

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 08.01.13 - Rules Governing the Opportunity Scholarship Program - Proposed Rule (Docket  
No. 08-0113-2401).

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 11/29/2024. 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 12/27/2024.

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

*Serving Idaho's Citizen Legislature*

## MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Education Committee and the House Education Committee  
**FROM:** Senior Legislative Drafting Attorney - Peter Cook  
**DATE:** November 12, 2024  
**SUBJECT:** State Board of and State Department of Education - State Board of Education

IDAPA 08.01.13 - Rules Governing the Opportunity Scholarship Program - Proposed Rule (Docket No. 08-0113-2401)

### Summary and Stated Reasons for the Rule

The State Board of Education submits notice of proposed rulemaking related to its rules governing the Opportunity Scholarship Program (Docket No. 08-0113-2401). The State Board of Education states that the proposed rules are needed to remain compliant with recent changes in the governing statute made by HB500 and HB747 (2024). These changes included updated certain credit completion requirements, updating certain initial eligibility requirements, and reinstating community colleges as eligible recipients of the scholarship funds.

### Negotiated Rulemaking / Fiscal Impact

The State Board of Education states that negotiated rulemaking was conducted and their notice was published in the June 5, 2024, Idaho Administrative Bulletin.

### Statutory Authority

It appears that the State Board of Education has the authority to promulgate the proposed rules based on the recent changes to Section 33-4303, Idaho Code, with the passage of HB500 and HB747 (2024).

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.

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

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## IDAPA 08 – STATE BOARD OF EDUCATION

### 08.01.13 – RULES GOVERNING THE OPPORTUNITY SCHOLARSHIP PROGRAM

DOCKET NO. 08-0113-2401

#### 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, 33-4303, 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 16, 2024.

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:

H500 and H747 (2024) amended Idaho Code § 33-4303. To remain compliant with the governing statute, IDAPA 08.01.13 must be revised to reflect several key changes. These changes include the following: updating the credit completion minimums for students seeking to renew an Opportunity Scholarship beyond the initial year of award; including a new initial eligibility requirement that restricts students from receiving both the Opportunity Scholarship and the Launch Grant simultaneously; and reinstating community colleges as eligible recipients of Opportunity Scholarship Funds.

**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 resulting from this rulemaking: NA

**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 5, 2024 Idaho Administrative Bulletin, [Volume 24-6, page 14](#).

**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@edu.idaho.gov](mailto:rules@edu.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 23, 2024.

DATED this 23rd day of August, 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 PROPOSED TEXT OF DOCKET NO. 08-0113-2401  
(Only Those Sections With Amendments Are Shown.)

08.01.13 – RULES GOVERNING THE OPPORTUNITY SCHOLARSHIP PROGRAM

101. ELIGIBILITY.

**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 unweighted 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 Student Aid Index, as identified by the free application for federal student aid (FAFSA) Submission Summary. (7-1-24)(    )

**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 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. (7-1-24)

**02. Announcement of Award.** Announcement of the award of initial scholarships will be made no later than ~~December 31~~ June 1 of each year, with awards to be effective at the beginning of the first full term 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. (7-1-24)( )

**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 FAFSA Submission Summary if known at the time of award determination; (7-1-24)

**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 along with the requirements outlined in Subsection 302.01, or its equivalent in an academic year will be prorated as follows: (7-1-24)( )

(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. (7-1-24)

### **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. (7-1-24)~~

### **302. CONTINUING ELIGIBILITY.**

~~**01. Credit Hours Requirements.** 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 and the scholarship recipient attending a two (2) year public postsecondary institution who accepted an award offer or renewed an award offer on or before June 30, 2023, 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. For an eligible student that has previously received an opportunity scholarship award to renew such award for the next year, the eligible student shall maintain progress towards on-time degree completion so that such student is on schedule to obtain an associate degree within two (2) years or a baccalaureate degree within four (4) years from the time such student initially received an opportunity scholarship award. All students may use the summer term to meet the annual credit accumulation requirements. (7-1-24)( )~~

**02. Renewal Application.** In order to be considered for a continuing scholarship for each succeeding year, a scholarship recipient must complete a renewal application by March 1. ( )

**023. 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)

**034. 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)

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 the spring semester or equivalent term. 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,~~ is meeting the continued eligibility requirements as described in Section 302.01, and has not exceeded the award eligibility terms. (4-6-23)( )

**02. Other Requirements.** An eligible Idaho postsecondary educational institution must: (4-6-23)

**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; (4-6-23)

**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; (4-6-23)

**c.** Provide data on student enrollment and federal, state, and private financial aid for students to the Board within set timelines, and (4-6-23)

**d.** Agree to permit periodic Opportunity Scholarship Program audits to verify compliance with Idaho law and these rules related to the program. (4-6-23)

**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 a part of this the adult learner evaluation process is that~~ an eligible institution will work with the student to develop a graduation plan for the program they are entering that includes estimated completion dates. (4-6-23)( )