

TITLE 39  
HEALTH AND SAFETY

CHAPTER 80  
UNIFORM PUBLIC SCHOOL BUILDING SAFETY

39-8001. SHORT TITLE. This act, comprised of Sections 39-8001, 39-8002, 39-8003, 39-8004, 39-8005, 39-8006, 39-8007, 39-8008, 39-8009, 39-8010, 39-8011 and 39-8012, Idaho Code, shall be known and may be cited as the "Idaho Uniform School Building Safety Act."

[39-8001, added 2000, ch. 352, sec. 1, p. 1183.]

39-8002. DECLARATION OF PURPOSE. The purpose of this act is to assure the safety of children and others who use Idaho's public schools by providing for a uniform school building safety code to apply to school buildings and by establishing procedures for achieving compliance with the code.

[39-8002, added 2000, ch. 352, sec. 1, p. 1183.]

39-8003. SCOPE. This act shall apply to all facilities, existing now or constructed in the future, that are owned, leased or used for educational purposes by public school districts, charter schools, or a school for children in any grades kindergarten through twelve (12) that is operated by the state of Idaho receiving state funding. The authority granted under this act shall not prohibit local governments from acting to enforce applicable building and fire codes.

[39-8003, added 2000, ch. 352, sec. 1, p. 1183; am. 2001, ch. 326, sec. 4, p. 1151.]

39-8004. DEFINITIONS. As used in this act:

(1) "Administrator" means the administrator of the division of building safety or his designated representative.

(2) "Day" shall mean a calendar day unless otherwise specified.

(3) "Imminent safety hazard" means a condition that presents an unreasonable risk of death or serious bodily injury to occupants of a building.

(4) "Licensed professional" means a person licensed by the state of Idaho as an architect or an engineer.

(5) "Local government" means any city or county of this state.

(6) "Serious safety hazard" means a condition that presents an unreasonable health risk or risk of injury to occupants of a building.

[39-8004, added 2000, ch. 352, sec. 1, p. 1183; am. 2002, ch. 158, sec. 2, p. 461.]

39-8005. IDAHO UNIFORM SCHOOL BUILDING SAFETY CODE COMMITTEE CREATED -- APPOINTMENT -- TERMS -- QUORUM -- MEETINGS -- COMPENSATION. There is hereby created within the office of the superintendent of public instruction the Idaho uniform school building safety code committee, hereafter referred to as the committee. The committee shall consist of eight (8) members and shall include one (1) representative from each of the following: the office of the superintendent of public instruction; the division of building safety; and the insurance industry, appointed by the department of insurance. The governor shall appoint three (3) members as follows: one (1) representative of local school boards; one (1) representative of school superintendents and a chairman, all of whom shall serve at his pleasure.

The committee shall also include two (2) members of the Idaho legislature, one (1) appointed by the president pro tempore of the senate and one (1) appointed by the speaker of the house of representatives. A majority of the membership of the committee is a quorum. Upon completion of development of the Idaho uniform school safety code provided for in section 39-8006, Idaho Code, the committee shall meet at least annually to review and make any necessary revisions to the Idaho uniform school safety code. Each member of the committee shall be reimbursed for expenses as provided by section 59-509(b), Idaho Code, for each day spent in attendance at meetings of the committee.

[39-8005, added 2000, ch. 352, sec. 1, p. 1183; am. 2010, ch. 166, sec. 1, p. 340.]

39-8006. COMMITTEE TO DEVELOP IDAHO UNIFORM SCHOOL BUILDING SAFETY CODE -- INTERIM CODE. (1) The committee shall develop the Idaho uniform school building safety code to be adopted by rule of the administrator pursuant to section 39-8007, Idaho Code. The Idaho uniform school building safety code shall address elements of the national codes identified in section 39-4109, Idaho Code, and rule of the state board of education at IDAPA 08.02.02.130.

(2) Until the Idaho uniform school building safety code is adopted by rule pursuant to section 39-8007, Idaho Code, the national codes adopted under section 39-4109, Idaho Code, and rule of the state board of education at IDAPA 08.02.02.130 shall serve as the interim Idaho uniform school building safety code.

[39-8006, added 2000, ch. 352, sec. 1, p. 1184.]

39-8006A. BEST PRACTICES MAINTENANCE PLAN FOR SCHOOL BUILDINGS. The administrator of the division of building safety and the state department of education shall consult and shall draft a best practices maintenance plan for school buildings which shall be supplied to the superintendent of each school district. Based on the best practices maintenance plan, each school district shall develop a ten (10) year plan and submit it to the division of building safety for approval. Such plan shall be submitted in all years ending in zero (0) or five (5), and shall include information detailing the work completed pursuant to the previous maintenance plan and any revisions to that plan.

[39-8006A, added 2006, ch. 311, sec. 9, p. 966; am. 2012, ch. 66, sec. 2, p. 189.]

39-8007. POWERS AND DUTIES OF THE ADMINISTRATOR. (1) The administrator shall enforce the provisions of this chapter in cooperation with the superintendent of public instruction and the building code advisory board.

(2) The administrator shall promulgate rules necessary to carry out the provisions of this chapter. Such rules shall be promulgated pursuant to the provisions of chapter 52, title 67, Idaho Code.

(3) The administrator shall establish a program for the timely review of public school construction plans as required by section 39-4113(4)(f), Idaho Code.

(4) Upon request, the administrator shall provide training to school districts on the Idaho uniform school building safety code.

[39-8007, added 2000, ch. 352, sec. 1, p. 1184; am. 2009, ch. 219, sec. 3, p. 684; am. 2010, ch. 166, sec. 2, p. 340; am. 2010, ch. 174, sec. 2, p. 359.]

39-8008. ADDITIONAL DUTIES OF ADMINISTRATOR -- RIGHT OF INSPECTION -- POSTING. (1) The administrator shall have authority under this section to enter all public school facilities covered by this chapter at reasonable times to inspect, on an annual basis, such facilities for compliance with the Idaho uniform school building safety code; provided however, that inspections shall take into account the age of the school facilities and the appropriate codes that would have been in effect at the time of the construction of such facilities; provided further, that regardless of the codes in effect at the time of construction, imminent safety hazards found in public school facilities shall be identified and the provisions of this chapter relating to such imminent safety hazards shall apply.

(2) If the administrator finds a violation of the Idaho uniform school building safety code that he concludes does not constitute an imminent safety hazard or serious safety hazard, he shall notify in writing the school district superintendent, principal, board member, or other person in charge. Such notification shall state, in bold print, that the citations for violations or nonconformances constitute recommendations only.

(3) If the administrator finds a violation of the Idaho uniform school building safety code that he concludes constitutes a serious safety hazard, he shall immediately issue a written order or notice requiring the school superintendent, principal, board of trustees or other person in charge to eliminate the condition without delay and within the time specified by the administrator in the notice or order, but not exceeding one (1) year. The administrator may also designate a licensed professional to independently evaluate the identified condition prior to issuing a written order to eliminate the condition.

(4) If the administrator finds a violation of the Idaho uniform school building safety code that he concludes constitutes an imminent safety hazard, he shall, within two (2) working days, designate a licensed professional to independently evaluate the identified condition prior to issuing any report under this chapter. That licensed professional shall, within fourteen (14) days, complete its independent evaluation of the condition identified by the administrator and notify the administrator of its conclusions. If the administrator determines that the condition constituting an imminent safety hazard could reasonably be expected to cause death or serious physical harm before the evaluation of the designated licensed professional can be completed and before the condition can be eliminated, he shall determine the extent of the area where such condition exists and thereupon shall issue a written order or notice requiring the school district superintendent, principal, board of trustees 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, such area pending the evaluation of the designated licensed professional. This order shall be withdrawn if the evaluation of the designated licensed professional does not concur with the administrator that the condition constitutes an imminent safety hazard as could reasonably be expected to cause death or serious physical harm before the condition can be eliminated.

(5) If upon receipt of the findings of the designated licensed professional, the administrator concludes that any condition identified by such

licensed professional constitutes an imminent safety hazard, the administrator shall immediately serve, or cause to be served, written notice or order upon the school district superintendent, principal, board of trustees or other person in charge describing the imminent safety hazard. The administrator shall also notify in writing the state superintendent of public instruction of such imminent safety hazard. Upon receipt of such written notice or order, the school district superintendent, principal, board of trustees, or other person in charge shall require all changes necessary to eliminate the imminent safety hazard be made, without delay and within the time specified by the administrator in the notice or order. If the condition presenting an imminent safety hazard is not corrected within the specified time, or if the administrator determines that the condition constituting such imminent safety hazard could reasonably be expected to cause death or serious physical harm before the condition can be eliminated, if he has not previously done so he shall determine the extent of the area where such condition exists and thereupon shall issue 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, such area. The school district superintendent, principal, board member, or other person in charge shall assist the administrator as necessary to post such areas to prevent injury.

(6) If the administrator finds a violation of the Idaho uniform school building safety code that he concludes constitutes a serious safety hazard and issues a written order or notice requiring the conditions to be eliminated in not more than one (1) year, and the school superintendent, principal, board of trustees, or other person in charge contests the administrator's finding that the condition is a serious safety hazard, then the school superintendent, principal, board of trustees, or other person in charge shall have fourteen (14) days from the date of the issuance of the administrator's written order or notice to request a hearing to initiate a contested case under chapter 52, title 67, Idaho Code. If a hearing is requested, the superintendent of public instruction shall appoint a hearing officer to consider the contested case. All administrative proceedings under this subsection shall be expedited as necessary to assure that serious safety hazards are eliminated as required by this section if the administrator's initial determination that there was a serious safety hazard is confirmed in the contested case proceedings.

(7) The administrator shall monitor the school district's progress in addressing any identified imminent safety hazard or serious safety hazard to ensure that appropriate corrective action was taken. The administrator may extend the time for completing corrective action if he deems necessary.

(8) Upon completion of corrective action and verification of such completion by the division of building safety and the department of administration, the administrator shall provide a report to the state superintendent of public instruction, the local superintendent of schools and the chair of the local school board.

(9) Annual inspections of public school facilities conducted by the administrator under the provisions of this section shall be funded pursuant to legislative appropriation.

[39-8008, added 2000, ch. 352, sec. 1, p. 1184; am. 2001, ch. 326, sec. 5, p. 1151; am. 2002, ch. 126, sec. 2, p. 353; am. 2002, ch. 158, sec.

3, p. 461; am. 2003, ch. 16, sec. 10, p. 56; am. 2010, ch. 166, sec. 3, p. 341.]

39-8009. INJUNCTION. Upon failure of the district superintendent, principal, board of trustees, or other person in charge to comply with the requirements stated in any notice or order relating to an imminent safety hazard or serious safety hazard, the administrator may maintain an action in the name of the state of Idaho to enjoin the district superintendent, principal, board of trustees or other person in charge from acting in violation of such notice or order or from doing any action that interferes with the administrator carrying out his statutory duties. Such action shall be brought in the district court in which said acts are claimed to have been committed by filing a verified complaint setting forth said act. The court, if satisfied from such complaint or affidavits that the act complained of has been or is being committed and will persist, may issue a temporary writ without notice or bond enjoining the defendant from the commission of such act pending final disposition of the cause. The cause shall proceed as in other causes for injunction. If, at the trial, the commission of said act by the defendant be established and the court further finds it probable that the defendant will continue in such act or similar acts, the court shall enter a decree enjoining said defendant from committing said or similar acts.

[39-8009, added 2000, ch. 352, sec. 1, p. 1185; am. 2002, ch. 158, sec. 4, p. 463.]

39-8010. APPEAL TO BUILDING CODE ADVISORY BOARD. (1) The Idaho building code advisory board shall, within ten (10) days after receipt of notice for an appeal, hear such appeal brought before it by a school district affected by any finding pursuant to this chapter that there exists in a school building a violation of the uniform school building safety code, provided however, that an appeal brought pursuant to this section shall not affect the ability of the administrator to obtain an injunction pursuant to section 39-8009, Idaho Code. Such hearing shall be governed by the provisions of chapter 52, title 67, Idaho Code. Final decisions of the board, other than code interpretations, are subject to judicial review in accordance with the provisions of chapter 52, title 67, Idaho Code.

(2) The board shall provide reasonable interpretations of the codes enumerated in this chapter.

(3) Within ten (10) days of the conclusion of the hearing, the board shall render its findings and decisions in writing to the state superintendent of public instruction, the administrator of the division of building safety and the appealing district.

[39-8010, added 2000, ch. 352, sec. 1, p. 1185; am. 2010, ch. 166, sec. 4, p. 343.]

39-8011. VIOLATIONS. (1) If a school district, the district superintendent, principal, board of trustees, or other person in charge willfully violates the provisions of this chapter, the state superintendent of public instruction shall withhold such ensuing apportionments as are necessary to make repairs to abate the identified imminent safety hazard or serious safety hazard. Withheld funds, not to exceed one and one-half percent (1 1/2%) of the district's appropriation, shall be disbursed only to pay for such repairs.

(2) If the funds that would be raised over two (2) fiscal years from applying the provisions of subsection (1) of this section are insufficient, in combination with all moneys that will be available in the district's school building maintenance allocation for the same period, to provide sufficient moneys to abate the identified imminent or serious safety hazard, then the administrator shall submit an application to abate said hazard to the Idaho public school facilities cooperative funding program panel pursuant to section 33-909, Idaho Code.

(3) It is a misdemeanor to remove, without permission of the administrator, a notice or order posted pursuant to this chapter.

[39-8011, added 2000, ch. 352, sec. 1, p. 1186; am. 2002, ch. 158, sec. 5, p. 463; am. 2006, ch. 311, sec. 10, p. 966; am. 2007, ch. 142, sec. 2, p. 414.]

39-8012. SEVERABILITY. If any portion of this act, or the application of any provision of this act to any person or circumstance, shall be held invalid, the remainder of this act, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected.

[39-8012, added 2000, ch. 352, sec. 1, p. 1186.]