

Dear Senators MORTIMER, Thayn, Buckner-Webb, and  
Representatives CLOW, Kerby, McCrostie:

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

IDAPA 08.01.13 - Rules Governing the Opportunity Scholarship Program - Temporary and Proposed  
(Docket No. 08-0113-1901).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the  
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research  
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative  
Services. The final date to call a meeting on the enclosed rules is no later than 10/25/2019. If a meeting is  
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis  
from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/25/2019.

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 334-4854, 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:** Principal Legislative Drafting Attorney - Elizabeth Bowen

**DATE:** October 07, 2019

**SUBJECT:** State Board of and State Department of Education - State Board of Education

IDAPA 08.01.13 - Rules Governing the Opportunity Scholarship Program - Temporary and Proposed  
(Docket No. 08-0113-1901)

#### Summary and Stated Reasons for the Rule

This temporary and proposed rule revises Opportunity Scholarship eligibility requirements, including the minimum GPA requirements. Most of the changes relate to adult learners. The changes are being made to conform to Senate Bill 1279 (2018), which authorized the use of up to 20% of Opportunity Scholarship funds for adult learners.

#### Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted. There is no anticipated negative fiscal impact on the state general fund.

The Governor finds that the temporary rule is justified, as it confers a benefit (making scholarship awards available to adult learners).

#### Statutory Authority

This rulemaking appears to be within the Board's statutory authority.

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

#### \*\*\* PLEASE NOTE \*\*\*

Per the Idaho Constitution, all administrative rules may 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 08 – STATE BOARD OF EDUCATION**

### **08.01.13 – RULES GOVERNING THE OPPORTUNITY SCHOLARSHIP PROGRAM**

**DOCKET NO. 08-0113-1901**

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

**EFFECTIVE DATE:** The effective date of the temporary rule is August 29, 2019.

**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 33-4303, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2019.

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:

IDAPA 08.01.13 sets out the eligibility and application requirements for the Opportunity Scholarship, as authorized by Section 33-4303, Idaho Code. Senate Bill 1279 (2018), amended Section 33-4303, Idaho Code, authorizing the State Board of Education to award up to 20% of the funds appropriated for the Opportunity Scholarship to individuals with 24 or more postsecondary credits.

The proposed rule would make amendments to the student eligibility and application requirements to allow for a portion of the Opportunity Scholarship awards to be used for individuals who have earned 24 or more postsecondary credits. Proposed amendments include:

- Defining an “Adult Learner” and graduation plan;
- Lower the minimum GPA from 3.0 to 2.7 for all students while allowing Adult Learners to apply with a 2.5 GPA and renew with a 2.7 GPA;
- Allow Adult Learners to apply on an alternate date set by the Executive Director, rather than the current March 1 deadline;
- Require Adult Learners to have “stopped out” for 24 or more months, with the exception of two (2) courses;
- Allow Adult Learners to attend part-time;
- Pro-rate the amount of the awards for Adult Learners based on the number of credits attempted down to a minimum of six (6) credits;
- Require institutions to discuss opportunities for students to receive credits through prior learning assessments; and
- Require students to show progress on their educational plans to maintain scholarship eligibility.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1) (b) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: The temporary rule is necessary to award eligible scholarship applicants for the 2019-2020 school year who meet the requirements of having some credits and no degrees established in Section 33-4303, Idaho Code.

**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: 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 July 3, 2019 Idaho Administrative Bulletin, [Vol. 19-7 page 149](#).

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Tracie Bent, Chief Planning and Policy Officer, at (208) 332-1582 or [tracie.bent@osbe.idaho.gov](mailto: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 23, 2019.

Dated this 30th day of August, 2019.

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

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT  
OF DOCKET NO. 08-0113-1901  
(Only Those Sections With Amendments Are Shown.)**

**010. DEFINITIONS.**

**01. Adult Learner.** An individual who: (8-29-19)T

**a.** Is not currently enrolled in a postsecondary institution accredited by a body recognized by the State Board of Education; (8-29-19)T

**b.** Has not attended more than two (2) courses at a postsecondary institution at any time during the twenty-four (24) month period immediately prior to application for the Opportunity Scholarship; and (8-29-19)T

**c.** Has earned twenty-four (24) or more transferable credits from a postsecondary institution accredited by a body recognized by the State Board of Education. (8-29-19)T

**~~02.~~ Grade Point Average (GPA).** The average grade earned by a student, figured by dividing the grade points earned by the number of credits attempted. (3-20-14)

**03. Graduation Plan.** A plan developed by the postsecondary student in consultation with the postsecondary institution that identifies the certificate or degree the student is pursuing, the course and credit requirements necessary for earning the certificate or degree, the application of previously earned credits and credits granted through prior learning assessments, the estimated number of terms remaining to complete the certificate or degree and the proposed courses to be taken during each term. (8-29-19)T

**011. -- 100. (RESERVED)**

**101. ELIGIBILITY.**

Applicants must meet all of the eligibility requirements to be considered for the scholarship award. (3-28-18)

**01. Undergraduate Student.** An eligible student must be pursuing their first undergraduate certificate

or degree from an institution accredited by a body recognized by the State Board of Education. A student may have received multiple certificates or degrees as part of the natural progression towards a recognized baccalaureate degree program. A student who is enrolled in a graduate program, but who has not yet earned a baccalaureate degree, is not eligible for an opportunity scholarship. A student enrolled in an undergraduate program is eligible for consideration for an opportunity scholarship, even if some of the student's courses are at the graduate level. ~~(3-20-14)~~(8-29-19)T

**02. Academic Eligibility.** To be eligible for an opportunity scholarship, an applicant must meet minimum academic eligibility criteria, as follows: (3-28-18)

**a.** A student who has not yet graduated from secondary school or its equivalent in the state of Idaho must have an un-weighted minimum cumulative grade point of average of ~~three two~~ two point zero seven ~~(3.207)~~ or better on a scale of four point zero (4.0) to be eligible to apply for an opportunity scholarship. Cumulative grade point averages of more than one (1) decimal place shall be rounded to one (1) place. Home schooled students must provide a transcript of subjects taught and grades received signed by the parent or guardian of the student; or ~~(3-28-18)~~(8-29-19)T

**b.** A student who has obtained a general equivalency diploma must have taken the ACT assessment and received a minimum composite score of twenty (20) or better, or the equivalent SAT assessment and received a one thousand ten (1,010) or better, to be academically eligible to apply for an opportunity scholarship; or (3-28-18)

**c.** A student currently enrolled in an eligible Idaho postsecondary educational institution must have a minimum cumulative grade point average of three point zero ~~three two~~ two point zero seven ~~(3.207)~~ or better on a scale of four point zero (4.0) at such institution in order to be academically eligible to apply for an opportunity scholarship. Cumulative grade point averages of more than one (1) decimal place shall be rounded to one (1) place. ~~(3-28-18)~~(8-29-19)T

**d.** An Adult Learner must have a minimum cumulative grade point average of two point five (2.5) or higher on a scale of four point zero (4.0). Cumulative grade point averages of more than one (1) decimal place shall be rounded to one (1) decimal place. ~~(8-29-19)T~~

**03. Financial Eligibility.** Applicants for the opportunity scholarship are selected as recipients, in part, based on demonstrated financial need. The tool used to determine financial need is the Free Application for Federal Student Aid (FAFSA), used by the United States Department of Education. The financial need of an applicant for an opportunity scholarship will be based upon the verified expected family contribution, as identified by the FAFSA Student Aid report. The Student Aid report used to calculate financial need will be the report generated on the ~~March 1~~ application deadline. ~~(3-28-18)~~(8-29-19)T

**04. Additional Eligibility Requirements.** (4-2-08)

**a.** A student must not be in default on a student educational loan, or owe a repayment on a federal grant, and must be in good financial standing with the opportunity scholarship program. (3-20-14)

**b.** If a student has attempted or completed more than one hundred (100) postsecondary academic credits, then such student must identify his or her major, the required number of credits necessary for graduation in such major, and shall submit an academic transcript that contains all courses taken and all postsecondary academic credit received to the Board office. A student shall not be eligible for an opportunity scholarship if: (3-20-14)

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

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

**iii.** Upon review of the student's academic transcript(s), the student cannot complete their degree/certificate in the major they have identified within two (2) semesters based on normal academic course load unless a determination by the executive director or designee has been made that there are extenuating circumstances and the student has a plan approved by the executive director or designee outlining the courses that will be taken and the

completion date of the degree or certificate. (3-28-18)

**102. -- 201. (RESERVED)**

**202. APPLICATION PROCESS.**

**01. Initial Applications.** An eligible student must complete and submit the opportunity scholarship program application to the Board electronically on or before the date specified in the application, but not later than the deadline set by the executive director each year if an Adult Learner and not later than March 1 for all other students. Adult Learner applications will be processed and awarded on a monthly basis up to the application deadline. An applicant without electronic capabilities may request a waiver of this requirement and, if granted, submit an application on the form established by the Board through the United States Postal Service that must be postmarked not later than March 1 the applicable application deadline. All applicants must complete and submit the FAFSA on or prior to March 1 the application deadline. (~~3-28-18~~)(8-29-19)T

**02. Announcement of Award.** Announcement of the award of initial scholarships will be made no later than June 1 of each year, with awards to be effective at the beginning of the first full term following July 1 of that year. Announcements must clearly state the award is part of the state's scholarship program and is funded through state appropriated funds. Additional award announcement may be made after this date based on the availability of funds and the acceptance rate of the initial awards. (3-9-16)

**03. Communication with State Officials.** Applicants must respond by the date specified to any communication from officials of the opportunity scholarship program. Failure to respond within the time period specified will result in cancellation of the application or forfeiture of the scholarship unless extenuating circumstances are involved and approved by the executive director or designee. (3-28-18)

**203. -- 299. (RESERVED)**

**300. SELECTION OF SCHOLARSHIP RECIPIENTS.**

**01. Selection Process.** Scholarship awards will be based on the availability of scholarship program funds. Opportunity scholarships will be awarded to applicants, based on ranking and priority, in accordance with the following criteria: (3-28-18)

**a.** Eligible students shall be selected based on ranking criteria that assigns seventy percent (70%) to financial eligibility, and thirty percent (30%) to academic eligibility. In the event that this weighted score results in a tie, an eligible student who submitted his application to the Board earliest in time will be assigned a higher rank. (3-28-18)

**b.** Notwithstanding Subsection 300.01.a. of these rules, the priority for the selection of recipients of opportunity scholarship awards shall be to scholarship recipients who received an opportunity scholarship award during the previous fiscal year, and have met all of the continuing eligibility requirements provided in these rules. (3-28-18)

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

**a.** The Board will establish annually the educational costs for attending an eligible Idaho postsecondary educational institution for purposes of the opportunity scholarship program. (3-28-18)

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

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

**ii.** The amount of federal grant aid, as identified by the Student Aid Report (SAR) that is known at the time of award determination; (3-20-14)

iii. The amount of other financial aid awarded the student, from private or other sources that is known at the time of award determination. (3-20-14)

iv. The eligible maximum award amount for Adult Learners enrolled in less than twenty-four (24) credit hours or its equivalent in an academic year attending an eligible four-year postsecondary institution, or less than eighteen (18) credit hours or its equivalent in an academic year attending an eligible two-year institution, will be prorated as follows: (8-29-19)T

(1) Enrolled in six (6) to eight (8) credits or its equivalent per term - fifty percent (50%) of the maximum: (8-29-19)T

(2) Enrolled in nine (9) to eleven (11) credits or its equivalent per term - seventy-five percent (75%) of the maximum; and (8-29-19)T

(3) Enrolled in twelve (12) or more credits or its equivalent per term - one hundred percent (100%) of the maximum. (8-29-19)T

c. The amount of an opportunity scholarship award to an individual student shall not exceed the educational cost established by the Board annually, and shall not exceed the actual cost of tuition and fees at ~~an~~ the Idaho public postsecondary educational institution the student attends or will attend, or if the student attends or will attend an Idaho private postsecondary educational institution, the average tuition at Idaho's public four (4) year postsecondary educational institutions. (~~3-28-18~~)(8-29-19)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**302. CONTINUING ELIGIBILITY.**

To remain eligible for renewal of an opportunity scholarship, the recipient must comply with all of the provisions of the Opportunity Scholarship Program and these rules: (3-28-18)

~~01- **Renewal Application.** A scholarship recipient must complete and submit a renewal application in order to be considered for a continuing scholarship for each succeeding year and update and submit the FAFSA on or prior to March 1. (3-20-14)~~

~~021. **Credit Hours.** To remain eligible for renewal of an opportunity scholarship, the scholarship recipient attending a four (4) year eligible postsecondary institution must have completed a minimum of twenty-four (24) credit hours or its equivalent each academic year that the student received an opportunity scholarship award. A scholarship recipient attending a two (2) year eligible postsecondary institution must have completed a minimum of eighteen (18) credit hours or its equivalent each academic year that the student received an opportunity scholarship award. Notwithstanding these provisions, a scholarship recipient who has received the Opportunity Scholarship as an Adult Learner may retain eligibility by completing twelve (12) or more credit hours or its equivalent each academic year the student received the Opportunity Scholarship award. All students may use the summer term to meet the annual credit accumulation requirements. (~~3-9-16~~)(8-29-19)T~~

~~032. **Satisfactory Academic Progress.** To remain eligible for renewal of an opportunity scholarship, the scholarship recipient must have maintained a minimum cumulative grade point average of ~~three~~ two point ~~zero~~ seven (~~3.07~~) on a scale of four point zero (4.0) during the time that the recipient received an opportunity scholarship award at the institutions the student attended while receiving the scholarship, and must be maintaining satisfactory academic progress, consistent within federal financial aid regulations as implemented at the eligible Idaho postsecondary educational institution at which the scholarship recipient was enrolled. Students receiving an Opportunity Scholarship award as an Adult Learner must make satisfactory progress on their graduation plan established with the eligible institution at the time of admission. (~~3-28-18~~)(8-29-19)T~~

~~043. **Maximum Duration of Scholarship Award.** The award of an opportunity scholarship shall not exceed the equivalent of eight (8) semesters or the equivalent of four (4) academic years. (3-20-14)~~



**054. Eligibility Following Interruption of Continuous Enrollment.** A scholarship recipient whose continuous enrollment is interrupted for more than four (4) months but less than two (2) years for any reason but who intends to re-enroll in an eligible Idaho postsecondary educational institution must file a letter of intent to withdraw no later than sixty (60) days prior to the first day of the academic term of the discontinued attendance to the Office of the State Board of Education. Failure to do so may result in forfeiture of the scholarship. The Board's Executive Director or designee will review each request for interruption and notify the individual of approval or denial of the request. In addition, the individual must file a statement with the Board declaring his intent to re-enroll as a full-time undergraduate student in an academic or career technical program in an eligible Idaho postsecondary educational institution for the succeeding academic year no later than thirty (30) days prior to the first day of the academic term in which the individual intends to re-enroll within two (2) years of the approval of the request to withdraw. Failure to do so will result in forfeiture of the scholarship unless an extension has been granted. An extension of interruption of continuous enrollment period may be granted for eligible students due to military service in the United States armed forces, medical circumstances, or other circumstances approved by the executive director. All requests for extension must be made sixty (60) days prior to the start of the succeeding academic year. (3-28-18)

**303. -- 399. (RESERVED)**

**400. RESPONSIBILITIES OF ELIGIBLE IDAHO POSTSECONDARY EDUCATIONAL INSTITUTIONS.**

**01. Statements of Continuing Eligibility.** An eligible Idaho postsecondary educational institution participating in this Opportunity Scholarship Program must submit statements of continuing student eligibility to the Board by the 30th day after the end of each academic year. Such statements must include verification that the scholarship recipient is still enrolled, attending part-time, if an Adult Learner, and full-time for all other scholarship recipients, maintaining satisfactory academic progress, and has not exceeded the award eligibility terms. ~~(3-9-16)~~(8-29-19)T

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

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

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

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

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

**03. Adult Learner Evaluation.** Upon admission, scholarship recipients receiving an award as an Adult Learner will be administered prior learning assessments to determine eligibility for credit for prior learning, including credit for prior experiential learning. As part of this process an eligible institution will work with the student to develop a graduation plan for the program they are entering that includes estimated completion dates. (8-29-19)T