

TITLE 33
EDUCATION

CHAPTER 5
DISTRICT TRUSTEES

33-501. BOARD OF TRUSTEES. (1) Each school district shall be governed by a board of trustees. The board of trustees of each elementary school district shall consist of three (3) members, and the board of trustees of each other school district shall consist of five (5) members. Provided, however, that the board of trustees of any district which has had a change in its district boundaries subsequent to June 30, 1973, may consist of no fewer than five (5) nor more than nine (9) members if such provisions are included as part of an approved proposal to redefine and change trustee zones as provided in section [33-313](#), Idaho Code. The board of trustees of any district that has had a change in its district boundaries because of district consolidation on and after January 1, 2008, shall consist of five (5) members if two (2) districts consolidated or seven (7) members if three (3) or more districts consolidated. Commencing in 2018, a school district trustee shall be elected for a term of four (4) years beginning at twelve o'clock noon on January 1 next succeeding his election.

(2) Each trustee shall at the time of his nomination and election, or appointment, be a school district elector of his district and a resident of the trustee zone from which nominated or appointed. In the event that a vacancy shall be declared as provided in section [33-504](#), Idaho Code, and the board of trustees is unable to appoint a trustee from the zone vacated after ninety (90) days, the board of trustees may appoint a person at-large from within the boundaries of the school district to serve as the trustee from the zone where the vacancy occurred.

(3) Each trustee shall qualify for and assume office on January 1 next following his election, or, if appointed, at the regular meeting of the board of trustees next following such appointment. At the first meeting after a trustee assumes office, an oath of office shall be administered to the trustee, whether elected, reelected or appointed. Said oath may be administered by the clerk, or by another trustee, of the district, and the records of the district shall show such oath of office to have been taken, and by whom administered and shall be filed with the official records of the district.

[33-501, added 1963, ch. 13, sec. 51, p. 27; am. 1973, ch. 125, sec. 2, p. 236; am. 1980, ch. 32, sec. 1, p. 56; am. 2008, ch. 351, sec. 2, p. 969; am. 2009, ch. 57, sec. 1, p. 160; am. 2009, ch. 341, sec. 37, p. 1017; am. 2018, ch. 164, sec. 1, p. 323.]

33-502. DECLARATIONS OF CANDIDACY FOR TRUSTEES. Any person legally qualified to hold the office of school trustee may file a declaration of candidacy for the office, each of which shall bear the name of the candidate, state the term for which declaration of candidacy is made, and bear the signature of not less than five (5) school district electors resident of the trustee zone of which the candidate is resident. The declaration shall be filed with the clerk of the board of trustees of the school district as provided in section [34-1404](#), Idaho Code.

[33-502, added 1963, ch. 13, sec. 52, p. 27; am. 1967, ch. 9, sec. 1, p. 14; am. 1992, ch. 187, sec. 3, p. 584; am. 2011, ch. 11, sec. 5, p. 28.]

33-502B. BOARD OF TRUSTEES -- ONE NOMINATION -- NO ELECTION. In any election for trustees, if, after the expiration of the date for filing written nominations for the office of trustee, it appears that only one (1) qualified candidate has been nominated for a position to be filled or if only one (1) candidate has filed a write-in declaration of intent as provided by section [34-1407](#), Idaho Code, and has provided to the district's board clerk the signatures of five (5) electors of the candidate's specific zone, then no election shall be held for that position. The board of trustees or the school district clerk, with the written permission of the board, shall declare such candidate elected as a trustee. The school district clerk shall immediately prepare and deliver to the person a certificate of election signed by him and bearing the seal of the district. The procedure set forth in this section shall not apply to any other school district election.

[33-502B, added 1990, ch. 332, sec. 1, p. 910; am. 1993, ch. 51, sec. 1, p. 133; am. 1994, ch. 160, sec. 1, p. 367; am. 2004, ch. 26, sec. 1, p. 43; am. 2009, ch. 341, sec. 39, p. 1017; am. 2016, ch. 261, sec. 1, p. 681.]

33-503. ELECTION OF TRUSTEES -- UNIFORM DATE. [EFFECTIVE UNTIL JANUARY 1, 2020] (1) The election of school district trustees including those in charter districts shall be on the Tuesday following the first Monday in November in odd-numbered years. Notice and conduct of the election, and the canvassing of the returns shall be as provided in [chapter 14, title 34](#), Idaho Code. In each trustee zone, the person receiving the greatest number of votes cast within his zone shall be declared by the board of trustees as the trustee elected from that person's zone.

(2) If any two (2) or more persons residing in the same trustee zone have an equal number of votes and a greater number than any other nominee residing in that zone, then the board of trustees shall determine the winner by a toss of a coin.

(3) The provisions of sections [67-6601](#) through [67-6616](#), Idaho Code, and sections [67-6623](#) through [67-6630](#), Idaho Code, shall apply to all elections of school district trustees, except for elections of trustees in a school district that has fewer than five hundred (500) students. Provided however, the county clerk shall stand in place of the secretary of state and the county prosecutor shall stand in place of the attorney general. Any report or filing required to be filed by or for a candidate by such Idaho Code sections shall be filed with the county clerk of the county wherein the district lies or, in the case of a joint district, with the county clerk of the home county as designated pursuant to section [33-304](#), Idaho Code.

(4) Incumbent trustees as of the effective date of this act shall have their terms expire on January 1 following the November election of their successors.

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votes cast within his zone shall be declared by the board of trustees as the trustee elected from that person's zone.

(2) If any two (2) or more persons residing in the same trustee zone have an equal number of votes and a greater number than any other nominee residing in that zone, then the board of trustees shall determine the winner by a toss of a coin.

(3) Incumbent trustees as of the effective date of this act shall have their terms expire on January 1 following the November election of their successors.

[33-503, added 1963, ch. 13, sec. 53, p. 27; am. 1973, ch. 97, sec. 1, p. 166; am. 1975, ch. 181, sec. 1, p. 497; am. 2009, ch. 341, sec. 40, p. 1017; am. 2015, ch. 248, sec. 1, p. 1044; am. 2018, ch. 164, sec. 2, p. 323; am. 2019, ch. 288, sec. 20, p. 843.]

33-504. VACANCIES ON BOARDS OF TRUSTEES. A vacancy shall be declared by the board of trustees when any nominee has been elected but has failed to qualify for office, or within thirty (30) days of when any trustee shall (a) die; (b) resign as trustee; (c) remove himself from his trustee zone of residence; (d) no longer be a resident or school district elector of the district; (e) refuse to serve as trustee; (f) without excuse acceptable to the board of trustees, fail to attend four (4) consecutive regular meetings of the board; or (g) be recalled and discharged from office as provided in law.

Such declaration of vacancy shall be made at any regular or special meeting of the board of trustees, at which any of the above-mentioned conditions are determined to exist.

The board of trustees shall appoint to such vacancy a person qualified to serve as trustee of the school district provided there remains in membership on the board of trustees a majority of the membership thereof, and the board shall notify the state superintendent of public instruction of the appointment. Such appointment shall be made within ninety (90) days of the declaration of vacancy. After ninety (90) days, if the board of trustees is unable to appoint a trustee from the zone vacated, the board of trustees may appoint a person at-large from within the boundaries of the school district to serve as the trustee from the zone where the vacancy occurred. Otherwise, after one hundred twenty (120) days from the declaration of vacancy, appointments shall be made by the board of county commissioners of the county in which the district is situate, or of the home county if the district be a joint district.

Any person appointed as herein provided shall serve for the balance of the unexpired term of the office which was declared vacant and filled by appointment.

[33-504, added 1963, ch. 13, sec. 54, p. 27; am. 1975, ch. 181, sec. 2, p. 497; am. 1984, ch. 94, sec. 2, p. 219; am. 1986, ch. 348, sec. 20, p. 864; am. 1987, ch. 141, sec. 1, p. 282; am. 2009, ch. 57, sec. 2, p. 161; am. 2009, ch. 341, sec. 42, p. 1018.]

33-505. BOARD OF TRUSTEES, DISTRICT NEWLY CREATED. (1) Within ten (10) days after the entry of any order creating a new school district by the consolidation of districts or parts thereof, the trustees of all school districts involved in the consolidation shall meet at the call of the state superintendent of public instruction or his designee and, from their number, shall select a board of trustees of the new district representing each of the

merged districts in an equal number to serve as follows: if two (2) districts consolidated, one (1) member representing the board of trustees of each district shall serve until the annual election of trustees next following; one (1) member representing the board of trustees of each district shall serve until the annual election the following year; and one (1) member appointed by the other four (4) members shall serve until the annual election in the year after that. If three (3) or more districts consolidated, three (3) members shall serve until the annual election of trustees next following; three (3) members shall serve until the annual election the following year; and one (1) member appointed by the other six (6) members shall serve until the annual election in the year after that. If the number of merged districts is greater than three (3), the superintendent of public instruction shall appoint as equally as possible from trustees of the previous districts so that each district, if possible, has representation on the consolidated district's board of trustees. The superintendent shall stagger the terms of his appointments so that an equal number of appointees' terms expire annually and those trustees shall sit for election. Thereafter, all trustees who are elected shall serve terms as provided in section [33-501](#), Idaho Code, for a board of trustees of a school district. The board of trustees shall report the names of said trustees to the state board of education. The board of trustees of the newly consolidated school district shall expeditiously redraw the trustee zones pursuant to section [33-313](#), Idaho Code.

(2) The state board of education, at its first meeting next following receipt of notice of the creation of new school districts by the division of a district, shall appoint a board of trustees for each such new district, to serve until January 1 following the next election for school district trustees.

(3) Boards of trustees selected or appointed as in this section provided shall forthwith meet and organize as provided in section [33-506](#), Idaho Code, and thereupon the board of trustees of any district, the whole of which has been incorporated within the new district, or which was divided as the case may be, shall be dissolved and its powers and duties shall cease. Prior to the notice of annual election of trustees next following, the board of trustees of each school district created by consolidation or by division of districts shall determine by lot or by agreement from which of the trustee zones the trustees therefor shall be elected. Thereafter each trustee shall be elected for a term of four (4) years.

[33-505, added 1963, ch. 13, sec. 55, p. 27; am. 2008, ch. 351, sec. 3, p. 970; am. 2009, ch. 341, sec. 43, p. 1019; am. 2018, ch. 164, sec. 3, p. 324.]

33-506. ORGANIZATION AND GOVERNMENT OF BOARD OF TRUSTEES. (1) Each board of school district trustees shall organize at its first regular meeting in January and elect a chairman, a vice chairman, a clerk and a treasurer. The clerk and the treasurer may be members of the board of trustees; or, in the discretion of the board, either or both may be selected from among competent and responsible persons outside the membership of the board. The board in its discretion may allow compensation for the clerk, and for the treasurer, if other than the county treasurer.

(2) Each member of the board not otherwise compensated by public moneys shall be compensated for actual expenses incurred for travel to, from, and attending meetings of the board. Such compensation shall be paid from the district school funds.

(3) It shall be the duty of each member of the board of trustees to attend all meetings, both regular and special; and the board shall have the following powers and duties:

(a) To make bylaws, rules and regulations for its government and that of the district, consistent with the laws of the state of Idaho and the rules and regulations of the state board of education;

(b) To call special meetings or elections for such purpose as may be necessary for the proper conduct and management of the school or schools of the district;

(c) To employ an attorney or attorneys when deemed for the best interests of the district, or for the purpose of defending the district against any suit or for bringing action deemed necessary to be commenced by the board.

[33-506, added 1963, ch. 13, sec. 56, p. 27; am. 1975, ch. 82, sec. 1, p. 167; am. 1978, ch. 103, sec. 1, p. 210; am. 1988, ch. 77, sec. 1, p. 132; am. 2018, ch. 164, sec. 4, p. 325; am. 2019, ch. 38, sec. 1, p. 106.]

33-507. LIMITATION UPON AUTHORITY OF TRUSTEES. (1) It shall be unlawful for any trustee to have pecuniary interest, directly or indirectly, in any contract or other transaction pertaining to the maintenance or conduct of the school district or to accept any reward or compensation for services rendered as a trustee except as may be otherwise provided in this section. The board of trustees of a school district may accept and award contracts involving the school district to businesses in which a trustee or a person related to him by blood or marriage within the second degree 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 a school district for deposit in any bank or trust company, or the lending of money by any bank or trust company to any school district, shall not be deemed to be a contract pertaining to the maintenance or conduct of a school district within the meaning of this section; nor shall the payment by any school district board of trustees of compensation to any bank or trust company, for services rendered in the transaction of any banking business with such district board of trustees, 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.

(2) It shall be unlawful for the board of trustees of any class of school district to enter into or execute any contract with the spouse of any member of such board, the terms of which said contract requires or will require the payment or delivery of any school district funds, money or property to such spouse, except as provided in subsection (3) of this section or in section [18-1361](#) or [18-1361A](#), Idaho Code.

(3) No spouse of any trustee may be employed by a school district with a fall student enrollment population of greater than one thousand two hundred (1,200) in the prior school year. For school districts with a fall student enrollment population of one thousand two hundred (1,200) or less in the prior school year and for schools funded pursuant to the provisions of section [33-1003](#)(2), Idaho Code, such spouse may be employed in a nonadministrative position for a school year if each of the following conditions has been met:

(a) The position has been listed as open for application on the school district website or in a local newspaper, whichever is consistent with the district's current practice, and the position shall be listed for

at least sixty (60) days, unless the opening occurred during the school year, in which case the position shall be so listed for at least fifteen (15) days. If the position is listed in a newspaper, the listing shall be made in a manner consistent with the provisions of section [60-106](#), Idaho Code;

(b) No applications were received that met the minimum certification, endorsement, education or experience requirements of the position other than such spouse;

(c) The trustee abstained from voting in the employment of the spouse and was absent from the meeting while such employment was being considered and determined.

The school district or school may employ such spouse for further school years, provided that the conditions contained in this subsection are met for each school year in which such spouse is employed. The trustee shall abstain from voting in any decisions affecting the compensation, benefits, individual performance evaluation or disciplinary action related to the spouse and shall be absent from the meeting while such issues are being considered and determined. Such limitation shall include, but not be limited to: any matters relating to negotiations regarding compensation and benefits; discussion and negotiation with district benefits providers; and any matter relating to the spouse and letters of reprimand, direction, probation or termination. Such limitations shall not prohibit the trustee spouse from participating in deliberation and voting upon the district's annual fiscal budget or annual audit report. Any spouse of a trustee employed as a certificated employee pursuant to this subsection shall be employed under a category 1 contract pursuant to section [33-514A](#), Idaho Code.

(4) When any relative of any trustee or relative of the spouse of a trustee related by affinity or consanguinity within the second degree is considered for employment in a school district, such trustee 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.

[33-507, added 1963, ch. 13, sec. 57, p. 27; am. 1977, ch. 23, sec. 1, p. 45; am. 1994, ch. 300, sec. 1, p. 947; am. 1996, ch. 193, sec. 3, p. 603; am. 2014, ch. 252, sec. 1, p. 634; am. 2014, ch. 252, sec. 7, p. 638.]

33-508. DUTIES OF CLERK. The clerk of the board of trustees shall have such duties as shall be prescribed by the board. He shall attend all meetings of the board of trustees, shall keep the record of the proceedings, and shall enter in said record all matters required by law, or by the board, so to be entered; and said record shall be open to inspection by any person, at all reasonable times.

When the clerk does not attend a meeting of the board of trustees, the board shall appoint some person who, as temporary clerk, shall keep the record of the proceedings of the board and certify the same to the clerk, to be entered by him.

Whenever in the judgment of the board of trustees it is deemed prudent so to do, the clerk may be placed under a fidelity bond, in the manner of section [33-509](#), in such amount as the board of trustees shall determine.

[33-508, added 1963, ch. 13, sec. 58, p. 27.]

33-509. DUTIES OF THE TREASURER. The treasurer elected by the board of trustees of a school district shall have such duties as the board may pre-

scribe. The treasurer shall be placed under fidelity bond issued by a surety company authorized to do business in the state of Idaho, in such amount as the board of trustees may from time to time determine, or under personal bond equal to twice such determined amount with at least two (2) sureties who each shall qualify as in the case of sureties on the bonds of county officers.

The county treasurer of the home county of any elementary school district with less than six (6) teachers within the district shall serve as treasurer of such district, if requested to do so by the school district board of trustees.

The treasurer shall account for the deposit of all moneys of the district in accordance with the provisions of the public depository law, [chapter 1, title 57](#), Idaho Code.

[33-509, added 1963, ch. 13, sec. 59, p. 27; am. 1978, ch. 103, sec. 2, p. 211; am. 1988, ch. 70, sec. 1, p. 101; am. 1988, ch. 77, sec. 2, p. 132.]

33-509A. ASSISTANT TREASURERS. A board of trustees of a school district may elect one (1) or more assistant treasurers who shall have such duties as the board of trustees may prescribe. Assistant treasurers shall be subject to the control, supervision and direction of the treasurer of the district. An assistant treasurer may perform the statutory duties prescribed by law for the treasurer to the extent authorized by the board of trustees.

[33-509A, added 1990, ch. 198, sec. 1, p. 444.]

33-510. ANNUAL MEETINGS -- REGULAR MEETINGS -- BOARDS OF TRUSTEES. (1) The annual meeting of each school district shall be on the date of its regular January meeting in each year. Notice of the annual meeting of elementary school districts shall be given as provided in section [33-402](#), Idaho Code, but one (1) publication shall suffice.

(2) Regular meetings of each board of school district trustees shall be held monthly, on a uniform day of a uniform week as determined at the annual meeting. Special meetings may be called by the chairman or by any two (2) members of the board and held at any time. If the time and place of special meetings shall not have been determined at a meeting of the board with all members being present, then notice of the time and place shall be given to each member and announced by written notice conspicuously posted at the school district office and at least two (2) or more public buildings within the school district not less than twenty-four (24) hours before such special meeting is to be convened.

(3) A quorum for the transaction of business of the board of trustees shall consist of a majority of the members of the board. Unless otherwise provided by law, all questions shall be determined by a majority of the vote cast. The chairman of the board may vote in all cases.

(4) All meetings shall conform to the provisions of [chapter 2, title 74](#), Idaho Code.

[33-510, added 1963, ch. 13, sec. 60, p. 27; am. 1973, ch. 62, sec. 1, p. 102; am. 1976, ch. 66, sec. 1, p. 233; am. 1977, ch. 51, sec. 1, p. 101; am. 1977, ch. 52, sec. 1, p. 102; am. 1978, ch. 137, sec. 1, p. 312; am. 2011, ch. 151, sec. 16, p. 426; am. 2015, ch. 141, sec. 61, p. 423; am. 2018, ch. 164, sec. 5, p. 325.]

33-511. MAINTENANCE OF SCHOOLS. The board of trustees of each school district shall have the following powers and duties:

(1) Each elementary school district shall maintain at least one (1) elementary school, and each other school district shall maintain at least one (1) elementary school and one (1) secondary school;

(2) To employ necessary help and labor to maintain and operate the schools of the district;

(3) To discontinue any school within the district whenever it shall find such discontinuance to be in the best interests of the district and of the pupils therein. For the purposes of this section, discontinuing a school shall mean no longer maintaining a school of any kind, at the same location, except in the case of secondary units as herein provided.

(a) When any school proposed to be discontinued is one which was operated and maintained by a former district now wholly incorporated within the boundaries of the district operated by said board of trustees, and, immediately following reorganization and the dissolution of said former district, such school has been continuously operated and maintained at the same location by the presently organized district, the following procedures shall apply before discontinuing a school:

(i) The board of trustees must first give notice of such proposal not later than the first day of July next preceding the date of the proposed discontinuance. Such notice shall be posted, and published once, in the manner provided in section [33-402](#), Idaho Code, and shall identify the school proposed to be discontinued.

(ii) If, not later than the first day of August following the posting and publishing of the notice of discontinuance, five (5) or more qualified school district electors residing within the school district shall petition the board of trustees for an election to be held within the school district on the question of discontinuance of that school, the board of trustees shall forthwith order an election to be held within fourteen (14) days of the date of said order and shall give notice of the election.

(iii) Notice of such election shall be posted at or near the main door of the school proposed to be discontinued and at or near the main door of the administrative offices of the school district and shall also be published in one (1) issue of a newspaper printed in the county in which is situate the school proposed to be discontinued. The notice shall state the date the election is to be held, the place of voting, and the hours between which the polls shall be open. In addition, the notice of election shall describe the area of the particular attendance unit of the school district and shall identify the school proposed to be discontinued; and it shall state that only qualified school district electors residing within the school district may vote on the question of discontinuing the school.

(iv) The election shall be held within the school district and there shall be submitted to the electors a ballot containing the proposal:

1. For discontinuing the school located at.....,

2. Against discontinuing the school located at.....

(v) If a majority of the qualified electors, as defined in this section and voting in the election, shall vote against discontinuing that school, then said school shall not be discontinued; and no

proposal to discontinue the same school shall be made by the board of trustees of the district within nine (9) months after the date of the election.

(vi) If a secondary unit which the trustees of a district propose to close is more than thirty (30) miles by all-weather road from the attendance unit to which it is proposed to transfer such students, then, notwithstanding other provisions of this section, five (5) electors residing within the attendance area of the unit proposed to be closed may, as provided by this section, petition the board of trustees requesting an election to determine whether or not such attendance unit, or any portion of it, shall be closed. The board shall forthwith call and hold an election as herein provided. However, for the purpose of this section relating to the secondary attendance unit thirty (30) miles or more distant from another secondary attendance unit, only the patrons resident in this attendance area shall be eligible to vote, except for attendance units, or portions of them, created after January 1, 2002, in which case qualified school district electors throughout the school district shall be eligible to vote. The election shall be deemed passed and the unit shall not be closed if a majority of those voting in the election vote in favor of retaining the attendance unit.

(b) The provisions of paragraph (a) of this subsection shall not apply when:

- (i) The administrator of the division of building safety has determined that the school constitutes an imminent public safety hazard and has issued an order or notice requiring the school district superintendent, principal, board member or other person in charge to cause all persons, except those necessary to eliminate the condition, to be withdrawn from, and to be restrained from entering the school, pursuant to section [39-8008](#), Idaho Code; and
- (ii) The school district board of trustees have voted at a public meeting to discontinue the school.

[33-511, added 1963, ch. 13, sec. 61, p. 27; am. 1967, ch. 366, sec. 1, p. 1057; am. 1973, ch. 5, sec. 1, p. 10; am. 2000, ch. 424, sec. 1, p. 1375; am. 2002, ch. 317, sec. 1, p. 898; am. 2011, ch. 125, sec. 1, p. 351; am. 2011, ch. 151, sec. 17, p. 427.]

33-512. GOVERNANCE OF SCHOOLS. The board of trustees of each school district shall have the following powers and duties:

(1) To fix the days of the year and the hours of the day when schools shall be in session. However:

(a) Each school district shall annually adopt and implement a school calendar which provides its students at each grade level with the following minimum number of instructional hours:

Grades	Hours
9-12	990
4-8	900
1-3	810
K	450

Grades	Hours
Alternative schools (any grades)	900

(b) School assemblies, testing and other instructionally related activities involving students directly may be included in the required instructional hours.

(c) When approved by a local school board, annual instructional hour requirements stated in paragraph (a) of this subsection may be reduced as follows:

(i) Up to a total of twenty-two (22) hours to accommodate staff development activities conducted on such days as the local school board deems appropriate.

(ii) Up to a total of eleven (11) hours of emergency school closures due to adverse weather conditions and facility failures.

However, transportation to and from school, passing times between classes, recess and lunch periods shall not be included.

(d) Student and staff activities related to the opening and closing of the school year, grade reporting, program planning, staff meetings, and other classroom and building management activities shall not be counted as instructional time or in the reductions provided in paragraph (c) (i) of this subsection.

(e) For multiple shift programs, this rule applies to each shift (i.e., each student must have access to the minimum annual required hours of instruction).

(f) The instructional time requirement for grade 12 students may be reduced by action of a local school board for an amount of time not to exceed eleven (11) hours of instructional time.

(g) The state superintendent of public instruction may grant an exemption from the provisions of this section for an individual building within a district, when the closure of that building, for unforeseen circumstances, does not affect the attendance of other buildings within the district.

(h) The state board of education may grant a waiver of the minimum number of instructional hours for a school district when districtwide school closures are necessary as a result of natural occurrences creating unsafe conditions for students. A county or state disaster declaration must have been issued for one (1) or more of the counties in which the school district is located. A waiver request to the state board of education must describe the efforts by the school district to make up lost instructional hours, the range of grades impacted, and the number of hours the school district is requesting be waived.

(i) The reduction of instructional hours allowed in paragraphs (f) through (h) of this subsection may not be combined in a single school year.

(2) To adopt and carry on, and provide for the financing of, a total educational program for the district. Such programs in other than elementary school districts may include education programs for out-of-school youth and adults, and such districts may provide classes in kindergarten;

(3) To provide, or require pupils to be provided with, suitable textbooks and supplies, and for advice on textbook selections may appoint a curricular materials adoption committee as provided in section [33-512A](#), Idaho Code;

(4) To protect the morals and health of the pupils;

- (5) To exclude from school, children not of school age;
- (6) To prescribe rules for the disciplining of unruly or insubordinate pupils, including rules on student harassment, intimidation and bullying, such rules to be included in a district discipline code adopted by the board of trustees and a summarized version thereof to be provided in writing at the beginning of each school year to the teachers and students in the district in a manner consistent with the student's age, grade and level of academic achievement;
- (7) To exclude from school, pupils with contagious or infectious diseases who are diagnosed or suspected as having a contagious or infectious disease or those who are not immune and have been exposed to a contagious or infectious disease; and to close school on order of the state board of health and welfare or local health authorities;
- (8) To equip and maintain a suitable library or libraries in the school or schools and to exclude therefrom, and from the schools, all books, tracts, papers, and catechisms of sectarian nature;
- (9) To determine school holidays. Any listing of school holidays shall include not less than the following: New Year's Day, Memorial Day, Independence Day, Thanksgiving Day, and Christmas Day. Other days listed in section [73-108](#), Idaho Code, if the same shall fall on a school day, shall be observed with appropriate ceremonies; and any days the state board of education may designate, following the proclamation by the governor, shall be school holidays;
- (10) To erect and maintain on each schoolhouse or school grounds a suitable flagstaff or flagpole, and display thereon the flag of the United States of America on all days, except during inclement weather, when the school is in session; and for each Veterans Day, each school in session shall conduct and observe an appropriate program of at least one (1) class period remembering and honoring American veterans;
- (11) To prohibit entrance to each schoolhouse or school grounds, to prohibit loitering in schoolhouses or on school grounds and to provide for the removal from each schoolhouse or school grounds of any individual or individuals who disrupt the educational processes or whose presence is detrimental to the morals, health, safety, academic learning or discipline of the pupils. A person who disrupts the educational process or whose presence is detrimental to the morals, health, safety, academic learning or discipline of the pupils or who loiters in schoolhouses or on school grounds, is guilty of a misdemeanor;
- (12) To supervise and regulate, including by contract with established entities, those extracurricular activities which are by definition outside of or in addition to the regular academic courses or curriculum of a public school, and which extracurricular activities shall not be considered to be a property, liberty or contract right of any student, and such extracurricular activities shall not be deemed a necessary element of a public school education, but shall be considered to be a privilege. For the purposes of extracurricular activities, any secondary school located in this state that is accredited by an organization approved through a process defined by the state department of education shall be able to fully participate in all extracurricular activities described in and governed by the provisions of this subsection;
- (13) To govern the school district in compliance with state law and rules of the state board of education;

(14) To submit to the superintendent of public instruction not later than July 1 of each year documentation which meets the reporting requirements of the federal gun-free schools act of 1994 as contained within the federal improving America's schools act of 1994;

(15) To require that all certificated and noncertificated employees hired on or after July 1, 2008, and other individuals who are required by the provisions of section [33-130](#), Idaho Code, to undergo a criminal history check shall submit a completed ten (10) finger fingerprint card or scan to the department of education no later than five (5) days following the first day of employment or unsupervised contact with students in a K-12 setting, whichever is sooner. Such employees and other individuals shall pay the cost of the criminal history check. If the criminal history check shows that the employee has been convicted of a felony crime enumerated in section [33-1208](#), Idaho Code, it shall be grounds for immediate termination, dismissal or other personnel action of the district, except that it shall be the right of the school district to evaluate whether an individual convicted of one (1) of these crimes and having been incarcerated for that crime shall be hired. Provided however, that any individual convicted of any felony offense listed in section [33-1208](#) 2., Idaho Code, shall not be hired. For the purposes of criminal history checks, a substitute teacher is any individual who temporarily replaces a certificated classroom educator and is paid a substitute teacher wage for one (1) day or more during a school year. A substitute teacher who has undergone a criminal history check at the request of one (1) district in which he has been employed as a substitute shall not be required to undergo an additional criminal history check at the request of any other district in which he is employed as a substitute if the teacher has obtained a criminal history check within the previous five (5) years. If the district next employing the substitute still elects to require another criminal history check within the five (5) year period, that district shall pay the cost of the criminal history check or reimburse the substitute teacher for such cost. To remain on the statewide substitute teacher list maintained by the state department of education, the substitute teacher shall undergo a criminal history check every five (5) years;

(16) To maintain a safe environment for students by developing a system that cross-checks all contractors or other persons who have irregular contact with students against the statewide sex offender register, by developing a school safety plan for each school and by meeting annually with emergency first responders to update the plans and discuss emergency exercises and operations;

(17) To provide support for teachers in their first two (2) years in the profession in the areas of: administrative and supervisory support, mentoring, peer assistance and professional development.

[33-512, added 1963, ch. 13, sec. 62, p. 27; am. 1972, ch. 9, sec. 1, p. 13; am. 1975, ch. 107, sec. 1, p. 218; am. 1980, ch. 198, sec. 1, p. 458; am. 1984, ch. 286, sec. 13, p. 668; am. 1986, ch. 302, sec. 2, p. 753; am. 1990, ch. 402, sec. 1, p. 1127; am. 1991, ch. 173, sec. 1, p. 421; am. 1993, ch. 269, sec. 1, p. 904; am. 1994, ch. 25, sec. 2, p. 39; am. 1995, ch. 248, sec. 3, p. 821; am. 1996, ch. 375, sec. 2, p. 1274; am. 1999, ch. 219, sec. 1, p. 584; am. 2000, ch. 335, sec. 1, p. 1126; am. 2001, ch. 204, sec. 1, p. 695; am. 2003, ch. 299, sec. 2, p. 815; am. 2005, ch. 340, sec. 1, p. 1061; am. 2006, ch. 244, sec. 3, p. 742; am. 2006, ch. 313, sec. 2, p. 970; am. 2008, ch. 349, sec. 2, p. 962; am. 2012, ch. 93, sec. 1, p.

254; am. 2014, ch. 272, sec. 1, p. 678; am. 2014, ch. 325, sec. 1, p. 805; am. 2017, ch. 264, sec. 1, p. 657.]

33-512A. DISTRICT CURRICULAR MATERIALS ADOPTION COMMITTEES. The board of trustees of each school district may appoint a curricular materials adoption committee to advise the board on selection of curricular materials, as defined in section [33-118A](#), Idaho Code, for use within the schools of the district. Such a committee shall contain a membership at least one-fourth (1/4) of which is persons who are not public educators or school trustees. All meetings of the committee shall be open to the public and any member of the public may attend such a meeting and file written or make oral objections to any curricular materials under consideration. Each school district shall have on hand and available to the public the titles, authors and publishers of all curricular materials being used in the district. The public has the right to inspect the instructional materials, except students' tests, used in the district's schools.

[33-512A, added 1986, ch. 302, sec. 3, p. 754; am. 1987, ch. 25, sec. 1, p. 34; am. 1998, ch. 88, sec. 4, p. 300.]

33-512B. SUICIDAL TENDENCIES -- DUTY TO WARN. (1) Notwithstanding the provisions of section [33-512](#)(4), Idaho Code, neither a teacher nor a school district shall have a duty to warn of the suicidal tendencies of a student absent the teacher's knowledge of direct evidence of such suicidal tendencies.

(2) "Direct evidence" means evidence which directly proves a fact without inference and which in itself, if true, conclusively establishes that fact. Direct evidence would include unequivocal and unambiguous oral or written statements by a student which would not cause a reasonable teacher to speculate regarding the existence of the fact in question; it would not include equivocal or ambiguous oral or written statements by a student which would cause a reasonable teacher to speculate regarding the existence of the fact in question.

(3) The existence of the teacher's knowledge of the direct evidence referred to in subsections (1) and (2) of this section shall be determined by the court as a matter of law.

[33-512B, added 1996, ch. 377, sec. 1, p. 1282.]

33-512C. ENCOURAGEMENT OF GIFTED STUDENTS. If a student completes any required high school course with a grade of C or higher before entering grade 9, if that course meets the same standards that are required in high school, if the course is taught by a properly certified teacher who meets the federal definition of being highly qualified for the course being taught and if the school providing the course is accredited as recognized by the state board, the student shall be given a grade for the successful completion of that course, and such grade and the number of credit hours assigned to the course shall be transferred to the student's high school transcript. The provisions of this section do not apply to senior projects.

[33-512C, added 2010, ch. 125, sec. 1, p. 272; am. 2018, ch. 110, sec. 1, p. 224.]

33-513. PROFESSIONAL PERSONNEL. The board of trustees of each school district, including any specially chartered district, shall have the following powers and duties:

1. To employ professional personnel, on written contract in form approved by the state superintendent of public instruction, conditioned upon a valid certificate being held by such professional personnel at the time of entering upon the duties thereunder. Should the board of trustees fail to enter into written contract for the employment of any such person, the state superintendent of public instruction shall withhold ensuing apportionments until such written contract be entered into. When the board of trustees has delivered a proposed contract for the next ensuing year to any such person, such person shall have a period of time to be determined by the board of trustees in its discretion, but in no event less than ten (10) calendar days from the date the contract is delivered, in which to sign the contract and return it to the board. If the board of trustees does not make a determination as to how long the person has to sign and return the contract, the default time limit shall be twenty-one (21) calendar days after the contract is delivered to the person. Delivery of a contract may be made only in person or by certified mail, return receipt requested or electronically, return receipt requested. When delivery is made in person, delivery of the contract must be acknowledged by a signed receipt. When delivery is made by certified mail or electronically, delivery must be acknowledged by the return of the certified mail receipt or return electronic receipt from the person to whom the contract was sent. If the delivery is made electronically, with return electronic receipt, and the district has not received a return of a signed contract and has not received an electronic read receipt from the employee, the district shall then resend the original electronically delivered contract to the employee via certified mail, return receipt requested, and provide such individual with a new date for contract return. Should the person willfully refuse to acknowledge receipt of the contract or the contract is not signed and returned to the board in the designated period of time or if no designated period of time is set by the board, the default time, the board or its designee may declare the position vacant.

The board of trustees shall withhold the salary of any teacher who does not hold a teaching certificate valid in this state. It shall not contract to require any teacher to make up time spent in attending any meeting called by the state board of education or by the state superintendent of public instruction; nor while attending regularly scheduled official meetings of the state teachers association.

No contract shall be issued for the next ensuing year until such time as the employee's formal written performance evaluation has been completed.

If applicable student data relating to Idaho's standards achievement test has not been received by the district within thirty (30) days of the deadline to complete the formal written performance evaluation for district employees, the school district or charter school shall utilize one (1) of the other objective measures of growth in student achievement as determined by the board of trustees or governing board, not including Idaho's standards achievement test, in order to complete the required student achievement component of performance evaluations.

2. In the case of school districts other than elementary school districts, to employ a superintendent of schools for a term not to exceed three (3) years, who shall be the executive officer of the board of trustees with such powers and duties as the board may prescribe. The superintendent shall

also act as the authorized representative of the district whenever such is required, unless some other person shall be named by the board of trustees to act as its authorized representative. The board of trustees shall conduct an annual, written formal evaluation of the work of the superintendent of the district to be completed no later than June 1. The evaluation shall indicate the strengths and weaknesses of the superintendent's job performance in the year immediately preceding the evaluation and areas where improvement in the superintendent's job performance, in the view of the board of trustees, is called for.

3. To employ through written contract principals who shall hold a valid certificate appropriate to the position for which they are employed, who shall supervise the operation and management of the school in accordance with the policies established by the board of trustees and who shall be under the supervision of the superintendent.

4. To employ assistant superintendents and principals for a term not to exceed two (2) years. Service performed under such contract shall be included in meeting the provisions of section [33-515](#), Idaho Code, as a teacher and persons eligible for a renewable contract as a teacher shall retain such eligibility. The superintendent, the superintendent's designee, or in a school district that does not employ a superintendent, the board of trustees, shall conduct an annual, written evaluation of each such employee's performance to be completed no later than June 1.

5. To suspend, grant leave of absence, place on probation or discharge certificated professional personnel for a material violation of any lawful rules or regulations of the board of trustees or of the state board of education, or for any conduct which could constitute grounds for revocation of a teaching certificate. Any certificated professional employee, except the superintendent, may be discharged during a contract term under the following procedures:

(a) The superintendent or any other duly authorized administrative officer of the school district may recommend the discharge of any certificated employee by filing with the board of trustees written notice specifying the alleged reasons for discharge.

(b) Upon receipt of such notice, the board, acting through its duly authorized administrative official, shall give the affected employee written notice of the allegations and the recommendation of discharge, along with written notice of a hearing before the board prior to any determination by the board of the truth of the allegations.

(c) The hearing shall be scheduled to take place not less than six (6) days nor more than twenty-one (21) days after receipt of the notice by the employee. The date provided for the hearing may be changed by mutual consent.

(d) The hearing shall be public unless the employee requests in writing that it be in executive session.

(e) All testimony at the hearing shall be given under oath or affirmation. Any member of the board, or the clerk of the board, may administer oaths to witnesses or affirmations by witnesses.

(f) The employee may be represented by legal counsel and/or by a representative of a local or state teachers association.

(g) The chairman of the board or the designee of the chairman shall conduct the hearing.

(h) The board shall cause an electronic record of the hearing to be made or shall employ a competent reporter to take stenographic or stenotype

notes of all the testimony at the hearing. A transcript of the hearing shall be provided at cost by the board upon request of the employee.

(i) At the hearing, the superintendent or other duly authorized administrative officer shall present evidence to substantiate the allegations contained in such notice.

(j) The employee may produce evidence to refute the allegations. Any witness presented by the superintendent or by the employee shall be subject to cross-examination. The board may also examine witnesses and be represented by counsel.

(k) The affected employee may file written briefs and arguments with the board within three (3) days after the close of the hearing or such other time as may be agreed upon by the affected employee and the board.

(l) Within fifteen (15) days following the close of the hearing, the board shall determine and, acting through its duly authorized administrative official, shall notify the employee in writing whether the evidence presented at the hearing established the truth of the allegations and whether the employee is to be retained, immediately discharged, or discharged upon termination of the current contract.

(m) If the employee appeals the decision of the board of trustees to the district court, the district court may affirm the board's decision or set it aside and remand the matter to the board of trustees upon the following grounds and shall not set the same aside for any other grounds:

(i) That the findings of fact are not based upon any substantial, competent evidence;

(ii) That the board of trustees has acted without jurisdiction or in excess of its authority; or

(iii) That the findings by the board of trustees as a matter of law do not support the decision.

(n) The determination of the board of trustees shall be affirmed unless the court finds that the action of the board of trustees was:

(i) In violation of constitutional or statutory provisions;

(ii) In excess of the statutory authority of the board;

(iii) Made upon unlawful procedure; or

(iv) Arbitrary, capricious or an abuse of discretion.

(o) Record augmentation on appeal:

(i) If, before the date set for any hearing at the district court, application is made to the court for leave to present additional evidence and it is shown to the satisfaction of the court that the additional evidence is material, relates to the validity of the board action and that there was good cause for failure to present it in the proceeding before the board, then the court may remand the matter to the board with direction that the board receive additional evidence and conduct additional fact-finding;

(ii) Any party desiring to augment the transcript or record may file a motion in the same manner and pursuant to the same procedure for augmentation of the record in appeals to the supreme court; and

(iii) The board may modify its action by reason of the additional evidence and shall file any modifications, new findings or decisions with the reviewing court.

6. To grant an employee's request for voluntary leave of absence. The board of trustees may delegate ongoing authority to grant an employee's request for voluntary leave of absence to the district's superintendent or other designee. Upon the superintendent or designee's granting of an

employee's request for voluntary leave of absence, the board shall ratify or nullify the action at the next regularly scheduled board meeting.

7. To delegate to the superintendent or other designee the ongoing authority to place any employee on a period of involuntary leave of absence should the superintendent or designee believe that such action is in the best interest of the district. Upon the superintendent or designee's action to place a certificated employee on a period of involuntary leave of absence, the board shall ratify or nullify the action of the superintendent or designee at the next regularly scheduled meeting of the board or at a special meeting of the board should the next regularly scheduled meeting of the board not be within a period of twenty-one (21) days from the date of the action.

(a) Where there is a criminal court order preventing the certificated employee from being in the presence of minors or students, preventing the employee from being in the presence of any other adult individual employed at the school or detaining the employee in prison or jail, the certificated employee's involuntary leave of absence shall be without pay due to the certificated employee's inability to perform the essential functions of the employee's position. Without such a condition or situation, the involuntary leave of absence shall be with pay.

(i) During the period of involuntary leave of absence without pay, the salary of the certificated employee will be maintained in a district-managed account. Should the certificated employee return to the district for active employment subsequent to the removal or dismissal of the court order, acquittal or adjudication of innocence, the district shall remit the salary funds, less the cost incurred by the district for the substitute hired to replace the certificated employee. Further, should the certificated employee return to the district under the provisions established in this subsection, the district shall arrange to have the certificated employee credited with the public employee retirement system of Idaho (PERSI) for the certificated employee's time away from work during the period of leave of absence.

(ii) During the period of involuntary leave of absence, the district shall continue to pay the district's portion of monthly costs associated with the certificated employee's health insurance benefits. The assumption of this payment by the district shall not alter the certificated employee's financial obligations, if any, under the policy.

(b) Should there be dual court orders preventing more than one (1) employee from being in the presence of one (1) or more other employees, all employees subject to the court order shall be excluded from the school pursuant to subsection 7. (a) of this section.

(c) If the period of involuntary leave of absence is due to the district's need to conduct an investigation into the conduct of the certificated employee, and there are no related criminal investigation(s) and/or criminal charges of any nature pending, the administration shall complete its investigation within a period of sixty (60) working days. On or before the sixtieth working day, the administrative leave shall either cease and the certificated employee shall be returned to his position of employment or the administration shall advance a personnel recommendation to the board of trustees. If a recommendation is advanced, the involuntary leave of absence shall continue until such time as the district board has made its decision in regard to the

personnel recommendation with such decision effectively concluding the involuntary leave of absence. If a related criminal investigation is occurring and/or criminal charges are pending, the district shall not be bound to any limitation as to the duration of involuntary leave of absence. The timelines established in this section may be waived or modified by mutual agreement.

[33-513, added 1963, ch. 13, sec. 71, p. 27; am. 1973, ch. 126, sec. 1, p. 238; am. 1975, ch. 256, sec. 1, p. 700; am. 1976, ch. 84, sec. 1, p. 288; am. 1976, ch. 86, sec. 2, p. 294; am. 1978, ch. 340, sec. 3, p. 875; am. 1981, ch. 311, sec. 1, p. 653; am. 1983, ch. 83, sec. 1, p. 169; am. 1984, ch. 286, sec. 8, p. 663; am. 1985, ch. 107, sec. 3, p. 193; am. 1986, ch. 46, sec. 1, p. 134; am. 1988, ch. 267, sec. 1, p. 883; am. 1991, ch. 173, sec. 2, p. 422; am. 2011, ch. 96, sec. 1, p. 209; am. 2011, ch. 295, sec. 1, p. 821; am. 2012, ch. 265, sec. 1, p. 734; am. 2013, ch. 67, sec. 1, p. 162; am. 2013, ch. 298, sec. 1, p. 785; am. 2013, ch. 331, sec. 1, p. 863; am. 2013, ch. 347, sec. 1, p. 938; am. 2014, ch. 276, sec. 1, p. 695; am. 2016, ch. 191, sec. 1, p. 526.]

33-514. ISSUANCE OF ANNUAL CONTRACTS -- SUPPORT PROGRAMS -- CATEGORIES OF CONTRACTS -- OPTIONAL PLACEMENT. (1) The board of trustees shall establish criteria and procedures for the supervision and evaluation of certificated employees who are not employed on a renewable contract, as provided for in section [33-515](#), Idaho Code.

(2) There shall be three (3) categories of annual contracts available to local school districts under which to employ certificated personnel:

(a) A category 1 contract is a limited one-year contract as provided in section [33-514A](#), Idaho Code.

(b) A category 2 contract is for certificated personnel in the first and second years of continuous employment with the same school district. Upon the decision by a local school board not to reemploy the person for the following year, the certificated employee shall be provided a written statement of reasons for non-reemployment by no later than the first day of July. No property rights shall attach to a category 2 contract and therefore the employee shall not be entitled to a review by the local board of the reasons or decision not to reemploy.

(c) A category 3 contract is for certificated personnel during the third year of continuous employment by the same school district. When any such employee's work is found to be unsatisfactory, a defined period of probation shall be established by the board, but in no case shall a probationary period be less than eight (8) weeks. After the probationary period, action shall be taken by the board as to whether the employee is to be retained, immediately discharged, discharged upon termination of the current contract or reemployed at the end of the contract term under a continued probationary status. Notwithstanding the provisions of sections [74-205](#) and [74-206](#), Idaho Code, a decision to place certificated personnel on probationary status may be made in executive session and the employee shall not be named in the minutes of the meeting. A record of the decision shall be placed in the employee's personnel file. This procedure shall not preclude recognition of unsatisfactory work at a subsequent evaluation and the establishment of a reasonable period of probation. In all instances, the employee shall be duly notified in writing of the areas of work that are deficient, including the conditions of probation. Each such certificated employee

on a category 3 contract shall be given notice, in writing, whether he or she will be reemployed for the next ensuing year. Such notice shall be given by the board of trustees no later than the first day of July of each such year. If the board of trustees has decided not to reemploy the certificated employee, then the notice must contain a statement of reasons for such decision and the employee shall, upon request, be given the opportunity for an informal review of such decision by the board of trustees. The parameters of an informal review shall be determined by the local board.

(3) School districts hiring an employee who has been on renewable contract status with another Idaho district, or has out-of-state experience which would otherwise qualify the certificated employee for renewable contract status in Idaho, shall have the option to immediately grant renewable contract status, or to place the employee on a category 3 annual contract. Such employment on a category 3 contract under the provisions of this subsection may be for one (1), two (2) or three (3) years.

(4) There shall be a minimum of one (1) written evaluation in each of the annual contract years of employment, which shall be completed no later than June 1 of each year. The evaluation shall include a minimum of two (2) documented observations, one (1) of which shall be completed prior to January 1 of each year. The requirement to provide at least one (1) written evaluation does not exclude additional evaluations that may be performed. No civil action for money damages shall arise for failure to comply with the provisions of this subsection.

[33-514, added 1984, ch. 286, sec. 9, p. 666; am. 2000, ch. 66, sec. 1, p. 148; am. 2005, ch. 340, sec. 2, p. 1064; am. 2013, ch. 298, sec. 2, p. 787; am. 2013, ch. 353, sec. 1, p. 954; am. 2015, ch.141, sec. 62, p. 423; am. 2016, ch. 191, sec. 2, p. 530.]

33-514A. ISSUANCE OF LIMITED CONTRACT -- CATEGORY 1 CONTRACT. After August 1, or pursuant to section [33-507](#) (3), Idaho Code, the board of trustees may exercise the option of employing certified personnel on a one (1) year limited contract, which may also be referred to as a category 1 contract consistent with the provisions of section [33-514](#), Idaho Code. Such a contract is specifically offered for the limited duration of the ensuing school year, and no further notice is required by the district to terminate the contract at the conclusion of the contract year.

[33-514A, added 1997, ch. 125, sec. 1, p. 374; am. 2000, ch. 66, sec. 2, p. 150; am. 2014, ch. 252, sec. 2, p. 635; am. 2014, ch. 252, sec. 8, p. 638.]

33-515. ISSUANCE OF RENEWABLE CONTRACTS. (1) During the third full year of continuous employment by the same school district, including any specially chartered district, each certificated employee named in subsection (32) of section [33-1001](#), Idaho Code, and each school nurse and school librarian shall be evaluated for a renewable contract and shall, upon having been offered a contract for the next ensuing year, and upon signing and timely returning a contract for a fourth full year, be placed on a renewable contract status with said school district entitling such individual to the right to automatic renewal of contract, subject to the provisions included in this chapter, provided that instructional staff who have not obtained a professional endorsement under section [33-1201A](#), Idaho Code, may not

be placed on a renewable contract status, provided however, if the career ladder pursuant to section [33-1004B](#), Idaho Code, is not funded, then a professional endorsement shall not be required.

(2) At least once annually, the performance of each renewable contract certificated employee, school nurse, or school librarian shall be evaluated according to criteria and procedures established by the board of trustees in accordance with general guidelines approved by the state board of education. Such an evaluation shall be completed no later than June 1 of each year. The evaluation shall include a minimum of two (2) documented observations, one (1) of which shall be completed prior to January 1 of each year.

(3) Any contract automatically renewed under the provisions of this section may be renewed for a shorter term, longer term or the same length of term as stated in the current contract and at a greater, lesser or equal salary as that stated in the current contract. Absent the board's application of a formal reduction in force, renewals of standard teacher contracts may be for a shorter term, longer term or the same length of term as stated in the current standard teacher contract and at a greater, lesser or equal salary, and shall be uniformly applied to all employees based upon the district's adopted salary schedule to the extent allowable in section [33-1004E](#), Idaho Code.

(a) Contracts issued pursuant to this section shall be issued on or before the first day of July each year.

(b) At the discretion of the board, the district may issue letters of intent for employment for the next ensuing school year to renewable contract status employees during May of each school year. Such letter of intent shall not state a specific duration of the contract or salary/benefits term for the next ensuing school year.

(c) Unless otherwise negotiated and ratified by both parties pursuant to sections [33-1271](#), et seq., Idaho Code, standard teacher renewals for terms shorter in length than that stated in the current standard contract of renewable certificated employees, should be considered and implemented only after the district has determined that the salary-based apportionment reimbursement that it estimates it will receive for the ensuing school year is less than the sum the district would otherwise be paying for salaries for certificated professional employees.

(4) Nothing in this section shall prevent the board of trustees from offering a renewed contract increasing the salary of any certificated person, or from reassigning an administrative employee to a nonadministrative position with appropriate reduction of salary from the preexisting salary level. In the event the board of trustees reassigns an administrative employee to a nonadministrative position, the board shall give written notice to the employee that contains a statement of the reasons for the reassignment. The employee, upon written request to the board, shall be entitled to an informal review of that decision. The process and procedure for the informal review shall be determined by the local board of trustees.

(5) Before a board of trustees can determine not to renew for reasons of an unsatisfactory report of the performance of any certificated person whose contract would otherwise be automatically renewed, such person shall be entitled to a reasonable period of probation. This period of probation shall be preceded by a written notice from the board of trustees with reasons for such probationary period and with provisions for adequate supervision and evaluation of the person's performance during the probationary period. Such period of probation shall not affect the person's renewable contract status.

Consideration of probationary status for certificated personnel is consideration of the status of an employee within the meaning of section [74-206](#), Idaho Code, and may be held in executive session. If the consideration results in probationary status, the individual on probation shall not be named in the minutes of the meeting. A record of the decision shall be placed in the teacher's personnel file.

(6) If the board of trustees takes action to immediately discharge or discharge upon termination of the current contract a certificated person whose contract would otherwise be automatically renewed, the action of the board shall be consistent with the procedures specified in section [33-513](#)(5), Idaho Code, and furthermore, the board shall notify the employee in writing whether there is just and reasonable cause not to renew the contract or to reduce the salary of the affected employee, and if so, what reasons it relied upon in that determination.

(7) If the board of trustees takes action after the declaration of a financial emergency pursuant to section [33-522](#), Idaho Code, and such action is directed at more than one (1) certificated employee, and if mutually agreed to by both parties, a single informal review shall be conducted. Without mutual consent of both parties, the board of trustees shall use the following procedure to conduct a single due process hearing within sixty-seven (67) days of the declaration of financial emergency pursuant to section [33-522](#)(2), Idaho Code, or on or before June 22, whichever shall occur first:

(a) The superintendent or any other duly authorized administrative officer of the school district may recommend the change in the length of the term stated in the current contract or reduce the salary of any certificated employee by filing with the board of trustees written notice specifying the purported reasons for such changes.

(b) Upon receipt of such notice, the board of trustees, acting through its duly authorized administrative official, shall give the affected employees written notice of the reductions and the recommendation of the change in the length of the term stated in the current contract or the reduction of salary, along with written notice of a hearing before the board of trustees prior to any determination by the board of trustees.

(c) The hearing shall be scheduled to take place not less than six (6) days nor more than fourteen (14) days after receipt of the notice by the employees. The date provided for the hearing may be changed by mutual consent.

(d) The hearing shall be open to the public.

(e) All testimony at the hearing shall be given under oath or affirmation. Any member of the board, or the clerk of the board of trustees, may administer oaths to witnesses or affirmations by witnesses.

(f) The employees may be represented by legal counsel and/or by a representative of a local or state education association.

(g) The chairman of the board of trustees or the designee of the chairman shall conduct the hearing.

(h) The board of trustees shall cause an electronic record of the hearing to be made or shall employ a competent reporter to take stenographic or stenotype notes of all the testimony at the hearing. A transcript of the hearing shall be provided at cost by the board of trustees upon request of the employee.

(i) At the hearing, the superintendent or other duly authorized administrative officer shall present evidence to substantiate the reduction contained in such notice.

(j) The employees may produce evidence to refute the reduction. Any witness presented by the superintendent or by the employees shall be subject to cross-examination. The board of trustees may also examine witnesses and be represented by counsel.

(k) The affected employees may file written briefs and arguments with the board of trustees within three (3) days after the close of the hearing or such other time as may be agreed upon by the affected employees and the board of trustees.

(l) Within seven (7) days following the close of the hearing, the board of trustees shall determine and, acting through its duly authorized administrative official, shall notify the employees in writing whether the evidence presented at the hearing established the need for the action taken.

The due process hearing pursuant to this subsection shall not be required if the board of trustees and the local education association reach an agreement on issues agreed upon pursuant to section [33-522](#)(3), Idaho Code.

(8) If the board of trustees, for reasons other than unsatisfactory service, for the ensuing contract year, determines to change the length of the term stated in the current contract, reduce the salary or not renew the contract of a certificated person whose contract would otherwise be automatically renewed, nothing herein shall require a probationary period.

(9) If the board of trustees, for reasons other than unsatisfactory service, for the ensuing contract year, determines to change the length of the term stated in the current contract or reduce the salary of a certificated person whose contract would otherwise be automatically renewed, nothing herein shall require any individualized due process proceeding. In such circumstance, the board shall hold a single informal review for all impacted employees. The process and procedure for the single informal review shall be determined by the local board of trustees.

[(33-515), 33-1212, added 1963, ch. 13, sec. 154, p. 27; am. 1973, ch. 126, sec. 2, p. 238; am. 1981, ch. 140, sec. 1, p. 242; am. 1982, ch. 86, sec. 1, p. 159; am. 1983, ch. 83, sec. 2, p. 172; am. 1983, ch. 212, sec. 1, p. 588; am. and redesig. 1984, ch. 286, sec. 10, p. 666; am. 1988, ch. 118, sec. 2, p. 217; am. 1999, ch. 208, sec. 1, p. 556; am. 2000, ch. 264, sec. 1, p. 741; am. 2000, ch. 266, sec. 4, p. 751; am. 2003, ch. 299, sec. 5, p. 823; am. 2006, ch. 244, sec. 4, p. 744; am. 2009, ch. 171, sec. 2, p. 543; am. 2013, ch. 298, sec. 3, p. 788; am. 2013, ch. 353, sec. 2, p. 955; am. 2014, ch. 144, sec. 1, p. 387; am. 2015, ch. 141, sec. 63, p. 424; am. 2015, ch. 229, sec. 14; am. 2015, ch. 344, sec. 1, p. 1298; am. 2016, ch. 191, sec. 3, p. 531; am. 2016, ch. 245, sec. 11, p. 655; am. 2019, ch. 328, sec. 7, p. 977.]

33-515A. SUPPLEMENTAL CONTRACTS. (1) In addition to the provisions of sections [33-514](#), [33-514A](#) and [33-515](#), Idaho Code, a board of trustees may enter into supplemental contracts to provide extra duty or extra day assignments for certificated employees.

(2) An extra duty assignment is, and extra duty supplemental contracts may be used for, an assignment which is not part of a certificated employee's regular teaching duties. Any such contract shall be separate and apart from the certificated employee's underlying contract, and no property

rights shall attach to a supplemental extra duty contract. If a board of trustees determines not to reissue a supplemental extra duty contract, the board shall give written notice to the employee describing reasons for the decision not to reissue. The employee, upon written request to the board, shall be entitled to an informal review. The process and procedure for informal review shall be determined by the board of trustees. Should a board of trustees provide for additional procedures, nothing in this section shall be interpreted to limit those procedures. The contract shall be in a form approved by the state superintendent of public instruction.

(3) An extra day assignment is, and supplemental extra day contracts may be used for, an assignment of days of service in addition to the standard contract length used for the majority of certificated employees in the district. Such additional days may be in service of the same activities as the certificated employee's regular teaching duties. Any such extra day contracts shall provide the same daily rate of pay and rights to due process and procedures as provided by the certificated employee's underlying contract. The contract shall be in a form approved by the state superintendent of public instruction.

(4) For the purposes of this section, "underlying contract" means either a category 1, 2, 3 or renewable contract.

[33-515A, added 1999, ch. 208, sec. 2, p. 558; am. 2016, ch. 288, sec. 1, p. 791.]

33-516. RIGHT TO RENEWABLE CONTRACT WHEN DISTRICT IS DIVIDED, CONSOLIDATED OR REORGANIZED. If, by reason of the division of a school district, including any specially chartered district, or by reason of the consolidation of such a district with another district, or other districts, or by reason of the reorganization of such a district, the position held by any teacher entitled to a renewable contract is transferred from the control of one board of trustees to the control of a new or different board of trustees, the right to automatic renewal is not thereby lost, and such new or different board of trustees shall be subject to all of the provisions of this chapter with respect to such teacher in the same manner as if such teacher were its employee and had been its employee during the time such teacher was actually employed by the board of trustees from whose control the position was transferred.

[(33-516) 1973, ch. 126, sec. 3, p. 238; am. and redesign. 1984, ch. 286, sec. 11, p. 668.]

33-517. NONCERTIFICATED PERSONNEL. The board of trustees of each school district, including any specially chartered district and any Idaho public charter school, shall have the following powers and duties:

(1) To provide that hiring and evaluation procedures for noncertificated personnel shall be in writing and shall be available for any noncertificated employee's review during regular business hours. Job descriptions for all noncertificated employees shall be written and shall be made available to employees of the district or other people seeking employment.

(2) To provide a grievance procedure for noncertificated employees of the district which meets the minimum standards of paragraphs (a) through (i) of this subsection. In the event a grievance procedure is not provided, the following grievance procedure shall apply.

(a) A grievance shall be defined as a written allegation of:

- (i) A violation of current written board approved school district policy;
- (ii) A violation of current written school procedures;
- (iii) A violation of the current written board approved employee handbook;
- (iv) A condition or conditions that jeopardize the health or safety of the employee or another; or
- (v) Tasks assigned outside of the employee's essential job functions and for which the employee has no specialized training.

A noncertificated employee of the district may file a grievance about any matter related to his or her employment, only if it directly relates to any of the grounds for a grievance provided for in paragraph (a) (i) through (v) of this subsection. However, neither the rate of salary or wage of the employee nor the decision to terminate an employee for cause during the initial one hundred eighty (180) days of employment shall be a proper subject for consideration under the grievance procedure provided in this section. For the purposes of this section, "current" means as of the date of the incident giving rise to the grievance.

(b) If a noncertificated employee files a grievance, the employee shall submit the grievance in writing to the district's human resources administrator within six (6) working days of the incident giving rise to the grievance. The grievance shall state the nature of the grievance and the remedy sought. Within six (6) working days of receipt of the grievance, the district's human resources administrator shall schedule an informal grievance meeting with the grievant, the employee against whom the grievance is filed, respective advocates, as well as a district administrator who will not be involved in the statutory grievance process. The purpose of the meeting shall be to attempt to find a resolution to the employee grievance.

(c) If a resolution is not reached during the informal grievance meeting, the individual against whom a grievance is filed shall file a written response to the employee grievance within six (6) working days after the conclusion of the informal grievance meeting. Thereafter, the employee may appeal the grievance to the superintendent of the district or the superintendent's designee within six (6) working days of the receipt of the written response or within six (6) working days from the date the written response was due if the noncertificated employee received no written response. Within six (6) working days of an appeal, the superintendent or his designee shall provide a written response to the noncertificated employee.

(d) If the noncertificated employee is not satisfied with the response of the superintendent or the designee, or if there is no response by the superintendent or the designee within the time frame provided in subsection (2)(c) of this section, the noncertificated employee may request a review of the grievance by a hearing panel within six (6) working days from receipt of the response provided in subsection (2)(c) of this section if the employee received a written response, or six (6) working days from the date the superintendent or designee last had to respond if the noncertificated employee received no written response. Within ten (10) working days of receipt of an appeal, a panel consisting of three (3) persons; one (1) designated by the superintendent, one (1) designated by the employee, and one (1) agreed upon by the two (2) appointed members for the purpose of reviewing the appeal. Within ten (10) work-

ing days following completion of the review, the panel shall submit its decision in writing to the noncertificated employee, the superintendent, and the board of trustees.

(e) The panel's decision shall be the final and conclusive resolution of the grievance unless the board of trustees overturns the panel's decision by resolution at the board of trustees' next regularly scheduled public meeting or unless, within forty-two (42) calendar days of the filing of the board's decision, either party appeals to the district court in the county where the school district is located. Upon appeal of a decision of the board of trustees, the district court may affirm or set aside and remand the matter to the board of trustees upon the following grounds, and shall not set the same aside on any other grounds:

- (i) That the findings of fact are not based on any substantial, competent evidence;
- (ii) That the board of trustees has acted without jurisdiction or in excess of its powers;
- (iii) That the findings by the board of trustees as a matter of law do not support the decision.

(f) A noncertificated employee filing a grievance pursuant to this section shall be entitled to a representative of the employee's choice at each step of the grievance procedure provided in this section. The person against whom the grievance is filed, the superintendent or the superintendent's designee shall be entitled to a representative at each step of the grievance procedure. None of these individuals will be qualified to sit on the advisory grievance panel.

(g) The timelines of the grievance procedure established in this section may be waived or modified by mutual agreement.

(h) Utilization of the grievance procedure established pursuant to this section shall not constitute a waiver of any right of appeal available pursuant to law or regulation.

(i) Neither the board nor any member of the administration shall take reprisals affecting the employment status of any party in interest. The employee filing a grievance shall not take any reprisals regarding the course of the outcome of the grievance nor take any reprisals against any party or witness participating in the grievance.

(j) A noncertificated employee of a school district shall be provided a personnel file consistent with the provisions of section [33-518](#), Idaho Code.

[33-517, added 1989, ch. 195, sec. 1, p. 490; am. 2014, ch. 166, sec. 1, p. 468.]

33-517A. SCHOOL DISTRICTS -- NONCERTIFICATED EMPLOYEES -- GROUP HEALTH INSURANCE. The board of trustees of each school district, including any specially chartered district, shall provide the same group health insurance benefits to all noncertificated employees who work twenty (20) hours or more per week, as provided to certificated employees.

[33-517A, added 1994, ch. 282, sec. 1, p. 883.]

33-518. EMPLOYEE PERSONNEL FILES. The board of trustees of each school district, including any specially chartered district, shall provide for the establishment and maintenance of a personnel file for each employee of the school district. Each personnel file shall contain any and all material

relevant to the evaluation of the employee. The employee shall be provided timely notice of all materials placed in the personnel file and shall be afforded the opportunity to attach a rebuttal to any such materials. Personnel files are declared to be confidential and excepted from public access under any provision of the Idaho Code, including, but not limited to, sections [74-102](#) and [59-1009](#), Idaho Code, provided that each employee or designated representative shall be given access to his own personnel file upon request and shall be provided copies of materials contained therein, with the exception of recommendation letters, in a timely manner upon request.

[33-518, added 1990, ch. 418, sec. 1, p. 1157; am. 2015, ch. 244, sec. 19, p. 1018; am. 2017, ch. 58, sec. 14, p. 109.]

33-519. RELEASE FOR RELIGIOUS INSTRUCTION. Upon application of his parent or guardian, or, if the student has attained the age of eighteen (18) years, upon application of the student, a student attending a public school in grades nine (9) through twelve (12) may be excused from school for a period not exceeding five (5) periods in any week or not exceeding one hundred sixty-five (165) hours per student during any one (1) school year for religious or other purposes. Release time pursuant to this section shall be scheduled by the board of trustees upon application as provided herein and the board shall have reasonable discretion over the scheduling and timing of the release time. Release time pursuant to this section shall not reduce the minimum graduation requirements for accredited Idaho high schools. The provisions of this section shall not be deemed to authorize the use of any public school facility for religious instruction. The board of trustees of a school district may not authorize the use of, and public school facilities, personnel or equipment may not be utilized, to maintain attendance records for the benefit of release time classes for religious instruction. No credit shall be awarded by the school or school district for completion of courses during release time for religious purposes. At the discretion of the board credit may be granted for other purposes.

[33-519, added 1991, ch. 250, sec. 1, p. 618; am. 2010, ch. 180, sec. 1, p. 370.]

33-520. POLICY GOVERNING MEDICAL INHALERS, EPINEPHRINE AUTO-INJECTORS, INSULIN AND BLOOD GLUCOSE MONITORING SUPPLIES. (1) The board of trustees of each school district, including charter districts, shall adopt a policy permitting the self-administration of medication administered by way of a metered-dose inhaler by a pupil for asthma or other potentially life-threatening respiratory illness or by way of an epinephrine auto-injector for severe allergic reaction (anaphylaxis). On or before September 1, 2016, such boards of trustees shall also adopt a policy permitting the self-administration of diabetes medication and blood glucose monitoring by a pupil with diabetes.

(2) As used in this section:

(a) "Medication" means an epinephrine auto-injector, a metered-dose inhaler or a dry powder inhaler or insulin prescribed by a physician and having an individual label; and

(b) "Self-administration" means a student's use of medication or of blood glucose monitoring supplies pursuant to prescription or written direction from a physician.

(3) A student who is permitted to self-administer medication or blood glucose monitoring pursuant to this section shall be permitted to possess and use a prescribed inhaler, an epinephrine auto-injector, insulin or blood glucose monitoring supplies at all times.

(4) Nothing in this section shall be construed to prevent a school district from requiring pupils to maintain current duplicate prescription medications or blood glucose monitoring supplies with the school nurse or, in the absence of such nurse, with the school administrator.

[33-520, added 2004, ch. 336, sec. 1, p. 1007; am. 2008, ch. 305, sec. 1, p. 846; am. 2016, ch. 184, sec. 1, p. 496.]

33-520A. LIFE-THREATENING ALLERGIES IN SCHOOLS -- GUIDELINES, STOCK SUPPLY OF EPINEPHRINE AUTO-INJECTORS AND EMERGENCY ADMINISTRATION. (1) As used in this section, the following definitions shall apply:

(a) "Administer" means the direct application of an epinephrine auto-injector to the body of an individual.

(b) "Designated school personnel" means an employee, agent or volunteer of a school designated by the governing authority of a school who has completed the training to provide or administer an epinephrine auto-injector to a student.

(c) "Epinephrine auto-injector" means a device that automatically injects a premeasured dose of epinephrine.

(d) "Provide" means the supply of one (1) or more epinephrine auto-injectors to an individual.

(e) "School" means any public or nonpublic school.

(f) "Self-administration" means a student or other person's discretionary use of an epinephrine auto-injector, whether provided by the student or by a school nurse or designated school personnel pursuant to the provisions of this section.

(2) Any physician, advanced practice registered nurse licensed to prescribe or physician assistant licensed to prescribe pursuant to [title 54](#), Idaho Code, may prescribe epinephrine auto-injectors in the name of a school to be maintained for use in accordance with subsection (3) of this section. Licensed pharmacists and physicians may dispense epinephrine auto-injectors pursuant to a prescription issued in accordance with this subsection. A school may maintain a stock supply of epinephrine auto-injectors.

(3) The governing authority of a school may authorize school nurses and designated school personnel to do the following:

(a) Provide an epinephrine auto-injector to a student to self-administer the epinephrine auto-injector in accordance with a prescription specific to the student on file with the school nurse;

(b) Administer an epinephrine auto-injector to a student in accordance with a prescription specific to the student on file with the school nurse; and

(c) Administer an epinephrine auto-injector to any student or other individual on school premises that the school nurse or designated school personnel in good faith believes is experiencing anaphylaxis regardless of whether the student or other individual has a prescription for an epinephrine auto-injector.

(4) A school may enter into arrangements with manufacturers of epinephrine auto-injectors or third-party suppliers of epinephrine auto-injectors to obtain epinephrine auto-injectors at fair market price, reduced price or free.

(5) The governing authority of a school that participates in supplying and administering epinephrine auto-injectors pursuant to the provisions of this section shall do the following:

(a) Require each school that maintains a stock supply and administers epinephrine auto-injectors to submit a report of each incident at the school or related school event involving a severe allergic reaction or the administration of an epinephrine auto-injector to the governing authority of the school or its designee; and

(b) Establish detailed standards for training programs that must be completed by designated school personnel in order to provide or administer an epinephrine auto-injector in accordance with this section. Such training may be conducted online and, at a minimum, shall cover:

(i) Techniques on how to recognize symptoms of severe allergic reactions, including anaphylaxis;

(ii) Standards and procedures for the storage, administration and disposal of an epinephrine auto-injector; and

(iii) Emergency follow-up procedures.

(6) There shall be no civil liability for any damages for a physician, advanced practice registered nurse, physician's assistant or pharmacist providing a prescription or standing protocol for school epinephrine auto-injectors consistent with the standard of care for the provider. Further, there shall be no civil liability for damages for a school or its employees or agents for any injuries that result from the administration or self-administration of an epinephrine auto-injector regardless of whether authorization for use was given by the student's parents, guardian or medical provider provided the actions taken in administering or providing the injector were reasonable under the circumstances. The liability protections in this section do not apply to acts or omissions constituting gross negligence, those that are reckless or that constitute willful and wanton behavior. The liability protections in this section are in addition to any provided under section [5-330](#), Idaho Code.

[33-520A, added 2014, ch. 146, sec. 1, p. 391.]

33-521. EMPLOYEE SEVERANCE IN CONSOLIDATED DISTRICT. The board of trustees of any school district newly formed within the last twelve (12) months through the consolidation of two (2) or more school districts may offer a one (1) time severance payment to a maximum of ten percent (10%) of the employees that were previously employed by the separate school districts. Such severance offers shall be made entirely at the discretion of the board of trustees, and shall not be bound by custom, seniority or contractual commitment. Employees are under no obligation to accept a severance offer. Any employee accepting a severance payment shall not be eligible for reemployment by the school district for a one (1) year period thereafter.

The severance payment shall consist of fifty-five percent (55%) of the salary-based apportionment funds allocated for the employee in the last year, plus any applicable state paid employee benefits. Such severance shall be reduced by one-half (1/2) for any employee who is simultaneously receiving a disbursement of early retirement incentive funds. The state department of education shall reimburse eligible school districts for one hundred percent (100%) of such costs, upon application by the school district.

[33-521, added 2007, ch. 79, sec. 3, p. 210; am. 2019, ch. 161, sec. 2, p. 526.]

33-522. FINANCIAL EMERGENCY. (1) Prior to declaring a financial emergency, the board of trustees shall hold a public meeting for the purpose of receiving input concerning possible solutions to the financial problems facing the school district.

(2) If the state department of education certifies that one (1) or more of the conditions in paragraph (a), (b) or (c) of this subsection are met, then the board of trustees may declare a financial emergency if it determines that the condition in paragraph (f) of this subsection is also met. Alternatively, the board of trustees may declare a financial emergency if it determines that either of the conditions in paragraph (d) or (e) of this subsection are met and the state department of education certifies that the condition set forth in paragraph (f) of this subsection is also met.

(a) Any of the base salary multipliers in section [33-1004E](#), Idaho Code, are reduced by one and one-half percent (1 1/2%) or more from any prior fiscal year.

(b) The minimum instructional salary provision in section [33-1004E](#), Idaho Code, is reduced by one and one-half percent (1 1/2%) or more from any prior fiscal year.

(c) The amount of total general fund money appropriated per support unit is reduced by greater than three percent (3%) from the original general fund appropriation per support unit of any prior fiscal year.

(d) The amount of property tax revenue to be collected by the school district that may be used for any general fund purpose, with the exception of any emergency levy funds, is reduced from the prior fiscal year, and the amount of said reduction represents more than one and one-half percent (1 1/2%) of the school district's general fund budget for combined state and local revenues from the prior fiscal year.

(e) The school district's general fund has decreased by at least one and one-half percent (1 1/2%) from the previous year's level due to a decrease in funding or natural disaster, but not as a result of a drop in the number of support units or the index multiplier calculated pursuant to section [33-1004A](#), Idaho Code, or a change in the emergency levy.

(f) The school district's unrestricted general fund balance, which excludes funds restricted by state or federal law and considering both anticipated expenditures and revenue, is less than five and one-half percent (5 1/2%) of the school district's unrestricted general fund budget at the time the financial emergency is declared or for the fiscal year for which the financial emergency is declared.

(3) Upon its declaration of a financial emergency, the board of trustees shall:

(a) Have the power to reopen the salary and benefits compensation aspects of the negotiated agreement, including the length of the certificated employee contracts and the amount of compensation and benefits; and

(b) If the parties to the negotiated agreement mutually agree, reopen other matters contained within the negotiated agreement directly affecting the financial circumstances in the school district.

If the board of trustees exercises the power provided in this subsection consistent with the requirements of subsection (2) of this section, both the

board of trustees and the local education association shall meet and confer in good faith for the purpose of reaching an agreement on such issues.

(4) If, after the declaration of a financial emergency pursuant to subsection (2) of this section, both parties have met and conferred in good faith and an agreement has not been reached, the board of trustees may impose its last, best offer, following the outcome of the due process hearing held pursuant to section [33-515](#)(7), Idaho Code.

(5) A financial emergency declared pursuant to subsection (2) of this section shall be effective for only one (1) fiscal year at a time and shall not be declared by the board of trustees for a second consecutive year, unless so qualified by additional reductions pursuant to the conditions listed in subsection (2) of this section.

(6) The time requirements of sections [33-514](#)(2) and [33-515](#)(2), Idaho Code, shall not apply in the event a financial emergency is declared pursuant to subsection (2) of this section.

[33-522, added 2009, ch. 171, sec. 3, p. 545; am. 2011, ch. 96, sec. 9, p. 219; am. 2013, ch. 255, sec. 1, p. 629.]

33-522A. REDUCTION IN FORCE DEFINED. (1) A reduction in force may occur when there are:

- (a) Curriculum or program changes;
- (b) Negative changes in the financial conditions of the school district;
- (c) Decreases in student enrollment, including overall, by program, by grade or by school; or
- (d) Staffing or highly qualified teacher limitations of the district.

(2) For purposes of [title 33](#)[, Idaho Code], "reduction in force" means the elimination of a certificated staff position or positions or a portion or percentage of a position or positions, when there is one (1) or more of the following:

- (a) The elimination of an entire program or portions of a program;
 - (b) The elimination of positions in certain grade levels only;
 - (c) The elimination of a position by category; or
 - (d) The elimination of a position in an overall review of the district.
- (3) (a) The decision to institute a reduction in force and the selection of an employee or employees subject to such reduction shall be at the sole discretion of the board of trustees, except for the following limitation: The decision as to which employee or employees shall be subject to such reduction shall not be made solely on consideration of employee seniority or contract status.
- (b) Each school district may adopt a policy establishing an equitable method of recalling individuals subject to a reduction in force if positions become available subsequent to the reduction in force.

[33-522A, added 2015, ch. 249, sec. 1, p. 1045.]

33-523. STEM DIPLOMA. (1) For purposes of this section, "STEM" means science, technology, engineering and mathematics.

(2) A public school student who successfully completes all graduation requirements established by the state board of education may receive a high school diploma designated as a STEM diploma if the student earned at least:

- (a) Eight (8) credits in mathematics;
- (b) Eight (8) credits in science; and

(c) In addition to the credits listed in paragraphs (a) and (b) of this subsection, five (5) credits in the student's choice of any or all subjects of science, technology, engineering or mathematics.

(3) This section does not require a student to complete more than the total credits required to graduate as determined by the state board of education.

(4) A student who has completed eight (8) or more credits in mathematics that include algebra II or a higher-level mathematics class before the student's senior year is not required to take a mathematics class in the student's senior year.

(5) Each school district and public charter school may create a diploma with a special STEM designation for students who meet the requirements of this section.

(6) The state board of education may promulgate rules necessary to implement the provisions of this section.

[33-523, added 2018, ch. 60, sec. 1, p. 150.]