

Dear Senators MORTIMER, Thayn, Buckner-Webb, and
Representatives VANORDEN, McDonald, Kloc:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
State Board of and State Department of Education:

IDAPA 08.02.04 - Rules Governing Public Charter Schools - Temporary and Proposed Rule (Docket
No. 08-0204-1701);

IDAPA 08.03.01 - Rules of the Public Charter School Commission - Temporary and Proposed Rule
(Docket No. 08-0301-1701);

IDAPA 08.04.01 - Rules of the Idaho Digital Learning Academy - Proposed Rule (Docket No.
08-0401-1701).

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 11/03/2017. 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 12/05/2017.

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 334-4834, or send a written request to the address on the
memorandum attached below.



Eric Milstead
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: Senior Legislative Research Analyst - Elizabeth Bowen

DATE: October 17, 2017

SUBJECT: State Board of and State Department of Education

IDAPA 08.02.04 - Rules Governing Public Charter Schools - Temporary and Proposed Rule (Docket No. 08-0204-1701)

IDAPA 08.03.01 - Rules of the Public Charter School Commission - Temporary and Proposed Rule (Docket No. 08-0301-1701)

IDAPA 08.04.01 - Rules of the Idaho Digital Learning Academy - Proposed Rule (Docket No. 08-0401-1701)

The State Board of Education submits notice of proposed rulemaking at IDAPA 08.02.04, 08.03.01, and 08.04.01.

08.02.04

This rule, also a temporary rule, provides a single application process for petitioners seeking to establish a new public charter school, in order to conform with House Bill 279, enacted by the 2017 Legislature. Additionally, the rule removes obsolete language.

Negotiated rulemaking was conducted, and there is no anticipated negative fiscal impact on the state general fund. The Governor finds justification for the temporary rule, because the rule brings the existing rule into compliance with state law. The Board states that this rulemaking is authorized pursuant to several sections of the Idaho Code, including Section 33-5205, which authorizes the Board to develop through rule an application to establish charter schools.

08.03.01

This rule, also a temporary rule, removes language that is rendered obsolete due to the rule changes made to IDAPA 08.02.04, discussed above. Negotiated rulemaking was conducted, and there is no anticipated negative fiscal impact on the state general fund. The Governor finds justification for the temporary rule, because the rule brings the existing rule into compliance with state law. The Board states that this rulemaking is authorized pursuant to several sections of the Idaho Code, including Section 33-5205, which authorizes the Board to develop through rule an application to establish charter schools.

08.04.01

Mike Nugent, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

This rule updates the address of the Idaho Digital Learning Academy and revises terminology to be consistent with state law and other administrative rules. Negotiated rulemaking was conducted, and there is no anticipated negative fiscal impact on the state general fund. The Board states that this rulemaking is authorized pursuant to Sections 33-5504, 33-5505, and 33-5507, Idaho Code.

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

IDAPA 08 – STATE BOARD OF EDUCATION

08.02.04 – RULES GOVERNING PUBLIC CHARTER SCHOOLS

DOCKET NO. 08-0204-1701

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 31, 2017.

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 Article IX, Section 2 of the Idaho Constitution and under Sections 33-105, 33-107, 33-1612, and 33-5203, 33-5205 and 33-5210, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 2017.

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:

During the 2017 legislative session, House Bill 279 (2017) amended the provision regarding the petitioning process for charter schools, requiring a single application process regardless of the authorizer the petitioners are seeking approval from and streamlining the timelines for review and approval of applications. These legislative changes require amendments to IDAPA 08.02.04, “Rules Governing Public Charter Schools.” The proposed amendments add a single application process that will apply to all charter school petitioners, regardless of the chartering entity, remove sections that are no longer required due to the legislative changes or duplicate provision specified in Idaho Code, and make technical changes.

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

This temporary and proposed rule brings this section of administrative code into compliance with amendments made by House Bill 279 (2017).

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: N/A

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 May 3, 2017 Idaho Administrative Bulletin, [Vol. 17-5, Page 57](#).

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: This rulemaking does not incorporate any documents.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Tracie Bent 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 October 25, 2017.

DATED this 31st day of August, 2017.

Tracie Bent
Chief Planning & Policy Officer
State Board of Education
650 W. State Street
P.O. Box 83720
Boise, Idaho 83720-0037
Tel: (208) 332-1582
Fax: (208) 334-2632

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 08-0204-1701
(Only Those Sections With Amendments Are Shown.)**

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 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. (3-20-14)

~~**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. (3-20-14)

a. Petitions shall be submitted to the president of the institution or his designee. (3-20-14)

b. An institution may approve or deny a petition, ~~but cannot refer the petition to another authorized chartering entity.~~ (3-20-14)(8-31-17)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. (3-20-14)

(BREAK IN CONTINUITY OF SECTIONS)

200. PROCEDURE FOR FORMATION OF A NEW PUBLIC CHARTER SCHOOL.

01. Assistance with Petitions. The Department shall, in accordance with Section 33-5211, Idaho Code, provide technical assistance to public charter school petitioners. The Department shall undertake this statutory responsibility by conducting public charter school workshops, as discussed in Subsection 200.02 of this rule. (4-11-06)

02. Public Charter School Workshops. The purpose of the public charter school workshops shall be to provide public charter school petitioners with a brief overview of a variety of educational and operational issues relating to public charter schools, as well as to answer questions and to provide technical assistance, as may be necessary, to aid petitioners in the preparation of public charter school petitions. (4-11-06)

~~**03. Petition Sufficiency Reviews.** Prior to submitting a petition to an authorized chartering entity, petitioners shall submit one (1) copy of the proposed draft petition to the Department, which will review the proposed draft petition to determine whether it complies with statutory requirements. (4-4-13)~~

03. Petition Submittal. A public charter school petition may be submitted to only one (1) authorized chartering entity at a time. A petitioner may submit a petition that has been denied by an authorized chartering entity to any other authorized chartering entity after an appeal process, if any, is complete and a final decision has been reached. (8-31-17)T

(BREAK IN CONTINUITY OF SECTIONS)

~~**202. PETITION REQUIREMENTS.**~~

~~A petition to form a new or conversion public charter school shall be submitted in accordance with instructions, and in such format, as may be required by the Board. Notwithstanding, the petition must include, at a minimum, the information described in Section 33-5205, Idaho Code. (4-11-06)~~

202. NEW PUBLIC CHARTER SCHOOL APPLICATION REQUIREMENTS.

Pursuant to Section 33-5205, Idaho Code, petitioners seeking to establish a new public charter school must complete an application consisting of all of the following elements: (8-31-17)T

01. Introduction. Briefly introduce the proposed public charter school by providing the following: (8-31-17)T

a. Cover page with the proposed school's name, intended opening year, general location, and the contact information for one (1) petitioner who will serve as liaison with the authorizer during the petition process; (8-31-17)T

b. Table of contents; (8-31-17)T

c. One-page (1) executive summary describing the proposed school's organizational structure, educational program, and student outcome expectations; and (8-31-17)T

d. Mission statement. (8-31-17)T

02. Educational Program. Describe the proposed school's educational program by explaining the following: (8-31-17)T

a. Educational philosophy; (8-31-17)T

b. Student academic achievement standards and any additional goals and methods for measuring achievement; (8-31-17)T

c. Key educational design elements, including curricula, tools and instructional methods identified to

carry out the educational philosophy and meet academic and mission-specific goals, which may include evidence demonstrating efficacy of these elements; and (8-31-17)T

d. Strategies for meeting the needs of specific student populations, including, but not limited to, at-risk students, special education students, English language learners, and gifted students. (8-31-17)T

03. Financial and Facilities Plan. Demonstrate a sound understanding of public charter school finances and facilities needs. (8-31-17)T

a. State whether the school intends to provide transportation or food service, and provide plans for provision of these services if they will be offered; (8-31-17)T

b. Describe how the school's finances will be managed and monitored; (8-31-17)T

c. Provide a working draft of the school's prospective facilities plan, including likely facilities needs and estimated costs; (8-31-17)T

d. Provide a description of any potential facilities that have been identified and a timeline and process for securing appropriate space; and (8-31-17)T

e. Attach the following to Appendix A: Pre-opening budget and three-year operating budget, including detailed assumptions for all revenue and expenditures for each year; year one (1), break-even budget demonstrating the minimum enrollment needed to achieve a zero (0) or marginal net income balance at the end of the year; cash flow projection for the first operational year, demonstrating an understanding of charter school monetary flow; evidence of existing and anticipated funds; and evidence that projected facilities costs are reasonable within the start-up and three-year budgets. (8-31-17)T

04. Board Capacity And Governance Structure. Provide information about the legal entity and the individuals involved in opening the proposed school. (8-31-17)T

a. Attach copies of the nonprofit corporation's Articles of Incorporation and Corporate Bylaws to Appendix B, though note that they will not be incorporated as part of the school's charter; (8-31-17)T

b. Provide a description of the governance structure; (8-31-17)T

c. List any already identified members of the board of directors, attach their professional resumes to Appendix C, and provide any additional information about their qualifications; (8-31-17)T

d. Describe the board's plan for a smooth transition from initial founding members to subsequent members; and (8-31-17)T

e. Describe the plan for board member recruitment and training. (8-31-17)T

05. Student Demand and Primary Attendance Area. Demonstrate the need and community demand for the proposed public charter school in the selected location. (8-31-17)T

a. Describe the primary attendance area and list the public school districts that overlap this area; (8-31-17)T

b. Clearly articulate the need and demand for a school in the selected location, including demographics for the intended neighborhood. Need is the reason(s) existing schools are insufficient or inadequate and includes state performance data. Demand is evidence of desire from prospective families to attend the school; (8-31-17)T

c. Describe the population of students the proposed school intends to serve and how the selected location supports serving such students; (8-31-17)T

- d.** Provide the target enrollment by grade level and projected growth over five (5) years: (8-31-17)T
- e.** Describe any community partnerships or other local support for the proposed school; and (8-31-17)T
- f.** Describe strategies for informing under-served students and their families about the prospective school and the enrollment process. (8-31-17)T
- 06. School Leadership and Management.** Describe the proposed school’s administrative leadership structure, and provide information about any potential education service providers. (8-31-17)T

 - a.** Attach an organizational chart to Appendix D illustrating the proposed school’s leadership structure and indicating the reporting structures of school leaders to the board. If school leaders have already been identified, include their names, contact information, resumes, and any additional information about their qualifications in the appendices. (8-31-17)T
 - b.** Describe the responsibilities of and relationships among school leadership, the governing board, instructional leaders, and staff, and include a plan for evaluating school leaders. (8-31-17)T
 - c.** If the proposed school intends to work with an educational service provider, provide the name of the company, a contact within the company, and specify in detail the extent of the entity’s participation in the management and operation of the school. Attach the following to Appendix E: (8-31-17)T

 - i.** A term sheet indicating the fees to be paid by the proposed school to the management company, the length of the proposed contract, the terms for the contracts renewal, and provisions for termination; (8-31-17)T
 - ii.** Copies of the two (2) most recent contracts that the entity has executed with operating charter schools; and (8-31-17)T
 - iii.** A detailed description of the education service provider’s relationship to the school’s board of directors; (8-31-17)T
 - iv.** A detailed description of how and why the management organization or educational service provider was selected, and evidence that the organization provides high-quality service to similarly situated schools, if applicable. (8-31-17)T
- 07. Supporting Documents.** (8-31-17)T

 - a.** Appendix A – Budgets, cash flow, additional funds. (8-31-17)T
 - b.** Appendix B – Articles of Incorporation and Bylaws. (8-31-17)T
 - c.** Appendix C – Board of Directors. (8-31-17)T
 - d.** Appendix D – School Administration. (8-31-17)T
 - e.** Appendix E – Education Service Provider. (8-31-17)T
 - f.** Appendix F – Optional additional supporting documents. (8-31-17)T

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 33-5206(11), Idaho Code, and 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. ~~(3-20-14)~~(8-31-17)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~~ Charter holders shall ensure that citizens in the primary attendance area shall be made aware of the enrollment opportunities of the public charter school. ~~Such process shall include~~ 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)~~(8-31-17)T

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)~~ 5206(11), Idaho Code. ~~(3-20-14)~~(8-31-17)T

06. 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)

07. 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)

08. 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)

09. 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)

10. **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)

204. (RESERVED)

205. REVIEW OF PETITIONS.

~~01. **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. (3-20-14)~~

~~02. **Timeframe for Sufficiency Review.** The Department shall complete the 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. (3-20-14)~~

~~03. **Notification of Findings After Sufficiency Review.** The Department shall notify the petitioners promptly in writing describing the results of the sufficiency review of the proposed draft petition, and, if applicable, identify any deficiencies in the proposed draft petition. (3-20-14)~~

~~04. **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. (3-20-14)~~

~~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)~~

061. 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. (3-20-14)

~~206. WITHDRAWAL OF PETITION; REFERRAL OF PETITION TO THE COMMISSION.~~

~~01. Referral of Petition by Local Board of Trustees. A board of trustees of a local school district may refer the petition for consideration to the Commission, as authorized by Section 33-5205(1)(c)(iii), Idaho Code. If a board of trustees of a local school district determines to refer a petition to the Commission, then it shall provide prompt written notice of such decision to the petitioners. In addition, the board of trustees of a local school district must promptly notify the Commission of the referral decision, including all the reasons for referral. (4-4-13)~~

~~02. Withdrawal by Charter Petitioners. Notwithstanding, if a board of trustees of a local school district does not refer a petition to the Commission, the charter petitioners may withdraw the petition from the local board of trustees and submit the petition to the Commission for consideration if, within seventy five (75) days after the petition is received by the authorized chartering entity, the parties have not reached mutual agreement on the provisions of the petition, after a reasonable and good faith effort. (4-4-13)~~

~~03. Reasonable and Good Faith Effort. For purposes of Subsection 206.02 of these rules, the authorized chartering entity shall be considered to have established a reasonable and good faith effort to reach mutual agreement on the provisions of the petition if representatives of the authorized chartering entity take at least all of the following actions: (4-4-13)~~

~~a. The authorized chartering entity must send written notice to petitioners acknowledging receipt of the charter petition and the date of receipt. (4-11-06)~~

~~b. The authorized chartering entity posts public notice of a public hearing for the purpose of considering the petition, and such meeting is scheduled to occur not later than seventy five (75) days after receipt of the petition and verification that there are thirty (30) signatures from qualified electors of the attendance area. (4-4-13)~~

~~c. Prior to the date the posted public hearing is scheduled, representatives of the authorized chartering entity must conduct a review of the petition and the State Department of Education sufficiency review of the petition, and if immediate concerns with the petition are identified, then written notice must be sent to petitioners identifying the concerns and requesting that said identified concerns be addressed. (4-4-13)~~

~~d. Either prior to or at the posted public hearing, representatives from both the authorized chartering entity and petitioners must meet and engage in face-to-face discussions regarding the charter petition. (4-4-13)~~

~~04. Failure of Authorized Chartering Entity to Make a Good Faith Effort. If the authorized chartering entity fails to make the good faith effort described in Subsection 206.03 of these rules, the petitioners may withdraw the petition from the local board of trustees and submit the petition to the Commission for consideration, provided the petitioner takes at least all of the following actions: (4-4-13)~~

~~a. The petitioners must provide the authorized chartering entity with a petition that is administratively complete and that has been reviewed by the Department in accordance with Section 205 of these rules. (4-4-13)~~

~~b. The petitioners must contact the authorized chartering entity, in writing, to ensure awareness of the timelines for petition review and the petitioners' request for a review of the petition and public hearing to consider the merits of the petition. (4-4-13)~~

~~c. In the event correspondence is sent to the petitioners identifying concerns with the petition, then the petitioners must respond in writing to the authorized chartering entity addressing the identified concerns. (4-4-13)~~

~~d. The petitioners must meet with the authorized chartering entity and engage in face-to-face discussions regarding the petition, if the authorized chartering entity provides an opportunity to do so. (4-4-13)~~

207~~6~~. -- 299. (RESERVED)

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 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. (3-20-14)

02. Compliance with Terms of Performance Certificate. The governing board of a public charter school shall be responsible for ensuring that the school is in compliance with the terms and conditions of the performance certificate approved executed in accordance with Section 33-5205B(1), Idaho Code. (3-20-14)

03. Annual Reports. The governing board of a public charter school must submit an annual audit of the fiscal operations as required in Section 33-5206(7), 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 performance certificate. (3-20-14)(8-31-17)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 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. (3-20-14)

05. Articles of Incorporation and Bylaws. The governing board of the public charter school shall be responsible for promptly notifying its authorized chartering entity of any revisions or amendments to the articles of incorporation or bylaws. (8-31-17)T

301. AUTHORIZED CHARTERING ENTITY RESPONSIBILITIES.

Notwithstanding Section 300 of these rules, the authorized chartering entity of a public charter school shall be responsible for monitoring the public charter school's operations in accordance with all of the terms and conditions of the performance certificate. (3-20-14)

302. CHARTER REVISIONS.

The governing board of a public charter school may reasonably request revisions to an approved charter or performance certificate, as authorized by Section 33-5206(8), Idaho Code. (3-20-14)

01. Request for Revision of Charter or Performance Certificate. The governing board of a public charter school that desires to revise its charter or performances certificate must submit a written request ~~describing and~~ the proposed revisions ~~with to~~ 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.~~ (3-20-14)(8-31-17)T

~~**02. 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. (3-20-14)~~

03. Procedure for Reviewing Request for Charter or Performance Certificate Revision. The authorized chartering entity shall have seventy-five (75) days from the date of receipt of the written ~~notice from the Department request and proposed revisions~~ in which to issue its decision on the request for charter or performance certificate revision. The authorized chartering entity shall consider the request for charter or performance certificate revision at its next regular meeting following the date of receipt of the written ~~notice from the Department request and proposed revisions~~, provided that the request ~~is~~ and proposed revisions are submitted no fewer than thirty (30) days

~~an~~ in 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 or 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 charter or performance certificate revision. (4-4-13)(8-31-17)T

~~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 in 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. (3-20-14)~~

053. 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 or performance certificate and shall be treated as either a supplement to, or amendment of, the final approved petition charter or performance certificate, whatever the case may be. (3-20-14)(8-31-17)T

064. 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. (3-20-14)

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 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. (3-20-14)

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~~ failed to meet any of the specific written conditions for necessary improvements established pursuant to the provisions of Section 33-520B(1), Idaho Code, by the dates specified, 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)(8-31-17)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. (3-20-14)

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 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: (3-20-14)

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. (3-20-14)

~~**b.** 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. (3-20-14)~~

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

IDAPA 08 – STATE BOARD OF EDUCATION
08.03.01 – RULES OF THE PUBLIC CHARTER SCHOOL COMMISSION
DOCKET NO. 08-0301-1701
NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 31, 2017.

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 Article IX, Section 2 of the Idaho Constitution and under Sections 33-105, 33-107, 33-1612, and 33-5203, 33-5205 and 33-5210, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 2017.

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:

During the 2017 legislative session, House Bill 279 (2017) amended the provision regarding the petitioning process for charter schools, requiring a single application process regardless of the authorizer the petitioners are seeking approval from. These legislative changes require amendments to IDAPA 08.02.04, "Rules Governing Public Charter Schools," adding the application process that will apply to all charter school petitioners. These amendments are being brought forward under Docket 08-0204-1701, and make many of the provision in IDAPA 08.03.01 redundant or outdated. Proposed amendments will remove the now redundant and outdated petition format requirements and make other technical changes, bring IDAPA 08.03.01 into compliance with the new provisions set out in Chapter 52, Title 33.

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:

This temporary and proposed rule brings this section of administrative code into compliance with amendments made by House Bill 279 (2017).

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: N/A

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 May 3, 2017 Idaho Administrative Bulletin, [Vol. 17-5, Page 58](#).

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: This rulemaking does not incorporate any documents.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Tracie Bent 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 October 25, 2017.

DATED this 31st day of August, 2017.

Tracie Bent
Chief Planning & Policy Officer
State Board of Education
650 W. State Street
P.O. Box 83720
Boise, Idaho 83720-0037
Tel: (208) 332-1582
Fax: (208) 334-2632

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 08-0301-1701
(Only Those Sections With Amendments Are Shown.)**

~~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, IDAPA 08.02.04, “Rules Governing Public Charter Schools”, and IDAPA 08.03.01, “Rules of the Public Charter School Commission.” (3-20-14)~~

~~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 striken 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 at the time the petition is filed with the Commission. (3-20-14)~~

~~301. COMPLIANCE MONITORING.~~

The Commission shall be responsible for monitoring the public charter school’s operations in accordance with all of the terms and conditions of the 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: (3-20-14)

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)~~

3021. 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 any notice from the public charter school's accreditation report as required by Section 33-5206(7), Idaho code, accrediting body that the public charter school has failed to meet or maintain full accreditation requirements must be submitted within five (5) business days of receipt; ~~(4-4-13)~~(8-31-17)T

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. **Proof of Compliance.** Additional proof of compliance as reasonably requested by the Commission. (4-4-13)

~~3032.~~ -- 399. **(RESERVED)**

(BREAK IN CONTINUITY OF SECTIONS)

~~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)~~
- ~~e. 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)~~
- ~~e. 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)~~
- ~~e. 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. 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)~~
- ~~f. 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)~~
- ~~e. 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)~~
- ~~e. 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)~~
- ~~e. 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)~~

4021. -- 999. (RESERVED)

IDAPA 08 – STATE BOARD OF EDUCATION
08.04.01 – RULES OF THE IDAHO DIGITAL LEARNING ACADEMY
DOCKET NO. 08-0401-1701
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 33-5504, 33-5505, and 33-5507, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 2017.

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:

The proposed amendments will update the Idaho Digital Learning Academy's physical address and additional technical corrections will bring the accreditation requirement language into alignment with terminology used elsewhere in Idaho Code and Administrative Code and update provisions related to student work and ethical conduct.

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

No fees or charges are being imposed through this rulemaking.

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 is no impact to the general fund as a result of this rulemaking.

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 June 7, 2017 Idaho Administrative Bulletin, [Vol. 17-6, 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: This rulemaking does not incorporate any documents.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tracie Bent at (208) 332-1582, or tracie.bent@osbe.idaho.gov. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2017.

DATED this 31st day of August, 2017

Tracie Bent
Chief Planning & Policy Officer
State Board of Education
650 W. State Street
P.O. Box 83720
Boise, Idaho 83720-0037
Tel: (208) 332-1582
Fax: (208) 334-2632

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0401-1701
(Only Those Sections With Amendments Are Shown.)

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The Idaho Digital Learning Academy is located in Boise, Idaho. (3-30-07)

01. Office Hours. The Idaho Digital Learning Academy's offices are open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. (3-30-07)

02. Street Address. The offices of the Idaho Digital Learning Academy are located at ~~1303 E. Central Dr., Meridian, Idaho 83642~~ 300 West Fort Street, Boise, ID 83702. (~~3-30-07~~)()

03. Mailing Address. The mailing address of the Idaho Digital Learning Academy is ~~1303 E. Central Dr., Meridian, Idaho 83642~~ 300 West Fort Street, Boise, ID 83702. (~~3-30-07~~)()

04. Telephone Number. The telephone number of the Idaho Digital Learning Academy is 208-342-0207. (3-30-07)

05. Facsimile. The facsimile number of the Idaho Digital Learning Academy is 208-342-1031. (3-30-07)

06. Website and E-Mail Address. The electronic address of the Idaho Digital Learning Academy is <http://www.idahodigitalllearning.org/> and the e-mail address is idla@IdahoDigitalLearning.org. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

01. Idaho Digital Learning Academy (IDLA). Idaho Digital Learning Academy is defined in Section 33-5505(3) and means an online educational program organized as a fully accredited secondary school with statewide capabilities for delivering accredited courses to Idaho resident students ~~in grades seven (7) through twelve (12)~~ at no cost to the student unless the student enrolls in additional courses beyond full-time enrollment. Participation in the academy by public school students shall be in compliance with academy and local school district policies. Adult learners and out-of-state students shall pay tuition commensurate with rates established by the state board with the advice of the superintendent, and such funds shall be included in the budget and audit of the academy's fiscal records. (~~3-30-07~~)()

02. Acceptable Use Policy (AUP). An Acceptable Use Policy is a policy that governs behavior in a computer or online environment. An Acceptable Use Policy outlines appropriate and inappropriate behavior, including specific examples of inappropriate behavior as well as the consequences of violating the policy. Acceptable use guidelines include, but are not limited to, guidelines pertaining to the use of profanity or threatening language, copyright violations, revealing personal information (either their own or someone else's), disrupting the use of a school network, or importation of sexually explicit, drug-related, and other offensive materials into the course environment. (3-30-07)

03. Designee. In the absence of the IDLA Director, a representative from the IDLA Board of Directors or an administrative staff member may be appointed by the IDLA Board of Directors to serve as designee. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

101. ACCREDITATION.

IDLA must ~~submit proof of~~ **maintain** accreditation ~~that meets accreditation standards of the state of Idaho and the northwest accreditation association to~~ **by an organization recognized by** the State Board of Education ~~annually.~~
(3-30-07)()

102. ACCOUNTABILITY.

01. Exams. Each IDLA ~~semester~~ course will require the student to take a comprehensive final exam at an approved site under proctored conditions. (3-30-07)()

02. Student Work and Ethical Conduct. (3-30-07)

a. IDLA will inform students in writing of the consequences of plagiarism. The consequences for plagiarism are set out in ~~each class syllabus that each student receives~~ **the IDLA student handbook which is made available online at all times and is communicated to each student and parent** prior to the beginning of each class. IDLA will investigate suspected cases of plagiarism and inform parents, students, and the local school district when a suspected case arises. (3-30-07)()

b. Acceptable use and behavior in a distance-learning environment is determined by local school district's policies ~~and is covered by the district's AUP signed by the student and the student's parent.~~ **The IDLA students and parents will agree to abide by an be informed by the** IDLA AUP specifically governing behavior in an online school. IDLA will provide a copy of the IDLA AUP to the Idaho State Board of Education in the IDLA Annual Report. (3-30-07)()

c. In a case of violation of the acceptable use policy or other disciplinary issues, IDLA will notify the local school district. The local school district is responsible for the appropriate disciplinary action. IDLA should be notified by the local school district of any disciplinary action resulting from a student's participation in an IDLA course. (3-30-07)

d. The IDLA Director or designee reserves the right to deny disruptive students access to IDLA courses in the future or remove them from participating in an existing course. Appeals to the denial or removal from a course may be made in writing to the IDLA Board of Directors discussing the circumstances for removal or denial. The IDLA Board of Directors will review the appeal and hold a ~~telephone conference~~ **special board meeting** to allow the student an opportunity to speak to the issue. The IDLA Board of Directors will issue a final decision within ten (10) days of the ~~telephone conference~~ **board meeting.** (3-30-07)()

03. Teacher Interaction. IDLA faculty are required to contact students within the first ~~month~~ **twenty-four (24) hours** of class. Contact includes phone, ~~regular mail,~~ e-mail, **web conferencing,** or other technological means. IDLA ~~faculty are~~ **is** required to submit periodic progress reports and final course percentages for individual students' grades which are then reported to the local school district **for transcription to the student's academic record.** (3-30-07)()