

TITLE 33
EDUCATION

CHAPTER 34

IDAHO BUREAU OF EDUCATIONAL SERVICES FOR THE DEAF AND THE BLIND ACT OF 2009

33-3401. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho Bureau of Educational Services for the Deaf and the Blind Act of 2009."

[33-3401, added 2009, ch. 168, sec. 4, p. 504.]

33-3402. DEFINITIONS. As used in this chapter:

(1) "Blind or visually impaired" means impacted by an impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness.

(2) "Board of directors" also referred to in this chapter as "the board" means the board of directors of the Idaho bureau of educational services for the deaf and the blind as such board is established in section [33-3404](#), Idaho Code.

(3) "Bureau" means the Idaho bureau of educational services for the deaf and the blind as created in section [33-3403](#), Idaho Code.

(4) "Deaf or hard of hearing" means impacted by an impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance, or impacted by a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification that adversely affects a child's educational performance.

(5) "Idaho school for the deaf and the blind" means the campus program used to provide residential and day campus instruction and services to deaf or hard of hearing and/or blind or visually impaired students.

(6) "Outreach services" means off-campus statewide supplemental services provided by the Idaho bureau of educational services for the deaf and the blind to school districts, students and families.

(7) "Sensory impairment" means an impairment of vision or hearing, or both.

(8) "Specialized/certified personnel" means all personnel nationally certified and/or certified by the state of Idaho as required by applicable law to provide services and instruction to students who are deaf or hard of hearing and/or blind or visually impaired, including, but not limited to, certified teachers of the deaf, certified teachers of the visually impaired, certified interpreters, certified orientation and mobility specialists, speech language pathologists, and certified low vision therapists.

(9) "State board" means the Idaho state board of education.

(10) "Student" means an individual who is deaf or hard of hearing and/or blind or visually impaired and who qualifies for educational services as provided for in this chapter pursuant to eligibility criteria set forth in the Idaho standards for infants, toddlers, children, and youth who are deaf or hard of hearing as incorporated by reference in IDAPA 08.02.03.004.08 or are blind or visually impaired as incorporated by reference in IDAPA 08.02.03.004.09, in effect on January 1, 2009.

(11) "Supplemental services" means services provided to deaf or hard of hearing and/or blind or visually impaired students and their families, in addition to and in support of services the student may receive from his or her

school district. Such services may include assessment, consultation and direct instruction.

[33-3402, added 2009, ch. 168, sec. 4, p. 504; am. 2010, ch. 191, sec. 3, p. 407.]

33-3403. BUREAU OF EDUCATIONAL SERVICES FOR THE DEAF AND THE BLIND ESTABLISHED -- GOAL. (1) There is hereby established the Idaho bureau of educational services for the deaf and the blind, a provider of supplemental services for students who are deaf or hard of hearing and/or blind or visually impaired. The Idaho bureau of educational services for the deaf and the blind may operate a school for the deaf and the blind at which it shall provide residential and day campus programs. The Idaho bureau of educational services for the deaf and the blind may also operate an outreach program intended to provide services to students outside the campus area, as well as early intervention and family consultation.

(2) The goal of the Idaho bureau of educational services for the deaf and the blind is to assist school districts and state agencies in providing accessibility, quality and equity to students in the state with sensory impairments through a continuum of service and placement options.

[33-3403, added 2009, ch. 168, sec. 4, p. 505.]

33-3404. BOARD OF DIRECTORS. (1) The Idaho bureau of educational services for the deaf and the blind shall be governed by a board of directors which shall be responsible for development and oversight.

(2) The board of directors shall be comprised of eight (8) members as follows:

- (a) One (1) member shall be specialized/certified personnel appointed by the governor for a three (3) year term;
- (b) One (1) member shall be a director of special education appointed by the governor for a three (3) year term;
- (c) Two (2) members shall be citizens at-large appointed by the governor, each for three (3) year terms;
- (d) One (1) member shall be a parent of a student who is deaf or hard of hearing or blind or visually impaired appointed by the governor for a three (3) year term;
- (e) One (1) member shall be a citizen who is deaf or hard of hearing appointed by the governor for a three (3) year term;
- (f) One (1) member shall be a citizen who is blind or visually impaired appointed by the governor for a three (3) year term; and
- (g) The state superintendent of public instruction shall be chair of the board and shall serve concurrently with the term of office to which the state superintendent is elected.

(3) For purposes of establishing staggered terms of office, the initial term of office for the citizen who is blind or visually impaired and the parent of a student who is deaf or hard of hearing or blind or visually impaired shall be one (1) year, and thereafter shall be three (3) years. The initial term of office for the two (2) members at-large and for the director of special education shall be two (2) years, and thereafter shall be three (3) years. The initial term of office for the citizen who is deaf or hard of hearing and for the specialized/certified personnel shall be three (3) years, and thereafter shall be three (3) years.

(4) No voting member shall serve for more than two (2) consecutive full terms. Members of the board who are appointed to fill vacancies that occur prior to the expiration of a former member's full term shall serve the unexpired portion of such term.

[33-3404, added 2009, ch. 168, sec. 4, p. 505.]

33-3405. BOARD OF DIRECTORS TO APPOINT ADMINISTRATOR -- DESIGNATION OF ASSISTANTS -- DUTIES. (1) The board of directors for the Idaho bureau of educational services for the deaf and the blind shall appoint a person to serve as an administrator to the bureau.

(2) The administrator shall designate, by and with the advice and consent of the board of directors, such assistants, instructors, specialists and other employees as may be necessary to properly carry out the provisions of this chapter.

(3) The administrator shall coordinate all efforts in education for the deaf and the blind approved by the board of directors and shall prepare such reports concerning the education for the deaf and the blind in the state as the board of directors may require.

(4) The administrator shall make an annual report of the bureau's activities to the state board of education at a time and in a format designated by the state board of education.

[33-3405, added 2009, ch. 168, sec. 4, p. 506.]

33-3406. POWERS AND DUTIES OF THE BOARD OF DIRECTORS. The board of directors for the Idaho bureau of educational services for the deaf and the blind shall have the following powers and duties:

(1) Recommend policies to be established by rule of the state board of education for effecting the purposes of this chapter.

(2) Operate a school for the deaf and the blind, including but not limited to:

(a) With the advice of the administrator, prescribe the course of study, the textbooks to be used, and for those pupils who complete the requirements for grade twelve (12), the time and standard of graduation;

(b) Upon advice and recommendation from the administrator that any pupil has ceased to make progress, or is no longer being benefited by the school's services, approve release of such pupil from the school and/or discontinue school services;

(c) Maintain general supervision and control of all property, real and personal, appertaining to the school, and to ensure the same;

(d) Employ architects or engineers as necessary in planning the construction, remodeling or repair of any building and, whenever no other agency is designated so to do, to let contracts for such construction, remodeling or repair and to supervise the work thereof; and

(e) Provide for the conveyance of pupils to and from the school.

(3) Employ or contract with outreach and other staff as necessary. The Idaho bureau of educational services for the deaf and the blind shall be exempt from the provisions of sections [33-513](#), [33-514](#), [33-514A](#), [33-515](#) and [33-515A](#), Idaho Code, and shall be exempt from [chapter 53, title 67](#), Idaho Code. At the discretion of the board, all employees of the Idaho bureau of educational services for the deaf and the blind or a school for the deaf and the blind eligible for benefits may be permitted to elect to receive

their salary on a year-round basis. Such a payment schedule shall not be considered a guarantee of employment.

(4) Purchase such supplies and equipment as are necessary to implement the provisions of this chapter, which purchases shall be exempt from the state procurement act in [chapter 92, title 67](#), Idaho Code.

(5) Enter into contracts with any other governmental or public agency whereby the bureau agrees to render services to or for such agency in exchange for a charge reasonably calculated to cover the costs of rendering such service.

(6) Accept, receive and utilize any gifts, grants or funds and personal and real property that may be donated to it for the fulfillment of the purposes outlined in this chapter.

(7) Obtain and maintain facilities to house operations of outreach or supplemental services as needed.

(8) Manage the moneys disbursed to the bureau from any and all sources.

(9) Acquire, by purchase, exchange, or lease any property which in the judgment of the board is needed for the operation of the Idaho bureau of educational services for the deaf and the blind, including a school for the deaf and the blind, and to lease, dispose of, by sale or exchange, any property which in the judgment of the board is not needed for the operation of the same.

(10) Enter into contracts or agreements as may be necessary to carry out the purposes of this chapter.

[33-3406, added 2009, ch. 168, sec. 4, p. 506; am. 2016, ch. 289, sec. 8, p. 809.]

33-3407. GOVERNMENTAL ENTITY -- LIABILITY -- INSURANCE. (1) The Idaho bureau of educational services for the deaf and the blind, as provided for in this chapter, is not a single department of state government unto itself, nor is it a part of any of the twenty (20) departments of state government authorized by section 20, article IV, of the constitution of the state of Idaho, or of the departments provided for in section [67-2402](#), Idaho Code. It is legislative intent that the Idaho bureau of educational services for the deaf and the blind operate and be recognized not as a state agency or department, but as a governmental entity whose creation has been authorized by the state, much in the manner as other single purpose districts. For the purposes of section [59-1302](#) (15), Idaho Code, the Idaho bureau of educational services for the deaf and the blind created pursuant to this chapter shall be deemed a governmental entity. Pursuant to the provisions of section [63-36220](#), Idaho Code, sales to or purchases by the Idaho bureau of educational services for the deaf and the blind are exempt from payment of the sales and use tax. The Idaho bureau of educational services for the deaf and the blind, its employees and its board of directors are subject to the following provisions in the same manner as a traditional public school and the board of trustees of a school district:

- (a) Sections [18-1351](#) through [18-1362](#), Idaho Code, on bribery and corrupt influence, except as provided by section [33-5204A](#) (2), Idaho Code;
- (b) [Chapter 5, title 74](#), Idaho Code, on prohibitions against contracts with officers;
- (c) [Chapter 4, title 74](#), Idaho Code, on ethics in government;
- (d) [Chapter 2, title 74](#), Idaho Code, on open public meetings; and
- (e) [Chapter 1, title 74](#), Idaho Code, on disclosure of public records.

(2) The Idaho bureau of educational services for the deaf and the blind, its employees and its board of directors are subject to the following provisions:

(a) Section [33-1216](#), Idaho Code, on sick and other leave, or the laws, rules and policies of the state of Idaho for sick and other leave as provided for in [chapter 53, title 67](#), Idaho Code, as determined by the board;

(b) Section [33-1217](#), Idaho Code, on accumulation of unused sick leave, or the laws, rules and policies of the state of Idaho for accumulation of unused sick leave as provided for in section [67-5333](#), Idaho Code, as determined by the board;

(c) Section [33-1218](#), Idaho Code, on sick leave in excess of statutory minimum amounts, or the laws, rules and policies of the state of Idaho for sick leave in excess of statutory minimum amounts as provided for in section [67-5333](#), Idaho Code, as determined by the board; and

(d) Section [33-1228](#), Idaho Code, on severance allowance at retirement, or the laws, rules and policies of the state of Idaho for severance allowance at retirement as provided for in section [67-5333](#), Idaho Code, as determined by the board.

(3) The Idaho bureau of educational services for the deaf and the blind may sue or be sued, purchase, receive, hold and convey real and personal property for school purposes, and its employees, directors and officers shall enjoy the same immunities as employees, directors and officers of traditional public school districts and other public schools, including those provided by [chapter 9, title 6](#), Idaho Code.

(4) The Idaho bureau of educational services for the deaf and the blind shall be considered a state department for purposes of risk management and group insurance pursuant to [chapter 57, title 67](#), Idaho Code, and the department of administration shall treat the bureau as such.

(5) It shall be unlawful for:

(a) Any director to have pecuniary interest directly or indirectly in any contract or other transaction pertaining to the maintenance or conduct of the Idaho bureau of educational services for the deaf and the blind, or to accept any reward or compensation for services rendered as a director except as may be otherwise provided in this subsection. The board of directors of the Idaho bureau of educational services for the deaf and the blind may accept and award contracts involving the Idaho bureau of educational services for the deaf and the blind to businesses in which the director or a person related to him by blood or marriage within the second degree of consanguinity has a direct or indirect interest, provided that the procedures set forth in section [18-1361](#) or [18-1361A](#), Idaho Code, are followed. The receiving, soliciting or acceptance of moneys of the Idaho bureau of educational services for the deaf and the blind for deposit in any bank or trust company, or the lending of moneys by any bank or trust company to the Idaho bureau of educational services for the deaf and the blind, shall not be deemed to be a contract pertaining to the maintenance or conduct of the Idaho bureau of educational services for the deaf and the blind within the meaning of this section; nor shall the payment of compensation by the Idaho bureau of educational services for the deaf and the blind board of directors to any bank or trust company for services rendered in the transaction of any banking business with the Idaho bureau of educational services for the deaf and the blind board of directors be deemed the payment of

any reward or compensation to any officer or director of any such bank or trust company within the meaning of this section.

(b) The board of directors of the Idaho bureau of educational services for the deaf and the blind to enter into or execute any contract with the spouse of any member of such board, the terms of which said contract require, or shall require, the payment or delivery of any Idaho bureau of educational services for the deaf and the blind funds, moneys or property to such spouse, except as provided in section [18-1361](#) or [18-1361A](#), Idaho Code.

(6) When any relative of any director, or relative of the spouse of a director related by affinity or consanguinity within the second degree, is to be considered for employment in the Idaho bureau of educational services for the deaf and the blind, such director shall abstain from voting in the election of such relative, and shall be absent from the meeting while such employment is being considered and determined.

[33-3407, added 2009, ch. 168, sec. 4, p. 507; am. 2010, ch. 191, sec. 4, p. 407; am. 2011, ch. 43, sec. 1, p. 98; am. 2015, ch. 141, sec. 69, p. 428.]

33-3408. EXPENDITURES -- BUDGET -- FUNDING. (1) There is hereby created in the state treasury the Idaho bureau of educational services for the deaf and the blind trust fund, which is hereby continuously appropriated to the Idaho bureau of educational services for the deaf and the blind. The fund shall consist of appropriations, fees, grants, gifts or moneys from any other source. The state treasurer shall invest all idle moneys in the fund and interest earned on such investments shall be retained by the fund.

(2) On or before the first Monday in July, there shall be held at the time and place determined by the Idaho bureau of educational services for the deaf and the blind board, a budget meeting and public hearing upon the proposed budget of the Idaho bureau of educational services for the deaf and the blind. Notice of the budget meeting and public hearing shall be posted at least ten (10) full days prior to the date of the meeting in at least one (1) conspicuous place to be determined by the Idaho bureau of educational services for the deaf and the blind board of directors. The place, hour and day of the hearing shall be specified in the notice, as well as the place where such budget may be examined prior to the hearing. On or before the first Monday in July a budget for the Idaho bureau of educational services for the deaf and the blind shall be agreed upon and approved by the majority of the Idaho bureau of educational services for the deaf and the blind board of directors.

(3) The Idaho bureau of educational services for the deaf and the blind shall submit its annual appropriation request to the state superintendent of public instruction, by no later than the first day of August, for the superintendent's review, approval, and inclusion in the budget request of the educational support program. The state superintendent of public instruction shall disburse any funds appropriated to the Idaho bureau of educational services for the deaf and the blind trust fund. The Idaho bureau of educational services for the deaf and the blind board of directors shall use such moneys to provide supplemental services to deaf or hard of hearing and blind or visually impaired students in the state of Idaho.

[33-3408, added 2009, ch. 168, sec. 4, p. 508; am. 2010, ch. 191, sec. 5, p. 409.]

33-3409. RULES. The state board of education is authorized to, with the advice and recommendation of the board of directors, promulgate rules to implement the provisions of this chapter.

[33-3409, added 2009, ch. 168, sec. 4, p. 508.]

33-3410. REPORTING DEAF AND BLIND PUPILS. On or before the first day of February, in each year, the clerk of each school district, including elementary school districts, charter schools designated by the state board of education to be identified as a local education agency (LEA) pursuant to section [33-5203](#), Idaho Code, and especially chartered school districts shall report the number of deaf and blind pupils, as defined in section [33-3402](#), Idaho Code, attending the school or schools of the district, and any such person, not a pupil in the school, of whom he may have knowledge. Such report shall be made to the Idaho bureau of educational services for the deaf and the blind, upon forms approved by the state board of education.

[33-3410, added 2009, ch. 168, sec. 4, p. 509.]

33-3411. ACQUISITION OF AND TITLE TO PROPERTY. (1) All rights and title to property, real and personal, belonging to the state of Idaho and vested in the Idaho state board of education for use as a school for the deaf and the blind shall remain with the Idaho state board of education.

(2) The Idaho state board of education may request moneys from the permanent building fund for the construction and maintenance of buildings on land owned by the state of Idaho and used by the Idaho bureau of educational services for the deaf and the blind.

[33-3411, added 2009, ch. 168, sec. 4, p. 509; am. 2010, ch. 191, sec. 6, p. 410.]

33-3412. SICK LEAVE TRANSFERRED FOR EMPLOYEES OF IDAHO SCHOOL FOR THE DEAF AND THE BLIND TO IDAHO BUREAU OF EDUCATIONAL SERVICES FOR THE DEAF AND THE BLIND. Notwithstanding any other provision of law to the contrary, any employee of the Idaho school for the deaf and the blind who has accrued sick leave pursuant to section [67-5333](#), Idaho Code, and who, on or before September 1, 2009, is transferred to or otherwise becomes an eligible employee of the Idaho bureau of educational services for the deaf and the blind shall be credited by the Idaho bureau of educational services for the deaf and the blind with the amount of sick leave accrued and unused at the time of transfer. After such transfer, the use of such sick leave and the accrual of additional sick leave shall be governed by the laws, rules and policies applicable to the Idaho bureau of educational services for the deaf and the blind.

[33-3412, added 2009, ch. 168, sec. 4, p. 509.]

33-3413. SECTARIAN TESTS PROHIBITED. No religious or sectarian tests shall be applied to the admission of students, nor in the selection of instructors or other personnel of the school.

[33-3413, added 2009, ch. 168, sec. 4, p. 509.]

33-3414. GENERAL FUND CONTINGENCY RESERVE. The board of directors for the Idaho bureau of educational services for the deaf and the blind may cre-

ate and establish a general fund contingency reserve within the annual Idaho bureau of educational services for the deaf and the blind budget. Such general fund contingency reserve shall not exceed five percent (5%) of the total general fund appropriation to the Idaho bureau of educational services for the deaf and the blind. Disbursements from this continuously appropriated fund may be made as the board of trustees determines necessary for contingencies that may arise. The balance of the contingency fund may be accumulated beyond the budgeted fiscal year, but shall never exceed five percent (5%) of the current year's appropriation to the Idaho bureau of educational services for the deaf and the blind.

[33-3414, added 2009, ch. 168, sec. 4, p. 509.]