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Director

Legislative Services Office Idaho State Legislature

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MEMORANDUM

TO: Senators GOEDDE, Mortimer, Buckner-Webb and,
Representatives DEMORDAUNT, Nielsen, Pence

FROM: Brooke Brouman - Principal Legislative Research Analyst

DATE: September 24, 2014

SUBJECT: Temporary Rules

IDAPA 08.02.02 - Rules Governing Uniformity - Temporary Rule - Docket No. 08-0202-1405

IDAPA 08.02.03 - Rules Governing Thoroughness - Temporary Rule - Docket No. 08-0203-1405

We are forwarding these temporary rules to you for your information only. No analysis was done by LSO. These rules are posted on our web site. If you have any questions, please call Brooke Brouman at the Legislative Services Office at (208) 334-4834. Thank you.

Attachment: Temporary Rules

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IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-1405

NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 14, 2014.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 33-1511(2), Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

A public school district may contract with an approved private driving school to provide a driver education program. In order to assure a quality program, maintain student records and proper reporting to the Idaho State Department of Education, specific wording was implemented regarding contracting.

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

In the accounting process for fiscal year 2014, it has come to our attention that the rules governing school districts contracting with private driving schools need to be more specific. We have found several public schools were not properly bidding their driving education contracts. During the auditing process, it was also found that private companies claiming state funds were not holding classes at the contracting public school, not instructing students enrolled at the contracting school, and directly collecting funds from the student.

The intent of state reimbursement for \$125.00 per student for driver education is to reduce the cost to parents by offsetting the expense the public school incurs providing the program. By adding more specific language in the rule the Idaho State Department of Education can guarantee the funding will be used for a public school that incurs an expense for the program and/or directly reduces the fee to parents, thereby making driver education more accessible to all teens.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

No Fiscal Impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Audra Urie, State Department of Education, (208) 332-6984, aurie@sde.idaho.gov.

DATED this 14th Day of August, 2014.

Tom Luna, Superintendent of Public Instruction
State Department of Education
650 West State Street, 2nd Floor
Boise, Idaho 83720-0027
(208) 332-6812 / Fax (208) 334-2228

**THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 08-0202-1405
(Only those Sections being amended are shown.)**

004. INCORPORATION BY REFERENCE.

The State Board of Education adopts and incorporates by reference into its rules: (5-8-09)

01. Idaho Standards for the Initial Certification of Professional School Personnel as approved on August 15, 2013. Copies of this document can be found on the Office of the State Board of Education website at www.boardofed.idaho.gov. (3-20-14)

02. Standards for Idaho School Buses and Operations as approved on June 23, 2011. The Standards for Idaho School Buses and Operations are available at the Idaho State Department of Education, 650 W. State St., Boise Idaho, 83702 and can also be accessed electronically at <http://www.sde.idaho.gov/site/transportation/library.htm>. (3-29-12)

03. Operating Procedures for Idaho Public Driver Education Programs as approved on August 15, 2013. The Operating Procedures for Idaho Public Driver Education Programs are available at the Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702 and can also be accessed electronically at http://www.sde.idaho.gov/site/driver_edu/forms_curriculum.htm. (~~3-20-14~~)(8-14-14)T

IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-1405

NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 14, 2014.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section(s) 33-1511(2), Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

08.02.105.i - The Legislators approved changes to the credit requirements for physical education at the 2014 session. Students participating in one (1) season in any sport recognized by the Idaho High School Activities Association or club sport recognized by the local school district, or eighteen (18) week of a sport recognized by the local school district may choose to substitute participation up to one (1) credit of physical education. The legislators requested that we add wording that will include evidence of standards being met.

08.02.105.b.iii - The current rule states: students may elect an exemption in grade eleven (11) from the college entrance exam requirement if: Enrolled for the first time in grade twelve (12) at an Idaho high school after the spring statewide administration of the college entrance exam. The mistake in this rule is: it should say fall, not spring. The spring administration is for juniors and the College Board does not allow students to test outside of their grade level group.

08.02.105.05 - the word "required" is removed because this section applies to any class the student is taking.

08.02.03.105.06 - as Idaho continues to transition to higher standards, Idaho's graduation requirement must be considered. Currently, the State Board of Education requires students to pass the 10th grade Idaho Standards Achievement Tests (ISAT) to graduate. The Board made accommodations for the Class of 2016 as students took the field test. For the class of 2017, the Department recommends students are required to take the test.

In 2010, the State Board of Education removed the requirement for students to pass the ISAT science test in 10th grade. At that time, the Department began work on replacing the science test with a more appropriate measure of science knowledge in the form of an end of course assessment. Tests in biology and chemistry were developed and field tested. Starting with the class of 2017 (sophomores in 2014-2015), students will be required to take either biology or chemistry.

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

These changes in rule are necessary to bring the rules into compliance with requests from the Legislature and the College Board.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

No Fiscal Impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Luci Willits, State Department of Education, (208) 332-6814, lbwillits@sde.idaho.gov.

DATED this 14th Day of August, 2014.

Tom Luna, Superintendent of Public Instruction
State Department of Education
650 West State Street, 2nd Floor
Boise, Idaho 83720-0027
(208) 332-6812 / Fax (208) 334-2228

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 08-0203-1405
(Only those Sections being amended are shown.)

105. HIGH SCHOOL GRADUATION REQUIREMENTS.

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

01. Credit Requirements. The State minimum graduation requirement for all Idaho public high schools is forty-six (46) credits and must include twenty-nine (29) credits in core subjects as identified in Paragraphs 105.01.c. through 105.01.i. (3-12-14)

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

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

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

d. Mathematics. Six (6) credits are required. Secondary mathematics includes Applied Mathematics, Business Mathematics, Algebra, Geometry, Trigonometry, Fundamentals of Calculus, Probability and Statistics, Discrete Mathematics, and courses in mathematical problem solving and reasoning. AP Computer Science, Dual Credit Computer Science, and Dual Credit Engineering courses may also be counted as a mathematics credit if the student has completed Algebra II standards. Students who choose to take AP Computer Science, Dual Credit Computer Science, and Dual Credit Engineering may not concurrently count such courses as both a math and science credit. (3-12-14)

i. Students must complete secondary mathematics in the following areas: (3-12-14)

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

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

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

ii. Two (2) credits of the required six (6) credits of mathematics must be taken in the last year of high school in which the student intends to graduate. For the purposes of this subsection, the last year of high school shall include the summer preceding the fall start of classes. Students who return to school during the summer or the following fall of the next year for less than a full schedule of courses due to failing to pass a course other than math are not required to retake a math course as long as they have earned six (6) credits of high school level mathematics. (3-12-14)

iii. Students who have completed six (6) credits of math prior to the fall of their last year of high school, including at least two (2) semesters of an Advanced Placement or dual credit calculus or higher level course, are exempt from taking math during their last year of high school. High School math credits completed in middle school shall count for the purposes of this section. (3-12-14)

e. Science. Six (6) credits are required, four (4) of which will be laboratory based. Secondary sciences include instruction in applied sciences, earth and space sciences, physical sciences, and life sciences. Up to two (2) credits in AP Computer Science, Dual Credit Computer Science, and Dual Credit Engineering may be used as science credits. Students who choose to take AP Computer Science, Dual Credit Computer Science, and Dual Credit Engineering may not concurrently count such courses as both a math and science credit. (3-12-14)

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

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

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

h. Health/Wellness. One (1) credit is required. Course must be aligned to the Idaho Health Content Standards. Effective for all public school students who enter grade nine (9) in Fall 2015 or later, each student shall receive a minimum of one (1) class period on psychomotor cardiopulmonary resuscitation (CPR) training as outlined in the American Heart Association (AHA) Guidelines for CPR to include the proper utilization of an automatic external defibrillator (AED) as part of the Health/Wellness course. (3-12-14)

i. Students participating in one (1) season in any sport recognized by the Idaho High School Activities Association or club sport recognized by the local school district, or eighteen (18) weeks of a sport recognized by the local school district may choose to substitute participation up to one (1) credit of physical education. Students must show mastery of the content standards for physical education in a format provided by the school district. ~~(3-12-14)~~(8-14-14)T

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

03. College Entrance Examination. (Effective for all public school students who enter grade nine (9) in Fall 2012 or later.) (3-12-14)

a. A student must take one (1) of the following college entrance or placement examinations before the end of the student's eleventh grade year: SAT, ACT, or Compass. A student who misses the statewide administration of the college exam during the student's grade eleven (11) for one (1) of the following reasons, may take the examination during their grade twelve (12) to meet this requirement: (3-12-14)

i. Transferred to an Idaho school district during grade eleven (11); (3-12-14)

- ii. Was homeschooled during grade eleven (11); or (3-12-14)
 - iii. Missed the spring statewide administration of the college entrance exam dates for documented medical reasons. (3-12-14)
 - b.** A student may elect an exemption in grade eleven (11) from the college entrance exam requirement if the student is: (3-12-14)
 - i. Enrolled in a special education program and has an Individual Education Plan (IEP) that specifies accommodations not allowed for a reportable score on the approved tests; (3-12-14)
 - ii. Enrolled in a Limited English Proficient (LEP) program for three (3) academic years or less; or (3-12-14)
 - iii. Enrolled for the first time in grade twelve (12) at an Idaho high school after the ~~spring~~ fall statewide administration of the college entrance exam. ~~(3-12-14)~~(8-14-14)T
 - c.** Students who are eligible to take an alternate assessment may take the ACCUPLACER Placement exam during their senior year to meet the college entrance exam graduation requirement. (3-12-14)
- 04. Senior Project.** A student must complete a senior project by the end of grade twelve (12). The project must include a written report and an oral presentation. Additional requirements for a senior project are at the discretion of the local school district or LEA. (3-12-14)
- 05. Middle School.** A student will have met the high school content and credit area requirement for any ~~required~~ high school course if: ~~(3-12-14)~~(8-14-14)T
- a.** The student completes such course with a grade of C or higher before entering grade nine (9); (3-12-14)
 - b.** The course meets the same content standards that are required in high school; and (3-12-14)
 - c.** The course is taught by a properly certificated teacher who meets the federal definition of highly qualified for the course being taught. (3-12-14)
 - d.** The student shall be given a grade for the successful completion of that course and such grade and the number of credit hours assigned to the course shall be transferred to the student's high school transcript. Courses taken in middle school appearing in the student's high school transcript, pursuant to this subsection, shall count for the purpose of high school graduation. However, the student must complete the required number of credits in all high school core subjects as identified in Subsections 105.01.c. through 105.01.h. except as provided in 105.01.d.iii. (3-12-14)
- 06. Proficiency.** Each student must achieve a proficient or advanced score on the grade ten (10) Idaho Standards Achievement Test (ISAT) in math, reading and language usage in order to graduate. Students who receive a proficient or advanced score on the grade ten (10) ISAT while in grade nine (9) may bank the score for purposes of meeting their graduation requirement. A student who does not attain at least a proficient score prior to graduation may appeal to the school district or LEA, and will be given an opportunity to demonstrate proficiency of the content standards through some other locally established plan. School districts or LEAs shall adopt an alternate plan and provide notice of that plan to all students who have not achieved a proficient or advanced score on the Grade 10 Idaho Standards Achievement Test by the fall semester of the student's junior year. All locally established alternate plans used to demonstrate proficiency shall be forwarded to the State Board of Education for review and information. Alternate plans must be promptly re-submitted to the Board whenever changes are made in such plans. (3-12-14)
- a.** Before entering an alternate measure, the student must be: (4-2-08)
 - i. Enrolled in a special education program and have an Individual Education Plan (IEP); or (3-20-04)

- ii. Enrolled in an Limited English Proficient (LEP) program for three (3) academic years or less; or (3-20-04)
- iii. Enrolled in the fall semester of the senior year. (3-20-04)
- b.** The alternate plan must: (4-7-11)
 - i. Contain multiple measures of student achievement; (4-7-11)
 - ii. Be aligned at a minimum to tenth grade state content standards; (4-7-11)
 - iii. Be aligned to the state content standards for the subject matter in question; (4-7-11)
 - iv. Be valid and reliable; and (4-7-11)
 - v. Ninety percent (90%) of the alternate plan criteria must be based on academic proficiency and performance. (4-7-11)
- c.** A student is not required to achieve a proficient or advanced score on the ISAT if: (5-8-09)
 - i. The student received a proficient or advanced score on an exit exam from another state that requires a standards-based exam for graduation. The state's exit exam must approved by the State Board of Education and must measure skills at the tenth grade level and be in comparable subject areas to the ISAT; (5-8-09)
 - ii. The student completes another measure established by a school district or LEA and received by the Board as outlined in Subsection 105.06; or (3-29-10)
 - iii. The student has an IEP that outlines alternate requirements for graduation or adaptations are recommended on the test; (5-8-09)
 - iv. The student is considered an LEP student through a score determined on a language proficiency test and has been in an LEP program for three (3) academic years or less; (5-8-09)
- d.** Those students who will graduate in 2016 and have not received a proficient or advanced score on the ISAT in grade nine (9), will be required to complete an alternative plan for graduation, as designed by the district, including the elements prescribed in Subsection 105.06.b. and may enter the alternate path prior to the fall of their senior year. (3-12-14)
- e.** Students who graduate in 2017 are required to complete the ISAT in grade eleven (11) in mathematics and English language usage. (8-14-14)T
- f.** Students who graduate beginning in 2017 are required to complete an end of course assessment provided by the state in either biology or chemistry. The end of course assessment must be given at the end of the student's instruction in either biology or chemistry. (8-14-14)T
- 07. Special Education Students.** A student who is eligible for special education services under the Individuals With Disabilities Education Improvement Act must, with the assistance of the student's Individualized Education Program (IEP) team, refer to the current Idaho Special Education Manual for guidance in addressing graduation requirements. (4-11-06)
- 08. Foreign Exchange Students.** A foreign exchange student may be eligible for graduation by completing a comparable program as approved by the school district or LEA. (4-11-06)