remediation in those instances where remediation is determined to be an appropriate course of action.
(4-1-97)
- j.** Monitoring and evaluation. -- A description of the method used to monitor and evaluate the district's personnel evaluation system.
(4-1-97)
- k.** Professional development and training -- a plan for ongoing training for evaluators/administrators and teachers on the districts evaluation standards, tool and process.
(3-29-10)
- l.** Funding -- a plan for funding ongoing training and professional development for administrators in evaluation.
(3-29-10)
- m.** Collecting and using data -- a plan for collecting and using data gathered from the evaluation tool that will be used to inform professional development.
(3-29-10)
- n.** A plan for how evaluations will be used to identify proficiency and define a process that identifies and assists teachers in need of improvement.
(3-29-10)
- o.** A plan for including all stakeholders including, but not limited to, teachers, board members, and administrators in the development and ongoing review of their teacher evaluation plan.
(3-29-10)

064. Evaluation Policy - Frequency of Evaluation. The evaluation policy shall include a provision for evaluating all certificated personnel on a fair and consistent basis. ~~All contract personnel shall be evaluated at least once annually.~~ ~~(3-29-12)~~**(4-18-13)T**

075. Evaluation Policy - Personnel Records. Permanent records of each certificated personnel evaluation will be maintained in the employee's personnel file. All evaluation records will be kept confidential within the parameters identified in federal and state regulations regarding the right to privacy (Section 33-518, Idaho Code).
(4-1-97)