

Dear Senators Lent, Cook, Ward-Engelking, and  
Representatives Pickett, Hawkins, Mathias:

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

IDAPA 08.06.01 - Rules Governing the K-12 and Postsecondary Education System-Temporary and  
Proposed Rule (Docket No. 08-0601-2601).

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 11/02/2026. 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 11/30/2026.

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 - Monica Harrington  
**DATE:** October 14, 2026  
**SUBJECT:** State Board of and State Department of Education

IDAPA 08.06.01 - Rules Governing the K-12 and Postsecondary Education System-Temporary and Proposed Rule (Docket No. 08-0601-2601)

#### **Summary and Stated Reasons for the Rule**

The State Board of Education submits notice of proposed rulemaking at IDAPA 08.06.01 - Rules Governing the K-12 and Postsecondary Education System (Docket No. 08-0601-2601). The Board states that this rulemaking establishes procedures for schools, local education agencies, and public institutions of higher education to receive, review, document, and resolve disputes regarding a student's biological sex for purposes of athletic participation pursuant to Section 33-6203, Idaho Code. The rule establishes requirements for dispute submissions, designation of responsible administrators, notices, documentation review, written resolutions, and confidentiality to support consistent statewide implementation of the Fairness in Women's Sports Act. The Board explains that the temporary rule is being adopted following the June 30, 2026, United States Supreme Court decision upholding the law and is intended to provide a uniform administrative process while the permanent rulemaking process is completed.

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

The State Board of Education states that negotiated rulemaking was not conducted because the June 30, 2026, United States Supreme Court decision upholding the Fairness in Women's Sports Act created an immediate need to establish procedures required by Section 33-6203, Idaho Code. Conducting negotiated rulemaking was not feasible prior to the consideration of the temporary and proposed rule. Stakeholder input will be solicited during the public comment process. There is no fiscal impact anticipated with this rulemaking.

#### **Statutory Authority**

The proposed rule appears to be within the statutory authority granted to the State Board of Education pursuant to Sections 33-105, 33-107, 33-116, 33-1612, and 33-6203, Idaho Code.

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

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

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

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

**\*\*\* 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

### 08.06.01 – RULES GOVERNING THE K-12 AND POSTSECONDARY EDUCATION SYSTEM

#### DOCKET NO. 08-0601-2601 (NEW CHAPTER)

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

**GOVERNOR’S STATEMENT:** An earlier effective date prior to legislative review is required in accordance with the provisions of Idaho Code Section [67-5226\(2\)\(b\)](#) to comply with amendments to governing law that became effective June 30, 2026, due to the United States Supreme Court decision to uphold the Idaho Fairness in Women’s Sports Act.

**EFFECTIVE DATE:** The effective date of the temporary rule is August 12, 2026.

**AUTHORITY:** In compliance with Idaho Code Sections 67-5226 notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Idaho Code Sections [33-105](#), [33-107](#), [33-116](#), [33-1612](#), and [33-6203](#).

**PUBLIC HEARING SCHEDULE:** A public hearing concerning this rulemaking will be held as follows:

|                                                                                                                                                               |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Thursday, October 22, 2026<br/>9:00 a.m. (MT)</b>                                                                                                          |
| <b>In Person:</b><br><b>Idaho State Capital</b><br><b>Room WW53</b><br><b>700 W Jefferson St</b><br><b>Boise, ID 83702</b>                                    |
| <b>Virtual:</b><br><b>Zoom: <a href="https://us02web.zoom.us/j/87205608181">https://us02web.zoom.us/j/87205608181</a></b><br><b>Meeting ID: 872 0560 8181</b> |

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking establishes procedures for schools, local education agencies, and public institutions of higher education to receive, review, document, and resolve disputes regarding a student's biological sex for purposes of athletic participation pursuant to Idaho Code Section [33-6203](#). The rule establishes requirements for dispute submissions, designation of responsible administrators, notices, documentation review, written resolutions, and confidentiality to support consistent statewide implementation of the Fairness in Women's Sports Act. The temporary rule is being adopted following the June 30, 2026, United States Supreme Court decision upholding Idaho's Fairness in Women's Sports Act and is intended to provide a uniform administrative process while the permanent rulemaking process is completed.

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

There are no fees imposed or increased as a result of this rulemaking.

**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 Idaho Code Section 67-5220(2) negotiated rulemaking was not conducted because the June 30, 2026, decision upholding the Fairness in Women's Sports Act created an immediate need to establish procedures required by Idaho Code Section 33-6203(3). Conducting negotiated rulemaking was not feasible prior to consideration of the temporary and proposed rule. Stakeholder input will be solicited during the public comment process.

**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:

No documents have been incorporated by reference as a result of this rulemaking.

**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), 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 28, 2026.

DATED this 25th day of August, 2026.

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

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT  
OF DOCKET NO. 08-0601-2601  
(New Chapter)**

**08.06.01 – RULES GOVERNING THE K-12 AND POSTSECONDARY EDUCATION SYSTEM**

**000. LEGAL AUTHORITY.**

Article IX, Section 2 of the Idaho Constitution and Sections 33-105, 33-107, 33-116, 33-1612, and 33-6203, Idaho Code. (8-12-26)T

**001. SCOPE.**

Uniform and thorough standards by the State Board of Education to address issues and processes that impact more than one (1) entity under the Board's governance in support of the implementation of a coherent K-20 public education system. (8-12-26)T

**002. DEFINITIONS.**

**01. Institution of Higher Education.** Referred to as an institution in this rule, is defined as any accredited public university or community college in Idaho, or any public professional-technical school operated by the state of Idaho or any political subdivision thereof. (8-12-26)T

**02. Local Education Agency (LEA).** An Idaho public school district or charter school pursuant to Section 33-5203(8), Idaho Code. (8-12-26)T

**003. – 009. (RESERVED)**

**010. RESOLUTION OF ATHLETIC PARTICIPATION DISPUTES.**

**01. Scope.** These rules establish procedures for the receipt and timely resolution of disputes regarding a student's biological sex under Section 33-6203, Idaho Code. (8-12-26)T

**02. Designated Administrator.** Each institution and school shall identify a designated administrator responsible for resolving disputes under Section 33-6203, Idaho Code. Each institution, school, and LEA shall publish the name and contact information for the designated administrator on its website. (8-12-26)T

**a.** A local education agency (LEA) with more than one school may identify a single designated administrator for all schools under its governance. (8-12-26)T

**b.** Each institution, school, or LEA shall identify an alternate for the designated administrator in cases of a reasonable conflict of interest or lack of availability to address a dispute. For purposes of this chapter, if an alternate is identified, all references to the "designated administrator" shall apply to the alternate only for the duration of the dispute. (8-12-26)T

**c.** The designated administrator shall process athletic disputes including: (8-12-26)T

**i.** Receipt of disputes. (8-12-26)T

**ii.** Providing required notices. (8-12-26)T

**iii.** Receiving documentation to verify the student's biological sex as required by Section 33-6203, Idaho Code. (8-12-26)T

**iv.** Maintaining confidential records. (8-12-26)T

**v.** Issuing a written resolution. (8-12-26)T

**03. Content of Dispute.** A written dispute shall be submitted electronically or via certified mail to the designated administrator. (8-12-26)T

**a.** The written dispute submission shall include: (8-12-26)T

**i.** The name and contact information of the student who is deprived of an athletic opportunity or suffers a direct or indirect harm (dispute initiator). If the dispute initiator is a minor, the name and contact information of the student's parent or legal guardian shall be provided and the student's parent or legal guardian shall then constitute the dispute initiator. (8-12-26)T

**ii.** The name of the student whose biological sex is in question and identification of that student's applicable interscholastic, intercollegiate, intramural, or club athletic teams or sports. (8-12-26)T

**iii.** A statement describing the factual basis for the dispute. (8-12-26)T

**04. Review and Notices.** As soon as is practicable and no later than five (5) business days of receipt of a dispute, the designated administrator shall conduct an initial review and issue the applicable notices as outlined in

Subsections 010.04.a. and 010.04.b. below. (8-12-26)T

a. Notice to Dispute Initiator. (8-12-26)T

i. If the dispute does not include the required information as outlined in Subsection 010.03.a., the designated administrator shall notify the dispute initiator that the dispute is declined due to failure to provide information required by rule. Dispute submissions may not be amended or supplemented, but a new submission may be prepared and re-submitted for review. (8-12-26)T

ii. If the institution or school has documentation verifying the student's biological sex as required by Section 33-6203(3), Idaho Code, on file, the designated administrator may decline further investigation and include notification that the matter is closed in the acknowledgment of receipt. (8-12-26)T

iii. If the dispute is eligible for review, the designated administrator shall provide the dispute initiator with an acknowledgement of receipt. (8-12-26)T

b. Notice to Student Whose Biological Sex is in Question. (8-12-26)T

i. If the dispute is declined pursuant to Subsection 010.04.a.i. or 010.04.a.ii., no notification is required to the student or the minor student's parent or legal guardian. (8-12-26)T

ii. If the dispute is eligible for review, the designated administrator shall provide the student or the minor student's parent or legal guardian with a notification of dispute. (8-12-26)T

(1) If the institution or school does not have documentation verifying the student's biological sex as required by Section 33-6203(3), Idaho Code, on file, the notification of dispute shall include a statement of documentation required by Section 33-6203(3), Idaho Code, to be submitted pursuant to Subsection 010.05. The dispute shall be addressed per Subsection 010.06. (8-12-26)T

**05. Documentation.** The designated administrator shall accept documentation verifying the student's biological sex as required by Section 33-6203(3), Idaho Code. (8-12-26)T

a. If the institution or school has documentation verifying the student's biological sex as required by Section 33-6203, Idaho Code, on file, such as an athletic physical form, the designated administrator shall use said documentation. (8-12-26)T

b. If the institution or school does not have documentation verifying the student's biological sex as required by Section 33-6203, Idaho Code, on file, the student or the minor student's parent or legal guardian shall submit documentation from the student's personal health care provider in the manner required in Section 33-6203(3), Idaho Code, or shall arrange for the submission of such documentation directly from the student's personal health care provider to the designated administrator. (8-12-26)T

c. The designated administrator shall not require or request documentation different from or in addition to that required by Section 33-6203(3), Idaho Code. (8-12-26)T

**06. Review and Resolution.** As soon as is practicable and no later than five (5) business days of receipt of documentation verifying the student's biological sex as required by Section 33-6203(3), Idaho Code, the designated administrator shall review the dispute and the submitted documentation, and issue a written resolution. (8-12-26)T

a. The designated administrator shall issue a written resolution to the student whose biological sex is in question or the minor student's parent or legal guardian. The written resolution shall confirm that the designated administrator has received documentation verifying the student's biological sex as required by Section 33-6203(3), Idaho Code, and shall indicate the student's biological sex as stated in the documentation. (8-12-26)T

b. The designated administrator shall notify the dispute initiator that the matter has been closed. (8-12-26)T

07. Confidentiality. Records created or received pursuant to these rules shall be maintained in accordance with applicable law. (8-12-26)T

a. The identity of the dispute initiator shall be limited to individuals whose participation is reasonably necessary to resolve the dispute. (8-12-26)T

b. The identity of the student whose biological sex is in question, the documentation verifying the student's biological sex as required by Section 33-6203(3), Idaho Code, and the written resolution shall be limited to individuals whose participation is reasonably necessary to resolve the dispute and individuals whose participation is reasonably necessary to determine eligibility for participation in applicable interscholastic, intercollegiate, intramural, or club athletic teams or sports consistent with Section 33-6203, Idaho Code. (8-12-26)T

c. The documentation verifying the student's biological sex as required by Section 33-6203(3), Idaho Code, shall be maintained separately from general student educational records. (8-12-26)T

d. Disclosure of documentation shall occur only as authorized or required by law. (8-12-26)T

e. If a student transfers institutions or schools, the student may request a copy of the written resolution. The release shall be limited to the written resolution documentation. (8-12-26)T

011. – 999. (RESERVED)