

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 Board):

IDAPA 08.01.05 - Rules Pertaining To The Idaho Promise Scholarship Program (Chapter Repeal)
(Docket No. 08-0105-1301);

IDAPA 08.01.06 - Rules Pertaining To The Leveraging Education Assistance Partnership Program
(Chapter Repeal) (Docket No. 08.0106-1301);

IDAPA 08.01.09 - Rules Pertaining To The Rules Governing Gear Up Idaho Scholarship Program
(Docket No. 08-0109-1301);

IDAPA 08.01.12 - Rules Pertaining To The Idaho Minority & "At-Risk" Student Scholarship
Program (Chapter Repeal) (Docket No. 08-0112-1301);

IDAPA 08.01.13 - Rules Pertaining To The Rules Governing Opportunity Scholarship Program
(Docket No. 08-0113-1301);

IDAPA 08.02.04 - Rules Pertaining To The Rules Governing Public Charter Schools (Docket No.
08-0204-1301);

IDAPA 08.03.01 - Rules Pertaining To The Rules of the Public Charter School Commission (Docket
No. 08-0301-1301).

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 10/07/2013. 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 11/04/2013.

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: September 18, 2013
SUBJECT: State Board of and State Department of Education

IDAPA 08.01.05 - Rules Pertaining To The Idaho Promise Scholarship Program (Chapter Repeal) (Docket No. 08-0105-1301)

IDAPA 08.01.06 - Rules Pertaining To The Leveraging Education Assistance Partnership Program (Chapter Repeal) (Docket No. 08.0106-1301)

IDAPA 08.01.09 - Rules Pertaining To The Rules Governing Gear Up Idaho Scholarship Program (Docket No. 08-0109-1301)

IDAPA 08.01.12 - Rules Pertaining To The Idaho Minority & "At-Risk" Student Scholarship Program (Chapter Repeal) (Docket No. 08-0112-1301)

IDAPA 08.01.13 - Rules Pertaining To The Rules Governing Opportunity Scholarship Program (Docket No. 08-0113-1301)

IDAPA 08.02.04 - Rules Pertaining To The Rules Governing Public Charter Schools (Docket No. 08-0204-1301)

IDAPA 08.03.01 - Rules Pertaining To The Rules of the Public Charter School Commission (Docket No. 08-0301-1301)

1. IDAPA 08.01.05 - Rules Pertaining To The Idaho Promise Scholarship Program (Chapter Repeal) (Docket No. 08-0105-1301)

The State Board of Education submits notice of proposed rulemaking at IDAPA 08.01.05 -- Rules Pertaining to the Idaho Promise Scholarship Program. The proposed rule in this docket repeals the Rule Chapter that governed the Idaho Promise Scholarship Program. The Board notes that Senate Bill 1027, passed by the 2013 Legislature, consolidated the majority of the state run scholarship programs and consequently, there was a need to repeal the Rule Chapter that dealt specifically with the Idaho Promise Scholarship program.

The Board states that negotiated rulemaking was conducted relating to this docket.

The Board's proposed rule appears to be authorized pursuant to section 33-105, Idaho Code.

2. IDAPA 08.01.06 - Rules Pertaining To The Leveraging Education Assistance Partnership Program (Chapter Repeal) (Docket No. 08.0106-1301)

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

The State Board of Education submits notice of proposed rulemaking at IDAPA 08.01.06 -- Rules Pertaining to the Leveraging Education Assistance Partnership Program . The proposed rule in this docket repeals the Rule Chapter that governed the Leveraging Education Assistance Partnership Program. As discussed in the docket immediately preceding this docket in the memorandum, the Board notes that Senate Bill 1027, passed by the 2013 Legislature, consolidated the majority of the state run scholarship programs and consequently, there was a need to repeal the Rule Chapter that dealt specifically with the Leveraging Education Assistance Partnership Program.

The Board states that negotiated rulemaking was conducted relating to this docket.

The Board's proposed rule appears to be authorized pursuant to section 33-105, Idaho Code.

3. IDAPA 08.01.09 - Rules Governing Gear Up Idaho Scholarship Program (Docket No. 08-0109-1301)

The State Board of Education submits notice of proposed rulemaking at IDAPA 08.01.09 -- Rules Pertaining to the Rules Governing Gear Up Idaho Scholarship Program. The proposed rule in this docket provides corrections for some technical errors that existed in the rule (See, e.g., Sections 010.02. and 800.); revises provisions relating to the timing of applications and announcement of the scholarship award (See, Sections 200.01.; 200.02. and 500.01.); includes the SAT test as part of the eligibility provision (See, Section 300.01.); and eliminates language relating to the reassignments of scholarships (See, Sections 600.02. and 600.03.).

The Board states that negotiated rulemaking was conducted.

The Board's proposed rule appears to be authorized pursuant to section 33-105, Idaho Code.

4. IDAPA 08.01.12 - Rules Pertaining To The Idaho Minority & "At-Risk" Student Scholarship Program (Chapter Repeal) (Docket No. 08-0112-1301)

The State Board of Education submits notice of proposed rulemaking at IDAPA 08.01.09 -- Rules Pertaining to the Idaho Minority & "At risk" Student Scholarship Program. The proposed rule in this docket, like the first docket discussed in this memorandum, repeals the Rule Chapter that governed a scholarship program. The proposed rule repeals the administrative rules governing the Idaho Minority & "At-Risk" Student Scholarship Program. The Board notes that Senate Bill 1027, passed by the 2013 Legislature, consolidated the majority of the state run scholarship programs and consequently, there was a need to repeal the Rule Chapter that dealt specifically with the Idaho Promise Scholarship program.

The Board states that negotiated rulemaking was conducted relating to this docket.

The Board's proposed rule appears to be authorized pursuant to section 33-105, Idaho Code.

5. IDAPA 08.01.13 - Rules Governing Opportunity Scholarship Program (Docket No. 08-0113-1301)

The State Board of Education submits notice of proposed rulemaking at IDAPA 08.01.13 -- Rules Governing Opportunity Scholarship Program. This docket reflects the revised administrative rules that reflect changes to the statutory scholarship programs found in Senate Bill 1027, passed during the 2013 Legislative Session. The Board notes that the proposed rule reflects the elimination of language that is redundant with statute; clarifies text relating to residency, student eligibility, academic eligibility and revises language relating to renewal applications.

Specifically, the proposed rule eliminates many definitional subsections because definitions are provided for in statute. The proposed rule also revises text relating to eligibility requirements regarding residency, academics, financial eligibility and continuing eligibility provisions (See, Rule Sections 101 and 302). The proposed rule also eliminates obsolete provisions that were in effect for a period during 2007 (See, Rule Section 201). Finally, the proposed rule includes revisions to sections governing the responsibilities of eligible post-

secondary institutions (See, Rule Section 400) and also sections providing for the Board of Education's responsibilities (See, Rule Section 401).

The Board states that negotiated rulemaking was conducted.

The Board's proposed rule appears to be authorized pursuant to section 33-105, Idaho Code, and Title 33, Chapter 46, Idaho Code.

6. IDAPA 08.02.04 - Rules Governing Public Charter Schools (Docket No. 08-0204-1301)

The State Board of Education submits notice of temporary and proposed rulemaking at IDAPA 08.02.04 -- Rules governing Public Charter schools. The temporary and proposed rule reflect changes to account for statutory revisions provided for in House Bill 221 which was passed during the 2013 Legislative Session. The board notes that the temporary and proposed rule brings the docket into alignment with governing statutes and that the rule clarifies the process for new charter school authorizers.

Among the revisions and new provisions found in the temporary and proposed rule, the following appear to be most pertinent:

Section 101: provides a new section that governs actions by an institution (public or private college or university) acting as an "authorized chartering entity."

Section 102: establishes provisions relating to the authorizer fee.

Section 203.06 and 07 that dealt with priority enrollment preference have been repealed.

Section 204 that governed the submission of charter school petitions has been repealed.

Section 205 that governs the review of charter school petitions has been heavily revised, as has Section 300 that governs the responsibilities of charter schools.

Section 301 that governs responsibilities of authorized chartering entities now provides that the chartering entity is responsible for monitoring the charter school's operations in accord with the terms of the performance certificate.

Other modifications to the rule include revisions to Section 302 (governing revisions to an approved charter or performance certificate and establishes provisions relating to reviewing a request for performance certificate revisions. Finally, the temporary and proposed rule includes revisions to Section 500.02 through 500.06 which deal with the designation of local education agencies ("LEA").

The effective date of the temporary rule was June 20, 2013.

The Board notes that negotiated rulemaking was conducted.

The agency's temporary and proposed rule appears to be authorized pursuant to section 33-105, 33-5203 and 33-5210, Idaho Code.

7. IDAPA 08.03.01 - Rules of the Public Charter School Commission (Docket No. 08-0301-1301)

The State Board of Education submits notice of temporary and proposed rulemaking at IDAPA 08.03.01 -- Rules of the Public Charter School Commission. the temporary and proposed rule modifies the existing rule to make it consistent with law passed during the 2013 Legislative Session. The rule reflects new accountability measures required by law and eliminates language duplicative of statute. Specifically, the temporary and proposed rule slightly revises provisions governing compliance monitoring (See, section 301) and eliminates

provisions relating to goals attainment and programmatic operations audit (See, Section 302.06 and 07). Also, various provisions relating public hearings on petitions have been stricken (See, section 400.01 through 05).

The effective date of the temporary rule was June 20, 2013.

The Board states that negotiated rulemaking was conducted.

The agency's temporary and proposed rule appears to be authorized pursuant to sections 33-105, 33-5203 and 33-5210, Idaho Code.

cc: State Board of and State Department of Education
Tracie Bent

IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

08.01.05 - IDAHO PROMISE SCHOLARSHIP PROGRAM

DOCKET NO. 08-0105-1301 (CHAPTER REPEAL)

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, and Title IV, Part a, Subpart 4 of the Higher Education Act of 1955.

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 21, 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:

During the 2013 Legislature SB 1027 was passed consolidating the majority of the state run scholarship programs. The proposed change repeals this entire chapter of Administrative Rule.

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: Funds previously allocated to this program will be redirected to the Opportunity Scholarship Program.

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, **Volume 13-7, page 27.**

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.

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 7th day of June, 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

IDAPA 08.01.05 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

08.01.06 - LEVERAGING EDUCATION ASSISTANCE PARTNERSHIP PROGRAM

DOCKET NO. 08-0106-1301 (CHAPTER REPEAL)

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, and Title IV, Part a, Subpart 4 of the Higher Education Act of 1955.

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 21, 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:

During the 2013 Legislature SB 1027 was passed consolidating the majority of the state run scholarship programs. The proposed change repeals this entire chapter of Administrative Rule.

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: Funds previously allocated to this program will be redirected to the Opportunity Scholarship Program.

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, **Volume 13-7, page 28.**

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

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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 7th day of June, 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

IDAPA 08.01.06 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

08.01.09 - RULES GOVERNING THE GEAR UP IDAHO SCHOLARSHIP PROGRAM

DOCKET NO. 08-0109-1301

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 Section 33-105, 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 21, 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:

During the 2013 Legislature SB 1027 was passed consolidating the majority of the state run scholarship programs. As part of the review and evaluation process prior to the consolidation of the state funded scholarships it was discovered that there were some technical errors contained in the Administrative rule governing the GEARUP Scholarship program. The GEARUP Scholarship is available to students who participated in the GEARUP program's early intervention component in grades 7 through 10. Specific changes include clarifying the definition of Educational Costs, when a student may apply, aligning the application date with the timeframe students complete the FAFSA, and removing unnecessary language regarding the reassignment of funds.

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, Volume 13-7, page 29.

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.

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 7th day of June, 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 TEXT OF THE PROPOSED RULE FOR DOCKET NO. 08-0109-1301

010. DEFINITIONS.

01. **Dependable Strengths Report.** A tool available on the Idaho Career Information System that assists students in assessing skills and abilities as they relate to career choices and options. Dependable Strengths is accessed via My CIS Portfolio. (3-29-12)

02. **Educational Costs.** Student costs for tuition, fees, room and board, or expenses related to reasonable commuting, books and other expenses reasonably related to attendance a postsecondary educational institution. This cost is determined by the postsecondary institution the student attends and is the institutions published cost of attendance for the academic year for which the student is attending. (~~3-29-12~~)(____)

03. **Eligible Institution.** (3-29-12)

a. A public postsecondary educational institution governed or supervised by the Board, or a board of trustees of a community college established pursuant to the provisions of Chapter 21, Title 33, Idaho Code; or (3-29-12)

b. Any educational organization located in Idaho that is: (3-29-12)

i. Operated privately and; (~~3-29-12~~)(____)

ii. Classified as not-for-profit under ~~the~~ Idaho Code; and (~~3-29-12~~)(____)

iii. Under the control of an independent board and not directly controlled or administered by a public or political subdivision; and (3-29-12)

iv. Accredited by an organization recognized by the Board, as provided in section 33-2402, Idaho Code. (3-29-12)

v. Eligible for receipt of federal financial aid funding. (3-29-12)

04. **Eligible Student.** A student who: (3-29-12)

a. Is an Idaho resident and who has participated in the early intervention component (7th through 10th grade) of the GEAR UP Idaho program and who has or will graduate from an accredited high school or equivalent in Idaho as determined by the Board in 2012, 2013, or 2014; (3-29-12)

b. Has enrolled or applied as a full-time student in an eligible institution for a minimum of twenty-four (24) credit hours in an academic year. (3-29-12)

05. **Administrator.** The Executive Director of the Idaho State Board of Education or his designee. (3-29-12)

(BREAK IN CONTINUITY OF SECTIONS)

200. APPLICATION PROCESS.

01. **Initial Applications.** (3-29-12)

a. An eligible student ~~who has not yet graduated from an accredited high school or its equivalent in the state of Idaho~~ must complete and submit the GEAR UP Idaho Scholarship Application to the Board electronically on or before the date specified in the application, but not later than ~~January 15th~~ March 1 of the year the student will graduate from a secondary school or its equivalent. An applicant without electronic capabilities may receive assistance in completing the electronic application from a high school counselor or from State Board of Education scholarship staff ~~and~~. The application may also be submitted to the Gear Up Idaho Scholarship Administrator through the United States Postal Service, which must be postmarked not later than ~~January 15th~~ March 1. (3-29-12)(____)

b. An applicant must complete and submit the Free Application for Federal Student Aid (FAFSA) on or before ~~February 15th~~ March 1 of the year student will graduate from secondary school or its equivalent. (3-29-12)(____)

c. An applicant must submit with his or her application a copy of the applicant's Dependable Strengths Report or in lieu of submitting the applicant's Dependable Strengths Report an applicant may submit a one-page essay on the topic "My Unique Dependable Strengths." (3-29-12)

02. **Announcement of Award.** Announcement of ~~the award of initial scholarships for the 2012–2013 academic year will be made no later than May 15, 2012, with awards to be effective at the beginning of that academic year. The announcement of award recipients in future academic years~~ recipients will be made no later than May 1. (3-29-12)(____)

03. **Communication with State Officials.** Applicants for initial scholarships must respond by the date specified to any communication from officials of the GEAR UP Idaho Program. Failure to respond within the time period specified will result in cancellation of the application or forfeiture of the scholarship unless extenuating circumstances are involved. (3-29-12)

201. -- 299. (RESERVED)

300. **SELECTION OF SCHOLARSHIP RECIPIENTS.**

Applications will be reviewed and awards selected based on financial need, hours of participation in the GEAR UP program and academic preparation based on a combination of the ACT composite or SAT combined reading and math score and cumulative high school grade point average (GPA). Priority will be given to applicants who are eligible to receive Pell grant funding, as determined by the Free Application for Federal Student Aid (FAFSA). (3-29-12)(____)

01. **Academic Eligibility.** (3-29-12)

a. Applicants for the GEAR UP Idaho scholarship are selected as recipients, in part, on the basis of their academic performance. The student applicant's high school GPA and ACT composite or SAT combined reading and math score are weighed equally to determine an applicant's academic rank. (3-29-12)(____)

b. The academic ranking constitutes twenty percent (20%) of the selection ranking. (3-29-12)

c. Grade point average (GPA). An eligible student's unweighted GPA will be used to determine the GPA value. (3-29-12)

d. ACT Composite or SAT combined reading and math Score. Academic applicants must take the ACT or SAT reading and math exam. The highest composite score from any single test administration taken prior to the application deadline ~~of January 15~~ will be considered. ~~Applicants will be ranked against other applicants based upon the ACT composite score.~~ (3-29-12)(____)

02. **Financial Eligibility.** (3-29-12)

a. Applicants for GEAR UP Idaho scholarship are selected as recipients, in part, on the basis of demonstrated financial need. The primary tool that will be used by the GEAR UP Scholarship Program officials to determine financial need will be the federal FAFSA, used by the United States Department of Education to determine eligibility for financial aid and an expected family's contribution (EFC) to a student's postsecondary education. The

financial need of an applicant for a GEAR UP scholarship will be based upon the validated expected family contribution, as identified by the FAFSA report. (3-29-12)

b. The financial need factor, as determined by FAFSA, will constitute sixty percent (60%) of the weighting for the selection of recipients of GEAR UP scholarships. (3-29-12)

03. Participation Eligibility. (3-29-12)

a. Applicants for GEAR UP Idaho scholarships are selected in part on the basis of their participation in GEAR UP activities. (3-29-12)

b. The participation factor will constitute twenty percent (20%) of the selection ranking. (3-29-12)

c. Participation is reported in hours. Participation is determined based upon the hours a GEAR UP applicant participated in available GEAR UP early intervention program activities offered at their school. Applicants will be compared to other applicants from the same school. GEAR UP participation hours shall be provided by the GEAR UP school the student participated in. (3-29-12)(____)

301. -- 399. (RESERVED)

400. GEAR UP IDAHO SCHOLARSHIP AWARD.

01. Distribution. GEAR UP Idaho scholarships will be awarded at each GEAR UP school with distribution based on school population in relation to the over-all state GEAR UP population. (3-29-12)

02. Monetary Value of the Gear Up Idaho Scholarship. (3-29-12)

a. The monetary value of the GEAR UP Idaho scholarship award to a student is set at the maximum amount of the Federal Pell Grant as established by the Federal government for the given year. (3-29-12)

b. The total amount of financial aid from all sources shall not exceed the student's total educational costs. (3-29-12)

03. Payment. Payment of scholarship awards will be made in the name of the recipient and will be sent to a designated official at the eligible institution in which the recipient is enrolled. The official must transmit the payment to the recipient within a reasonable time following receipt of the payment. (3-29-12)

04. Duration. Scholarships will be awarded on an annual basis and payments will correspond to academic terms, semesters, quarters, or equivalent units. In no instance will the entire amount of a scholarship be paid in advance to, or on behalf of, a scholarship recipient. The scholarship covers up to one (1) educational year or equivalent for attendance at an eligible institution. ~~Request for part time study must have prior authorization by the GEAR UP Idaho administrator, and if granted, scholarship awards will be reduced proportionally.~~ (3-29-12)(____)

05. Eligibility. If a student receives a scholarship payment and it is later determined that the student did not meet all of the eligibility requirements, then the student is considered in overpayment status, and must return program funds in accordance with the eligible institution's refund policy. (3-29-12)

401. -- 499. (RESERVED)

500. CONTINUING ELIGIBILITY.

To remain eligible for renewal of a GEAR UP Idaho scholarship, the recipient must comply with all of the provisions of the GEAR UP Idaho Program and these rules, in addition to the following requirements: (3-29-12)

01. Renewal Application. A scholarship recipient must complete and submit a renewal application in order to be considered for a continuing scholarship for each succeeding year. A completed application for the renewal of a GEAR UP Idaho scholarship must be submitted to the Board electronically by the date established on the application, but not later than ~~January 30~~ March 1. An applicant without electronic capabilities may submit an

application on the form established by the GEAR UP Idaho Program administrator through the United States Postal Service, which must be postmarked no later than ~~January 30~~ March 1. In addition, a scholarship recipient must update and submit the FAFSA on or prior to ~~February 15~~ March 1. (3-29-12)(____)

02. Credit Hours. To remain eligible for renewal of a scholarship award, the scholarship recipient must be enrolled as a full-time student and have completed a minimum of twenty-four (24) credit hours or its equivalent for the academic year in which the student received a scholarship award. ~~A student must be enrolled in full-time study each term unless prior approval by the program administrator is granted to attend part time. If a student does not receive a minimum of twelve (12) credit hours in a term, they may not receive the second semester award without seeking approval from the scholarship administrator.~~ (3-29-12)(____)

03. Satisfactory Academic Progress. To remain eligible for renewal of a scholarship, the scholarship recipient must have maintained a minimum cumulative grade point average of two point zero (2.0) on a scale of four point zero (4.0) during the time that the recipient received an award, and must be maintaining satisfactory academic progress, consistent within federal financial regulations as implemented at the eligible Idaho postsecondary educational institution at which the scholarship recipient was enrolled. (3-29-12)

04. Transfer Students. Scholarship recipients who transfer to another eligible institution remain eligible for scholarship renewal and must inform the administrator no later than March 1 following the transfer. (3-29-12)(____)

05. Maximum Scholarship Award. The award of a GEAR UP Idaho scholarship shall not exceed the equivalent of eight (8) continuous semesters or the equivalent of four (4) continuous academic years. (3-29-12)

501.--- 599. (RESERVED)

600. MISCELLANEOUS PROVISIONS.

~~**01- Interruption of Enrollment.** A scholarship recipient who requests to take leave from and interrupt enrollment at an eligible institution must submit a letter of intent to interrupt continuous enrollment to the *GEAR UP Idaho* administrator no later than sixty (60) days prior to the first day of the academic term of the discontinued attendance. Requests can only be made after the completion of one (1) full academic year. Failure to do so may result in forfeiture of any continuing scholarship eligibility. The administrator will review each request for interruption and notify the individual of approval or denial of the request. In addition, the individual must file a statement with the administrator declaring his intent to re-enroll as a full-time undergraduate student at an eligible institution for the succeeding academic year no later than thirty (30) days prior to the first day of the academic term in which the individual intends to re-enroll. If a leave request is granted, the total time that the scholarship will be available to the student shall not exceed the four (4) academic years immediately following the student's graduation from secondary school or its equivalent.~~ (3-29-12)(____)

~~**02- Reassignment of Scholarships in Case of Discontinuance or Termination.** If a scholarship recipient enrolled in an eligible institution permanently withdraws or is dismissed prior to completion of his or her four (4) academic year scholarship eligibility term, then the *GEAR UP Idaho* administrator may award the scholarship to another eligible *GEAR UP* applicant (an alternate recipient) in the same application year. If there are no other alternates from that year, then the administrator may award the scholarship to another qualifying *GEAR UP* applicant. In the event that an award is made to an alternate recipient, then this new student shall assume the vacant scholarship of the Idaho *GEAR UP* student who has withdrawn or was dismissed. However, such student shall only receive the benefits of this scholarship for the remaining years of eligibility for the *GEAR UP* scholarship recipient who withdrew or was dismissed prior to completion of the scholarship eligibility term.~~ (3-29-12)

~~**03- Reassignment in Case of Leave of Absence.** If a *GEAR UP* scholarship recipient enrolled in an eligible institution requests and is granted a leave of absence during his or her four (4) academic year scholarship eligibility term, then the *GEAR UP Idaho* administrator may award the scholarship to another eligible *GEAR UP* applicant (an alternate recipient) from the same application year for the duration of the leave period. If there are no other alternates from that year, then the administrator may award the scholarship to another qualifying *GEAR UP* applicant. In the event that an award is made to an alternate recipient, then this new student shall assume the vacant scholarship of the Idaho *GEAR UP* student who is on an approved leave. However, such student shall only receive~~

the benefits of this scholarship for the term of the leave. (3-29-12)

601. -- 699. (RESERVED)

700. RESPONSIBILITIES OF ELIGIBLE IDAHO POSTSECONDARY EDUCATIONAL INSTITUTIONS.

01. Statements of Continuing Eligibility. An eligible institution participating in this GEAR UP Idaho Scholarship Program must submit statements of continuing student eligibility to the ~~GEAR UP Idaho~~ administrator by the 30th day of each academic term. Such statements must include verification that the scholarship recipient is still enrolled, attending full time, maintaining satisfactory academic progress, and has not exceeded the award eligibility terms. (3-29-12)(____)

02. Other Requirements. An eligible institution must: (3-29-12)

a. Be eligible to participate in Federal Title IV financial aid programs, and must provide prompt notification regarding any changes in this status to the State Board of Education; (3-29-12)

b. Provide data on student enrollment and federal, state, and private financial aid for students to the ~~GEAR UP Idaho~~ administrator; and (3-29-12)(____)

c. Agree to permit periodic GEAR UP Idaho Scholarship Program audits to verify compliance with these rules. (3-29-12)

701. ADMINISTRATION.

The ~~GEAR UP Idaho~~ administrator is responsible for: (3-29-12)(____)

01. Information. Releasing any public information regarding the GEAR UP Idaho Scholarship Program; (3-29-12)

02. Recipient Determination. Determination of scholarship recipients; (3-29-12)

03. Payment Procedures. Determination of procedures for payment of scholarships to recipients; (3-29-12)

04. Accounting. Maintaining fiscal controls and accounting procedures; (3-29-12)

05. Program Management. Authorizing release of all forms, affidavits, and certification necessary for the operation of the program. (3-29-12)

703. -- 799. (RESERVED)

800. APPEALS.

Any scholarship applicant or recipient adversely affected by a decision made under provisions of these rules may appeal such adverse decision as follows. The ~~opportunity~~ scholarship applicant or recipient must appeal in writing no later than thirty (30) days following notice of the decision, and the written statement must include a statement of the reason the scholarship applicant or recipient believes the decision should be changed. The appeal must be submitted to the ~~GEAR UP Idaho~~ administrator, who must acknowledge receipt of the appeal within seven (7) days. The ~~GEAR UP Idaho~~ administrator shall forward the appeal to the President of the Board. The Board may or may not agree to review the action, or may appoint a subcommittee of three (3) persons, including at least one (1) financial aid administrator at an eligible postsecondary educational institution in Idaho. (3-29-12)(____)

01. Transmittal to Subcommittee. If the appeal is transmitted to the subcommittee, the subcommittee will review the appeal and submit a written recommendation to the President of the Board within fifteen (15) days from the time the subcommittee receives the appeal document. The ~~opportunity~~ scholarship applicant or recipient initiating the appeal will be notified by the chairperson of the subcommittee of the time and place when the subcommittee will consider the appeal and will be allowed to appear before the subcommittee to discuss the appeal.

~~(3-29-12)~~(____)

02. Subcommittee Recommendations. Following the subcommittee's decision, the President of the Board will present the subcommittee's recommendation to the full Board at the next regularly scheduled meeting of the Board. The ~~opportunity~~ scholarship applicant or recipient initiating the appeal may, at the discretion of the President of the Board, be permitted to make a presentation to the Board. ~~(3-29-12)~~(____)

03. Board Decision. The decision of the Board is final, binding, and ends all administrative remedies, unless otherwise specifically provided by the Board. The Board will inform the ~~opportunity~~ scholarship applicant or recipient in writing of the decision of the Board. ~~(3-29-12)~~(____)

801. -- 999. (RESERVED)

IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

08.01.12 - IDAHO MINORITY AND "AT-RISK" STUDENT SCHOLARSHIP PROGRAM

DOCKET NO. 08-0112-1301 (CHAPTER REPEAL)

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 Sections 33-105, and 33-4606, 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 21, 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:

During the 2013 Legislature SB 1027 was passed consolidating the majority of the state run scholarship programs. The proposed change repeals this entire chapter of Administrative Rule.

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: Funds previously allocated to this program will be redirected to the Opportunity Scholarship Program.

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, **Volume 13-7, page 28.**

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.

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 7th day of June, 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

IDAPA 08.01.12 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

08.01.13 - RULES GOVERNING THE OPPORTUNITY SCHOLARSHIP PROGRAM

DOCKET NO. 08-0113-1301

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 Section 33-105, and Title 33, Chapter 46, 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 21, 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:

During the 2013 Legislature SB 1027 was passed consolidating the majority of the state run scholarship programs. The proposed changes will bring the rule into alignment with the amended sections of Idaho Code. Specific changes include removing redundant language that is contained in Idaho Code, clarifying residency for tuition purposes, student eligibility, academic eligibility, and streamlining the renewal application process.

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, **Volume 13-7, page 32.**

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.

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 7th day of June, 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 TEXT OF THE PROPOSED RULE FOR DOCKET NO. 08-0113-1301

010. DEFINITIONS.

~~01. **Educational Costs.** Is defined in Section 33-5604(1), Idaho Code and means the dollar amount determined annually by the state board of education as necessary for student tuition, fees, room and board, books and such other expenses reasonably related to attendance at an eligible Idaho postsecondary educational institution.~~ (4-2-08)

~~02. **Eligible Idaho Postsecondary Educational Institution.** Is defined in Section 33-5604(2), Idaho Code, and means:~~ (4-2-08)

~~a. A public postsecondary organization governed or supervised by the state board, the board of regents of the university of Idaho, a board of trustees of a community college established pursuant to the provisions of Chapter 21, Title 33, Idaho Code, or the state board for professional technical education;~~ (4-2-08)

~~b. Any educational organization located in Idaho which is:~~ (4-2-08)

~~i. Operated privately;~~ (4-2-08)

~~ii. Classified as not for profit under the Idaho Code;~~ (4-2-08)

~~iii. Under the control of an independent board and not directly controlled or administered by a public or political subdivision; and~~ (4-2-08)

~~iv. Accredited by an organization recognized by the state board, as provided in Section 33-2402, Idaho Code.~~ (4-2-08)

~~03. **Eligible Student.** Is defined in Section 33-5604(3), Idaho Code, and means a student who:~~ (4-2-08)

~~a. Is an Idaho resident;~~ (4-2-08)

~~b. Has or will graduate from an accredited high school or equivalent in Idaho as determined by the state board;~~ (4-2-08)

~~c. Has enrolled or applied as a full-time student to an eligible Idaho postsecondary educational institution; and~~ (4-2-08)

~~d. Is pursuing an undergraduate degree, certificate, or diploma.~~ (4-2-08)

~~04. **Financial Eligibility.** Is defined in Section 33-5604(4), Idaho Code, and means the extent of a person's inability to meet the educational costs associated with attending an eligible Idaho postsecondary educational institution through a model of shared responsibility, taking into account the required and expected contributions of such person's parents, family and personal resources.~~ (4-2-08)

~~05. **Grade Point Average or GPA.** Means the average grade earned by a student, figured by dividing the grade points earned by the number of credits attempted.~~ (4-2-08)

~~06. **Opportunity Scholarship Program.** Is defined Section 33-5604(5), Idaho Code and means the scholarship program described in Title 33, Chapter 56, Idaho Code, and these rules.~~ (4-2-08)

011. -- ~~099~~100. (RESERVED)

~~100. OBJECTIVES OF THE OPPORTUNITY SCHOLARSHIP PROGRAM.~~

~~The legislature has recognized and declared an intent to create a scholarship fund to provide financial resources to Idaho students who are economically disadvantaged to close the gap between the estimated cost of attending an eligible Idaho institution of higher education and the expected student and family contribution toward such educational costs, and to encourage the educational development of such students in eligible Idaho postsecondary educational institutions. These rules set forth academic and financial eligibility requirements and other criteria for purposes of awarding opportunity scholarships.~~ (4-2-08)

101. ELIGIBILITY.

01. Idaho Resident. An eligible student must be an Idaho resident, as defined in Section 33-3717B or 33-2110B, Idaho Code, as applicable to the institution the student is applying to, and IDAPA 08.01.04, "Residency Classification," Subsection 005.01. (4-2-08)(____)

02. Undergraduate Student. An eligible student must be pursuing ~~an~~ their first undergraduate certificate or degree, ~~certificate, or diploma.~~ A student may have received multiple certificates or degrees as part of the natural progression towards a recognized baccalaureate degree program. A student who is enrolled in a graduate program, but who has not yet earned a baccalaureate degree, is not eligible for an opportunity scholarship. A student enrolled in an undergraduate program is eligible for consideration for an opportunity scholarship, even if some of the student's courses are at the graduate level. (4-2-08)(____)

03. Academic Eligibility. (4-2-08)

a. Applicants for the opportunity scholarship are selected as recipients, in part, on the basis of their cumulative GPA. ~~An eligible student's GPA will constitute thirty percent (30%) of the weighting for the selection of recipients of opportunity scholarships.~~ (4-2-08)(____)

b. To be eligible to apply for an opportunity scholarship, an applicant must meet minimum academic eligibility criteria, as follows: (4-2-08)

i. A student who has not yet graduated from secondary school or its equivalent in the state of Idaho must have an un-weighted minimum cumulative grade point of average of three point zero (3.0) or better on a scale of four point zero (4.0) to be academically eligible to apply for an opportunity scholarship. (4-2-08)(____)

ii. A student who has obtained a general equivalency diploma must have taken the ACT assessment examination administered by the College Board (ACT), and received a minimum composite score of twenty (20) or better, or the equivalent SAT ~~I~~ assessment examination (SAT ~~I~~) with an equivalent weighted score, to be academically eligible to apply for an opportunity scholarship. (4-2-08)(____)

iii. A student who has obtained a general equivalency diploma - for purposes of academic eligibility, such student's cumulative GPA will be determined by the student's ACT or SAT score, equalized to reflect a secondary school GPA. (____)

iiii. A student currently enrolled in an eligible Idaho postsecondary educational institution must have a minimum cumulative grade point average of ~~two~~ three point zero (3.0) or better on a scale of four point zero (4.0) at such institution in order to be academically eligible to apply for an opportunity scholarship. (4-2-08)

e. ~~The following additional criteria shall be used to determine an eligible student's GPA:~~ (4-2-08)

i. ~~A student who has not yet graduated from secondary school and who has earned more than twelve (12) credits of postsecondary academic credit - for purposes of academic eligibility, the student's GPA shall be the higher of his or her secondary school GPA, or his or her postsecondary GPA, weighted to equalize secondary and postsecondary academic performance.~~ (4-2-08)

ii. ~~A student who has obtained a general equivalency diploma - for purposes of academic eligibility, such student's GPA will be determined by the student's ACT score, equalized to reflect a secondary school GPA.~~ (4-2-08)

~~iii. A student currently enrolled in an eligible Idaho postsecondary educational institution for purposes of academic eligibility, such student's GPA will be weighted to equalize secondary and post secondary academic performance. (4-2-08)~~

04. Financial Eligibility. (4-2-08)

~~a.~~ Applicants for the opportunity scholarship are selected as recipients, in part, on the basis of demonstrated financial need. The primary tool that will be used by Opportunity Scholarship Program officials to determine financial need will be the federal Free Application for Federal Student Aid (FAFSA), used by the United States Department of Education to determine eligibility for financial aid and a family's expected contribution to a student's postsecondary education. The financial need of an applicant for an opportunity scholarship will be based upon the validated expected family contribution, as identified by the FAFSA report. (4-2-08)

~~b. The financial need factor, as determined by FAFSA, will constitute seventy percent (70%) of the weighting for the selection of recipients of opportunity scholarships. (4-2-08)~~

05. Additional Eligibility Requirements. (4-2-08)

~~a. A student who has not yet graduated from high school, or its equivalent, in the state of Idaho must be at least in his junior their last year of high school or its equivalent to be eligible to apply for an opportunity scholarship. (4-2-08)(____)~~

~~b. To be eligible to receive an opportunity scholarship, an eligible student must: (4-2-08)~~

~~i. Have taken the ACT assessment examination, or the equivalent SAT ~~+~~ assessment examination, or the Writing Skills, Reading Skills, and Algebra areas of the ~~ACT Compass~~ COMPASS, or ACCUPLACER examination; (4-2-08)(____)~~

~~ii. Be enrolled as a full-time student in an eligible Idaho postsecondary educational institution; and (4-2-08)(____)~~

~~iii. Be pursuing an undergraduate degree, certificate, or diploma. (4-2-08)~~

~~c. A student must accept all federal grant aid that is made available to such student to be eligible to receive an ~~Idaho~~ opportunity scholarship. (4-2-08)(____)~~

~~d. To be eligible to receive an opportunity scholarship, the A student must not be in default on a student educational loan, or owe a repayment on a federal grant, and must be in good financial standing with the opportunity scholarship program. (4-2-08)(____)~~

~~e. If a student has attempted or completed more than one hundred (100) postsecondary academic credits, then such student must identify his or her major, the required number of credits necessary for graduation in such major, and shall submit an academic transcript that contains all courses taken and all postsecondary academic credit received. A student shall not be eligible for an opportunity scholarship if: (4-2-08)~~

~~i. The student is not meeting satisfactory academic progress at the eligible Idaho postsecondary educational institution the student is attending at the time he or she applies for an opportunity scholarship; (4-2-08)~~

~~ii. The student has completed more than one hundred fifty percent (150%) of the courses and academic credit necessary to graduate in such major; or (4-2-08)~~

~~iii. The student is not within two (2) semesters of graduation in such major, based on normal academic course load. (4-2-08)~~

~~06- **Student Responsibility.** The Board will, by resolution each year, establish the annual amount of the expected student contribution toward his education through employment or other contributions (student~~

~~responsibility). It is expected that a student will contribute an amount equal to a student working a minimum of twenty (20) hours per week during the time that a postsecondary educational institution is in session, and a minimum of forty (40) hours per week during the summer recess. This expectation will be one (1) of the factors the Board will use to set the amount of student responsibility. The Board may consider other factors as well, such as summer living expenses, and transition time between the academic year and the summer, as examples.~~ (4-2-08)

102. -- 2001. (RESERVED)

~~201. APPLICATION PROCESS (EFFECTIVE JULY 1 THROUGH DECEMBER 31, 2007).~~

~~01. Initial Applications. (4-2-08)~~

~~a. An eligible student who has enrolled in an eligible Idaho postsecondary educational institution for the 2007—2008 academic year, and who completed and submitted the FAFSA on or prior to March 1, 2007, shall be eligible for consideration for an opportunity scholarship award for the 2007—2008 academic year. Eligible Idaho postsecondary educational institutions shall transmit to the Board enrolled students who meet the eligibility requirements of these rules. (4-2-08)~~

~~b. After this selection process is performed, eligible students will be contacted by Opportunity Scholarship Program officials and must agree to the terms of the program, including these rules, by signing and electronically submitting an application to the Board. (4-2-08)~~

~~02. Announcement of Award. Announcement of the award of initial scholarships for the 2007—2008 academic year will be made no later than September 30, 2007, with awards to be effective at the beginning of that academic year. (4-2-08)~~

~~03. Communication with State Officials. Applicants for initial scholarships must respond by the date specified to any communication from officials of the Opportunity Scholarship Program. Failure to respond within the time period specified will result in cancellation of the application or forfeiture of the scholarship unless extenuating circumstances are involved. (4-2-08)~~

202. APPLICATION PROCESS (EFFECTIVE JANUARY 1, 2008).

01. Initial Applications. (4-2-08)

a. An eligible student who has not yet graduated from an accredited high school or its equivalent in the state of Idaho must complete and submit the Opportunity Scholarship Program application to the Board electronically on or before the date specified in the application, but not later than March 1. An applicant without electronic capabilities may submit an application on the form established by the Board through the United States Postal Service, which must be postmarked not later than March 1. An applicant who is in his junior year must complete and submit the FAFSA 4caster on or prior to March 1 of their junior year. All applicants must complete and submit the FAFSA on or prior to March 1 of his last year of secondary school (including applicants who were secondary school juniors that previously submitted the FAFSA 4caster). (4-2-08)

b. An eligible student currently enrolled in an eligible Idaho postsecondary educational institution must complete and submit the Opportunity Scholarship Program application to the Board electronically on or before the date specified in the application, but not later than March 1. An applicant without electronic capabilities may submit an application on the form established by the Board through the United States Postal Service, which must be postmarked by March 1. A current postsecondary educational institution student must complete and submit the FAFSA on or prior to March 1. (4-2-08)

02. Announcement of Award. Announcement of the award of initial scholarships will be made no later than ~~the first business day after~~ June 15 of each year, with awards to be effective at the beginning of the first full term following July 1 of that year. Announcements must clearly state the award is part of the state's scholarship program and is funded through state appropriated funds. (4-2-08)()

03. Communication with State Officials. Applicants for either initial or continuing scholarships must

respond by the date specified to any communication from officials of the Opportunity Scholarship Program. Failure to respond within the time period specified will result in cancellation of the application or forfeiture of the scholarship unless extenuating circumstances are involved and approved by the state board of education executive director or designee. (4-2-08)(____)

203. -- 299. (RESERVED)

300. SELECTION OF SCHOLARSHIP RECIPIENTS.

01. Selection Process. The selection of applicants for the receipt of an opportunity scholarship will be based on the availability of funding for the Opportunity Scholarship Program. In addition, opportunity scholarships will be awarded to applicants, based on ranking and priority, in accordance with the following criteria: (4-2-08)

a. ~~Applicants will be ranked to determine the eligible students with the greatest demonstrated financial need, based on the financial eligibility requirements of these rules. Then, e~~Eligible students shall be selected based on rating criteria that assigns seventy percent (70%) to financial eligibility, and thirty percent (30%) to academic eligibility. In the event that this weighted score results in a tie, an eligible student who submitted his application to the Board earliest in time will be assigned a higher rank. (4-2-08)

b. Notwithstanding Subsection 300.01.a. of these rules, the priority for the selection of recipients of opportunity scholarship awards shall be to scholarship recipients who received a previous opportunity scholarship award, and have continuing eligibility based upon financial need and other criteria provided in these rules. (4-2-08)

02. Monetary Value of the Opportunity Scholarship. (4-2-08)

a. The Board will, by resolution each year, ~~establish the maximum annual amount that a student may receive under the Opportunity Scholarship Program. In addition, the Board will, by resolution each year,~~ establish the educational costs for attending an eligible Idaho postsecondary educational institution for purposes of the Opportunity Scholarship Program. The educational costs will be established as a not to exceed amount for each eligible Idaho postsecondary educational institution. (4-2-08)(____)

b. The monetary value of the opportunity scholarship award to a student shall be based on the educational costs for attending an eligible Idaho postsecondary educational institution, less the following: (4-2-08)

i. The amount of the assigned student responsibility, established by the Board annually; (4-2-08)

ii. The amount of federal grant aid, as identified by the federal Student Aid Report (SAR) that is known at the time of award determination; (4-2-08)(____)

iii. The amount of other financial aid awarded the student, from private or other sources. (4-2-08)

c. The amount of an opportunity scholarship award to an individual student shall not exceed the ~~maximum amount~~ educational cost established by the Board annually, and shall not exceed the actual cost of tuition at an Idaho public postsecondary educational institution, or if the student attends or will attend an Idaho private postsecondary educational institution, the average tuition or matriculation fees at Idaho's public four (4) year postsecondary educational institutions. (4-2-08)(____)

301. OPPORTUNITY SCHOLARSHIP AWARD.

01. Payment. Payment of opportunity scholarship awards will be made in the name of the recipient and will be sent to a designated official at the eligible Idaho postsecondary educational institution in which the recipient is enrolled. The official must transmit the payment to the recipient within a reasonable time following receipt of the payment. (4-2-08)

02. Duration. Scholarships will be awarded on an annual basis and payments will correspond to academic terms, semesters, quarters, or equivalent units. In no instance will the entire amount of a scholarship be paid in advance to, or on behalf of, a scholarship recipient. The scholarship covers up to ~~one~~ four (+4) educational years, or

eight (8) semesters or equivalent for attendance at an eligible Idaho postsecondary educational institution. Awards are contingent on annual appropriations by the legislature and continued eligibility of the student. (4-2-08)(____)

03. Eligibility. If a student receives an opportunity scholarship payment and it is later determined that the student did not meet all of the Opportunity Scholarship Program eligibility requirements, then the student is considered in overpayment status, and must return program funds in accordance with the eligible Idaho postsecondary educational institution's refund policy. (4-2-08)

302. CONTINUING ELIGIBILITY.

To remain eligible for renewal of an opportunity scholarship, the recipient must comply with all of the provisions of the Opportunity Scholarship Program and these rules, in addition to the following requirements: (4-2-08)

01. Renewal Application. A scholarship recipient must ~~complete and submit a renewal application in order to be considered for a continuing scholarship for each succeeding year. A completed application for the renewal of an opportunity scholarship must be submitted to the Board electronically by the date established on the application, but not later than January 31. An applicant without electronic capabilities may submit an application on the form established by the Board through the United States Postal Service, which must be postmarked not later than January 31. In addition, a scholarship recipient must~~ update and submit the FAFSA on or prior to March 1. (4-2-08)(____)

02. Credit Hours. To remain eligible for renewal of an opportunity scholarship, the scholarship recipient attending a four (4) year eligible postsecondary institution must have completed a minimum of twelve (12) credit hours or its equivalent each semester that the student received an opportunity scholarship award. A scholarship recipient attending a two (2) year eligible postsecondary institution must have completed a minimum of nine (9) credit hours or its equivalent each semester that the student received an opportunity scholarship award. (4-2-08)(____)

03. Satisfactory Academic Progress. To remain eligible for renewal of an opportunity scholarship, the scholarship recipient must have maintained a minimum cumulative grade point average of ~~not~~ three point zero (≥3.0) on a scale of four point zero (4.0) during the time that the recipient received an opportunity scholarship award, and must be maintaining satisfactory academic progress, consistent within federal financial regulations as implemented at the eligible Idaho postsecondary educational institution at which the scholarship recipient was enrolled. (4-2-08)(____)

04. Maximum Scholarship Award. The award of an opportunity scholarship shall not exceed the equivalent of eight (8) semesters or the equivalent of four (4) academic years. (4-2-08)

05. Eligibility Following Interruption of Continuous Enrollment. A scholarship recipient whose continuous enrollment is interrupted for more than four (4) months for any reason but who intends to re-enroll in an eligible Idaho postsecondary educational institution must file a letter of intent to interrupt continuous enrollment no later than sixty (60) days prior to the first day of the academic term of the discontinued attendance. Failure to do so may result in forfeiture of the scholarship. The Board will review each request for interruption and notify the individual of approval or denial of the request. In addition, the individual must file a statement with the Board declaring his intent to re-enroll as a full-time undergraduate student in an academic or professional-technical program in an eligible Idaho postsecondary educational institution for the succeeding academic year no later than thirty (30) days prior to the first day of the academic term in which the individual intends to re-enroll. An extension of interruption of continuous enrollment period may be granted for eligible students due to military service in the United States armed forces, medical circumstances, or other circumstances approved by the state board of education's executive director. All requests for extension must be made sixty (60) days prior to the start of the succeeding academic year. (4-2-08)(____)

303. -- 399. (RESERVED)

400. RESPONSIBILITIES OF ELIGIBLE IDAHO POSTSECONDARY EDUCATIONAL INSTITUTIONS.

01. Statements of Continuing Eligibility. An eligible Idaho postsecondary educational institution

participating in this Opportunity Scholarship Program must submit statements of continuing student eligibility to the Board by the 30th day after the end of each academic term. Such statements must include verification that the scholarship recipient is still enrolled, attending full time, maintaining satisfactory academic progress, and has not exceeded the award eligibility terms. (4-2-08)()

02. Other Requirements. An eligible Idaho postsecondary educational institution must: (4-2-08)

a. Be eligible to participate in Federal Title IV financial aid programs, and must supply documentation to the Board verifying this eligibility, and prompt notification regarding any changes in this status; (4-2-08)

b. Have the necessary administrative computing capability to administer the Opportunity Scholarship Program on its campus, and electronically report student data records to the Board; (4-2-08)

c. Provide data on student enrollment and federal, state, and private financial aid for students to the Board, and (4-2-08)

d. Provide student level data as requested by the board on the effectiveness of the scholarship program in the form and timeframe established by the board. ()

e. Agree to permit periodic Opportunity Scholarship Program audits to verify compliance with Idaho law and these rules related to the program. (4-2-08)

401. ADMINISTRATION.

The Board is responsible for: (4-2-08)

a. Releasing any public information regarding the Opportunity Scholarship Program; (4-2-08)

b. Determination of scholarship recipients; (4-2-08)

c. Determination of procedures for payment of scholarships to recipients; (4-2-08)

d. Maintaining fiscal controls and accounting procedures; (4-2-08)

e. Preparing annual reports as required, and (4-2-08)

f. Authorizing release of all forms, affidavits, and certification necessary for the operation of the program. (4-2-08)

g. Providing annually to the participating institutions the formulas that will be used in calculating: ()

i. Academic eligibility scores; and ()

ii. Weighting financial eligibility and academic eligibility. ()

402. -- 500. (RESERVED)

501. APPEALS.

Any opportunity scholarship applicant or recipient adversely affected by a decision made under provisions of these rules may appeal such adverse decision as follows. The opportunity scholarship applicant or recipient must appeal no later than thirty (30) days following notice of the decision, and the written statement must include a statement of the reason the opportunity scholarship applicant or recipient believes the decision should be changed. The appeal must be submitted to the President executive director of the Board or designee. The office of the board ~~must~~ shall acknowledge receipt of the appeal within seven (7) days. The President executive director of the Board may or may not agree to review the action, or may appoint a subcommittee of three (3) persons, including at least one (1) financial aid administrator at an eligible postsecondary educational institution in Idaho. (4-2-08)()

01. Transmittal to Subcommittee. If the appeal is transmitted to the subcommittee, the subcommittee will review the appeal and submit a written recommendation to the ~~President~~ executive director of the Board within fifteen (15) days from the time the subcommittee receives the appeal document. The opportunity scholarship applicant or recipient initiating the appeal will be notified by the chairperson of the subcommittee of the time and place when the subcommittee will consider the appeal and will be allowed to appear before the subcommittee to discuss the appeal. ~~(4-2-08)~~(____)

02. Subcommittee Recommendations. Following the subcommittee's decision, the ~~President~~ executive director of the Board will present the subcommittee's recommendation to the full Board at the next regularly scheduled meeting of the Board. The opportunity scholarship applicant or recipient initiating the appeal may, at the discretion of the ~~President~~ executive director of the Board, be permitted to make a presentation to the Board. ~~(4-2-08)~~(____)

03. Board Decision. The decision of the Board is final, binding, and ends all administrative remedies, unless otherwise specifically provided by the Board. The Board will inform the opportunity scholarship applicant or recipient in writing of the decision of the Board. (4-2-08)

IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

08.02.04 - RULES GOVERNING PUBLIC CHARTER SCHOOLS

DOCKET NO. 08-0204-1301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is June 20, 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 rulemaking procedures have been initiated. The action is authorized pursuant to Sections 33-105, 33-5203, and 33-5210(4)(e), 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 21, 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 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 under consideration bring IDAPA 08.02.04 into alignment with the legislative changes made in 2013 and clarify the process for new charter school authorizers and the accountability measure requirements for charter schools.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

During the 2013 Legislative session changes were made to Title 33, Chapter 52 Idaho code allowing for additional charter school authorizers and the implementation of new accountability measures. Specific changes remove duplicative language that is contained in Title 33, Chapter 52, Idaho Code, adds information regarding institutions as authorized chartering entities, the authorizer fee required in section 33-5208(8), Idaho code, the petition review process, performance certificate requirements and procedures for reviewing requests for performance certificate revisions.

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

Section 33-5208, Idaho Code, requires each charter school to pay an authorizer fee to its authorized chartering entity. The fee is formula driven. The formula is defined in Section 33-5208, Idaho Code.

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: None.

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, **Volume 13-7, page 34**.

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: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Tracie Bent, Chief Planning and Policy Officer, at (208)332-1582 or tracie.bent@osbe.idaho.gov.

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 August 28, 2013.

DATED this July 5, 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 TEMPORARY RULE AND THE TEXT OF THE PROPOSED RULE
FOR DOCKET NO. 08-0204-1301

010. DEFINITIONS.

~~01. **Authorized Chartering Entity.** Is defined in Section 33-5202A(1), Idaho Code, and means either the local board of trustees of a school district in this state, or the Idaho Public Charter School Commission. (4-11-06)~~

01. Authorizer Fee. Fee paid by each public charter school to its authorized chartering entity. (6-20-13)T

02. Board. Means the Idaho State Board of Education. (4-11-06)

~~03. **Charter.** Is defined in Section 33-5202A(2), Idaho Code, and means the grant of authority approved by the authorized chartering entity to the board of directors of the charter school. (4-11-06)~~

~~04. **Commission.** Means the Idaho Public Charter School Commission, as provided by Section 33-5213, Idaho Code. (4-11-06)~~

~~05. **Department.** Means the Idaho Department of Education. (4-11-06)~~

05. Institution. For the purpose of this section, Institution means an Idaho public college, university of community college, or a private, nonprofit Idaho-based, nonsectarian college or university that is accredited by the same organization that accredits Idaho public colleges and universities. (6-20-13)T

~~06. **Founder.** Is defined in Section 33-5202A(3), Idaho Code, and means a person, including employees or staff of a public charter school, who makes a material contribution toward the establishment of a public charter school in accordance with criteria determined by the board of directors of the public charter school, and who is designated as such at the time the board of directors acknowledges and accepts such contribution. The criteria for determining when a person is a founder shall not discriminate against any person on any basis prohibited by the federal or state constitutions or any federal, state, or local law. The designation of a person as a founder, and the admission preferences available to the children of a founder, shall not constitute pecuniary benefits. (4-11-06)~~

~~07. **Petition.** Is defined in Section 33-5202A(4), Idaho Code, and means the document submitted by a person or persons to the authorized chartering entity to request the creation of a public charter school. (4-11-06)~~

08. Petitioners. Means the group of persons who submit a petition to establish a new public charter school, or to convert an existing traditional public school to a public charter school, as provided by Section 33-5205, Idaho Code, and the procedures described in Sections 200 through 205 of these rules. (4-11-06)

~~09. **Public Charter School.** Is defined in Section 33-5202A(5), Idaho Code, and means a school that is authorized under the Public Charter Schools Act, Title 33, Chapter 52, Idaho Code, to deliver public education in Idaho. (4-11-06)~~

~~10. **Public Virtual School.** Is defined in Section 33-5202A(8), Idaho Code, and means a school that delivers a full-time, sequential program of synchronous and/or asynchronous instruction primarily through the use of technology via the internet in a distributed environment. Schools classified as virtual must have an online component to their school with online lessons and tools for student and data management. (4-4-13)~~

~~07. **School Year.** Means the period beginning on July 1 and ending the next succeeding June 30 of each year. (4-11-06)~~

011. -- 099. (RESERVED)

100. LIMITATIONS ON NEW PUBLIC CHARTER SCHOOLS.

01. Responsibilities of Petitioners on Approval of Charter. Upon the approval of a new public charter school by an authorized chartering entity, the petitioners shall provide the Board with written notice of such approval. The authorized chartering entity of the public charter school shall provide the Board with copies of the charter and any charter revisions upon request. (4-4-13)

02. Authorization to Begin Educational Instruction. The public charter schools authorized to begin educational instruction during a given school year shall be those public charter schools that have received approval from their authorized chartering entities to begin educational instruction *at some time* during such school year. A public charter school that is approved by an authorized chartering entity, but which does not begin educational instruction must confirm with the Board, on or before March 1 preceding the next succeeding school year, that it is able to begin educational instruction during such school year. ~~(4-4-13)~~(6-20-13)T

03. Notification. The Board shall, as soon as reasonably practicable after determining that a public charter school will be authorized to begin educational instruction during a given school year, provide written notification to the petitioners. The Board shall also send a copy of such notification to the authorized chartering entity that approved the charter. (4-11-06)

101. AUTHORIZED CHARTERING ENTITY.

01. Institution. An institution shall receive approval from their governing board prior to authorizing any charter schools. (6-20-13)T

a. Petitions shall be submitted to the president of the institution or his designee. (6-20-13)T

b. An institution may approve or deny a petition, but cannot refer the petition to another authorized chartering entity. (6-20-13)T

c. Notwithstanding Sections 400 through 404, of these rules, denial of a new petition by an institution is final. A petitioner may submit a petition that has been denied by an institution to any authorized chartering entity. (6-20-13)T

102. AUTHORIZER FEE.

01. Notification. It is the responsibility of each authorizer to notify the Department if the authorizer fee has not been received by the date specified in Section 33-5208, Idaho Code. (6-20-13)T

a. The authorizer must provide notification of the delinquent fee to the charter school prior to reporting to the Department. (6-20-13)T

b. The authorizer must provide the amount delinquent and proof of notification to the charter school within thirty (30) days of the non-payment of the authorizer fee. (6-20-13)T

c. The Department shall withhold the amount of the delinquent fee from the next scheduled release of funds to the charter school. The funds will be withheld until the Department has received notification from the authorizer that the authorizer fee has been paid in full. (6-20-13)T

~~1043.~~ -- 199. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

201. POLICIES AND PROCEDURES ADOPTED BY AN AUTHORIZED CHARTERING ENTITY.

~~01. Charter School Policies and Procedures.~~ An authorized chartering entity may adopt its own charter school policies and procedures describing the charter school petition process and the procedures that petitioners must comply with in order to form a new public charter school, including a public virtual school. Petitioners must comply with the charter school policies and procedures adopted by the authorized chartering entity with which a petition is submitted. Such charter school policies and procedures must comply with Title 33, Chapter 52, Idaho Code, and the rules promulgated by the Board. If there is any conflict between the charter school policies and procedures adopted by an authorized chartering entity and rules promulgated by the Board, then the Board rules shall govern. (4-11-06)(6-20-13)T

~~02. Application Deadline.~~ Petitioners must submit a new petition to an authorized chartering entity by September 1 in order to be eligible to begin educational instruction for the following school year as required by Section 33-5203, Idaho Code. A petition filed after such date that is approved and the charter granted shall not be eligible to begin operations until the next succeeding school year at the earliest. (4-4-13)

(BREAK IN CONTINUITY OF SECTIONS)

203. ADMISSION PROCEDURES.

01. **Model Admission Procedures.** In accordance with Section 33-5205(3)(i), Idaho Code, a petition to establish a new public charter school must describe the admission procedures to be utilized by the public charter school. All public charter schools must have an admission procedure approved by their authorized chartering entity, which complies with Section 203 of this rule. In order to ensure that public charter schools utilize a fair and equitable selection process for initial admission to and enrollment in a public charter school, as well as admission to and enrollment in a public charter school during subsequent school years, the Board has approved model admission procedures that may be utilized and adopted by petitioners. The approved model admission procedures are described in Subsections 203.03 through 203.12 of these rules. Petitioners are not required to adopt the Board's model admission procedures, but must demonstrate a reason for varying from the Board's approved procedures. (4-11-06)(6-20-13)T

02. **Enrollment Opportunities.** Section 33-5205(3)(s), Idaho Code, requires petitioners to describe the process by which the citizens in the area of attendance shall be made aware of the enrollment opportunities of the public charter school. Petitioners shall ensure that such process includes the dissemination of enrollment information, taking into consideration the language demographics of the attendance area, at least three (3) months in advance of the enrollment deadline established by the public charter school each year, to be posted in highly visible and prominent locations within the area of attendance of the public charter school. In addition, petitioners shall ensure that such process includes the dissemination of press release or public service announcements, to media outlets that broadcast within, or disseminate printed publications within, the area of attendance of the public charter school; petitioners must ensure that such announcements are broadcast or published by such media outlets on not less than three (3) occasions, beginning not later than fourteen (14) days prior to the enrollment deadline each year. Finally, such enrollment information shall advise that all prospective students will be given the opportunity to enroll in the public charter school, regardless of race, color, national or ethnic origin, religion, gender, social or economic status,

or special needs. (4-11-06)

03. Enrollment Deadline. Each year a public charter school shall establish an enrollment admissions deadline, which shall be the date by which all written requests for admission to attend the public charter school for the next school year must be received. The enrollment deadline cannot be changed once the enrollment information is disseminated as required by Subsection 203.02. (4-11-06)

04. Requests for Admission. A parent, guardian, or other person with legal authority to make decisions regarding school attendance on behalf of a child in this state, may make a request in writing for such child to attend a public charter school. In the case of a family with more than one (1) child seeking to attend a public charter school, a single written request for admission must be submitted on behalf of all siblings. The written request for admission must be submitted to, and received by, the public charter school at which admission is sought on or before the enrollment deadline established by the public charter school. The written request for admission shall contain the name, grade level, address, and telephone number of each prospective student in a family. If the initial capacity of the public charter school is insufficient to enroll all prospective students, then an equitable selection process, such as a lottery or other random method, shall be utilized to determine which prospective students will be admitted to the public charter school, as described in Subsection 203.09 of this rule. Only those written requests for admission submitted on behalf of prospective students that are received prior to the enrollment deadline established by the public charter school shall be permitted in the equitable selection process. Only written requests for admission shall be considered by the public charter school. Written requests for admission received after the established enrollment deadline will be added to the bottom of the waiting list for the appropriate grade. If there is an opening in one grade, a sibling, if any, from a late submitted application must go to the bottom of the sibling list. (4-11-06)

05. Admission Preferences. A public charter school shall establish an admission preference for students residing in the attendance area of the public charter school, as provided in Section 33-5206, Idaho Code. In addition, a public charter school may establish additional admission preferences, as authorized by Section 33-5205(3)(i), Idaho Code, ~~for students returning to the public charter school, for children of founders, and for siblings of students already selected to attend the public charter school. Such admission preferences must be approved by the authorized chartering entity and described in the final approved petition.~~ (4-11-06)(6-20-13)T

~~**06. Priority of Preferences for Initial Enrollment.** If a public charter school determines to establish admission preferences for initial enrollment of students in a public charter school, then the selection hierarchy with respect to such preferences shall be as follows: (4-11-06)~~

~~**a.** First, to children of founders, provided that this admission preference shall be limited to not more than ten percent (10%) of the initial capacity of the public charter school. If so stated in its petition, a new public charter school may include within this priority group the children of full-time employees, subject to the provisions of Section 33-5205(3)(k), Idaho Code. (4-11-06)~~

~~**b.** Second, to siblings of pupils already selected by the lottery or other random method. (4-11-06)~~

~~**c.** Third, to prospective students residing in the attendance area of the public charter school. (4-11-06)~~

~~**d.** Fourth, an equitable selection process, such as by lottery or other random method. (4-11-06)~~

~~**07. Priority of Preferences for Subsequent Enrollment Periods.** If a public charter school determines to establish admission preferences for enrollment of students in a public charter school in subsequent school years, then the selection hierarchy with respect to such preferences shall be as follows: (4-11-06)~~

~~**a.** First, to pupils returning to the public charter school in the second or any subsequent year of operation. Returning students are automatically enrolled in the appropriate grade and do not need to be selected by a random selection method. (4-11-06)~~

~~**b.** Second, to children of founders, provided that this admission preference shall be limited to not more than ten percent (10%) of the capacity of the public charter school. If so stated in its petition, a public charter school may include within this priority group the children of full-time employees and/or children withdrawn from the~~

~~public charter school within the previous three (3) years as a result of the relocation of a parent or guardian due to an academic sabbatical, employer or military transfer or reassignment, subject to the provisions of Section 33-5205(3)(k)(i-ii), Idaho Code. (4-4-13)~~

- ~~e. Third, to siblings of pupils already enrolled in the public charter school. (4-11-06)~~
- ~~d. Fourth, to prospective students residing in the attendance area of the public charter school. (4-11-06)~~
- ~~e. Fifth, an equitable selection process, such as by lottery or other random method. (4-11-06)~~

086. Proposed Attendance List for Lottery. Each year the public charter school shall create an attendance list containing the names of all prospective students on whose behalf a written request for admission was timely received by the public charter school, separated by grade level. In addition, the proposed attendance list shall contain columns next to the name of each student, in which the public charter school will designate admission preferences applicable to each prospective student. The columns shall be designated “A” for returning student preference; “B” for founders preference; “C” for sibling preference, with a corresponding cross-reference to each of the siblings of the prospective student; and “D” for attendance area preference. (4-11-06)

097. Equitable Selection Process. If the initial capacity of a public charter school is insufficient to enroll all prospective students, or if capacity is insufficient to enroll all prospective students in subsequent school years, then the public charter school shall determine the students who will be offered admission to the public charter school by conducting a fair and equitable selection process. The selection procedure shall be conducted as follows: (4-11-06)

a. The name of each prospective student on the proposed attendance list shall be individually affixed to or written on a three by five (3 x 5) inch index card. The index cards shall be separated by grade. The selection procedure shall be conducted one (1) grade level at a time, with the order for each grade level selected randomly. The index cards containing the names of the prospective students for the grade level being selected shall be placed into a single container. (4-11-06)

b. A neutral, third party shall draw the grade level to be completed first and then draw each index card from the container for that grade level, and such person shall write the selection number on each index card as drawn, beginning with the numeral “1” and continuing sequentially thereafter. In addition, after selecting each index card, the name of the person selected will be compared to the proposed attendance list to determine whether any preferences are applicable to such person. (4-11-06)

c. If the name of the person selected is a returning student, then the letter “A” shall be written on such index card. If the name of the person selected is the child of a founder, the letter “B” shall be written on such index card. If the name of the person selected is the sibling of another student that has already been selected for admission to the public charter school, then the letter “C” shall be written on such index card. If the name of the person selected resides in the attendance area of the public charter school, then the letter “D” shall be written on such index card. (4-11-06)

d. With regard to the sibling preference, if the name of the person selected has a sibling who has already been selected, but the person previously selected did not have the letter “C” written on his or her index card (because a sibling had not been selected for admission prior to the selection of the index card of that person), then the letter “C” shall now be written on that person’s index card at this time. (4-4-13)

e. With regard to the founder’s preference, a running tally shall be kept during the course of the selection procedure of the number of index cards, in the aggregate, that have been marked with the letter “B.” When the number of index cards marked with the letter “B” equals ten percent (10%) of the proposed capacity of the public charter school for the school year at issue, then no additional index cards shall be marked with the letter “B,” even if such person selected would otherwise be eligible for the founders preference. (4-11-06)

f. After all index cards have been selected for each grade, then the index cards shall be sorted for each grade level in accordance with the following procedure. All index cards with the letter “A” shall be sorted first, based

on the chronological order of the selection number written on each index card; followed by all index cards with the letter "B," based on the chronological order of the selection number written on each index card; followed by all index cards with the letter "C," based on the chronological order of the selection number written on each index card; followed by all index cards with the letter "D," based on the chronological order of the selection number written on each index card; followed, finally, by all index cards containing no letters, based on the chronological order of the selection number written on each index card. (4-11-06)

g. After the index cards have been drawn and sorted for all grade levels, the names shall be transferred by grade level, and in such order as preferences apply, to the final selection list. (4-11-06)

108. Final Selection List. The names of the persons in highest order on the final selection list shall have the highest priority for admission to the public charter school in that grade, and shall be offered admission to the public charter school in such grade until all seats for that grade are filled. (4-11-06)

109. Notification and Acceptance Process. (4-11-06)

a. With respect to students selected for admission to the public charter school, within seven (7) days after conducting the selection process, the public charter school shall send an offer letter to the parent, guardian, or other person who submitted a written request for admission on behalf of a student, advising such person that the student has been selected for admission to the public charter school. The offer letter must be signed by such student's parent, or guardian, and returned to the public charter school by the date designated in such offer letter by the public charter school. (4-11-06)

b. With respect to a prospective student not eligible for admission to the public charter school, within seven (7) days after conducting the selection process, the public charter school shall send a letter to the parent, guardian, or other person who submitted a request for admission on behalf of such student, advising such person that the prospective student is not eligible for admission, but will be placed on a waiting list and may be eligible for admission at a later date if a seat becomes available. (4-11-06)

c. If a parent, guardian, or other person receives an offer letter on behalf of a student and declines admission, or fails to timely sign and return such offer by the date designated in such offer letter by the public charter school, then the name of such student will be stricken from the final selection list, and the seat that opens in that grade will be made available to the next eligible student on the final selection list. (4-11-06)

d. If a student withdraws from the public charter school during the school year for any reason, then the seat that opens in that grade will be made available to the next eligible student on the final selection list. (4-11-06)

120. Subsequent School Years. The final selection list for a given school year shall not roll over to the next subsequent school year. If the capacity of the public charter school is insufficient to enroll all prospective students during the next subsequent school year, then a new equitable selection process shall be conducted by the public charter school for such school year. (4-11-06)

~~**13. Admission Procedures for Approved Charter Schools.** All public charter schools must have an admission procedure approved by their authorized chartering entity, which complies with Section 203 of this rule. (4-11-06)~~

204. SUBMISSION OF PETITION. (RESERVED)

~~**01. New Public Charter School.** To institute the approval process for the formation of a new public charter school, the petitioners must submit the petition to the local board of trustees of the school district in which the proposed new public charter school will be located, as required by Section 33-5205(1)(a), Idaho Code. (4-11-06)~~

~~**02. New Public Virtual School.** The petitioners for a new public virtual school must submit the petition for approval with the Commission, as required by Section 33-5205(1)(b), Idaho Code. (4-11-06)~~

~~**03. Notification to the Board.** Petitioners shall promptly notify the Board that a petition has been~~

~~submitted to an authorized chartering entity.~~

~~(4-11-06)~~

205. REVIEW OF PETITIONS.

01. Initial Sufficiency Review of Petition. Prior to submitting a petition with an authorized chartering entity, petitioners shall submit one (1) copy of the proposed draft petition to the Department, which shall review the proposed draft petition for the purpose of determining whether it was prepared in accordance with the instructions furnished by, and in the format required by, the Board, and contains the information required by Section 33-5205, Idaho Code. ~~(4-4-13)~~(6-20-13)T

02. Timeframe for Initial Sufficiency Review. The Department shall complete the *initial sufficiency* review of the proposed draft petition as soon as reasonably practicable after the date the proposed draft petition is received by the Department, but not later than thirty (30) days after receipt. ~~(4-11-06)~~(6-20-13)T

03. Notification of Findings After Initial Sufficiency Review. The Department shall notify the petitioners promptly in writing describing the results of the *initial sufficiency* review of the proposed draft petition, and, if applicable, identify any deficiencies in the proposed draft petition. ~~(4-11-06)~~(6-20-13)T

04. ~~Written Response to Initial Review.~~ ~~Petitioners shall include a copy of the Department's final review of the proposed draft petition, and a written response to the findings of such review, with the petition upon submission to an authorized chartering entity. Deficiencies in the petition identified by the Department's initial review shall be addressed in the written response. Correction of Deficiencies in Proposed Draft Petition. Petitioners shall address any deficiencies in the proposed draft petition and shall resubmit the petition to the Department for additional reviews until the Department determines that the petition is sufficient.~~ ~~(4-4-13)~~(6-20-13)T

05. Substantive Review of Petition. The substantive review of the merits of a petition by an authorized chartering entity shall be for the purpose of determining whether petitioners have demonstrated compliance with Title 33, Chapter 52, Idaho Code. (4-11-06)

~~**06. Timeframe for Substantive Review.** An authorized chartering entity must comply with the procedural requirements described in Section 33-5205, Idaho Code. (4-11-06)~~

~~**a.** Unless a petition is referred to the Commission as authorized by Section 33-5205(1)(e)(iii), Idaho Code, and as discussed in Subsection 206.01 of these rules, an authorized chartering entity must hold a public hearing not later than seventy five (75) days after receipt of the petition, for the purpose of considering the merits of the petition, as well as the level of employee and parental support for the proposed public charter school. In the case of a petition being reviewed by the Commission, the public hearing must also include any oral or written comments, if any, from an authorized representative of the school district in which the proposed public charter school would be physically located regarding the merits of the petition and any potential impacts on the school district. (4-4-13)~~

~~**b.** An authorized chartering entity must make a decision on whether to approve the petition within seventy five (75) days after the date of the public hearing on the merits of the petition. (4-4-13)~~

~~**c.** The authorized chartering entity may unilaterally determine to extend the date by which a decision is required to be made up to an additional seventy five (75) days if it determines the petition is incomplete. (4-4-13)~~

~~**d.** The Commission and the petitioners may mutually agree to extend the date by which a decision is required to be made on the merits of the petition for an additional, specified period of time. (4-4-13)~~

~~**07. If Approved, Charter Is Subject to Limitations on Number of New Charters.** If a petition is approved, then the authorized chartering entity must promptly prepare for petitioners a written notice of its decision to approve the charter. It shall be the responsibility of the petitioners to provide the Board with this written notice of approval. (4-4-13)~~

086. If Denied, Petitioners May Appeal. (4-11-06)

a. If a petition is denied, then the authorized chartering entity must promptly prepare for petitioners a

written notice of its decision to deny the charter. The written decision shall include all of the reasons for the denial, and shall also include a reasoned statement that states or explains the criteria and standards considered relevant by the authorized chartering entity, the relevant contested facts relied upon, and the rationale for the decision based on the applicable statutory provisions and factual information presented to the authorized chartering entity. (4-11-06)

b. Petitions submitted to a local board of trustees of a school district or the public charter school commission may be appealed. The petitioners may appeal the decision of the authorized chartering entity, in accordance with the procedures described in Sections 401 through 402 of these rules. ~~(4-11-06)~~(6-20-13)T

(BREAK IN CONTINUITY OF SECTIONS)

300. PUBLIC CHARTER SCHOOL RESPONSIBILITIES.

01. General. The governing board of a public charter school shall be responsible for ensuring that the public charter school is adequately staffed, and that such staff provides sufficient oversight over all public charter school operational and educational activities. In addition, the governing board of a public charter school shall be responsible for ensuring ~~compliance with Title 33, Chapter 52, Idaho Code~~ that the school complies with all applicable federal and state education standards, as well as all applicable state and federal laws, rules and regulations, and policies. ~~(4-11-06)~~(6-20-13)T

02. Compliance with Terms of ~~Charter~~ Performance Certificate. The governing board of a public charter school shall be responsible for ensuring that the school is in compliance with ~~all of the terms and conditions of the charter performance certificate approved by the authorized chartering entity of the school, as reflected in the final approved petition filed with the Board. In addition, the governing board of the public charter school shall be responsible for ensuring that the school complies with all applicable federal and state education standards, as well as all applicable state and federal laws, rules and regulations, and policies~~ executed in accordance with Section 33-5205B(1), Idaho Code. ~~(4-11-06)~~(6-20-13)T

03. Annual Reports. The governing board of a public charter school must submit an annual ~~report to the authorized chartering entity of the school, as required by Section 33-5206(7), Idaho Code. The report shall contain the~~ audit of the fiscal ~~and programmatic~~ operations as required in Section 33-5205~~6(37)(j)~~, Idaho Code, ~~a report on student progress based on the public charter school's student educational standards identified in Section 33-5205(3)(b), Idaho Code,~~ and a copy of the public charter school's accreditation report. An authorized chartering entity may reasonably request that a public charter school provide additional information to ensure that the public charter school is meeting the terms of its ~~charter performance certificate.~~ ~~(4-11-06)~~(6-20-13)T

04. Operational Issues. The governing board of the public charter school shall be responsible for promptly notifying its authorized chartering entity if it becomes aware that the public charter school is not operating in compliance with the terms and conditions of its ~~charter performance certificate.~~ Thereafter, the governing board of the public charter school shall also be responsible for advising its authorized chartering entity with follow-up information as to when, and how, such operational issues are finally resolved and corrected. ~~(4-11-06)~~(6-20-13)T

301. AUTHORIZED CHARTERING ENTITY RESPONSIBILITIES.

~~01. Compliance Monitoring.~~ Notwithstanding Section 300 of these rules, the authorized chartering entity of a public charter school shall be responsible for ~~ensuring that~~ monitoring the public charter school's ~~operates operations~~ in accordance with all of the terms and conditions of the ~~charter approved by the authorized chartering entity, as reflected in the final approved petition filed with the Board, and as provided by Section 33-5209(1), Idaho Code. The authorized chartering entity also shall be responsible for ensuring that the public charter school program approved by the authorized chartering entity meets the terms of the charter, complies with the general education laws of the state, unless specifically directed otherwise in Title 33, Chapter 52, Idaho Code, and operates in accordance with the state educational standards of thoroughness as defined in Section 33-1612, Idaho Code, as provided in Section 33-5210(2), Idaho Code~~ performance certificate. ~~(4-11-06)~~(6-20-13)T

~~02. **Written Notice of Defect.** If an authorized chartering entity has reason to believe that a public charter school has committed any defect identified in Subsections 33-5209(2)(a) through (e), Idaho Code, then the authorized chartering entity shall provide the public charter school with prompt written notice of such defect, and shall provide the public charter school a reasonable opportunity to cure such defect. (4-11-06)~~

~~03. **Corrective Action Plan.** The public charter school shall provide the authorized chartering entity with a corrective action plan describing the public charter school's plan to cure the defect. The corrective action plan shall describe in detail the terms and conditions by which the public charter school will cure the defect at issue, including a reasonable time frame for completion. (4-4-13)~~

~~04. **Failure to Cure.** If a public charter school fails to comply with the terms and conditions of the corrective action plan and to cure the defect at issue within a reasonable time, then the authorized chartering entity may provide notice to the public charter school of its intent to revoke the charter, as permitted by Section 33-5209(3), Idaho Code, and in accordance with Section 303 of these rules. (4-11-06)~~

302. CHARTER REVISIONS.

The governing board of a public charter school may reasonably request ~~that its authorized chartering entity revise its~~ revisions to an approved charter or performance certificate, as authorized by Section 33-5209~~6~~(~~8~~), Idaho Code.

~~(4-11-06)~~(6-20-13)T

01. Request for Revision of Charter. The governing board of a public charter school that desires to revise its charter must submit a written request describing the proposed revisions with the public charter school's authorized chartering entity. In addition, the governing board of the public charter school shall also submit one (1) copy of the proposed revisions to the Department, which shall review the proposed revisions in the same manner that it reviews a proposed draft petition, as described in Section 204 of these rules. The Department shall complete its review of the proposed charter revisions not later than thirty (30) days after receipt, and shall notify the governing board of the public charter school and the authorized chartering entity promptly in writing describing the results of such review. ~~(4-4-13)~~(6-20-13)T

~~02. **Limited Review.** The authorized chartering entity shall only be permitted to review and consider the proposed revisions to the charter, and shall not have authority to make other charter revisions that are not requested by the public charter school. **Request for Revision of Performance Certificate.** The governing board of a public charter school that desires to revise its performance certificate must submit a written request and the proposed revisions to the public charter school's authorized chartering entity. (4-11-06)~~(6-20-13)T

03. Procedure for Reviewing Request for Charter Revision. The authorized chartering entity shall have seventy-five (75) days from the date of receipt of the written notice from the Department in which to issue its decision on the request for charter revision. The authorized chartering entity shall consider the request for charter revision at its next regular meeting following the date of receipt of the written notice from the Department, provided that the request is submitted no fewer than thirty (30) days an advance of that meeting. If permitted by applicable policies and procedures adopted by the authorized chartering entity, the review of a request for a charter revision may be delegated to appropriate staff employed by the authorized chartering entity. An authorized chartering entity may, but is not required to, conduct a public hearing to consider the request for charter revision. (4-4-13)

04. Procedure for Reviewing Request for Performance Certificate Revision. The authorized chartering entity shall have seventy-five (75) days from the date of receipt of a request for performance certificate revision in which to issue its decision on the request for performance certificate revision. The authorized chartering entity shall consider the request for performance certificate revision at its next regular meeting following the date of receipt of the request for revision, provided that the request is submitted no fewer than thirty (30) days an advance of that meeting. If permitted by applicable policies and procedures adopted by the authorized chartering entity, the review of a request for a performance certificate revision may be delegated to appropriate staff employed by the authorized chartering entity. An authorized chartering entity may, but is not required to, conduct a public hearing to consider the request for performance certificate revision. (6-20-13)T

~~04~~**5. Approval of Proposed Charter or Performance Certificate Revision.** If the authorized chartering entity approves the proposed charter or performance certificate revision, a copy of such revision shall be executed by each of the parties to the charter ~~contract~~ or performance certificate and shall be treated as either a

supplement to, or amendment of, the final approved petition or performance certificate, whatever the case may be. ~~(4-1-13)~~(6-20-13)T

056. Denial of Proposed Charter or Performance Certificate Revision. If the proposed revision is denied, then the authorized chartering entity must prepare a written notice of its decision denying the request for charter or performance certificate revision. The decision to deny a request for a charter or performance certificate revision shall contain all of the reasons for the decision. The public charter school may appeal the decision denying the request for charter or performance certificate revision to the Board. The provisions of Section 403 of these rules shall govern the appeal. ~~(4-11-06)~~(6-20-13)T

303. REVOCATION.

An authorized chartering entity may revoke a charter in accordance with the procedure described in this Section 303 of this rule if a public charter school has failed to ~~cure a defect with respect to the operation of the public charter school, as described in Subsection 301.04 of these rules, after receiving reasonable notice and a reasonable opportunity to cure the defect~~ meet any of the specific, written conditions for necessary improvements established pursuant to the provisions of Section 33-5209B(1), Idaho Code, by the dates specified. ~~(4-11-06)~~(6-20-13)T

01. Written Notice of Intention to Revoke Charter. The authorized chartering entity must provide the public charter school with reasonable notice of the authorized chartering entity's intent to revoke the charter, which shall be in writing and must include all of the reasons for such proposed action. In addition, such notice shall provide the public charter school with a reasonable opportunity to reply, which shall not be less than thirty (30) days after the date of such notice. (4-11-06)

02. Public Hearing. The authorized chartering entity shall conduct a public hearing with respect to its intent to revoke a charter. Such hearing shall be held no later than thirty (30) days after receipt of such written reply. If the public charter school does not reply by the date set in the notice, then such hearing shall be held no later than sixty (60) days after the date the notice was sent by the authorized chartering entity. (4-11-06)

a. Written notification of the hearing shall be sent to the public charter school at least ten (10) days in advance of the hearing. (4-11-06)

b. The public hearing shall be conducted by the authorized chartering entity, or such other person or persons appointed by the authorized chartering entity to conduct public hearings and receive evidence as a contested case in accordance with Section 67-5242, Idaho Code. (4-11-06)

03. Charter Revocation. If the authorized chartering entity determines that the public charter school has not complied with the corrective action plan and cured the defect at issue, then the authorized chartering entity may revoke the charter. Such decision may be appealed to the Board. The provisions of Section 403 of these rules shall govern the appeal. (4-11-06)

304. -- 399. (RESERVED)

400. APPEALS.

The following actions relating to public charter schools may be appealed to the Department or to the Board, as applicable, in accordance with the procedures described in Sections 401 through 403 of these rules: (4-11-06)

01. Denial of New Petition. The denial by an authorized chartering entity of a petition to form a new public charter school, as authorized by Section 33-5207, Idaho Code. (4-11-06)

02. Approval of Conversion Petition. The approval of a petition by an authorized chartering entity to convert a traditional public school to a public charter school over the objection of thirty (30) or more persons or employees of the local school district, as authorized by Section 33-5207, Idaho Code. (4-11-06)

03. Denial of Charter or Performance Certificate Revision. The denial by the authorized chartering entity of a public charter school of a request to revise a charter or performance certificate, as authorized by Section 33-5209~~6~~(78), Idaho Code. ~~(4-11-06)~~(6-20-13)T

04. Revocation. A decision of an authorized chartering entity to revoke a charter, as authorized by Section 33-5209C(47), Idaho Code. ~~(4-11-06)~~(6-20-13)T

(BREAK IN CONTINUITY OF SECTIONS)

403. APPEAL RELATING TO THE DENIAL OF A REQUEST TO REVISE A CHARTER OR PERFORMANCE CERTIFICATE OR A CHARTER NON-RENEWAL OR REVOCATION DECISION.

The following procedures shall govern an appeal relating to the denial of a request to revise a charter or a charter ~~non-renewal~~ or revocation decision. ~~(4-11-06)~~(6-20-13)T

01. Submission of Appeal. The public charter school shall submit a notice of appeal in writing to the Board that describes, in detail, all of the grounds for the appeal, and the remedy requested, within thirty (30) days from the date of the written decision of the authorized chartering entity to ~~non-renew~~ or revoke a charter or to deny a charter or performance certificate revision. A copy of the notice of appeal shall be submitted to the authorized chartering entity. In addition, contemporaneous with the submission of the notice of appeal, the appellant charter school shall also submit to the Board ~~eleven (11), three (3)-holed punched, copies~~ one (1) hard copy and one (1) electronic copy of the complete record of all actions taken with respect to the matter being appealed. The record must be in chronological order and must be appropriately tabbed and indexed. The record must contain, at a minimum, all of the following documents: ~~(4-11-06)~~(6-20-13)T

a. The name, address, and telephone number of the appellant public charter school and the authorized chartering entity that issued the decision being appealed. (4-11-06)

b. Copies of all correspondence or other documents between the appellant public charter school and the authorized chartering entity relating to the matter being appealed. (4-11-06)

c. Copies of audio or video recordings, if any, and the minutes from all meeting(s) where the matter on appeal was considered or discussed. (4-11-06)

d. The written decision provided by the authorized chartering entity to the appellant public charter school. (4-11-06)

02. Public Hearing. A public hearing to review the decision of the authorized chartering entity shall be conducted within thirty (30) days after the date of the filing of the notice of appeal. (4-11-06)

03. Notice of Hearing. All parties in an appeal shall be notified of a public hearing at least ten (10) days in advance, or within such time period as may be mandated by law. The notice shall identify the time and place of the hearing; a statement of the legal authority under which the hearing is to be held; the particular sections of the statutes and any rules involved; the issues involved; and the right to be represented. The notice shall identify how and when documents for the hearing will be provided to all parties. (4-11-06)

04. Appointment of Charter Appeal Committee or Public Hearing Officer. The Board may, in its reasonable discretion, determine to appoint a charter appeal committee, composed solely of Board members, or a combination of Board members and Board staff, or alternatively, to appoint a public hearing officer, for the purpose of conducting the public hearing. If the Board determines not to make such an appointment, then the Board shall conduct the public hearing. (4-11-06)

05. Prehearing Conference. The entity conducting the public hearing may, upon written or other sufficient notice to all interested parties, hold a prehearing conference to formulate or simplify the issues; obtain admissions or stipulations of fact and documents; identify whether there is any additional information that had not been presented to the authorized chartering entity; arrange for exchange of any proposed exhibits or prepared expert testimony; limit the number of witnesses; determine the procedure at the hearing; and to determine any other matters which may expedite the orderly conduct and disposition of the proceeding. (4-11-06)

06. Hearing Record. The hearing shall be recorded unless a party requests a stenographic recording by a certified court reporter, in writing, at least seven (7) days prior to the date of the hearing. Any party requesting a

stenographic recording by a certified court reporter shall be responsible for the costs of same. The record shall be transcribed at the expense of the party requesting a transcript, and prepayment or guarantee of payment may be required. Once a transcript is requested, any party may obtain a copy at the party's own expense. (4-11-06)

07. Recommended Findings. If the public hearing is conducted by a charter appeal committee or appointed public hearing officer, then such committee or public hearing officer shall forward to the Board all materials relating to the hearing as soon as reasonably practicable after the date of the public hearing. If so requested by the Board, the entity conducting the public hearing may prepare recommended findings for the Board to consider. The recommended findings shall include specific findings on all major facts at issue; a reasoned statement in support of the recommendation; all other findings and recommendations of the charter appeal committee or public hearing officer; and a recommended decision affirming, or reversing the action or decision of the authorized chartering entity. A copy of the recommended findings shall be mailed or delivered to all the parties. (4-11-06)

08. Final Decision and Order by the Board. The Board shall consider the materials forwarded by the entity conducting the public hearing, including any recommended findings of the charter appeal committee or appointed public hearing officer, as may be applicable, in a meeting open to the public at the next regularly scheduled meeting of the Board that occurs after the public hearing. If the public hearing was not conducted by the Board, then the Board may allow representatives for both the appellant public charter school and the authorized chartering entity an opportunity to deliver oral arguments to the Board advocating their respective positions, limited to thirty (30) minutes for each party. Whether the public hearing is conducted by the Board, or by a charter appeal committee or appointed public hearing officer, the Board shall issue a final written decision on such appeal within sixty (60) days from the date of the public hearing. The decision shall be sent to both the appellant public charter school and the authorized chartering entity. With respect to such written decision, the Board may take any of the following actions: (4-11-06)

a. Grant the appeal and reverse the decision of the authorized chartering entity if the Board determines that the authorized chartering entity failed to appropriately consider the non-renewal or revocation of the charter, or the request to revise the charter or performance certificate, or that the authorized chartering authority acted in an arbitrary manner in determining to non-renew or revoke the charter, or in denying the request to revise the charter or performance certificate. ~~(4-11-06)~~(6-20-13)T

b. ~~Remand the matter back to the authorized chartering entity for further consideration with directions or instructions relating to such further review. If the authorized chartering entity further considers the matter and again denies the petition, then that decision is final and there shall be no further appeal. In the case of a denial by the board of a local school district, redirect the matter to the public charter school commission for further review.~~ ~~(4-4-13)~~(6-20-13)T

c. Deny the appeal filed by the appellants. (4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

500. MISCELLANEOUS.

01. Definition of LEA. As used in Section 500 of these rules, the term "local education agency" or "LEA" shall mean a public authority legally constituted within the state for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in the state, as such term is defined in the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001, and as such term is further defined in 34 CFR 300.18. (4-11-06)

02. LEA Designations. Section 33-5203(7), Idaho Code, provides that the ~~Board shall be responsible to designate those public charter schools that will be identified as an LEA; however, only public charter schools chartered by the board of trustees of a school district may be included in that district's LEA. A public charter school may request to be designated as an LEA. Such request shall be in writing and must be submitted to the executive director of the Board. In addition, such request shall state the reasons why the public charter school is requesting~~

~~LEA status, and must include, at a minimum, the following~~ board of trustees of a school district may designate a public charter school it authorizes as an LEA, with the concurrence of the public charter school board of directors. In order to designate a public charter school as an LEA, the board of trustees of the school district must submit to the Department the following no later than February 1 in order for any such designation to be effective for the following school year: ~~(4-11-06)(6-20-13)T~~

~~a. Verification that the public charter school is a public virtual school under Idaho law (if applicable).~~ Verification that the board of trustees is the authorized chartering entity of the public charter school it wishes to designate as an LEA. ~~(4-11-06)(6-20-13)T~~

~~b. A description of the federal programs for which the public charter school will seek funding, and a detailed discussion of the projected financial impact (positive or negative) to the public charter school if it is designated an LEA.~~ Written documentation that the board of trustees of the school district and the board of trustees of the public charter school have agreed to the designation of the public charter school as an LEA. Such documentation shall be signed by representatives of both parties. (4-11-06)

~~e. A discussion of how the public charter school will administer the ISAT tests to its students.~~ (4-11-06)

~~03. Criteria. The executive director of the Board shall have the authority to designate a public charter school as an LEA, in accordance with the following criteria:~~ (4-11-06)

~~a. A public charter school that is chartered by the board of trustees of a school district shall be included in that district's LEA, and the executive director of the Board shall not be permitted to designate such a school as an LEA.~~ (4-4-13)

~~b. A public charter school that is chartered by the Commission must be designated by the executive director as an LEA, but will still be required to submit a written request pursuant to Subsection 500.02 of these rules.~~ (4-11-06)

~~04. Referral to the Board. The executive director may determine to refer any request for LEA designation described in Section 500 of these rules to the Board for consideration, including any request submitted by a public charter school that is not eligible under the criteria contained herein.~~ (4-11-06)

~~05. Review. A public charter school may appeal to the Board a decision made by the executive director of the Board to deny a request to be designated an LEA.~~ (4-11-06)

~~06. Timeframe for LEA Request. A request for LEA status must be received no later than February 1 in order for any such designation to be effective for the following school year.~~ (4-11-06)

IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

08.03.01 - RULES OF THE PUBLIC CHARTER SCHOOL COMMISSION

DOCKET NO. 08-0301-1301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is June 20, 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 rulemaking procedures have been initiated. The action is authorized pursuant to Sections 33-105, 33-5203, and 33-5210(4)(e), 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 21, 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 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 under consideration bring IDAPA 08.03.01 into alignment with the legislative changes made in 2013 and clarify the process for the implementation of the new accountability measure requirements. Specific changes remove the requirement for an annual programmatic operations audit and student goals attainment report. Additional changes removed duplicative language contained in the public hearing process required by Section 33-5205(2), Idaho Code.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

During the 2013 Legislative session changes were made to Title 33, Chapter 52 Idaho code allowing for the implementation of new accountability measures and changes to the makeup of the Charter Commission. Proposed amendments will bring IDAPA 08.03.01 into alignment with the legislative changes.

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: None.

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, **Volume 13-7, page 35.**

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 temporary and proposed rule, contact Tracie Bent, Chief Planning and Policy Officer, at (208)332-1582 or tracie.bent@osbe.idaho.gov.

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 August 28, 2013.

DATED this July 5, 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 TEMPORARY RULE AND THE TEXT OF THE PROPOSED RULE
FOR DOCKET NO. 08-0301-1301**

300. PETITION -- SUBMISSION.

01. Number of Copies. Petitioners shall submit a petition consisting of an electronic copy of the petition in Microsoft® Word format. Appendices to the petition must be submitted as a single document and may be in Adobe® format (PDF). (4-4-13)

02. Case Number. The Commission will assign a case number to a petition. Any future documents or correspondence submitted to the Commission after original filing must reference the assigned case number. (4-11-06)

03. Administratively Complete. If the petition is not administratively complete when received, the Commission shall provide the petitioner notice of the deficiency, which identifies the missing documents and information. Administratively complete means the petition contains all of the information and documents required by Title 33, Chapter 52, Idaho Code, ~~and~~ IDAPA 08.02.04, "Rules Governing Public Charter Schools," and IDAPA 08.03.01, "Rules of the Public Charter School Commission." (4-11-06)(6-20-13)T

04. Considered Received. A petition is considered received by the Commission when it is presented to the Commission at the first scheduled meeting after the petition is filed and the petition is administratively complete. (4-11-06)

05. Supplemental Information. Submission of supplemental information to the Commission shall be accomplished by filing a complete, electronic copy of the petition, with the text to be removed stricken and the new language underlined, with the date of revision noted on the title page. (4-4-13)

06. Sufficiency Review. Petitioners shall submit a copy of the State Department of Education's sufficiency review, which is required by IDAPA 08.02.04, "Rules Governing Public Charter Schools," Subsection 200.03, ~~and any related documents addressing the deficiencies, if any,~~ at the time the petition is filed with the Commission. (4-11-06)(6-20-13)T

~~**07. School District Comments.** If applicable, school districts may provide comments of the school district where the public charter school will be physically located. (4-11-06)~~

301. COMPLIANCE MONITORING.

The Commission shall be responsible for ~~ensuring~~ monitoring the public charter school's ~~operates~~ operations in accordance with all of the terms and conditions of the ~~approved charter performance certificate~~, including compliance with all applicable federal and state education standards and all applicable state and federal laws, rules and regulations, and policies. See IDAPA 08.02.04, "Rules Governing Public Charter Schools," Subsection 301.01. Commission staff will make a site visit and verify the existence of the following documents after the charter is granted: (4-11-06)(6-20-13)T

01. Certificate of Occupancy. Certificate of Occupancy for the public charter school site; (4-4-13)

- 02. Building Inspection Reports.** A copy of the inspection report from the Idaho Division of Building Safety; (4-4-13)
- 03. Fire Marshal Report.** A fire marshal report for the public charter school site; (4-11-06)
- 04. Insurance Binders.** Copies of insurance binders from a company authorized to do business in Idaho for a liability policy, a property loss policy, worker's compensation insurance, unemployment insurance, and health insurance; (4-4-13)
- 05. Health District Inspection Certificate.** A copy of the health certificate issued by the health district for each site at which students will be taught; (4-11-06)
- 06. Criminal History Checks.** A copy of the criminal history checks for all employees as required by Sections 33-130 and 33-5210(4)(d), Idaho Code; (4-4-13)
- 07. Instructional Staff Certification.** Proof of certification for all instructional staff employed by the public charter school; and (4-4-13)
- 08. School Calendar.** The school's calendar for the school year, daily schedule, and documentation of the appropriate number of instructional hours for students at each grade level. (4-4-13)
- 302. REQUIRED DOCUMENTS PUBLIC CHARTER SCHOOLS AUTHORIZED BY THE COMMISSION MUST SUBMIT TO THE COMMISSION.**

- 01. Lease Agreement.** If school structures are leased, a copy of the lease agreement for the building(s) at which students will be taught; (4-4-13)
- 02. Financial Statements.** Audited financial statements from an independent auditor must be submitted as required by Section 33-701, Idaho Code; (4-4-13)
- 03. Accreditation Reports.** A copy of the public charter school's accreditation report as required by Section 33-5206(7), Idaho code, must be submitted within five (5) business days of receipt; (4-4-13)
- 04. Complaints.** Copies of any complaints filed against the public charter school including, but not limited to, lawsuits and complaints filed with the Idaho Professional Standards Commission relating to school employees, within five (5) business days of receipt; (4-4-13)
- 05. Board Members.** A current list of all public charter school board members, including full name, address, telephone number, and resume must be on file with the Commission within five (5) business days of any changes; (4-4-13)
- ~~**06. Goals Attainment.** A report, as required by Section 33-5206(7), Idaho Code, by the close of the school year demonstrating the students' level of attainment of the established skills and knowledge specified as goals in the public charter school's educational program and measurable student educational standards in the approved charter; (4-4-13)~~
- ~~**07. Programmatic Operations Audit.** An audit of the programmatic operations of the public charter school as required by Section 33-5205(3)(1), Idaho Code, must be submitted no later than August 15th for the previous school year. (4-4-13)~~
- 08. Proof of Compliance.** Additional proof of compliance as reasonably requested by the Commission. (4-4-13)

303. -- 399. (RESERVED)

400. PETITION -- PUBLIC HEARING.

A public hearing, as required by Section 33-5205(2), Idaho Code, for consideration of a petition on its merits shall be

conducted by the Commission. ~~The Commission will:~~ (4-11-06)

- ~~01. Charter Provisions. Consider the provisions of the public school charter petition. (4-11-06)~~
- ~~02. Petition Merits. Consider the merits of the petition including, but not limited to, the presentation by authorized representatives for the petition. (4-11-06)~~
- ~~03. Petition Support. Consider the level of employee and parental support of the petition. (4-11-06)~~
- ~~04. School District Comment. Consider any oral or written comments of an authorized representative of the school district in which the proposed public charter school would be physically located. (4-11-06)~~
- ~~05. Public Comment. Citizens intending to testify must notify the Commission the day of the meeting. Public comment will be limited to ten (10) minutes, unless otherwise determined by the Commission chairman. (4-11-06)(6-20-13)T~~

401. PETITION -- FORMAT.

All petitions submitted to the Commission must be in the following format. Information will only be considered if it is located in the correct Section. (4-11-06)

- 01. Cover Page.** The cover page must include the following information: (4-11-06)
 - a.** Name of proposed charter school; (4-11-06)
 - b.** School year petitioning to open the school; (4-11-06)
 - c.** Name of the school district affected by the attendance area; (4-11-06)
 - i.** Where the public charter school building will be physically located; or (4-11-06)
 - ii.** If it is a virtual school and the physical location of the main office; and (4-11-06)
 - d.** Name, address, telephone number, and e-mail address of the petitioner's authorized representative. (4-4-13)
- 02. Table of Contents.** The second page shall be the beginning of the table of contents. (4-11-06)
- 03. Tab 1.** Mission and vision statements. (4-4-13)
- 04. Tab 2.** The petitioner's information regarding the proposed operation and potential effects of the public charter school including, but not limited to, the facilities to be utilized by the public charter school, the manner in which administrative services of the public charter school are to be provided, and the potential civil liability effects upon the public charter school and upon the authorized chartering entity. (4-4-13)
- 05. Tab 3.** (4-11-06)
 - a.** A description of what it means to be an "educated person" in the twenty-first century, and how learning best occurs. (4-4-13)
 - b.** A description of the public charter school's educational program and goals, including how each of the educational thoroughness standards, as defined in Section 33-1612, Idaho Code, shall be fulfilled. (4-4-13)
 - c.** The manner by which special education services will be provided to students with disabilities who are eligible pursuant to the federal Individuals with Disabilities Education Act. (4-4-13)
 - d.** The plan for working with parents who have students who are dually enrolled pursuant to Section 33-203(7), Idaho Code. (4-4-13)

- 06. Tab 4.** (4-11-06)
- a.** The measurable student educational standards the public charter school will use. (4-4-13)
 - b.** The method by which student progress in meeting the identified student educational standards is to be measured. (4-4-13)
 - c.** A provision by which students of the public charter school will be tested with the same standardized tests as other Idaho public school students. (4-4-13)
 - d.** A provision that ensures that the public charter school shall be state accredited as provided by rule of the Board. (4-4-13)
 - e.** A provision describing the school's plan if it is ever identified as an in need of improvement school as outlined in the No Child Left Behind Act. (4-11-06)
- 07. Tab 5.** (4-11-06)
- a.** A description of the governance structure of the public charter school including, but not limited to, the persons or entity who shall be legally accountable for the operation of the public charter school. (4-4-13)
 - b.** A description of the ethical standards to which the governing board of the public charter school will adhere. (4-4-13)
 - c.** A plan for the initial and ongoing training of the governing board of the public charter school. (4-4-13)
 - d.** The process to be followed by the public charter school to ensure parental involvement. (4-4-13)
 - e.** The manner in which an annual audit of the financial and programmatic operations of the public charter school will be conducted. (4-4-13)
- 08. Tab 6.** (4-11-06)
- a.** The qualifications to be met by individuals employed by the public charter school. This should include a requirement for all staff members to submit to a criminal history check, as required by Section 33-130, Idaho Code, and that all instructional staff shall be certified teachers, as required by the Board. (4-4-13)
 - b.** The procedures that the public charter school will follow to ensure the health and safety of students and staff. (4-4-13)
 - c.** The procedures required by Section 33-210, Idaho Code, for students using or under the influence of alcohol or controlled substances. (4-4-13)
 - d.** The disciplinary procedures that the public charter school will utilize, including the procedure by which students, including special education students, may be suspended, expelled, and re-enrolled. (4-4-13)
 - e.** A provision which ensures that all staff members of the public charter school will be covered by the public employee retirement system, federal social security, unemployment insurance, worker's compensation insurance, and health insurance. (4-4-13)
 - f.** A description of the transfer rights of any employee choosing to work in a public charter school authorized by the Commission and the rights of such employees to return to any public school in the school district after employment at such public charter school. (4-4-13)
 - g.** A provision that ensures that the staff of the public charter school shall be considered a separate

- unit for purposes of collective bargaining. (4-4-13)
- h.** A statement that all teachers and administrators will be on written contract as required by Section 33-5206(4), Idaho Code. (4-11-06)
- 09. Tab 7.** (4-11-06)
- a.** Admission procedures, including provision for over enrollment. (4-4-13)
- b.** The public school attendance alternative for students residing within the school district who choose not to attend the public charter school. (4-4-13)
- c.** The process by which the citizens in the area of attendance shall be made aware of the enrollment opportunities of the public charter school. (4-4-13)
- d.** A plan for the requirements of Section 33-205, Idaho Code, for the denial of school attendance. (4-4-13)
- ~~**e.** *The student handbook that describes the school rules and the procedure ensuring a student's parent or guardian has access to this handbook.* (4-11-06)~~
- fe.** A plan for the requirements of Section 33-205, Idaho Code, for the denial of school attendance. See Section 33-5205(3)(i), Idaho Code. (4-11-06)
- gf.** The student handbook that describes the school rules and the procedure ensuring a student's parent or guardian has access to this handbook. (4-11-06)
- 10. Tab 8.** (4-11-06)
- a.** A detailed business plan including: (4-11-06)
- i. Business description, (4-11-06)
- ii. Marketing plan, (4-11-06)
- iii. Management plan, (4-11-06)
- iv. The school's financial plan, and (4-4-13)
- v. A pre-opening plan and timeline. (4-4-13)
- b.** A proposal for transportation services with an estimated first year cost as required by Section 33-5208(4), Idaho Code. (4-11-06)
- c.** Plans for a school lunch program, including how a determination of eligibility for free and reduced price meals will be made. (4-11-06)
- 11. Tab 9.** If this is a virtual public charter school, a brief description of how the school meets the definition of a public virtual school as defined by Section 33-5202A(9), Idaho Code. (4-11-06)
- 12. Tab 10.** (4-11-06)
- a.** A description of any business arrangements or partnerships with other schools, educational programs, businesses, or nonprofit organizations. (4-4-13)
- b.** Additional information the petitioners want the authorizing chartering entity to consider as part of the petition. (4-11-06)

- c.** A plan for termination of the charter by the board of the public charter school. (4-11-06)
- 13. Appendices.** (4-4-13)

 - a.** Copies of articles of incorporation, file-stamped by the Idaho Secretary of State's Office; and of the signed bylaws adopted by the board of directors of the nonprofit corporation; (4-4-13)
 - b.** Signatures of at least thirty (30) qualified electors of the proposed charter school's service area. Proof of qualification of electors must be attached. (4-4-13)
 - c.** Resumes of the directors of the nonprofit corporation, including references; (4-4-13)
 - d.** Copies of any contracts or lease agreements; (4-4-13)
 - e.** Start-up budget with assumptions form and supporting documentation; (4-4-13)
 - f.** Three-year operating budget form; and (4-4-13)
 - g.** First year month-by-month cash flow form. (4-4-13)
 - h.** The school's budget must be in the Idaho Financial Accounting Reporting Management System (IFARMS) format and any other such format as may be reasonably requested by the Commission. (4-4-13)