

Dear Senators HEIDER, Souza, Jordan, and  
Representatives WOOD, Packer, Chew:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of  
the Department of Health and Welfare:

IDAPA 16.02.11 - Immunization Requirements for Children Attending Licensed Daycare Facilities  
in Idaho - Temporary and Proposed Rule (Docket No. 16-0211-1801);

IDAPA 16.02.15 - Immunization Requirements for Idaho School Children - Temporary and Proposed  
Rule (Docket No. 16-0215-1801).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the  
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research  
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative  
Services. The final date to call a meeting on the enclosed rules is no later than 07/30/2018. If a meeting is  
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis  
from Legislative Services. The final date to hold a meeting on the enclosed rules is 08/27/2018.

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 Health & Welfare Committee and the House Health & Welfare Committee

**FROM:** Principal Legislative Research Analyst - Elizabeth Bowen

**DATE:** July 11, 2018

**SUBJECT:** Department of Health and Welfare

IDAPA 16.02.11 - Immunization Requirements for Children Attending Licensed Daycare Facilities in Idaho - Temporary and Proposed Rule (Docket No. 16-0211-1801)

IDAPA 16.02.15 - Immunization Requirements for Idaho School Children - Temporary and Proposed Rule (Docket No. 16-0215-1801)

#### Summary and Stated Reasons for the Rules

These temporary and proposed rules for the Department of Health and Welfare concern immunization exemptions for children attending licensed daycare facilities and schools. Under I.C. 39-1118 and I.C. 39-4802, children may be exempted from immunization requirements for attendance at a daycare facility or a school upon submission of an exemption statement from a parent or guardian. These rules clarify that the statement may be made on either a form provided by the Department or on a statement provided by the parent or guardian that includes:

- The child's name and date of birth;
- A statement on the reason for the exemption; and
- The parent or guardian's signature.

The Governor finds that temporary adoption of the rules is appropriate in order to conform to Idaho law.

#### Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was not conducted for either rule due to time constraints. There is no anticipated negative fiscal impact on the state general fund.

#### Statutory Authority

16.02.11 -- I.C. 39-1118

16.02.15 -- I.C. 39-4801

cc: Department of Health and Welfare  
Frank Powell and Trinette Middlebrook

Kristin Ford, Manager  
Research & Legislation

Paul Headlee, Manager  
Budget & Policy Analysis

April Renfro, Manager  
Legislative Audits

Glenn Harris, Manager  
Information Technology

Statehouse, P.O. Box 83720  
Boise, Idaho 83720-0054

Tel: 208-334-2475  
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**\*\*\* PLEASE NOTE \*\*\***

Per the Idaho Constitution, all administrative rules must be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

**IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE**  
**16.02.11 – IMMUNIZATION REQUIREMENTS FOR CHILDREN ATTENDING**  
**LICENSED DAYCARE FACILITIES IN IDAHO**

**DOCKET NO. 16-0211-1801**

**NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is May 18, 2018.

**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 Section 39-1118, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearings concerning this rulemaking will be held as follows:

<b>PUBLIC HEARINGS</b>		
<b>Tuesday, July 10, 2018 10:00 am (PDT)</b>	<b>Thursday, July 12, 2018 10:00 am (MDT)</b>	<b>Friday, July 13, 2018 8:00 am (MDT)</b>
<b>Coeur d'Alene Hampton Inn Riverstone South meeting room 1500 West Riverstone Drive Coeur d'Alene, ID 83814</b>	<b>Meridian Courtyard by Marriott Balboa meeting room 1789 South Eagle Road Meridian, ID 83642</b>	<b>Idaho Falls Hampton Inn (at the mall) Hampton Bay meeting room 2500 Channing Way Idaho Falls, ID 83404</b>

The hearing sites 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:

Idaho legislators and interested stakeholders have identified the need to clarify this rule to ensure that the immunization exemption/opt-out language therein is consistent with Section 39-1118, Idaho Code, and legislative intent.

This rulemaking adds language clarifying that parents requesting an immunization exemption may do so either on the Department's standard form or in a written, signed statement indicating their choice to exempt their child from immunization requirements.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in order to comply with deadlines in amendments to governing law or federal programs. This temporary rule adds language to ensure alignment with Idaho statute.

**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:

There is no anticipated fiscal impact to state general funds or any other funds except the costs of the rule promulgation, which includes printing and publication.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this rule is a temporary rule being published under very short time frames. However, it is being done in conjunction with negotiations with stakeholders and interested Idaho legislators.

**INCORPORATION BY REFERENCE:** No materials are being incorporated by reference in this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Rafe Hewett at (208) 334-5942.

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 Wednesday, July 25, 2018.

DATED this 7th day of June, 2018.

Tamara Prisock  
DHW – Administrative Rules Unit  
450 W. State Street – 10th Floor  
P.O. Box 83720  
Boise, ID 83720-0036  
Phone: (208) 334-5500  
FAX: (208) 334-6558  
E-mail: [dhwrules@dhw.idaho.gov](mailto:dhwrules@dhw.idaho.gov)

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT  
OF DOCKET NO. 16-0211-1801  
(Only Those Sections With Amendments Are Shown.)**

**110. EXEMPTIONS TO IMMUNIZATION REQUIREMENT.**

When supporting documentation is in the possession of the licensed daycare facility operator, a child who meets one (1) or both of the conditions in Subsections 110.01 and 110.02 of this rule, will be exempt from the required immunizations. (4-7-11)

**01. Life or Health Endangering Circumstances.** A signed statement of a licensed physician that the child's life or health would be endangered if any or all of the required immunizations are administered. (4-7-11)

**02. Religious or Other Objections.** A signed statement of the parent, custodian, or ~~legal~~ guardian ~~on a form provided by the Department, that includes the following~~ that must be either: (~~4-7-11~~)(5-18-18)T

**a.** On a standard Department form or similar form provided by the school; or (5-18-18)T

**b.** A signed statement that must include: (5-18-18)T

**ai.** The ~~A~~name of child, and the child's date of birth; and (~~4-7-11~~)(5-18-18)T

**bii.** A statement ~~of objection on~~ indicating that the child is exempt from immunization as provided in Section 110 of this rule for religious or other ~~grounds.~~ objections; and (~~1-25-79~~)(5-18-18)T

**iii.** The signature of the parent, custodian, or legal guardian. (5-18-18)T

**IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE**

**16.02.15 – IMMUNIZATION REQUIREMENTS FOR IDAHO SCHOOL CHILDREN**

**DOCKET NO. 16-0215-1801**

**NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is May 18, 2018.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 39-4801 and 39-4802, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearings concerning this rulemaking will be held as follows:

<b>PUBLIC HEARINGS</b>		
<b>Tuesday, July 10, 2018 10:00 am (PDT)</b>	<b>Thursday, July 12, 2018 10:00 am (MDT)</b>	<b>Friday, July 13, 2018 8:00 am (MDT)</b>
<b>Coeur d’Alene Hampton Inn Riverstone South meeting room 1500 West Riverstone Drive Coeur d’Alene, ID 83814</b>	<b>Meridian Courtyard by Marriott Balboa meeting room 1789 South Eagle Road Meridian, ID 83642</b>	<b>Idaho Falls Hampton Inn (at the mall) Hampton Bay meeting room 2500 Channing Way Idaho Falls, ID 83404</b>

The hearing sites 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:

Idaho legislators and interested stakeholders have identified the need to clarify this rule to ensure that the immunization exemption/opt-out language therein is consistent with Section 39-4802, Idaho Code, and legislative intent.

This rulemaking adds language clarifying that parents requesting an immunization exemption may do so either on the Department's standard form or in a written, signed statement indicating their choice to exempt their child from immunization requirements.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in order to comply with deadlines in amendments to governing law or federal programs. This temporary rule adds language to ensure alignment with Idaho statute.

**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:

There is no anticipated fiscal impact to state general funds or any other funds except the costs of the rule promulgation, which includes printing and publication.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this rule is a temporary rule being published under very short time frames. However, it is being done in conjunction with negotiations with stakeholders and interested Idaho legislators.

**INCORPORATION BY REFERENCE:** No materials are being incorporated by reference in this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Rafe Hewett at (208) 334-5942.

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 Wednesday, July 25, 2018.

DATED this 7th day of June, 2018.

Tamara Prisock  
DHW – Administrative Rules Unit  
450 W. State Street – 10th Floor  
P.O. Box 83720  
Boise, ID 83720-0036  
Phone: (208) 334-5500  
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**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT  
OF DOCKET NO. 16-0215-1801  
(Only Those Sections With Amendments Are Shown.)**

**110. EXEMPTIONS TO IMMUNIZATION REQUIREMENT.**

When supporting documentation is in the possession of school authorities, at the time of admission and before attendance, a child who meets one (1) or both of the following conditions in Subsections 110.01 and 110.02 of this rule, will not be required to receive the required immunizations. (4-7-11)

**01. Life or Health Endangering Circumstances.** A signed statement of a licensed physician that the child's life or health would be endangered if any or all of the required immunizations are administered. (4-7-11)

**02. Religious or Other Objections.** A signed statement of the parent, custodian, or ~~legal~~ guardian ~~on a form provided by the Department, that includes the following~~ that must be either: (~~4-7-11~~)(5-18-18)T

**a.** On a standard Department form or similar form provided by the school; or (5-18-18)T

**b.** A signed statement that must include: (5-18-18)T

**ai.** The ~~A~~name of child, and the child's date of birth; and (~~4-7-11~~)(5-18-18)T

**bii.** A statement ~~of objection on~~ indicating that the child is exempt from immunization as provided in Section 110 of this rule for religious or other ~~grounds.~~ objections; and (~~1-25-79~~)(5-18-18)T

**iii.** The signature of the parent, custodian, or legal guardian. (5-18-18)T