

Dear Senators LENT, Toews, Ward-Engelking, and
Representatives YAMAMOTO, McCann, Berch:

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 08.01.02 - Rules Governing the Postsecondary Credit Scholarship Program (Chapter Repeal)
- Proposed Rule (Docket No. 08-0102-2301);

IDAPA 08.01.13 - Rules Governing the Opportunity Scholarship Program - Proposed Rule (Docket
No. 08-0113-2302).

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 11/16/2023. 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 12/14/2023.

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.



Terri Kondeff
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: Legislative Drafting Attorney - Trevor Ahrens

DATE: October 30, 2023

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

IDAPA 08.01.02 - Rules Governing the Postsecondary Credit Scholarship Program (Chapter Repeal) - Proposed Rule (Docket No. 08-0102-2301)

IDAPA 08.01.13 - Rules Governing the Opportunity Scholarship Program - Proposed Rule (Docket No. 08-0113-2302)

Summary and Stated Reasons for the Rule

The State Board of Education submits notice of proposed rulemaking relating to education. . The agency states the rules promulgated under Docket No. 08-0113-2302 ensure students are made aware of the Opportunity Scholarship and launch Grant Program at the same time. Docket No. 08-0102-2301 repeals a chapter of administrative rules that will be considered null and void as of July 1, 2023 as a result of changes in the governing law.

Negotiated Rulemaking / Fiscal Impact

The agency states that negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 2023 Idaho Administrative Bulletin, Volume 23-6, page 39 for Docket No. 08-0102-2301. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2023 Idaho Administrative Bulletin, Volume 23-7, page 15 for Docket No. 08-0113-2302.

Statutory Authority

The proposed rule in Docket No. 08-0102-2301 appear to be within the agency's statutory authority pursuant to sections 33-105, 33-4601A, 33-4605, and Chapter 46, Title 33, Idaho Code. The proposed rule in Docket No. 08-0113-2302 appears to be within the agency's statutory authority pursuant to Article IX, Section 2 of the Idaho Constitution and under sections 33-105, 33-4303, and 33-4304, Idaho Code.

cc: State Board of and State Department of Education - State Board of Education
Nicholas Wagner

*** PLEASE NOTE ***

Paul Headlee, Deputy Director Matt Drake, Manager Keith Bybee, Manager April Renfro, Manager Norma Clark, Manager
Legislative Services Office Research & Legislation Budget & Policy Analysis Legislative Audits Information Technology

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

Tel: 208-334-2475
legislature.idaho.gov

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

08.01.02 – RULES GOVERNING THE POSTSECONDARY CREDIT SCHOLARSHIP PROGRAM

DOCKET NO. 08-0102-2301 (CHAPTER REPEAL)

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 33-105, 33-4601A, 33-4605, and Chapter 46, Title 33, 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, 2023.

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: Recently enacted legislative amendments will sunset Section 33-4605, Idaho Code, on July 1, 2023. The intent of this rulemaking is to repeal this chapter of administrative rules as it will be considered null and void effective July 1, 2023, as a result of the changes in governing law.

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

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 as a result of this rulemaking: None

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 2023 Idaho Administrative Bulletin, [Volume 23-6, page 39](#).

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: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nicholas Wagner at rules@osbe.idaho.gov or (208)-488-7586.

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 25, 2023.

DATED this 25th day of August, 2023.

Nicholas Wagner
Administrative Rules Coordinator
Idaho State Board of Education
650 W State St.
PO Box 83720
Boise, Idaho 83720-0037
Phone: (208)488-7586
fax: (208)334-2632

IDAPA 08.01.02 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 08 – STATE BOARD OF EDUCATION

08.01.13 – RULES GOVERNING THE OPPORTUNITY SCHOLARSHIP PROGRAM

DOCKET NO. 08-0113-2302

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 of the Idaho Constitution and under sections 33-105, 33-4303, and 33-4304, 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, 2023.

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:

Amendments would move the deadline for initial awards from July 1 to December 31 each year. This will ensure that applicants will be informed of the Opportunity Scholarship and Launch Grant Program at the same time. The proposed rule would also allow the Board to make awards pending financial need verification should student access to the Free Application for Federal Student aid (FAFSA) be delayed in a future year.

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

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 as a result of this rulemaking: None

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 2023 Idaho Administrative Bulletin, [Volume 23-7, page 15](#).

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: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nicholas Wagner at rules@osbe.idaho.gov or (208)-488-7586.

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 25, 2023.

DATED this 25th day of August, 2023.

Nicholas Wagner
Administrative Rules Coordinator
Idaho State Board of Education
650 W State St.
PO Box 83720
Boise, Idaho 83720-0037
Phone: (208)488-7586
fax: (208)334-2632

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0113-2302
(Only Those Sections With Amendments Are Shown.)

101. ELIGIBILITY.

Applicants must meet all of the eligibility requirements to be considered for the scholarship award. (4-6-23)

01. Academic Eligibility. To be eligible for an opportunity scholarship, an applicant must meet minimum academic eligibility criteria, as follows: (4-6-23)

a. A student who has not yet graduated from an eligible secondary school or its equivalent in the state of Idaho must have an un-weighted minimum cumulative grade point of average of two point seven (2.7) 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 (4-6-23)

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 (4-6-23)

c. A student currently enrolled in an eligible Idaho postsecondary educational institution must have a minimum cumulative grade point average of two point seven (2.7) 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. (4-6-23)

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. (4-6-23)

02. Financial Eligibility. The financial need of an applicant for an opportunity scholarship will be based upon ~~the verified expected family contribution~~ Student Aid Index, as identified by the free application for federal student aid (FAFSA) ~~Student Aid report. The Student Aid report used to calculate financial need will be the report generated on the scholarship application deadline~~ Submission Summary. (4-6-23)()

03. Additional Eligibility Requirements. (4-6-23)

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. (4-6-23)

b. If a student has attempted or completed more than one hundred and twenty (120) postsecondary credits, then such student must identify a 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 credit received to the Board office. A student shall not be eligible for an opportunity scholarship if: (4-6-23)

i. The student has completed more than one hundred fifty percent (150%) of the courses and academic credit necessary to graduate in such major; or (4-6-23)

ii. Upon review of the student's academic transcript(s), the student cannot complete a degree/certificate in the major 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. (4-6-23)

102. -- 201. (RESERVED)

202. APPLICATION PROCESS.

01. 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. 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 the applicable application deadline. The FAFSA must be completed on or prior to the application deadline unless federal delays prohibit an applicant from completing the FAFSA prior to the deadline. (4-6-23)()

02. Announcement of Award. Announcement of the award of initial scholarships will be made no later than ~~June 1~~ December 31 of each year, with awards to be effective at the beginning of the first full term ~~following July 1 of that year of the next fiscal year.~~ Announcements must clearly state the award is part of the state's scholarship program and is funded through state appropriated funds. Additional award announcements may be made after this date based on the availability of funds ~~and the acceptance rate of the initial awards.~~ (4-6-23)()

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 scholarship unless extenuating circumstances are involved and approved by the executive director or designee. (4-6-23)

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: (4-6-23)

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 an application to the Board earlier in time will be assigned a higher rank. (4-6-23)

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. (4-6-23)

02. Monetary Value of the Opportunity Scholarship. (4-6-23)

a. 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: (4-6-23)

i. The amount of the assigned student responsibility, established by the Board annually; (4-6-23)

ii. The amount of federal grant aid, as identified by the ~~Student Aid Report (SAR) that is~~ FAFSA Submission Summary if known at the time of award determination; (4-6-23)()

iii. The amount of other financial aid awarded the student, from private or other sources that is known at the time of award determination. (4-6-23)

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:

(4-6-23)()

- (1) Enrolled in six (6) to eight (8) credits or its equivalent per term - fifty percent (50%) of the maximum; (4-6-23)
- (2) Enrolled in nine (9) to eleven (11) credits or its equivalent per term - seventy-five percent (75%) of the maximum; and (4-6-23)
- (3) Enrolled in twelve (12) or more credits or its equivalent per term - one hundred percent (100%) of the maximum. (4-6-23)

b. The amount of an opportunity scholarship award to an individual student shall not exceed the actual cost of tuition and fees at the 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. (4-6-23)

c. The Board may determine monetary value without the FAFSA Submission Summary if the delay is due only to federal delay and may modify any final award or payment upon receipt of the FAFSA Submission Summary. ()

301. OPPORTUNITY SCHOLARSHIP AWARD.

01. Payment. Payment of opportunity scholarship awards will be made in the name of the recipient and will be sent to a designated official at the eligible Idaho postsecondary educational institution in which the recipient is enrolled. The official must transmit the payment to the recipient within a reasonable time following receipt of the payment. (4-6-23)

02. Duration. Scholarships will be awarded on an annual basis and payments will correspond to academic terms, semesters, quarters, or equivalent units. In no instance will the entire amount of a scholarship be paid in advance to, or on behalf of, a scholarship recipient. The scholarship may cover up to four (4) educational years, or eight (8) semesters or equivalent for attendance at an eligible Idaho postsecondary educational institution. Awards are contingent on annual appropriations by the legislature and continued eligibility of the student. (4-6-23)

03. Eligibility. If a student receives an opportunity scholarship payment and it is later determined that the student did not meet all of the Opportunity Scholarship Program eligibility requirements, then the student is considered in overpayment status, and must return program funds in accordance with the eligible Idaho postsecondary educational institution's refund policy. (4-6-23)

04. New Scholarships for Community College. The Board may not award any new scholarship, excluding renewals, to any student attending community college on or after July 1, 2023. ()

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. (4-6-23)

01. 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. (4-6-23)()

02. Academic Progress. To remain eligible for renewal of an opportunity scholarship, the scholarship recipient must have maintained a minimum cumulative grade point average of two point seven (2.7) on a scale of four

point zero (4.0), and must be maintaining satisfactory academic progress toward their identified postsecondary credential as determined by the institution they are enrolled in. 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. (4-6-23)

03. 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 thirty (30) 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 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 thirty (30) days prior to the start of the succeeding academic year. (4-6-23)