

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 08.02.01 - Rules Governing Administration - Proposed Rule (Docket No. 08-0201-1902);  
IDAPA 08.02.02 - Rules Governing Uniformity - Proposed Rule (Docket No. 08-0202-1903);  
IDAPA 08.02.03 - Rules Governing Thoroughness - Proposed Rule (Docket No. 08-0203-1902);  
IDAPA 08.02.04 - Rules Governing Public Charter Schools - Proposed Rule (Docket No. 08-0204-1901).

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 10/28/2019. 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 11/26/2019.

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

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*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 08, 2019

**SUBJECT:** State Board of and State Department of Education - State Board of Education  
IDAPA 08.02.01 - Rules Governing Administration - Proposed Rule (Docket No. 08-0201-1902)  
IDAPA 08.02.02 - Rules Governing Uniformity - Proposed Rule (Docket No. 08-0202-1903)  
IDAPA 08.02.03 - Rules Governing Thoroughness - Proposed Rule (Docket No. 08-0203-1902)  
IDAPA 08.02.04 - Rules Governing Public Charter Schools - Proposed Rule (Docket No. 08-0204-1901)

#### Summary and Stated Reasons for the Rule

Dockets 08-0201-1902 and 08-0202-1903: These proposed rules remove obsolete language.

Docket 08-0203-1902: This proposed rule adds chronic absenteeism to the data elements that are collected under state and federal reporting requirements.

Docket 08-0204-1901: This proposed rule clarifies that a charter school will be provisionally renewed if an authorized chartering entity takes no action to renew or nonrenew a charter.

#### Negotiated Rulemaking / Fiscal Impact

Dockets 08-0201-1902 and 08-0202-1903: Negotiated rulemaking was conducted, and there is no anticipated negative fiscal impact on the state general fund.

Docket 08-0203-1902: Negotiated rulemaking was conducted, and there is no anticipated negative fiscal impact on the state general fund.

Docket 08-0204-1901: Negotiated rulemaking was conducted, and there is no anticipated negative fiscal impact on the state general fund.

#### Statutory Authority

Dockets 08-0201-1902 and 08-0202-1903: This rulemaking appears to be within the Board's statutory authority.

Docket 08-0203-1902: This rulemaking appears to be within the Board's statutory authority.

Docket 08-0204-1901: 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**

**08.02.01 – RULES GOVERNING ADMINISTRATION**

**DOCKET NO. 08-0201-1902**

**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 Article IX, Section 2, Idaho Constitution and under Sections 33-105, 33-107 and 33-116, 33-320, 33-1212A, 33-1614, and 33-1616, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

During the 2019 Legislative Session the State Superintendent introduced legislation that removed the reference to the grade range performance metrics from Section 33-320, Idaho Code, and tied the required annual progress reporting to the new school district accountability report cards. These statutory changes conflict with the language in IDAPA 08.02.02.801 making it necessary to remove the language identifying the grade range performance metrics from Administrative Code. In addition to these changes, as part of the rule review process required by the Red Tape Reduction Act two additional sections were identified that are now obsolete and are being proposed for removal.

**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 July 3, 2019 Idaho Administrative Bulletin, [Vol. 19-7, page 151](#).

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before 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 PROPOSED TEXT OF DOCKET NO. 08-0201-1902  
(Only Those Sections With Amendments Are Shown.)

651. -- ~~699~~**800**. (RESERVED)

~~700. VETERANS EDUCATION.~~

~~The Governor of the state of Idaho has designated the State Department of Education as the approval agency in the State of Idaho for the purpose of approving courses for the enrollment of veterans and other eligible persons. (Sections 33-105; 33-107, Idaho Code) (4-1-97)~~

~~01. Responsibilities of State Approval Agency. The State Approval Agency carries the following responsibilities: (4-1-97)~~

~~a. Establishing criteria additional to requirements set forth in federal law for approving education or training programs. (4-1-97)~~

~~b. Approving education or training programs following the criteria set forth in federal law or established by the state approval agency. (4-1-97)~~

~~c. Regularly visiting and supervising those educational institutions and training establishments offering approved courses or programs. (4-1-97)~~

~~d. Disapproving any approved course or program that fails to meet requirements set forth in federal law or criteria established by the approval agency and notifying the affected institution or establishment and the Veterans Administration of this disapproval. (4-1-97)~~

~~e. Providing applicable approval information to educational institutions or training establishments and the Department of Veterans' Affairs. (4-1-97)~~

~~02. Regulations Incorporated by Reference. The Federal regulations of the U.S. Department of Veterans' Affairs as referred to by these regulations are incorporated herein and will have the same force and effect as if fully set forth. Copies of referred federal regulations may be obtained from the United States Veterans Administration, the State Department of Education, or the Idaho State Law Library. (4-1-97)~~

~~03. Definition. For the purposes of these rules, the following words and phrases will have these meanings: (4-1-97)~~

~~a. Approval: An institution or establishment desiring to offer a course or courses for which veterans may use veterans' educational benefits has met standards and requirements designed to ensure that such institution or establishment is qualified to provide satisfactory instruction in the course or courses to be offered. (4-1-97)~~

~~b. Accredited Course: A course which meets one (1) of the following requirements: the course has been accredited and approved by a nationally recognized agency or association; credit for such a course is approved by the State Department of Education for credit toward a high school diploma; the course is conducted under 20 U.S.C. 11-28 (Vocational Education); and the course is accepted by the State Department of Education for credit for a teacher's certificate or a teacher's degree. (4-1-97)~~

~~c. Nonaccredited courses: Courses that are not approved as accredited courses and that are offered by a public or private, profit or nonprofit, educational institution. These include nonaccredited courses offered by extension centers or vocational or adult education departments in institutions of higher education. (4-1-97)~~

~~d. Nationally recognized accrediting agency or association: One that appears on the list published by the Commissioner of Education as required by 38 U.S.C. 1775 (a). (4-1-97)~~

~~e. Correspondence courses: Courses that must require no less than six (6) hours of preparation per week over any twenty-six (26) week period and must require six (6) or more months to complete. No more than twenty percent (20%) of the students pursuing such a course should be able to complete the course in less than six (6) months for the normal length to be certified as six (6) months or more. The determination of this factor will be based upon the records of the school for the immediately preceding years. (4-1-97)~~

~~f. Apprentice courses: Any training on the job course established as an apprentice course by a training establishment as defined in VA Regulations 14200(c) and approved as an apprentice course by the state approval agency. (4-1-97)~~

~~g. Other training on the job courses: Any training on the job that does not qualify as an apprentice course as defined in these regulations, but that otherwise meets the requirements of subparagraph C of VA Regulation 14262 as incorporated by reference herein. (4-1-97)~~

~~04. Eligibility for Receipt of Veterans' Educational Benefits. Any veteran enrolled in educational institutions or training establishments is eligible for educational benefits as provided by 38 U.S.C. Section 1771 et seq. To qualify for eligibility, the veteran must be in training in a course or courses approved for veteran's education by the state approval agency. (4-1-97)~~

~~05. Attainment of Approval Status. Attaining approval status requires that an institution or establishment desiring to offer courses for which veterans or other eligible persons may receive veterans' educational benefits meet standards designed to ensure that such an institution or establishment is qualified to provide satisfactory instruction in the course or courses to be offered. Approval of courses may be obtained upon compliance with the following requirements and standards: (4-1-97)~~

~~a. Veterans will not be eligible for educational benefits for enrollment in any course offered by an educational institution when such a course has been in operation for less than two (2) years immediately prior to the date of enrollment as defined by VA regulation 14251(B). However, this requirement does not apply to the following courses: courses pursued in a public or tax supported educational institution; any course offered by an educational institution that has been in operation for more than two (2) years, if the course is similar in nature to a course previously offered by the institution; any course that has been offered by an institution for a period of more than two (2) years, notwithstanding the fact that the institution has moved to another location in the same general locality or where the school has made a complete move with substantially the same faculty, curricula, and students without a change in ownership; any course offered by a nonprofit school of college level and recognized for credit toward a standard college degree; and any course for the educationally disadvantaged offered by a proprietary nonprofit educational institution at the principal or branch location when the institution offering the course has been in operation for more than two (2) years. (4-1-97)~~

~~b. Institutions or establishments desiring to enroll veterans or eligible persons in courses to which veterans' benefits may be applied must make written application for approval of such courses to the state approval agency. Because approval is granted on a course-by-course basis, the institution or establishment must include in the application all courses for which it seeks approval. Applications for approval of accredited courses must be in conformance with requirements set forth in VA Regulation 14253. Applications for approval of nonaccredited courses must be in conformance with and contain information required by VA Regulation 14254. Applications for approval of correspondence courses must conform with requirements set forth in VA Regulation 14256, in addition to the requirements of VA Regulations 14253 or 14254 as applicable. Applications for approval of apprentice courses must conform with and contain information required by VA Regulation 14261(B). Applications for approval of other training on the job courses must conform with and contain information required by VA Regulation 14262(B). Application for approval of flight training courses must conform with requirements set forth in VA Regulation 14263 and in particular VA Regulation 14263(F). (4-1-97)~~

~~e. When an institution or establishment applies for approval, it thereby consents to visits by a representative of the state approval agency. The purpose of such visits is to determine whether the applicant and the course or courses for which approval is sought comply with established approval criteria. (4-1-97)~~

~~d. Upon receipt of an application for approval conforming with the above referenced regulations, the~~

~~state approval agency may, upon adequate investigation, approve the application when the course or courses to which the application pertains and the institution or establishment offering them are found to have met the following criteria: for accredited courses, criteria set forth in VA Regulation 14253(D) (E) or (F) as applicable; for nonaccredited courses, criteria set forth in VA Regulation 14254(C); for correspondence courses, criteria set forth in VA Regulation 14256, in addition to criteria set forth in VA Regulations 14253 or 14254 as applicable; for apprentice courses, criteria set forth in VA Regulation 14261(C); for other training on the job courses, criteria set forth in VA Regulation 14262(C); and for flight training courses, criteria set forth in VA Regulation 14263. Veterans who are basically eligible to receive educational assistance allowances under the provisions of Title 38, U.S.C. may receive educational assistance for flight training, if the individual also meets eligibility standards set forth in VA Regulation 14263(A). In addition, the state approving agency requires that students complete a minimum of thirty (30) hours of instruction per quarter to maintain such eligibility.~~ (4-1-97)

~~**06. Notice of Approval.** Upon determining that an institution or establishment has complied with all the requirements for approval, the state approval agency will notify the institution or establishment by a letter setting forth the courses that have been approved and will furnish the VA with an official copy of the letter, attachments and any subsequent amendments.~~ (4-1-97)

~~**07. Length of Time of Approval.** Approval of a course is for an indefinite period of time. However, the state approval agency may require that requests for continued approval be submitted on an annual basis with appropriate supporting documentation. Furthermore, any revision or change made in a course will require resubmission of the course for approval by the state approval agency.~~ (4-1-97)

~~**08. Suspension or Withdrawal of Approval.** Continuing approval of a course or courses is contingent upon maintaining prescribed standards and conformance with requirements referred to above.~~ (4-1-97)

~~**a.** In the event that the evidence of record establishes that the course fails to meet such requirements for approval, approval of the course for new enrollments may be suspended by the state approval agency for a period not to exceed sixty (60) days to allow the institution or establishment to meet the requirements for approval.~~ (4-1-97)

~~**b.** The length of the suspension will not be for an indeterminate period but will be of a reasonable duration as determined by the state approval agency to be necessary for the institution or establishment to meet the requirements in light of the nature of the deficiencies.~~ (4-1-97)

~~**c.** Prior to the effective date of the suspension, the state approval agency will give notice of the intended action to the affected institution or establishment which will include facts or circumstances on which the intended suspension is based and any available supporting documentation. The state approval agency will also afford to such institution or establishment, prior to the effective date of the suspension, a reasonable opportunity to show compliance with all lawful requirements for the retention of approval either by providing written support or through oral presentations to the appropriate agency officials.~~ (4-1-97)

~~**d.** For those cases where a discrepancy has not been corrected at the time of the expiration date of a suspension period or in lieu of suspension for those cases where a discrepancy is so major as to substantially deprive the student of the protection afforded by the approval process or is of such a nature that it cannot be corrected within a period of sixty (60) days, the state approval agency will withdraw approval of the affected course or courses.~~ (4-1-97)

~~**e.** Prior to the effective date of the withdrawal of approval, notice of the agency's intended action will be provided to the affected institution or establishment, which will include a statement of the institution's right to a hearing, a statement of the authority and jurisdiction under which the hearing is to be held, a reference to the particular sections of statutes or rules involved, and a short and plain statement of the grounds upon which the intended action to withdraw approval is based.~~ (4-1-97)

~~**f.** An opportunity will be afforded the affected institution or establishment to respond to the agency's intended action and to present evidence and argument on all issues involved. A three (3) member hearing panel will be appointed by the executive officer of the state approval agency to review such appeal and submit recommended findings of fact and conclusions of law to the executive officer who will thereafter render a final decision in the matter.~~ (4-1-97)

~~g. Any final decision adverse to an institution or establishment will be in writing or stated in the record. The decision will include findings of fact and conclusions of law, separately stated. (4-1-97)~~

~~h. The affected institution or establishment will be notified either personally or by mail of any decision; a copy of this document will be delivered or mailed forthwith to the institution or establishment and to its attorney of record upon request. (4-1-97)~~

~~701.—749. (RESERVED)~~

**750. IDAHO STATE PENITENTIARY.**

~~The vocational and academic programs at the Idaho State Penitentiary will be approved on an annual basis as special programs for the purpose of training inmates. (4-1-97)~~

~~751.—799. (RESERVED)~~

**800. PRIVATE CORRESPONDENCE AND TRADE SCHOOLS.**

~~Private correspondence and trade schools teaching any course, plan, or programs of instruction, whether conducted in person, by mail, or any other method, will register with the State Department of Education on forms approved by the Board, which are on file in the State Department of Education. (Chapter 24, Title 33, Idaho Code) (4-1-97)~~

~~01. **Cancellation Policy.** A student applicant may cancel his or her enrollment within seventy-two (72) hours after midnight of the day on which the enrollment agreement is signed and receive a full refund of all monies paid to the school or its representative. The student will receive a minimum of seven (7) days in which to cancel the enrollment agreement and the seller may retain not more than fifty dollars (\$50). Accreditation allows an agent to keep one hundred dollars (\$100). (4-1-97)~~

~~02. **Cancellation of Enrollment.** For a student requesting cancellation of enrollment after starting the course, the charge made will be based on lessons completed or time spent and will be computed on the following prorated basis: fifty percent (50%) retention during the first quarter; seventy-five percent (75%) retention during the second quarter; and one hundred percent (100%) retention during the third and fourth quarter. (A quarter means time reasonably expected for completion of one fourth (1/4) of the course.) (4-1-97)~~

~~03. **Emergency Consideration.** In case of illness or accident, death in the family, or other circumstances beyond the control of the student, the student will be entitled to consideration, and the school will make a settlement that is reasonable and fair to both. (4-1-97)~~

**801. CONTINUOUS IMPROVEMENT PLANNING AND TRAINING.**

In accordance with Section 33-320, Idaho Code, every local education agency (LEA) shall develop and maintain a strategic plan that includes a continuous improvement process focused on improving student performance of the LEA. (3-25-16)

**01. Definitions.** (4-11-15)

**a.** Administrator. As used in this section administrator means the superintendent of the school district or administrator of a charter school. (4-11-15)

**b.** Board. Board means the Idaho State Board of Education. (4-11-15)

**c.** Executive Director. Executive Director means the Executive Director of the Idaho State Board of Education. (4-11-15)

**d.** Local Education Agency Board. As used in this section local education agency or LEA Board means the board of trustees of a school district or board of directors of a charter school. (4-11-15)

**e.** Local Education Agency. As used in this section local education agency (LEA) means public school district or charter school.. (4-11-15)



f. Continuous Improvement Plan. As used in this section, a continuous improvement plan focuses on annual measurable outcomes and the analysis of data to assess and prioritize needs and measure outcomes. (3-25-16)

**02. Reimbursement Eligibility.** LEA's may request reimbursement for training conducted pursuant to Section 33-320, Idaho Code. To be eligible for reimbursement the training and trainer must meet the following criteria: (4-11-15)

a. Training. The training must cover one (1) or more the follow subjects: (4-11-15)

i. Continuous improvement planning training. Continuous improvement planning training must include, but is not limited to, training on continuous process improvement, use and analysis of data, and methods for setting measurable targets based on student outcomes; (3-25-16)

ii. School finance; (4-11-15)

iii. Administrator evaluations, including, but not limited to, specifics on the Idaho state evaluation requirements and framework; (4-11-15)

iv. Ethics; or (4-11-15)

v. Governance. (4-11-15)

b. Documentation of Training. Training records shall be kept by the LEA showing: (4-11-15)

i. The length of the training in hours; (4-11-15)

ii. The subject(s) covered by the training; (4-11-15)

iii. The participants included in the training or validation of attendance of specific participants as applicable; and (4-11-15)

iv. The curriculum, agenda, or other documentation detailing the content of the training. (4-11-15)

c. Training Format. A majority of the LEA board and the administrator must collaborate on the continuous improvement plan and engage students, parents, educators and the community, as applicable to the training subject and format. The training facilitator must be physically present or have the ability to interact directly with all training participants. Sufficient time must be provided during the sessions to give the participants an opportunity to discuss issues specific to the LEA. (3-25-16)

d. Trainer Qualifications. The trainer must meet the following qualifications: (4-11-15)

i. May not be a current employee of the LEA; (4-11-15)

ii. Must have two (2) years of documented training experience in the area of training being provided for the LEA; and (4-11-15)

iii. Must provide at least three (3) recommendations from individuals who participated in past training sessions conducted by the trainer. These recommendations must be included with the application to determine the trainer's qualifications. (4-11-15)

e. Qualified Trainers. Trainer qualifications will be determined by the Office of the State Board of Education. The State Board of Education will maintain a list of qualified trainers and the subject areas in which they are qualified. (4-11-15)

i. An individual or company may submit an application for consideration to be placed on the list of qualified trainers or the LEA may submit the application on behalf of the individual or company. (4-11-15)

- ii. Applications must be submitted to the Executive Director in a format established by the Executive Director. (4-11-15)
- iii. Trainer qualifications must be determined prior to the LEA's request for reimbursement of training costs. (4-11-15)

**03. Audit.** If requested, LEA's must provide training documentation or other information to verify eligibility prior to reimbursement. (4-11-15)

~~**04. Statewide Continuous Improvement Measures.** Multiple measures must be used to fully determine student readiness and improvement. At a minimum each continuous improvement plan shall include the following statewide student readiness and improvement metrics. The benchmark for each metric shall be set by the LEA. (3-22-17)~~

~~**a.** The college and career readiness metric shall be the number and percentage of students meeting the college ready benchmark in mathematics and English Language Arts on a state recognized college entrance exam. Improvement shall be measured by year over year growth in the percentage of students meeting the college readiness benchmark. This measure may be broken out by students pursuing a career technical track and non-career technical track students. Career technical track student's readiness will be measured based on students receiving an industry recognized certification or passage of a Division of Career Technical Education recognized workplace readiness assessment. (3-22-17)~~

~~**b.** The high school readiness metric shall be the number and percentage of students meeting proficient or advanced on the grade eight (8) Idaho standards achievement test in mathematics and English language usage. Improvement shall be measured by year over year growth in the percentage of students scoring proficient or advanced. (3-22-17)~~

~~**c.** The grade seven (7) readiness metric shall be the number and percentage of students meeting proficient or advanced on the grade six (6) Idaho standards achievement test in mathematics and English language usage. Improvement shall be measured by year over year growth in the percentage of students scoring proficient or advanced. (3-22-17)~~

~~**d.** The grade four (4) reading readiness metric shall be the number and percentage of students reading at grade level on the spring grade three (3) statewide reading assessment. Improvement shall be measured by year over year growth in the percentage of students scoring at grade level. (3-22-17)~~

~~**e.** The grade three (3) reading readiness metric shall be the number and percentage of students reading at grade level on the spring grade two (2) statewide reading assessment. Improvement shall be measured by year over year growth in the percentage of students scoring at grade level. (3-22-17)~~

~~**f.** The grade two (2) reading readiness metric shall be the number and percentage of students reading at grade level on the spring grade one (1) statewide reading assessment. Improvement shall be measured by year over year growth in the percentage of students scoring at grade level. (3-22-17)~~

~~**g.** The grade one (1) reading readiness metric shall be the number and percentage of students reading at grade level on the spring kindergarten statewide reading assessment. Improvement shall be measured by year over year growth in the percentage of students scoring at grade level. (3-22-17)~~

**054. Annual Literacy Intervention Plan.** Annually each LEA will report on the effectiveness of the LEA's literacy intervention plan. Plans and reports are due by October 1 of each year. Plans shall include at a minimum: (3-22-17)

- a. Projected literacy plan budget for the current school year; (3-22-17)
- b. Metrics chosen by the LEA to determine effectiveness of the literacy plan and annual performance benchmarks; and (3-22-17)

c. Performance on metrics chosen to show program effectiveness for at a minimum the previous academic year. (3-22-17)

**065. College and Career Advising and Mentoring Plans.** Annually each LEA shall submit their college and career advising and mentoring plan to the State Board of Education by October 1. (3-22-17)

a. Plans shall include required metrics and at least one (1) or more additional metrics chosen by the LEA to determine effectiveness of the college and career advising and mentoring plan, baseline data and annual benchmarks. (3-22-17)

b. Performance on all effectiveness metrics shall be reported annually in the LEA's Continuous Improvement Plan annual report. (3-22-17)

c. At a minimum effectiveness metrics must include: (3-22-17)

i. Percent of learning plans reviewed annually by grade level, in grade nine (9) through grade twelve (12); (3-22-17)

ii. Number and percent of students who go on to some form of postsecondary education one (1) and two (2) years after graduation; and (3-22-17)

iii. Number of students graduating high school with a career technical certificate or an associate degree. (3-22-17)

## **IDAPA 08 – STATE BOARD OF EDUCATION**

### **08.02.02 – RULES GOVERNING UNIFORMITY**

**DOCKET NO. 08-0202-1903**

### **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 Article IX, Section 2, Idaho Constitution and under Sections 33-105, 33-107, 33-116, and 33-2009, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Proposed amendments remove outdated terminology and duplicative definitions to terminology governed by Section 33-2009, 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 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 July 3, 2019 Idaho Administrative Bulletin, [Vol. 19-7, page 152](#).

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before 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  
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Phone: (208) 332-1582  
Fax: (208) 334-2632

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0202-1903  
(Only Those Sections With Amendments Are Shown.)

240. JUVENILE DETENTION CENTERS.

~~01. Definition of Terms. (4-1-97)~~

~~a. Juvenile Detention Centers: Facilities that provide for the temporary care of children, as defined in the Juvenile Justice Reform Corrections Act, who require secure custody, for their own or the community's protection, in physically restricting facilities pending court disposition or subsequent to court disposition. (Section 33-2009, Idaho Code) (4-1-97)~~

~~b. Juvenile Offender: A person, as defined in the Juvenile Justice Reform Act, who has been petitioned or adjudicated for a delinquent act that would constitute a felony or misdemeanor if committed by an adult. (4-1-97)~~

**021. Instructional Program.** Every public school district in the state within which is located a public or private detention facility housing juvenile offenders pursuant to court order will provide an instructional program. The instructional program will: (4-1-97)

a. Provide course work that meets the minimum requirements of Idaho State Board of Education Rules. (4-1-97)

b. Provide instruction in ~~the~~ core ~~of instruction~~ subject areas. (4-1-97)( )

c. Include the following components, where appropriate: self-concept improvement, social adjustment, physical fitness/personal health, vocational/occupational, adult living skills, and counseling. (4-1-97)

d. Provide instruction and guidance that may lead to a high school diploma. School districts will accept such instruction for purposes of issuing credit when the detention center certifies to the school that the appropriate work is completed. (4-1-97)

e. Be directed by an instructor who holds an appropriate, valid certificate. (4-1-97)

f. Be provided to each student not later than two (2) school days after admission and continue until the student is released from the detention center. (4-1-97)

g. Be provided to students who have attained "school age" as defined in Idaho Code 33-201. (4-1-97)

h. Be provided for a minimum of four (4) hours during each school day. (4-1-97)

i. Be based on the needs and abilities of each student. The resident school district will provide pertinent status information as requested by the Juvenile Detention Center. (4-1-97)

j. Be coordinated with the instructional program at the school the student attends, where appropriate. (4-1-97)

k. Be provided in a facility that is adequate for instruction and study. (4-1-97)

**032. State Funding of Instructional Programs at Juvenile Detention Centers.** (4-1-97)

a. Every student housed in a juvenile detention center pursuant to court order and participating in an instructional program provided by a public school district will be counted as an exceptional child by the district for

purposes of state reimbursement.

(4-1-97)

**b.** Public school districts that educate pupils placed by Idaho court order in juvenile detention centers will be eligible for an allowance equivalent to the previous year's certified local annual tuition rate per pupil. The district allowance will be in addition to support unit funding and included in the district apportionment payment.

(4-1-97)

**c.** To qualify for state funding of instructional programs at Juvenile Detention Centers, school districts must apply for such funding on forms provided by the State Department of Education. Applications are subject to the review and approval of the State Superintendent of Public Instruction. School districts will submit attendance and enrollment reports as required by the State Superintendent of Public Instruction. Juvenile Detention Centers will submit reports to the local school district as required.

(4-1-97)

**IDAPA 08 – STATE BOARD OF EDUCATION**

**08.02.03 – RULES GOVERNING THOROUGHNESS**

**DOCKET NO. 08-0203-1902**

**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 Article IX, Section 2, Idaho Constitution and under Sections 33-105, 33-107, 33-116, and 33-133, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Section 33-133, Idaho Code requires any new data elements that are added to the state longitudinal data system to be added through the negotiated rulemaking process. This rule will add chronic absenteeism to the state longitudinal data system. Chronic Absenteeism has been historically collected and reported directly to the US Department of Education by the school districts. The US Department of Education has changed how this required data element is reported by the states necessitating this change.

**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 July 3, 2019 Idaho Administrative Bulletin, [Vol. 19-7, page 154](#).

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before 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 PROPOSED TEXT OF DOCKET NO. 08-0203-1902  
(Only Those Sections With Amendments Are Shown.)

**115. DATA COLLECTION.**

The State Department of Education will collect the required information from participating school files for state and federal reporting and decision-making. The enrollment collection will contain information about the enrollment of the student attributes such as unique student identifier, active special education, Limited English Proficient (LEP), migrant, grade level, gender, race, and free/reduced lunch status. The collection will be done in ~~mid-October, early February, and May (end of the testing window)~~ in accordance with the reporting requirements established in chapter 10, Title 33, Idaho Code, or as needed for state and federal accountability purposes. Each participating school is required to verify and assure the accuracy of the data submitted in the files. ~~(5-8-09)~~ ( )

**01. State Data System.** In accordance with the provisions of Section 33-133, Idaho Code, the following data elements will be added to the state data system: (3-28-18)

- a. Grade Point Average (GPA); and (3-28-18)
- b. Chronic Absenteeism. ( )



**IDAPA 08 – STATE BOARD OF EDUCATION**  
**08.02.04 – RULES GOVERNING PUBLIC CHARTER SCHOOLS**  
**DOCKET NO. 08-0204-1901**  
**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 Article IX, Section 2, Idaho Constitution and under Sections 33-105, 33-107, 33-116, 33-5203, 33-5209A, 33-5209B, 33-5209C, 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 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Pursuant to Section 33-5208B, Idaho Code, a chartering entity may “nonrenew or grant renewal” to a charter school. This rule will add language to the charter renewal and performance certificate review process to clarify what happens to a charter school when an authorizing chartering entity chooses not to review their performance certificate and takes no action to renew or nonrenew a charter.

**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 July 3, 2019 Idaho Administrative Bulletin, [Vol. 19-7, page 155](#).

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before 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  
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0204-1901  
(Only Those Sections With Amendments Are Shown.)

301. AUTHORIZED CHARTERING ENTITY RESPONSIBILITIES.

**01. Monitoring.** 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)~~( )

**02. Performance Certificate Review.** Pursuant to Section 33-5209B, Idaho Code, an authorized chartering entity may renew or nonrenew a charter for a term of five (5) years following the initial three-year term. Should a chartering entity take no action to renew or nonrenew the charter, and the charter school has met all of the existing performance certificate targets, the charter school shall be provisionally renewed until such time as the chartering entity takes action. The five-year term of the renewed charter shall be based on the provisional renewal date. ( )