

TITLE 33
EDUCATION

CHAPTER 12
TEACHERS

33-1201. CERTIFICATE REQUIRED. Every person who is employed to serve in any elementary or secondary school in the capacity of teacher, supervisor, administrator, education specialist, school nurse or school librarian shall be required to have and to hold a certificate issued under authority of the state board of education, valid for the service being rendered; except that the state board of education may authorize endorsement for use in Idaho, for not more than five (5) years, certificates valid in other states when the qualifications therefor are not lower than those required for an Idaho certificate.

No certificate shall be required of a student attending any teacher-training institution, who shall serve as a practice teacher in a classroom under the supervision of a certificated teacher, and who is jointly assigned by such teacher-training institution and the governing board of a district or a public institution to perform practice teaching in a non-salaried status. Those students attending a teacher-training institution of another state and who serve as a non-salaried practice teacher in an Idaho school district shall be registered by that school district.

A student, while serving in a practicum, internship or student teaching position under the supervision of a person certificated pursuant to this section, shall be accorded the same liability insurance coverage by the school district being served as that accorded such certificated person in the same district, and shall comply with all rules and regulations of the school district or public institution while serving in such a capacity.

[33-1201, added 1963, ch. 13, sec. 143, p. 27; am. 1975, ch. 45, sec. 1, p. 84; am. 1985, ch. 107, sec. 12, p. 206; am. 1990, ch. 35, sec. 1, p. 53.]

33-1201A. IDAHO PROFESSIONAL ENDORSEMENT -- ELIGIBILITY. (1) Any instructional staff employee or any pupil service staff will receive mentoring as outlined in such employee's individualized professional learning plan during the initial three (3) years of holding such certificate. Upon holding a certificate for three (3) years, any such instructional staff or pupil service staff employee may apply for an Idaho professional endorsement. To be eligible for an Idaho professional endorsement, the instructional staff or pupil service staff employee must:

- (a) Have held a certificate for at least three (3) years, or have completed a state board of education approved interim certificate of three (3) years or longer;
- (b) Show they met the professional compensation rung performance criteria for two (2) of the three (3) previous years or the third year;
- (c) Have a written recommendation from the employing school district; and
- (d) Have an annual individualized professional learning plan developed in conjunction with the employee's school district supervisor.

Instructional staff employees may provide additional evidence demonstrating effective teaching that may be considered in exceptional cases for purposes of determining proficiency and student achievement in the event

required standards for professional endorsement are not met. Pupil service staff employees may provide additional evidence demonstrating effective student achievement or success that may be considered in exceptional cases for purposes of determining proficiency and student achievement or success in the event required standards for professional endorsement are not met.

(2) Instructional staff employees who have held a certificate that qualifies them to teach in the classroom for three (3) or more years prior to July 1, 2015, or pupil service staff employees who have held a pupil personnel services certificate for three (3) or more years prior to July 1, 2016, shall automatically obtain an Idaho professional endorsement under this section.

(3) The state board of education shall promulgate rules implementing the provisions of this section.

(4) For the purposes of this section, "instructional staff" means those involved in the direct instruction of a student or group of students and who hold a certificate issued under section 33-1201, Idaho Code.

(5) For the purposes of this section, "pupil service staff" means those who provide services to students but are not involved in direct instruction of those students, and who hold a certificate issued under section 33-1201, Idaho Code.

[33-1201A, added 2015, ch. 229, sec. 12, p. 719; am. 2016, ch. 245, sec. 9, p. 654.]

33-1202. ELIGIBILITY FOR CERTIFICATE. Each applicant for a certificate must:

1. Have attained the age of eighteen (18) years;
2. Have completed specific minimum requirements in college training as specified in rules of the state board of education;
3. Be free from contagious disease; but if at any time there is probable cause to believe that any such employee of the district is so afflicted, the board shall cause examination to be made by a licensed physician, and may exclude the employee from service without loss of pay pending determination whether so afflicted.
4. Have on file with the state department of education the results of a criminal history check pursuant to section 33-130, Idaho Code. If an applicant is found to have been convicted of any of the felony crimes enumerated in section 33-1208, Idaho Code, a certificate shall not be issued to the applicant.

The state board of education may refuse to issue or authorize a certificate to any applicant for such reason as would have constituted grounds for revoking a certificate.

[33-1202, added 1963, ch. 13, sec. 144, p. 27; am. 1992, ch. 98, sec. 1, p. 313; am. 1996, ch. 375, sec. 3, p. 1277.]

33-1203. ACCREDITED TEACHER TRAINING REQUIREMENTS. Except in the limited fields of trades and industries, and specialists certificates of school librarians and school nurses, the state board shall not authorize the issuance of any standard certificate premised upon less than four (4) years of accredited college training, including such professional training as the state board may require; but in emergencies, which must be declared, the state board may authorize the issuance of provisional certificates based on not less than two (2) years of college training.

[33-1203, added 1963, ch. 13, sec. 145, p. 27.]

33-1204. VALIDITY, DURATION, RENEWAL AND LAPSE OF CERTIFICATES. (1) The state board of education shall by rule provide for the validity, duration, renewal and lapse of certificates. In addition, rules promulgated by the state board of education shall set forth criteria for renewal of administrator certificates, which shall include a requirement that administrator certificate holders must complete a course consisting of a minimum of three (3) semester credits in the statewide framework for teachers evaluations, such course shall include a laboratory component.

(2) If the holder of a certificate who has undergone a criminal history check pursuant to district policy as provided in subsection (15) of section 33-512, Idaho Code, is found to have been convicted of any felony crime enumerated in section 33-1208, Idaho Code, the certificate shall be revoked or suspended as provided in this chapter.

[33-1204, added 1963, ch. 13, sec. 146, p. 27; am. 1984, ch. 70, sec. 1, p. 132; am. 1988, ch. 118, sec. 1, p. 217; am. 1996, ch. 375, sec. 4, p. 1277; am. 1998, ch. 88, sec. 6, p. 302; am. 2006, ch. 244, sec. 7, p. 749; am. 2015, ch. 229, sec. 13, p. 719.]

33-1205. CERTIFICATE RECORDS AND FEES. (1) The state board of education shall cause to be maintained a record of all certificates issued, showing names, dates of issue and renewal, and if revoked, the date thereof and the reason therefor. A nonrefundable fee shall accompany each application for a prekindergarten through grade twelve (12) certificate, alternate certificate, change in certificate or replacement.

(2) Certificate and related fees shall be as specified by rule of the state board of education.

(3) The fees shall be used by the state department of education for payment of the expenses of the professional standards commission in performing its duties to sustain certification, program approvals, ethics reviews and standards reviews.

[33-1205, added 1963, ch. 13, sec. 147, p. 27; am. 1969, ch. 259, sec. 1, p. 798; am. 1972, ch. 239, sec. 1, p. 626; am. 1974, ch. 79, sec. 1, p. 1166; am. 1981, ch. 44, sec. 1, p. 66; am. 1983, ch. 80, sec. 1, p. 167; am. 1987, ch. 255, sec. 1, p. 519; am. 2003, ch. 143, sec. 1, p. 416; am. 2015, ch. 23, sec. 1, p. 28.]

33-1207. ENDORSEMENT AND REGISTRATION OF CERTIFICATES. The board of trustees of each school district shall cause the certificates of each holder thereof to be endorsed (a) prior to beginning service for the first time with the district, or (b) in the first year after a new or renewed certificate is issued, showing the date of service thereunder; and shall cause to be maintained a continuing record of certificates, by style and number, of each certificated employee of the district.

[33-1207, added 1963, ch. 13, sec. 149, p. 27; am. 1971, ch. 15, sec. 1, p. 28.]

33-1207A. TEACHER PREPARATION. (1) Higher Education Institutions. The state board shall review teacher preparation programs at the institutions of higher education under its supervision and shall assure that the course offerings and graduation requirements are consistent with the state board-approved, research-based "Idaho Comprehensive Literacy Plan." To ensure compliance with this requirement, the board may allocate funds, subject to ap-

propriation, to the higher education institutions that have teacher preparation programs.

The higher education institutions shall be responsible for the preservice assessment measures for all kindergarten through grade 12 teacher preparation programs. The assessment must include a demonstration of teaching skills and knowledge congruent with current research on best reading practices. The assessment may consist of multiple measures, in alignment with best practices, for the demonstration of these skills. Each institution shall report annually to the state board of education the number of preservice teachers who have passed the assessment. The state board of education shall then compile the statewide results and report to the legislature and the governor.

(2) For all Idaho teachers working on interim certificates, alternate routes or coming from out of state, completion of a state-approved reading instruction course shall be a one-time requirement for full certification.

(3) The board of trustees of every school district shall include in its plan for in-service training, coursework covering reading skills development, including diagnostic tools to review and adjust instruction continuously, and the ability to identify students who need special help in reading. The district plan for in-service training in reading skills shall be submitted to the state department of education for review and approval, in a format specified by the department.

[33-1207A, added 1999, ch. 362, sec. 1, p. 957; am. 2000, ch. 269, sec. 1, p. 769; am. 2002, ch. 71, sec. 1, p. 157; am. 2010, ch. 309, sec. 1, p. 828; am. 2017, ch. 78, sec. 1, p. 218.]

33-1208. REVOCATION, SUSPENSION, DENIAL, OR PLACE REASONABLE CONDITIONS ON CERTIFICATE -- GROUNDS. 1. The professional standards commission may deny, revoke, suspend, or place reasonable conditions on any certificate issued or authorized under the provisions of section 33-1201, Idaho Code, upon any of the following grounds:

- a. Gross neglect of duty;
- b. Incompetency;
- c. Breach of the teaching contract;
- d. Making any material statement of fact in the application for a certificate, which the applicant knows to be false;
- e. Revocation, suspension, denial or surrender of a certificate in another state for any reason constituting grounds for revocation in this state;
- f. Conviction, finding of guilt, withheld judgment or suspended sentence, in this or any other state of a crime involving moral turpitude;
- g. Conviction, finding of guilt, withheld judgment, or suspended sentence in this state or any other state for the delivery, manufacture or production of controlled substances or simulated controlled substances as those terms are defined in section 37-2701, Idaho Code;
- h. A guilty plea or a finding of guilt, notwithstanding the form of the judgment or withheld judgment in this or any other state, of the crime of involuntary manslaughter, section 18-4006 2. or section 18-4006 3., Idaho Code;
- i. Any disqualification which would have been sufficient grounds for refusing to issue or authorize a certificate, if the disqualification existed or had been known at the time of its issuance or authorization;

j. Willful violation of any professional code or standard of ethics or conduct, adopted by the state board of education;

k. The kidnapping of a child, section 18-4503, Idaho Code;

l. Conviction, finding of guilt, withheld judgment, or suspended sentence, in this state or any other state of any felony, the commission of which renders the certificated person unfit to teach or otherwise perform the duties of the certificated person's position.

2. The professional standards commission shall permanently revoke any certificate issued or authorized under the provisions of section 33-1201, Idaho Code, and shall deny the application for issuance of a certificate of a person who pleads guilty to or is found guilty of, notwithstanding the form of the judgment or withheld judgment, any of the following felony offenses against a child:

a. The aggravated assault of a child, section 18-905, Idaho Code, or the assault with intent to commit a serious felony against a child, section 18-909, Idaho Code.

b. The aggravated battery of a child, section 18-907, Idaho Code, or the battery with intent to commit a serious felony against a child, section 18-911, Idaho Code.

c. The injury or death of a child, section 18-1501, Idaho Code.

d. The sexual abuse of a child under sixteen (16) years of age, section 18-1506, Idaho Code.

e. The ritualized abuse of a child under eighteen (18) years of age, section 18-1506A, Idaho Code.

f. The sexual exploitation of a child, section 18-1507, Idaho Code.

g. Lewd conduct with a child under the age of sixteen (16) years, section 18-1508, Idaho Code.

h. The sexual battery of a minor child sixteen (16) or seventeen (17) years of age, section 18-1508A, Idaho Code.

i. The sale or barter of a child for adoption or other purposes, section 18-1511, Idaho Code.

j. The murder of a child, section 18-4003, Idaho Code, or the voluntary manslaughter of a child, section 18-4006 1., Idaho Code.

k. The kidnapping of a child, section 18-4502, Idaho Code.

l. The importation or exportation of a juvenile for immoral purposes, section 18-5601, Idaho Code.

m. The abduction of a person under eighteen (18) years of age for prostitution, section 18-5610, Idaho Code.

n. The rape of a child, section 18-6101, Idaho Code.

The general classes of felonies listed in subsection 2. of this section shall include equivalent laws of federal or other state jurisdictions. For the purpose of this subsection, "child" means a minor or juvenile as defined by the applicable state or federal law.

3. The professional standards commission may investigate and follow the procedures set forth in section 33-1209, Idaho Code, for any allegation of inappropriate conduct as defined in this section, by a holder of a certificate whether or not the holder has surrendered his certificate without a hearing or failed to renew his certificate. In those cases where the holder of a certificate has surrendered or failed to renew his certificate and it was found that inappropriate conduct occurred, the commission shall record such findings in the permanent record of the individual and shall deny the issuance of a teaching certificate.

4. Any person whose certificate may be or has been revoked, suspended or denied under the provisions of this section shall be afforded a hearing according to the provisions of section 33-1209, Idaho Code.

5. The professional standards commission may deny the issuance of a certificate for any reason that would be a ground for revocation or suspension.

[33-1208, added 1963, ch. 13, sec. 150, p. 27; am. 1969, ch. 258, sec. 9, p. 794; am. 1978, ch. 180, sec. 1, p. 411; am. 1984, ch. 150, sec. 1, p. 353; am. 1987, ch. 229, sec. 1, p. 486; am. 1992, ch. 223, sec. 1, p. 672; am. 1993, ch. 111, sec. 1, p. 281; am. 2004, ch. 222, sec. 1, p. 662; am. 2011, ch. 246, sec. 1, p. 662; am. 2012, ch. 269, sec. 7, p. 760; am. 2016, ch. 296, sec. 15, p. 844.]

33-1208A. REPORTING REQUIREMENTS AND IMMUNITY. The board of trustees of a school district, through its designee, shall, within ten (10) days of the date the employment is severed, report to the chief officer of teacher certification the circumstances and the name of any educator who is dismissed, resigns or is otherwise severed from employment for reasons that could constitute grounds for revocation, suspension or denial of a certificate.

Any person providing a report under the provisions of this section shall have immunity from any liability, civil or criminal, that may otherwise be incurred or imposed. Any such person shall have the same immunity with respect to participation in any administrative or judicial proceeding resulting from such report. Any person who reports in bad faith or with malice shall not be protected by the provisions of this section.

[33-1208A, added 1992, ch. 223, sec. 2, p. 674.]

33-1209. PROCEEDINGS TO REVOKE, SUSPEND, DENY OR PLACE REASONABLE CONDITIONS ON A CERTIFICATE -- LETTERS OF REPRIMAND -- COMPLAINT -- SUBPOENA POWER -- HEARING. (1) The professional standards commission may conduct investigations on any signed allegation of unethical conduct of any teacher brought by:

- (a) An individual with a substantial interest in the matter, except a student in an Idaho public school; or
- (b) A local board of trustees.

The allegation shall state the specific ground or grounds for the allegation of unethical conduct that could lead to a possible revocation, suspension, placing reasonable conditions on the certificate, or issuance of a letter of reprimand. Upon receipt of a written and signed allegation of unethical conduct, the chief certification officer, in conjunction with the attorney general and the professional standards commission investigator, shall conduct a review of the allegation using established guidelines to determine whether to remand the issue to the school district to be resolved locally or to open an investigation and forward the case to the professional standards commission. Within fourteen (14) days of the decision to forward the case, the chief certification officer shall notify the complainant and the teacher, in writing, that an investigation will be conducted and the teacher shall be afforded an opportunity to respond to the allegation verbally and in writing prior to the issuance of the complaint. The executive committee of the professional standards commission shall review the circumstances of the forwarded case at one (1) of the two (2) next regularly scheduled meetings,

and determine whether probable cause exists to warrant the filing of a complaint and the requesting of a hearing.

(2) Proceedings to revoke or suspend any certificate issued under section 33-1201, Idaho Code, or to issue a letter of reprimand or place reasonable conditions on the certificate shall be commenced by a written complaint against the holder thereof. Such complaint shall be made by the chief certification officer stating the ground or grounds for issuing a letter of reprimand, placing reasonable conditions on the certificate, or for revocation or suspension and proposing that a letter of reprimand be issued, reasonable conditions be placed on the certificate, or the certificate be revoked or suspended. A copy of the complaint shall be served upon the certificate holder, either by personal service or by certified mail, within thirty (30) days of determination by the executive committee or such other time agreed to by the teacher and the chief certification officer.

(3) Not more than thirty (30) days after the date of service of any complaint, the person complained against may request, in writing, a hearing upon the complaint. Any such request shall be made and addressed to the state superintendent of public instruction; and if no request for hearing is made, the grounds for suspension, revocation, placing reasonable conditions on the certificate, or issuing a letter of reprimand stated in the complaint shall be deemed admitted. Upon a request for hearing, the chief certification officer shall give notice, in writing, to the person requesting the hearing, which notice shall state the time and place of the hearing and which shall occur not more than ninety (90) days from the request for hearing or such other time agreed to by the teacher and the chief certification officer. The time of such hearing shall not be less than five (5) days from the date of notice thereof. Any such hearing shall be informal and shall conform with chapter 52, title 67, Idaho Code. The hearing will be held within the school district in which any teacher complained of shall teach, or at such other place deemed most convenient for all parties.

(4) Any such hearing shall be conducted by three (3) or more panel members appointed by the chairman of the professional standards commission, a majority of whom shall hold a position of employment the same as the person complained against. One (1) of the panel members shall serve as the panel chair. The panel chair shall be selected by the chairman of the professional standards commission from a list of former members of the professional standards commission who shall be instructed in conducting administrative hearings. No commission member who participated in the probable cause determination process in a given case shall serve on the hearing panel. All hearings shall be held with the object of ascertaining the truth. Any person complained against may appear in person and may be represented by legal counsel, and may produce, examine and cross-examine witnesses, and, if he chooses to do so, may submit for the consideration of the hearing panel a statement, in writing, in lieu of oral testimony, but any such statement shall be under oath and the affiant shall be subject to cross-examination.

(5) The state superintendent of public instruction, as authorized by the state board of education, has the power to issue subpoenas and compel the attendance of witnesses and compel the production of pertinent papers, books, documents, records, accounts and testimony. The state board or its authorized representative may, if a witness refuses to attend or testify or to produce any papers required by such subpoena, report to the district court in and for the county in which the proceeding is pending, by petition, setting forth that a due notice has been given of the time and place of atten-

dance of the witnesses, or the production of the papers, that the witness has been properly summoned, and that the witness has failed and refused to attend or produce the papers required by this subpoena before the board, or its representative, or has refused to answer questions propounded to him in the course of the proceedings, and ask for an order of the court compelling the witness to attend and testify and produce the papers before the board. The court, upon the petition of the board, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in the order, the time to be not more than ten (10) days from the date of the order, and then and there shall show cause why he has not attended and testified or produced the papers before the board or its representative. A copy of the order shall be served upon the witness. If it shall appear to the court that the subpoena was regularly issued by the board and regularly served, the court shall thereupon order that the witness appear before the board at the time and place fixed in the order and testify or produce the required papers. Upon failure to obey the order, the witness shall be dealt with for contempt of court. The subpoenas shall be served and witness fees and mileage paid as allowed in civil cases in the district courts of this state.

(6) Within twenty-one (21) days of the conclusion of any hearing dealing with the revocation, suspension, denial of a certificate, placing reasonable conditions on the certificate, or issuing a letter of reprimand, the hearing panel shall submit to the chief certification officer, to the person complained against and to the chief administrative officer of the public school employing the certificate holder, if any, a concise statement of the proceedings, a summary of the testimony, and any documentary evidence offered, together with the findings of fact and a decision. The hearing panel may determine to suspend or revoke the certificate, or the panel may order that reasonable conditions be placed on the certificate or a letter of reprimand be sent to the certificate holder, or if there are not sufficient grounds, the allegation against the certificate holder is dismissed and is so recorded.

(7) Within three (3) days of issuance, the hearing panel's decision shall be made a permanent part of the record of the certificate holder. Should the final decision be to place reasonable conditions upon the certificate holder or a suspension or revocation of the teaching certificate, the professional standards commission must notify the employing public school of the hearing panel's decision and to provide notice that such may negatively impact upon the employment status of the certificated employee.

(8) The final decision of the hearing panel shall be subject to judicial review in accordance with the provisions of chapter 52, title 67, Idaho Code, in the district court of the county in which the holder of a revoked certificate has been last employed as a teacher.

(9) Whenever any certificate has been revoked, suspended or has had reasonable conditions placed upon it, or an application has been denied, the professional standards commission may, upon a clear showing that the cause constituting grounds for the listed actions no longer exists, issue a valid certificate. Provided however, that no certificate shall be issued to any person who has been convicted of any crime listed in subsection 2. of section 33-1208, Idaho Code.

(10) For any person certified in another state and applying for certification in Idaho, and for any person previously certified in this state who is applying for certification in the event their certification has lapsed or is seeking renewal of a current certification, the chief certification

officer shall deny an application for a new certificate or for a renewal of a certificate, regardless of the jurisdiction where such certificate was issued, if there are any unsatisfied conditions on such current or previously issued certificate or if there is any form of pending investigation by a state agency concerning the applicant's teaching license or certificate. Provided however, the chief certification officer shall not automatically deny the application if such person authorized in writing that the chief certification officer and the professional standards commission shall have full access to the investigative files concerning the conditions on, or investigation concerning, such certificate in Idaho or any other state or province. Upon review of the information authorized for release by the applicant, the chief certification officer shall either grant or deny such application or, upon denial and upon written request made by the applicant within thirty (30) days of such denial, shall afford the applicant with the procedures set forth in subsections (3) through (9) of this section. If the applicant does not execute the written authorization discussed herein, reapplication may be made once all investigations have been completed and all conditions have been satisfied, resulting in a clear certificate from the issuing state or province.

(11) For the purposes of this section, the term "teacher" shall include any individual required to hold a certificate pursuant to section 33-1201, Idaho Code.

[33-1209, added 1989, ch. 122, sec. 2, p. 269; am. 1992, ch. 159, sec. 1, p. 514; am. 1993, ch. 216, sec. 16, p. 597; am. 1995, ch. 235, sec. 1, p. 794; am. 2004, ch. 221, sec. 1, p. 659; am. 2011, ch. 246, sec. 2, p. 664; am. 2012, ch. 210, sec. 1, p. 565.]

33-1210. INFORMATION ON PAST JOB PERFORMANCE. (1) As used in this section:

(a) "Applicant" means an applicant for employment in a certificated or noncertificated position who is currently or was previously employed by a school district.

(b) "Employer" means a school district employer.

(2) Before hiring an applicant, a school district shall request the applicant to sign a statement:

(a) Authorizing the applicant's current and past employers, including employers outside of the state of Idaho, to release to the hiring school district all information relating to the job performance and/or job related conduct, if any, of the applicant and making available to the hiring school district copies of all documents in the previous employer's personnel files established pursuant to sections 33-517 or 33-518, Idaho Code, or investigative or other files, regardless of whether or not the employee has received notice of the existence of such documentation due to a voluntary separation from employment or the employee's refusal to sign such documents, relating to the job performance by the applicant. Upon separation of employment, all documents from any other file, including an investigative file, shall be moved into the personnel file. The requirement to submit investigative files to the personnel file shall not be construed to be a waiver of the attorney client privilege. Names of any student, fellow employee or complainant, other than the employee's administrative supervisor or administrative author shall be redacted from investigative file documents prior to placement in the personnel file. The former employee

shall be provided a copy of the documents and written notice of the inclusion of the information in the personnel file to the former employee's last known address. The former employee shall be permitted the opportunity to file a rebuttal to the new documents placed into the personnel file. If an ongoing personnel investigation was taking place, the contents of the district's investigative file shall be forwarded to the professional standards commission when the district submits the report required pursuant to section 33-1208A, Idaho Code.

(b) Documentation related to the job performance or job related conduct of any employee/applicant is defined as and may be limited by the producing district to include: all annual evaluations, letters of reprimand, letters of direction, letters of commendation or award, disciplinary actions and documentation of disciplinary investigations, recommendations for probation, notices of probation, notices of removal from probation, recommendations for termination or nonrenewal, notices of termination or nonrenewal, notices from the professional standards commission of Idaho or any other such similar state agency of action taken against an individual's certificate and any rebuttal documentation filed by the employee relative to any of the above documents. Names of any student or fellow employee complainant, other than the employee's administrative evaluator or administrative author of communication to the employee, shall be redacted from such provided documentation.

(c) Releasing the applicant's current and past employers, and employees acting on behalf of that employer, from any liability for providing information described in paragraph (a) of this subsection, as provided in subsection (4) of this section.

(3) Before hiring an applicant, a school district shall request in writing, electronic or otherwise, the applicant's current and past public school employers, including out-of-state employers, to provide the information described in subsection (2) (a) of this section, if any. The request shall include a copy of the statement signed by the applicant under subsection (2) of this section.

(4) Not later than twenty (20) business days after receiving a request under subsection (3) of this section, a school district within Idaho shall provide the information requested and make available to the requesting school district copies of all documents in the applicant's personnel record relating to job performance. The school district, or an employee acting on behalf of the school district, who in good faith discloses information under this section either in writing, printed material, electronic material or orally is immune from civil liability for the disclosure. An employer is presumed to be acting in good faith at the time of the disclosure under this section unless the evidence establishes one (1) or more of the following: (a) that the employer knew the information disclosed was false or misleading; (b) that the employer disclosed the information with reckless disregard for the truth; or (c) that the disclosure was specifically prohibited by a state or federal statute.

(5) A hiring district shall request from the office of the superintendent of public instruction verification of certification status, any past or pending violations of the professional code of ethics, any detail as to any prior or pending conditions placed upon a certificate holder's certificate, any prior or pending revocation, suspension or the existence of any prior letters of reprimand and information relating to job performance as estab-

lished by the provisions of subsection (11) of this section, if any, for applicants for certificated employment.

(6) A school district shall not hire an applicant who does not sign the statement described in subsection (2) of this section.

(7) School districts may employ applicants on a noncontracted provisional basis pursuant to the provisions of this section. Once the prior employer personnel performance materials have arrived for an individual provisionally hired, the district must review the documents within thirty (30) days of receipt. A standard certificated contract shall automatically be issued at the end of the thirty (30) day review period unless, prior to the expiration of the thirty (30) day period, the board articulates in writing the specific information received pursuant to subsection (2)(a) of this section, which justifies the decision not to issue a standard contract. The reason articulated in this decision must derive only from the documents received in the personnel file and cannot be based upon any event that has occurred during the status as a noncontracted provisional certified professional employee. Prior to issuing a standard certificated contract or prior to the decision not to issue a standard certificated contract, or upon the expiration of the thirty (30) day period, an individual employed as a noncontracted provisional certificated professional employee shall be provided with the same compensation and benefits as if the employee had been employed on a standard certificated contract. When requests are sent to out-of-state employers under subsection (3) of this section, an applicant who has signed the statement described in subsection (2) of this section shall not be prevented from gaining employment in Idaho public schools if the laws or policies of that other state prevent documents from being made available to Idaho school districts or if the out-of-state school district fails or refuses to cooperate with the request.

(a) If no documentation is going to be forthcoming from an out-of-state employer, the Idaho district may initially employ the applicant on a standard contract and not utilize the conditional basis employment.

(b) For new employees with no prior public school work experience or for applicants whose out-of-state former employers will not release documentation pursuant to this statute, the district board shall develop a policy to confirm prior work experience and check references.

(8) Information received pursuant to this section shall be used by a school district only for the purpose of evaluating an applicant's qualifications for employment in the position for which he or she has applied. Except as otherwise provided by law, a board member or employee of a school district shall not disclose the information to any person, other than the applicant, who is not directly involved in the process of evaluating the applicant's qualifications for employment. A person who violates the provisions of this subsection may be civilly liable for damages caused by such violation.

(9) Beginning September 1, 2011, the board or an official of a school district shall not enter into any resignation agreement, severance agreement, or any other contract or agreement that has the effect of suppressing information about negative job performance by a present or former employee or of expunging information about that performance or unethical conduct from any documents in the previous employer's personnel, investigative or other files relating to job performance by the applicant. Any provision of a contract or agreement that is contrary to this subsection is void and unenforceable. This subsection does not restrict the expungement from a personnel

file of information about alleged verbal or physical abuse or sexual misconduct that has not been substantiated.

(10) This section does not prevent a school district from requesting or requiring an applicant to provide information other than that described in this section.

(11) By September 1, 2012, the state board of education has the authority to and shall adopt rules defining job standards performance and "verbal abuse," "physical abuse," "sexual misconduct" and "unethical conduct" as defined in the code of ethics for Idaho professional educators for application to all certificated and noncertificated employees. The definitions of job standards performance, verbal and physical abuse and sexual misconduct adopted by the state board of education must include the requirement that the school district has made a determination that there is sufficient information to conclude that the abuse or unethical conduct occurred and that the abuse or unethical conduct resulted in the employee's leaving his or her position at the school district.

[33-1210, added 2011, ch. 246, sec. 3, p. 666; am. 2012, ch. 210, sec. 2, p. 568.]

33-1211. PRIVILEGED COMMUNICATION OR PUBLICATION. Any publication or communication made by any member of the state board of education, or by any person delegated by the said state board to hold or conduct any hearing, or by any certification officer of the state board of education, in the proper discharge of any official duty imposed under section 33-1208 or 33-1209, Idaho Code, shall be subject to disclosure according to chapter 1, title 74, Idaho Code.

[33-1211, added 1963, ch. 13, sec. 153, p. 27; am. 1990, ch. 213, sec. 29, p. 506; am. 2011, ch. 246, sec. 4, p. 668; am. 2015, ch. 141, sec. 64, p. 426.]

33-1212. SCHOOL COUNSELORS. (1) In recognition of the diverse and complicated demands upon students, their families and the public school system, the legislature finds that counseling offered at Idaho public schools should be flexible and responsive. For purposes of counselor services, a counselor shall be defined as an individual who meets the requirements of an approved program of graduate study in school guidance and counseling from a college or university approved by the Idaho state board of education and who meets the requirements of rules adopted by the board, or an individual licensed as provided by chapter 32, title 54, Idaho Code, as a certified social worker and who meets the requirements of the state board of education.

(2) School counselors spend most of their time in direct service to and contact with students. School counselors' duties are focused on the overall delivery of guidance, individual student planning and responsive services. A small amount of their time is devoted to indirect services called system support.

(3) The state board of education shall adopt rules to implement the provisions of this section, and shall specifically provide that certified social workers meet the requirement for school counselors. A local school district may request a waiver from the state board of education of the counselor/counseling requirements, provided that data is submitted to and annually approved by the state department of education to substantiate that the intent of the board's rules in these areas is being met by an alternative program model.

[33-1212, added 1994, ch. 443, sec. 1, p. 1425; am. 1998, ch. 88, sec. 7, p. 303; am. 2015, ch. 314, sec. 2, p. 1230.]

33-1212A. COLLEGE AND CAREER ADVISORS AND STUDENT MENTORS. (1) College and career advising and student mentoring is an essential component of students' educational experience. Such advising and mentoring provide all students with an early opportunity to identify academic strengths, areas in need of improvement and areas of interest for the purpose of making informed choices and setting postsecondary education and career goals. The focus of college and career planning is to help students acquire the knowledge and skills necessary to achieve academic success and to be college and career ready upon high school graduation.

(2) School districts and charter schools may employ noncertificated staff to serve in the role of college and career advisors and student mentors. Appropriate alternative forms of advising and mentoring shall be research-based and may include the following:

(a) High contact programs such as:

(i) Near peer or college student mentors; and

(ii) Counselor, teacher or paraprofessional as advisor or mentor;

(b) Collaborative programs such as:

(i) Student ambassadors; and

(ii) Cooperative agreements with other school districts or postsecondary institutions; and

(c) Virtual coach or mentor programs.

(3) School districts and charter schools shall provide professional development in the area of college and career advising to all staff serving in the role of student mentors or advisors. All individuals providing services in the role of a college and career advisor must have a basic level of training or experience in the area of advising or mentoring to provide such services.

(4) School districts and charter schools shall develop a plan to deliver college and career advising to students in grades 8 through 12.

(5) School districts and charter schools shall notify parents or guardians of all students in grades 8 through 12 of the availability of college and career advising provided by the district and how to access such services.

(6) School districts and charter schools shall report annually on the effectiveness of their college and career advising programs as part of their annual continuous improvement plan. Reports shall include:

(a) The type of program being implemented; and

(b) Student outcomes indicating the effectiveness of the program.

(7) The state board of education shall promulgate rules to specify those student outcomes that can be used to satisfy the reporting requirement, as well as other rules necessary for the administration of this section.

[33-1212A, added 2015, ch. 314, sec. 3, p. 1230; am. 2016, ch. 43, sec. 1, p. 93.]

33-1216. SICK AND OTHER LEAVE. (a) At the beginning of each new employment year and thereafter as necessary during the employment year, each noncertificated employee of any school district, including charter districts, who regularly works twenty (20) hours or more per week or certificated employee who works half time or more per week for a school district,

including charter districts, shall be entitled to sick leave with full pay of one (1) day, as projected for the employment year for each month of service in which they work a majority portion of that month, subject to the limitations provided by this chapter. Sick leave for noncertificated employees shall be calculated proportionate to the average hours worked per day. Sick leave for certificated employees shall be calculated by the day, or percentage thereof, as defined in their individual employment contracts. The local board of trustees shall not provide compensation for unused sick leave. This shall not prohibit the local board of trustees from establishing a policy providing retirement severance pay.

(b) The board of trustees may require proof of illness adequate to protect the district against malingering and false claims of illness. Any accumulated sick leave earned prior to July 1, 1976, shall be used before the use of any accumulated sick leave earned subsequent to July 1, 1976.

Each local board of trustees may establish a policy governing leave for certificated and noncertificated employees in the case of illness or death of members of the families of such employees, for professional conferences and workshops, and for such other purposes as the board may determine.

(c) Each local board of trustees may establish a policy governing leave for certificated and noncertificated employees in the case of absence during a period for which the employee is paid by worker's compensation. In addition the board may supplement the worker's compensation payment by an amount not to exceed an amount which when combined with the worker's compensation payment would be equal to the amount the employee would have been paid if he had not been injured. Supplementation may come from accrued vacation leave, compensatory time or sick leave time as may be provided in the policy of the district. Time for which a person is paid worker's compensation shall not be allowed as straight sick leave which would result in duplicate compensation.

(d) The board of trustees of any school district, including any specially chartered district, may also grant a leave of absence to any certificated employee of such district for service to a professional educational organization of which such certificated employee is a member and has been elected to hold the office of president therein, such leave to be for a period not exceeding one (1) year. During the period of any such leave of absence the said certificated employee shall receive the same compensation and receive or accrue such other rights and benefits that he would have been entitled to or have received or accrued had he been present and working for the school district, and he shall remain an active member of the public employee retirement system of Idaho; provided that such professional educational organization shall first pay to the said school district an amount equal to any and all compensation, contributions to the public employee retirement system of Idaho and any other amounts paid to or accrued in the name of said employee during such period.

[33-1216, added 1963, ch. 13, sec. 158, p. 27; am. 1972, ch. 120, sec. 1, p. 238; am. 1973, ch. 37, sec. 1, p. 71; am. 1974, ch. 112, sec. 1, p. 1278; am. 1976, ch. 226, sec. 1, p. 810; am. 1977, ch. 138, sec. 1, p. 298; am. 1979, ch. 129, sec. 1, p. 399; am. 2004, ch. 253, sec. 1, p. 724; am. 2005, ch. 377, sec. 1, p. 1216.]

33-1217. ACCRUED UNUSED SICK LEAVE -- TRANSFER. Unused sick leave shall accrue from year to year as long as an employee remains continuously in the service of the same school district, including charter districts. Termination of employment in any district shall terminate sick leave rights,

both current and accrued, except when such employee is employed by a public education entity or by a state educational agency, as such terms are defined in section 67-5302, Idaho Code, during the school year immediately following the year of termination or within three (3) school years immediately following the year of termination if termination of employment is due to a reduction in force; and the accrued sick leave shall be secured for, and credited to, the employee by the public education entity or state educational agency thereafter employing such employee. Any state educational agency employee or public education entity employee who obtains employment with a school district during the current or subsequent school year following termination shall be credited any unused sick leave accrued during state employment. Whenever new school districts are formed by the consolidation or by the division of existing districts, the accrued sick leave of school district employees who continue in service in the new district or districts created by such consolidation or division shall have such accrued sick leave secured for and credited to them in such newly created district or districts.

[33-1217, added 1963, ch. 13, sec. 158A, p. 27; am. 1965, ch. 148, sec. 1, p. 287; am. 1971, ch. 33, sec. 1, p. 77; am. 1974, ch. 112, sec. 2, p. 1278; am. 2012, ch. 105, sec. 1, p. 281; am. 2014, ch. 238, sec. 1, p. 600; am. 2016, ch. 199, sec. 3, p. 560.]

33-1218. SICK LEAVE IN EXCESS OF STATUTORY MINIMUM AMOUNTS -- PROOF OF ILLNESS. The board of trustees may fix and establish for the district a period of annual sick leave and accumulation of sick leave in excess of the amounts provided herein, in sections 33-1216 and 33-1217, Idaho Code, not discriminatory between employees, and as in its discretion may appear necessary, and may require proof of illness in accordance with section 33-1216, Idaho Code.

[33-1218, added 1963, ch. 13, sec. 158B, p. 27; am. 1974, ch. 112, sec. 4, p. 1278; am. 2011, ch. 49, sec. 1, p. 114.]

33-1220. IN-SERVICE TRAINING -- HALTING SERVICE INCREMENTS. The board of trustees of any school district may establish for the district, uniform requirements for in-service training of certificated personnel; and the board may upon notice halt teaching service increments otherwise due any such employee upon neglect or failure to fulfill such requirement, until said requirement shall have been met.

[33-1220, added 1963, ch. 13, sec. 160, p. 27.]

33-1221. SALES OF SERVICES OR MERCHANDISE LIMITED. No person employed by any public school district shall, either as a principal or as an agent, sell or offer to sell to pupils attending school in the district, or to a parent or guardian of any such pupil, any services or merchandise to be used, or intended to be used, in the schools in connection with activities or studies therein, except under such rules and regulations which shall be adopted by the board of trustees of the district employing such person.

Nothing herein shall limit a board of trustees from purchasing books, supplies or other equipment which may be sold to pupils attending any school in the district.

[33-1221, added 1963, ch. 13, sec. 161, p. 27.]

33-1222. FREEDOM FROM ABUSE. Certificated employees of every school district shall be free from abuse by parents or other adults, as provided in section 18-916, Idaho Code.

[33-1222, added 1963, ch. 13, sec. 162, p. 27; am. 1981, ch. 139, sec. 1, p. 242.]

33-1224. POWERS AND DUTIES OF TEACHERS. In the absence of any statute or rule or regulation of the board of trustees, any teacher employed by a school district shall have the right to direct how and when each pupil shall attend to his appropriate duties, and the manner in which a pupil shall demean himself while in attendance at the school. It is the duty of a teacher to carry out the rules and regulations of the board of trustees in controlling and maintaining discipline, and a teacher shall have the power to adopt any reasonable rule or regulation to control and maintain discipline in, and otherwise govern, the classroom, not inconsistent with any statute or rule or regulation of the board of trustees.

[33-1224, added 1963, ch. 13, sec. 164, p. 27.]

33-1225. THREATS OF VIOLENCE -- LIMITATION ON LIABILITY. (1) A communication by any person to a school principal, or designee, or a communication by a student attending the school to the student's teacher, school counselor or school nurse, and any report of that communication to the school principal stating that a specific person has made a threat to commit violence on school grounds by use of a firearm, explosive, or deadly weapon defined in chapter 33, title 18, Idaho Code, is a communication on a matter of public concern. Such communication or report shall only be subject to liability in defamation by clear and convincing evidence that the communication or report was made with knowledge of its falsity or with reckless disregard for the truth or falsity of the communication or report. This section shall not be interpreted to change or eliminate other elements of defamation required by law.

(2) As used in this section, "school" means any public or private school providing instruction in kindergarten or any grades from grade one (1) through grade twelve (12) which is the subject of a threat.

[33-1225, added 2003, ch. 263, sec. 1, p. 698.]

33-1228. SEVERANCE ALLOWANCE AT RETIREMENT. (1) Upon separation from public school employment by retirement in accordance with chapter 13, title 59, Idaho Code, an employee's unused sick leave shall be determined based on accumulated sick leave earned subsequent to July 1, 1976, as provided by section 33-1218, Idaho Code, and shall be reported by the employer to the Idaho public employee retirement system. A sum equal to one-half (1/2) of the monetary value of such unused sick leave, calculated at the rate of pay for such employee during the employee's highest year of salary used in the average monthly salary, as determined by the retirement board, shall be transferred from the sick leave account provided by subsection (3) of this section and shall be credited to such employee's retirement account. Such sums shall be used by the retirement board to continue to pay, subject to applicable federal tax limits:

(a) Premiums for the retiree and the retiree's dependents at the rate for the active employee's group health, long-term care, vision, prescription drug and dental insurance programs as maintained by the employer for the active employees until the retiree and/or the retiree's spouse becomes eligible for medicare at which time the district

shall make available a supplemental program to medicare for the eligible individual. Upon the death of the retiree, the surviving spouse's health coverage shall be available and continued under the same terms and conditions as the retiree. Coverage may be continued for the retiree's surviving dependent spouse and dependents until remarriage of the spouse or until the retiree's surviving dependent spouse is eligible for a group health program by an employer. The medicare supplement program will provide the same premium and benefits for all retirees of all the employers served by the same insurance carrier. However, a school district may make available to all retirees from that district other benefits in addition to the medicare supplement program, and the retiree or the district shall pay for such additional benefits.

(b) Premiums at the time of retirement for the retiree for the life insurance program maintained by the employer which may be reduced to a minimum of five thousand dollars (\$5,000) of coverage.

(2) The retiree may continue to pay the premiums for the health, accident, dental and life insurance to the extent of the funds credited to the employee's account pursuant to this section, and when these funds are expended, the premiums may be deducted from the retiree's allowance. Upon a retiree's death, any unexpended sums remaining in the retiree's account shall revert to the sick leave account. If funds are not available for payment by the Idaho public employee retirement system from the retiree's surviving dependent spouse's allowance, the insurance carrier shall implement a direct billing procedure to permit the retiree's surviving spouse to continue coverage.

(3) Each employer shall contribute to a sick leave account maintained by the public employee retirement system in trust exclusively for the purpose of the provisions of this section. The retirement board shall serve as trustee of the trust and shall be indemnified to the same extent as provided in section 59-1305, Idaho Code. Assets in the trust shall not be assignable or subject to execution, garnishment or attachment or to the operation of any bankruptcy or insolvency law. The rate of such contribution each pay period shall consist of a percentage of employees' salaries as determined by the board, and such rate shall remain in effect until next determined by the board. Any excess balance in the sick leave account shall be invested, and the earnings therefrom shall accrue to the sick leave account except the amount required by the board to defray administrative expenses. Assets of the trust may be commingled for investment purposes with other assets managed by the retirement board. All moneys payable to the sick leave account are hereby perpetually appropriated to the board and shall not be included in its departmental budget.

(4) For purposes of this section public school employment shall be defined to include the employees of the Idaho digital learning academy, and to permit inclusion of employees of organizations funded by school districts or of contributions of employees of school districts and shall include employees of the Idaho bureau of educational services for the deaf and the blind.

[33-1228, added 1978, ch. 159, sec. 1, p. 347; am. 1982, ch. 206, sec. 1, p. 569; am. 1988, ch. 254, sec. 1, p. 493; am. 1990, ch. 407, sec. 1, p. 1133; am. 1993, ch. 398, sec. 1, p. 1461; am. 2006, ch. 150, sec. 1, p. 463; am. 2007, ch. 78, sec. 1, p. 205; am. 2009, ch. 55, sec. 1, p. 156; am. 2009, ch. 168, sec. 3, p. 503; am. 2018, ch. 91, sec. 1, p. 195.]

33-1251. PROFESSIONAL STANDARDS -- TITLE OF ACT. This act shall be known and cited as the "public schools professional standards act."

[33-1251, added 1969, ch. 258, sec. 1, p. 794; am. 1972, ch. 239, sec. 2, p. 626.]

33-1252. PROFESSIONAL STANDARDS COMMISSION -- MEMBERS -- APPOINTMENT -- TERMS. (1) A professional standards commission is hereby created in the department of education, consisting of eighteen (18) members, one (1) of whom shall be a member of the staff of the state department of education, and one (1) of whom shall be a member of the staff of the division of career technical education, to be appointed by the state board of education. The members shall be representative of the teaching profession of the state of Idaho, and not less than seven (7) members shall be certificated classroom teachers in the public school system of the state and shall include at least one (1) teacher of exceptional children and at least one (1) teacher in pupil personnel services. Such expansion of membership on the professional standards commission shall not require reaffirmation of the codes and standards of ethics and rules of procedure used by the professional standards commission.

(2) Except for the member from the staff of the state department of education, and the member from the staff of the division of career technical education, three (3) nominees for each position on the commission shall be submitted to the state superintendent of public instruction, for the consideration of the state board of education. Any state organization of teachers whose membership is open to all certificated teachers in the state may submit nominees for positions to be held by classroom teachers; the Idaho association of school superintendents may submit nominees for one (1) position, the Idaho association of secondary school principals may submit nominees for one (1) position; the Idaho association of elementary school principals may submit nominees for one (1) position; the Idaho school boards association may submit nominees for one (1) position; the Idaho association of special education administrators may submit nominees for one (1) position; the education departments of the private colleges of the state may submit nominees for one (1) position, the community colleges and the education departments of the public institutions of higher education may submit nominees for two (2) positions, and the colleges of letters and sciences of the institutions of higher education may submit nominees for one (1) position.

(3) The state board of education shall appoint or reappoint members of the commission for terms of three (3) years.

[33-1252, added 1969, ch. 258, sec. 2, p. 794; am. 1970, ch. 40, sec. 1, p. 87; am. 1972, ch. 239, sec. 3, p. 626; am. 1974, ch. 10, sec. 9, p. 49; am. 1974, ch. 158, sec. 1, p. 1392; am. 1979, ch. 11, sec. 1, p. 15; am. 1989, ch. 269, sec. 1, p. 658; am. 1999, ch. 329, sec. 3, p. 855; am. 2003, ch. 144, sec. 1, p. 417; am. 2016, ch. 25, sec. 8, p. 40.]

33-1253. CHAIRMAN AND VICE-CHAIRMAN -- SECRETARY -- RULE MAKING. At the first meeting of the commission, after the appointment of its members, it shall organize itself and name from among its members a chairman and vice-chairman who shall act in the absence of the chairman; it shall also name a secretary who may or may not be a member. The commission shall from time to time adopt such rules as are necessary to the conduct of its business.

[33-1253, added 1969, ch. 258, sec. 3, p. 794.]

33-1254. PROFESSIONAL CODES AND STANDARDS -- ADOPTION -- PUBLICATION. The commission shall have authority to adopt recognized professional codes and standards of ethics, conduct and professional practices which shall be applicable to teachers in the public schools of the state, and submit the same to the state board of education for its consideration and approval. Upon their approval by the state board of education, the professional codes and standards shall be published by the board.

[33-1254, added 1969, ch. 258, sec. 4, p. 794; am. 1991, ch. 30, sec. 3, p. 61.]

33-1258. RECOMMENDATIONS TO IMPROVE PROFESSIONAL STANDARD. The commission may make recommendations to the state board of education in such areas as teacher education, teacher certification and teaching standards, and such recommendations to the state board of education or to boards of trustees of school districts as, in its judgment, will promote improvement of professional practices and competence of the teaching profession of this state, it being the intent of this act to continually improve the quality of education in the public schools of this state.

[33-1258, added 1969, ch. 258, sec. 8, p. 794; am. 1972, ch. 239, sec. 5, p. 626.]

33-1271. SCHOOL DISTRICTS -- PROFESSIONAL EMPLOYEES -- NEGOTIATION AGREEMENTS. The board of trustees of each school district, including specially chartered districts, or the designated representative(s) of such district, is hereby empowered to and shall, upon its own initiative or upon the request of a local education organization representing a majority of the professional employees, enter into a negotiation agreement with the local education organization or the designated representative(s) of such organization.

(1) The parties to such negotiations shall negotiate in good faith on those matters specified in any such negotiation agreement between the local board of trustees and the local education organization.

(2) A request for negotiations may be initiated by either party to such negotiation agreement.

(3) Upon either party making a request for negotiations, the local education organization, upon board request, shall provide to the district written evidence establishing that the local education organization represents fifty percent (50%) plus one (1) of the professional employees for negotiations. If requested by the board, the local education organization shall establish this representative status on an annual basis, prior to the commencement of negotiations. In order to establish a local education organization's representative status, a local education organization must show that within the last two (2) years, fifty percent (50%) plus one (1) of the professional employees, as defined in section 33-1272, Idaho Code, indicated agreement to be represented by the local education organization for negotiation purposes. Evidence of fifty percent (50%) plus one (1) inconsistent with this provision shall not be counted in the establishment of representative status.

(4) Accurate records or minutes of the proceedings shall be kept and shall be available for public inspection at the office of the affected school district during normal business hours.

(5) Joint ratification of all final offers of settlement shall be made in open meetings. Each party must provide written evidence confirming to the other that majority ratification has occurred.

[33-1271, added 1971, ch. 103, sec. 1, p. 223; am. 1977, ch. 309, sec. 1, p. 882; am. 1989, ch. 294, sec. 1, p. 722; am. 2011, ch. 40, sec. 1, p. 95; am. 2013, ch. 330, sec. 1, p. 862; am. 2018, ch. 219, sec. 1, p. 492.]

33-1272. DEFINITIONS. As used in this act:

(1) "Professional employee" means any certificated employee of a school district, including charter districts; provided however, that administrative personnel including superintendents, supervisors or principals are excluded from the professional employee group for the purposes of negotiations.

(2) "Local education organization" means any local district organization duly chosen and selected by fifty percent (50%) plus one (1) of the professional employees, excluding administrative personnel as addressed in this section, as their representative organization for negotiations under this act.

(3) "Negotiations" means publicly meeting and conferring in good faith by a local board of trustees and the authorized local education organization, or the respective designated representatives of both parties for the purpose of reaching an agreement, upon matters and conditions subject to negotiations as specified in a negotiation agreement between said parties. For the purposes of this section, "good faith" means honesty, fairness and lawfulness of purpose with the absence of any intent to defraud, act maliciously or take unfair advantage or the observance of reasonable standards of fair dealing.

[33-1272, added 1971, ch. 103, sec. 2, p. 223; am. 1989, ch. 294, sec. 2, p. 722; am. 2013, ch. 155, sec. 1, p. 368; am. 2013, ch. 330, sec. 2, p. 862.]

33-1273. SCHOOL DISTRICTS -- PROFESSIONAL EMPLOYEES -- NEGOTIATIONS. The local education organization shall be the exclusive representative for all professional employees in that district for purposes of negotiations pursuant to the provisions of this chapter. The individual or individuals selected to negotiate for the professional employees shall be a member of the organization designated to represent the professional employees and shall be a professional employee of the local school district. However, in the event a local board of trustees chooses to designate any individual(s) other than the superintendent or elected trustee(s) of the school district as its representative(s) for negotiations, the local educational organization is authorized to designate any individual(s) of its choosing to act as its representative(s) for negotiations. Negotiations pursuant to this chapter shall only occur between the respective designated representatives.

[33-1273, added 1971, ch. 103, sec. 3, p. 223; am. 1989, ch. 294, sec. 3, p. 723; am. 2013, ch. 330, sec. 3, p. 863.]

33-1274. APPOINTMENT OF MEDIATORS -- COMPENSATION. In the event the parties in negotiations are not able to come to an agreement upon items submitted for negotiations under a negotiations agreement between the parties, one or more mediators may be appointed. The issue or issues in dispute shall be submitted to mediation at the request of either party in an effort to

induce the representatives of the board and the local education organization to resolve the conflict. The procedures for appointment of and compensation for the mediators shall be determined by both parties.

[33-1274, added 1971, ch. 103, sec. 4, p. 223; am. 1989, ch. 294, sec. 4, p. 723.]

33-1275. TERMS OF AGREEMENTS. (1) All agreements, by any name or title, entered into pursuant to the provisions of this act, shall have a one (1) year duration of July 1 through June 30 of the ensuing fiscal year. The parties shall not have the authority to enter into any agreement negotiated under the provisions of this act that has any term that allows for such agreement or any provision of such agreement to be in any force or effect for multiple years or indefinitely, or otherwise does not expire on its own terms on or before June 30 of the ensuing fiscal year.

(2) Notwithstanding the provisions of subsection (1) of this section, upon mutual ratification, any item other than compensation and benefits as defined in subsection (3) of this section of any agreement entered into pursuant to this act may have a nonrolling two (2) year duration with a designated start date and end date. A second year term for any item not defined in subsection (3) of this section cannot be added, automatically or by mutual consent, back into the agreement after the expiration of the first year but rather may be addressed by the parties at the expiration of the end date of the two (2) year term.

(3) For purposes of this section, "compensation" means salary and benefits for professional employees. "Benefits" means employee insurance, leave time and sick leave benefits.

[33-1275, added 1971, ch. 103, sec. 5, p. 223; am. 2013, ch. 329, sec. 1, p. 860; added 2013, ch. 329, sec. 2, p. 861.]

33-1276. INTENT OF ACT. Nothing contained herein is intended to or shall conflict with, or abrogate the powers or duties and responsibilities vested in the legislature, state board of education, and the board of trustees of school districts by the laws of the state of Idaho. Each school district board of trustees is entitled, without negotiation or reference to any negotiated agreement, to take action that may be necessary to carry out its responsibility due to situations of emergency or acts of God.

[33-1276, added 1971, ch. 103, sec. 6, p. 223.]

33-1279. RELEASED TIME FOR SERVICE ON STATE COMMITTEES AND COMMISSION. (1) Each certificated employee of any school district, including specially chartered districts, shall be entitled to and be allowed released time for service on committees and commissions established by the state of Idaho, or established by the legislature, or established by any of the departments or agencies of the state of Idaho.

Each certificated employee shall be entitled to five (5) such days of released time, and time beyond five (5) days shall be allowed at the discretion of the board of trustees.

(2) No such certificated employee shall lose any salary or other benefits because of such released time for service on any such committee or commission and shall not be required to make up any released time spent in serving on any such committee or commission; except that the amount of any honorarium or compensation received for service on committees or commissions,

except actual and necessary expenses, shall be deducted from salary otherwise due such certificated employee.

[33-1279, added 1979, ch. 200, sec. 1, p. 581.]

33-1280. AMERICAN INDIAN LANGUAGES TEACHING AUTHORIZATION. (1) As used in this section, "Indian tribe" is as defined in section 67-4001, Idaho Code.

(2) It is the policy of the state of Idaho to preserve, protect and promote the rights of Indian tribes to use, practice and develop their native languages and to encourage American Indians in the state to use, study and teach their native languages in order to encourage and promote:

- (a) The survival of the native language;
- (b) Increased student scholarship;
- (c) Increased student awareness of the student's culture and history;
- and
- (d) Increased student success.

(3) The state board of education shall promulgate rules authorizing American Indian languages teachers to teach in the public schools of this state.

(4) Each Indian tribe may establish its own system of designation for individuals qualified to teach that tribe's native language. In establishing such a system, the tribe shall determine:

- (a) The development of an oral and written qualification test;
- (b) Which dialects shall be used in the test;
- (c) Whether the tribe will standardize the tribe's writing system;
- (d) How the teaching methods will be evaluated in the classroom; and
- (e) The period of time for which a tribal designation shall be valid.

(5) (a) Each Indian tribe shall provide to the state board of education the names of those highly and uniquely qualified individuals who have been designated to teach the tribe's native language.

(b) Upon receiving the names of American Indian languages teachers designated by an Indian tribe, the state board of education shall authorize those individuals as American Indian languages teachers in accordance with rules of the board.

(6) Notwithstanding any other provision of law, the state board of education shall not require an American Indian languages teacher who has obtained tribal designation to teach a native language to hold a specific academic degree or to complete a teacher education program.

(7) (a) An American Indian languages teaching authorization shall qualify the authorized individual to accept a teaching position or assignment in any school district of the state that offers or permits courses in an American Indian language.

(b) A holder of an American Indian languages teaching authorization who does not also have a teaching certificate as provided in section 33-1201, Idaho Code, may not teach in a school district of this state any subject other than the American Indian language for which he or she is authorized to teach.

[33-1280, added 2002, ch. 265, sec. 1, p. 787.]