

TITLE 33
EDUCATION

CHAPTER 1
STATE BOARD OF EDUCATION

33-101. CREATION OF BOARD. For the general supervision, governance and control of all state educational institutions, to wit: University of Idaho, Idaho State University, Boise State University, Lewis-Clark State College, the School for the Deaf and the Blind and any other state educational institution which may hereafter be founded, and for the general supervision, governance and control of the public school systems, including public community colleges, a state board of education is created. The said board shall be known as the state board of education and board of regents of the University of Idaho.

For the purposes of section 20, article IV, of the constitution of the state of Idaho, the state board of education and all of its offices, agencies, divisions and departments shall be an executive department of state government.

Where the term "state board" shall hereafter appear, it shall mean the state board of education and board of regents of the University of Idaho.

[33-101, added 1963, ch. 13, sec. 1, p. 27; am. 1974, ch. 10, sec. 1, p. 49; am. 1993, ch. 404, sec. 1, p. 1471; am. 1999, ch. 56, sec. 1, p. 144.]

33-102. MEMBERSHIP -- APPOINTMENT -- TERM OF OFFICE -- QUALIFICATIONS -- PLACE OF OFFICE. The state board of education shall consist of the state superintendent of public instruction, who shall be an ex officio voting member and who shall serve as executive secretary of the board for all elementary and secondary school matters, and seven (7) members appointed by the governor, each for a term of five (5) years. Annually on the first day of July the governor shall appoint members to fill the board positions for which the terms of office have expired. Upon the expiration date of the term of office, a member shall continue to serve until a successor shall have been appointed. The governor shall, by appointment, fill any vacancy on the board, such appointment to be for the unexpired term of the retiring member. Appointment to the board shall be made solely upon consideration of the ability of such appointees efficiently to serve the interests of the people, and education, without reference to locality, occupation, party affiliation or religion. Any person appointed to said board shall have been a resident of the state for not less than three (3) years prior to the date of appointment; and shall qualify and assume the duties in accordance with laws governing similar appointments to, and qualifications for, office on other state boards. Members shall act and assume full powers and duties upon appointment, but such appointments shall be subject to confirmation by the senate at its next regular session.

The state board shall have and maintain its office in Ada county.

[33-102, added 1963, ch. 13, sec. 2, p. 27; am. 1965, ch. 253, sec. 1, p. 637; am. 1972, ch. 85, sec. 1, p. 172; am. 1974, ch. 10, sec. 2, p. 49; am. 1993, ch. 404, sec. 2, p. 1472; am. 1999, ch. 56, sec. 2, p. 144; am. 2001, ch. 183, sec. 8, p. 618; am. 2014, ch. 138, sec. 1, p. 376.]

33-102A. OFFICE OF THE STATE BOARD -- EXECUTIVE OFFICER -- APPOINTMENT -- COMPENSATION -- DUTIES AND POWERS. There is hereby created as an executive agency of the state board of education the office of the state board of education. The state board of education is hereby authorized to appoint an executive officer of the state board who shall serve at the pleasure of the state board and shall receive such salary as fixed by the state board. The executive secretary may be appointed as the executive officer. The executive officer shall, under the direction of the state board, have such duties and powers as prescribed by the said board of regents and the state board of education, not otherwise assigned by law.

[(33-102A) I.C., sec. 102A, as added by 1965, ch. 253, sec. 2, p. 637; am. 1972, ch. 85, sec. 2, p. 172; am. 1974, ch. 10, sec. 3, p. 49; am. 1993, ch. 404, sec. 3, p. 1472; am. 1996, ch. 217, sec. 1, p. 717; am. 2011, ch. 222, sec. 1, p. 609.]

33-103. REMOVAL OF MEMBERS -- CAUSE. The governor is empowered to remove from membership on the state board any member who has been proved guilty of gross immorality, malfeasance in office or incompetency, and shall fill the vacancy thus created by appointment as hereinbefore provided.

[33-103, added 1963, ch. 13, sec. 3, p. 27.]

33-104. MEETINGS OF THE BOARD -- HONORARIUM -- EXPENSES -- ORGANIZATION. The state board shall hold no less than four (4) regular meetings annually at such time and place as may be directed by the board. Special meetings may be called by the president at any time and place designated in such call.

Each member shall be compensated as provided by section [59-509](#)(h), Idaho Code.

At its first meeting after the first day of April, in each year, the state board shall organize and shall elect from its membership a president, a vice president and a secretary.

[33-104, added 1963, ch. 13, sec. 4, p. 27; am. 1971, ch. 50, sec. 1, p. 122; am. 1976, ch. 354, sec. 1, p. 1169; am. 1980, ch. 247, sec. 25, p. 600; am. 1981, ch. 21, sec. 1, p. 35.]

33-105. RULES -- EXECUTIVE DEPARTMENT. (1) The state board shall have power to make rules for its own government and the government of its executive departments and offices; and, upon recommendations of its executive officers, to appoint to said departments and offices such specialists, clerks and other employees as the execution of duties may require, to fix their salaries and assign their duties.

(2) Statements of the state board of education and board of regents of the university of Idaho which relate to the curriculum of public educational institutions, to students attending or applicants to such institutions, or to the use and maintenance of land, equipment and buildings controlled by the respective institutions, are not rules and are not statements of general applicability for the purposes of [chapter 52, title 67](#), Idaho Code.

(3) Notwithstanding any other provision of [chapter 52, title 67](#), Idaho Code, the state board of education and board of regents of the university of Idaho shall be deemed to be in full compliance with the notice requirements of section [67-5221](#), Idaho Code, if:

(a) Notice is given by including the intended action in the official written agenda for a regularly scheduled meeting of the board, and the agenda is available for public inspection at the central office of the board not less than five (5) days prior to the meeting; and

(b) Notice of the intended action, accompanied by the full text of the rule under consideration prepared so as to indicate words added or deleted from the presently effective text, if any, is transmitted to the director of the legislative services office at the same time that notice is given under paragraph (a) of this subsection. The director of the legislative services office shall refer the material under consideration to the germane joint subcommittee created in section [67-454](#), Idaho Code, to afford the subcommittee opportunity to submit data, views or arguments in writing to the board prior to the time for receiving comment as provided in paragraph (d) of this subsection; and

(c) The intended action is discussed but not acted upon during the regularly scheduled meeting for which the agenda was prepared, but instead is held for final action at the next regularly scheduled or later meeting of the board; and

(d) At least fifteen (15) days prior to the scheduled date for final action, the board shall mail to all persons who have made timely request in writing to the board and shall publish in an issue of the Idaho administrative bulletin a brief description of the intended action, or a concise summary of any statement of economic impact required pursuant to section [67-5223](#)(2), Idaho Code, and shall note the time when, the place where, and the manner in which interested persons may present their views thereon; and

(e) Upon adoption of a rule, the board, if requested in writing to do so by an interested person either prior to adoption or within twenty-eight (28) days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption.

[33-105, added 1963, ch. 13, sec. 5, p. 27; am. 1974, ch. 10, sec. 4, p. 49; am. 1992, ch. 263, sec. 55, p. 816; am. 1999, ch. 21, sec. 3, p. 31.]

33-106. BUDGET. The state board shall prepare a budget of necessary expenditures of its executive department, and shall have control of all moneys appropriated for said purposes.

[33-106, added 1963, ch. 13, sec. 6, p. 27.]

33-107. GENERAL POWERS AND DUTIES OF THE STATE BOARD. The state board shall have power to:

(1) Perform all duties prescribed for it by the school laws of the state;

(2) Acquire, hold and dispose of title, rights and interests in real and personal property;

(3) Have general supervision, through its executive departments and offices, of all entities of public education supported in whole or in part by state funds;

(4) (a) Delegate to its executive secretary, to its executive officer, or to such other administrators as the board may appoint, such powers as

said officers require to carry out and administer the policies, orders and directives of the board;

(b) Delegate to its executive officer, if necessary to enhance effectiveness and efficiency, such powers as he requires to exercise discretionary authority and to perform duties vested in the state board related to the operation, control and management of Idaho's state universities and colleges and other agencies under the supervision and governance of the state board, and to perform duties and render decisions prescribed to the state board involving the exercise of judgment and discretion that affect the public schools in Idaho;

(c) Delegate to the presidents of Idaho's state universities and colleges, if necessary to enhance effectiveness and efficiency, such powers as said officers require to exercise discretionary authority and to perform duties vested in the state board related to the operation, control and management of Idaho's state universities and colleges;

(d) Delegate to its executive secretary, the superintendent of public instruction, if necessary to enhance effectiveness and efficiency, such powers as he requires to perform duties and render decisions prescribed to the state board involving the exercise of judgment and discretion that affect the public schools in Idaho;

(e) Delegations of powers under this subsection must be adopted as statements of agency action by the state board, as provided in section [33-105\(2\)](#), Idaho Code, and pursuant to a process that provides for notice, opportunity for input and formal adoption by the state board;

(5) Through its executive departments and offices:

(a) Enforce the school laws of the state,

(b) Study the educational conditions and needs of the state and recommend to the legislature needed changes in existing laws or additional legislation;

(6) In addition to the powers conferred by [chapter 24, title 33](#), Idaho Code:

(a) Maintain a register of postsecondary educational institutions approved to provide programs and courses that lead to a degree or which provide, offer and sell degrees in accordance with the procedures established in [chapter 24, title 33](#), Idaho Code,

(b) Determine whether to accept academic credit at public postsecondary educational institutions in Idaho. Academic credit shall not be transferred into any Idaho public postsecondary institution from a postsecondary educational institution or other entity that is not accredited by an organization recognized by the board,

(c) Maintain a register of proprietary schools approved to conduct, provide, offer or sell a course or courses of study in accordance with the procedures established in [chapter 24, title 33](#), Idaho Code;

(7) Prescribe the courses and programs of study to be offered at the public institutions of higher education, after consultation with the presidents of the affected institutions;

(8) Approve new courses and programs of study to be offered at community colleges organized pursuant to [chapter 21, title 33](#), Idaho Code, when the courses or programs of study are academic in nature and the credits derived therefrom are intended to be transferable to other state institutions of higher education for credit toward a baccalaureate degree, and when the courses or programs of study have been authorized by the board of trustees of the community college.

[33-107, added 1963, ch. 13, sec. 7, p. 27; am. 1970, ch. 79, sec. 1, p. 195; am. 1974, ch. 10, sec. 5, p. 49; am. 1977, ch. 53, sec. 1, p. 103; am. 1983, ch. 155, sec. 2, p. 431; am. 1986, ch. 31, sec. 1, p. 101; am. 1987, ch. 48, sec. 1, p. 76; am. 1993, ch. 57, sec. 1, p. 154; am. 1997, ch. 188, sec. 1, p. 512; am. 1999, ch. 339, sec. 2, p. 919; am. 2006, ch. 240, sec. 1, p. 725; am. 2010, ch. 128, sec. 1, p. 274.]

33-107A. BOARD MAY ESTABLISH AN OPTIONAL RETIREMENT PROGRAM. (1) The state board of education may establish an optional retirement program under which contracts providing retirement and death benefits may be purchased for members of the teaching staff and officers of the university of Idaho, Idaho state university, Boise state university, Lewis-Clark state college and the state board of education who are hired on or after July 1, 1993; provided, however, that no such employee shall be eligible to participate in an optional retirement program unless he would otherwise be eligible for membership in the public employee retirement system of Idaho.

(2) The state board of education is hereby authorized to provide for the administration of the optional retirement program and to perform or authorize the performance of such functions as may be necessary for such purposes. The board shall designate the company or companies from which contracts are to be purchased under the optional retirement program and shall approve the form and contents of such contracts. In making the designation and giving approval, the board shall consider:

- (a) The nature and extent of the rights and benefits to be provided by such contracts for participants and their beneficiaries;
- (b) The relation of such rights and benefits to the amount of contributions to be made;
- (c) The suitability of such rights and benefits to the needs of the participants and the interests of the institutions in the recruitment and retention of staff members; and
- (d) The ability of the designated company to provide such suitable rights and benefits under such contracts.

(3) Elections to participate in an optional retirement program shall be as follows:

- (a) Eligible employees are:
 - (i) Those faculty and nonclassified staff initially appointed or hired between July 1, 1990, and June 30, 1993; and
 - (ii) Those teaching staff and officers initially appointed or hired on or after July 1, 1993.

All eligible employees, except those who are vested members of the public employee retirement system of Idaho, shall participate in the optional retirement program.

(b) Vested members of the public employee retirement system of Idaho may make a one (1) time irrevocable election to remain a member of that retirement system. The election shall be made in writing, within sixty (60) days of the date of initial hire or appointment or the effective date of this act, whichever occurs later. It shall be filed with the administrative officer of the employing institution.

(c) An election by an eligible employee of the optional retirement program shall be irrevocable and shall be accompanied by an appropriate application, where required, for issuance of a contract or contracts under the program.

(d) The accumulated contributions of employees who make the one (1) time irrevocable election or are required to participate in the optional retirement program may be transferred by the public employee retirement system of Idaho to such qualified plan, maintained under the optional retirement program, as designated in writing by the employee.

(4) (a) Each institution shall contribute on behalf of each participant in its optional retirement program the following:

(i) To the designated company or companies, an amount equal to nine and thirty-five hundredths percent (9.35%) of each participant's salary, reduced by any amount necessary, if any, to provide contributions to a total disability program provided either by the state or by a private insurance carrier licensed and authorized to provide such benefits or any combination thereof, but in no event less than five percent (5%) of each participant's salary; and

(ii) To the public employee retirement system, an amount equal to one and forty-nine hundredths percent (1.49%) of salaries of members who are participants in the optional retirement program. This amount shall be paid until July 1, 2025, and is in lieu of amortization payments and withdrawal contributions required pursuant to [chapter 13, title 59](#), Idaho Code.

(b) Each participant shall contribute an amount equal to six and ninety-seven hundredths percent (6.97%) of the participant's salary. Employee contributions may be made by employer pick-up pursuant to section [59-1332](#), Idaho Code.

(c) Payment of contributions authorized or required under this subsection shall be made by the financial officer of the employing institution to the designated company or companies for the benefits of each participant.

(5) Any person participating in the optional retirement program shall be ineligible for membership in the public employee retirement system of Idaho as long as he remains continuously employed in any teaching staff position or as an officer with any of the institutions under the jurisdiction of the state board of education.

(6) A retirement, death or other benefit shall not be paid by the state of Idaho or the state board of education for services credited under the optional retirement program. Such benefits are payable to participants or their beneficiaries only by the designated company or companies in accordance with the terms of the contracts.

[33-107A, added 1990, ch. 251, sec. 1, p. 720; am. 1992, ch. 198, sec. 1, p. 613; am. 1993, ch. 268, sec. 1, p. 902; am. 1996, ch. 79, sec. 6, p. 261; am. 1997, ch. 275, sec. 1, p. 814; am. 1998, ch. 297, sec. 1, p. 980; am. 2007, ch. 318, sec. 1, p. 947; am. 2018, ch. 176, sec. 1, p. 386.]

33-107B. BOARD MAY ESTABLISH AN OPTIONAL RETIREMENT PROGRAM FOR COMMUNITY COLLEGES. (1) The state board of education may establish an optional retirement program under which contracts providing retirement and death benefits may be purchased for members of the teaching staff and officers of community colleges, including north Idaho college, college of southern Idaho and college of eastern Idaho, hired on or after July 1, 1997; provided however, that no such employee shall be eligible to participate in an optional retirement program unless he would otherwise be eligible for membership in the public employee retirement system of Idaho.

(2) The state board of education is hereby authorized to provide for the administration of the optional retirement program and to perform or authorize the performance of such functions as may be necessary for such purposes. The board shall designate the company or companies from which contracts are to be purchased under the optional retirement program and shall approve the form and contents of such contracts. In making the designation and giving approval, the board shall consider:

- (a) The nature and extent of the rights and benefits to be provided by such contracts for participants and their beneficiaries;
- (b) The relation of such rights and benefits to the amount of contributions to be made;
- (c) The suitability of such rights and benefits to the needs of the participants and the interests of the institutions in the recruitment and retention of staff members; and
- (d) The ability of the designated company to provide such suitable rights and benefits under such contracts.

(3) Elections to participate in an optional retirement program shall be as follows:

(a) Eligible employees are the teaching staff and officers initially appointed or hired on or after the effective date of this chapter. All eligible employees, except those who are vested members of the public employee retirement system of Idaho, shall participate in the optional retirement program.

(b) Eligible employees who are vested members of the public employee retirement system of Idaho may make a one (1) time irrevocable election to transfer to the optional retirement program. The election shall be made in writing and within sixty (60) days of the date of initial hire or appointment, or one hundred fifty (150) days after the effective date of this chapter, whichever occurs later. The election shall be filed with the administrative officer of the employing institution. The election shall be effective not later than the first day of the second pay period following the date of the election.

(c) Teaching staff and officers employed by the institution the day before the effective date of this chapter may make a one (1) time irrevocable election to participate in the optional retirement program. The election shall be made in writing and within one hundred fifty (150) days after the effective date of this chapter. The election shall be filed with the administrative officer of the employing institution. The election shall be effective not later than the first day of the second pay period following the date of the election.

(d) The accumulated contributions of employees who make the one (1) time irrevocable election or are required to participate in the optional retirement program may be transferred by the public employee retirement system of Idaho to such qualified plan, maintained under the optional retirement program, as designated in writing by the employee.

(e) An election by an eligible employee of the optional retirement program shall be irrevocable and shall be accompanied by an appropriate application, where required, for issuance of a contract or contracts under the program.

(4) (a) Each institution shall contribute on behalf of each participant in its optional retirement program. Effective on and after July 1, 2011, the institutional contribution optional retirement program rate shall be equal to the public employee retirement system of Idaho con-

tribution rates to the designated company or companies, reduced by the amount necessary, if any, to provide contributions to a total disability program provided either by the state or by a private insurance carrier licensed and authorized to provide such benefits, or any combination thereof, but in no event less than five percent (5%) of each participant's salary.

(b) For the purposes of section [59-1322](#), Idaho Code, the term "projected salaries" shall include the sum of the annual salaries of all participants in the optional retirement program established pursuant to this section.

(c) Each participant shall contribute an amount equal to six and ninety-seven hundredths percent (6.97%). Employee contributions may be made by employer pick-up pursuant to section [59-1332](#), Idaho Code.

(5) Any person participating in the optional retirement program shall be ineligible for membership in the public employee retirement system of Idaho as long as he remains continuously employed in any teaching staff position or as an officer with any of the institutions under the jurisdiction of the state board of education.

(6) A retirement, death or other benefit shall not be paid by the state of Idaho or the state board of education for services credited under the optional retirement program. Such benefits are payable to participants or their beneficiaries only by the designated company or companies in accordance with the terms of the contracts.

[33-107B, added 1997, ch. 275, sec. 2, p. 816; am. 1998, ch. 297, sec. 2, p. 982; am. 1999, ch. 329, sec. 29, p. 868; am. 2011, ch. 118, sec. 1, p. 327; am. 2016, ch. 25, sec. 4, p. 37; am. 2018, ch. 17, sec. 1, p. 22; am. 2018, ch. 176, sec. 2, p. 388.]

33-107C. BOARD MAY ESTABLISH ADDITIONAL RETIREMENT PLANS. (1) The state board of education and the board of regents of the university of Idaho may establish one (1) or more retirement plans as described herein for members of the teaching staff and officers of the university of Idaho, Idaho state university, Boise state university, Lewis-Clark state college and the state board of education who are eligible to participate in an optional retirement program described in section [33-107A](#), Idaho Code, or section [33-107B](#), Idaho Code, or who are vested members in the public employee retirement system of Idaho.

(2) A plan established under this section shall comply with federal tax laws applicable to the design of the plan, which may include sections 401(a), 403(b), 415(m), 457(b) and 457(f) of the Internal Revenue Code or other federal tax laws.

(3) To the extent permitted by federal tax law, a plan established under this section may provide for contributions or payments solely at the direction of the employer, or deferral of an employee's compensation at the election of the employee.

[33-107C, added 2009, ch. 286, sec. 1, p. 859.]

33-107D. CAMPUS ACCESS FOR RELIGIOUS STUDENTS. (1) No state postsecondary educational institution shall take any action or enforce any policy that would deny a religious student group any benefit available to any other student group based on the religious student group's requirement that its

leaders adhere to its sincerely held religious beliefs or standards of conduct.

(2) As used in this section:

(a) "Benefits" include without limitation:

(i) Recognition;

(ii) Registration;

(iii) The use of facilities at the state postsecondary educational institution for meetings or speaking purposes;

(iv) The use of channels of communication of the state postsecondary educational institution; and

(v) Funding sources that are otherwise available to any other student group through the state postsecondary educational institution.

(b) "State postsecondary educational institution" means a public postsecondary organization governed or supervised by the state board, the board of regents of the university of Idaho, a board of trustees of a community college established pursuant to the provisions of [chapter 21, title 33](#), Idaho Code, or the state board for career technical education.

[33-107D, added 2013, ch. 190, sec. 1, p. 472; am. 2016, ch. 25, sec. 5, p. 39.]

33-108. PREPARE AND PUBLISH REPORTS. The state board shall prepare, or cause to be prepared, and publish such reports, statistical tables and studies as may be a contribution to the general educational welfare of the state.

[33-108, added 1963, ch. 13, sec. 8, p. 27.]

33-109. ANNUAL REPORT. The state board shall cause to be prepared a report of its actions and expenditures for each year ending on the thirtieth day of June with such recommendations as it shall deem proper for the good of the state educational institutions and public schools of the state. Such report shall be prepared in the form and number, and filed at the time, provided by section [67-3502](#), Idaho Code.

[33-109, added 1963, ch. 13, sec. 9, p. 27; am. 1976, ch. 9, sec. 1, p. 25; am. 2010, ch. 79, sec. 8, p. 137.]

33-110. AGENCY TO NEGOTIATE, AND ACCEPT, FEDERAL ASSISTANCE. The state board is designated as the state educational agency which is authorized to negotiate, and contract with, the federal government, and to accept financial or other assistance from the federal government or any agency thereof, under such terms and conditions as may be prescribed by congressional enactment designed to further the cause of education.

[33-110, added 1963, ch. 13, sec. 10, p. 27.]

33-111. BUDGET FOR EDUCATIONAL INSTITUTIONS. The state board shall submit to the budget director of the state, at a time set by said director, a budget for each state educational institution under its government and control, showing the financial needs of said institutions for the period for which appropriations are to be made. The board shall direct and control all funds so appropriated.

[33-111, added 1963, ch. 13, sec. 11, p. 27.]

33-112. PLANS AND SPECIFICATIONS -- EQUIPMENT, APPLIANCES AND SUPPLIES. The state board shall authorize and approve all plans and specifications for the construction or alteration of buildings at the state educational institutions under its government and control; and shall direct and control the purchase of equipment, fixtures and supplies therefor.

[33-112, added 1963, ch. 13, sec. 12, p. 27.]

33-113. LIMITS OF INSTRUCTION. The state board, in the interests of efficiency, shall define the limits of all instruction in the educational institutions supported in whole or in part by the state, and, as far as practicable, prevent wasteful duplication of effort in said institutions.

[33-113, added 1963, ch. 13, sec. 13, p. 27.]

33-114. CERTIFICATION -- COURSES OF STUDY -- ACCREDITATION. Supervision and control of the certification of professional education personnel is vested in the state board. The board shall approve the program of education of such personnel in all higher institutions in the state, both public and private, and shall accredit as teacher training institutions those in which such programs have been approved.

[33-114, added 1963, ch. 13, sec. 14, p. 27.]

33-115. TEACHERS' REGISTER. The state board shall keep in its department of education, a register of persons qualified to teach in Idaho, or of any persons otherwise qualified but not having received a teaching certificate, upon the request of such person. Information concerning persons so registered shall be available to any Idaho person seeking to employ teachers.

[33-115, added 1963, ch. 13, sec. 15, p. 27; am. 1974, ch. 10, sec. 6, p. 49.]

33-116. SCHOOL DISTRICTS UNDER BOARD SUPERVISION. All school districts in Idaho, including specially chartered school districts, shall be under the supervision and control of the state board.

[33-116, added 1963, ch. 13, sec. 16, p. 27.]

33-117. PUBLIC SCHOOL FINANCIAL REQUIREMENTS. The state board shall submit to the budget director the financial requirements for appropriation to the public school income fund, for the foundation program of public school districts.

[33-117, added 1963, ch. 13, sec. 17, p. 27.]

33-118. COURSES OF STUDY -- CURRICULAR MATERIALS. (1) The state board shall prescribe the minimum courses to be taught in all public elementary and secondary schools, and shall cause to be prepared and issued, such syllabi, study guides and other instructional aids as the board shall from time to time deem necessary.

(2) The board shall determine how and under what rules curricular materials shall be adopted for the public schools, including the fees necessary to defray the cost of such adoption process. The board shall require all publishers of textbooks approved for use to furnish the department of education with electronic format for literary and nonliterary subjects when electronic formats become available for nonliterary subjects, in a standard format approved by the board, from which reproductions can be made for use by the blind.

(3) The board shall, by rule, determine the process by which the department of education reviews and approves online courses, pursuant to section [33-1024](#), Idaho Code, and the fees necessary to defray the department's cost of such review and approval process.

(4) The board of trustees of each school district may adopt their own curricular materials consistent with the provisions of section [33-512A](#), Idaho Code. Curricular materials adopted must be consistent with Idaho content standards as established by the state board of education.

[33-118, added 1963, ch. 13, sec. 18, p. 27; am. 1994, ch. 333, sec. 1, p. 1064; am. 1998, ch. 88, sec. 1, p. 299; am. 1999, ch. 88, sec. 1, p. 289; am. 2012, ch. 189, sec. 1, p. 509; am. 2013, ch. 299, sec. 1, p. 791; am. 2014, ch. 154, sec. 1, p. 436.]

33-118A. CURRICULAR MATERIALS -- ADOPTION PROCEDURES. All curricular materials adoption committees appointed by the state board of education shall contain at least two (2) persons who are not public educators or school trustees. All meetings of curricular materials adoption committees shall be open to the public. Any member of the public may attend such meetings and file written or make oral objections to any curricular materials under consideration.

"Curricular materials" is defined as textbook and instructional media including software, audio/visual media and internet resources.

[33-118A, added 1986, ch. 302, sec. 1, p. 753; am. 1998, ch. 88, sec. 2, p. 299; am. 2001, ch. 183, sec. 9, p. 618; am. 2008, ch. 217, sec. 1, p. 674; am. 2012, ch. 69, sec. 1, p. 200.]

33-119. ACCREDITATION OF SECONDARY SCHOOLS -- STANDARDS FOR ELEMENTARY SCHOOLS. The state board shall establish standards for accreditation of any secondary school and set forth minimum requirements to be met by public, private and parochial secondary schools, and those in chartered school districts, for accredited status; and the board may establish such standards for all public elementary schools as it may deem necessary.

The board may withdraw accreditation from any secondary school after such period as it may establish when it has been determined that such school has failed or neglected to conform to accreditation standards; and it may reinstate such school as accredited when in its judgment such school has again qualified for accredited status. The board may further establish minimum requirements which any pupil shall meet to qualify for graduation from an accredited secondary school.

"Secondary school" for the purposes of this section shall mean a school which, for operational purposes, is organized and administered on the basis of grades seven (7) through twelve (12), inclusive, or any combination thereof.

"Elementary school" for the purposes of this section shall mean a school which, for operational purposes, is organized and administered on the basis of grades one (1) through six (6), inclusive, one (1) through eight (8), inclusive, or any combination of grades one (1) through eight (8), inclusive.

[33-119, added 1963, ch. 13, sec. 19, p. 27.]

33-120. UNIFORM REPORTING. (1) The state superintendent of public instruction shall prescribe forms and format for uniform accounting for financial and statistical reports and performance measurements to provide consistent and uniform reporting by school districts.

(2) The state board of education may adopt rules pursuant to the provisions of [chapter 52, title 67](#), Idaho Code, and under authority of section [33-105](#), Idaho Code, to provide for and implement a student information management system.

[33-120, added 1963, ch. 13, sec. 20, p. 27; am. 1985, ch. 107, sec. 1, p. 192; am. 1994, ch. 175, sec. 1, p. 402; am. 2006, ch. 244, sec. 1, p. 740.]

33-121. EXAMINATION OF BOOKS AT INSTANCE OF THE STATE BOARD. Whenever in its judgment the public welfare demands it, the state board may direct the trustees of any school district to cause an examination of the books and accounts, and the assets and liabilities of their district, to be made, and a report thereof to be made to the state board. Upon failure or neglect of the board of trustees to have such examination and report made within a reasonable time, the state board may cause the same to be made, and the cost of such examination and report shall be paid by the district.

[33-121, added 1963, ch. 13, sec. 21, p. 27.]

33-122. SANITATION -- SAFETY -- COOPERATION WITH OTHER STATE AGENCIES. The state board shall cooperate with the board of health and welfare in establishing regulations covering school building sanitation, sewage disposal, water supply, or other matters affecting the public health, as shall in the opinion of the board be required. It may cooperate with any other department of state government in any matter in which such cooperation will be of assistance in carrying out its duties.

Whenever the state board has reason to believe that any building used as a school building is so structurally unsafe, unsound, or deficient, as to constitute a hazard to the pupils attending thereat, it shall have authority to cause an examination of such building to be made by a competent engineer. The engineer making such examination shall report, in writing, to the state board, setting out in what respect such building is unsafe, unsound, or deficient, as aforesaid.

The state board shall transmit a copy of such report to the board of trustees of the school district wherein such building is situate, or to the governing body of any such school if it not be a public school, and the same shall be kept in the administrative office of such school district, or school, there to be available for public inspection. The state board shall also order and cause to be published a summary of such engineer's report in at least one (1) issue of a newspaper having general circulation in the same school district, or in the area of the same school if it not be a public school.

[33-122, added 1963, ch. 13, sec. 22, p. 27; am. 1974, ch. 23, sec. 10, p. 633.]

33-123. EDUCATION FOR INMATES UNDER JURISDICTION OF DEPARTMENT OF CORRECTION. The state board for career technical education, in cooperation with the state board of correction, shall have prepared suitable courses of study, including career technical training, for prisoners held under the jurisdiction of the department of correction, and the state board of correction shall make arrangements carrying into effect all provisions for the education of prisoners who are under the jurisdiction of the department of correction to the extent possible within the limits of moneys appropriated by the state legislature. Such educational opportunities shall be limited to those inmates who have a need, such need to be determined by the staff of the department of correction, and can benefit from training, and those inmates whose degree of custody classification allows participation in the classroom environment provided.

[33-123, added 1963, ch. 13, sec. 23, p. 27; am. 1982, ch. 64, sec. 1, p. 127; am. 1999, ch. 329, sec. 1, p. 854; am. 2009, ch. 28, sec. 1, p. 80; am. 2016, ch. 25, sec. 6, p. 39.]

33-124. SPECIAL VOCATIONAL EDUCATION PROGRAMS. Any school district, or combination of school districts, within the state of Idaho, including charter districts, may submit to the state board of education a plan for the operation of a program providing instruction and training for students with disabilities under the age of twenty-two (22) years in vocational education. The state board of education may approve or disapprove such a plan. However, should the state board approve such a plan, then the program operated under such a plan shall be entitled to all considerations and benefits which by law are available to the educational programs of the school districts.

[33-124, added 1969, ch. 218, sec. 1, p. 713; am. 2010, ch. 235, sec. 11, p. 551.]

33-125. STATE DEPARTMENT OF EDUCATION -- CREATION -- DUTIES. There is hereby established as an executive agency of the state board of education a department known as the state department of education. The state superintendent shall serve as the executive officer of such department and shall have the responsibility for carrying out policies, procedures and duties authorized by law or established by the state board of education for all elementary and secondary school matters, and to administer grants for the promotion of science education as provided in sections [33-128](#) and [33-129](#), Idaho Code.

[33-125, added 1972, ch. 126, sec. 1, p. 249; am. 1974, ch. 10, sec. 7, p. 49; am. 1991, ch. 139, sec. 1, p. 330; am. 2008, ch. 260, sec. 2, p. 753; am. 2016, ch. 182, sec. 4, p. 494.]

33-125A. DUTIES OF THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION AND THE STATE DEPARTMENT OF EDUCATION. Under the direction of the state superintendent of public instruction, the state department of education shall:

(1) Coordinate with the Idaho digital learning academy as provided for in [chapter 55, title 33](#), Idaho Code, the state board of education and

school districts to distribute telecourses, teleconferences and other instructional and training services to and between public schools;

(2) Coordinate with the Idaho digital learning academy, the state board of education and institutions of higher education to distribute college credit telecourses, teleconferences and other instructional and training services; and

(3) Act as a clearinghouse for the materials, courses, publications and other applicable information related to the requirements of this section.

[33-125A, added 2009, ch. 131, sec. 1, p. 410; am. 2010, ch. 357, sec. 1, p. 935; am. 2016, ch. 182, sec. 5, p. 494.]

33-125B. PAY FOR SUCCESS CONTRACTING -- DUTIES OF THE STATE DEPARTMENT OF EDUCATION. (1) The state department of education may enter into contracts for approved services. Notwithstanding the provisions of [chapter 92, title 67](#), Idaho Code, the department may issue a request for information for a contract upon identification of a need for a special service, or interested parties may identify a need for service within the department and submit a proposal to the department to negotiate a contract. Any contract entered into pursuant to this section shall provide for:

- (a) An evidence-based program delivered by the service provider designed to enhance student academic achievement;
- (b) Mutually agreed upon grade-level performance targets and efficacy standards;
- (c) Identified source of moneys from which savings will be realized;
- (d) An external evaluator who shall have expertise in all of the following areas:
 - (i) Education;
 - (ii) Program evaluation and assessment;
 - (iii) Collection and maintenance of program data;
 - (iv) Demonstrated ability to link an individual student's data from grade to grade; and
 - (v) Knowledge of the Idaho-specific academic performance scores used to demonstrate efficacy of the service provider's program;
- (e) The state's payment obligations from the money appropriated to the public school support program, if the efficacy standards are met under the contract;
- (f) Terms under which the state may terminate the contract;
- (g) An annual audit to be performed by a certified public accountant; and
- (h) A mutually agreed upon formula for the distribution of savings realized by the service provider program.

An external evaluator shall approve the negotiated contract provisions relating to efficacy standards before the department may enter into any such contract.

- (2) Investor moneys shall be adequate to cover all contract costs.
- (3) The third-party administrator shall:
 - (a) Manage all moneys pursuant to subsection (2) of this section;
 - (b) When appropriate, direct payments to be made under the terms of the contract;
 - (c) Ensure an annual audit is conducted under the terms of the contract;
 - (d) Issue financial reports as required by the contract; and
 - (e) Complete all other compliance requirements of state or federal law.

(4) The department shall approve the school district or public charter school from which each cohort will be chosen. The priority for selection shall be given to:

- (a) School districts or public charter schools reporting the greatest number of students who are not proficient to meet grade-level performance targets being used to evaluate the service provider's program;
- (b) School districts or public charter schools reporting the greatest number of students on free and reduced lunch; and
- (c) School districts or public charter schools in different regions of the state.

The selection of cohorts shall be made by mutual agreement between the service provider, the approved school district or public charter school and the department.

(5) The department shall withhold distributions to participating school districts or public charter schools for the intervention or remediation efforts identified in the contract. Moneys shall be held in the public school income fund until the external evaluator makes a determination under this subsection. If the external evaluator determines that the efficacy standards have been met, the moneys shall be distributed pursuant to the terms of the contract. If the external evaluator determines that the efficacy standards have not been met, the moneys will be released to the school district or public charter school. Moneys withheld or distributed from this fund shall be subject to appropriation and shall not be included in public school discretionary funding variability pursuant to section [33-1018](#), Idaho Code. If the contract is terminated for any reason other than the achievement or nonachievement of the efficacy standards, the moneys shall be distributed according to the terms of the contract governing such an event.

(6) The external evaluator shall:

- (a) Determine whether the service provider has met the agreed upon efficacy standards under the terms of the contract by determining the outcomes for each cohort based on the following criteria:
 - (i) Whether there was an increase in the number of children proficient to meet grade-level performance targets at levels specified in the contract; and
 - (ii) Calculate savings realized for intervention or remediation as specified in the contract;
- (b) Annually report the service provider efficacy standards to the department; and
- (c) Report the service provider efficacy standards to the third-party administrator for the purpose of determining whether payment should be made under the terms of the contract.

(7) An oversight committee is hereby created for the purpose of deciding whether or not the state department of education will enter into a negotiation with an interested party under this section, and for the purpose of monitoring contracts entered into under this section. The committee shall meet as often as is necessary to fulfill its obligations under this subsection. The committee shall consist of the following people:

- (a) The chief financial officer of the state department of education;
- (b) The subject matter expert at the state department of education;
- (c) A representative from the state controller's office;
- (d) The house of representatives education committee chairman; and
- (e) The senate education committee chairman.

(8) The state department of education shall report to the legislature on or before February 1 of each year on all contracts entered into pursuant to this section.

(9) The state board of education may promulgate rules implementing the provisions of this section.

(10) As used in this section:

(a) "Cohort" means a group of individuals who enter the service provider's program on the same date.

(b) "Department" means the state department of education.

(c) "External evaluator" means the entity that is responsible for determining the efficacy of a service provider's program.

(d) "Investor" means an individual or entity that provides the capital for the services specified in a contract.

(e) "Service provider" means an organization that implements an evidenced-based program that conforms to the terms of the contract.

(f) "Third-party administrator" means an SSAE-16 compliant firm or a firm licensed under [chapter 2, title 54](#), Idaho Code, that manages all moneys deposited pursuant to this section and controlled by a contract.

[33-125B, added 2015, ch. 299, sec. 1, p. 1179; am. 2016, ch. 289, sec. 6, p. 807; am. 2017, ch. 145, sec. 1, p. 341.]

33-126. ORGANIZATION OF DEPARTMENT. The state department of education shall be organized in a manner as determined by the state board of education acting on the recommendations of the executive secretary.

[33-126, added 1972, ch. 126, sec. 2, p. 249; am. 1974, ch. 10, sec. 8, p. 49.]

33-127. EMPLOYEES. Employees of the department shall be appointed by the superintendent of public instruction in accordance with the provisions of [chapter 16, title 59](#), and [chapter 53, title 67](#), Idaho Code.

[33-127, added 1972, ch. 126, sec. 3, p. 249; am. 1989, ch. 94, sec. 1, p. 220.]

33-128. STATEMENT OF PUBLIC PURPOSE. The Idaho constitution established a system of free common schools recognizing that "the stability of a republican form of government depends mainly upon the intelligence of the people." The legislature finds that there is a need for expanded educational experiences including a need for additional positive science education experiences for the youth of this state. The legislature finds that it is in the public interest to encourage science education opportunities through cooperative efforts with private nonprofit organizations offering science education programs.

[33-128, added 1991, ch. 139, sec. 2, p. 331.]

33-129. MATCHING GRANTS FOR SCIENCE EDUCATION PROGRAMS -- GRANT CRITERIA. The state department of education shall administer a program of matching grants to encourage the expansion or maintenance of science education programs in the state of Idaho. Matching grants shall only be made to nonprofit corporations incorporated or registered in the state of Idaho and which shall have conducted such a science education program for a minimum

of one (1) year. Grants shall require the applicant to provide at least one-half (1/2) of the financial support for the science education program with money or in-kind contributions.

"Science education programs" include, but are not limited to, demonstration programs intended to encourage knowledge of and interest in the disciplines of science among Idaho's elementary and secondary school students.

The state department of education shall administer this program with such funds as are appropriated to the science education program. Competing grant applications shall be evaluated and funding decisions shall be made based upon the department's judgment as to the probable effectiveness of the various proposals in furthering the purposes of this act.

[33-129, added 1991, ch. 139, sec. 3, p. 331.]

33-130. CRIMINAL HISTORY CHECKS FOR SCHOOL DISTRICT EMPLOYEES OR APPLICANTS FOR CERTIFICATES OR INDIVIDUALS HAVING CONTACT WITH STUDENTS -- STATEWIDE LIST OF SUBSTITUTE TEACHERS. (1) The department of education, through the cooperation of the Idaho state police, shall establish a system to obtain a criminal history check on individuals to include, but is not limited to, certificated and noncertificated employees, all applicants for certificates pursuant to [chapter 12, title 33](#), Idaho Code, substitute staff, individuals involved in other types of student training such as practicums and internships, and on all individuals who have unsupervised contact with students in a K-12 setting. The criminal history check shall be based on a completed ten (10) finger fingerprint card or scan and shall include, at a minimum, the following state and national databases:

- (a) Idaho bureau of criminal identification;
- (b) Federal bureau of investigation (FBI) criminal history check; and
- (c) Statewide sex offender register.

(2) The state department of education shall charge all such individuals a fee necessary to cover the cost of undergoing a criminal history check pursuant to this section. The total fee shall be sufficient to cover the net costs charged by the federal bureau of investigation and the state police. A record of all background checks shall be maintained at the state department of education in a data bank for all employees of a school district with a copy going to the employing school district, when requested at the time of the application or within six (6) months following the performance of the criminal history check. A copy shall also be provided to the applicant upon request.

(3) The state department of education shall maintain a statewide list of substitute teachers. The term "substitute teacher" shall have the meaning as provided in section [33-512](#) (15), Idaho Code.

(4) The Idaho state police and the department of education shall implement a joint exercise of powers agreement pursuant to sections [67-2328](#) through [67-2333](#), Idaho Code, necessary to implement the provisions of this section.

[33-130, added 1996, ch. 375, sec. 1, p. 1274; am. 2000, ch. 469, sec. 80, p. 1526; am. 2008, ch. 349, sec. 1, p. 961; am. 2015, ch. 201, sec. 1, p. 614; am. 2017, ch. 115, sec. 1, p. 266.]

33-130A. CRIMINAL HISTORY CHECKS FOR PRIVATE OR PAROCHIAL SCHOOL EMPLOYEES OR CONTRACTORS. If requested by the principal or governing board of a private or parochial school, the department of education, through the co-

operation of the department of law enforcement [Idaho state police], shall establish a system to obtain a criminal history check on employees of the school or persons entering into contracts with the school. The criminal history check and fees shall be as provided in section [33-130](#), Idaho Code.

[33-130A, added 2000, ch. 310, sec. 1, p. 1047.]

33-131. DEFINITIONS -- TRIBAL SCHOOL -- TRIBAL EDUCATION AUTHORITY. (1) "Tribal school" means an institution with an educational program that has as its primary purpose providing education in any grade or grades from kindergarten to twelfth grade and that is controlled by the elected governing body of a federally recognized American Indian tribe in Idaho or by a tribal education authority established under the laws of a federally recognized American Indian tribe in Idaho.

(2) "Tribal educational authority" means the authorized governmental agency of a federally recognized Indian tribe, as defined in 25 U.S.C. section 450b, that is primarily responsible for:

- (a) Regulating, administering or supervising the formal education of tribal members;
- (b) Facilitating tribal control in all matters relating to the education of Indian children;
- (c) Providing for the development and coordinated education programs, including all preschool, elementary, secondary and higher or vocational programs, funded by the United States bureau of Indian affairs and encouraging tribal cooperation and coordination with entities carrying out all educational programs receiving financial support from other general agencies, state agencies or private entities; and
- (d) Providing for the development and enforcement of tribal education codes relating to the education of Indian children, including tribal education policies and tribal standards applicable to curriculum, personnel, students, facilities and support programs.

[33-131, added 2010, ch. 282, sec. 1, p. 759.]

33-132. LOCAL SCHOOL BOARDS -- INTERNET USE POLICY REQUIRED. (1) As a condition for receiving moneys from the state general fund, each local school district shall file an acceptable internet use policy with the state superintendent of public instruction no later than August 1, 2011, or within one (1) year after the creation of a new district, whichever is later, and every five (5) years thereafter. Such policy shall be approved by the district's board of trustees and shall contain, but not be limited to, provisions that:

- (a) Prohibit and prevent the use of school computers and other school owned technology-related services from sending, receiving, viewing or downloading materials that are deemed to be harmful to minors, as defined by section [18-1514](#), Idaho Code; and
- (b) Provide for the selection of technology for the local district's computers to filter or block internet access to obscene materials, materials harmful to minors and materials that depict the sexual exploitation of a minor, as defined in [chapter 15, title 18](#), Idaho Code; and
- (c) Establish appropriate disciplinary measures to be taken against persons violating the policy provided for in this section; and

(d) Include a component of internet safety for students that is integrated into the district's instructional program; and

(e) Inform the public that administrative procedures have been adopted to enforce the policy provided for in this section and to handle complaints about such enforcement, and that such procedures are available for review at the district office.

(2) The policy provided for in subsection (1) of this section may include terms, conditions and requirements deemed appropriate by the district's board of trustees including, but not limited to, requiring written parental authorization for internet use by minors or differentiating acceptable uses among elementary, middle and high school students.

(3) The district's superintendent is hereby authorized to take reasonable measures to implement and enforce the provisions of this section.

[(33-132) 33-131, added 2010, ch. 282, sec. 1, p. 759; am. and redesign. 2011, ch. 151, sec. 13, p. 424.]

33-133. DEFINITIONS -- STUDENT DATA -- USE AND LIMITATIONS -- PENALTIES. (1) As used in this act, the following terms shall have the following meanings:

(a) "Agency" means each state board, commission, department, office or institution, educational or otherwise, of the state of Idaho. State agency shall also mean any city, county, district or other political subdivision of the state.

(b) "Aggregate data" means data collected and/or reported at the group, cohort or institutional level. Aggregate data shall not include personally identifiable information. The minimum number of students shall be determined by the state board of education.

(c) "Board" means the state board of education.

(d) "Data system" means the state's elementary, secondary and postsecondary longitudinal data systems.

(e) "Department" means the state department of education.

(f) "District" or "school district" means an Idaho public school district and shall also include Idaho public charter schools.

(g) "Parent" means parent, parents, legal guardian or legal guardians.

(h) "Personally identifiable data," "personally identifiable student data" or "personally identifiable information" includes, but is not limited to: the student's name; the name of the student's parent or other family members; the address of the student or student's family; a personal identifier, such as the student's social security number, student education unique identification number or biometric record; other indirect identifiers, such as the student's date of birth, place of birth and mother's maiden name; and other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty or information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.

(i) "Provisional student data" means new student data proposed for inclusion in the data system.

(j) "Student data" means data collected and/or reported at the individual student level included in a student's educational record.

(i) "Student data" includes: (1) state and national assessment results, including information on untested public school students; (2) course taking and completion, credits earned and other transcript information; (3) course grades and grade point average; (4) date of birth, grade level and expected graduation date/graduation cohort; (5) degree, diploma, credential attainment and other school exit information such as general educational development and drop-out data; (6) attendance and mobility; (7) data required to calculate the federal four (4) year adjusted secondary cohort graduation rate, including sufficient exit information; (8) discipline reports limited to objective information sufficient to produce the federal annual incident reports, children with disabilities disciplinary reports and discipline reports including students involved with firearms; (9) remediation; (10) special education data; (11) demographic data and program participation information; and (12) files, documents, images or data containing a student's educational record that are stored in or transmitted through a cloud computing service.

(ii) A student's educational record shall not include: (1) juvenile delinquency records and criminal records unless required in paragraph (k) of this subsection; (2) medical and health records; (3) student social security number; (4) student biometric information; (5) gun ownership records; (6) sexual orientation; (7) religious affiliation; (8) except for special needs and exceptional students, any data collected pursuant to a statewide assessment via affective computing, including analysis of facial expressions, EEG brain wave patterns, skin conductance, galvanic skin response, heart rate variability, pulse, blood volume, posture and eye tracking, any data that measures psychological resources, mind sets, effortful control, attributes, dispositions, social skills, attitudes or intrapersonal resources.

(k) "Student educational record" means all information directly related to a student and recorded and kept in the data system as that term is defined in this section. Provided however, that the following shall not be kept as part of a student's permanent educational record: daily assignments, homework, reports, chapter tests or similar assessments or other schoolwork that may be considered daily or weekly work. A student educational record may include information considered to be personally identifiable.

(l) "Student education unique identification number" means the unique student identifier assigned by the state to each student that shall not be or include the social security number of a student in whole or in part.

(m) "Violation" means an act contrary to the provisions of this section that materially compromises the security, confidentiality or integrity of personally identifiable data of one (1) or more students and that results in the unauthorized release or disclosure of such data.

(2) Unless otherwise provided for in this act, the executive office of the state board of education shall be the entity responsible for implementing the provisions of this act. All decisions relating to the collection and safeguarding of student data shall be the responsibility of the executive office of the state board of education.

(3) The state board of education shall:

(a) Create, publish and make publicly available a data inventory and dictionary or index of data elements with definitions of individual student data fields currently in the student data system including:

- (i) Any individual student data required to be reported by state and federal education mandates;
- (ii) Any individual student data that has been proposed for inclusion in the student data system with a statement regarding the purpose or reason for the proposed collection; and
- (iii) Any individual student data collected or maintained with no current purpose or reason.

No less frequently than annually, the state board of education shall update the data inventory and index of data elements provided for in this subsection.

(b) Develop, publish and make publicly available policies and procedures to comply with the federal family educational rights and privacy act (FERPA) and other relevant privacy laws and policies including, but not limited to the following:

- (i) Access to student data in the student data system shall be restricted to: (1) the authorized staff of the state board of education and the state department of education and the board's and the department's vendors who require such access to perform their assigned duties; (2) the district and the district's private vendors who require access to perform their assigned duties and public postsecondary staff who require such access to perform their assigned duties; (3) students and their parents or legal guardians; and (4) the authorized staff of other state agencies in this state as required by law and/or defined by interagency data-sharing agreements. All such data-sharing agreements shall be summarized in a report compiled by the state board of education and submitted no later than January 15 of each year to the senate education committee and the house of representatives education committee;
- (ii) Provide that public reports or responses to record requests shall include aggregate data only as that term is defined in subsection (1) of this section;
- (iii) Develop criteria for the approval of research and data requests from state and local agencies, the state legislature, researchers and the public: (1) unless otherwise approved by the state board of education, student data maintained shall remain confidential; (2) unless otherwise approved by the state board of education, released student data in response to research and data requests may include only aggregate data; and (3) any approval of the board to release personally identifiable student data shall be subject to legislative approval prior to the release of such information;
- (iv) Ensure that any contract entered into by the state board of education or the state department of education includes provisions requiring and governing data destruction dates and specific restrictions on the use of data;
- (v) Provide for notification to students and parents regarding their rights under federal and state law; and
- (vi) Ensure that all school districts, primary schools, secondary schools and other similar institutions entering into contracts

that govern databases, online services, assessments, special education or instructional supports with private vendors shall include in each such contract a provision that private vendors are permitted to use aggregated data; or an individual student's data for secondary uses, but only if the vendor discloses in clear detail the secondary uses and receives written permission from the student's parent or legal guardian. The contract shall also include either of the following: (1) a prohibition on any secondary uses of student data by the private vendor including, but not limited to, sales, marketing or advertising, but permitting the private vendor to process or monitor such data solely to provide and maintain the integrity of the service; or (2) a requirement that the private vendor disclose in detail any secondary uses of student data including, but not limited to, sales, marketing or advertising, and the board shall obtain express parental consent for those secondary uses prior to deployment of the private vendor's services under the contract.

The state board of education and the state department of education shall ensure that any and all private vendors employed or otherwise engaged by the board or the department shall comply with the provisions of this section. Any person determined, in either a civil enforcement action initiated by the board or initiated by the department or in a court action initiated by an injured party, to have violated a provision of this section or any rule promulgated pursuant to this section shall be liable for a civil penalty not to exceed fifty thousand dollars (\$50,000) per violation. In the case of an unauthorized release of student data, the state board of education or the state department of education shall notify the parent or student of the unauthorized release of student data that includes personally identifiable information in a manner consistent with the provisions of section [28-51-105](#), Idaho Code.

(c) Unless otherwise approved by the state board of education, any data deemed confidential pursuant to this act shall not be transferred to any federal, state or local agency or other organization or entity outside of the state of Idaho, with the following exceptions:

- (i) A student transfers out of state or a school or district seeks help with locating an out-of-state transfer;
- (ii) A student leaves the state to attend an out-of-state institution of higher education or training program;
- (iii) A student voluntarily participates in a program for which such a data transfer is a condition or requirement of participation;
- (iv) The state board of education or the state department of education may share such data with a vendor to the extent it is necessary as part of a contract that governs databases, online services, assessments, special education or instructional supports with a vendor;
- (v) Pursuant to a written agreement between the two (2) school districts, where a student transfers from an Idaho district abutting upon another state to the nearest appropriate district in such neighboring state in accordance with the provisions of section [33-1403](#), Idaho Code; or
- (vi) A student is classified as "migrant" for reporting purposes as required by the federal government in order to assure link-

- age between the various states of migrant students educational records;
- (d) Develop a detailed data security plan that includes:
- (i) Guidelines for authorizing access to the student data system and to individual student data including guidelines for authentication of authorized access;
 - (ii) Guidelines relating to administrative safeguards providing for the security of electronic and physical data; such guidelines should include provisions relating to data encryption as well as staff training to better ensure the safety and security of data;
 - (iii) Privacy compliance standards;
 - (iv) Privacy and security audits;
 - (v) Breach planning, notification and procedures; and
 - (vi) Data retention and disposition policies;
- (e) Ensure routine and ongoing compliance with FERPA, other relevant privacy laws and policies, and the privacy and security policies and procedures developed under the authority of this act, including the performance of compliance audits;
- (f) Ensure that any contracts that govern databases, online services, assessments or instructional supports that include student data and are outsourced to private vendors, include express provisions that safeguard privacy and security, contain the restrictions on secondary uses of student data described in subsection (3) (b) (vi) of this section, provides for data destruction, including a time frame for data destruction, and includes penalties for noncompliance with this paragraph; and
- (g) Notify the governor and the legislature annually of the following:
- (i) New student data proposed for inclusion in the state student data system: (1) any new student data collection proposed by the state board of education becomes a provisional requirement to allow districts and their local data system vendors the opportunity to meet the new requirement; and (2) the state board of education must submit any new provisional student data collection to the governor and the legislature for their approval within one (1) year in order to make the new student data a permanent requirement through the administrative rules process. Any provisional student data collection not approved by the governor and the legislature by the end of the next legislative session expires and must be deleted and no longer collected;
 - (ii) Changes to existing data collections required for any reason, including changes to federal reporting requirements made by the U.S. department of education;
 - (iii) An explanation of any exceptions granted by the state board of education in the past year regarding the release or out-of-state transfer of student data;
 - (iv) The results of any and all privacy compliance and security audits completed in the past year. Notifications regarding privacy compliance and security audits shall not include any information that would pose a security threat to the state or local student information systems or to the secure transmission of data between state and local systems by exposing vulnerabilities; and
 - (v) Data collected specific to a grant program where such data is not otherwise included in student data.

(4) The state board of education shall adopt rules to implement the provisions of this act.

(5) Upon the effective date of this act, any existing collection of student data in the data system shall not be considered a new student data collection in accordance with this section.

(6) Unless otherwise prohibited by law or court order, school districts must provide parents or guardians with copies of all of their child's educational records, upon request, if such child has not attained the age of eighteen (18) years.

(7) The state board of education shall develop a model policy for school districts and public charter schools that will govern data collection, access, security and use of such data. The model policy shall be consistent with the provisions of this act. In order to assure that student educational information is treated safely and securely and in a consistent manner throughout the state, each district and public charter school shall adopt and implement the model policy. The state department of education shall provide outreach and training to the districts and public charter schools to help implement the policy. A current copy of such policy shall be posted to the school district's website. Any district or public charter school that fails to adopt, implement and post the policy where any inappropriate release of data occurs shall be liable for a civil penalty not to exceed fifty thousand dollars (\$50,000). Such civil penalty may be imposed per violation. The method of recovery of the penalty shall be by a civil enforcement action brought by the state board of education, with the assistance of the office of the state attorney general, in the district court in and for the county where the violation occurred. All civil penalties collected under this section shall be paid into the general fund of the state.

[33-133, added 2014, ch. 281, sec. 3, p. 711.]

33-134. ASSESSMENT ITEM REVIEW COMMITTEE.

(1) (a) The state board of education shall establish a committee consisting of thirty (30) individuals, representing each of the six (6) education regions of the state established by the state board of education, to review all summative computer adaptive test questions. The committee's review shall include reviews for bias and sensitivity. The committee is authorized to make recommendations to the state board of education and the state department of education to revise or eliminate summative computer adaptive test questions from state assessments. The state board of education shall make the final determination regarding the adoption or rejection of the committee's recommendations. The committee established shall include the following members appointed by the state board of education:

(i) Two (2) parents of public school or public charter school students, selected from each of the six (6) education regions in this state;

(ii) One (1) public school or public charter school teacher, selected from each of the six (6) education regions in this state;

(iii) One (1) member who is an administrator of a school district or public charter school, selected from each of the six (6) education regions in this state; and

(iv) One (1) member from the district board of trustees or public charter school board of directors, selected from each of the six (6) education regions in this state.

(b) The state department of education shall provide staff support to the review committee.

(c) The term of office of each committee member appointed shall be four (4) years.

(d) The president of the state board of education shall adjust the length of terms to stagger the terms of committee members so that approximately one-half (1/2) of the committee members are appointed every two (2) years.

(e) No committee member may receive compensation or benefits for the member's service on the committee.

(f) The state board of education may solicit recommendations for committee members from districts, public charter schools and other public education stakeholders.

(2) The state board of education shall determine when committee recommendations must be submitted to the state board of education and the state department of education, provided that any such submission date must provide adequate time for the committee to review summative computer adaptive test questions before the assessment is administered to students. Adequate time means no fewer than thirty (30) days from the date the committee is notified of the summative computer adaptive test questions.

(3) The state board is hereby authorized to promulgate rules to implement the provisions of this section.

[(33-134) 33-133, added 2014, ch. 281, sec. 3, p. 711; am. and redesign. 2015, ch. 244, sec. 17, p. 1017.]

33-135. TEACHERS -- CLASSROOM SIZE -- REPORTING. (1) Definitions. The following terms have the following meanings:

(a) "Teacher" means an individual holding a teaching certificate issued by the state department of education.

(b) "Classroom" means a place where groups of students meet for instruction in a particular subject, including students enrolled in virtual schools or charter schools.

(c) "Classroom instructor" means an individual holding a teaching certificate issued by the state department of education and who has been assigned to teach students one (1) or more subjects.

(d) "Class size" means the number of students who regularly appear in an instructor's classroom or on a class roster and for whom the classroom instructor is primarily responsible and accountable.

(e) "Pupil-teacher ratio" means the total number of students in a school building divided by the total number of teachers working in that school building. For the purposes of this act, the term "school building" also includes virtual charter schools.

(f) "Total caseload" means the total number of students serviced by classroom instructors in a secondary school setting.

(2) Reporting.

(a) The state department of education shall gather statistical information using a unified approach that will demonstrate:

(i) The total number of teachers actively employed within an Idaho school district listed by individual school building;

(ii) The pupil-teacher ratio for every Idaho school district listed by individual school building;

(iii) The number of elementary classroom teachers in every Idaho school building listed by grade and subject;

(iv) The number of secondary classroom teachers in every Idaho school building listed by grade and subject;

(v) The class size in every Idaho elementary school building listed by teacher; and

(vi) The class size, by each section and by total caseload, in every secondary school building listed by teacher.

(b) The report under this subsection shall be prepared and published once annually by January 1 and shall be made available on a public website maintained by the state department of education.

(c) For purposes of this subsection, each teacher will be identified by a unique numeric identifier and not by individual name.

(3) Statewide database. The state department of education shall maintain a statewide database of the statistical information collected and published.

[(33-135) 33-133, added 2014, ch. 281, sec. 3, p. 711; am. and redesign. 2015, ch. 244, sec. 18, p. 1017.]

33-136. SUICIDE PREVENTION IN SCHOOLS. (1) The state board of education shall adopt rules supporting suicide awareness and prevention training each year for public school personnel. This training may be provided within the framework of existing in-service training programs offered by the state board of education and the state department of education or as part of professional development activities.

(2) (a) The state board of education and state department of education shall, in consultation with the state department of health and welfare, education and health care stakeholders, and suicide prevention experts, develop a list of approved training materials to fulfill the requirements of this section.

(b) Approved materials shall include training on how to identify appropriate mental health services, both within the school and the larger community, and when and how to refer youth and their families to those services.

(c) Approved materials may include programs that can be completed through self-review of suitable suicide prevention materials.

(3) (a) Each public school district shall adopt a policy on student suicide prevention. Such policy shall, at a minimum, address procedures relating to suicide prevention, intervention and postvention. As used in this paragraph, "postvention" means counseling or other social care given to students after another student's suicide or attempted suicide.

(b) To assist school districts in developing policies for student suicide prevention, the state department of education shall develop and maintain a model policy, or adopt an existing policy as a model policy, to serve as a guide for school districts in accordance with this section.

(4) (a) No person shall have a cause of action for any loss or damage caused by any act or omission resulting from the implementation of the provisions of this section or resulting from any training required by this section, or lack thereof.

(b) The training required by the provisions of this section, or lack thereof, shall not be construed to impose any specific duty of care.

(c) Nothing in this subsection shall be construed to conflict with the provisions of section [33-512B](#), Idaho Code.

[33-136, added 2018, ch. 263, sec. 1, p. 629.]

33-137. DIGITAL AND ONLINE LIBRARY RESOURCES FOR K-12 STUDENTS. (1) A school district or public charter school may offer digital or online library resources to students in kindergarten through grade 12 only if the vendor or other person or entity providing the resources verifies that all the resources will comply with the provisions of subsection (2) of this section.

(2) Digital or online library resources offered by school districts or public charter schools to students in kindergarten through grade 12 must have safety policies and technology protection measures that:

(a) Prohibit and prevent a user of the resource from sending, receiving, viewing, or downloading materials that are deemed to be harmful to minors, as defined by section [18-1514](#), Idaho Code; and

(b) Filter or block access to obscene materials, materials harmful to minors, and materials that depict the sexual exploitation of a minor, as defined in [chapter 15, title 18](#), Idaho Code.

(3) Notwithstanding any contract provision to the contrary, if a provider of digital or online library resources fails to comply with the requirements of subsection (2) of this section, the school district or public charter school may withhold further payments, if any, to the provider pending verification of compliance with that subsection.

(4) If a provider of digital or online library resources fails to timely verify that the provider is in compliance with the requirements of subsection (2) of this section, the school district or public charter school may consider the provider's act of noncompliance a breach of contract.

(5) No later than December 1 of each year, the Idaho commission for libraries shall submit to the governor and the senate and house of representatives education committees an aggregate written report on any issues related to provider compliance with technology protection measures required by subsection (2) of this section.

[33-137, added 2020, ch. 274, sec. 1, p. 808; am. 2021, ch. 321, sec. 13, p. 954.]

33-138. DIGNITY AND NONDISCRIMINATION IN PUBLIC EDUCATION. (1) It is the intent of the legislature that administrators, faculty members, other employees, and students at public schools, including public charter schools and institutions of higher education, respect the dignity of others, acknowledge the right of others to express differing opinions, and foster and defend intellectual honesty, freedom of inquiry and instruction, and freedom of speech and association.

(2) The Idaho legislature finds that tenets outlined in subsection (3) (a) of this section, often found in "critical race theory," undermine the objectives outlined in subsection (1) of this section and exacerbate and inflame divisions on the basis of sex, race, ethnicity, religion, color, national origin, or other criteria in ways contrary to the unity of the nation and the well-being of the state of Idaho and its citizens.

(3) In accordance with section 6, article IX of the constitution of the state of Idaho and section [67-5909](#), Idaho Code:

(a) No public institution of higher education, school district, or public school, including a public charter school, shall direct or otherwise compel students to personally affirm, adopt, or adhere to any of the following tenets:

(i) That any sex, race, ethnicity, religion, color, or national origin is inherently superior or inferior;

(ii) That individuals should be adversely treated on the basis of their sex, race, ethnicity, religion, color, or national origin; or

(iii) That individuals, by virtue of sex, race, ethnicity, religion, color, or national origin, are inherently responsible for actions committed in the past by other members of the same sex, race, ethnicity, religion, color, or national origin.

(b) No distinction or classification of students shall be made on account of race or color.

(c) No course of instruction or unit of study directing or otherwise compelling students to personally affirm, adopt, or adhere to any of the tenets identified in paragraph (a) of this subsection shall be used or introduced in any institution of higher education, any school district, or any public school, including a public charter school.

(4) Nothing in this section should be construed to prohibit the required collection or reporting of demographic data by public schools or public institutions of higher education.

[33-138, added 2021, ch. 293, sec. 1, p. 885.]

33-139. PROHIBITION ON THE EXPENDITURE OF MONEYS FOR CERTAIN PURPOSES. No moneys shall be expended by the state board of education, any entity under the state board of education's jurisdiction, or any school district, public charter school, or public institution of higher education for any purpose prohibited in section [33-138](#), Idaho Code.

[33-139, added 2021, ch. 293, sec. 2, p. 886.]

33-138 [33-140]. REPORT -- HIGH-PERFORMING SCHOOLS AND TEACHERS. In the first week of the regular legislative session in 2022, the state board of education shall present to the legislature a statewide strategy for defining and rewarding high-performing schools and teachers for growth in student achievement. The strategy should consider:

- (1) How to incentivize, encourage, and recognize schools and teachers, along with their communities, for dedicated and high-quality work; and
- (2) Ways to reduce disincentives to excel in student achievement.

[33-138 [33-140], added 2021, ch. 207, sec. 1, p. 561.]