

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:

IDAPA 08.02.01 - Rules Pertaining To The Rules Governing Administration - GED (Docket No.  
08-0201-1302);

IDAPA 08.02.03 - Rules Pertaining To The Rules Governing Thoroughness - Distinguished Schools  
(Docket No. 08-0203-1301).

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 12/10/2013. 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 01/09/2014.

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:** November 20, 2013  
**SUBJECT:** State Board of and State Department of Education

IDAPA 08.02.01 - Rules Pertaining To The Rules Governing Administration - GED (Docket No. 08-0201-1302)

IDAPA 08.02.03 - Rules Pertaining To The Rules Governing Thoroughness - Distinguished Schools (Docket No. 08-0203-1301)

1. IDAPA 08.02.01 - Rules Pertaining To The Rules Governing Administration - GED (Docket No. 08-0201-1302)

The State Board of Education submits notice of proposed rulemaking at IDAPA 08.02.01 -- Rules Governing Administration. The proposed rule revises provisions governing the administration of the GED ("General Education Development") test. Specifically, the proposed rule establishes that a statewide fee for the GED test shall be set by the Idaho Division of Professional-Technical Education. The proposed rule also provides that the minimum passing score shall be set by the GED testing service. (See, Rule Section 650.01.) The proposed rule also establishes provisions governing proof of identity and eliminates a provision requiring that to be eligible to take the exam, one must be a resident of Idaho. (See, Section 650.02 and 650.03)

The agency states that negotiated rulemaking was not conducted due to the noncontroversial nature of the changes in the proposed rule.

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

2. IDAPA 08.02.03 - Rules Pertaining To The Rules Governing Thoroughness - Distinguished Schools (Docket No. 08-0203-1301).

The State Board of Education submits notice of proposed rulemaking at IDAPA 08.02.03 -- Rules Governing Thoroughness -- Distinguished Schools. The proposed rule revises the criteria governing the determination of what constitutes a "distinguished school." (See Rule Section 133.01.) In addition, the proposed rule eliminates the section governing "additional yearly growth" award (Section 113.02.) and provides that the State Department of Education shall submit a list of schools meeting specified criteria to the State Board by no later than August 30th of each year (Section 113.02.)

Mike Nugent, Manager  
Research & Legislation

Cathy Holland-Smith, Manager  
Budget & Policy Analysis

April Renfro, Manager  
Legislative Audits

Glenn Harris, Manager  
Information Technology

The Board states that negotiated rulemaking was conducted.

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

cc: State Board of and State Department of Education  
Tom Luna & Tracie Bent

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

## 08.02.01 - RULES GOVERNING ADMINISTRATION

### DOCKET NO. 08-0201-1302

#### 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 Article IX, Section 2 of the Idaho Constitution and under Sections 33-105, and 33-107, 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 October 16, 2013.

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:

IDAPA 08.02.01, Section 650 sets out the requirements for students who have not completed high school to take the GED® Assessment or earn their High School Equivalency Certificate. The GED® Testing Service is a collaboration between the American Council on Education (ACE) and Pearson. In 2011 they started an initiative to redo the GED test and bring it into alignment with 21st Century Skills Initiative. The new exam will be given starting in January of 2014. Previously the GED Testing Service was a program of ACE, who developed, delivered, and safeguarded the GED test. The exam was only administered through state entities, the US military, and federal correctional institutions. In Idaho the Division of Professional-Technical Education manages/administers the program and public schools institutions were authorized to administer the exam. The new GED Testing Service will be a partnership between ACE and Pearson, the exam will become a completely on-line exam and will be allowed to also be administered by private higher education institutions as well. This is a change at the national level made by the company who owns the right to the GED assessment. The proposed changes would divide the section on GED testing from the high school equivalency section more clearly, specify that state set's the fee currently being paid by each individual who takes the GED exam (not the private institution administering the exam), clarifies that the minimum score to pass the exam is set by the GED Testing Service, removes the requirement that test takers have to be Idaho residents, and requires that test takers show proof of identification using government issued identification.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: There is no change to the current fee being charged.

**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: There will be no fiscal impact from these changes.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not conducted due to the non-controversial nature of the changes being proposed.

**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 Tracie Bent, chief Planning and Policy Officer, at (208)332-1582 or [tracie.bent@osbe.idaho.gov](mailto:tracie.bent@osbe.idaho.gov).

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 October 23, 2013.

DATED the 30th day of August, 2013.

Tracie Bent, Chief Planning and Policy Officer  
Office of the State Board of Education  
650 W State St.  
PO Box 83720  
Boise, ID 83720-0037  
(208)332-1582, fax: (208)334-2632

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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0201-1302

**650. GENERAL EDUCATION DEVELOPMENT TESTS/IDAHO HIGH SCHOOL EQUIVALENCY CERTIFICATE.**

The primary objective of the State Board of Education is to have all students complete their formal education and graduate from high school. However, students who drop out of school and believe it is in their best interest to take the (General Education Development) G.E.D. test may do so under the following conditions and, upon successful completion of all G.E.D. requirements, may apply for an Idaho High School Equivalency Certificate. (4-1-97)

**01. General Education Development Tests.** General Education Development (GED) tests are given by approved testing centers for a statewide fee set by the Idaho Division of Professional-Technical Education. Fees are set by the testing centers. For successful completion, the test taker must earn a standard score of at least forty (40) on each of the five (5) tests and must earn an average standard score of forty-five (45) on all five (5) tests. The testing centers will provide an American Government test for individuals who do not have credit in American Government and who plan to apply for an Idaho High School Equivalency Certificate. Candidates must make the minimum score for passing the GED test as established by the GED Testing service. (4-1-97)( )

**02. Resident Eligibility Requirement.** ~~To be eligible to take the GED tests, the applicant must be a bona fide resident of the state of Idaho at the time of application. Residency is not gained or lost by reason of military service.~~ (4-1-97)

**03.2. Age Criteria.** The applicant must satisfy one (1) of the following age criteria: (4-1-97)

**a.** The applicant must be at least eighteen (18) years of age; (4-1-97)

**b.** The applicant may be sixteen (16) or seventeen (17) years of age and be one (1) year or more behind in credits earned, expelled, recommended by the school, pregnant, or a parent. In such cases, the applicant is eligible if the applicant's school verifies in writing that the student meets one of the above criteria and this verification is on file at the testing center prior to any testing. The school may give its verification only after the applicant and his or her parent or guardian submit in writing a request for the applicant to take the GED tests and the applicant and the applicant's parent or guardian have met with school officials to review and discuss the request. (In cases where the applicant is not living with a parent or guardian, the parent or guardian's verification is not necessary.); (4-1-97)

**c.** The applicant may be sixteen (16) or seventeen (17) years of age and be entering college, the military, or an employment training program ~~(such as the Job Training Partnership Act (JTPA) or other state or federally approved program)~~, enrolled in an Adult Basic Education Program, enrolled in the Job Corps, or incarcerated. In such cases, the applicant is eligible if the institution involved applies in writing for the applicant to take the GED tests and this application is on file at the testing center prior to any testing. (4-1-97)( )

**03. Proof of Identity.** Test takers must present proof of identification that shows legal name, date of birth, signature, address and photograph. Valid drivers' licenses, passports, military, and other forms of government-issued identification are acceptable. Two (2) forms of identification may be provided to meet these criteria. ( )

**04. Idaho High School Equivalency Certificate.** The State Department of Education will issue an Idaho High School Equivalency Certificate to eligible applicants. The normal fee for issuing a certificate is ten dollars (\$10); however, this fee will be waived for military service personnel and veterans. To be eligible, an applicant must submit the following documents to the State Department of Education: (4-1-97)

**a.** An official report of GED test results showing successful completion of all requirements. Test scores are accepted as official only when reported directly by official GED Testing Centers, the Transcript Service of the Defense Activity for Non-Traditional Education Support (DANTES), Veterans Administration hospitals and, in special cases, the GED Testing Service. (4-1-97)

**b.** An official transcript showing completion of a course in American Government including study of the U.S. Constitution and principles of state and local government. This requirement may be met by resident study in high school or college, correspondence study from an accredited university, DANTES, or by successfully passing the American Government test furnished by the testing center. (4-1-97)

**c.** A completed form DD295 on all service personnel. This form is not required of veterans and non-veteran adults. (4-1-97)

**d.** A copy of a discharge if the applicant is a veteran of military service. (4-1-97)

**e.** Once eligibility is established, the State Department of Education will furnish the applicant with a special application form. After the applicant completes this form and pays the ten dollar (\$10) processing fee, the applicant will be awarded an Idaho High School Equivalency Certificate. (4-1-97)

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

## **08.02.03 - RULES GOVERNING THOROUGHNESS**

**DOCKET NO. 08-0203-1301**

### **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 Article IX, Section 2 of the Idaho Constitution and under Sections 33-116, and 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 October 16, 2013.

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:

IDAPA 08.02.03, Section 113 sets out the requirements for the State Board of Education to recognize Distinguished Schools as well as grant Additional Yearly Growth Awards. Both awards are dependent on determination of Adequate Yearly Progress as it is defined in the states Accountability Workbook. With the granting of Idaho's ESEA waiver there have been modification to the Accountability Workbook and how AYP is determined, these changes necessitate changes to this rule to bring it into alignment with Idaho's current five (5) star accountability system.

**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: There will be no fiscal impact from these changes.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2013 Idaho Administrative Bulletin, [Vol. 13-7, page 33](#).

**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 Tracie Bent, chief Planning and Policy Officer, at (208)332-1582 or [tracie.bent@osbe.idaho.gov](mailto:tracie.bent@osbe.idaho.gov).

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 28, 2013.

DATED the 30th day of August, 2013.

Tracie Bent, Chief Planning and Policy Officer  
Office of the State Board of Education  
650 W State St.  
PO Box 83720  
Boise, ID 83720-0037  
(208)332-1582, fax: (208)334-2632

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0203-1301

113. REWARDS.

**01. Distinguished Schools.** A school ~~may~~ shall be recognized as a “Distinguished School” ~~if it is in the top five percent (5%) of schools exceeding the Idaho Adequate Yearly Progress (AYP) intermediate targets listed in Subsection 112.03, of this rule, and if it has significantly reduced the gaps between subgroups listed in Subsection 112.04.d. of this rule.~~ based on the following criteria: (3-30-07)( )

- a.** School must have received a five (5) star rating. ( )
- b.** Be within the top five percent (5%) of schools based on proficiency. ( )
- c.** Be within the top ten percent (10%) of schools based on the gap between highest and lowest achievement subgroup as outlined in Subsection 112.04.d. ( )
- d.** Be within the top ten percent (10%) of schools based on the gap between at-risk and not at-risk students. ( )
- e.** Be within the top ten percent (10%) of schools based on proficiency of at-risk students. ( )
- f.** Be within the top ten percent (10%) of schools based on lowest achieving subgroup as outlined in Subsection 112.04.d. ( )

~~**02. Additional Yearly Growth (AYG) Award.** A school demonstrating improved proficiency levels of subpopulations or in the aggregate by greater than ten percent (10%) shall be considered to have achieved AYG. Such school must have achieved Adequate Yearly Progress (AYP) to be eligible for this award. (3-30-07)~~

**032. Determination by State Department of Education.** The State Board of Education will determine the schools eligible for the Distinguished School ~~and AYG awards~~ each year based upon the criteria outlined in Subsections ~~113.01 and 113.02.~~ The State Department of Education will provide the list of schools meeting the specified criteria to the State Board of Education no later than August 30th of each year. The State Board of Education will recognize the schools no later than the annual October Board Meeting. (4-2-08)( )