

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 08.01.11 - Registration of Postsecondary Educational Institutions and Proprietary Schools -  
Temporary and Proposed Rule (Docket No. 08-0111-2401).

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 08/14/2024. 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 09/11/2024.

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

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### MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Education Committee and the House Education Committee

**FROM:** Senior Legislative Drafting Attorney - Peter Cook

**DATE:** July 29, 2024

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

IDAPA 08.01.11 - Registration of Postsecondary Educational Institutions and Proprietary Schools - Temporary and Proposed Rule (Docket No. 08-0111-2401)

#### Summary and Stated Reasons for the Rule

The State Board of Education states that this temporary and proposed rule change to IDAPA 08.01.11.100 is intended to align the State Board of Education's rules with recent U.S. Department of Education rule changes concerning the recognition of accreditation agencies. The temporary and proposed rule removes the term "regional" as a descriptor of accreditation organizations recognized by the US Department of Education because the US Department of Education no longer uses this term when referencing accreditation. The State Board of Education states that if the rule were to retain this term, five institutions currently operating in Idaho would no longer be exempted from paying a surety bond required by Section 33-2406, Idaho Code. (This code section addresses bond requirements for propriety schools, and allows them to be exempt from the bond requirement if they are accredited by an accreditation organization recognized by the State Board of Education.) According to the State Board of Education, removing the outdated term will ensure the continuity of operations.

The temporary and proposed rule also includes the addition of "proprietary schools" to its list of educational institutions covered by the rule (the rule previously only included "postsecondary education institutions"). Although the temporary and proposed rule docket does not include any discussion of why this language was included, it appears that this language was included to ensure that the proprietary schools can also utilize the accreditation organizations recognized by the US Department of Education and thereby remain exempt from the bond requirements of Section 33-2406 discussed above.

The temporary and proposed rule also removes language from the current rule to lessen the requirements for State Board of Education recognition because the State Board of Education states that they are not necessary, have not been used to date, and are in excess of the national review process required by the US Department of Education and the National Advising Committee on Institutional quality and Integrity.

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<b>Paul Headlee, Deputy Director</b> Legislative Services Office	<b>Matt Drake, Manager</b> Research & Legislation	<b>Keith Bybee, Manager</b> Budget & Policy Analysis	<b>April Renfro, Manager</b> Legislative Audits	<b>Norma Clark, Manager</b> Information Technology
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Statehouse, P.O. Box 83720  
Boise, Idaho 83720-0054

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

### **Negotiated Rulemaking / Fiscal Impact**

The State Board of Education states that negotiated rulemaking was not conducted because the rule is proposed in order to align with US Department of Education rule changes and it is necessary to align with federal regulations.

### **Statutory Authority**

It appears that the State Board of Education has the authority to promulgate the temporary and proposed rule based on Sections 33-105, 33-107, 33-2402(2), and 33-2403, Idaho Code, and Sections 67-5221(1) and 67-5226, Idaho Code. The State Board of Education indicates that the proposed rule will not have an impact on the state General Fund in an amount greater than ten thousand dollars (\$10,000).

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

### **\*\*\* 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

### 08.01.11 – REGISTRATION OF POSTSECONDARY EDUCATIONAL INSTITUTIONS AND PROPRIETARY SCHOOLS

DOCKET NO. 08-0111-2401

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

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2024.

**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(s) 33-105, 33-107, 33-2402, and 33-2403, 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 July 17, 2024.

The meeting site(s) will be accessible to persons with disabilities, if needed. Requests for accommodation must be made at least one (1) day prior to the meeting 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:

Updating subsection 08.01.11.100 removes an outdated term, "regional," as it relates to postsecondary and proprietary school accreditation. The U.S. Department of Education no longer uses this term, and it is necessary to update the rule to remove the outdated reference to accreditation. Additional changes would eliminate unnecessary regulatory language from this subsection of the rule.

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

The proposed changes align this rule with the 2023 changes made by the U.S. Department of Education with regard to language around accreditation. The US DOE no longer uses the term "regional" when referencing accreditation. If the rule were to retain the word, five institutions currently operating in our state would no longer be exempted from paying a surety bond required by 33-2406, Idaho Code. Removing the outdated word ensures continuity of operations.

Furthermore, removing the additional requirements for Board recognition removes regulations that have not been utilized to date and would be in excess of the more robust national review process conducted by the US DOE which consists of evaluation by a formal accreditation group established by the US DOE and by the National Advising Committee on Institutional quality and Integrity.

**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: NA

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the U.S. department of Education updated language regarding Department of Education accreditation. It is essential to align with federal regulations.

**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 temporary and proposed rule, contact Nicholas Wagner at [rules@edu.idaho.gov](mailto:rules@edu.idaho.gov) or (208)-488-7586).

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 July 24, 2024.

DATED this 17th day of May, 2024.

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 TEMPORARY RULE AND THE PROPOSED TEXT  
OF DOCKET NO. 08-0111-2401**

**08.01.11 – REGISTRATION OF POSTSECONDARY EDUCATIONAL INSTITUTIONS  
AND PROPRIETARY SCHOOLS**

**100. RECOGNITION OF ACCREDITATION ORGANIZATIONS.**

For purposes of registration of postsecondary educational institutions and proprietary schools, the Board recognizes the ~~regional~~ accreditation organizations that are recognized by and in good standing with the United States Department of Education, and which accredit entire colleges or universities, and which do not accredit only courses or courses of study (such as specialized accreditation organizations). ~~Further, the Board may recognize other accreditation organizations on a case by case basis. A request for recognition of other accreditation organizations for purposes of registration should be made to the Board's Chief Academic Officer, who will review and evaluate the request with the input and advice of the Board's Committee on Academic Affairs and Programs (CAAP). The Board will make a final decision based on such evaluation and review.~~ (3-30-23)(7-1-24)T